Asia-Pacific
Economic Cooperation

2007/SOM1/003
Agenda Item: III

Individual Action Plan (IAP) Peer Review of Hong Kong, China

Purpose: Consideration
Submitted by: APEC Secretariat

APEC
AUSTRALIA 2007

First Senior Officials' Meeting
Canberra, Australia
18 January 2007

REPORT OF
THE INDIVIDUAL ACTION PLAN (IAP) PEER REVIEW
OF HONG KONG, CHINA

The IAP Peer Review Session of Hong Kong, China was held on 16 January 2007 in Canberra, Australia. Delegates from Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Singapore; Chinese Taipei; Thailand; United States and Viet Nam were present. CTI Chair and IEG Convenor were also present. The APEC Secretariat, ABAC and PIF were also present.

The Review Team for Hong Kong, China comprised of:

Moderator:	Mr Rupert Holborow APEC Senior Official for New Zealand
Experts:	Mr Charles Barrett President, Charles A. Barrett Consulting Services Inc., Canada
	Mr Sung-Hoon Park Professor of Graduate School of International Studies, Korea University, Korea
APEC Secretariat:	Mr Takashi Hattori Director (Program)

This report contains the following annexes.

Annex 1 - Concluding Remarks by the Moderator
Annex 2 - Study Report on Hong Kong, China's 2006 IAP
Annex 3 - Written Questions Received at the Session

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Concluding Remarks by the Moderator of the Individual Action Plan (IAP) Peer Review of Hong Kong, China

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CONCLUDING REMARKS BY THE MODERATOR

At this point, let me offer some concluding remarks.

First may I thank participants for their contribution to today's IAP Peer Review session on Hong Kong, China.

My special thanks to:

- Dr Charles Barrett and Professor Sung-Hoon Park our independent experts and
- To Joseph Lai from Hong Kong, China and his team
- And Takashi Hattori from APEC Secretariat.

Back in 1994 APEC economies agreed on the Bogor Goals – a vision to reach a point within the APEC family by 2010/2020 of 'free and open trade and investment'.

From an economic perspective, free and open trade and investment is not, of course, an end in itself but a means to an end – and that end is 'economic growth'.

No APEC member economy has experienced sustained economic growth without adherence to a broad set of policy principles involving sound economic governance, property rights, fiscal solvency, and – of central relevance to APEC's agenda – a set of outward looking market-orientate policies. Economies, which historically have been more open to trade and investment, which have been open to the importation of capital, ideas, people, technology-science, enjoy greater prosperity today than those which have not.

I think we have heard, and I think we will all agree, that Hong Kong, China is an extremely open economy. In the opinion of our experts Hong Kong, China is "the APEC member that is closest to achieving the Bogor Goals at the moment". And various other independent entities continue to report positively on Hong Kong China's open and free economy, and Joseph mentioned the latest Heritage Foundation finding – ranking Hong Kong, China the freest economy in the world for the 13th consecutive year. Hong Kong, China should be applauded for this:

- It was a star performer in the context of the last IAP review exercise and
- It has not, in the years since, relaxed its efforts – but rather has continued to undertake regulatory reforms

The expert's report has, however, identified a couple of areas where members of the APEC community believe Hong Kong, China might have room for improvement – this relating both to the introduction of a more horizontally-based competition policy regime and stronger enforcement around intellectual property rights. We have heard, in response, Hong Kong, China's intentions with regard to both – and see potential for progress in both areas.

Whilst the intention and value of this IAP Peer Review exercise is to highlight areas which warrant further attention – and this report seeks to do that – none of us would want those observations to detract from Hong Kong, China's overall excellent standing.

It is instructive, in this context, to relate the openness then of Hong Kong, China's market to its economic performance.

It has not all been plain sailing for Hong Kong, China in recent year's. It has faced a number of significant economic challenges and continues to do so. The expert's report notes a number of these practical challenges including:

- Its continuing economic integration with Mainland China
- Its continuation as a gateway into the Mainland
- Its continuing pre-eminence as a regional and international financial centre
- And challenges relating to infrastructure development, and aging population and its tax base.

Clearly these are critical issues bearing on the future of Hong Kong, China's economy. Against this backdrop it is heartening to note that Hong Kong, China:

- Has secured a return to strong positive growth (7% plus in the last couple of years)
- Has maintained the confidence of the international community – as evidenced by its ongoing ability to attract more and more multinational companies and the fact it remains the region's second largest recipient of foreign direct investment and
- It has continued to deliver strong growth in exports.

I would contend, and I hope others would agree, that a large measure of this success is a result of Hong Kong, China's very considerable openness to goods, ideas, capital, investment and people from outside its own customs area.

It is this link – between the openness of an economy and its economic resilience/strength – which lies behind our promotion of the Bogor Goals.

These goals exist to help all of us make that journey towards sustained and robust economic growth for the benefit of our economies, our peoples and our families.

Hong Kong, China's example – and continuing success – is something we welcome both for what it means for Hong Kong, China but also, critically, for the confidence it should give all of us as we continue our own journey towards the Bogor Goals.

Rupert Holborow
APEC Senior Official for New Zealand

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Study Report of the Individual Action Plan (IAP) Peer Review of Hong Kong, China

Purpose: Consideration
Submitted by: APEC Secretariat

First Senior Officials' Meeting
Canberra, Australia
18 January 2007

Study Report on Hong Kong, China's 2006 Individual Action Plans (IAP)

Prepared by

Dr. Charles A. Barrett, Canada
Professor Sung-Hoon Park, Korea

December 8, 2006

Executive Summary

1. As has been stressed in each of the Individual Action Plans (IAPs) submitted to the APEC process for review by its peers from 1996 to 2006, Hong Kong, China (HKC) has long maintained a free-market economy and a liberal trade and investment regime. On its way towards the Bogor Goals, HKC has shown remarkable progress in a number of IAP areas, and has established itself as a “model member economy” in trade and investment liberalization and facilitation (TILF).

2. Over the last nine years since the reunification and the establishment of the Hong Kong Special Administrative Region (SAR), an ever closer economic connection with the Mainland has been the principal factor shaping HKC’s development. The Mainland has fortified its position as HKC’s largest trading partner, with roughly 47% and 45% of total exports and imports, respectively, in the January to August 2006 period. Therefore, the future development path of the Mainland plays a pivotal role in determining the prospects for the Hong Kong economy.

3. The strong economic relationship with the Mainland has also played an important role in underpinning the strategic position of HKC as an international financial centre over the past few years, despite increasing challenges coming from regional competitors, especially Singapore and Shanghai. Supported by deepening economic and political linkages between the two APEC member economies, HKC has attracted an increasing number of Mainland companies to do business in the SAR and to use the Hong Kong Stock Exchange (HKSE) and other sophisticated financial services infrastructure to source capital needs. At the same time, many HKC-based companies have moved their production facilities to the Mainland, leading the two economies to become increasingly interdependent.

4. In this respect, the Closer Economic Partnership Arrangement (CEPA) between the Mainland and HKC, which went into force on January 1, 2004, is expected to become the main vehicle of strengthening bilateral relations between the two economies. Nevertheless, the CEPA should not become a stumbling block to the well-established position of HKC as a strong advocate for multilateral trade and investment liberalisation.

5. In fact, HKC has long supported the multilateral trading system by maintaining an extremely liberal trade and investment regime. HKC currently applies no tariffs at all on imported products, and levies duties only on selected items. No quantitative restrictions are imposed, and there are very sparing use of licensing scheme for a handful of items only. The investment regime is highly transparent, and trade in services is extremely liberal. HKC has shown a remarkable progress in the areas of trade facilitation, as well, making the economy one of the best places in which to do business and with which to trade. Overall, HKC can be considered the APEC member economy that is closest to achieving the Bogor Goals at the moment.

6. This exemplary performance notwithstanding, there are a few areas, in which further improvements would be desirable, in particular the protection of intellectual property rights (IPR) and the introduction of a more comprehensive approach to competition policy. As far as IPR protection is concerned, the Experts were impressed by the remarkable efforts that have been made at a variety of levels. Both new legislation and strengthened enforcement efforts have been put in place in order to improve the policy environment and the effectiveness of its implementation. Nevertheless, the challenge of IPR protection is a formidable one. The

international trading community in general and a few APEC member economies in particular still point to a relatively high incidence of IPR violations in Hong Kong. While considerable progress has been made, even more affirmative and focused actions, based on perseverance to execute a clear strategy, are needed, and this will require on-going major commitments of human and technical resources.

7. In the area of competition policy, HKC currently is considering comprehensive and horizontal legislation, widely accepted internationally as the standard for an advanced economy, but a somewhat controversial concept locally, given HKC's traditional sector-specific approach and the reluctance to sanction government intervention in the marketplace. A gradual adoption of a more modern system of disciplining market behaviour is expected, which ultimately will strengthen the business, trade and investment environment further.

8. As one of the most liberal and open economies in the world, strongly committed to the multilateral trading system and actively engaged in the APEC community, HKC's trade and investment regime provides a "model" against which many other APEC member economies can benchmark their efforts as they progress towards the Bogor Goals.

I. Introduction

The purpose of this study report is to evaluate the current status of Hong Kong, China's Individual Action Plans (IAPs), and in so doing to determine its advancement towards achieving its APEC commitments as set out in the Bogor Declaration of 1994. By way of background, in November 2005 APEC Ministers endorsed revised IAP Peer Review Guidelines, with the intention of strengthening the process in the context of APEC's mid-term stocktaking of the overall progress towards the Bogor Goals. The intention is to invigorate the process, making it more forward-looking and policy relevant.

Hong Kong, China (HKC) was one of four APEC member economies to volunteer for the initial round of such peer review dialogues in 2006-07. In comparison to the Trade Policy Review Mechanism of the World Trade Organization (WTO), which focuses on compliance within a legally binding framework of commitments, the review of APEC IAPs is not adversarial in nature, and thus is fully consistent with the voluntary and non-binding nature of APEC undertakings. Its focus is on the sharing of insights and experiences and on promoting opportunities for APEC members to learn from each other.

As such, HKC's recent experience provides an especially rich opportunity for sharing of good practice. As an economy long-wedded to the principles of free trade and the market forces, HKC is described in a previous IAP study report as a "model APEC citizen.[1]" and indeed it continues to be. In recent years it has undergone a sometimes difficult and profound structural transformation, rebounding from an economic slowdown and renewing itself as a regional services and logistics centre increasing integrated with the Mainland. While reforming traditional instruments of trade policy is of limited relevance, HKC is confronting the need to reconsider some important internal economic policies in order to ensure that it continues to be a vibrant and competitive economy.

For this reason the emphasis throughout the report is on understanding the broader context of HKC's structural transformation rather than on a technical review of traditional trade policy practices. In the sections that follow we discuss HKC's recent economic performance, and in particular its recovery since 2003, in considerable detail. The evolution of economic relations with the Mainland and the prospects for further integration through the Closer Economic Partnership Arrangement (hereafter the CEPA) is analyzed. The individual chapters of the IAPs are summarized, but in many cases, there is rather little comment, as HKC's policies and practices continue to be exceptionally liberal. However, as was the case in the 2003 Study report, particular issues are singled out for closer examination. These include in particular the enforcement of intellectual property rights (IPR) and competition policy, areas where HKC's practices have been the subject of comments and suggestions from other economies.

In addition, as there is an active debate currently on internal tax reform, including the possibility of introducing a Goods and Services Tax (GST), this report includes a section on tax policy reforms, which would have important implications for other areas of public administration, including trade facilitation. Changes to IAP Peer Reviews agreed in 2005 allow for the review process, by mutual agreement of the economy under review and the Review Team, to extend beyond issues listed explicitly in the IAPs to include other issues relevant to progress towards meeting the Bogor Goals.

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[1] IAP PEER REVIEW OF HONG KONG, CHINA Study Report (2003/SOMIII/042 Annex 2), p. 2.

The updated guidelines for the IAP review process also call for two Experts to participate in each Review Team (in addition to the Moderator and a member of the Professional Staff of the APEC Secretariat). Thus, this study report reflects a combined effort and the perspectives of both the Canadian and Korean co-authors. In addition to conducting a careful review of HKC's various IAPs since 1996, the report examined the recent literature on HKC's economic performance. The authors prepared a detailed questionnaire reviewing HKC's progress in implementing its IAP commitments, and which reflected specific questions from other APEC members, as well as comments from the APEC Business Advisory Council (ABAC). The HKC authorities provided comprehensive answers to all of the questions, and were pleased to provide supplementary answers where further clarification was sought.

A four-day on-site visit from September 26-29, 2006 provided an invaluable opportunity to explore particular issues and challenges with officials from many parts of the government of the Hong Kong SAR. As well the team benefited from informal dialogues with the HKC Members of ABAC. The authors are especially grateful to the officials of the Trade and Industry Department (TID) for arranging this programme and for their gracious hospitality during our visit. Of course the writers are solely responsible for any errors or omissions that may have crept into this report.

II. The Current Economic Situation and Trade and Investment Relations: Implications for the APEC Process

1. The Economy of Hong Kong, China in Overview

With the end of Severe Acute Respiratory Syndrome (SARS), the economy of HKC started to expand from mid-2003, driven by net exports, a free trade agreement with the Mainland (CEPA) that came into force in January 2004, and later by strong domestic demand. This economic upturn has continued up to present: real GDP increased by 8.2% and 7.0% in 2004 and 2005, respectively, mainly supported by strong economic exchanges with the Mainland and demands from the United States and Japan. Even though the overall economy was in good shape, domestic demand shrank in the year 2005, due in part to the recent rise in interest rates that put more pressure on mortgage and loan payments. The unemployment rate showed a moderate improvement, with strong job creation in the services sector. However, as for the manufacturing, construction, and low-end services sectors, the unemployment rate is still high, since manufacturing and low-end services activities moved to the Mainland and construction output declined. As economic ties between HKC and the Mainland have intensified in both quality and quantity, its role as a bridge between China and the world has greatly increased in recent years. At present, however, with Chinese economy growing at a rapid pace there are increasing calls for economic restructuring in order to ensure that HKC does not lag behind as the Mainland increases output in such sectors as manufacturing and low-end services.[2]

Named as the world's freest economy by the Heritage Foundation for the 12th consecutive years, HKC has committed itself to economic development through the market. This has been reflected by the high number of multinational corporations (MNCs) that have established their regional headquarters in Hong Kong. In fact, the number of regional headquarters has ever

[2] IMF Country Report, People's Republic of China-Hong Kong Special Administrative Region, No. 06/50, 2006, pp. 4-5.

increased, and doubled in 2005, compared to 1992. Currently, a total of 1,228 MNCs of diverse origin—295 from the US, followed by 212 from Japan and 114 from the United Kingdom (UK)—have located their regional headquarters in Hong Kong as of 2006. The free and liberal nature of the HKC economy is also evident in the fact that as a member of the WTO HKC has been involved in fewer trade disputes than other APEC member economies, recording zero cases as of June 2006.[3]

The future of the HKC economy will largely be determined by whether or not the economy can successfully master the following challenges:

- Making a maximum use of close economic cooperation with the Mainland, through the CEPA instruments and Pan-Pearl River Delta (Pan-PRD) initiatives.
- Maintaining HKC's traditional role as a gateway to and from the Mainland.
- Further strengthening of HKC's strategic location as a regional and international financial centre, the position of which is increasingly challenged by Singapore and Shanghai, China.
- Addressing of reform measures such as the broadening of the tax base, which are already introduced and/or being debated.
- Carrying out several infrastructure projects successfully, which will contribute to the improvement of the overall competitiveness of the economy.

2. Hong Kong, China's trade and investment relations

HKC's free-market economy and liberal trade and investment policies have manifested in the economy's trade and investment relations. HKC is the second largest foreign direct investment (FDI) recipient in Asia-Pacific after the Mainland, and sixth in the world. The total inward direct investment amounted to US$35.9 billion in 2005, and its total stock of inward direct investment was estimated at US$533 billion in the year 2005. The flow of FDI into HKC covers a variety of sectors, ranging from investment holding, real estate, financial services, trade-related services, transportation and logistics and business and professional services. It is a remarkable feature of HKC, that around 3,800 MNCs operate their regional headquarters or offices in Hong Kong,[4] and it is expected to increase even more for years to come.[5] Of course, the CEPA appears to have played a key role in encouraging corporations to invest in Hong Kong. During 2005, 27% of the investing companies said that the CEPA influenced their decisions to operate in Hong Kong. In addition to HKC's strong position as a two-way service platform for business between the Mainland and the world, its unique location at the heart of Asia has attracted a great deal of foreign companies from different industries. Also, as the natural business hub for the Greater Pearl River Delta (GPRD), covering part of Guangdong Province[6], HKC and Macao, HKC is appealing to investors all over the world.[7] These geopolitical factors notwithstanding, it is certain that policy factors have also played a pivotal role. The 2004 Annual Survey of Regional Offices Representing Overseas Companies that operate regional headquarters and/or offices in Hong Kong identified the following five most important attractiveness of the economy: (a) free flow of

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[3] WTO website, www.wto.org.
[4] As stated before, 1,228 MNCs have established their regional headquarters for Asia in Hong Kong. The rest has been running their offices in Hong Kong.
[5] "Invest Hong Kong Quarterly News Letter" April 2006 Issue.
[6] The Pearl River Delta Economic Zone in Guangdong comprises the following 9 municipalities: Dongguan, Foshan, Guangzhou, Huizhou, Jiangmen, Shenzhen, Zhaoqing, Zhongshan and Zhuhai.
[7] Ibid.

information; (b) low and simple tax system; (c) corruption-free government; (d) absence of exchange control; and (e) communication, transport and other infrastructure.[8]

HKC is the world's 11th largest trading economy and also the world's 11th largest exporter of commercial services. Both HKC's export and import trade have been exceptionally satisfactory in recent years, posting 11.4% gain in 2005 for total exports. Export growth was underpinned by the Mainland's active performance for export production, especially for electronics parts and components, thanks to stronger-than-expected global demands for electronics products and sustained consumer demand from the US and European countries.[9]

Mainland China is by far the largest trading partner of HKC, with 47% of HKC exports are directed to the Mainland in the period from January to August 2006, followed by the United States (15%), the European Union (14%) and Japan (5%). Its export-trade performance is partly stimulated by outward processing activities in Guangdong where most of HKC companies have extended their manufacturing bases. It is estimated that approximately one-third of HKC's total exports to the Mainland were destined to be further processed and re-exported, which reveals an intense economic exchanges taking place in the GPRD areas.[10]

HKC's import/export trading companies increasingly source goods "offshore" for sales in international markets due to the expansion of production capability in the manufacturing sector and availability of related supporting services in the low-cost countries, particularly the Mainland. As will be elaborated in a greater detail later, these trade and investment relations between the Mainland and HKC have been strengthened due to the CEPA, which went into force in January 2004.

III. The Position of Hong Kong, China in APEC and World Economy

1. Maintaining Hong Kong, China as a major global and regional financial centre

With the increasing globalization and integration of international financial markets and the opening and liberalization of national policies, the long-standing leading position of HKC as a regional and international financial centre has been increasingly challenged. Especially, a keen competition comes from Singapore and Shanghai, the two most influential financial centres in the region besides HKC. To maintain and even strengthen its competitive edge, HKC endeavours to ensure good corporate governance, an efficient payments system to ensure timely settlement, and high-standard global communications network to ensure connectivity, thereby providing well-functioning institutions that are regarded as a pivotal factor of success for financial centres.

The IAP Experts are also confident that the HKC's strong business connectivity with the Mainland constitutes an invaluable source of the economy's remarkable performance as a financial centre. Nevertheless, it is imperative for HKC to be well prepared for new kinds of challenges and opportunities arising from the Mainland, for example: the gradual internationalization of the renminbi; the progressive relaxation of capital and foreign exchange controls; and the faster development of the Mainland's financial markets.

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[8] www.legco.gov.hk –The Legislative Council website.
[9] www.tdctrade.com – Hong Kong Trade Development Council website.
[10] Ibid.

2. Hong Kong, China as a major gateway to and from the Mainland

The progressive opening and liberalization and the rapid economic and political rise of the economy of Mainland China has posed challenges and opportunities for the HKC economy alike. Challenges are arising from the penetration of Chinese products into the sectors of traditional comparative advantage of HKC. Opportunities arise from HKC's shared heritage and culture with the Mainland and the long-standing business and inter-personal connections. It is a positive signal that since the reunification and the establishment of the SAR, HKC's strategic position as a gateway to and from the Mainland did not weaken at all. Rather, the partnership relationship between HKC and the Mainland has strengthened over the last few years. The signing and implementation of the CEPA, implementation of the Individual Visit Scheme between the Mainland and HKC, and the carrying out of renminbi business by banks in Hong Kong have been milestones of recent favourable economic exchanges between the two economies. Approximately 20% of the Mainland's exports and imports passed through HKC as of 2005.

HKC's strategic position as a trade conduit to and from the Mainland has been instrumental in triggering increasing investment and financial interactions with the Mainland. HKC, in fact, has established itself as an important fund raising centre for Mainland enterprises. As the government of HKC reported, at end-June 2006, there were 350 Mainland-related enterprises listed on the Hong Kong stock market, accounting for 30% of the total number of listed companies in the HKSE. Their market capitalisation amounted to HK$4.3 trillion (US$551.3 billion), accounting for 44% of the total market capitalisation of the Hong Kong stock market, the eighth largest in the world. Also, HKC was the largest source of foreign direct investment in the Mainland. Therefore, concern over the potential weakening of HKC's strategic position as a gateway to and from the Mainland proved to have been exaggerated, and HKC has shown itself to possess the potential of further strengthening the position for the years to come.

3. Hong Kong, China as the hub of the emerging Pearl River Delta region

The Pearl River Delta Region (PRDR) constitutes one of most dynamic economic powerhouses at the moment. Encompassing the eight neighbouring Mainland provinces[11] of Guangdong, HKC and Macao, the Pan-Pearl River Delta (Pan-PRD) framework, as initiated in 2004 by the Guangdong Provincial Government, has been promoting closer economic links through trade and investment relations. In this framework, HKC is well positioned to become the hub of growing economic dynamism. Especially, HKC's strategy is to deepen and broaden its relationship with a larger hinterland neighbouring the Guangdong province, specifically by expanding the productive capacity and market potential for the region, which is expected to further enhance HKC's competitiveness and attractiveness to foreign investors.

The success or failure of this approach will largely be determined by HKC's capability to master the following major challenges: (i) fostering closer cooperation with the Mainland; (ii) securing a full and cost-efficient integration of transportation networks with the Mainland; (iii) providing innovative and high-quality services at competitive prices. The HKC government attempts to pursue a two-track approach in this regard: while maintaining and even strengthening its strategic location as the gateway to and from the Mainland, HKC also

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[11] Fujian, Jiangxi, Hunan, Guangxi, Hainan, Sichuan, Guizhou and Yunnan.

tries to fortify its global orientation of business and economic activities. "Globalism based on bilateralism" may be an appropriate description of HKC's current strategic priorities.

4. Problems with public finances

During the economic downturn following the Asian Financial Crisis the finances of the Government of the Hong Kong SAR came under considerable stress. The response stressed fiscal prudence, with expenditures being cut back so as to ensure that revenues became adequate to meet expenditures. With the strong economic rebound in 2004 and 2005, public finances are finally back on a firmer footing. Both the Operating and the Consolidated Accounts were in surplus in fiscal year 2005-06 for the first time since 1997-98. At of the end of March 2006, fiscal reserves were strong, equivalent to some 22.5% of GDP. The 2006-07 Budget anticipated surpluses in both the Operating and Consolidated Accounts for the coming five years to 2010-11.

Nonetheless, the experience of the past few years has underscored the vulnerability that HKC faces, given its exceptionally narrow base of tax revenues by international standards. The impetus for tax reform is further driven by the reality that HKC has a rapidly ageing population, and will face ever growing responsibilities for delivery of health care and social services for its seniors.

Thus, the government has launched a public consultation, examining options for broadening HKC's tax base and providing a more stable future stream of public sector revenues. The proposed option is introducing a new broad-based consumption or indirect tax, i.e. a comprehensive GST at a low rate, as it could enhance HKC's international competitiveness by providing room for reducing Profits Tax and Salaries Tax rates. But not surprisingly this option has engendered considerable controversy, and is by no means a certainty. Should a GST be introduced, an expanded administrative apparatus would be required, with implications for customs administration and trade facilitation, since adjustments of control practices at boundary would be required and arrangements would be made to zero-rate exports.

HKC's current system taxes salaries, profits and rental income from property. There are no taxes on capital gains or on dividends. The standard rate is 16% for individuals and 17.5% for corporations. HKC's dependence on corporate taxation greatly exceeds international averages, whereas its dependence on personal direct taxation is close to the OECD average of 25%. Property related taxes account for almost half of revenues, high by international standards.

There is also a stamp duty conveyance, and the government also derives significant amount of revenue from the sale and development of land. Business taxation in Hong Kong operates on a territorial principle, taxing only profits deriving from Hong Kong operations.

Double taxation arrangements are in effect with Belgium, Thailand and the Mainland, and negotiations are underway with several other jurisdictions. However, given HKC's current tax system with low rates and territorial reporting, there is limited incentive for other economies to enter into such treaties.

In summary, tax reform is likely to be the major focus of pubic policy debate in Hong Kong. The case for broadening the tax base is quite compelling, but no consensus has as yet reported on how best to do so. Should the agreed-upon solution be the introduction of a comprehensive GST, investment will be required to administer the system, including not only an internal apparatus for collection, reporting and audits, but also changes to reporting and control practices at the boundary.

IV. Hong Kong, China’s Approach to Trade and Investment Liberalization

HKC has a longstanding tradition as a free port, highly dependent on entrepot trade, with both exports and imports each roughly double the gross domestic product. HKC applies no tariffs, and assesses duties on only a handful of items. There are no quantitative restrictions to trade in any goods, and only a few goods are subject to licensing for various purposes, one of which is maintaining a staple supply of rice as a reserved commodity, and/or for protecting human health.

Four decades ago, a thriving light industry sector developed within Hong Kong, but manufacturing has virtually completely moved across the boundary to the Mainland. Today upwards of 90% of the HKC economy involves the production of services, with particular strengths in the provision of financial, logistic, professional and tourism services. HKC companies are increasingly investing in services industries in the Mainland, and contributing to strengthening Chinese services institutions. Official Chinese development strategy envisages HKC as acting as a “services platform” for the region.

While HKC’s economy is particularly closely integrated with that of the Pearl River Delta, it also acts as a gateway to the entire Mainland, adding value through repackaging products, its excellent facilities, and financial services capacity. It also provides an attractive site for the Asian regional headquarters of American and European multinational enterprise. Thus success depends on its excellent transportation and communications infrastructure, competent public administration, impartial legal system and the availability of skilled human resources.

Given the outward orientation of HKC’s economy, it is not at all surprising that the authorities attach great importance to the multinational trading system, and to a successful conclusion to the Doha Development Agenda under the WTO. With the orientation of its economy, HKC has a particular interest in the outcomes of the services negotiations, but is also interested in the further liberalization of non-agricultural market access (NAMA), given its gateway role in China’s manufacturing trade, and in rules reform, particularly applying disciplines to anti-dumping provisions. HKC would also like to see stronger disciplines on most-favoured nation (MFN) exemptions.

HKC has been among the most active delegations in Geneva, particularly on discussions of anti-dumping. In addition HKC chairs the Negotiating Group on Trade Facilitation, and is generally seen as being a constructive and balanced member of the WTO, who works behind the scenes to find workable compromises.

While the multilateral trading system lies at the heart of HKC’s approach to trade liberalization, other approaches are complementary. HKC has been a strong supporter of regional dialogue through APEC, and is also taking concrete steps to enhance its economic relationships with the Mainland through the CEPA, described in detail in the next section.

V. The CEPA with the Mainland

HKC and the Mainland signed the CEPA on June 29, 2003 that became effective from January 1, 2004. Since then, three other rounds of the trade negotiations (CEPA II, III & the one for products applied in the first half of 2006) have been concluded, creating stepping stones to further broaden and deepen economic and financial ties between the two economies. HKC has been playing a key role in bridging the Mainland and the world, successfully working as an entrepot for the fastest growing economy. The CEPA indeed is a centrepiece of HKC's economic relations with the Mainland, which demonstrates the characteristic of the "one country, two systems" principle, and therefore deserves a special attention. Considering the relatively high interdependence between the two economies, the government of HKC also attaches an enormous importance to the CEPA scheme, as manifested to its answer to the Question No. 2 (see Annex 2) raised by the Experts before they conducted the on-site visit to HKC. In fact, trade statistics for January to August 2006 reveal that the Mainland accounted for 46.8% and 45.3% in HKC's total exports and imports, respectively.

The CEPA includes two separate free trade agreements (FTA), and was notified to the WTO on January 12, 2004, both under GATT XXIV and GATS V.[12] As an FTA, the CEPA provides a zero-tariff access to HKC of all imported goods originating in the Mainland. Also, the Mainland offers preferential market access opportunities for Hong Kong goods and services, ahead of and beyond the commitment of China in the WTO. It adopts a "building block" approach, which enables an incremental liberalization between the two economies when the two parties reach a mutual agreement. Currently, the three stages of CEPA (CEPA I, II & III) and the products applied for CEPA in the first half of 2006 are in force, and the products applied for zero tariff in the second half of 2006 are already in the pipeline for implementation from the beginning of 2007.

Whereas the trade in goods between the Mainland and HKC almost fully liberalized through the CEPA III, the agreement for services trade provides at present preferential market access for Hong Kong services providers in 27 services sectors, with the possibility of expanding the coverage over the coming years through subsequent supplements to the original CEPA. The CEPA also includes provisions for cooperation in the following eight liberalization and facilitation areas of importance for enhancing economic exchanges between the two parties: customs clearance; quarantine and inspection of commodities; quality assurance and food safety; small and medium-sized enterprises; Chinese medicine and medical products; electronic commerce; trade and investment promotion; transparency in law and regulations; and intellectual property protection.

Through the CEPA, the government of HKC expects a number of positive stimulation for economic activities, and it seems that some of them have materialized already.[13] First, as an FTA, the CEPA is expected to boost exports in goods and services of HKC-based companies. Second, as the Mainland will continue to be one of the most dynamic economies in the world, HKC's role as an international trade and business centre and a gateway to the Mainland is expected to strengthen further, with increased potential to provide positive business opportunities to the international investors investing in Hong Kong. Third, with the common culture, shared written language, and given the formidable Mainland experience of business people in Hong Kong, Mainland investors will continue to be attracted to invest in Hong

[12] See the WTO website: http://www.wto.org/english/tratop_e/region_e/eif_e.xls (viewed on October 19, 2006).
[13] For more details, see Invest Hong Kong, 2006, "Invest in Hong Kong for Success in Mainland China: The CEPA Benefits".

Kong, in order to benefit from its position as "a springboard to regional and global markets, as well as access to local and overseas business partners."[14] Therefore, the CEPA can be regarded as a mutually beneficial trade agreement that will support a further deepening of linkages between the HKC economy and that of the Mainland.

VI. An Assessment of Hong Kong, China's IAP and its Implementation

This part of the report comments briefly on each of the major chapters of HKC's most recent IAPs. In most cases the comments are exceedingly brief, because there is relatively little to be said. Given its longstanding commitment to the market economy and to free trade, in most respects HKC has already achieved a degree of liberalization that is fully consistent with the Bogor Goals. As was the case with previous versions of the IAPs, however, there is a need for more in-depth discussion of two areas where either there has been some degree of criticism from other APEC members on the HKC IAPs and/or there is considerable and complex public policy debate within Hong Kong itself. These areas are, respectively, IPR and competition policy.

1. Tariffs

HKC does not apply tariffs on any of its imports, and charges duties only on liquor, tobacco, hydrocarbon oil and methyl alcohol. There are no tariff quotas.

As of 2006, 62% of all tariffs (in value terms) have already been bound at zero, covering 44% of tariff lines. This is up from 43% in 2002 and 35% in 1996. The increase in binding was the result of both autonomous decisions taken by the HKC authorities and the implementation of obligations in accordance with the result of international trade agreements. Further improvements on tariff binding could be made under the WTO Doha Development Agenda (DDA) negotiations, should these resume and come to a successful conclusion. After completion of the Doha round negotiations, HKC will review its tariff regime in the light of the negotiation results and consider binding additional tariff lines and the timing for doing so as appropriate. Given the leadership role of HKC as a liberal market-based economy and free trader in the APEC community and beyond, depending on the outcome of the DDA negotiations, the binding of tariffs at zero percent could be further accelerated. This would set a model for many of APEC member economies to strengthen their efforts to achieve the Bogor Goals.

2. Non-Tariff Measures (NTMs)

Although HKC does not apply quantitative restrictions to its trade, it does employ import licensing schemes for some commodities and products to protect public health, safety, security and the environment, and to fulfill international obligations. As a surveillance system to back up the textiles export control system and to preserve the legitimate textiles trade interests, import licensing measures are imposed on textiles and clothing products.

Besides these import licensing schemes, HKC maintains only those non-tariff measures that are in line with the usual purposes practiced by the majority of world trading system and the

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[14] Invest Hong Kong (2006), p.3.

APEC community. To enhance the efficacy and transparency of the NTMs, such measures are reviewed regularly by the HKC authorities, and since the previous IAP Review in 2003, a number have been removed and/or simplified. Changes have included removal of the following:

- Rice import quotas, capital and financial requirements for registration as rice stockholders—Import/export licensing for rice is maintained to monitor the supply of rice. Individual stockholders are required to maintain a reserve stock of rice to cater for emergencies and short term shortage of supply.

- Quantitative export restrictions on textiles and clothing products—Licensing arrangements for textiles and clothing products were streamlined with effect from 1 January 2005 to provide greater facilitation to the trade while ensuring origin compliance of the textiles and clothing products claiming Hong Kong origin.

- Licensing requirements for left hand drive vehicles and outboard engines.

- Licensing requirements for exports of TV sets and VCRs/players.

In addition, the licensing requirements were replaced by a Transhipment Notification System for certain transhipment cargos.

The only new non-tariff measure since the last IAP review has been the introduction of import/export licensing requirements for rough diamonds to fulfill the international obligations under the "Kimberley Process".

An open bond system was established in April 2003 and covers those items subject to duty (tobacco, alcoholic liquor, methyl alcohol and hydrocarbon oil). Full time customs attendance in warehouse is no longer required. The open bond system relies on self-compliance by the bonded warehouse keepers. In addition, Hong Kong Customs will monitor and control compliance through a series of risk-based supervision and inspections like licensing requirements, random checking, documentary verification and post-transaction system-based auditing. This has resulted in annual savings of HK$70 million (US$8.97 million). The use of the open bond system is increasing and there is no evidence of a loss of revenue as a result of the change in system.

3. Services

As its prosperity depends on the success of its highly competitive services industry it is not surprising that HKC has in place a liberal regime for trade in services. Subject to the CEPA, MFN treatment is applied across all services and providers, and with the exception of residency requirements being maintained in a few services sectors, foreign service providers generally are afforded national treatment. Markets have been progressively deregulated and liberalized, and are generally contestable. Internal measures that affect trade in services are publicly available, while regulations are not unduly restrictive. A number of additional steps have been taken since the time of the last review to liberalize services further with respect to market access, as follows:

- *Legal Services:* An amended Legal Practitioners Ordinance came into effect in March 2003, ending discrimination in favour of UK-based qualifications and making the criteria for barristers to practice in Hong Kong MFN consistent.

- *Accountancy Services:* In addition to mutual recognition agreements with seven chartered accountancy bodies in force, the Hong Kong Institute of Certified Public Accountants reached two additional agreements respectively with Canadian Institute of Chartered Accountants and CPA Australia in 2005. Two more such agreements on exemption of professional examinations were concluded with Chartered Institute of Management Accountants and ACCA by the end of 2006.

- *Telecommunications Services*: The market has been progressively de-regulated. Fixed line telecommunication network services were fully liberalized at the beginning of 2003, while market entry requirements for wireless networks were substantially reduced. Fees for telecommunications licences were reduced in 2004, and in 2005, additional types of telecommunications apparatus were exempted from licensing to encourage the adoption of advanced wireless technology. At the beginning of 2006 a Services-Based Operator (SBO) Licence was introduced permitting SBOs to provide local voice telephony services using Internet protocol (IP) or other technologies. Apart from SBOs, local fixed carriers are also allowed to provide IP telephony services under their existing licences.

- *Education Services*: Beginning in 2004, private schools providing both day and evening instructions have been permitted to operate under a single registration.

- *Financial Services:* Securities law was overhauled and consolidated into a single ordinance, bringing Hong Kong corporate governance practices into line with international standards. Specifically in 2003 a new Securities and Futures Ordinance (SFO) was promulgated to align HKC's regulatory framework with prevailing international standards, while facilitating market development and competition, and protecting investors. In addition, a mandatory deposit protection scheme with coverage up to HK$100,000 per depositor per bank has been put in place, and there are new stringent anti-money laundering regulations.

- *Air services:* The number of bilateral air services agreements increased from 50 to 57 as at end 2006
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- *Temporary entry and stay of service providers and intra-corporate transferees*: HKC has liberal policies with respect to migration as described in detail under "Mobility of Business Persons".

4. Investment

HKC's investment regime is open and transparent, with information on major policy initiatives, government programmes and services of interest to investors readily available. Foreign and local investors are treated alike, and there are no performance or local content requirements in connection with investments. Property rights are protected under the Basic Law, and investments and returns thereon freely convertible.

Since the last IAP review, HKC has taken a number of concrete steps to promote investment, as follows:

- Implementation of the CEPA with the Mainland, beginning in 2004, described in detail elsewhere in this report.
- Implementation of the "Frequent Visitor Card" scheme at the Hong Kong International Airport and "Automated Passenger Clearance and Automated Vehicular Systems" at control points to facilitate entry clearance, both described elsewhere in this report.
- Introduction of the "Business Concierge Service Scheme", which offers a list of pre-qualified service providers for potential investors interested in establishing a presence in Hong Kong and explores business opportunities in the Pearl River Delta region.

In addition, HKC has concluded a total of 15 bilateral Investment Promotion and Protection Agreements (IPPAs), of which 5 were concluded with APEC members (Australia, Japan, Korea, New Zealand, Thailand), with the objective of both assuring the overseas investors of an adequate protection of their invested assets in Hong Kong and providing similar protection for its businesses investing abroad. Since the last IAP Review, an IPPA with Thailand was successfully concluded in 2005. A number of economies are in the process of negotiation/discussion with HKC for the purpose of an IPPA. Negotiating IPPAs remains one of the instruments of HKC to provide an additional stimulus to foreign investments, including those from other APEC members.

5. Standards and Conformance

HKC does not have its own central standards authority, but instead applies recognized international standards to address safety, health and environmental considerations. This approach has proved to be highly effective, and there has been no significant changes or issues since the last IAP Review. HKC has participated in the APEC Sub-Committee on Standards and Conformance (SCSC) since its establishment in 1994, and has been working progressively towards the achievement of the four SCSC objectives: alignment with international standards; active participation in international standardization activities; recognition of conformity assessment results; transparency of standards and conformity assessment requirements. Especially, HKC continues to work closely with the ISO as a corresponding member, and to use mutual recognition agreements (MRAs) in both the regulated and voluntary sectors. Five such agreements are with APEC members, and the overall number of MRAs has expanded over the years. The standards and conformity regime of HKC appears to be highly transparent, with relevant information readily available on the website managed by the Innovation and Technology Commission.

6. Customs Procedures

As HKC is a free port with no customs tariff to be imposed at the border, the customs formalities are simple and the customs procedures seem to be compatible with the five Guiding Principles: facilitation, accountability, consistency, transparency and simplification, laid down by the APEC Sub-Committee on Customs Procedures (SCCP). Over the 1996-2006 period, HKC has registered a number of improvements in the sub-areas of Customs Procedures:

- the Electronic Data Interchange (EDI) Systems for a number of trade-related documents have been upgraded and enhanced;

- Cooperative instruments have been signed, and liaison channels have been established with the business sector, with the view of enhancing cooperation on customs clearance;
- the system of launching complaints and provision of customer services have been improved overall;
- an electronic payment method for express cargo operators was introduced to streamline customs clearance procedures; and
- high-tech equipments have been purchased and installed, to complement the use of risk management techniques in cargo and passengers clearance, etc.

In addition, though not being a Contracting Party to the Revised Kyoto Convention HKC, adopts and implements the principles of transparency, predictability, consistency and reliability as advocated by the Convention. The HKC government has conducted a series of studies to check implications of the Revised Kyoto Convention, and is considering its accession to the convention.

Also, though not a full member of the International Convention on the Harmonised Commodity Description and Coding System (the HS Convention), HKC has fully adopted HS since 1992, and implemented 1996 HS on 1 January 1996 and 2002 HS on 1 January 2002. The HKC government adopts an annual updating to respond to new requirements of the system.

Through all these efforts, HKC—among the APEC member economies— is seen as providing one of the best customs procedures environments. In a business survey conducted for approximately 500 Korean firms in 2006, for example, HKC was the best performer in the three of the four surveyed trade facilitation areas (1st in customs procedure, standards and conformance, and business mobility; 2nd in e-commerce), followed by Singapore, New Zealand and Chile. Especially in customs procedures, HKC's performance was viewed as outstanding. This shows the high quality of Hong Kong service to the exporters and importers of APEC member economies.

7. Intellectual Property Rights

After extensive public consultations, a new Copyright (Amendment) Bill 2006 was introduced to the Legislative Council in March with the objective of achieving an appropriate balance between protecting copyright owners and affirming fair and legitimate use of copyright works. The Bill will be subject to further debate in the Bills Committee of the Legislative Council, and will likely require another year before it is enacted into law.

More immediately, there has been a concerted effort to stamp out abuses of IPR in Hong Kong. Enforcement is the responsibility of Hong Kong Customs, with a focus primarily on copyright piracy and counterfeiting. At the time of the last major revisions to the copyright ordinance in 1998, the indications were that there were around 1000 local retail outlets openly selling pirated optical discs. A multi-pronged strategy was put in place to enforce the law rigorously, with increasing deterrence efforts of a special Task Force of the Hong Kong Customs. Through these concerted and focused efforts, it was reported that the number of pirated optical disc outlets had fallen to around 50 in 2005, with a continued reduction to a record low of 35 in 2006. (These data are based on monthly surveys of the pirated disc outlets, which have been carried out since 1999.)

Enforcement success in Hong Kong depends on a number of crucial factors. For instance, the penalties should be rigorous to contain the problem. Piracy of optical discs would lead to imprisonment of, on average, 3 to 6 months for first-time offenders. The Organized and Serious Crimes Ordinance (OSCO) will be applied in piracy cases of very serious nature or of a significant scale. Under this law, the Hong Kong Customs can apply for restraint orders from the court to freeze the crime proceeds and assets of individuals or syndicates involved. There have been six such cases to date, involving about HK$97 million (US$12.4 million) worth of assets restrained. Another factor is the deployment of technology. Internet piracy is being tackled by specially trained investigation teams equipped with online investigation and forensic computing tools. Internet pirates, who distribute infringing copyright work or provide free downloading of the work through websites in Hong Kong, will be prosecuted. Hong Kong Customs has effected the first case where the offender uploaded the infringing files of three movies on to the Internet for the peer-to-peer file sharing of these infringing movies. The offender has been prosecuted and convicted by the court, and the case is currently at the appeal stage. Furthermore, the Hong Kong Customs also takes rigorous action at the boundary with the Mainland in order to interdict smuggling activities, including pirated and counterfeit goods.

The enforcement process has required a large deployment of resources, with around 400 Customs officers deployed primarily for IPR enforcement, including about 150 in the special Task Force, and about 250 in the intellectual property investigation. Some 2,700 more Customs officers are deployed at the airport, the land boundary checkpoints, the ocean-going ferries terminals and the container terminals to detect smuggling of contraband including pirated and counterfeit goods into or out of HKC. In addition, there has been significant IT investment, including the establishment of a Hong Kong Customs computer forensic laboratory, and the joint development of a computer programme with a university for the automatic round-the-clock monitoring of piracy activity on the Internet.

Public education and outreach has also been very important. There have been a range of publicity campaigns on IPR and partnership schemes with the IPR industry. In July 2006, Hong Kong Customs launched the “Youth Ambassador Against Internet Piracy” Scheme, which involved some 200,000 members of the local youth uniformed groups. Training activities are organized for the Youth Ambassadors from time to time in order to raise their awareness of IPR protection and encourage their voluntary participation in reporting copyright infringement activities on the Internet. In addition, other major campaigns such as “I Pledge” and “No Fakes” have been launched to awaken the public awareness of the importance of IPR and its protection.

These numerous activities notwithstanding, it remains a challenge for HKC, to assure the world trading and APEC community of its further commitment to and more affirmative action against the violation of IPRs, as Business Software Alliance reported in 2005 the software piracy rate of HKC to have increased from 52% to 54%. (See Question 29b raised by the United States at Annex 2.)

It is often suggested that success in the protection of IPR requires a focused approach, based on a clear strategy, major investment of human and technical resources, intelligence (informants are important). HKC’s progress in recent years corroborates this. Also, the Experts also point to the importance of prevention, publicity, and public education.

8. Competition Policy

Competition policy is one area where traditional practices have resulted in both considerable scrutiny and some criticism by overseas commentators. Specifically, HKC's piecemeal approach to regulating competition matters has been raised as an issue in the WTO Trade Policy Review, as well as by the International Monetary Fund (IMF), and the topic was also discussed in the 2003 IAP Study Report. The European Union has also encouraged the enactment of a comprehensive Competition Law.

HKC's approach traditionally has been to regulate competition on a sector-specific basis, often in conjunction with the economic regulation of so-called "natural monopolies" such as utilities and local transport services. The rationale for this approach has been to minimize the role of government in constraining private sector behaviour, given that HKC is a small open economy already disciplined by global competitive forces.

Banks have been subject to prudential regulations that include provisions to ensure competition. Nonetheless, the WTO noted in its 2002 Trade Policy Review that "despite the large number of banks, the sector has a quasi-oligopolistic structure." Specific competition laws have also been enacted for the telecommunications and broadcasting sectors, also noted by the WTO as being "the only activities that have explicit legal provisions against anti-competitive behaviour." In short, there have been no general prohibitions against price fixing, limiting supplies or other market-sharing arrangements. However, HKC already has long had in place a quasi-governmental Consumer Council that deals with aspects of consumer protection such as product safety, as well as consumer education.

Given the controversy surrounding the traditional approach, however, it is not surprising that the subject of competition policy has engendered considerable debate. Almost a decade ago the government established the Competition Policy Advisory Group (COMPAG), which in 1998 produced a statement of principles that argued explicitly against introducing comprehensive competition legislation. The principles emphasized the importance of "enhancing economic efficiency and the free flow of trade", and stated that competition policy should be seen as a means to an end rather than as "an end in itself".

But more recently, given the external criticisms as well as trends elsewhere in the region, this stance is being rethought. With regard to the latter, Singapore, a long time holdout has recently legislated broadly-based regulation to ensure competition, while the Mainland government has drafted an Anti-trust law.

The HKC government has indicated, more openness to considering comprehensive legislation, though not yet making a formal commitment. A Competition Policy Review Committee (CPRC) was appointed by COMPAG in June 2005 and issued its *Report on the Review of Hong Kong's Competition Policy* one year later, recommending the enactment of a horizontal competition law targeting specific types of market structures and the prohibition of anti-competitive behaviour. The law would not address the question of the approval of mergers. Enforcement would be subject to an independent Competition Commission with investigative powers. Penalties for prohibited conduct would include penalties fines and the disqualification of individuals concerned from holding directorships in public companies.

While no consensus has emerged as yet, the CPRC report recommending the adoption of a horizontal competition law was an important step in the policy debate. The next step will be to hold stakeholder consultations which will begin before the end of 2006 to consider implications of the CPRC report and a proposed legislative response. The introduction of a horizontal competition law would require a significant investment in building capacity for oversight and enforcement within the proposed Competition Commission.

9. Government Procurement

HKC maintains an open and non-discriminatory approach to government procurement. It is a signatory to the WTO's Agreement on Government Procurement. Its regime is fully consistent with the APEC Non-Binding Principles of transparency, value for money, open and effective competition, fair dealing, accountability and due process and non-discrimination.

10. Deregulation/Regulatory Review

HKC has a longstanding and deep commitment to the market economy, with a philosophy of minimizing the intervention by government in its economic management. Regulatory regimes exist either for prudential reasons, to ensure product safety, and to protect the interests of consumers. To this end the government reviews its regulatory activities on a regular basis in order to ensure that instruments of public policy achieve their desired objectives in an efficient and effective manner. The Economic Analysis and Business Facilitation Unit (EABFU) of the Financial Secretary's Office conducts regulatory reviews and Regulatory Impact Assessments (RIA) in order to minimize compliance costs. A Business Facilitation Advisory Committee (BFAC) reporting to the Financial Secretary was established in early 2006 to develop and oversee an on-going programme to ensure that HKC remains an attractive site for business.

That said, as is noted elsewhere in this report, some important current policy debates are underway now in Hong Kong regarding the appropriate nature and degree of government management of the economy. These are discussed in more detail under the sections of the report on Competition Policy and Public Finances.

11. Implementation of WTO Obligations (including Rules of Origin)

HKC has met all of its WTO obligations, relating to both trade in goods and trade in services, and thus no further commitments were required or made under the 2006 IAP. All imports enter HKC on a non-preferential, tariff-free basis and they do not need to be supported by certificates of origin. Since the time of the last IAP Review, the situation has become somewhat more complicated with respect to goods exported from HKC, however. As is discussed in detail earlier in this report, HKC signed the CEPA with the Mainland in 2003. The arrangement does create preferences in the Mainland market for goods of Hong Kong origin, thus requiring the development of rules of origin applicable to such trade.

From the beginning of 2006, the Mainland has applied a zero tariff to all imported goods of Hong Kong origin, excluding prohibited articles, provided that the CEPA origin rules have been agreed and met. To claim a zero tariff under the CEPA, Hong Kong-origin products importing into the Mainland must be supported by a Certificate of Hong Kong Origin-CEPA, which can be issued by the TID or the Government Approved Certification Organizations[15] to establishments who have completed a Factory Registration to confirm the existence of sufficient production capacity to produce the goods for export.

As has been the case with other aspects of the administration of the CEPA, the rules of origin for Hong Kong goods imported into China have been developed jointly between China and HKC, in line with the phased approach to trade liberalization. Rules for the initial phase were agreed by the two parties in late 2003 and came into effect in 2004, with additional arrangements developed and implemented for subsequent batches of goods were agreed in January 2005, January 2006 and July 2006 respectively.

To date the CEPA rules are applicable to about 9% of all products; rules have been agreed relating to 1,407 Mainland 2006 tariff codes. To qualify under the CEPA, one of the criteria is that the 30% of the good's value added must occur in Hong Kong. This compares with the normal threshold of 25% value added to qualify for a Hong Kong certificate of origin for exports to the Mainland. Other criteria for manufactured goods include manufacturing or processing operations, Change in Tariff Heading, other criteria and mixed criteria. CEPA also cover the wholly obtained goods which they must be wholly obtained in Hong Kong.

The CEPA rules of origin are transparent, with details readily available to potential exporters and the general public through TID website. The approval and application procedures are identical for all the applicants. The CEPA is in full conformance with WTO rules.

12. Dispute Mediation

HKC has not been involved in any trade or investment disputes with other economies recently. As a matter of practice, it follows the WTO dispute settlement procedures to settle trade and investment disputes with other governments where applicable. However, if the other government is not a WTO member, HKC will seek to settle the dispute by consultations. The CEPA between HKC and the Mainland China provides for the two sides to resolve their disputes under the Arrangement through bilateral consultation. HKC has entered into bilateral IPPAs with a number of major economic partners. These IPPAs contain provisions for resolving investment disputes by bilateral consultation and arbitration under internationally accepted rules.

13. Mobility of Business People

HKC has taken a number of concrete steps to facilitate the mobility of business people from the region. There is a liberal policy regarding temporary entry, with nationals of about 170 countries qualifying for visa-free entry. Visas are required for nationals of 40 other countries, based solely on security and immigration considerations— there is no element of reciprocity involved. Among APEC member economies, only persons from Russia and Vietnam require visas.

There is no distinction made regarding the planned activities of those arriving (e.g. business versus tourism), but visitors may not accept employment or engage in study. However,

[15] Government Approved Certification Organizations are the Hong Kong General Chamber of Commerce; Federation of Hong Kong Industries; the Chinese Manufacturers' Association of Hong Kong; the Indian Chamber of Commerce, Hong Kong and the Chinese General Chamber of Commerce.

multiple-entry visas are readily provided for business purposes for those countries requiring visa for entry.

There are several specific programmes in place to facilitate visitors and to minimize processing times. For example, the “Frequent Visitor Card” is issued by the Hong Kong Airport Authority to provide a fast track facility. It requires three visits within the last 12 months to qualify, and is valid for two years. Fifteen thousand such cards have been issued since the scheme was launched in February 2004. The “Travel Pass” is issued by the Immigration Department and is valid at both land and sea crossings, as well as the airport. It dates from July 1998.

HKC has been a member of the APEC Business Travel Card (ABTC) scheme since its pilot phase in 1998, and has implemented the scheme on a permanent basis beginning in 2001. It reports positive feedback from users, with the majority of applications finalized within the two-week turnaround specified in the guidelines. At the beginning of 2006 to coincide with Vietnam’s participation in ABTC there has been a special publicity campaign to encourage further applicants.

HKC has also invested in technology to facilitate timely processing while maintaining high levels of security. Automatic biometric-secured clearance is being introduced at the airport and all other land and sea control points for permanent residents and certain categories of temporary residents, which will free up resources to speed up the processing of visitors. A pilot Advance Passenger Processing System (APP) has been implemented since November 2005 for locally-based airlines, and additional carriers have been invited to participate in the trial. It is intended to review the experience of this to evaluate its impact on both carriers and the immigration authorities.

Chinese visitors are subject to the exit control of the Mainland. In order to travel to HKC a Chinese citizen must visit the local Public Security office to obtain a permit as well as an exit endorsement, which is of a specific type, i.e. Visiting Relatives, group visits, business, individual visits. The permit and the exit endorsement are the documentation to visit HKC. Not all Chinese cities issue exit endorsements for individual travel, but the number is increasing. Foreign nationals may apply for a change of their visa status while in Hong Kong.

In addition to facilitating temporary entry HKC has adopted a liberal policy regarding employment. The “General Employment Policy” is a scheme for professionals desiring to work in Hong Kong. It requires that applicants have the requisite skills and a job offer, for which the remuneration must be commensurate with labour market conditions. While the review process determines whether the job could be performed by a local, in practice the approval rate is very high. In 2005, 21,000 such visas were issued, for one year initially, but renewable, normally with a 2-year period for each such extension. There is a separate professional work programme for Mainland Chinese with similar assessment criteria of the General Employment Policy.

There are also investor visas introduced in 2003 through a scheme designed to attract persons willing to invest at least HK$6.5 million (US$0.83 million) in either financial or real assets. Seven continuous years of ordinary residence are required for the right to permanent abode. This 7-year residence requirement applies equally to students as well as to visiting working professionals.

There are also special employment schemes for domestic helpers based on two-year contracts and for skilled labour (the "Supplementary Labour Scheme"), but because of labour market conditions there were only 800 applicants for the latter in 2005. HKC also plans to put in place an individual migrant category that does not require the applicant to have a job prior to arriving in Hong Kong, using a point evaluation system to assess employability skills. This category will be limited to 1000 migrants per year.

14. Information gathering and Analysis

HKC collects and publishes a comprehensive set of trade and investment as well as general economic statistics through its Census and Statistics Department. Data are readily available both on line and in print. HKC is also an active participant in regional cooperation to improve understanding of overall trends in trade and investment through APEC, the APEC Study Centre Consortium and other fora.

VI. Conclusions

Since the last IAP Peer Review cycle in 2003 HKC has made remarkable progress in adjusting to difficult challenges of both a cyclical and structural nature. The integration of its economy with that of the surrounding regions of the Mainland has deepened, and the local economy has rebounded, solidifying its role as a regional logistics, tourism and financial services centre. This transformation has been accompanied by notable changes in the economic policy environment both in Hong Kong itself and the larger Asia-Pacific region. Of particular note has been the trend to regional trade liberalisation. In the case of HKC, this has manifested itself through the evolution of CEPA as a framework for enhancing economic relations with the Mainland.

The HKC authorities have also begun to reconsider traditional approaches to key internal policy areas, including the need for tax reform and the adoption of a more comprehensive approach to competition policy. There have been major efforts made to facilitate trade and to strengthen the enforcement of intellectual property rights,

Despite these basic changes in the economic policy environment and possible adjustments in its own approaches, HKC remains committed to an open, market-oriented economy, to a liberal trade an investment regime and to a non-discriminatory multilateral rules-based global trading system. Clearly, some of the choices that HKC must weigh could alter the nature of that long-standing commitment to the free-market economy and a free trade. Indeed, these concerns are recurring themes in the policy debate within Hong Kong. But although, like every other APEC member economy, HKC has important specific policy issues that it must address, it is also clear that, at a fundamental level HKC's commitment to the Bogor Goals is deep-seated. As such HKC can once again legitimately claim to be the "model APEC citizen."

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Annex 1

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Annex 2

2006 IAP Peer Review for Hong Kong, China

Questionnaire

Please provide brief answers to the following questions, including the relevant statistics where indicated.

Specific areas of interest to other member economies are noted in *italics*. These questions are based on the comments received, with the relevant economy noted, and occasionally with minor editing of the original comments, as indicated, for consistency of presentation.

Comments, questions and suggestions received from ABAC are shown in a separate section at the end of the document.

General Questions

1. The 2003 IAP Peer Review Study Report on Hong Kong, China (hereafter "HKC") identified following challenges facing the HKC economy as listed below.

   - Maintaining HKC as a major global and regional financial centre.
   - HKC as a major gateway to and from China.
   - HKC as the hub of the emerging Pearl River Delta region.
   - HKC as a key partner with China more generally.
   - Continued ripples from the Asian financial crisis.
   - The stock market, the property bubble, and deflation.
   - Problems with public sector finances.
   - Restructuring, unemployment and retraining needs.
   - The impact of SARS.

   Have there been any major changes in each of the challenges discussed in that report? More concretely, have there been any new challenges emerged in the meantime, and/or have some of them disappeared?

Some of the challenges discussed in the previous report have disappeared, while others remained or evolved to become new challenges.

(a) Maintaining HKC as a major global and regional financial centre.

Financial markets have become increasingly globalised and HKC is well aware of the keen competition arising from the other financial centres in the region, especially from those within the same time zone such as Singapore and Shanghai. It would be a continual challenge for HKC to constantly upkeep its competitive edge and maintain well-functioned institutions to ensure good corporate governance, efficient payment system to ensure timely settlement, and high standard global network to ensure connectivity.

While HKC remains competitive in different segments of the financial markets (please refer to data provided in Q3 table 3), there are still areas for improvement, for instance, the development of a larger and more liquid bond market and the enhancement of HKC as an asset management centre.

There is no doubt that the success in capturing business opportunities in the Mainland has been one of the key factors of HKC's remarkable performance as a financial centre. Further challenges lie ahead for HKC in facilitating the Mainland's financial market reform and opening, while at the same time keeping its China-related businesses and financial services demand growing. The gradual internationalization of the renminbi, the progressive relaxation of capital and foreign exchange controls, and the faster development of the Mainland's financial markets present both opportunities and challenges to HKC. HKC has to be well prepared for these changes in order to capitalize the opportunities and overcome the challenges that arise.

(b) HKC as a major gateway to and from China, the hub of the Pearl River Delta Region and as a key partner with China more generally

While the progressive opening up of the Mainland's economy and its rapid economic advancement has posed keener competition to HKC, the partnership relationship between Hong Kong and the Mainland strengthens further at the same time.

HKC remains an important trade conduit and continues to perform its role as the international financial and fund raising centre for Mainland enterprises. In 2005, around one-fifth of the Mainland's external trade passed through HKC. Also, HKC was the largest source of foreign direct investment in the Mainland. Indicative of HKC as a fund-raising centre for the Mainland, at end-June 2006, there were 350 Mainland-related enterprises listed on the HKC stock market, accounting for 30% of the total number of listed companies in the HKSE. Their market capitalisation amounted to HK$4.3 trillion (US$551.3 billion), accounting for 44% of the total market capitalisation of the HKC stock market, the eighth largest in the world.

Over the years, there have been many breakthroughs in economic linkages between Hong Kong and the Mainland, including the signing of the Closer Economic Partnership Arrangement, implementation of the Individual Visit Scheme, and the carrying out of renminbi business by banks in Hong Kong.

HKC also pushes ahead co-operation under the Pan-Pearl River Delta (Pan-PRD) framework, as initiated in 2004 by the Guangdong Provincial Government to promote closer economic links among the eight neighbouring provinces of Guangdong together with HKC and Macao. By engaging in the Pan-PRD co-operation and developing closer ties with the Guangdong province, HKC will deepen and broaden its relationship with a larger hinterland. The expansion in productive capacity and market potential for the region as a whole will enhance HKC's competitiveness and attractiveness to foreign investors.

The major challenges for HKC in maintaining its role as the Mainland's international hub lies in its ability to foster closer cooperation with the Mainland, to seamlessly integrate its transportation network with the Mainland in a timely manner and to continually provide new and high quality services at competitive prices. "Leveraging on the Mainland while engaging globally", HKC will strive to remain a major business platform for the Mainland and the rest of the world.

(c) Continued ripples from the Asian financial crisis and the impact of SARS

The HKC economy is small and open. Its economic performance always depends much on the developments in the global and regional environment. The HKC economy has undergone several years of adjustments in the aftermath of the Asian financial crisis in 1997.

The rebound in economic activity in 2000 was interrupted by a series of external shocks, including the burst of the global IT bubble in 2000 and the 911 incident in 2001. The severe setback due to the outbreak of SARS in the second quarter of 2003 saw a bottoming of the economy in that quarter. As soon as the outbreak of the epidemic subsided, the economy rebounded swiftly and entered into a full-fledged upturn, reflecting its resilience and flexibility. Real GDP growth picked up strongly from 3.2% in 2003 to 8.6% and 7.3% in 2004 and 2005 respectively.

As such, the economy should have fully recovered from the rippling effects of the Asian Financial Crisis and the impact of SARS.

(d) The stock market, the property bubble, and deflation.

As HKC's economy recovered and investor confidence returned, asset prices saw a rebound. By mid-2006, the Hang Seng Index and asset prices were 94% and 56% higher than their troughs in 2003. Actually in mid-August 2006 the Hang Seng Index reached 17,451 points, which exceeded its peak in 1997 (16,673 points on 7 August 1997) and came close to that in 2000 (18,301 points on 28 March 2000).

The 68-month long deflation, which began in 1998, ended in mid-2004. Consumer price inflation remained benign thereafter, inching up gradually to about 2% in 2006 H1.

(e) Problems with public sector finances.

There was a turnaround in HKC's fiscal balance in 2005/06, reflecting partly the Government's strenuous effort to rein in expenditure. Surpluses were recorded in both the Government's Operating Account and Consolidated Account in 2005/06, the first time since 1997/98. At the end of March 2006, fiscal reserves stayed strong, equivalent to some 22.5% of GDP.

Maintaining strict fiscal discipline and ensuring the effective use of resources remains an important task for HKC. The Government will strive for a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of GDP. In the 2006-07 Budget, we forecast that we will continue to maintain fiscal balance with surpluses in both the Operating and Consolidated Accounts for the coming five years to 2010-11.

(f) Unemployment, restructuring and retraining needs

The strong economic recovery experienced by HKC in the past few years led to a broad-based improvement in the labour market. The seasonally adjusted unemployment rate dropped from a high of 8.6% in mid-2003 to a five-year low of 4.9% in May-July 2006, benefiting workers at all skill levels.

Notwithstanding the strong economic performance of HKC, it is still faced with numerous challenges including economic restructuring amidst rapid technological change and rising competition brought about by globalisation. In overcoming these challenges, the HKC economy has been moving up steadily the value-added chain, shifting towards higher value-added services and more knowledge-based activities. A vivid example is the shift from conventional re-export trade towards supply-chain management and logistic services, as evidenced by the flourishing offshore trade in recent years.

Underlying the various changes, pooling of talents is of paramount importance in raising labour productivity and enhancing the overall competitiveness of HKC. In this regard, in addition to continued investment in education, training and retraining, HKC launched the Quality Migrant Admission Scheme in June 2006, with a view to addressing the shortage of high-skilled quality workers.

There will be continued economic restructuring in Hong Kong, yet its related impact on employment and the requirement for retraining of labour is unavoidable and could be quite painful. The main challenge for HKC is to continue pushing forward restructuring while minimizing the negative impacts on employment.

2. Please briefly describe recent economic developments in HKC with reference to relevant macro-economic indicators (output, aggregate demand by final expenditure category, employment, inflation and public finances). As well please comment on the as the major economic challenges and policy initiatives over the short (1-year) and medium (5-years) terms.

The HKC economy staged a strong recovery in the third quarter of 2003, following immediately the subsidence of the SARS disease. The recovery as initially led by the robust pick-up in external trade had become increasingly broad-based. Real GDP growth accelerated from 3.2% in 2003 to 8.6% in 2004 and 7.3% in 2005. The upturn continued into 2006. After registering an exceptionally strong year-on-year 8.0% growth in the first quarter of 2006, the economy continued to show above-trend growth in the second quarter of 2006, with real GDP up by 5.2%, the eleventh consecutive quarter of above-trend growth. While external trade slowed down in the second quarter, domestic demand held up well to become a key driver of overall economic growth.

On the external front, merchandise exports moderated to a 6.4% growth in real terms in the second quarter of 2006 over a year earlier as exports to many major markets such as the US, the EU and Japan slowed in that quarter. Exports of services however grew remarkably well, by 8.6% in the second quarter, as offshore trade and transportation service exports were bolstered by Mainland's vibrant external trade, and as inbound tourism continued to thrive.

Local consumer spending stayed strong, with private consumption expenditure rising by a solid 5.0% in real terms in the second quarter of 2006 over a year earlier. This was underpinned by improvement in employment and enhanced job prospects, notwithstanding rising interest rates and volatility in the local stock market. Over the same period, overall investment spending in terms of gross domestic fixed capital formation grew solidly further, by 4.3% in real terms. Machinery and equipment investment, rising by 12.8%, continued to provide the major impetus to overall investment growth, as the business sector expanded capacity to meet the envisaged growth in business opportunities. Yet building and construction activity remained subdued, falling by 6.4% in the second quarter.

Consumer price inflation, while staying moderate, has inched up along with the economic recovery. The Composite CPI rose by a modest 1.9% in the first seven months of 2006 over a year earlier, as the feed-through of higher private housing rentals and higher fuel prices was increasingly felt. Yet the increase in labour productivity and expansion in production capacity, coupled with generally soft import prices of food and consumer goods, helped to contain overall inflationary pressures.

The strength of the current economic upturn continued to benefit the labour market. The seasonally adjusted unemployment rate edged down to 4.9% in May-July 2006, the lowest in nearly 5 years. Total employment surged to an all-time high of above 3.45 million. Compared with the trough in 2003, some 263 000 additional jobs have been created. Wages and earnings remained on the rise, and job vacancies continued to surge.

The strong economic growth coupled with the government's effort to rein in expenditure helped improve the fiscal balance. Both the Operating and Consolidated Accounts recorded surplus in 2005/06, the first time since 1997/98. Public expenditure as a proportion of GDP has lowered to and remained below 20% since 2004/05.

Sustained robust growth in the Mainland will continue to provide HKC with large business potential. But as the Mainland cities blossom, this will present HKC with rising challenges. To stay competitive, HKC has to continue to add value and move up the industry chain, and to maintain its status as Mainland's international hub. HKC has to further enhance its cooperation with neighbouring Mainland cities on infrastructure development and integrate its transportation network into the PRD regional framework

The main thrust of HKC is "Big Market, Small Government". The future directions for development are to enhance innovative and value-adding capabilities, and to enhance HKC's competitive advantages in the following areas:

- continuing economic co-operation with the Mainland—By deepening and broadening the various measures under the CEPA framework and by furthering the Pan-PRD initiatives, the HKC economy will continue to capitalise on the opportunities provided by the fast-growing Mainland economy (Please also see the answer to Q1).

- improving business environment—For example, the Business Facilitation Advisory Committee will, inter alia, conduct in-depth regulatory/licensing control reviews of the construction, entertainment, retail and catering industries;

- continuing to strengthen financial services and enhancing the status of HKC as an international financial centre—HKC is best-placed to become the launch pad for Mainland enterprises to develop a global presence. Measures implemented or to be implemented include continuing to expand the scope of Renminbi business; setting up a Financial Reporting Council to enhance the quality of HKC's financial markets; exempting offshore funds from profits tax; and reducing the levy on trading in securities, futures and options contracts;

- promoting tourism through redeveloping existing and opening new facilities;

- developing logistics—For example, provision for concession in trade declaration charges for gold is being considered to support a proposed gold depository at the Hong Kong International Airport. Also, in early July 2006, HKC reached a new arrangement on aviation with the Mainland authorities, strengthening the aviation links between HKC and its hinterland, and hence the competitiveness of HKC as an aviation-cum-business hub in the region;

- pooling of talent—Apart from the provision of 1 800 additional hostel places to local tertiary institutions for local and exchange students, the Government has also introduced in the first half of 2006 the "Quality Migrant Scheme" (QMS) to attract talent from outside HKC. Applicants will be required to meet certain eligibility criteria in respect of, inter alia, academic attainment and professional qualifications, but without having to secure prior employment. QMS will have a quota of 1 000 entrants a year; and

- increasing investment in infrastructure—This will not only promote economic development and bring more job opportunities, but also make HKC's living environment more pleasant and enhance its overall competitiveness. A number of cross-boundary transport infrastructure projects are near completion, such as the Hong Kong-Shenzhen Western Corridor and Sheung Shui to Lok Ma Chau Spur Line, while some others are being planned, including the Hong Kong-Zhuhai-Macao Bridge, and the Guangzhou-Shenzhen-Hong Kong Express Rail Link. The Government and the Shenzhen Government are also jointly examining the proposal to establish a new control point at Liantang/Heung Yuen Wai, with a view to improving the connection between HKC and the eastern part of Guangdong Province.

3. Please briefly describe major recent developments in trade and investment of HKC, citing the relevant indicators (volume and value exports and imports by major categories and destinations; inward and outward flows and stocks of investment). Please also provide some detailed data on (1) the number of regional headquarters of multinational corporations (MNCs), broken down into main countries of origin and major industrial sectors (in a matrix-format); (2) number of regional offices of MNCs; (3) relative position of HKC as a global and regional financial centre compared to Singapore and Shanghai, China. Please comment on the major policy initiatives relating to trade and investment, including in particular the Closer Economic Partnership Agreement (CEPA) with China.

Major recent developments in trade and investments of HKC

Merchandise exports registered double-digit growth of 11.4-15.3% in real terms in 2003-2005. The growth momentum sustained into the first quarter of 2006, surging by 14.4% in real terms, before moderating to a 6.4% growth in the second quarter. Within this total, re-export growth moderated to 5.3%, while domestic exports surged ahead and grew by 25.7%.

The slackening in total export growth in the second quarter of 2006 was most evident in the US market, owing largely to its slowing consumer demand. But signs of moderation were likewise observed in the EU, Japan, Singapore and Chinese Taipei, partly due to the lagged effect from a stronger US dollar and hence a stronger Hong Kong dollar in the earlier quarters. Yet a rapidly growing Mainland economy (China) along with its vibrant trade flows continued to render cushion to the weak performance in the other markets.

The Mainland continued to be the largest market for HKC's exports of goods, taking up 47.3% of the total value in the second quarter of 2006. This was followed by the United States (with a share of 14.9%), the EU (13.9%), Japan (4.9%), Korea (2.2%), Chinese Taipei and Singapore (both at 2%).

As to imports of goods, a solid 6.7% growth in real terms was recorded in the second quarter of 2006, compared with 13.9% in the first quarter and 8.5% in 2005. The Mainland remained the largest source, accounting for 45.2% of the total value in the second quarter of 2006. Other major sources included Japan (with a share of 10.3%), Chinese Taipei (7.7%), Singapore (6.0%), the United States (4.8%) and Korea (4.6%).

On invisible trade, exports of services maintained a notable 8.6% growth in real terms in the second quarter of 2006, following increases of 8.9% in the first quarter and 8.7% in 2005. Exports of trade-related and transportation services were robust, as the strong competitiveness of HKC's trading and logistics sector continued to render support to offshore trade. Exports of travel services held up well amidst the solid growth of inbound tourism. Meanwhile, exports of finance, business and other services remained on a steady rise. In the opposite direction, imports of services picked up to a 7.9% growth in real terms in the second quarter of 2006, from 4.9% in the first quarter and 2.9% in 2005.

As to investment flows, HKC's foreign direct investment (FDI) inflow surged to HK$265 billion (US$34 billion) in 2004. The British Virgin Islands and the Mainland were the two largest sources of FDI, accounting for 23.7% and 23.4% respectively of the total. These were followed by the United States (18.3%), the United Kingdom (6.9%) and Japan (4.1%). The corresponding direct investment outflow also soared, to HK$356 billion (US$45.7 billion). The Mainland was the largest destination, accounting for 40.7% of the total, followed by the

British Virgin Islands (38.4%), Japan (8.0%), Bermuda (7.5%) and the United Kingdom (1.4%). The preliminary figures for FDI inflow and outflow in 2005 were HK$279 billion (US$35.9 billion) and HK$253 billion (US$32.6 billion) respectively. At end-2005, the stock of inward direct investment (DI) and outward DI amounted to HK$4,132 billion (US$533 billion) and HK$3,647 billion (US$470 billion) respectively. [Note : The revised FDI statistics as well as country classification for 2005 will be released in mid-December 2006.]

Major policy initiatives relating to trade and investment

The latest major trade and investment policy initiative is the Closer Economic Partnership Arrangement (CEPA) of HKC with the Mainland.

CEPA is the first free trade agreement concluded between the Mainland and Hong Kong. It is established under the framework of the WTO for free trade agreements and fully meets its requirements. The main text of the Arrangement (CEPA I) was signed in 2003 and implemented in January 2004[16].

The CEPA adopts a building block approach. It provides a mechanism for further liberalization measures to be included as and when they are agreed by both parties. Subsequent to the implementation of CEPA I, the Mainland and Hong Kong had conducted a series of consultations on further liberalization measures and has signed a series of supplements to the CEPA. The first Supplement was signed in October 2004, the second in October 2005 and the third in June 2006.

Under the Arrangement, the Mainland offers preferential access opportunities for Hong Kong products and services, ahead of and beyond the commitment of China in the WTO.

Trade in goods

Since January 2006, the Mainland has granted all imported products of Hong Kong origin tariff free treatment upon applications by local manufacturers and upon the CEPA rules of origin (ROOs) being agreed and met. The imported products do not include the prohibited goods such as used or waste electrical machinery and medical/surgical products, chemical residual, municipal waste, tiger bone and rhinoceros horn.

Trade in services

Taking CEPA and its Supplements together, the Mainland has agreed to provide preferential treatment to Hong Kong services suppliers in 27 services areas[17].

Trade and investment facilitation

Hong Kong and the Mainland agree on promoting co-operation in the following eight areas:

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[16] Details of CEPA have been promulgated in Trade and Industry Department's CEPA website at http://www.tid.gov.hk/english/cepa/.

[17] The 27 services areas are: accounting, advertising, air transport, audiovisual, banking, cultural, convention and exhibition, distribution, freight forwarding agency, individually owned stores, information technology, insurance, job referral agency, job intermediary, legal, logistics, management consulting, medical and dental, patent agency, professional qualification examinations, real estate and construction, storage and warehousing, securities and futures, telecommunications, tourism, trade mark agency, transport (including road freight/passenger transportation and maritime transport).

customs clearance; quarantine and inspection of commodities, quality assurance and food safety; small and medium-sized enterprises; Chinese medicine and medical products; electronic commerce; trade and investment promotion; transparency in law and regulations; and intellectual property protection.

Detailed data on (1) the number of regional headquarters of MNCs, broken down into main countries of origin and major industrial sectors (in a matrix-format) **(Table 1)**; (2) number of regional offices of MNCs **(Table 2)**; (3) relative position of HKC as a global and regional financial centre compared to Singapore and Shanghai, China **(Table 3)** are separately attached.

Q3. Table 1

Number of Regional Headquarters (RHQs) in Hong Kong by Location of the Parent Company by Major Line of Business in Hong Kong, 2005

No. of RHQs

Location of parent company	Major line of business in Hong Kong: Wholesale, Retail and Import/Export Trades	Business Services	Transport and Related Services	Finance and Banking	Manufacturing	Construction, Architectural and Civil Engineering	Telecom-munications Services	Insurance	Real Estate	Restaurants and Hotels	All lines of business
United States of America	112	83	18	18	20	**	7	6	**	**	262
Japan	150	19	18	**	22	**	**	**	**	**	204
United Kingdom	36	47	8	8	5	7	**	**	**	**	115
The mainland of China	42	24	16	14	7	7	**	**	6	**	107
Germany	51	12	7	**	**	**	**	**	**	**	75
Netherlands	30	12	5	**	**	**	**	**	**	**	54
France	27	14	**	**	**	**	**	**	**	**	49
Singapore	23	9	**	**	6	**	**	**	**	**	45
All countries/territories	615	271	103	74	73	35	17	16	12	11	1 167

Notes :

(1) An RHQ is an office that has control over the operations of offices in the region (i.e. Hong Kong plus one or more other places), and manages the business without frequent referrals to its parent company outside Hong Kong.

(2) In the case of a joint-ventured RHQ in Hong Kong, there may be more than one location of its parent company(ies).

(3) There may be more than one major line of business.

** Data are not released due to precision and confidentiality considerations.

Source : 2005 Annual Survey of Regional Offices Representing Overseas Companies in Hong Kong, Census and Statistics Department.

Q3. Table 2

Number of Companies in Hong Kong that are Regional Offices by Country/Territory of Location of the Parent Company

Year	Number of companies in Hong Kong that are Regional Offices							
		Countries/territories of location of the parent company						
	Total	United States of America	Japan	United Kingdom	The mainland of China	Germany	Taiwan	France
1991	278	62	61	25	***	12	***	7
1992	757	178	193	79	***	35	***	22
1993	844	183	185	102	42	35	8	20
1994	1 132	193	257	107	69	52	39	25
1995	1 286	228	303	132	81	48	30	26
1996	1 491	226	338	123	128	85	59	31
1997	1 611	261	379	130	130	78	49	65
1998	1 630	285	347	128	135	74	85	76
1999	1 650	278	368	124	136	76	97	74
2000	2 146	358	492	155	160	93	113	88
2001	2 293	420	533	163	172	108	142	88
2002	2 171	437	471	163	170	96	121	91
2003	2 241	498	442	196	148	122	111	101
2004	2 511	557	515	211	156	135	128	106
2005	2 631	606	537	215	160	139	133	110

Year	Countries/territories of location of the parent company							
	Singapore	Switzerland	Australia	Korea	Italy	Netherlands	Sweden	Canada
1991	***	18	5	***	11	16	12	6
1992	6	39	20	7	24	24	25	22
1993	14	38	35	10	25	22	17	14
1994	25	38	31	45	25	46	26	24
1995	27	57	33	60	24	42	25	21
1996	35	57	26	60	33	48	22	26
1997	44	42	33	80	24	47	23	24
1998	37	54	38	66	36	46	15	23
1999	39	50	29	56	47	48	18	25
2000	76	69	42	71	43	65	23	30
2001	77	68	43	76	52	62	27	34
2002	79	61	52	49	38	57	25	28
2003	81	61	45	60	41	55	28	27
2004	97	70	57	67	54	52	33	29
2005	103	73	69	68	53	50	33	25

Notes :
(1) Figures refer to the first working day of June of the year.
(2) A regional office is an office that coordinates offices/operations in the region (i.e. Hong Kong plus one or more other places), and manages the business but with frequent referrals to its parent company outside Hong Kong or its regional headquarters.
(3) In the case of a joint-ventured regional headquarters in Hong Kong, there may be more than one country/territory of location of its parent company(ies).
*** Data are not released due to precision and confidentiality considerations.

Source : Business Expectation Statistics Section, Census and Statistics Department.

Last revision date: 16 January, 2006

Q3. Table 3

Relative positions of Hong Kong, Singapore and Shanghai in different financial market segments

		Hong Kong	Singapore	Shanghai
Stock market	(as at end-July 2006)			
Market capitalization	(US$ bn)	1301.3	298.9	442.8
World Ranking[(#)]		8	20	19
Total turnover	(Jan-July 2006) (US$ bn)	571.2	107.5	584.1
IPO capital raised	(Jan-July 2006) (US$ bn)	14.6	3.2	N.A.
World Ranking		3	12	N.A.
Foreign exchange	(as at April 2004)			
Average daily turnover	(US$ bn)	102	125	N.A.
World Ranking		6	4	N.A.
Insurance	(as at end-2004)			
Premium income	(US$ bn)	15.6	9.9	3.7
Authorized insurers		180	N.A.	55
Financial institutions	(as at end-Jun 2006)			
Deposits	(US$ bn)	558.1	361.8	289.0 *
Loans		311.6	276.6	208.1 *
Bond market	(as at end-2005)			
Outstanding debt securities	(US$ bn)	85.6	129.1	N.A.
Asset management	(as at end-2005)			
Assets under management	(US$ bn)	583.8	432.9	N.A.

Notes : (*) End-2005 figures
(#) Ranking excludes Osaka Exchange and National Stock Exchange of India to avoid double counting with Tokyo and Bombay SE respectively.
N.A. :Not available

Sources:
World Federation of Exchanges (WFE)
Bank of International Settlements (BIS) Triennial Survey
Hong Kong Monetary Authority, Monthly Statistical Bulletin
Fund Management Activities Survey 2005 , Securities and Futures Commission, Hong Kong
Monetary Authority of Singapore (MAS), Monthly Statistics Bulletin
2005 Singapore Asset Management Industry Survey, MAS
MAS Website: http://www.mas.gov.sg
CEIC Database
Shanghai Statistical Yearbook 2005

4. Overall, how far has HKC advanced towards the Bogor Goals, since the last IAP Review was undertaken? What are HKC's future policy priorities for achieving the Goals? What are the specific action plans and timetables in the respective issue areas?

   On reviewing the respective issue areas, please compare HKC's progress at the time of the last IAP Review and currently for each area for which data are available, in order to highlight progress since the last review.

As stated in the Moderator's wrap up remarks in the last peer review conducted in 2003, "[HKC was] one of the most open economies in the world". We have been maintaining our free-market philosophy and there have been no changes since the last IAP peer review. HKC does not apply any tariff quotas or surcharges, safeguards, anti-dumping or countervailing actions, concessionary export financing, export taxes, government-mandated counter trade, or trade-related subsidies or tax exemptions. We do not have any voluntary export/import restraint arrangements, or operate any state-trading enterprises, and has no foreign exchange controls. Import and export licensing is kept to a minimum, imposed only when there is a genuine need to fulfil obligations undertaken by HKC to our trading partners, or to meet public health, safety or internal security needs.

To uphold our long-standing free-market philosophy, we are firmly committed to pursuing policies and an institutional framework that allow the full play of market forces, including the rule of law, a level playing field, a small but efficient and corruption-free government, the free-flow of information, a low-tax and simple tax regime. HKC is also a staunch supporter for multilateralism. We strive to promote a free, open and stable multilateral trading system; to safeguard our rights and fulfil our obligations under multilateral, regional and bilateral trade related agreements and arrangements. Our policies are consistent with the APEC Bogor Goals. We shall keep our measures under constant review with the objective to facilitate trade as far as possible.

Specifically, major improvements since the last IAP are as follows:

- Set up Business Facilitation Advisory Committee (BFAC) in 2006 to further the business facilitation efforts;

- Removed quantitative export restrictions on textiles and clothing products of HKC in 2005 with the elimination of textiles quotas as prescribed by the WTO Agreement on Textiles and Clothing;

- Streamlined import and export licensing requirements for textiles and clothing in 2005, in line with the elimination of textiles quotas as prescribed by the WTO Agreement on Textiles and Clothing. Comprehensive import and export licences (valid for one year or so) were introduced to cover multiple import and export shipments of generally any kind of textiles products from and to non-sensitive markets;

- Established or reviewed and/or expanded air services arrangements with 17 bilateral aviation partners to provide a more liberal environment for airlines to better serve the travelling public and the shipping community;

- Signed IPPA with Thailand in 2005;

- A Medical Device Administrative Control System, which is in line with the recommendation of Global Harmonisation Task Force (GHTF), has been implemented since 2004 with voluntary listing of high and medium risk devices;

- Implemented the 'Transshipment Notification System' for transshipment cargo of optical disc mastering and replication equipment in 2004 to replace the licensing requirements;

- Removed the import and export licensing requirements for Left Hand Drive Vehicles and Outboard Engines in 2004;

- Removed the requirement for an Export Licence for export of television sets and video cassette recorders/players by small vessels of less than 250 gross tons in 2004;

- Implemented since 2004 a Frequent Visitor Card (FVC) Scheme at the Hong Kong International Airport to facilitate entry clearance of FVC holders, i.e. bona fide frequent visitors, at the designated counters; and

- Removed prescribed standards of quality for Chinese-type spirits in 2003 for eliminating unnecessary restrictions on trading of Chinese-type spirits.

I. Tariffs

5. Please note any changes in tariffs (bound or applied) since the time of the last IAP Review.

Since the last IAP Review in 2003, HKC's applied rates for all tariff lines remain at zero. The tariff binding ratio has increased from 43.35% in 2002 to 44.05% in 2006. All the bound tariff lines are at zero bound rate.

6. Please provide the Tariff Summary Report for **1996**, so that we can compare it with the one for 2006, specifically to review
   - changes in the ratio of tariff binding
   - changes in bound and applied tariff rates
   - changes in the number of tariff lines with quotas, etc.

   Please provide explanations as needed, for example HKC's implementation of ITA obligations.

HKC's Tariff Summary Report for 1996 is at **Table 4**. Comparing the 1996 and 2006 reports, it is noted that:

- the tariff binding ratio has increased from 34.92% to 44.05%;

- all bound and applied rates remain at zero; and

- the number of tariff lines with quotas, tariff quotas, etc remain at zero.

The increased tariff binding ratio is a result of the binding of additional tariff lines at zero by HKC on an autonomous basis and the implementation of ITA obligations.

Q6. Table 4

HONG KONG's INDIVIDUAL ACTION PLAN : TARIFF SUMMARY REPORT FOR YEAR 1996

ITEM	All Goods	Agricul-ture excluding Fish	Fish and Fish Products	Petro-leum Oils	Wood, Pulp, Paper and Furniture	Textiles and Clothing	Leather, Rubber, Foot-wear and Travel Goods	Metals	Chemical & Photo-graphic Supplies	Trans-port Equip-ment	Non-electrical Machinery	Electrical Machinery	Mineral Products, Precious Stones & Metals	Manufactured Articles, n.e.s.
Bound tariff lines (%)*	34.92	100	100	0	87.63	3.15	25.65	56.28	7.33	6.15	21.11	14.24	50.49	26.69
Duty-free tariff lines (%)	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Ratio of tariff lines with tariff quotas to all lines	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Simple average bound tariff rate	0	0	0	N.A.	0	0	0	0	0	0	0	0	0	0
Simple average applied tariff rate	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Average applied tariff rate for all lines subject to duty	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Import-weighted average applied tariff rate	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Import-weighted average bound tariff rate	0	0	0	N.A.	0	0	0	0	0	0	0	0	0	0
Domestic applied tariff "Spikes" (over x3 average applied rate)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Overall standard deviation (SD) of distribution of all applied tariffs	0	0	0	0	0	0	0	0	0	0	0	0	0	0

NOTES * According to Hong Kong's 1995 HS Classification for Imports

N.A. - Not Applicable

II. Non-Tariff Measures (NTMs)

7. What NTMs have been removed and what new ones, if any, have been introduced since the last IAP Review? How significant are they in the context of achieving the Bogor Goals?

HKC only maintains those NTMs which are required to protect public health, safety, security and the environment, and to fulfil its obligations under international agreements. We keep such measures under constant review with the objective to facilitate trade as far as possible. The removal/simplification of NTMs as listed in the rightmost column of **Table 5B** shows our continuous efforts in this regard. These efforts have significantly helped us in achieving the Bogor goal of free and open trade and investment by further reducing barriers to trade and investment and by promoting the free flow of goods, services and capital.

Since HKC's last IAP Review in 2003, a number of NTMs have been removed/simplified. These include the removal of rice import quotas, removal of capital and financial requirements for rice stockholders' registration, removal of quantitative export restrictions on textiles and clothing products, streamlining of licensing arrangements for textiles and clothing products, removal of licensing requirements for left hand drive vehicles and outboard engines, removal of licensing requirements for exports of TV sets and VCRs/players, replacement of the licensing requirements with Transshipment Notification System for certain transshipment cargos, introduction of Open Bond System for the storage of dutiable commodities and removal of prescribed standards of quality for Chinese-type spirits. Details are listed in the rightmost column of **Table 5B**.

The only NTM introduced is the import/export licensing requirements for rough diamonds to fulfill the international obligations under the "Kimberley Process". The relevant requirements are listed in the third column of **Table 5A**.

Q7. Table 5A

Hong Kong, China's Approach to Non-Tariff Measures in 2006			
Section	***Improvements Implemented Since Last IAP***	***Current Non-Tariff Measures Applied***	***Further Improvements Planned***
Discretionary Import Licensing	No changes took place.	**Rough Diamonds** Certificates are required for the import of rough diamonds so as to fulfil the obligations under the Kimberley Process, a negotiating forum originated from discussions in the United Nations General Assembly regarding rebel activities in some parts of Africa and aiming to stop trade in "conflict diamonds" from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament. Persons carrying on a business of importing rough diamonds are also required to register as rough diamond traders. More information can be found at http://www.tid.gov.hk/english/import_export/nontextiles/nt_rd/nt_rd.html. The contact point for further information is: Computers & General Licensing Branch Trade and Industry Department Tel: (852) 2398 5766; Fax: (852) 2395 5602 E-mail: judyting@tid.gov.hk	**General** Short/Medium/Long Term (2007 - 2010) To review the existing non-tariff measures in the light of advancement in technology, etc and remove measures rendered unnecessary by such advancement. To streamline licensing and certification procedures where appropriate.
Discretionary Export Licensing	No changes took place.	**Rough Diamonds** Certificates are required for the export of rough diamonds so as to fulfil the obligations under the Kimberley Process, a negotiating forum originated from discussions in the United Nations General Assembly regarding rebel activities in some parts of Africa and aiming to stop trade in "conflict diamonds" from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament. Persons carrying on a business of exporting rough diamonds are also required to register as rough diamond traders. More information can be found at http://www.tid.gov.hk/english/import_export/nontextiles/nt_rd/nt_rd.ht	**General** Short/Medium/Long Term (2007 - 2010) To review the existing non-tariff measures in the light of advancement in technology, etc and remove measures rendered unnecessary by such advancement. To streamline licensing and

Hong Kong, China's Approach to Non-Tariff Measures in 2006			
Section	***Improvements Implemented Since Last IAP***	***Current Non-Tariff Measures Applied***	***Further Improvements Planned***
		ml. The contact point for further information is: Computers & General Licensing Branch Trade and Industry Department Tel: (852) 2398 5766; Fax: (852) 2395 5602 E-mail: judyting@tid.gov.hk	certification procedures where appropriate.

Q7. Table 5B

Improvements in Hong Kong, China's Approach to Non-Tariff Measures since 1996		
Section	***Position at Base Year (1996)***	***Cumulative Improvements Implemented to Date***
Quantitative Import Restrictions/ Prohibitions	Quantitative restrictions were applied on the imports of rice and ozone-depleting substances. Separately, the imports of highly endangered species of flora and fauna, certain ozone-depleting substances, and amosite and crocidolite were prohibited.	**Rice** An optional quota system was introduced in 1997 whereby rice stockholders can have increased flexibility by phases in determining the quantity of rice to import. As from 1 January 2003, the import quotas to import rice have been removed. (1997 & 2003 IAPs) The quantity of reserve stock to be maintained by rice stockholders in proportion to their import quantity has been reduced by phases since 1998. * * *
Quantitative Export Restrictions/ Prohibitions	Quantitative restriction was applied on exports of certain textiles and clothing. Separately, the exports of highly endangered species of flora and fauna were prohibited.	* * * **<u>Textiles and Clothing</u>** With the elimination of textiles quotas as prescribed by the WTO Agreement on Textiles and Clothing, quantitative export restrictions on textiles and clothing products of Hong Kong China were removed on 1 January 2005. (2005 IAP)
Discretionary Import Licensing	Import licensing requirements were applied on rice, ozone-depleting substances, textiles and clothing, frozen and chilled meat and poultry, plants and plant pests, endangered species of animals and plants, live animals and birds, dutiable commodities (tobacco, liquors, methyl alcohol and hydrocarbon	* * * **Rice** * * *

Improvements in Hong Kong, China's Approach to Non-Tariff Measures since 1996		
Section	***Position at Base Year (1996)***	***Cumulative Improvements Implemented to Date***
	oils), pesticides and controlled chemicals, pharmaceutical products, medicines, dangerous drugs, arms and ammunition, radio transmitting equipment, explosives and other strategic commodities, left hand drive vehicles and outboard engines exceeding 111.9 kilowatts, soil and sand, and radioactive substances and irradiating apparatuses. Permits were also required for import of any hazardous or contaminated waste.	As from 1 January 2003, the capital and financial requirements of registering as rice stockholders to import rice have been removed. Any interested parties may register as rice importers any time. (2003 IAP) * * * **<u>Radioactive Substances and Irradiating Apparatuses</u>** A web-based e-service facility was launched on 15 January 2003 to provide for on-line submission of application for licence for sale, possession and use of radioactive substances and irradiating apparatus by electronic means. (2003 IAP) **<u>Dutiable Commodities</u>** The Open Bond System has been implemented since 1 April 2003 in respect of the control over bonded warehouses for the storage of dutiable commodities. Under the system, no customs officers are required to be stationed at the bonded warehouse. Customs control over bonded warehouses is being exercised through self-compliance by warehouse owners and traders, comprehensive post-transaction auditing, risk management and periodic inspection. The system not only facilitates warehouse operators and traders of dutiable commodities, but also lowers their compliance costs (i.e. the attendance fee). (2003 IAP) Prescribed standards of quality for Chinese-type spirits has been removed since 1 December 2003 for eliminating unnecessary restrictions on trading of Chinese-type spirits. (2004 IAP) **<u>Optical Disc Mastering and Replication Equipment</u>** The 'Transshipment Notification System' for transshipment

Improvements in Hong Kong, China's Approach to Non-Tariff Measures since 1996		
Section	***Position at Base Year (1996)***	***Cumulative Improvements Implemented to Date***
		cargo of optical disc mastering and replication equipment (ODMRE) was implemented on 8 January 2004 to replace the licensing requirements for transhipment cargo of ODMRE. (2004 IAP) **<u>Left Hand Drive Vehicle and Outboard Engines</u>** Licence requirements for the import of left hand drive vehicles and outboard engines exceeding 111.9 kilowatts were removed on 8 January 2004. (2004 IAP) **<u>Strategic Commodities</u>** A web-based e-service facility was launched on 31 March 2004 to provide for on-line submission of application for licence for strategic commodities. (2004 IAP) **Textiles and Clothing** In line with the elimination of textiles quotas as prescribed by the WTO Agreement on Textiles and Clothing, import licensing arrangements for textiles and clothing have been streamlined. Comprehensive import licence (valid for one year or so) is introduced as from 1 January 2005 to cover multiple import shipments of generally any kind of textiles products from non-sensitive markets. (2005 IAP)
Discretionary Export Licensing	Export licensing requirements were applied on rice, ozone-depleting substances, textiles and clothing, frozen or chilled meat and poultry, endangered species of animals and plants, protected wild animals killed or taken in Hong Kong, nests or eggs of protected wild animals taken in Hong Kong, dutiable commodities (tobacco, liquors, methyl alcohol and hydrocarbon oils), pesticides and controlled chemicals, pharmaceutical	* * * **Textiles and Clothing** * * * Electronic service has been further extended to Cargo Manifests and Textiles Notifications in April and May 2003 respectively.

Improvements in Hong Kong, China's Approach to Non-Tariff Measures since 1996		
Section	***Position at Base Year (1996)***	***Cumulative Improvements Implemented to Date***
	products, medicines, dangerous drugs, arms and ammunition, radio transmitting equipment, explosives and other strategic commodities, television sets and video cassette recorders/players (by vessels less than 250 gross tons), and left hand drive vehicles and outboard engines exceeding 111.9 kilowatts. Licences and permits were also required for transshipment/transit of live animals and birds, and export of any hazardous or contaminated waste respectively.	(2003 IAP) With the elimination of textiles quotas as prescribed by the WTO Agreement on Textiles and Clothing, quantitative export restrictions on textiles and clothing products of Hong Kong China were removed on 1 January 2005. Personal textiles shipments are exempted from licensing requirements and comprehensive export licence (valid for one year or so) is introduced as from 1 January 2005 to cover multiple export shipments of generally any kind of textiles products to non-sensitive markets. (2005 IAP) * * * **<u>Dutiable Commodities</u>** The Open Bond System has been implemented since 1 April 2003 in respect of the control over bonded warehouses for the storage of dutiable commodities. Under the system, no customs officers are required to be stationed at the bonded warehouse. Customs control over bonded warehouses is being exercised through self-compliance by warehouse owners and traders, comprehensive post-transaction auditing, risk management and periodic inspection. The system not only facilitates warehouse operators and traders of dutiable commodities, but also lowers their compliance costs (i.e. the attendance fee). (2003 IAP) Prescribed standards of quality for Chinese-type spirits has been removed since 1 December 2003 for eliminating unnecessary restrictions on trading of Chinese-type spirits. (2004 IAP) **<u>Optical Disc Mastering and Replication Equipment</u>** The 'Transshipment Notification System' for transshipment

Improvements in Hong Kong, China's Approach to Non-Tariff Measures since 1996		
Section	***Position at Base Year (1996)***	***Cumulative Improvements Implemented to Date***
		cargo of optical disc mastering and replication equipment (ODMRE) was implemented on 8 January 2004 to replace the licensing requirements for transhipment cargo of ODMRE. (2004 IAP) **Left Hand Drive Vehicles and Outboard Engines** Licence requirements for the export of left hand drive vehicles and outboard engines exceeding 111.9 kilowatts were removed on 8 January 2004. (2004 IAP) **Television Sets and Video Cassette Recorders/Players** Licence requirement for the export of television sets and video cassette recorders/players by small vessels of less than 250 gross tons was removed on 8 January 2004. (2004 IAP) **Strategic Commodities** A web-based e-service facility was launched on 31 March 2004 to provide for on-line submission of application for licence for strategic commodities. (2004 IAP)

8. HKC maintains licensing scheme for the import of textile and clothing products from 'sensitive markets'. Given HKC's traditional strong competitive position in this sector, the on-going need for this scheme is unclear. In this regard, please provide detailed information on the following:

   - When and for what purposes this licensing scheme was introduced?
   - Which economies are major targets of the policy are, i.e. what are the 'sensitive markets' stipulated on page 26 of NTMs section of IAP 2006?
   - Which product categories would the HKC government like to protect the most, and why?
   - Please provide data on the trends in import and export volume of textile and clothing over the period of 1996-2006, broken down by origin/destination countries.

HKC operates an import licensing system on textiles and clothing (T&C) products which is backed up by the Import and Export Ordinance (Cap. 60) and its subsidiary legislations. All imports of textiles products (other than a few exempted items[18]) are required to be covered by import licenses or notifications. The textiles import licensing system mainly functions as a surveillance system to back up HKC's textiles export control system. HKC's textile import licensing system is definitely not intended to protect domestic T&C industries or to restrict the quantity, value or product categories of textiles imports to HKC. This import system applies to all T&C product categories indiscriminately.

With the global elimination of textiles quotas under the World Trade Organization Agreement on Textiles and Clothing from 1 January 2005, HKC's textiles control arrangements have been streamlined in order to provide greater facilitation to the trade while ensuring origin compliance of the T&C products claiming Hong Kong origin.

Under the revised system, different licensing requirements are applied to textiles imports involving the "sensitive" and "non-sensitive" markets in the following manner:

- For sensitive market (currently only the Mainland China), textiles imports should be covered by consignment-specific licences or textiles notifications whereby consignment-specific details of individual shipments are captured; and

- Places other than the sensitive markets are classified as non-sensitive markets. For shipments from the non-sensitive markets, a comprehensive import licence (valid for a year for unlimited shipments) may be used, regardless of the product type, quantity and country of origin of the goods.

In 2005, HKC's domestic exports of T&C products amounted to HK$60,936 million (US$7,812 million) which fell by 26.7% as compared to 1996. For the first half of 2006, HKC's T&C domestic exports have reached HK$29,357 million (US$3,764 million). In 2005, the majority of HKC's T&C domestic exports (nearly 90%) went to the US, Mainland China

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[18] The following textile products are exempt from import licensing requirement:-

- woven or knitted fabric swatches and sample yarn imported by air and not exceeding $0.8m^2$ in size in respect of fabric swatches and 1.2 kg in weight in respect of each type of yarn ;
- textiles articles imported by an individual for his personal use or as bona fide gifts to another individual; and
- textiles articles imported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the articles are carried.

and the EU vis-à-vis over 80% in 1996.

In 2005, HKC imported HK$250,665 million (US$32,136 million) of T&C products which grew by 7.5% over 1996. For the first half of 2006, the total T&C imports amounted to HK$118,163 million (US$15,149 million). In 2005, the Mainland China and the EU accounting for over 85% of the total T&C imports, as compared to over 65% in 1996.

9. Please provide some details on the current "Import Returns Requirement" applied to imported motor vehicles. How are they operated? What are the main objectives of this scheme? Is there any policy consideration to liberalize this scheme in a near future or up to the Bogor Goal deadline of 2020?

According to the Motor Vehicles (First Registration Tax) Ordinance, Cap. 330, the importer of a motor vehicle for use in Hong Kong (whether for trade or other purpose) shall file an Import Return with the Hong Kong Customs, as delegated by the Commissioner for Transport (Commissioner), within 30 days of the importation of the motor vehicle, and not less than 5 working days before delivering that motor vehicle where that motor vehicle is imported for trade purpose. The Import Return should contain vehicle particulars including a) the make, model, engine number and chassis number; b) the landed value; and c) any particulars the Commissioner may require to verify the landed value of the vehicle.

For importation of vehicles for trade purpose, the importing company concerned may make the submission on a diskette formatted by Hong Kong Customs together with supporting documents. Whereas those for own use, the importer should submit a prescribed form, a declaration form together with supporting documents to Hong Kong Customs.

The information contained in the Import Return is a source of reference for assessing the retail price of a vehicle. From the law enforcement perspective, it is a control measure to guard against illegitimate registration and provide documentary proof for effective enforcement of the Ordinance. There is no policy consideration to liberalize this scheme in the near future.

10. What are policy objectives of the HKC government to maintain import and export licensing schemes for rice, given that the import quotas on the same product were removed effective January 1, 2003? Is there any plan to reintroduce quota schemes on rice in a near future?

It has long been the Government's objectives to liberalize the rice trade as far as practicable for the overall benefit of the community and to honour HKC's commitment to promote free trade. However, there is still a psychological attachment to rice as a staple diet among the local population. In case of unexpected shortage and uncertainties, there may be a tendency to hoard, and the absence of a reserve stock might arouse public concern. The Government considers that on balance it would be desirable to keep a minimal reserve stock of rice.

In this regard, the Government only maintains minimum control necessary to ensure a stable supply of rice and to keep a reserve stock sufficient for consumption by the population for a reasonable period to cater for emergencies or any short term shortage of supply. To enable the Government to pursue these objectives in monitoring the supply and stock of rice, imports and exports of rice are subject to licensing requirements under the current Rice Control Scheme (RCS).

The liberalization in January 2003 is a key milestone in reducing administrative barriers to the rice trade as well as enhancing competition and efficiency in the market. The rice trade now generally operates in a free market environment. The import level of rice is decided by individual stockholders in accordance with their assessment of market demand and their own marketing capability.

As the business environment of the rice trade as well as the consumption pattern of rice among the local population are generally stable, the Government does not see a need to re-introduce the quota scheme in the near future. We will continue to monitor the developments in the rice trade, and will consult the stakeholders on possible measures for further improving and simplifying the RCS.

11. Please provide information on the operation of the "Open Bond System (OBS)", which regulates bonded warehouses, and more specifically:
    - What are the main policy objectives of the OBS?
    - Which sectors other than 'Dutiable Commodities' are subject to the OBS?

The Open Bond System aims to facilitate the trade by lowering the compliance costs and allowing more flexibility in the business operations. Under OBS, warehouse licensees are required to ensure safekeeping and accurate recording of the dutiable goods in their warehouses while Customs controls are exercised through stricter licensing requirements, documentary verifications, selective physical checks and post-transaction auditing.

With the implementation of OBS, Customs attendance at the warehouses for supervising the movement, storage and processing of dutiable goods is not required. However, checks on the vanning (loading of dutiable goods into containers) and devanning (unloading of dutiable goods from containers) operations are conducted on selective basis.

The OBS is only applied to dutiable commodities, namely cigarettes, liquors, hydrocarbon oil and methyl alcohol.

III. Services

12. In which sectors has HKC liberalized market access, national treatment or most-favored nation (MFN) treatment for foreign services providers since the last IAP Review? Please list those sectors in which there were restrictions in place at the time of the last Review and compare the practices at that time with the current situation.

HKC has always been maintaining a liberal service regime, with most services sectors being free and open and foreign service providers and traders normally enjoying national treatment. That said, over the past few years since the last IAP, we have undertaken quite a number of measures to further liberalize our services regime in terms of market access, national treatment and MFN treatment. Major improvements are as follows:

(a) On **legal services**, the Legal Practitioners Ordinance was amended to remove the automatic recognition accorded only to UK and certain Commonwealth qualifications and enable foreign lawyers (including lawyers from the UK, non-UK and non-Commonwealth) to be admitted as barristers in Hong Kong subject to certain residency and examination requirements. The amended Legal Practitioners Ordinance and the relevant rules relating to examination and practice were implemented on 28 March 2003. These amendments enable the admission criteria for barristers to become standards-based and MFN consistent;

(b) In respect of **accounting services**, in addition to the Reciprocal Membership Agreements with 7 chartered accountancy bodies, the Hong Kong Institute of Certified Public Accountants entered into Mutual Recognition Agreements with 2 more chartered accountancy bodies in 2005. Discussions with three accountancy bodies formerly recognized by the HKICPA are underway with a view to concluding mutual recognition arrangements before end 2006;

(c) With regard to **telecommunications**, the fixed line telecommunication network services has been fully liberalized as from 1 January 2003. Licences have been issued for the operation of external telecommunications facilities based on submarine and land cables to those who have acquired capacity through the purchase of Indefeasible Rights of Use of cables with effect from 1 January 2003. Class Licence for Public Wireless Local Area Network (LAN) Services was created in February 2003 to enable wireless LAN operators to provide public services with minimal market entry requirements. Annual fees for telecommunications licences have been reduced with effect from 1 May 2004 to HK$0.2 million from HK$0.5 million for fixed carrier licences operating external telecommunications services only. Annual licence fees for mobile stations were also reduced to HK$20 per mobile station from HK$24 for public radiocommunications services licences and mobile carrier licences on 1 May 2004 and have been further reduced to HK$18 with effect from 1 May 2005. In 2005, additional types of telecommunications apparatus were exempted from licensing so as to further promote the adoption of advanced wireless technology. A new Services-Based Operator (SBO) Licence was introduced on 6 January 2006 to enable services-based operators to provide local voice telephony services using IP or other technologies;

(d) In respect of **distribution of rice**, import quotas and the capital and financial requirements of registering as rice stockholders to import rice have been removed as from 1 January 2003. Any interested parties can register as rice stockholders any time;

(e) Concerning **education services**, the registration of private schools providing both day and evening instructions has been streamlined. With effect from 1 April 2004, private schools providing both day and evening instructions are allowed to be registered under one registration;

(f) In terms of **financial services**, the Securities and Futures Ordinance (SFO), aiming to keep our regulatory framework on par with prevailing international regulatory standards and to facilitate market development and competition, came into effect on 1 April 2003. The new regulatory framework has enabled the regulatory body to better protect the interest of investors. The dual filing regime and single licensing regime are welcome by the market;

(g) On **air transport services**, to provide a more liberal environment for airlines to better serve the travelling public and shipping community, the number of bilateral aviation partners with which air services arrangements were established has increased from 50 to 57 as at end 2006. There have been continuous reviews and/or expansion of the agreements with existing partners throughout the years; and

(h) In terms of **temporary entry and stay of service providers and intra-corporate transferees,** in 2004 the computer system to speed up the flow of travelling passengers was upgraded to cope with ever-increasing traffic and a Frequent Visitor Card (FVC) Scheme was implemented at Hong Kong International Airport to facilitate entry clearance of FVC holders, i.e. bona fide frequent visitors, at the designated counters. The Automated Passenger Clearance System has been introduced in phases since December 2004 at control points so as to raise the overall passenger throughputs. The automated immigration clearance facilities were extended to certain types of temporary residents of Hong Kong in 2006.

13. Please review HKC's services regime at the time of the last IAP Review and currently, taking into account the "Menu of Options for Voluntary Liberalization, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investment" adopted in 2001.

Please refer to our responses to Q.12 for the major liberalization measures that HKC has undertaken since the last IAP Review. The measures have enabled HKC to live up to most of the ideal situations as set out in the "Menu of Options for Voluntary Liberalization, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investment" adopted in 2001 as follows:

(a) **Most-favoured-nation treatment** is applied to all services and all services providers without any exceptions;

(b) On **national treatment**, except for a few minor exceptions primarily in terms of residency requirements which are common practice in the relevant sectors, no discrimination is applied in treatment as between foreign services and service providers and domestic services and service providers on either a *de jure* or *de facto* basis;

(c) In terms of **market access**, domestic market is contestable for different service activities, primarily without entry or exit barriers and with appropriate regulatory structure in place;

(d) There has been **continuous deregulation** accompanied by increased liberalization and strong enforcement of competition policy, with an independent, market-oriented regulatory framework, and based on transparent criteria;

(e) On **transparency**, laws, regulations, procedures and other measures, which affect trade in services, are publicly available;

(f) **Domestic regulations** do not impede services trade and are not overly burdensome to economies or more restrictive than necessary. Domestic regulations are based on objective and transparent criteria;

(g) **Recognition** of diplomas, qualification, licenses and certificates obtained in other economies are accorded on the basis of clear and objective criteria;

(h) A **contestable economic environment** that induces business investment, technological innovation and long-term economic growth is in place; and

(i) Continuous efforts are being made to eliminate those customs and other administrative procedures that are no longer necessary and to streamline and simplify those procedures by **electronic technology**.

14. *Canada:*

a. Is [HKC] considering the removal or reform of the residency and examination requirements for foreign lawyers to practise as barristers in [HKC]?

The legislation relating to the examination for foreign lawyers was put in place since 2003 and there is no plan for the removal or reform of the residency and examination requirements for foreign lawyers to practise as barristers at the moment.

Is [HKC] considering the removal or reform of the requirement that a foreign law firm is not permitted to enter into partnership with [HKC] solicitors?

There is no plan for any change at the moment.

b. Please elaborate on the Reciprocal Membership Agreements (RMA) or Mutual Recognition Agreements (MRA) that the Hong Kong Institute of Certified Public Accountants (HKICPA) has signed with overseas accountancy bodies.

The Hong Kong Institute of Certified Public Accountants (HKICPA) entered into RMAs with seven chartered accountancy bodies in Australia, England & Wales, Ireland, New Zealand, Scotland, South Africa and Zimbabwe in November 2002. Under the RMAs, members of the recognized overseas accountancy bodies having completed the professional examination and practical experience training programme of such bodies are exempt from taking the HKICPA's Qualification Programme (i.e. the professional examination programme) and fulfilling the practical experience requirement, for registration as a certified public accountant (CPA) in Hong Kong and admission to HKICPA, and *vice versa*. These applicants from overseas only need to pass the HKICPA's Aptitude Tests in Hong Kong Law and Taxation to demonstrate that they have the relevant local knowledge for qualifying in Hong Kong. HKICPA signed a similar agreement with the Canadian Institute of Chartered Accountants in July 2005.

In addition, the HKICPA signed an MRA with CPA Australia in June 2005. Under the MRA, members of CPA Australia who have passed its professional examinations are exempt from completing the HKICPA's Qualification Programme for registration as a CPA in Hong Kong and admission to the HKICPA, and *vice versa*. However, these applicants from overseas still need to pass the HKICPA's Aptitude Tests in Hong Kong Law and Taxation and satisfy the HKICPA's practical experience requirements before they are qualified as a CPA and admitted to the HKICPA.

In August 2006, the HKICPA and The Association of Chartered Certified Accountants (ACCA) signed a new recognition agreement which allows mutual recognition of each body's members. Members of the ACCA will be recognized by the HKICPA for membership admission purpose, provided that they have a university degree, have passed the final professional examination of the HKICPA's Qualification Programme and Aptitude Test in Hong Kong Law and Taxation and have gained the relevant recognized practical experience. HKICPA's members who have qualified through the HKICPA's Qualification Programme are eligible to apply for membership of ACCA.

The conclusion of aforesaid agreements with esteemed accountancy bodies overseas demonstrates that, as an international financial centre, HKC is blessed with a strong and resilient accountancy profession recognized throughout the world as among the very best.

c. Is [HKC] considering the removal of residency requirements for various other professions in the future?

The Registration Boards for Engineers and Architects have residency requirements for registration and they have no plans at the moment to remove this. However, the Engineers and Architects Institutions do not have residency requirements for qualifications. Any consultant in the world can request to be included in the Engineering & Associated Consultants Selection Board (EACSB) list of engineering consultants. For architectural consultants, there is a requirement that the firm must have practised in the relevant profession in Hong Kong for a minimum of 2 continuous years in order to be included in the Architectural & Associated Consultants Selection Board (AACAB) list of architectural consultants.

In respect of the accountancy profession, there is no residency requirement for registration as a certified public accountant (CPA) in Hong Kong. That said, if a CPA is to be appointed or render any services as an auditor of a company incorporated in Hong Kong, he is statutorily required to hold a practising certificate. A practising certificate shall not be issued to a CPA unless the CPA satisfies the Council of the HKICPA the statutory requirement that he is ordinarily resident in Hong Kong and possesses such local experience and knowledge of local law and practice as the Council may consider necessary. For this purpose, a person shall be treated as ordinarily resident if he has been present in Hong Kong for not less than 180 days in the preceding 12 months. Nonetheless, if the Council of the HKICPA considers that an applicant for a practising certificate has acquired substantial experience in accountancy either in Hong Kong or elsewhere over a considerable period of time, the Council of the HKICPA may, according to laws, dispense with the aforesaid residency requirements. As such residency requirements seek to ensure that a CPA holding a practising certificate is competent to perform a statutory audit in Hong Kong, we have no plan to remove these statutory requirements in the near future. Nonetheless, there is no residency requirement governing the auditor of a company incorporated in an overseas jurisdiction and registered in Hong Kong.

There are no residency requirements for healthcare professionals when they apply for registration with the statutory boards/councils in Hong Kong.

d. In the WTO context, [HKC] has made almost full market access commitments/offers in the GATS for modes 1, 2 and 3 for the entire range of environmental services with the exception of refuse disposal services where coverage is for collection services related to households only. Mode 4 is unbound except as indicated in the horizontal section (no commitments/offer on contract services suppliers/independent professionals). Why has [HKC] excluded part of refuse disposal services in its revised offer on environmental services? Will [HKC] be making horizontal commitments on contract services suppliers and independent professionals that cover environmental services?

The new commitments introduced by HKC in environmental services are already very comprehensive covering almost the entire sector. The excluded part of refuse disposal services represented only a small portion of one sub-sector. HKC will continue to monitor the situation in this area.

As to whether HKC will consider making commitments on contract services suppliers and independent professionals for environmental services, any improvement to HKC's mode 4 commitments will be considered at a horizontal level covering all those sectors included in HKC's schedule of specific commitments under the WTO General Agreement on Trade in Services.

e. *[HKC's] general immigration regime is quite liberal in relation to the entry of business visitors and contract service suppliers. [Canada] note[s] that in the GATS context, [HKC] only has commitments/offers on intra-corporate transferees. Why has [HKC] not made an offer on business visitors and contract service suppliers in the GATS?*

HKC has a very liberal visa policy. People from about 170 countries and territories may come to HKC visa/permit free for visits ranging from 7 to 180 days. Business people enjoy the same visa free facilities and are admitted freely into HKC provided that they do not engage in any employment in the local market. Moreover, HKC maintains a liberal policy for granting entry and temporary stay of natural persons for employment or establishing a business in Hong Kong.

f. *[Canada] note[s] that several economies enjoy exempt status as Acceptable Inspection Regimes and Recognized Jurisdiction Regimes. There has been a Memorandum of Understanding between securities regulators in Canada and [HKC] for several years, but Canada is still not recognized as an Acceptable Inspection Regime. Please advise what steps Canadian would have to take to achieve this status?*

Although the Hong Kong Securities and Futures Commission (HKSFC) has signed a few Memoranda of Understanding (MOU) with the securities regulators of some Canadian states, such MOUs are mainly for the purpose of offering mutual assistance in enforcement of each jurisdiction's securities laws and regulations in the other jurisdiction, whereas the concept of Acceptable Inspection Regimes (AIR) is for a different purpose.

AIR is a requirement for the authorisation of unit trusts and mutual funds by the HKSFC for public offering under the Code on Unit Trusts and Mutual Funds (the Code). In general, the Code requires the investment manager or its delegate to be based in a jurisdiction with an inspection regime acceptable to the HKSFC. In determining whether an overseas jurisdiction could be an AIR, the HKSFC expects the relevant overseas regulatory authority to share common and comparable licensing and supervisory principles over activities of investment managers with the HKSFC and to carry out inspections of the investment managers within its jurisdiction in a manner generally consistent with the inspections conducted by the HKSFC. In addition, the HKSFC and the overseas regulatory authority must have established satisfactory procedures for the timely exchange of information regarding the investment managers.

To this end, the process would entail the overseas regulatory authority providing information to the HKSFC regarding the supervision of investment managers operating within its jurisdiction for our consideration and assessment. The HKSFC would also need assistance from the overseas regulator to work on a cooperation arrangement at a later stage to facilitate timely exchange of information. This is usually done by way of a specific MOU in relation to the cross-border investment management activities.

The securities regulators in Canada have not pursued the process of seeking recognition under the AIR policy so far. The Canadian authorities could liaise with the HKSFC directly on matters relating to the AIR.

g. *[HKC's] Annual Sectoral Report for Tourism and Travel-Related Services only refers to travel agents and tourist guides. Please provide some information on hotel and restaurant services.*

Hotel Services

Regulation, control and safety of hotel and guesthouse accommodation and connected purposes are provided under the Hotel and Guesthouse Accommodation Ordinance. Any person who carries on the business of a hotel or a guesthouse in Hong Kong needs to have a licence for the hotel or the guesthouse to do so. Issuing of a licence is subject to the following pre-conditions:

- the premises to be used for the hotel or the guesthouse are fit to be used for the purposes of a hotel or a guesthouse;
- such premises comply with the requirement relating to design, structure, fire precautions, health, sanitation and safety set out in the Buildings Ordinance (Cap. 123); and
- the operation, keeping, management and other control of the hotel or the guesthouse would be under the continuous and personal supervision of the person to whom the licence is issued.

There are no additional regulatory requirements for foreign entry into this service sector; nor for operation which discriminate between domestic and foreign service suppliers. More information can be found at http://www.hadla.gov.hk.

Restaurant Services

Any person who wishes to operate restaurant business in Hong Kong should obtain a General Restaurant Licence or a Light Refreshment Restaurant Licence. The Food and Environmental Hygiene Department is the licensing authority for food businesses. The licensing regime aims to safeguard public health and to ensure the safety of patrons. Under the current system, restaurant operators have to comply with licensing requirements/conditions in different aspects, namely food hygiene, public health as well as building and fire safety. There are neither additional regulatory requirements/conditions for foreign entry into this service sector nor additional regulatory requirements/conditions for operation that distinguish between domestic and foreign operators. More information can be found at http://www.fehd.gov.hk.

h. *In respect of licensing and qualification requirements of service providers, [HKC] indicates a plan within 2007-2010 for the [g]overnment and the trade (meaning the service industry?) to work together to ensure that both travel agents and tourist guides are providing quality services to customers. Please elaborate on the specific steps being envisioned to ensure the provision of quality services by travel agents and tour guides.*

The Government and the travel trade have been working together to seek continuous enhancement to the quality of the service provided by our travel agents and tourist guides to our visitors. This is a long-term commitment and a number of initiatives towards this target have been/will be launched.

On the daily regulation of travel agents and tourist guides, the Travel Industry Council of Hong Kong (TIC) (which is a trade organisation responsible for self-regulation) has been closely monitoring the inbound market and initiate appropriate measures to address any malpractice in the market. The TIC also takes appropriate disciplinary actions against travel agents which have violated the relevant code of practice promulgated by the TIC. To help improve the service quality of the trade, the TIC has, and will continue to, issue guidelines on specific travel service for the compliance of travel agents. One example is the issue of guidelines on the organisation of study tours in early 2006. The TIC's regulatory effort is backed up by the Registrar of Travel Agents who will take appropriate actions against those travel agents which have failed to meet the TIC's requirement through issue of advice or resort to suspension and revocation of licence under the Travel Agents Ordinance. The Registry also organises enforcement actions to deter unlicensed travel agents activities to ensure the service quality of, and the protection provided to, inbound tour groups.

The Government and the trade are also working closely in sustaining the service quality of Hong Kong tourist guides. The Tourist Guide Accreditation Scheme is administered by the TIC and fully implemented from 1 July 2004. Under the Scheme, all tourist guides must be accredited by the TIC with a valid tourist guide pass. The Government and the trade have also worked together in introducing more training opportunities with Government subsidy to help tourist guides and others working in travel agencies to acquire new knowledge and skills on eco-tourism, culture and heritage tours and customer service skills, etc. On the other hand, an open and transparent disciplinary system has also been put in place to enable disciplinary actions to be taken against those tourist guides who have acted contrary to their code of conduct.

15. *Chinese Taipei:*

a. *[HKC's] IAP indicates that the Hong Kong government continues to keep under review the rules and regulations in the energy services sector in order to keep up with the latest international standards and to cater for the local requirements. Does the Hong Kong government experience any conflict between local requirements and international standards? If so, how does it harmonize local requirements with international standards?*

While we may prescribe additional safety requirements, for example in respect of domestic gas appliances, to cater for special local circumstances, we have so far not experienced any conflict between local requirements and international standards in the energy services sector.

b. *Chinese Taipei appreciates the Hong Kong government's efforts to keep the policies of free entry and non-discriminative treatment for foreign energy service suppliers. However, given [HKC's] small market scale and the existence of stable energy companies (two power companies and one town gas company), is there any room for foreign investors to conduct energy service investment in [HKC]?*

As stated in the IAP, there are no regulatory impediments to energy-related investment in Hong Kong. There are no additional regulatory requirements for foreign entry into this service sector and for operation which discriminate between domestic and foreign service suppliers. Foreign investors are at liberty to enter the HKC energy services market provided that they meet the relevant requirements for the services to be invested. It is for potential investors to assess the market opportunity taking into account their own business strategy.

IV. Investment

16. Please review HKC's investment regime at the time of the last IAP Review and currently, taking into account the "APEC Non-Binding Investment Principles" adopted in 1994 and the "Menu of Options for Investment Liberalization and Business Facilitation" adopted in 1998.

HKC is dedicated to the realization of the Bogor Goals of free and open trade and investment. Some prominent features of HKC's investment regime, categorized under the "APEC Non-Binding Investment Principles", are highlighted below, with the relevant number in the "Menu of Options for Investment Liberalization and Business Facilitation" marked, where applicable:

(1) Transparency: HKC's investment regime is highly transparent. Information on major policy initiatives, government programmes and services of interest to investors is widely publicized. Investment-related laws, regulations, notices, administrative guidelines and licensing procedures are made publicly available [Menu No. 2.01, 2.02, 2.05, 2.06];

(2) Non-Discrimination between Source Economies and National Treatment: HKC maintains a level playing field for foreign and local investors [Menu No. 3.01, 3.04];

(3) Performance Requirements: Investors in Hong Kong are not subject to any performance or local content requirements;

(4) Expropriation and Compensation: Article 105 of the Basic Law of the HKSAR protects the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property [Menu No. 4.01]; and

(5) Repatriation and Convertibility: Investors enjoy free transfer of investments and returns in Hong Kong. [Menu No. 6.03].

Specifically, the following are a few examples of the measures taken by the Government since the last IAP Review to pursue investment liberalization and business facilitation:

(1) signing the Closer Economic Partnership Arrangement with the Mainland of China (June 2003) and an IPPA with Thailand (November 2005) *[Menu No. 1.09]*;

(2) implementing schemes such as the "Frequent Visitor Card" at the Hong Kong International Airport and "Automated Passenger Clearance and Automated Vehicular Systems" at control points to facilitate entry clearance *[Menu No. 8.02]*; and

(3) introducing the "Business Concierge Service Scheme", which offers a list of pre-qualified service providers for potential investors interested in establishing themselves in Hong Kong and explores business opportunities in the Pearl River Delta region *[Menu No. 13.03]*.

More information on HKC's investment regime can be found at the website of Invest Hong Kong at http://www.InvestHK.gov.hk and from the APEC Investment Guidebook at

http://www.apec.org/apec/apec_groups/committees/
committee_on_trade/investment_experts.downloadlinks.0002.LinkURL.Download.ver5.1.9.

17. Of the 15 bilateral IPPAs HKC has entered into so far, only five (Australia, New Zealand, Japan, Korea, Thailand) are with APEC member economies. Are there any policy initiatives to expand this network of bilateral IPPAs with other APEC members?

To give additional assurance to overseas investors that their investments in Hong Kong are adequately protected, and to enable HKC businesses to enjoy similar protection in respect of their investment overseas, HKC has been negotiating and concluding bilateral IPPAs with other economies.

So far, HKC has signed IPPAs with 15 economies. Other than the five APEC economies (Australia, New Zealand, Japan, Korea and Thailand) which the IPPAs were signed, HKC has also negotiated with several other APEC economies over the years, but the negotiations are yet to be concluded. As stated in HKC's 2006 IAP, HKC will continue to initiate new IPPA negotiations as appropriate and we welcome further collaboration with APEC members in this regard.

18. HKC reports it submitted to the Legislative Council the Copyright (Amendment) Bill 2006 in March.
    - What are the main changes compared to the former version of the legislation?
    - What is the current state of the legislation? — There appears to be conflicting information on the state of play (submitted vs. published elsewhere).

The Copyright (Amendment) Bill 2006 was introduced to the Legislative Council in March 2006 with a view to achieving a right balance between enhancing the protection for copyright owners while affirming fair and legitimate use of copyright works by certain sectors of the public. The Bill reflects the outcome of the public consultation conducted in late 2004 to early 2005 and discussions with relevant stakeholders. The Bill is subject to examination and debate by the Bills Committee of the Legislative Council.

Main proposals in the Bill include:

Copyright protection

- Maintaining the existing scope of the criminal offence provisions relating to possession of infringing copies of copyright works for use in business and incorporating this arrangement into the Copyright Ordinance as a long term measure. The existing scope of the business end-user possession criminal liability covers four categories of works—computer programs, movies, television dramas and musical recordings.

- Introducing a new offence against the frequent and significant making and distribution of infringing copies of newspapers, magazines, and periodicals and books in business.

- Imposing liability on directors or partners of a body corporate or a partnership which has done any act attracting business end-user criminal liability. Directors or partners responsible for the internal management of an organization will be liable unless there is evidence showing that they have not authorised the infringing act.

- In respect of circumvention of technological measures, imposing civil liability on persons who circumvent technological measures applied to protect copyright works as well as persons who make or deal in circumvention tools or provide circumvention services that circumvent technological measures. Furthermore, making for sale or hire, dealing in of circumvention tools and provision of circumvention services on a commercial scale would constitute a criminal offence.

- Introducing rental rights for films and comic books and providing civil remedy against infringement of such rights.

Copyright exemptions

- Improving the copyright exemption system to allow users to use copyright works more flexibly in the modern world but without unreasonably prejudicing the rights of copyright owners. The existing copyright exemption system listing item-by-item specific acts which would be permitted under copyright law is rather rigid and cannot easily cater for social and technological changes and new circumstances. The Bill proposes to introduce a new permitted act for fair dealing for the purpose of education and urgent business in public administration. To determine whether a dealing constitute "fair dealing", a list of non-exhaustive factors such as the purpose and nature of the dealing, the nature of the work, the substantiality of the portion dealt with and the effect of the dealing on the potential market or value of the work etc. have been included for the court to consider.

- Introducing a new permitted act to meet the special reading needs of persons with a print disability.

Parallel importation

- Relaxing certain restrictions relating to parallel imported copyright works. Under the existing Copyright Ordinance, it is a criminal offence to deal in, or to import otherwise than for private and domestic use, any parallel imported copyright work (other than computer software products) if the work has been published anywhere in the world for 18 months or less. Furthermore, using or possessing a parallel-imported movie, television drama or musical recording in business is also a criminal offence. The Bill proposes to remove the civil and criminal liability associated with business use of parallel imports, except for commercial dealing purposes or for public showing of movies, TV dramas, musical recordings by organisations other than educational establishments and libraries. The Bill also proposes to shorten the criminal liability period from the existing 18 months to nine months.

Improving enforcement efficiency and effectiveness

- Amending the existing Copyright Ordinance to increase effectiveness and efficiency in the enforcement of the law e.g. by amending time limits for prosecutions to three years from the date of commission of the offence and allowing copyright owners to file affidavit to prove "lack of licence" in relation to the doing of certain acts by the defendants.

19. Chinese Taipei: We see that under the item "Expropriation and Compensation" in the chapter on Investment in [HKC's] IAP, the spaces are left blank—no information is provided. We would thus like to ask [HKC] what the present status of this issue is, and which future improvements are planned?

This was caused by an unforeseen technical issue of the e-IAP website. The Secretariat has ratified it and the information is now accessible at the site at http://www.apec-iap.org/browse/display/displayMain.asp?sectionID=2538&chapterID=29&chapterAutoID=271&economy=Hong%20Kong%2C%20China&economyID=HKC&year=2005&docType=0&docURL=/document/HKC_2005_Investment.htm. The right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property is protected by the law. No further action is required.

V. Standards and Conformance

20. HKC generally adopts international standards with respect to health, safety the environment. Are there any problems or other considerations emerging in this regard? Please note any significant changes that have taken place since the last IAP Review with respect to as participation in international standardization activities and MRAs in both regulated and voluntary sectors.

HKC does not have a central standards authority or standardisation body producing official HKC standards. Where standards have to be applied in Hong Kong for safety, health and environmental reasons, our regulatory agencies in general adopt international standards and prevailing overseas standards. The mechanism has been running smoothly and there has been no significant change and no problem since the last IAP Review. Moreover, HKC has continued to participate actively in international standardisation activities and MRAs in both regulated and voluntary sectors. Every effort is made to promote acceptance of test data from accredited bodies, both internationally and locally.

MRAs in regulated sectors, such as the APEC Telecom MRA and EEMRA, continue to enable us to obtain information on overseas regulatory requirements and facilitate trade of relevant products by streamlining the conformity assessment procedures. For voluntary sectors, the Hong Kong Accreditation Service (HKAS)'s participation in APLAC and ILAC[19] MRA leads to greater harmonisation of HKC's laboratory practice and accreditation practice with those of our MRA partners. The HKAS further signed the PAC MLA[20] in Nov 2003. By May 2006, the Hong Kong Laboratory Accreditation Scheme (HOKLAS) has concluded MRAs for accreditation of laboratories with 53 accreditation bodies in 45 economies; the Hong Kong Certification Body Accreditation Scheme (HKCAS) has concluded MLAs for accreditation of quality management system (QMS) certification bodies with 36 accreditation bodies in 36 economies; the Hong Kong Inspection Body Accreditation Scheme (HKIAS) has concluded MRAs for accreditation of inspection bodies with 9 accreditation bodies in 9 economies. By virtue of the Standards and Calibration Laboratory (SCL)'s participation in the CIPM[21] Global MRA, HKC's measurement standards and calibration and measurement certificates are now formally recognised by national metrology institutes in more than 60 economies. The number and scope of MRAs have been expanding over the years.

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[19] APLAC and ILAC stands for Asia Pacific Laboratory Accreditation Cooperation and International Accreditation Cooperation respectively.

[20] PAC MLA stands for Pacific Accreditation Cooperation multilateral recognition arrangement.

[21] CIPM stands for International Committee for Weights and Measures.

21. HKC has reportedly introduced the 'Voluntary Energy Efficiency Labeling" Scheme for FAX machines, as notified to the WTO in March 2003.
    - *What are the responses of market participants?*
    - *How is the rate of participation of importers and exporters?*

HKC notified the WTO of the introduction of a new product category, viz. fax machines, under the existing "Voluntary Energy Efficiency Labelling Scheme" in March 2006 (instead of 2003). The scope of the Voluntary Energy Efficiency Labelling Scheme was extended to cover fax machines on 12 July 2006. Upon the launch, enquiries from importers/ agents and the general public about the details of the registration application for fax machines have been received. Since the Scheme is voluntary and extension to fax machines is only since July 2006, no application for registration has been received so far.

22. Over the IAP period of 1996-2006, HKC has recognized a total of seven testing laboratories from four APEC member economies (three from Chinese Taipei, two from the United States, one each from Canada and Singapore). Are there any concrete initiatives to expand this network of MRAs?

So far, the Office of the Telecommunications Authority (OFTA) has recognised nine testing laboratories from four APEC member economies including three from Chinese Taipei, four from USA and one each from Canada and Singapore. OFTA is always ready to recognise testing laboratories from APEC member economies and designate local testing laboratories for recognition by MRA partners. To facilitate expanding the network of MRAs, a webpage on APEC Tel MRA has been set up to provide all the necessary information for interested parties to facilitate their application for designation or recognition as conformity assessment bodies (CAB). Other than Phase I, OFTA has signed with the US the implementation of Phase II MRA procedures and will proceed to set up Phase II MRA with more economies after the relevant procedures become operational. The expansion of MRA network largely hinges on the willingness of commercial testing laboratories in joining the market of the other APEC economies. Market size is usually one of their major considerations.

VI. Customs Procedures

23. Please outline HKC's current status in implementing each of the Sub-Committee on Customs Procedures (SCCP) Collective Action Plan (CAP) items.

(a) Public Access to Information

The "Best Practices" Handbook of APEC Customs Administrations, which was first compiled by Singapore and HKC in 1997, was updated in 2005 to provide the latest information dissemination instruments to the public. A Customs homepage (http://www.customs.gov.hk) has been launched on the Internet since 1998 to facilitate the public to search for information relating to Customs and to make enquiry through electronic means. Improvement on the navigability and user-friendliness of the website has been introduced in 2005. We also set up a 24-hour one-stop enquiry hotline to answer public enquiries on Customs procedures and launched a website of "One-stop Advisory Centre for Cargo Clearance Matters" (http://www.customs.gov.hk/cargo/home.html) in 2001.

(b) Alignment With UN/EDIFACT International Standards for Electronic Commerce/Paperless Trading

The Government Electronic Trading Service (GETS) was adopted in 2004 to replace the EDI services so as to enable the use of international standard, such as Extensible Markup Language messages and ISO 10646 language standard. We have enacted legislation in 2004 to mandate electronic submission of cargo manifest of air and rail modes of transport. Electronic submission of cargo manifest of sea mode of transport has also gone mandatory in June 2006. In air cargo, we have also upgraded the Air Cargo Clearance System in 2003 to cope with the increased demand from industry, and enhanced the mobile access feature of the system in 2005 and 2006 for efficient clearance of cargo. A pilot run of the Digital Trade and Transportation Network (DTTN) System, which aims to develop an open and neutral IT platform for the exchange of data and information amongst parties in the supply chain, was launched in 2005.

(c) Provision of Temporary Importation Facilities

Temporary importation of goods covered by Carnets has already been covered by local legislation since 1996.

(d) Implementation of Clear Appeals Provisions

In 2005, we set up the Complaints Investigation and Assessment Panel and the Complaints Appeals Committee to enhance the impartiality and objectivity in handling public complaints and improve the quality of the services delivered to the general public.

(e) Alignment With WTO Valuation Agreement

The Laws of Hong Kong provide the basis for calculation of the duties. Our Customs valuation for assessment of excise duty is consistent with the spirit of the WTO Valuation Agreement.

(f) Adoption of Kyoto Convention

Please refer to the answer to Q.25 below.

(g) Implementation of Harmonised System Convention

The Harmonised System Convention was adopted in full since 1996 and the 2002 edition was implemented in 2002. We have also published the Hong Kong Harmonized System Handbook, in both Chinese and English, to assist the HS users in using the Hong Kong Imports and Exports classification list in 2003. Concerning the adoption of the 2007 HS, we have informed the public that a new edition of the List will be published to take effect from 1 January 2007 to incorporate the 2007 HS and other changes considered desirable for HKC.

(h) Implementation of an Advance Classification Ruling System

Since HKC is a tariff-free port with straight-forward customs clearance procedures, the Advance Classification Ruling System, which aims to establish simplified procedures for providing classification information prior to importation, thus bringing certainty and predictability to international trading and helping traders to make sound business decisions based on legally binding advice, is considered not applicable to HKC.

(i) Implementation of the TRIPs Agreement

We have already complied with the TRIPS obligations on border control since 1996.

(j) Development of a Compendium of Harmonised Trade Data Elements

HKC has been working with other APEC members towards the development of common data elements. In 2005, two briefing sessions on the latest development of the WCO Data Model were conducted for local logistics and transportation operators.

(k) Adoption of Systematic Risk Management Techniques

In order to provide speedy and up-to-date trader information for supporting the application of risk management in cargo clearance, we have enhanced the risk management techniques database in 2005 and the single trader database in 2006. We have also rolled out the Customs and Excise Intelligence System by phases (phase 1 in 2005 and phase 2 in 2006) to support the risk management applications in Customs operations. With the implementation of the Customs clearance cubicles at control points in 2004 and the "Red and Green Channel System" in 2005, not only the profiling of high-risk passengers by Customs can be facilitated, but also the privacy to passengers when being selected for secondary examination can be provided. In 2005, we have rolled out the EDI System for Cargo Manifest (phase-2) for rating the respective risk levels of the sea and rail cargo consignments to strengthen Customs enforcement capability without hampering the smooth flow of legitimate trade. In addition, more X-ray machines and ionscanners were procured in 2005 to complement the use of risk management techniques during cargo clearance.

(l) Implementation of WCO Guidelines on Express Consignment Clearance

We have appointed Customs representatives for liaison with the four regional and local express industry associations, and conducted periodic consultative meetings with representatives of local express industry associations. In 2004, the "Release Goods Before

Duty Payment" Scheme was operated to allow express cargo operators to defer duty payment on imported dutiable goods shipments. To further streamline the clearance procedures, an electronic payment method is being introduced in 2006.

(m) Integrity

A revised "Code on Conduct and Discipline" for staff was issued in 2005 and distributed to SCCP members as a technical assistance instrument. We have developed a video in 2005 to promote the major concepts of the Code. Three dedicated Working Groups as the executive arms of the Integrity Steering Committee were established to promote integrity management. Also, we have published a quarterly healthy lifestyle newsletter entitled "The Pine" for sustaining the effort in promoting healthy lifestyle and staff integrity, and compiled a booklet on "Work-life Balance" to promote the positive attitude towards work and family. In 2004, a video and a booklet on Financial Prudence were developed for Customs staff. In 2005, a tailor-made educational video on staff integrity was produced for new recruits and serving members of the Department to further entrench the ethical culture in Hong Kong Customs. Two videos promoting the importance of staff integrity have been uploaded onto the Hong Kong Customs homepage in 2006 to facilitate both staff and public access. Moreover, we have currently implemented a disciplinary case management system to increase both the efficiency and effectiveness of handling criminal/disciplinary cases for further enhancing the integrity management of Hong Kong Customs.

(n) Customs-Business Partnership

We continue to review the services in the light of the views of the Customer Liaison Groups; sign MOUs with business sectors; enter strategic partnership with cargo terminal operators and shipping companies to facilitate one-stop Customs clearance for inter-modal transhipment cargoes; launch industry sponsored reward schemes for providing intelligence relating to cigarette smuggling, illicit fuel, copyright piracy; and implement partnership schemes with the private sector to protect IPR and suppress Internet piracy. In 2004, we have collaborated with the IPR industry and established the Intellectual Property Rights Protection Alliance as well as developed an Internet website (http://www.iprpa.org) to provide a communication platform for Alliance members to exchange and share intelligence and information on IPR and a means to the public to obtain first hand information about the Alliance. Moreover, we have revised the compendium on "Customs-Business Partnership Programmes" in 2004 for reference of the SCCP members and the public.

(o) Time Release Survey

We agree that the Time Release Survey is a useful tool to identify bottlenecks in Customs related procedures and to improve Customs clearance efficiency and effectiveness. But since we have not conducted any such survey before, technical assistance is required from APEC for the smooth implementation of the survey.

(p) APEC Framework for Secure Trade

HKC will adopt a pragmatic approach in implementing the Framework. A number of elements of the Framework have already been implemented in Hong Kong, these include control and risk management, power to inspect cargo, use of non-intrusive inspection equipment and radiation detection equipment, joint targeting and screening, use of standardized sets of targeting criteria, etc. Some standards, however, still need to be better defined by the WCO in terms of requirements for full compliance or will require us to introduce new legislation and/or changes to the mode of operation of business stakeholders in the supply chain. These include introducing AEO schemes, requiring advance electronic submission of cargo information for all modes of transport and operating a customs seal integrity programme. For those standards which need further clarification or will require legislative amendments and/or significant changes in the existing mode of operation of stakeholders in the supply chain, we will take an active part in the formulation of the implementation details by the WCO; and identify their implications, including the costs and benefits of additional compliance requirements to private sector operators and the possible impact on HKC's competitiveness as a logistics hub. We will also undertake thorough consultations with stakeholders in the course of formulating an implementation plan; and ensure that the standards of control proposed are commensurate with the assessed level of threats.

24. *Chinese Taipei: At present our Directorate General of Customs is frequently intercepting goods that bear Hong Kong Certificates of Origin but that, upon investigation, turn out not to be Hong Kong products. This has been causing us difficulty. Consequently, we would like to ask the [HKC] government to adopt relevant measures that would reduce the number of such cases.*

One of the duties of Hong Kong Customs is to safeguard the certification and licensing systems which are of vital importance to HKC's trading integrity. We deter and investigate offences of origin fraud by carrying out cargo examination at control points, factory inspections, factory audit checks and consignment checks. Moreover, a monetary reward scheme has been implemented to encourage the supply of information on textile origin fraud.

Apart from enforcement actions, Hong Kong Customs also cooperate with the Trade and Industry Department (TID) to take administrative actions against the traders who do not observe the rules of origin. Such administrative actions may involve refusal to issue a Certificate of Hong Kong Origin, suspension of all kinds of certification facilities and/or cancellation of Factory Registration with the TID.

Hong Kong Customs believes that our enforcement action together with the administrative action will successfully combat origin fraud. In order to strengthen our enforcement action, Hong Kong Customs welcomes members to pass information on origin fraud to us for investigation.

25. *Japan: We would like to know the reason why [HKC] has not been a contracting party to the Revised Kyoto Convention and what are the bottlenecks to accede to the Convention.*

A departmental working group has been set up to study the compatibility of our existing domestic legislation and procedures with the revised Kyoto Convention. At present, we are conducting a comprehensive review on the findings of the study.

VII. Intellectual Property Rights (IPRs)

26. *How effectively does HKC implement the various measures and procedures that have been recently introduced with a view to providing for expeditious granting of IPRs, and ensuring adequate enforcement against infringement of IPRs? Please review the implementation of CAP, establishment of IPR service centre and Anti-Counterfeit and Piracy Initiative.*

HKC has provided interactive services for renewal of trade marks and patents and maintenance of patent applications since November 2005. With such services, e-filed applications can be validated and approved almost in real time without intervention of the registries' staff. The new system cuts out double-handling of data, and hence reduces the chance of errors. In February 2006, HKC expanded the interactive services to cover the change of name, address and address for service in relation to trade marks, patents and designs. With the enactment and commencement of the Trade Marks (Amendment) Rules 2006 on 26 May 2006, HKC has further enhanced the electronic services for the registration of assignments and assents relating to registered trade marks and trade mark applications.

HKC is committed in its efforts in the implementation of the CAP. In particular, HKC has set up an on-line IPR Service Centre which provides information on how IPRs are protected and enforced. Our on-line IPR Service Centre is available in both English and Chinese.

HKC has also done a lot for raising public awareness of IPR protection. HKC is one of the lead economies in APEC in the area of IPR public education. As part of the APEC Anti-Counterfeiting and Piracy Initiative, the intellectual property offices of Australia, HKC and Singapore will jointly organize an APEC Public Education and Awareness Platform Project in 2006. This is the first time that several economies have joined hands to organize an APEC project of such nature. There will be two deliverables: first, an online communication platform relating to intellectual property education and awareness resources; and second, a workshop on effective strategies for intellectual property public education. The 3-day regional workshop was held in Hong Kong on 8-10 November 2006. Some 80 participants attended, including officials from 17 APEC member economies, Cambodia and Laos, and representatives of intellectual property-related organizations. The workshop is an important intellectual property event in the APEC region in 2006.

On the local front, HKC continues to conduct school visits and other educational programmes as well as publicity campaigns promoting IPRs. Major campaigns like "I Pledge" continue to improve public awareness of IP and its protection. The "No Fakes" campaign in which retailers guarantee that all their products are genuine continues to see growth in IP awareness in the retail industry. In order to evaluate the change in public awareness and the effectiveness of the publicity work, HKC conducts two benchmark surveys (one focuses on the general public and the other focuses on business establishments) annually which report continuous growth of public awareness in IP protection.

To educate the public, especially the youth, to respect IPR on the Internet environment, there have been a number of initiatives to disseminate the message effectively. For instance, the launching of the "Anti-Internet Piracy Publicity Programmes" in May 2006 which comprised a TV and radio APIs featuring local popular singers and actors, a radio partnership programme with various radio stations, the production of an education TV programme as well as the "Youth Ambassador Against Internet Piracy Scheme" in 2006 to promote respect for intellectual property rights in the digital environment. The Scheme is organized by Hong Kong Customs, in collaboration with 11 uniformed organizations, 5 IPR industry players and the Intellectual Property Department. Under the Scheme, 200,000 young members of the participating uniformed organizations will help monitor the Internet and report suspected infringing BT seeds found on local discussion fora via the website of the Intellectual Property Rights Protection Alliance (http://www.iprpa.org). The Hong Kong Customs will scan the information received and pass it to the respective copyright owners, who will then ascertain the validity of the information and notify the corresponding webmasters of the discussion fora to remove the BT seeds in question.

The persistent and stringent enforcement action of Hong Kong Customs has effectively suppressed piracy and counterfeiting activities, and the illicit trade is shrinking rapidly in Hong Kong. Since 2004, Hong Kong Customs has applied the Organized and Serious Crimes Ordinance (OSCO) to raise the enforcement effectiveness, which targets at syndicated level piracy and counterfeiting activities. Under the OSCO, the prosecution can apply to court to freeze the criminals' assets and enhance the sentence upon conviction.

27. *Canada*

a. : *Could [HKC] provide more details on its copyright exemption system?*

The existing Copyright Ordinance lists item-by-item specific acts which could be permitted under the copyright law notwithstanding the subsistence of copyright (Division III, Part II of the Copyright Ordinance). These permitted acts includes fair dealings for research and private study, criticism, review and news reporting, certain specific acts done by educational establishments, libraries and archives etc. These acts are subject to the primary consideration that they do not conflict with a normal exploitation of the work by the copyright owner and do not unreasonably prejudice his legitimate interests (section 37(3) of the Copyright Ordinance).

The Copyright (Amendment) Bill 2006 proposes that certain new permitted acts be introduced to improve the flexibility of copyright exemptions in today's environment. These proposed permitted acts include fair dealing for education and urgent business in public administration, making and distribution of specialized formats of works to meet the needs of persons with a print disability. These acts are similarly subject to the primary consideration in section 37(3) of the Copyright Ordinance.

b. *Could [HKC] please clarify this statement: "Amendments to the Copyright Ordinance were made in 2003 to remove the civil and criminal liabilities related to parallel importation into Hong Kong of and subsequent dealings in articles which have embodied in them a copy of a computer program...?"*

Prior to 2003, it was a criminal offence to deal in, or to import otherwise than for private and domestic use, any parallel imported copy of a computer program if the work has been published anywhere in the world for 18 months or less. Furthermore, using or possessing a parallel-imported computer program was also a criminal offence. Views were received from the public that the restrictions on parallel importation of computer software should be removed. They believed that allowing parallel importation of computer software would increase competition and availability of products in the market, resulting in more choice and lower prices for consumers. Furthermore, the relaxation would provide an incentive for small and medium size business end-users to use genuine computer software. To implement the proposed liberalization, the Copyright (Amendment) Ordinance 2003 was passed in July 2003 and took effect from 28 November 2003.

After the coming into effect of the above amendment ordinance, the restrictions on parallel imported computer software products were removed. However, if the principal attraction of a computer software product is a musical sound or visual recording, movie, television drama, e-book, or a combination of them, the restriction continues to apply.

c. *Could [HKC] provide more details on what is described in the Copyright Bill 2006 to be "a right balance between enhancing the protection for copyright owners while affirming fair and legitimate use of copyright works by certain sectors of the public"?*

Copyright owners demand stronger protection through the introduction of new civil and criminal sanctions. On the other hand, the public and business users of copyright works are wary of criminal sanctions and the introduction of new civil rights for copyright owners.

Hence, in drawing up the proposals, we need to ensure that the reasonable demands of both sides are met and at the same time, HKC's international obligations are complied with.

Against the above background, the Government consulted the public on a number of copyright-related issues from December 2004 to February 2005. Discussions with relevant stakeholders were held and the views of the Panel on Commerce and Industry of the Legislative Council were sought in formulating the legislative proposals. The legislative proposals were incorporated in the Copyright (Amendment) Bill 2006. The main proposals of the Bill are outlined under Q.18 above.

The Bill is subject to detailed examination by the Bills Committee of the Legislative Council. In the meantime, regular dialogue with relevant stakeholders will be maintained with a view to improving the Bill.

28. *Japan:*

a. *In 2005, three Model Guidelines were approved at the ministerial level. In accordance with "The Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods", the domestic law of each member economy must include effective border-control enforcement procedures designed to empower right holders and Customs and other competent authorities to restrict the import, export and transshipment of counterfeit and pirated goods. Please explain how these procedures are regulated in your domestic law, specifically in handling the transshipment of infringing goods.*

Part IIIA of the Trade Descriptions Ordinance (TDO) provides for border measures relating to counterfeit trade marks. "Infringing goods" is defined in TDO as goods to which a forged trade mark has been applied or to which a trade mark or mark so nearly resembling a trade mark as to be calculated to deceive has been falsely applied (section 2 of TDO).

The Copyright Ordinance (CO) also contains provisions relating to border measures relating to copyright infringing goods (sections 135 to 144 of the CO). An "infringing copy" of a copyright work is defined in section 35 of CO as copies the making of which constitute an infringement of the copyright in the goods in question.

Where a right holder has reasonable grounds for suspecting that an importation of an article that constitutes an infringing copy of the work in which he is the right holder may take place, he may apply, in writing, to the High Court of HKC for a Detention Order. The application may be made *ex parte* but with previous notice to the Commissioner of Customs & Excise. The competent authority from a judicial point of view is the High Court, whilst the competent authority from an administrative point of view is the Customs (sections 30B – 30D of TDO and sections 136 – 138 of CO).

If the court is satisfied that there is sufficient evidence of *prima facie* infringement, the court may make an Order directing the Commissioner to take reasonable measures to seize or detain the article on or after its importation. The Order is to be served forthwith by the right holder upon the Commissioner.

Upon being served with a copy of the Detention Order, the Commissioner shall seize or detain any articles to which the Order relates and gives notice to the right holder and the importer after the seizure. If the right holder does not bring an action for infringement and notify the Commissioner in writing of the fact within ten days of notice of seizure, the Commissioner may release the goods. On the other hand, if there has been wrongful seizure, abandoned proceedings for infringement, or unsuccessful proceedings, the importer would be entitled to recover any loss or damages.

The above provisions do not extend to exports from HKC. Also, they do not apply in respect of goods in transit. Goods in transit are defined as those which are brought into HKC solely for the purpose of taking them out of HKC and remain at all times in or on the vessel or aircraft in or on which they are brought into HKC.

However, the enforcement agency in Hong Kong has the power to seize and detain infringing goods by way of *ex officio* action at the border. Where pirated goods are located, either by ex-officio action by Customs officers, or upon complaint made to them, such goods will be seized up to the point where they leave HKC's territorial waters.

b. *When is your government planning to enact the copyright amendment bill? In the bill, the improvement of copyright exemption system was proposed. Does this mean that the provision of "fair dealing" will be deleted? Also, the bill proposed the relaxation of legal provisions against parallel importation. Is there any objection from copyright holders against this proposal?*

The Copyright (Amendment) Bill 2006 is subject to examination and debate by the Bills Committee of the Legislative Council.

The existing "fair dealing" provisions would not be deleted. The existing Copyright Ordinance which lists item-by-item specific acts that could be permitted under copyright law is rather rigid and cannot easily cater for social and technological changes and new circumstances. The Bill therefore contains proposals to introduce more flexibility into our copyright exemption regime. New permitted acts proposed include fair dealing for education and urgent business in public administration, making and distribution of specialized formats of works to meet the needs of persons with a print disability. These permitted acts are subject to the primary consideration that they do not conflict with a normal exploitation of the work by the copyright owner and do not unreasonably prejudice his legitimate interests.

Under the existing Copyright Ordinance, it is a criminal offence to deal in, or to import otherwise than for private and domestic use, any parallel imported copyright work (other than computer software products) if the work has been published anywhere in the world for 18 months or less. Besides, using or possessing a parallel imported movie, television drama or musical recording in business is also a criminal offence. If the copyright work has been published for more than 18 months, the above acts would only attract civil liability. The consumers and the business sector, particularly the retailers, are strongly in favour of liberalizing parallel importation, while copyright owners, particularly the film, music and publishing industries remain strongly against it.

Having balanced the interests of copyright owners and users, the Bill proposes to shorten the criminal liability period from the existing 18 months to nine months. The Bill also proposes to permit business use of parallel imports of copyright works and fixations, except for commercial dealing purposes or public playing of movies, TV dramas, music recordings by organizations (other than educational establishments and libraries).

The objection raised by copyright owners regarding relaxation of parallel importation restrictions is noted. Regular dialogue with stakeholders will be maintained with a view to arriving at a consensus with them.

c. *In Hong Kong, companies are experiencing serious damage from counterfeits and pirated copies. Hong Kong's efforts to date to tackle issues of intellectual property rights infringement caused by counterfeits, etc. are appreciated. Despite these efforts, however, there are still cases where significant damage is being inflicted on Japanese companies.*

Resources are targeted at all levels of piracy and counterfeiting activities, including import and export, wholesale and retail. As a result of Customs' vigorous enforcement action, the piracy and counterfeiting activities in Hong Kong are now firmly under control. The number of pirated discs retail outlet has dropped by more than 90% over the past two years. At present, there are no major manufacturing activities of counterfeit goods in Hong Kong.

d. *We would like to suggest that the target of control by the customs office should include the infringement of design and copy of shape as well as copyright and trademark, in transit as well as for import and export. We would like to suggest a systemic revision including the adoption of examination of samples. What measures will be taken in the future in terms of systemic and operational aspects? We would like to hear about specific policies.*

The reference to "infringement of design and copy of shape" may involve two types of infringement. One is copyright infringement. The other is infringement of a registered design. Criminal sanction is available for the former under the Copyright Ordinance. There is no criminal sanction for registered design infringement under the Registered Designs Ordinance. It appears there is the suggestion that, there should be criminal sanction for infringement of registered design covering scenarios where import or export (including in-transit situations) is involved. Under the Copyright Ordinance, criminal sanctions are available against import or export (including transshipment) of infringing goods. Injunctions can be sought in respect of infringing goods in transshipment under appropriate circumstances. HKC's present regime fully complies with our international obligations. The criminal sanctions in copyright law will serve in many circumstances. We do not think there is a need for further criminal sanction in Hong Kong.

29. *United States:*

a. *There are concerns about lengthy approval procedures for new pharmaceuticals, which shorten the effective patent life of new products by six months, and the lack of transparency in the Hong Kong Hospital Authority's approval process for new drugs. Are there plans for the [HKC] [g]overnment to address these concerns?*

The government places much emphasis on the efficiency of drug registration. In 2005, Among 3 800 registration applications, 97% met the performance pledge, i.e. the process being completed within five months. The Government is fully aware of the concerns of the trade and has introduced many facilitating measures. It will continue to review whether the procedure can be expedited further, taking into account any proposals from the trade.

b. *According to the Business Software Alliance, Hong Kong's software piracy rate increased from 52% to 54% last year. What is Hong Kong's approach to its new Copyright Ordinance—the current version of which originally was to expire in July—particularly pertaining to end-user piracy-related amendments? The preliminary proposal put forth in November 2005 by the [HKC] [g]overnment would introduce a new business end-user criminal offense for significant infringements involving the commercial copying and distribution of four types of printed works, along with specified numerical "safe harbour" thresholds for offenses under which criminal liability will not be assessed. Are there plans to have these amendments approved and enacted by the Legislative Council before the end of July 2006? If not, what is the new timeframe?*

Under the Copyright Ordinance (when read in conjunction with the Copyright (Suspension of Amendments) Ordinance 2001), it is an offence for a person to possess an infringing copy of any of the four categories of works, namely computer programs, movies, television dramas and musical recordings, for use in business. This arrangement, which was due to expire in July 2006, has been extended by the Legislative Council for a further term of one year until July 2007.

The Copyright (Amendment) Bill 2006 proposes that the above arrangement be incorporated into our Copyright Ordinance as a long term measure. The Bill is being examined by the Bills Committee.

c. *Foreign pharmaceutical companies continue to express concern that the Hong Kong Department of Health issues marketing authorizations for patent-infringing pharmaceutical products. The industry is also concerned about sales of counterfeit pharmaceuticals, which threaten consumer safety and brand recognition. It is suggested that the Hong Kong Government address both the marketing approval/patent protection linkage issue and the counterfeiting issue as they pertain to pharmaceutical products.*

HKC has an effective legislative framework to protect patents. Registration of drugs is considered merely on health grounds. Under the Patents Ordinance, patent owners of pharmaceutical products can seek civil remedies for patent infringement. In Hong Kong all drugs must be registered by the Pharmacy and Poisons Board (PPB) prior to their introduction in the market. The Board considers each application on the grounds of safety, efficacy and quality. Such registration shall not be meant for anything other than for the purpose of public health. Regardless of whether a generic drug has been registered with the PPB, the rights of the patent holder of the concerned originator drug remain protected by the Patents Ordinance. Registration of a pharmaceutical product with the PPB does not release its seller from the duty of observing any intellectual property rights related to that product.

VIII. Competition Policy

30. Please review any changes to HKC's competition policy (as outlined in the *Statement on Competition Policy)* and currently, taking into account the "APEC Principles to Enhance Competition and Regulatory Reform" adopted in 1999.

HKC has hitherto adopted a sector-specific approach to promote and enhance competition. This approach includes adopting measures ranging from licensing conditions, contractual provisions, codes of practice, administrative means, public censure, to provisions against anti-competitive behaviour in specific legislation. This approach has provided HKC the flexibility to adopt the most suitable measures taking into account the different circumstances and specific operating environment of different sectors, and is in line with the 1999 APEC Principles to Enhance Competition and Regulatory Reform, such as non-discrimination, comprehensiveness, transparency and accountability.

31. There is some indication in the IAP of 2006 that there could be a major amendment in the structure and system of HKC's competition policy, and specifically modifications of operational system of COMPAG are in pipeline.
    - Did the CPRC complete the evaluation on COMPAG? If not, when can it be expected? If so, what were the results?

To ensure that our competition policy caters for present day circumstances and to maintain HKC's competitive edge, the Government appointed in June 2005 a Competition Policy Review Committee (the Committee) to review the existing competition policy and the composition, terms of reference and operations of the Competition Policy Advisory Group (COMPAG), the Government's high level forum chaired by the Financial Secretary dedicated to examining and reviewing competition issues. The Committee is chaired by a non-official, with members drawn from different sectors of the community and from bureaux and departments with responsibility for competition-related matters.

The CPRC reported back to COMPAG in June this year and its review report was published in early July. Briefly, the CPRC has recommended that the Government introduce a cross-sector competition law targeting specific types of anti-competitive conduct to be enforced by a Competition Commission operating outside the normal government structure. The CPRC has recommended that the Commission be given appropriate investigative powers, and that penalties in the form of large fines and disqualification from holding directorships should apply to any parties found to have engaged in prohibited conduct.

The Committee's report could be viewed at http://www.edlb.gov.hk/edb/eng/info/CPRC.pdf

The Government is now considering the recommendations in the CPRC report, with a view to consulting the public later this year on the way forward.

IX. Government Procurement

32. Please review HKC's government procurement regime at the time of the last review and currently in the context of the "APEC Non-Binding Principles on Government Procurement" adopted in 1999.

HKC's procurement regime is fully consistent with the Non-Binding Principles of transparency, value for money, open and effective competition, fair dealing, accountability and due process and non-discrimination. Moreover as a Party to the World Trade Organization Agreement on Government Procurement, HKC is committed to ensure its procurement policy and procedures are consistent with the spirit and objectives of the WTOGPA.

X. Deregulation/Regulatory Review

33. Please describe any recent examples of industry or sector-specific regulatory reform that has eliminated distortions on trade and investment or restrictions on competition.

Some recent examples of regulatory reforms which aim at eliminating restrictions on competition are given below –

(1) Preparation of an Accounting Separation Manual for Television Programme Service Licensees

In August 2006, the Broadcasting Authority (BA) promulgated an accounting separation manual, in consultation with the industry and the Hong Kong Institute of Certified Public Accountants, in order to assist television programme service licensees to comply with the accounting separation provisions under section 17 of the Broadcasting Ordinance (Cap.562). The manual gives guidance to television programme service licensees, which also held telecommunications licences under the Telecommunications Ordinance (Cap.106), to facilitate the separation of accounts for their television broadcasting and telecommunications businesses so as to provide transparency in their operations. It also provides the benchmark for best accounting practices for reference by licensees, as well as a basis for evaluation when the BA investigates complaints against anti-competitive practices (such as cross-subsidisation and discriminatory pricing) in relation to broadcasting sector.

(2) Review of the Information Technology Professional Services Arrangement (ITPSA)

The Office of the Government Chief Information Officer has completed the review of the ITPSA and taken account of the views of the IT industry and Government departments when drawing up the new arrangement – the Standing Offer Agreements for Quality Professional Services (SOA-QPS) – aimed at enhancing competition in the provision of IT services. The tendering exercise for the SOA-QPS was concluded in December 2005 to replace the ITPSA. The new arrangement saw an increase in the number of SOA from 23 in the original ITPSA to 40 under the SOA-QPS.

(3) Release of technical information in operations and maintenance (O&M) manuals by lift manufacturers

Since the launch of the "Guidelines on Operations and Maintenance Manuals" (the Guidelines) by the Electrical and Mechanical Services Department (EMSD) in March 2004, two surveys were conducted, in mid-2005 and mid-2006 respectively. The results of the surveys showed that lift manufacturers and contractors had increasingly complied with the Guidelines by providing O&M Manuals for lifts. EMSD would continue to monitor the situation in the industry, with a view to ensuring that lift maintenance contractors had access to sufficient technical information to allow them to compete to carry out maintenance work.

34. Please confirm how many regulatory impact assessments (RIAs) have been issued so far. (Is it 12, as given in IAP?) What are main results of these reports (sectors, main addresses, etc)? Could you provide some detailed information on main contents and procedures of the RIA?

As given in the IAP, so far 12 RIAs have been completed since 1998.

A brief summary of two major RIAs completed since 2002 is given below –

(1) RIA on proposed regulation of the local vehicle maintenance trade

The objective of the RIA was to review the merits and need for setting up a regulatory framework for the vehicle maintenance trade covering both vehicle maintenance workshops and vehicle mechanics with a view to improving the service standard of the trade. The RIA concluded that some form of regulation of the vehicle maintenance trade would likely bring economic benefits to society.

The RIA recommended, inter alia, that –

(a) it was important to adopt a progressive and balanced approach to minimize the impacts on the trade;

(b) a voluntary scheme for regulating vehicle mechanics be introduced first and a voluntary scheme for regulating vehicle workshops be considered at a later stage; and

(c) a code of practice for workshops be developed and introduced to promote self-regulation among workshops before putting in place the proposed voluntary scheme for regulating vehicle workshops.

(2) RIA on labelling scheme on nutrition information

The objective of the RIA was to assess the health and economic impacts of introducing a nutrition labelling scheme in Hong Kong so as to enhance public health. The RIA suggested that while the introduction of the scheme was likely to impose costs on importers, manufacturers and retailers, the health benefits available and the annual net economic benefits would substantially outweigh the costs of implementing the scheme for all options with the exception of the options to regulate only energy plus three core nutrients.

The RIA recommended that a nutrition labelling scheme be introduced in two phases. During Phase I of the scheme, any pre-packaged food product making a nutrient-related claim on its packaging would be required to provide information on the quantity of the nutrient being claimed as well as the energy, protein, available carbohydrate, fat, saturated fat and sodium content of the product. Such a scheme should be introduced with a two-year grace period after the enactment of the relevant legislation. During Phase II, all pre-packaged food would need to provide information on their nutrient content. In addition to the labelling of energy, protein, available carbohydrate, fat, saturated fat and sodium, the second phase of implementation would require the labelling of cholesterol, sugars, dietary fibre and calcium. The RIA suggested that the timing of implementation of this second phase be reviewed three years after the legislative amendment.

Main contents and procedures of the RIA

RIA examines the costs and benefits of the proposed regulatory changes in both quantitative and qualitative terms, analyses the potential impact of the proposal on the various stakeholders and examines the distribution of the impact to detect over-burdening of any particular sector. The policy bureau concerned will make reference to the assessment results in taking the regulatory proposal forward. The assessments are published during the public consultation stages of the proposed regulations.

A typical RIA study comprises the following components –

(a) Identification of options—identify the options for assessment and the type of assessment to be used;

(b) Needs analysis—delineate the problem, the risk, and the objective;

(c) Identification of stakeholders—identify all the groups and significant sub-groups likely affected by the options;

(d) Consultation—wide consultation with stakeholders;

(e) Impact analysis—assess the impact, in terms of both quantifiable and non-quantifiable benefits and costs, of each of the assessable options on each of the stakeholders, and derive a Net Present Value for each option;

(f) Distributive analysis—examine any differences in the impact on each stakeholder of the benefits and costs arising from each option;

(g) Sensitivity analysis—list out the key assumptions, parameters and uncertainties;

(h) Recommending preferred options—indicate, in this particular case, whether or not the proposed regulation has a net benefit to the community as a whole, and whether it is desirable to go ahead with the original regulatory measures or an amended version; and

(i) Implementation and review—summarise how the preferred option would be implemented, monitored and eventually reviewed.

XI. Rules of Origin

35. Please describe the development and implementation of the rules of origin applicable to CEPA. Has this led to any changes with respect to HKC's conformity to its WTO obligations? What measures has HKC taken to ensure the impartial, transparent and neutral preparation and application of rules of origin, given the implementation of CEPA?

The origin rules for CEPA were jointly agreed between China and HKC. CEPA adopts a building block approach and provides mechanism for further liberalization measures. The origin rules for the first batch of goods were agreed in late 2003 and put into implementation on 1 January 2004. Further agreements on the origin rules of additional batches of goods were agreed and put into implementation in January 2005, January 2006 and July 2006 respectively. Since the implementation of CEPA, HKC and China have reached agreements on the CEPA rules of origin for goods covered by a total of 1,407 Mainland 2006 tariff codes.

Starting from January 2006, the Mainland has applied zero tariff to all imported goods of Hong Kong origin, except for prohibited articles (such as used or waste electrical machinery and medical/surgical products, chemical residual, municipal waste, tiger bone and rhinoceros horn), upon applications by local manufacturers and upon the CEPA origin rules being agreed and met.

Article 2 of the CEPA states clearly that the conclusion, implementation and amendment of the CEPA are in compliance with the WTO rules.

The origin rules under CEPA are accessible by the trade and public through the webpage of Trade and Industry Department (TID) [http://www.tid.gov.hk/english/cepa/tradegoods/files/mainland_2006.pdf]. To claim zero tariff under CEPA, Hong Kong-origin products importing into the Mainland must be supported by a Certificate of Hong Kong Origin-CEPA [CO(CEPA)]. Before applying for CO(CEPA), manufacturers/operators are required to apply for Factory Registration with the Trade and Industry Department to demonstrate that their factories/establishments possess sufficient capacity to produce the goods for export. Details of the application procedures and conditions of issuing CO(CEPA) are set out in circulars which can be downloaded from the website of TID. The approval and application procedures are identical for all the applicants.

XII. Dispute Mediation

36. *Please provide an overview of how HKC has settled disputes with other economies with respect to trade and investment, citing specific recent examples as appropriate.*

HKC follows the WTO dispute settlement procedures to settle trade and investment disputes with other governments. Where the other government is not a WTO member, HKC will seek to settle the dispute by consultations. Separately, HKC has established a number of bilateral investment promotion and protection agreements (IPPAs) with its major economic partners. These IPPAs provide, among other things, mechanism for settling investment disputes through consultation or arbitration under international rules. Also, the Closer Economic Partnership Arrangement (CEPA) between Hong Kong and Mainland China, the first free trade/economic integration arrangement for HKC under the WTO framework, provides for the two sides to resolve their disputes under the Arrangement through bilateral consultation.

HKC has not been involved in any trade or investment disputes with other economies recently.

XIII. Mobility of Business People

37. Please describe measures HKC has taken to enhance the mobility of business people.

To enhance the mobility of business people, HKC has taken the following measures:

- HKC adopts a liberal visa policy. Business people of about 170 countries and territories can enter HKC visa-free for periods ranging from 7 to 180 days;
- Adopted a liberal approach in issuing multiple journey visit visas to genuine business people;
- A Travel Pass Scheme has been introduced since 1998 to speed up entry/exit clearance of frequent travellers to/from Hong Kong;
- Implemented the APEC Business Travel Card Scheme on a permanent basis with effect from April 2001;
- Implemented since February 2004 a Frequent Visitor Card (FVC) Scheme at the Hong Kong International Airport to facilitate entry clearance of FVC holders, i.e. bona fide frequent visitors, at the designated counters;
- Implemented a pilot Advanced Passenger Processing System since November 2005;
- Installed an on-screen form filling feature at Internet website for all downloadable visa/entry permit application forms. Allowed submitting application forms and documents by fax followed by originals to shorten the processing time of a visit visa;
- Installed an 'Expeditious Immigration Clearance' (EIC) system at cross-boundary control points to expedite the entry clearance process. Upgraded the computer system to speed up the flow of travelling passengers and to cope with the increasing traffic;
- Implemented the streamlined procedures to process visa applications of intra-company transfer of executives and senior managers;
- Extended automated immigration clearance facilities to certain categories of temporary residents of Hong Kong;
- Service standards for immigration clearance and visa application procedures have been set since 1996. For instance, under the pledged performance, 100% of the visit visa applications and 90% of the employment visa applications are finalized within 4 weeks upon receipt of the necessary documents respectively; and
- Implemented an "i-Permit" Scheme since March 2002 to issue visit permits to Chinese Taipei residents by electronic means to significantly shorten the processing time for their visit permit applications.

Please review the implementation of the ABTC.

HKC participated in the ABTC Trial-run Scheme in May 1998. The ABTC Scheme has been implemented in Hong Kong on a permanent basis since April 2001.

The ABTC Scheme is well received by business people within the APEC economies. Hong Kong permanent residents who are able to meet certain criteria, e.g. bona fide business people who need to travel frequently on short term visits within the APEC region to fulfill business commitments, may apply for the ABTC. Since May 1998 and up to July 2006, HKC has issued 3,351 cards. During the same period, HKC also processed 20,766 pre-clearance requests from other participating economies. Majority of the applications and pre-clearance requests were finalized within the two-week period as laid down in the guidelines under the ABTC Operating Framework.

Holders of the ABTC issued by other participating economies enjoy streamlined immigration clearance and the use of 'Hong Kong Residents' counters with appropriate signage on arrival and departure at control points. They need to present both the ABTCs and their valid passports for immigration clearance. They may be permitted to land on visitor condition for a stay of 60 days on each entry, subject to the validity of their passports.

To mark Vietnam's commencement of ABTC operation in January 2006, a promotion campaign for the ABTC Scheme was launched in March 2006. Letters were sent to the major trade-related organizations to publicize the Scheme and invite applications from eligible applicants. As a result, 681 local applications were received during the period from April to July 2006, representing an increase of 76.9% as compared to 385 applications received in the corresponding months in 2005.

HKC will continue to participate and promote the ABTC Scheme.

38. *Australia acknowledges the efforts undertaken by [HKC] to streamline entry for APEC economies and in particular, appreciates the effort made by [HKC] to achieve the 14 day service standard in respect of foreign pre clearance requests under the APEC Business Travel Card scheme.*

Australia notes the measures taken by [HKC] to update information regarding policies and procedures in respect of short-term travel and business temporary residency in the APEC Business Travel Handbook.

Australia also notes [HKC's] commitment to implementation of agreed Transparency Standards in respect to publication and access of guidelines, eligibility criteria, application forms, procedures and performance relating to short-term business entry and business temporary residency on the website of Hong Kong Immigration Department.

Australia notes and welcomes [HKC's] extended use of the Automated Passenger Clearance and Automated Vehicular Systems for business visitors and automated immigration clearance facilities for certain types of temporary residents.

Australia notes [HKC's] successful implementation of a pilot Advanced Passenger Processing System in late 2005.

Australia requests information on progress made in implementing agreed BMG standards in respect of:

- *legal infrastructure; and*
- *professional service.*

Australia also requests further information on [HKC's] plans to assist in developing a training package for economies on travel document fraud detection.

Information on progress made in implementing agreed Business Mobility Group (BMG) standards in respect of legal infrastructure and professional service is appended below:

Legal Infrastructure

HKC has fully met the agreed BMG standards in respect of legal infrastructure except the item on "implement measures to process persons prior to arrival in an economy". In this regard, a pilot Advance Passenger Processing System (APP) has been implemented in Hong Kong since November 2005 and the system has been extended to two major locally based airlines. HKC is now inviting more airlines to participate in the trial. A review will be conducted to evaluate the operational and services impact to the airlines as well as the border control authorities. Findings will be used to decide the way forward to full implementation of the APP, including the needs to go for legislation. Hence, the latest position is that this criterion is mostly met.

Professional Service

HKC has met all agreed BMG standards in respect of professional immigration service.

On developing a training package for economies on travel document fraud detection, HKC is of the view that combating document fraud can only be achieved through a multilateral approach. HKC, as a lead APEC economy in the region is ready to actively participate in relevant APEC activities.

XIV. FTAs/RTAs

39. Please provide information on the impact of CEPA. What would be the impact of this agreement on HKC's other trading partners?

(a) Impact of CEPA on HKC

Under the Closer Economic Partnership Arrangement (CEPA), inter alia, the Mainland offers preferential access opportunities for Hong Kong products and services, and also provides for further tourism cooperation between the two places.

On *trade in goods*, since 1 January 2006, the Mainland has granted all imported products of Hong Kong origin zero tariff treatment upon applications by local manufacturers and upon the CEPA rules of origin (ROOs) being agreed and met. As of 1 July 2006, HKC has reached agreement on the CEPA rules of origin (ROOs) for 1 407 products with the Mainland.

On *trade in services*, taking CEPA and its Supplements together, the Mainland has agreed to provide preferential treatment to Hong Kong services suppliers in 27 services areas (please refer to Q3 footnote 2 for details). Upon the receipt of Hong Kong Services Suppliers (HKSS) Certificates under CEPA, Hong Kong services suppliers could enjoy such preferential treatments as expanded scope of business activities, increased capital participation, and lowered application requirements for establishing business in the Mainland, etc.

On *tourism cooperation*, the Individual Visit Scheme (IVS) allows residents of 44 Mainland cities to visit HKC in their own capacity. Prior to the Scheme, Mainland residents were only allowed to visit HKC under Business Visas or in group tours. The IVS has in effect made it easier for Mainland visitors to visit HKC, and has increased the visitor flow to HKC.

Cumulative results/benefits of CEPA since its inception

- Trade in Goods:	By end-October 2006, over 17 000 Certificates of Hong Kong origin entitled for CEPA treatment were approved, with a cumulative export value of HK$6 billion (US$770 million).
- Trade in Services:	Over 1 600 HKSS Certificates were issued as of end-July 2006.
- Tourism:	Cumulative Mainland visitors under the IVS reached 13.6 million trips as at end-June 2006. Incremental visitor spending estimated at HK$9.9 billion (US$1.3 billion) in 2005, which should have helped raise HK's GDP by around 0.5 percentage points in the same year.

(b) Impact on HKC's other trading partners

Notwithstanding the above benefits that are enjoyed by Hong Kong under CEPA, its impact on HKC's other trading partners should be minimal.

As regards *trade in goods*, HKC is a free port, with no customs tariff on most goods; the treatment of imported goods from HKC's other trading partners would be the same as those of the Mainland, and therefore HKC's other trading partners would not be worse off on this end.

On the other hand, HKC remains a service-based economy, the bulk (around 94% in 2005) of HKC's exports are re-export related, domestic exports to China satisfying the Hong Kong origin requirements accounted for only a very small portion of HKC's total exports (around 0.1% in 2005) and a even smaller share of the Mainland's total imports (around 0.05% in 2005). While it is true that locally manufactured goods would enjoy tariff free treatment upon the satisfaction of the CEPA rules of origin, its trade diversion effect should be minimal for most of HKC's trading partners.

On *trade in services*, the criteria for establishing the status of "Hong Kong Services Suppliers" to enjoy CEPA preferences are "nationality" neutral. Foreign companies are also welcomed to establish in Hong Kong or enter into partnership with Hong Kong companies to reap the business opportunities arising from CEPA. In this connection, HKC's other trading partners would not be placed in a materially disadvantaged position since they can also gain access to the preferential treatments granted to HKC's services suppliers under CEPA by establishing or acquiring a company with substantive business operations[22] in Hong Kong.

[22] There are different requirements for service suppliers in different industries to qualify as a Hong Kong Services Supplier, and the engagement in substantive business operations in Hong Kong is one of the requirements. For details please visit http://www.tid.gov.hk/english/cepa/files/annex5.pdf.

XV. Trade Facilitation

40. Please review HKC's progress with regard to the implementation of the APEC Trade Facilitation Action Plan, specifying how these have contributed to progress towards the Bogor Goals.

HKC has implemented all the 67 selected actions/measures. Over 70% of them are now completed. As regards those measures of on-going nature, they are under regular review for further improvement from time to time. HKC has participated in the "Statement on Trade and the Digital Economy" and implemented a pilot system on Advance Passenger Processing. Apart from the Menu, HKC has implemented over 35 actions/measures to facilitate trade and reduce the cost of compliance to business. The implementation of the actions/measures have contributed to the reduction in transaction costs; facilitating the movement of goods, capital and business personnel; and contributing to the Bogor Goals of achieving a free and open trade and investment in the region.

XVI. The APEC Food System (AFS)

41. Please highlight specific actions taken to implement the goals of the AFS which aim to improve the efficiency of food production and trade for the benefit of APEC Member Economies.

HKC does not apply any tariff quotas or surcharges, safeguards, anti-dumping or countervailing actions, concessionary export financing, export taxes, government-mandated countertrade, or trade-related subsidies or tax exemptions.

To protect public health, the import of meat, game, poultry has to be covered by an official health certificate from the country of origin, and the import of milk and milk beverage and frozen confections has to be from a source of manufacture approved by the Director of Food and Environmental Hygiene.

HKC maintains a liberal service regime. Most service sectors are free and open, and foreign service providers and traders normally enjoy national treatment. The capital and financial requirements of registering as rice stockholders to import rice was removed in 2003. There are no regulatory requirements for foreign entry in respect of importation of rice (except that licences are required for the import/export of rice), vegetable and marine fish (except endangered species) and no additional regulatory requirements for operation which discriminate between domestic and foreign service suppliers.

XVII. Transparency

42. Please review HKC's progress in implementing the APEC Transparency Standards, specifying how specific actions have contributed to progress towards the Bogor Goals.

In line with the APEC Transparency Standards, HKC is committed to:

(a) ensuring equality for all before the law, judicial independence and that the rule of law prevails in all spheres of society;

(b) respecting the rights and dignity, and to safeguard the freedoms of each individual; and

(c) maintaining a highly transparent and accountable government which supports civic participation.

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

HKC maintains a high level of transparency of laws, regulations and administrative procedures. Statutory notices for appointment of public offices, departmental notices and public tenders; ordinances, regulations and bills; periodical lists for professionals, institutions, etc; draft bills and executive orders; and public notices are published regularly in the Government Gazette. Electronic version of the Government Gazette is available free of charge on the Internet (http://www.gld.gov.hk/cgi-bin/gld/egazette/index.cgi?lang=e&agree=0).

All primary and subsidiary legislation (and their amendments) are published in the Government Gazette and in the Laws of Hong Kong. They are also available free of charge on the Internet under the Bilingual Laws Information System (BLIS) (http://www.doj.gov.hk/eng/laws/). Administrative procedures, particularly those relating to trade and investment, are widely publicized. Judgments and determinations since 1993 of the Court of Final Appeal, High Court (Court of Appeal and Court of First Instance), District Court, Family Court and Lands Tribunal are available on the Internet (http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp); and lists of the major bilateral agreements of HKC and the multilateral treaties applying to HKC are available on the Internet (http://www.legislation.gov.hk/choice.htm).

In addition to the various levels of courts and tribunals which form the Judiciary of Hong Kong, a number of ordinances establish tribunals to deal specifically with appeals against administrative decisions made under the ordinances in question. There is also an independent Office of the Ombudsman. Complaints can be lodged directly with the Ombudsman which may initiate direct investigations and extend his jurisdiction to include nearly all government departments and 14 major statutory bodies.

43. *United States: Hong Kong's IAP says that Hong Kong will continue progressively relaxing banking restrictions, already having lifted branching limits for banks incorporated outside of Hong Kong. What is being done to ensure that foreign investors know that certain banks in Hong Kong may obtain an exemption to the national Deposit Protection Scheme? What criteria are used to judge whether to grant an exemption, and are these publicly available?*

The exemption arrangement in relation to the Deposit Protection Scheme is stated in the Deposit Protection Scheme Ordinance (Cap.581). The Hong Kong Deposit Protection Board, the organisation responsible for operating the Deposit Protection Scheme, has also issued guidelines to provide guidance to banks interested in seeking the exemption. The criteria for the exemption are stated in section 13 of the Deposit Protection Scheme Ordinance and explained in detail in the Board's guidelines which are publicly available (http://www.dps.org.hk/en/guidelines_c.html).

Comments from ABAC

44. Please provide responses to the following issues raised by ABAC, providing any clarification of the perspective of the Hong Kong, China government, and, as appropriate, indicating future directions in policy and/or administrative practices as they relate to Hong Kong, China's IAP.

	Category	No	Issue	Issue Details	Requests	Governing Laws
9	Restrictive export/import trade, duty, and customs clearance	(1)	Imposition of customs declaration fees	- Despite the fact that Hong Kong is a free port, the customs declaration fees of 5/1,000 and 0.35/1000 are imposed for official export/import declarations, respectively, discouraging participation in trade shows and purchasing activities.	- It is requested that imposition of customs declaration fees [are] repealed.	
	Imports and Exports Declaration Charge is collected at a rate of 50 cents in respect of the first HK$46,000 of the value of the goods and 25 cents in respect of each additional HK$1,000 for non-food items, and 50 cents per declaration irrespective of the value for food items. This Declaration Charge is used to subsidize the operation of Hong Kong Trade Development Council. There is no intention to change this Declaration Charge for the time being.					

12	Exchange controls	(1)	Uncertainty over the continuance of China's imported parts processing system.	It is not certain how long the Chinese government will continue the imported parts processing system of bonded goods (in which parts are imported to China free of tax, assembling products using low-cost labor, and finished goods are exported free of tax. Payments are made in Hong Kong).		
	The Outward Processing Arrangement (OPA) enables manufacturers to subcontract outside HKC the subsidiary or minor finishing processes without affecting the eligibility of such goods for attaining Hong Kong origin status. All goods subject to the OPA must have undergone the principal/ origin-conferring manufacturing processes in Hong Kong. Further information of OPA is available at http://www.tid.gov.hk/english/import_export/cert/cert_othercodoc_outward.html.					

<table>
<tr><td colspan="7"></td></tr>
<tr><td>14</td><td>Taxation Systems</td><td>(1)</td><td>Discriminatory imposition of corporate tax</td><td>- For business entities engaged in processing of materials, the corporate tax of
50% is imposed while the statutory corporate tax rate of 16% is applied to those not engaged in processing of materials.
- Concerning the tax return of a joint venture company, despite the fact that each partner to the joint venture had properly paid the tax, the same tax was imposed also on the joint venture company itself, resulting in a double tax situation. It is not clear whether the return to China of Hong Kong by the
British Colonial government had anything to do with this double tax problem.
Thus, each partner to the joint venture is required to file a return for refund.</td><td>· Hereafter, it is expected that the tax
will be imposed on the joint venture
company and hopefully, there is no
further double tax problems in the
future but the concerns of the joint
venture company remain as to the
recurrence of an irrational problem such
as this.</td><td></td></tr>
<tr><td></td><td colspan="6">We believe the claims are based on misunderstandings. The issues are clarified as follows:

HKC adopts a territorial basis for taxing profits derived from a trade, profession, or business carried on in Hong Kong. At present, a corporate tax rate of 17.5% is charged on profits which have a source in Hong Kong. Income sourced elsewhere, even if remitted to Hong Kong, is not subject to Hong Kong profits tax.

Apportionment of profits on a 50:50 basis

This is a concession applied to a Hong Kong manufacturer with processing or assembly arrangement with a Mainland entity whereby the</td></tr>
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	Hong Kong manufacturer provides the materials, technical know-how, management, production skills, design, skilled labour, training, supervision, etc and the Mainland entity provides the factory premises, land and labour for processing, manufacturing or assembling the goods. The Mainland entity charges a processing fee and exports the completed goods to the Hong Kong manufacturer. To recognize that the Hong Kong manufacturer is involved in the manufacturing activities in the Mainland (in particular in the supply of raw materials, training, supervision etc.), apportionment of profits on a 50:50 basis is allowed in determining its profits tax liability in Hong Kong. That is to say, 50% of the profits of the Hong Kong manufacturer will be subject to Hong Kong tax at the corporate rate of 17.5%. The concession will not apply in cases where the manufacturing in the Mainland has been contracted to a sub-contractor and paid for on an arm's length basis with minimal involvement of the Hong Kong businesses. **Tax for a joint venture company** Virtually, a double taxation situation will not happen. If the joint venture is considered to be a partnership for profits tax purpose (i.e. an assessment entity carrying on a business in common with a view of profits), the joint venture profits will be taxed in the name of the joint venture and will not be taxed again in the name of its individual joint venturers. In case where the joint venture is not considered to be a partnership for profits tax purpose (e.g. when the joint venturers jointly invest in a plant, share its output and each disposing its share of output individually under their respective trade name instead of in name of the joint venture), no assessment will be raised on the joint venture and the joint venturers will be taxed on its individual profits. The position remains unchanged before and after the reunification.

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<tr><td></td><td></td><td>(2)</td><td>Tax on scrapped property</td><td>- Tax is imposed on scrapped property for equipment if pre-tax profit exists.</td><td>It is requested that tax is exempted on property for equipment.</td><td></td></tr>
<tr><td></td><td colspan="6">We provide generous depreciation allowance for fixed assets acquired for use in producing assessable profits. This encourages businesses in Hong Kong to invest in fixed assets and so to enhance their efficiency and productivity. For plant and equipment, an initial allowance at 60% of the cost is granted in the year of acquisition and an annual allowance of 10% to 30% on the written down value is granted provided that the asset is used by the business at the end of the year of assessment. Items qualifying for the same rate of annual allowance are grouped under one "pool". When the asset is disposed of, a balancing allowance or balancing charge is made based on the difference between the disposal price and the written down value on disposal. A balancing charge can arise whenever the disposal proceeds of the asset exceed the reducing value of the whole "pool". The charge is meant to recoup the excessive depreciation allowance granted and should not be taken as a tax on scrapped equipment.</td></tr>
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		(3)	Tightened anti-tax-haven measures	In Hong Kong, anti-tax-haven measures are tightened, and the imported parts processing business conducted by many Japanese companies is affected, causing the possibility of smaller merits from using Hong Kong. As a result, the advantages of investment to Hong Kong may be undermined in the future, and the customer base of our bank may shrink.	It is requested that Japan and Hong Kong work to coordinate the taxation system of both countries, including the conclusion of a tax treaty.	
	It is a firm and long-standing policy in Hong Kong to maintain a low, simple and predictable tax regime which allows business to develop and flourish. HKC is not a tax haven. We operate a level-playing field for all businesses. Persons, residents or non-residents, carrying on a trade, profession or business in Hong Kong are subject to the same tax treatment. It is Government's policy to establish a network of bilateral comprehensive agreements for avoidance of double taxation (DTA) with our trading partners as this not only can foster our economic ties but also can help HKC and overseas investors better assess their potential tax liabilities from economic activities carried out in each other's jurisdiction. Recently, the Mainland and HKC signed the Arrangement for the Avoidance of Double Taxation on Income and Prevention of Fiscal Evasion on 21 August 2006. The new arrangement will provide added incentives for international investors to enter the Mainland market through Hong Kong. It will also enhance cross-border financing arrangements and the transfer of technical know-how and patent rights between the two places. These will help promote HKC's economy, enhance our competitiveness and attract overseas capital. We will continue our efforts with a view to reaching DTA with more trading partners in the near future.					

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<tr><td>16</td><td>Employment</td><td>(1)</td><td>Restrictions on employment</td><td>- Due to the restrictive laws for labour employment in the mainland China, it is not possible to employ workers from the mainland China at lower wage level.

- Employment of workers from the mainland China is effectively prohibited in Hong Kong by the legislative restrictions, even if both Hong Kong and China
together comprise one country.</td><td>- It is requested that the restrictions are deregulated on employment of the mainland workers in Hong Kong.</td><td></td></tr>
<tr><td></td><td></td><td></td><td></td><td colspan="3">(Action)
- The Chief Executive of the Hong Kong Special Administrative Region, on 9 January 2003, announced that the permanent right of residence
would be granted to workers from the mainland China upon completion of the 7 years stay with the view to expand acceptance of human resources from the mainland China.</td></tr>
<tr><td></td><td colspan="6">Under existing arrangements, Mainland Residents may enter into Hong Kong for employment under the Supplementary Labour Scheme (SLS) and the Admission Scheme for Mainland Talents and Professionals (ASMTP).

SLS

– SLS allows employers with genuine difficulties in finding suitable employees locally to import workers from outside HKC. Workers imported under the scheme are restricted to those at the technician, craftsman, supervisor and experienced operative levels. One of the criteria to be considered for granting visa/permits to the imported workers is that their terms and conditions are comparable to those in the local market.

ASMTP

– Since July 2003, qualified Mainland talents and professionals may be admitted into Hong Kong to work under the ASMTP. The scheme does not have sectoral restrictions and allows intra-company transfer of senior managers and professionals. It also caters for</td></tr>
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	the entry of talents and professionals in the arts, culture and sports sectors as well as those in the culinary profession. For persons admitted under the scheme, they may bring in their dependants, i.e. spouse and unmarried dependent children under the age of 18. Upon completion of 7 years continuous ordinary residence in Hong Kong, they may be eligible for Hong Kong permanent resident status enjoying the right of abode in Hong Kong in accordance with the laws. To attract talents from the Mainland and overseas to settle in Hong Kong, a new "Quality Migrant Admission Scheme" (QMAS) was launched in Hong Kong June 2006. Under the QMAS, applicants are required to meet certain eligibility criteria in respect of, inter alia, academic attainment, professional qualifications and working experience, but without the need to have secured prior employment. An initial annual quota of 1,000 is set. QMAS immigrants may bring in their dependants, i.e. spouse and unmarried dependent children under the age of 18, provided that they are financially capable of supporting and accommodating their dependants.

17	Implementation n of intellectual property rights ("IPRs")	(1)	Infringement of IPRs	- Ubiquitous pirating activities in Hong Kong of computer software, game software, CD and books are infringing on the IPRs resulting in the loss of business opportunities of the rightful owners of these IPRs.	- While the legislative reinforcement is appreciated, it is requested that its enforcement is made more stringent as soon as possible. · It is requested that the government will ensure both transparency and effectiveness in enforcing its IPR laws pursuant to TRIPS Agreement under WTO.	
	Resources are targeted at all levels of piracy and counterfeiting activities, including import and export, wholesale and retail. As a result of Customs' vigorous enforcement action, the piracy and counterfeiting activities in Hong Kong are now firmly under control. The number of pirated discs retail outlet has dropped by more than 90%. At present, there are no major manufacturing activities of counterfeit goods in Hong Kong. Since 2004, Hong Kong Customs has applied the Organized and Serious Crimes Ordinance (OSCO) to raise the enforcement effectiveness, which targets at syndicated level piracy and counterfeiting activities. Under the OSCO, the prosecution can apply to court to freeze the criminals' assets and enhance the sentence upon conviction.					
				- IPRs (trademarks and design rights) on top brand apparels are being infringed widely in Hong Kong. · Infringing products are still abound in the market, despite the convicting sentences handed down in 2003 on the majority of the 1,870 court cases for		

				copyright and trademarks infringements with 6-12 months' imprisonment, unsuspended.		
				(Improvement) - The obligation under the TRIPs Agreement was implemented by the end of 1996 ahead of the TRIPs deadline of 2000 (but was not enforced as of the end of April 1997).[1] - To enforce the rights under the TRIPs, Hong Kong government put into effect the following: 1) The bill to amend Copyright Act, Patent Act and Trademark Act was passed by the parliament. [2] 2) Pursuant to the amendments of these laws, it was made unlawful to make unauthorized copies, to create master copies outside Hong Kong for production within Hong Kong, or to create master copies outside Hong Kong for export to Hong Kong. [3] 3) The customs authority would disclose openly to owners IPRs and customs authorities of other countries all information obtained in the process of investigating the IPRs infringement. 4) Copyright owners were authorized to claim import injunction for goods on which a copyright infringement was in doubt. Copyright owners were required to institute a civil action during the period of injunction. Likewise trademark owners were permitted to claim injunction for illegal use of trademarks, pursuant to the Trademark Act. [4] 5) All illegal use of trademarks, including without limitation, supply or possession of goods on which trademarks are illegally used constituted a criminal conduct. - In November 2003, criminal penalty was incorporated into law on parallel imports of illegally copied movies and music products, while the law eliminated the civil and criminal penalties on parallel imports of computer software. Such elimination does effectively emasculate efforts to protect intellectual property rights, creating a new cause for concern to interested parties. [5] - In July 2004, the Hong Kong customs authorities applied the Organized and Serious Crime Ordinances (OSCO) to the intellectual property rights case to freeze assets of pirated products makers for the first time. [6] - On September 1, 2004, the Copyright Act became effective, [which] requires strict measures against the illegal copy shop. [7]		
	[1] HKC's intellectual property legal framework is fully compatible with all its obligations under the TRIPS Agreement. In the TRIPS					

	Review 2000, HKC had not received any adverse comments on its legal framework. [2] The Copyright Ordinance, the Patents Ordinance and the Registered Designs Ordinance were passed in June 1997. [3] Pursuant to the Copyright Ordinance, it is unlawful to make unauthorized copies of copyright works outside HKC for export to HKC, or to make outside HKC articles specifically designed or adapted for making copies of a particular copyright work knowing that it would be used for production of infringing copies within HKC. [4] Copyright owners were entitled to apply to court for a detention order where he has reasonable grounds for suspecting that the importation of an article that constitutes an infringing copy may take place. Copyright owners were required to institute a civil action prior to expiry of the detention order. Likewise trademark owners were permitted to claim injunction for illegal use of trademarks, pursuant to the Trademark Act. [5] Removing restrictions on parallel importation of computer programs have been effected for more than two years. We have not received any complaints from copyright owners of computer programs on the above relaxation. Refer to Q.27b for details of the Copyright (Amendment) Ordinance 2003. [6] Organized and Serious Crimes Ordinance. [7] Copyright (Amendment) Ordinance 2004.

		(2)	Clamping down at the Hong Kong water edge	- Injunction on the appearance design of copied goods: In practice no injunction has been made on import of goods with illegally copied appearance designs, although, goods with copyright and trademark infringements have been subjected to injunctions. [1] - Clamping down in the market: Hong Kong customs authority has been clamping down on goods with illegally copied copyrights. However, as regards clocks and watches, no effect of such efforts has been noticeable. [3] - Appraisal of false or true upon injunction: Judgement of false or true requires presence at court of an expert who however may not be able to tell which. As a result, the appraisal process is taking too much time. - Assurance of safety for the expert: Where importer denies infringements upon import injunction, presence of an expert is required at the court. If the identity of the expert is made known to	It is requested that goods with illegally copied appearance designs are also investigated under the Copyright Act or Industrial Design Right Act. [2] It is requested that the clamping down on clocks and watches are enforced more vigorously at places where these goods are constantly sold much the same as it has been done on guns, drugs, CDs, and videotapes. [4] - It is requested that the appraisal process is improved, made efficient and expedited by admitting, for ex- ample, advance submissions of samples or photo images sent by e-mail. If a local appraisal is not possible, it is requested that the appraisal process	- Article 362 of Government Ordinance (TDO)

				the defendant, the security of such expert may be endangered. - Disclosure of information of confiscated goods: Disposition of the confiscated goods is not made clear openly.	be improved, made efficient, and expedited by admitting advance submission of samples or photo images sent by e-mail, and others. [5] When an expert statement is to be taken, the judge's chamber is not to be visible from the court gallery, to ensure the security of the expert witness, and his or her anonymity is maintained - It is requested that the disposal of such confiscated goods should be made clear, as to how many of what and the manner of disposal, etc. [6]	
				(Improvements made) There are more cases of active responses being taken at the request of right-holders.		
	[1] The reference to "injunction on the appearance design of copied goods" may refer to injunction as such, or about detention order. For injunction, such remedy is available to all sorts of IPR infringements, including infringement of "appearance design", which may be protected by copyright, registered design or trade mark. For detention order, to comply with WTO TRIPS, there are elaborate provisions under HKC's Trade Description Ordinance for counterfeit goods and the Copyright Ordinance for pirated goods. [2] To the extent that copyright subsists in the appearance design, the work is subject to the protection of the Copyright Ordinance.					

	[3] As in the case with copyright owners and trade mark owners, registered design owners have the right to prevent others from importing into HKC for sale or hire; or for use for the purpose of trade or business. In an infringement action, the owner of a registered design can seek an injunction from the court. [4] Vigorous enforcement action has been taken by Hong Kong Customs as regards false trade descriptions and / or trademark infringement on clocks and watches at all levels including import and export, wholesale and retail under the Trade Descriptions Ordinance, Cap 362. [5] Prosecution of IPR offences in Hong Kong is by way of criminal proceedings, and it requires a high standard of proof in terms of evidence. Expert examiners are a strong support to the prosecution process, and Hong Kong Customs has been working closely with the rights owners to ensure the expert examiners are competent in testifying in court. [6] Rights owners may enquire Hong Kong Customs about the way of disposal of goods which infringe their copyright or trade marks.

		(3)	Inadequacy of incorporation registration system	Inadequacy of the incorporation registration system in Hong Kong allows the third party to use internationally famous registered brands and company names in registering the new company. This causes the unfair competition cases in mainland China.	Improving the legislation concerning the registration system of incorporation.	
	In Hong Kong, as in other comparable major common law jurisdictions, company registration and trademark registration are governed by two separate and independent regimes which serve different purposes. IPR are protected by our intellectual property legal framework which meets all our obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The owner of a well-known trade mark may restrain by injunction use in Hong Kong of identical or similar marks on identical or similar goods or services where the use is likely to cause confusion. Infringement of a well-known mark extends to use for dissimilar goods or services, if the use takes unfair advantage of or is detrimental to the distinctive character or repute of the mark. HKC's company registration system is very similar to that adopted in other comparable major common law jurisdictions, i.e. company registration is not an indication of ownership of IPR. The system has proven to be both efficient and cost-effective. Since June 2005, the Intellectual Property Department, together with the Companies Registry, have organized a number of events among businessmen and Mainland local government officials, both in Hong Kong and in Mainland China, to promote a better understanding of the companies registration and trademark registration systems in Hong Kong. In the course of these briefings, it was particularly stressed that, company registration in Hong Kong was not an indication of ownership of intellectual property rights. Separately, we have just commenced the first phase of a comprehensive rewrite of the Companies Ordinance, which will look into all matters relevant to the operation of live companies including company formation and registration. We aim to issue a white bill for public consultation by 2009.					

19	Industrial standards, approval of safety standards	(1)	Standards and Specifications	- Mechanical Standard for Mining and Civil applications (EMSD Rules) is based on the BS (British Standard) in exclusion of JIS (Japanese Industrial Standard). Thus, business entities desiring to sell such machinery & equipment in Hong Kong must obtain the BS based inspection, among others, for performance, hardness, and safety requirements on top of JIS, which is already obtained. - BS does not permit JIS approved materials, making it difficult for Japanese affiliated business entities to procure materials.	- It is requested that the harmonized standards universally applicable is promulgated as soon as possible. - It is requested that the use of JIS approved materials is permitted even under the BS.	
	The mechanical standard for mining and civil applications (the standard is not normally referred to as EMSD rules) does not impose restriction on Japanese Industrial Standard (JIS). HKC is a free economy and products from any economy are free to enter the HKC market. Consumers will choose the products to purchase taking into consideration their performance specifications. In view of our historical background, local consumers might have been more familiar with the BS or BS-related standards and performance specifications might have been based on these standards in the first place. In the light of globalization, consumers are becoming more willing to adopt other standards provided that their requirements can be met. Different standards indeed prevail in the market and it is up to the consumers to decide which standards they would adopt. HKC does not impose any restriction on the use of the JIS or the imports of machinery and equipment based on JIS.					

		(2)	Qualification	- The qualification for the A1 Civil Engineering Supervisor issued by the Japanese authority is not recognized and is of no use in Hong Kong.	- It is requested that the A1 Civil Engineering Supervisor issued by the Japanese authority is recognized as being equivalent to the one issued by the HKIC (Member of Hong Kong Institute of Engineering).	

Mutual recognition of professional qualification is the matters of the corresponding professional bodies. It is suggested that the Japanese authority should approach the Hong Kong Institution of Engineers (HKIE) to discuss the subject. HKIE has links with engineering institutions throughout the world. It has signed agreements for the mutual recognition of qualifications with many overseas engineering institutions. These include:

- Hong Kong Computer Society
- National Administration Board of Engineering Registration (Structural)
- The British Computer Society
- The Canadian Council of Professional Engineers
- The Chartered Institute of Building
- The Chartered Institution of Building Services Engineers
- Energy Institute
- The Federation of Engineering Societies of China Association for Science & Technology

	– The Institution of Chemical Engineers – The Institution of Civil Engineers – The Institution of Electrical Engineers (until 31 March 2006) – The Institution of Engineers, Australia – The Institution of Engineers of Ireland – The Institute of Marine Engineering, Science & Technology – The Institute of Materials * – The Institute of Measurement & Control – The Institution of Mechanical Engineers – The Institution of Mining and Metallurgy * – The Institution of Professional Engineers, New Zealand – The Institution of Structural Engineers – The Royal Institution of Naval Architects * The two Institutions have merged and formed the Institute of Materials, Minerals & Mining on 10 July 2002

23	Inefficient administrative procedures, regimes and practices	(1)	Excessive verification	- It seems that receiving banks are encouraged to ferret out even the smallest errors made by shippers in a transaction involving payment by a Letter of Credit. As a result, its acceptance is refused with a demand for penalty charge even when a minor, negligible mistake is found. This means a burden on shippers for extra work, time and expenses required for correcting these minor errors.	- It is requested that such instructions are withdrawn to ensure a speedy processing of clerical work.	
	The authorities in Hong Kong have not issued any specific supervisory requirements on how banks should process transactions involving letter of credits, nor the examination of the relevant documents. Documentary credits are international banking activities involving counterparts from various jurisdictions. Banks in Hong Kong generally follow international standards, such as the *Uniform Customs and Practice for Documentary Credits* (UCP 500) published by the International Chamber of Commerce (ICC). Banks may risk non-payment if they fail to follow those standards. Since the matter does not arise from banking regulatory requirements, businesses which have views on the processing of documentary credits may contact the relevant trade associations such as ICC and The Hong Kong Association of Banks.					

26	Others	(1)	High cost of infrastructure	- Costs of labour, office, and facilities are extremely expensive. It has been aggravated by an introduction of a mandatory unemployment insurance system (MPF) which requires a defined employer/employee contribution plan, commensurate with revenues up to 65 years of age. The contribution rate is 10%, to be shared equally between employer (5%) and employee (5%). Agreement must be reached between employer and employees on MPF, regardless of the choice of schemes from the following variations in business entities shifting to the new scheme: 1) Registration of all employees under the MPF Scheme (benefits payable from the date of retirement under the ORSO Scheme); 2) Continuation of ORSO Scheme only with the current employees; 3) Continuation of ORSO Scheme only with the current and new employees; 4) Completion of ORSO Scheme and registration of all employees under the MF Scheme (with benefit shifted to MPF Scheme or with a payment of lump sum.) In any event this has been a cause of confusion between employer and employees.	- It is requested that the conventional ORSO Scheme is unconditionally reinstituted.	
				(Improvement)		

<table>
<tr><td></td><td></td><td></td><td></td><td>- Because the wages of the civil service employees have been lowered by the Government of the Hong Kong Special Administrative Region ("GHKS"), it may impact on the wages of workers in private business sectors.
- Lease/Rental charges of office buildings have been lowered, but it still remains as the 4th most expensive place in the world.</td></tr>
<tr><td></td><td colspan="4">HKC has a rapidly aging population. The proportion of the population aged 65 and over is projected to rise markedly, from 12% in 2005 to 27% in 2033. To strengthen the system of financial support for the aged, HKC has adopted the "three-pillar" approach recommended by the World Bank. The three pillars are: (1) a publicly managed, tax-financed social safety net for the old; (2) a privately managed, fully-funded mandatory contribution scheme; and (3) voluntary personal savings and insurance. The first and third pillars have been in place in Hong Kong for many years. With the implementation of the MPF System in December 2000, HKC erected the second pillar supporting the protection of the aged.

Five and a half years after the implementation of the MPF System, about 85% of HKC's employed population is now covered by some form of retirement protection (including 67% covered by the MPF system and 18% covered by other retirement schemes), compared with about one-third of the workforce before the MPF's launch. The MPF System has been accumulating wealth for the retirement protection of the working population. It recorded an annualized return of 6.99% over the five-year period from 1 April 2001 to 31 March 2006 after fees and charges. The total net asset value as at end of June 2006 was HK$170.49 billion (US$21.86 billion).

The level of MPF contribution by employers and employees has been determined after wide consultation, with due consideration given to the burden on the employers. The employers' contribution of 5% of the employees' relevant income is a relatively small proportion of overall business cost. Employers of employees with relevant income over HK$20,000 per month are only required to make contributions based on the maximum relevant income of HK$20,000 per month (i.e. contribution of maximum HK$1,000 per month).

Prior to the launch of the MPF System, some employers had been operating ORSO schemes (voluntarily established occupational retirement schemes) and these employers could choose to apply for exemption from MPF requirements. Members of MPF-exempted ORSO schemes had a one-off option to choose between the existing ORSO scheme and an MPF scheme. For those ORSO schemes which have not obtained MPF exemption status, the employers may either retain the ORSO schemes as top-up schemes, freeze the schemes or terminate the schemes. Owing to the additional costs of running two schemes (MPF and ORSO), many ORSO schemes were terminated by employers after the launch of MPF System and most of their assets were transferred to MPF schemes, especially for small-scale employers for cost-effectiveness and efficiency purpose. The interface of the MPF System with ORSO schemes might have caused some confusion initially when MPF was launched. Nevertheless, the transition had been smooth in general, and the interface arrangements were carried out</td></tr>
</table>

	properly. Before the MPF System was launched in December 2000, about 7 000 ORSO schemes, covering over 600 000 members, had already been granted MPF exemption. Existing businesses that retain ORSO schemes (about 5 000 schemes) should be very familiar with the relevant requirements, while new businesses can simply enrol their employees in MPF schemes offered in the market and do not need to set up new ORSO schemes on their own.

		(2)	Insured transportation	- Shipments from Hong Kong of [jewelry] are monopolized by a few large freight forwarders in Hong Kong. In case of a transaction on an FOB basis, it is premised that Japanese importers will cover for insurance and freight. However, the Hong Kong freight forwarders accept freights only on the basis of prepaid door-to-door insurance. They determine price, and monopolize revenues from insurance and freight. Japanese importers have no alternative but to absorb higher costs, while Japanese carriers, customs agents and insurance companies are effectively deprived of business opportunities.	- It is requested that this monopoly on insurance and freight is rectified by governmental measures so that importers' initiative in the choice of business is restored.	
	In order to examine the alleged monopoly on insurance and freight of jewellery shipments from HKC to Japan, further issue details would be necessary for ascertaining the exact source and nature of the problem, if any. Any competition-related enquiry and complaint could be directed to the Secretary of COMPAG (Competition Policy Advisory Group) (edb@edlb.gov.hk).					

		(3)	Special connections	- Because of the special close relationship maintained by national business entities with the GHKS and the government of the mainland China, proposed investments by foreign capitals are sometimes disapproved.	It is requested that the problem illustrated here is resolved, as any delay in approvals can materially affect investment plans.	

With regard to the case of HKC, we are one of the most open, externally-orientated economies in the world. The Heritage Foundation/Wall Street Journal from US and Cato and Fraser Institutes of Canada have consistently rated HKC as the world's freest economy.

HKC embraces globalisation of trade and services and is an active participant in international organisations that promote such activities.

The cornerstone of the economy rests on free enterprise, free trade and free markets open to all

- No barriers to trade—no tariffs, no quotas, no exceptions
- No restrictions on investments inward or outward
- No foreign exchange controls
- No nationality restrictions on corporate or sectoral ownership

		(4)	Preparation for liquidation	- It would appear that the liquidation of a company can be carried out much simpler than is provided for in legislative provisions and there remains much anxiety if the fund contributed to a foreign-funded enterprise can be collected in full.		

HKC's statutory scheme for the winding up of companies is comparable to that adopted in other major common law jurisdictions such as Australia and Singapore**.** It is basically enshrined in the Companies Ordinance, and has proven to be an efficient and effective system, striking the right balance among the interests of various stakeholders such as creditors and shareholders.

The priority in the asset distribution is laid down in the Companies Ordinance. Whether a creditor or a contributory i.e. shareholder is able to recover the debt or the contribution in full depends on whether there are sufficient assets in the company which can be made available for distribution in the winding up in accordance with the statutory priority.

We would continue to keep under review our winding-up system in the light of the latest developments in other major common law jurisdictions. In this regard, it is worth noting that we have just commenced the first phase of a comprehensive rewrite of the Companies Ordinance, which will look into all matters relevant to the operation of live companies. The winding-up provisions in the Companies Ordinance will be dealt with in the second phase of the rewrite, the details of which will be formulated in due course.

		(5)	Slow application process under CEPA	An application was made to China under the CEPA, an FTA between China and Hong Kong, but it took a long time to examine it by the Chinese government. There are opinions that the Hong Kong government's support for CEPA is not sufficient, and this company agrees with them from our application experience.	The Hong Kong government's strong stance toward the Chinese government after CEPA No. 3 is expected.	
	Hong Kong and the Mainland of China signed the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) in June 2003. The liberalization measures of CEPA have been implemented for over 2 years since January 2004. Under CEPA, service suppliers of HKC may enter the Mainland market with preferential treatments, upon compliance also with the relevant rules and regulations of the Mainland. Over the years, HKC has been committed to the full implementation of CEPA, and has put in place a number of facilitation measures. These measures include providing one-stop free information and advisory services, developing a designated CEPA website (http://www.tid.gov.hk/english/cepa/) to disseminate updated information of CEPA implementation, as well as organizing and participating in various promotional activities like seminars, conferences, large-scale exhibitions to promote CEPA and its business opportunities overseas and in the Mainland. Besides, the Government has been stepping up liaison with the Mainland authorities at central, provincial and municipal levels with a view to enhancing cooperation for a faithful implementation of CEPA. Such liaison includes, but is not limited to, the mechanism established by the relevant CEPA provisions. For example, HKC has developed regional cooperation channels with Guangdong Province, Shanghai and the Pan-Pearl River Delta Region to take concerted efforts to, amongst other things, facilitate enterprises and individuals to apply to the relevant Mainland authorities for the provision of services under CEPA. HKC will continue to work closely with the Mainland counterparts in assisting the business sector to make full use of the CEPA liberalization measures in entering the Mainland market. Under normal circumstances, HKC's Trade and Industry Department will complete the processing of an application for Certificate of Hong Kong Service Supplier within 14 clear working days from the date of its receipt.					

Annex 3

Hong Kong, China's IAP Peer Review
In-Economy Visit Programme
(26-29 September 2006)

Tuesday, 26 September (Day 1)

Time	**Programme**
Morning Session	Breakfast meeting with ABAC member Welcomed by Acting Director-General of Trade and Industry Session 1 – Trade and Industry Policy (Trade and Industry Dept) – Standards and conformance (Innovation and Technology Commission)
Lunch	
Afternoon Session	Session 2 – Economic Background and Fiscal Policy (Financial Secretary's Office) Session 3 – Financial Services and the Treasury Bureau) Session 4 – Taxation Systems (Financial Services and the Treasury Bureau)

Wednesday, 27 September 2006 (Day 2)

Morning Session	Breakfast meeting with ABAC members Session 1 – Tourism and Travel Related Services (Tourism Commission) Session 2 – Competition Policy (Economic Development and Labour Bureau)
Lunch	

Afternoon Session	<u>Session 3</u> – Intellectual Property Rights (Intellectual Property Dept) <u>Session 4</u> – Legal Services and Dispute Mediation (Dept of Justice)

<u>Thursday, 28 September 2006 (Day 3)</u>

Morning Session	<u>Session 1</u> – Business Mobility and Employment (Immigration Dept)
Lunch	
Afternoon Session	<u>Session 2</u> – Customs Procedures/Trade Facilitation (incl. Site Visit to Lok Ma Chau Check Point)

<u>Friday, 29 September 2006 (Day 4)</u>

Morning Session	Round up Session

Annex 4

Hong Kong, China's IAP Peer Review
In-Economy Visit
List of Participants
(26-29 September 2006)

ABAC Members
- Dr Raymond CH'IEN, GBS, JP, Chairman, CDC Corporation
- Mr Anthony NIGHTINGALE, JP, Managing Director, Jardine Matheson Ltd
- Mr CC TUNG, JP, Chairman & CEO, Orient Overseas (International) Ltd

Customs and Excise Department
- Mr Luke AU-YEUNG, C.M.S.M, Assistant Commissioner
- Mr Ben HO, Head of Intellectual Property Investigation Bureau
- Mr Alex LIU, Head of Customs Liaison Bureau
- Mr BY CHIU, Deputy Head of Customs Liaison Bureau
- Mr TF LAM, Superintendent
- Mr KK LI, Divisional Commander (Operations), Lok Ma Chau Division
- Mr Victor WONG, Divisional Head (WCO & APEC)
- Ms Vincie MARK, Unit Head (APEC)

Department of Justice
- Mr Stephen WONG, Deputy Solicitor General
- Mr Frank POON, Deputy Principal Government Counsel
- Ms Kitty FUNG, Senior Government Counsel
- Miss SK LEE, Senior Government Counsel

Economic Development and Labour Bureau, Economic Development Branch
- Mr Jonathan MCKINLEY, Principal Assistant Secretary

Financial Secretary's Office, Economic Analysis and Business Facilitation Unit
- Miss Elley MAO, JP, Principal Economist

Financial Services and the Treasury Bureau, Financial Services Branch
- Mrs Dorothy MA, Principal Assistant Secretary
- Ms Aubrey FUNG, Assistant Secretary
- Mr Jackie LIU, Assistant Secretary

Financial Services and the Treasury Bureau, The Treasury Branch
- Mr Vincent TANG, Principal Assistant Secretary

Hong Kong Monetary Authority
- Ms Grace LAU, Head (Banking Development)

Immigration Department
- Ms Helen CHAN, Assistant Director
- Mr Edmund CHEUNG, Assistant Principal Immigration Officer

Inland Revenue Department
- Ms Doris LEE, Acting Assistant Commissioner
- Mr Ashley TAM, Senior Assessor

Innovation and Technology Commission
- Mr SS CHAN, Executive Administrator
- Miss Winnie TO, Manager

Intellectual Property Department
- Ms Pancy FUNG, Assistant Director

Office of the Commissioner of Insurance
- Ms Carol HUI, Acting Assistant Commissioner

Securities and Futures Commission
- Ms Judith YUEN, Senior Manager

Trade and Industry Department
- Mr Clement LEUNG, Acting Director-General
- Mr Yan Chee CHENG, Deputy Director-General
- Miss Petty LAI, Assistant Director-General
- Miss Rosanna LAW, Assistant Director-General
- Ms Joyce TAM, Assistant Director-General
- Mr Patrick LIN, Acting Assistant Director-General
- Mr Raphael NG, Principal Trade Officer
- Mr CS LAU, Trade Officer

Tourism Commission
- Ms Kinnie WONG, Assistant Commissioner
- Mr Steven YEUNG, Assistant Registrar of Travel Agents

Asia-Pacific
Economic Cooperation

2007/SOM1/003anx3
Agenda Item: III

Written Questions Received at the Individual Action Plan (IAP) Peer Review of Hong Kong, China

Purpose: Consideration
Submitted by: APEC Secretariat

First Senior Officials' Meeting
Canberra, Australia
18 January 2007

WRITTEN QUESTIONS RECEIVED AT THE SESSION OF HONG KONG, CHINA

FROM AUSTRALIA

Chapter 3: Services

(g) Financial Services

The Code on Unit Trusts and Mutual Funds (the Code) provides that collective investment schemes from 'recognized jurisdictions' enjoy fast-track approval procedures when applying for authorisation in Hong Kong. The Code indicates that in principle 'recognized jurisdictions' have regulatory regimes which in substance comply with the requirements of the Code. The Code does not appear to provide a detailed interpretation of what this requirement implies in practice. Furthermore, past practice shows that 'recognized jurisdiction' status may be granted even where key structural requirements are not satisfied, such as those relating to a supervisory custodian or trustee.

- Can Hong Kong, China provide publicly accessible guidance explaining the criteria which will be applied in assessing whether a jurisdiction complies with the requirements for obtaining 'recognized jurisdiction' status?

(a:1) Business Services: Legal

Hong Kong, China is a major financial centre, and home to the largest cluster of international lawyers in Asia.

- What are the constraints therefore that Hong Kong faces in making commitments on legal services?

Chapter 6: Customs Procedures - Excise Duty

Hong Kong, China levies an excise duty on wine of 80% ad valorem, a level which disadvantages wine exporters and domestic consumers of wine in Hong Kong, China. The excise on wine is double that of the excise on other alcoholic beverages of similar alcohol content.

- What is the purpose of this high level of excise duty on wine, including in relation to the level of excise on other alcoholic beverages?

- Are there any arrangements for future review of this excise?

Chapter 8: Competition Policy

The IAP refers to the establishment in June 2005 of a Competition Policy Review Committee (CPRC) to review existing competition policy.

- Can Hong Kong, China provide an update on the outcome of the CPRC review?

- In particular, whether Hong Kong, China expects to introduce a cross-sector competition law targeting anti-competitive conduct with associated enforcement provisions?

ADDITIONAL COMMENTS/QUESTIONS FROM AUSTRALIA

1. Services

We welcome Hong Kong, China's commitment to maintain a liberal services regime.

- We would be grateful for information on whether current access for foreign service providers and traders will be reflected in Hong Kong, China's commitments on services within WTO General Agreement on Trade in Services negotiations.

2. In the answers to questions appended to the **Study Report**, on page 75, under the heading

Customs Procedures
(e) Alignment with WTO Evaluation Agreement

it is stated:

"The Laws of Hong Kong provide the basis for calculation of the duties".

- What is the legislative basis for "calculation of the duties", that is, does the authority come from Customs legislation and regulations or from Ministry of Finance laws?

FROM MEXICO

1. HKC has already indicated to consider comprehensive legislation in the area of competition policy. Is there any advance or a formal proposal for the enactment of a horizontal competition policy? What are the implications so far found for the application of a horizontal competition law for HKC?

2. As stated in the Report HKC should pay attention to its tax revenue, as it is described to be vulnerable and should be broadened. Is HKC already focusing on a public policy strategy to approach this issue? Can you describe any specific strategy already under study or implemented?

FROM NEW ZEALAND

Q.2 Wine duty (p. 11)

The Study Report on Hong Kong, China's 2006 Individual Action Plan (page 11) notes that Hong Kong does not apply tariffs on any of its imports, and charges duties only on liquor, tobacco, hydrocarbon oil and methyl alcohol. Can Hong Kong, China please explain its reasons behind retaining the excise tax on wine at 80% on the ex-factory value of wine?

Could Hong Kong, China please also explain whether there is a need for this high duty given the openness of the Hong Kong, China's economy and its recent performance?

Given Hong Kong's promotion of itself as a regional tourism and cultural hub, might a reduction of the duty enhance its status as such a hub to the benefit of the wider economy?

Q.3 Services

We note that Hong Kong, China has a relatively open and liberal regime for trade in services – and has bound some of these services commitments in the last WTO round. We note however that it has still not bound in the GATS a number of significant service sectors (including private education; accounting services; architectural services; engineering services; integrated engineering services; construction and related engineering services; environmental services; urban planning and landscape architectural services; veterinary services; computer and related services; management consulting services; and services incidental to agriculture and forestry). Given that actual access in many of these areas is open does Hong Kong, China envisage binding them in the GATS in the near future?

Competition (p.17)

What is the likelihood of competition legislation being introduced to Hong Kong, China and if it is introduced what form is it likely to take?

If competition legislation is not introduced as a result of the Competition Policy Review Committee's June 2005 recommendations and subsequent public consultation, how will Hong Kong, China improve the environment for competition and deter anti-competitive practices?

FROM THAILAND

1. Chapter 3: (i) Tourism and Travel Related Services

Under the section "Licensing and Qualification Requirements of Service Providers", Hong Kong, China states that applicants seeking Permission to engage in Travel Agent businesses must, in the opinion of the Registrar of Travel Agents, be a fit and proper person.

Can Hong Kong, China please explain clearly the criteria used by the Registrar of Travel Agents in considering the approval of licenses for Travel Agents?

2. Chapter 4: Investment

It seems that HKC has been very successful in attracting Regional Offices Representing Overseas Companies. Thailand would like to know what promotion scheme HKC adopts to attract ROH i.e. non-tax incentives, and how effective the scheme is?

FROM IEG

1. It seems that HKC has been very successful in attracting Regional Offices Representing Overseas Companies, Thailand would like to know what promotion

scheme HKC utilizes to attract ROH i.e. non-tax incentives, and how effective the scheme is ?

2. In P.5-P6, the five most important attractiveness of the economy identified by the 2004 Annual Survey of Regional Offices Representing Overseas Companies are listed. It there also a report from the Survey or by any other source that identifies the requests by the foreign investors operating in Hong Kong, China, for further improving the attractiveness?

3. In P.14, it is reported that IPPA with Thailand was successfully concluded in 2005. Is there any indication that the negotiations and/or the successful conclusions of IPPA has resulted in an increase of FDI in Hong Kong, China by the IPPA partner?