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TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

HONG KONG, CHINA

Revision

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

Any technical questions arising from this report may be addressed to Masahiro Hayafuji (022 739 5873) and Martha Lara Fernandez (022 739 6033).

Document WT/TPR/G/380 contains the policy statement submitted by Hong Kong, China.

Note: This report was drafted in English.

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SUMMARY

1. Between 2014 and 2017, the economy of Hong Kong, China (HKC) grew at an average annual rate of 2.8%, driven mainly by domestic demand and exports, mainly to the People's Republic of China (Mainland China). This growth rate is slightly lower than at the time of the previous Review. Services, in particular trade and finance, continued to be the mainstay of the economy, contributing 92% to GDP and 88% to total employment, and reflecting HKC's position as a global trade and financial centre. HKC remains one of the most open economies in the world, with a trade/GDP ratio of 375%. Its investment regime remains open.

2. The HKC economy has strong fiscal and financial fundamentals. During the review period, HKC recorded substantial fiscal surpluses, which allowed for increased public spending, mainly on infrastructure and social welfare; while under strengthened supervision and regulation, the banking sector has built up large capital and liquidity reserves. Monetary policy focuses on currency stability, which is achieved through a pegged exchange rate to the US dollar. Inflation (CPI) has been on a declining trend during the review period, dropping to 1.5% in 2017 from 4.4% in 2014. Despite higher policy rates (in the aftermath of increases in the US rates), low financing costs and the measures implemented by the authorities to restore balance in the property market have helped maintain financial stability. HKC's current account surplus increased during the review period, owing largely to a net inflow of primary income and a positive services trade balance. Foreign exchange reserves amounted to the equivalent of 36.7 months of retained imports of goods in 2017. Mainland China is HKC's main trading partner, receiving 55.3% of HKC's re-exports and supplying 44.6% of its imports in 2017, largely unchanged since the previous Review.

3. Notwithstanding its strong macroeconomic fundamentals and good performance, HKC's sustained economic growth faces some external and domestic challenges, including heightened volatility in international markets, rising trade protectionism, persistently high housing prices, the need to preserve fiscal sustainability in the face of an ageing population, and income disparities.

4. HKC was the first Member to accept the Trade Facilitation Agreement in December 2014, and designated all its provisions under Category A for immediate implementation. HKC is a signatory of the revised WTO plurilateral Agreement on Government Procurement (GPA), and the Information Technology Agreement (ITA), including its expansion agreement (ITA Expansion). It has an excellent record of providing notifications to the WTO. Since its previous Review, HKC has signed FTAs with ASEAN; Georgia; and Macao, China. It has also continued to strengthen its economic and financial ties with Mainland China, in particular by concluding four subsidiary agreements to the CEPA.

5. HKC's open trade regime has remained broadly the same since the last Review. All applied tariff rates are zero. However, more than half of the schedule remains unbound. Excise duties apply on four commodity groups (liquor, tobacco, hydrocarbon oil, and methyl alcohol), whether locally-produced or imported. HKC runs an efficient customs system, with procedures that are faster and less costly than in most other economies. During the review period, HKC adopted measures to further streamline customs procedures and strengthen its role as a transit hub, including the introduction of a Free Trade Agreement Transhipment Facilitation Scheme; the enhancement of an IT-based tracking system for road cargo; the full implementation of the Authorized Economic Operator (AEO) Programme and the conclusion of several AEO mutual recognition arrangements; and the introduction of a cap on import/export declaration fees. Currently, HKC is in the process of establishing a full-fledged Trade Single Window to allow traders to lodge electronically 50-plus documents to meet the regulatory requirements for the import/export of goods.

6. Few trade restrictions/prohibitions apply on imports, and they are mainly on safety, health and environmental grounds, or to comply with international conventions. The import control regime has remained largely unchanged since the previous Review. Licensing and notification requirements for textile imports were removed on 21 November 2014. There is no legislation pertaining to anti-dumping, countervailing, and safeguard measures. HKC's TBT and SPS systems remain transparent and relatively simple. No specific trade concerns have been raised in the TBT or SPS Committees regarding measures applied by HKC during the review period. The authorities actively support the development of the testing and certification industry, as they consider it to have a clear competitive advantage.

7. HKC does not apply any duties or taxes on exports. Excise duties are refunded if the goods on which they were paid are exported. Export controls essentially mirror those applied to imports, with the exception of powder formula, frozen and chilled meat and poultry, and live animals and plants. Textile exports are no longer subject to licensing requirements or notifications. The authorities support HKC exporters mainly through export credit insurance schemes and funding for export promotion and marketing activities. A number of tax incentives are offered, including a first registration tax concession for electrical vehicles and environment-friendly commercial vehicles, profit tax deductions for capital expenditure incurred in the purchase of intellectual property rights (IPRs), and several other profit tax exemptions. Non-tax incentives, essentially in the form of loans and cash grants, are provided to support SMEs, R&D activities and professional services. In the past few years, some new schemes were introduced, mainly to support innovation and technology-related activities.

8. In December 2015, the Competition Ordinance came into full effect, after a series of implementation guidelines, guidance notes and enforcement policy documents were issued by the Competition Commission. The Ordinance applies to all economic sectors and regulates different kinds of anti-competitive conduct. However, merger control remains limited to the telecommunications sector, and most statutory bodies are exempted from its provisions. In the near future, a review of the scope of application of the Ordinance is expected to take place.

9. During the review period, HKC introduced some changes to its government procurement regime in order to bring regulations in line with the revised GPA, which came into force on 6 April 2014. Changes were also made to simplify tender procedures; foster participation of suppliers, especially SMEs, by streamlining financial vetting requirements; and promote green procurement.

10. HKC's intellectual property regime has remained largely unchanged since the last Review, except that the authorities enacted the Patents (Amendment) Ordinance 2016, which provides the legal foundation for introducing an "original grant" patent (OGP) system into HKC; the Ordinance has not yet entered into force. The authorities also plan to introduce a bill to amend the Copyright Ordinance so as to align the relevant provisions with the Marrakesh Treaty concerning blind and visually impaired persons. During the period under review, HKC stepped up efforts to address IPR-infringing activities in the digital environment, including through the launching of the Big Data Analytical System in 2017, which analyses mass information on Internet platforms to screen infringing activities.

11. The agriculture and fisheries sector is very small, representing less than 0.1% of both GDP and total employment. In 2016, the authorities announced a New Agriculture Policy with a view to promoting the modernization and sustainable development of local agriculture. HKC is a net energy importer. It imports, and to a lesser extent exports, electricity through a grid connected with Mainland China. HKC also imports natural gas through pipelines connected to Mainland China. The manufacturing sector is also small, accounting for around 1.1% of GDP and 2.5% of employment. HKC has adopted no new policy initiatives concerning manufacturing since its previous Review.

12. Services continue to be the mainstay of the economy, accounting for 92% of GDP and 88% of total employment in 2016. In the telecommunications sector, policy developments during the review period included: the signing of three new free trade agreements containing commitments on telecommunication services; the reassignment of the frequency spectrum for existing mobile services; and the review of licensing conditions in carrier licences. The authorities plan to provide financial incentives to telecommunication companies with a view to encouraging the extension of the fibre-based network to villages in remote areas.

13. In financial services, there have been a few changes in the regulatory regime, including the establishment of a new Insurance Authority in charge of supervision and licensing on 26 June 2017. Otherwise, the market access regime for financial services has not changed substantially, and most of the measures taken since the last Review are of a domestic regulatory and prudential nature.

14. HKC has made no commitments regarding legal services in its GATS Schedule or in FTAs with its trading partners, except in the CEPA with Mainland China, where HKC has committed not

to impose any new discriminatory measures on Mainland China's legal services and service suppliers. Foreign lawyers may work as foreign legal consultants in corporations or companies if they provide legal services only to their employer corporations or companies. Legal professionals from overseas may also qualify as HKC solicitors or barristers after specified requirements are satisfied, as provided by the Overseas Lawyers (Qualification for Admission) Rules and the Barristers (Qualification for Admission and Pupillage) Rules.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. Between 2014 and 2017, the economy of Hong Kong, China (HKC) grew at an average annual rate of 2.8% (Table 1.1). In 2017, GDP grew faster, by 3.8%, largely owing to the recovery of the global economy, robust growth in Mainland China (HKC's main trading partner), and strong domestic demand due mainly to favourable labour market conditions. The renewed dynamism in economic activity is expected to continue in the short term, supported by the global economic upturn and continuing growth in Mainland China. There are, however, some external and domestic risks to HKC's sustained growth, including potentially sharp increases in interest rates and heightened volatility in international financial markets, rising trade protectionism, persistently high housing prices, and income disparities.

1.2. Services, in particular trade and finance, continue to be the mainstay of the economy, accounting for 92% of GDP and 88% of total employment in 2016, and reflecting HKC's position as a global trade and financial centre (Table 1.2). The contribution to GDP of the agriculture, fishing, mining and quarrying sector, and that of the manufacturing sector, remains very small (0.1% and 1.1%, respectively in 2016), while the contribution of the construction sector (5.2%) increased during the review period due to expanded public construction projects and a buoyant real estate market.

Table 1.1 Selected macroeconomic indicators, 2014-17

	2014	2015	2016	2017
Real GDP (HK$ billion, 2016 prices)	2,381.2	2,438.0	2,490.8	2,585.2
Real GDP (US$ billion, 2016 prices)	307.1	314.5	320.9	331.7
Current GDP (HK$ billion)	2,260.0	2,398.3	2,490.8	2,661.0
Current GDP (US$ billion)	291.5	309.4	320.9	341.4
GDP per capita at current market price (HK$)	312,609	328,924	339,500	359,996
GDP per capita at current market price (US$)	40,316	42,431	43,739	46,189
National accounts	(% change, unless otherwise indicated)			
Real GDP	2.8	2.4	2.2	3.8
Consumption	3.3	4.6	2.2	5.3
Private consumption	3.3	4.8	2.0	5.5
Government consumption	3.1	3.4	3.3	3.4
Gross domestic fixed capital formation	-0.1	-3.2	-0.1	3.5
Building and construction	9.3	2.2	5.9	1.7
Machinery, equipment and IP products	-8.7	-7.7	-6.3	1.8
Exports of goods and services[a]	1.0	-1.4	0.7	5.5
Goods	0.8	-1.7	1.6	5.9
Services	1.6	0.3	-3.5	3.2
Imports of goods and services[a]	1.0	-1.8	0.9	6.3
Goods	1.5	-2.7	0.7	7.0
Services	-2.2	5.0	2.0	1.9
XGS/GDP (%) (at current market price)[a]	213.1	195.9	187.0	188.0
MGS/GDP (%) (at current market price)[a]	212.9	193.5	184.7	187.1
Unemployment rate (%)	3.3	3.3	3.4	3.1
Labour force participation rate (%)	61.1	61.1	61.1	61.1
Prices and interest rates				
Inflation (CPI, % change)	4.4	3.0	2.4	1.5
Best lending rate[b] (period average)	5.00	5.00	5.00	5.00
Deposits rate (period average)	0.01	0.01	0.01	0.01
Exchange rate				
HK$/US$ (period average)	7.754	7.752	7.762	7.794
Nominal effective exchange rate (% change)[c]	1.5	9.4	-0.7	-1.1
Real effective exchange rate (% change)[c]	3.2	10.0	0.2	-2.4
	(% of GDP, unless otherwise indicated)			
Fiscal balance[d]				
Government opening reserve balance	33.4	34.5	33.8	35.8
Total revenue	21.2	18.8	23.0	23.3
Current revenue	17.4	15.9	16.5	16.6
Tax revenue	15.7	14.4	14.0	14.3
Total expenditure	17.5	18.2	18.6	17.7
Current expenditure	14.0	14.5	14.2	13.9
Government consolidated balance	3.2	0.6	4.5	5.6

	2014	2015	2016	2017
Fiscal reserve balance	36.7	35.1	38.3	41.4
Public sector debt[e] (end-fiscal year)	0.07	0.06	0.06	0.06
Saving and investment				
Gross national savings	25.2	24.9	25.5	26.6
Gross domestic investment	23.8	21.5	21.5	22.3
Savings-investment gap	1.4	3.3	4.0	4.3
External sector				
Current account balance	1.4	3.3	4.0	4.3
Goods balance	-11.1	-7.4	-5.2	-7.0
Exports	176.4	162.2	156.3	157.5
Imports	187.5	169.6	161.5	164.5
Services balance	11.3	9.8	7.5	7.9
Capital account	-0.0	-0.0	-0.0	-0.0
Financial account	-3.2	-5.4	-4.0	-5.8
Direct investment	-3.8	33.1	18.0	6.3
Balance of payments	6.2	11.8	0.4	9.4
Terms of trade (2016=100)	99.5	100.0	100.0	99.9
Goods exports (% change)[f]	1.6	-2.4	-0.0	7.2
Goods imports (% change)[f]	2.3	-4.0	-1.2	8.4
Services exports (% change)[f]	2.0	-2.4	-5.6	5.7
Services imports (% change)[f]	-1.6	0.2	0.5	3.4
Foreign exchange reserves (US$ billion, end-period)	328.5	358.8	386.3	431.4
in months of imports of goods[g]	26.4	32.1	36.0	36.7
Total external debt (HK$ billion)	10,089.8	10,078.3	10,521.9	12,220.5
% of GDP	446.4	420.2	422.4	459.2

a Figures are compiled based on the change of ownership principle in recording goods sent abroad for processing and merchanting under the standards stipulated in the *System of National Accounts 2008*.
b Best lending rate refers to the average of the rates over the period quoted by the Hong Kong and Shanghai Banking Corporation Limited.
c Figures are based on 2010 index numbers (Unit Labour Costs) taken from the IMF.
d Figures are based on the fiscal year beginning 1 April. Figures for 2017 are provisional financial results.
e Excluding bonds issued under the Government Bond Programme.
f Growth rates based on trade figures taken from the Balance of Payments in US$.
g Figures are calculated based on past 12-month average of retained imports of goods.

Source: Census and Statistics Department (C&SD) online information. Viewed at: http://www.censtatd.gov.hk; and IMF online information.

Table 1.2 GDP and employment by economic activity, 2014-17

	2014	2015	2016	2017
GDP by economic activity in real terms (annual % change)				
Agriculture, fishing, mining and quarrying	-6.0	-6.8	-2.0	-0.5
Manufacturing	-0.4	-1.5	-0.4	0.4
Electricity, gas and water supply, and waste management	0.8	-2.6	-0.8	0.6
Construction	13.0	5.4	5.1	2.3
Services	2.5	1.7	2.3	3.5
Import/export, wholesale and retail trades	1.2	-1.1	0.6	3.6
Import and export trade	1.3	-0.9	2.2	3.9
Wholesale and retail trades	1.2	-1.6	-5.9	2.3
Accommodation and food services	2.2	-1.9	0.5	2.3
Transportation, storage, postal and courier services	2.9	3.3	3.0	4.9
Transportation and storage	3.0	4.0	3.1	4.6
Postal and courier services	1.2	-8.2	1.6	9.4
Information and communications	3.9	4.0	4.1	3.9
Financing and insurance	5.3	6.1	4.2	5.6
Real estate, professional and business services	1.9	0.7	2.8	2.5
Real estate	1.2	-2.3	3.5	3.7
Professional and business services	2.6	3.2	2.2	1.4
Public administration, social and personal services	2.4	2.5	2.9	3.2
Ownership of premises	0.8	0.6	0.5	0.9
Share of GDP at current basic prices (%)				
Agriculture, fishing, mining and quarrying	0.1	0.1	0.1	..
Manufacturing	1.3	1.1	1.1	..
Electricity, gas and water supply, and waste management	1.6	1.5	1.4	..
Construction	4.4	4.6	5.2	..

	2014	2015	2016	2017
Services	92.7	92.7	92.2	..
Import/export, wholesale and retail trades	24.1	22.7	21.7	..
Import and export trade	19.1	18.1	17.7	..
Wholesale and retail trades	5.0	4.6	4.1	..
Accommodation and food services	3.6	3.4	3.3	..
Transportation, storage, postal and courier services	6.2	6.5	6.2	..
Transportation and storage	5.9	6.1	5.9	..
Postal and courier services	0.3	0.3	0.3	..
Information and communications	3.5	3.5	3.5	..
Financing and insurance	16.7	17.6	17.7	..
Financing	13.6	14.4	14.1	..
Insurance	3.0	3.2	3.7	..
Real estate, professional and business services	10.9	10.9	11.0	..
Real estate	5.0	5.0	5.1	..
Professional and business services	5.9	5.9	5.9	..
Public administration, social and personal services	17.2	17.5	18.1	..
Ownership of premises	10.5	10.6	10.7	..
Share of sector in total employment (%)				
Manufacturing	2.8	2.7	2.6	2.5
Electricity, gas and water supply, and waste management	0.4	0.4	0.4	0.4
Construction	8.3	8.4	8.6	8.8
Services	88.4	88.4	88.3	88.2
Import and export trade	13.8	13.4	13.1	12.8
Wholesale	1.6	1.6	1.6	1.6
Retail trade	8.8	8.6	8.5	8.3
Accommodation and food services	7.4	7.3	7.2	7.2
Transportation, storage, postal and courier services	8.5	8.4	8.1	8.2
Information and communications	2.9	2.9	2.9	2.9
Finance and insurance	6.3	6.5	6.7	6.7
Real estate	3.5	3.5	3.5	3.5
Professional and business services	9.9	10.1	10.2	10.2
Social and personal services	22.8	23.2	23.5	23.8
Public administration	2.9	2.9	2.9	2.9
Other[a]	0.1	0.1	0.1	0.1

.. Not available.

a Including agriculture, forestry and fishing, and mining and quarrying.

Source: C&SD online information. Viewed at: http://www.censtatd.gov.hk; and data provided by the authorities.

1.3. The HKC economy has strong fiscal and financial fundamentals. The fiscal balance has recorded substantial surpluses over the past years, giving the authorities leeway to increase public expenditure, in particular on infrastructure and social welfare; while, under strengthened supervision and regulation, the banking sector has built large capital and liquidity reserves. The Consumer Price Index (CPI) has been on a declining trend during the review period, coming down to 1.5% in 2017. Despite higher policy rates (in the aftermath of increases in the US rates), low financing costs and the measures applied by the authorities to restore balance in the housing market have helped maintain financial stability. As regards the external sector, HKC's current account surplus increased during the review period, owing largely to a net inflow of primary income and a positive services trade balance, while foreign exchange reserves were equivalent to 36.7 months of retained imports of goods in 2017.

1.4. The economy of HKC remains very open, with exports and imports of goods and services representing 375% of GDP. Its openness and attractive business climate have earned HKC some of the highest rankings in relevant world economic indicators. For example, in 2017, HKC ranked 5th in the Ease of Doing Business ranking of the World Bank.[1]

[1] World Bank online information, Doing Business Rankings. Viewed at: http://www.doingbusiness.org/rankings. In 2017, HKC was also considered the freest economy in the world by the Heritage Foundation, Heritage Foundation (2017), *The 2017 Index of Economic Freedom*. Viewed at: https://www.heritage.org/index/pdf/2017/book/index_2017.pdf. In the same year, HKC ranked 6th in the Global Competitiveness Index of the World Economic Forum, World Economic Forum online information, Global Competitiveness Index. Viewed at: http://reports.weforum.org/global-competitiveness-index-2017-2018/competitiveness-rankings/.

1.5. HKC has continued to foster economic and financial integration with Mainland China. Under the Closer Economic Partnership Arrangement (CEPA), four subsidiary agreements were signed and came into effect over the review period, broadening and deepening CEPA's coverage in the areas of trade in services, investment, and economic and technical cooperation (Section 2). Also, three mutual capital market access schemes between HKC and Mainland China were launched, allowing overseas institutional investors greater access to Mainland China's capital markets via HKC, while at the same time facilitating Mainland China's access to HKC's capital markets (see also Section 4, Box 4.14).[2]

1.6. In July 2017, HKC entered into a cooperation agreement with the National Development and Reform Commission, the People's Government of Guangdong Province of Mainland China, and Macao, China, for the development of the Guangdong-Hong Kong-Macao Bay Area (the Bay Area). The agreement seeks to foster the synergies between the economies of the Bay Area, setting out key cooperation areas, *inter alia*, promoting infrastructure connectivity, enhancing the level of market integration, and building a global technology and innovation hub.[3] In December 2017, HKC signed an arrangement for advancing its participation in and contribution to Mainland China's Belt and Road Initiative[4], under which six action areas are envisaged: finance and investment; infrastructure and maritime services; economic and trade facilitation; people-to-people bonds; taking forward the Bay Area development; and enhancing collaboration in project interfacing and dispute resolution services.[5] The authorities consider that the Initiative could bring about many opportunities for HKC's businesses, especially in the professional services sector (including international legal and dispute resolution services), and further consolidate its position as an international finance, trading and logistics platform in the region.

1.2 Recent Economic Developments

1.7. HKC's economic activity accelerated in 2017, with GDP growing by 3.8% (Table 1.1), above the 2.9% average annual growth recorded over the period 2007-16.[6] Growth was driven by strong domestic demand and increasing exports of goods and services amid a recovering global economy. Domestic demand was, in turn, sustained by strong private consumption, reflecting favourable employment conditions and rising real incomes, and by the resumption of growth in fixed capital formation owing to a rebound in investment in machinery and equipment.

1.8. The labour market has gradually tightened since 2017, after being generally stable during 2014 to 2016. The unemployment rate dropped from 3.3% in 2014 to 3.1% in 2017; and in the first quarter of 2018 the seasonally adjusted unemployment rate fell to 2.9%, the lowest in more than 20 years. Amid full employment and a strong labour demand, wages and earnings sustained solid gains across the occupational segments. Moreover, upward adjustments to the Statutory Minimum Wage (SMW), made in 2015 and 2017, provided additional support to the income of low-paid workers. The overall labour force participation rate remained steady at 61.1% on an annual basis during the period under review.

1.9. Inflation continued its multi-year downward trend. The CPI dropped from 4.4% in 2014 to 1.5% in 2017, reflecting moderate local cost pressures and mild imported inflation throughout most of the review period, while recent labour productivity gains have helped contain labour cost pressures.

1.10. HKC is one of the wealthiest economies in East Asia, with a GDP per capita reaching HK$359,996 (US$46,189) in 2017. Nevertheless, income disparity remains significant: the Gini coefficient was at 0.539 in 2016 based on original monthly household income, and at 0.473 based on monthly household income after tax and social transfers.[7] Another challenge to growth over the

[2] These schemes are the Shanghai-Hong Kong Stock Connect, the Shenzhen-Hong Kong Stock Connect and Bond Connect.

[3] The Government of the Hong Kong Special Administrative Region online information. Press release. Viewed at: http://www.info.gov.hk/gia/general/201707/01/P2017070100409.htm?fontSize=1.

[4] Also known as "One Belt and One Road" initiative.

[5] 2017 Chief Executive's Policy Address, paragraph 58. Viewed at: https://www.policyaddress.gov.hk/2017/eng/pdf/PA2017.pdf.

[6] Government of the Hong Kong Special Administrative Region (2018), 2017 Economic Background and 2018 Prospects. Viewed at: https://www.hkeconomy.gov.hk/en/pdf/er_17q4.pdf.

[7] C&SD. Viewed at: http://www.censtatd.gov.hk/press_release/pressReleaseDetail.jsp?charsetID=1&pressRID=4180.

medium term is the rapid pace of population ageing, which, apart from the projected decline in the size of the labour force, is likely to put pressure on public finances, as spending on social welfare and healthcare is poised to increase. In order to reduce the income gap and cater for the needs of an ageing population, the Government has, *inter alia*, increased public expenditure on welfare and healthcare, provided social benefits and relief measures for lower-income groups (see below), improved the retirement protection system, and enhanced the living allowance for the elderly.

1.11. The housing market continues to be characterized by a structural supply-demand imbalance, with persistent housing shortages and surging property prices. In the event of sudden increases in interest rates, this situation could lead to a significant market correction. With the aim of addressing imbalances in the property market and safeguarding financial stability, the authorities have implemented a combination of measures, including tighter macro-prudential measures for property mortgage loans (such as maximum loan-to-value ratios), demand-side management measures (higher and new property stamp duties[8]), increased land supply for building houses, and increased provision of subsidized housing for rent and for sale. These measures have created buffers against sudden asset price adjustments and contributed to limit demand. Nevertheless, house prices have continued to rise amid a buoyant property market.[9] Looking ahead, the authorities have indicated that they will closely monitor the movement of the property market and the changing external environment with reference to a series of indicators (such as property prices, home purchase affordability ratio, transaction volume, supply of private flats, changes in local and external economic factors, etc.) and introduce appropriate measures as and when necessary.

1.12. Currency stability is the monetary policy objective of HKC. This is implemented through the Linked Exchange Rate System (LERS), under which the external exchange value of the Hong Kong dollar is pegged to the US dollar, at around HK$7.80 to US$1.00. The LERS is essentially a Currency Board system, which requires the Hong Kong dollar monetary base, and any changes in it, to be fully backed by US dollar reserves held by the Exchange Fund at the fixed exchange rate of HK$7.80 to US$1.00. To this end, the Hong Kong Monetary Authority (HKMA) undertakes to buy Hong Kong dollars from licensed banks at HK$7.85 to US$1.00 and sell Hong Kong dollars to them at HK$7.75 to US$1.00, i.e. the Convertibility Undertakings (CUs). The CUs maintain the stability of the Hong Kong dollar exchange rate within the trading band (Convertibility Zone) at between HK$7.75 and HK$7.85 against the US dollar.

1.13. During the review period, the Hong Kong dollar exchange rate stayed within the Convertibility Zone. Between 2014 and 2016, it traded mostly close to the HK$7.75 to US$1.00 limit, and the HKMA sold Hong Kong dollars under CU operations upon banks' requests in order to maintain the stability of the currency. From early 2017, the Hong Kong dollar started to weaken, driven by carry trade activities amid widening interest rate spreads between the Hong Kong dollar and the US dollar. By mid-April 2018, the Hong Kong dollar reached the HK$7.85 to US$1.00 level, and the HKMA bought Hong Kong dollars under CU operations upon banks' requests to keep the currency stable.[10] Between 15 and 18 May 2018, the HKMA bought more Hong Kong dollars under CU operations, bringing the total amount purchased since mid-April to about HK$70 billion. Against other currencies, the Hong Kong dollar real effective exchange rate appreciated during the first years covered by this Review, notably in 2015 (Table 1.1), but depreciated in 2017 following the weakening of the US dollar *vis-à-vis* other major currencies.

[8] Introduced in November 2010 and enhanced in October 2012, a Special Stamp Duty of 10-20% is chargeable if the property owner's holding period is shorter than 36 months from the date of acquisition. A Buyer's Stamp Duty of 15% applies on residential properties acquired by any person except a HKC permanent resident from October 2012 onwards. The Double *Ad-Valorem* Stamp Duty, which was introduced in February 2013 for both residential and non-residential properties, was increased to a flat rate of 15% for residential property transactions in November 2016, and is now called the New Residential Stamp Duty. The Double *Ad-Valorem* Stamp Duty at the original stamp duty scale remains valid for non-residential properties. The New Residential Stamp Duty exception for HKC permanent residents who have acquired several residential properties under one instrument was scrapped in April 2017.

[9] IMF (2018), People's Republic of China–Hong Kong Special Administrative Region. 2017 Article IV Consultation, Staff Report, IMF Country Report No. 18/16, January. Viewed at: http://www.imf.org/en/Publications/CR/Issues/2018/01/22/People-s-Republic-of-China-Hong-Kong-Special-Administrative-Region-Staff-Report-for-the-2017-45572.

[10] This was the first time that the CU of buying Hong Kong dollars at HK$7.85 to US$1.00 was triggered after the Hong Kong dollar buying CU rate was moved to that level from HK$7.80 to US$1.00 in 2005.

1.14. Under the LERS, the HKMA does not have any target on the level of interest rates. The HKMA's Base Rate (i.e. the interest rate forming the foundation upon which the Discount Rates for the HKMA's Discount Window are computed) closely responds to changes to the US policy rate made by the US Federal Reserve.[11] On 17 December 2015, the HKMA raised the Base Rate by 25 basis points, following an identical upward shift in the US federal funds target rate. This was the first time the HKMA adjusted its Base Rate in seven years; since then, it has been adjusted upwards six more times, tracking the increases in the US federal funds rate.[12] On 14 June 2018, after the latest increase took place, the Base Rate stood at 2.25%. Meanwhile, owing to the ample liquidity in the interbank market, the HKC's Hibor[13] remained below its US dollar counterpart. The interest rate differential, as indicated above, has given rise to arbitrage (carry trade) and has partly contributed to the easing of the Hong Kong dollar since early 2017.

1.15. HKC has a simple tax regime, with low rates and a narrow base depending mainly on profits tax, land premiums, salaries tax, and stamp duties as sources of revenue. Keeping healthy public finances is a pillar of HKC's macroeconomic policy, as it is considered to be essential to attract local and overseas investors. Under the Basic Law, the Government must follow the principle of keeping expenditure within the limits of revenues when drawing up its budget. This principle has been consistently upheld, as HKC has run a fiscal surplus for more than a decade, building up large fiscal reserves that amounted to 41.4% of GDP in 2017, while keeping very low levels of public debt (0.06% of GDP in 2017) (Table 1.1).

1.16. At the same time, the Government is committed to using tax policy strategically to enhance HKC's competitiveness (by fostering diversification and the development of pillar industries) and to improve people's livelihoods.[14] During the review period, a number of measures were adopted to promote economic development, create job opportunities, and provide tax relief to the public. With the aim of fostering a diversified and knowledge-based economy, the Government allocated HK$18 billion to establish the Innovation and Technology Bureau (ITB) under the Financial Secretary in 2015 to promote R&D, provide technological infrastructure, nurture technology talents, and support start-ups. In order to cater for development needs, public investment in infrastructure projects was increased by nearly 40% between 2012 and 2017. In addition, several tax concessions and expenditure measures (such as one-off reductions of the salaries tax and the profits tax, rates concessions, extra social welfare allowances, and one-off subsidies to low income groups) were taken to provide financial relief and enhance people's livelihoods. Recurrent expenditure on social welfare was increased by 71% between 2012 and 2017.[15] According to the authorities, these relief measures, together with other spending initiatives, were estimated to have boosted GDP by around one percentage point on average each year from 2014 to 2017.

1.17. In the same vein, the Government has implemented a two-tiered profits tax rate regime, which is applicable to the years of assessment commencing on or after 1 April 2018. The objective is to reduce the burden on enterprises, especially SMEs, and foster a favourable business environment. Under the regime, the tax rate for the first HK$2 million of profits of corporations is lowered from 16.5% to 8.25%. Profits above that amount continue to be subject to the tax rate of 16.5%. For unincorporated businesses, the two-tiered tax rates are correspondingly set at 7.5% and 15%. In addition, in order to encourage enterprises to conduct more R&D activities in HKC, in May 2018, the Government introduced a bill that provides enhanced tax deduction for expenditure incurred by enterprises on qualifying R&D activities. According to the bill, the first HK$2 million spent on qualifying R&D will enjoy a 300% tax deduction, and expenditure beyond that will enjoy a 200% deduction. There is no cap on the amount of enhanced tax deduction. The enhanced R&D tax incentive will commence from the year of assessment 2018/19.

1.18. Overall, HKC's fiscal policy is forward looking and based on strategic financial management principles. The authorities firmly believe that using their existing fiscal surpluses to invest for the future (such as in infrastructure and improving services), to promote economic and social development and to boost HKC's competitiveness are the best way to address possible future

[11] HKMA online information. Viewed at: http://www.hkma.gov.hk/gdbook/eng/b/base_rate.shtml.

[12] HKMA online information. Viewed at: http://www.hkma.gov.hk/eng/key-information/press-release-category/monetary-policy.shtml.

[13] Hibor is the estimated offer rate at which deposits in Hong Kong dollars are quoted to prime banks in HKC's interbank market. The Hibor has tenors from overnight up to 12 months.

[14] Chief Executive's 2017 Policy Address. Viewed at: https://www.policyaddress.gov.hk/2017/eng/pdf/PA2017.pdf.

[15] Financial Secretary, 2017-18 Budget speech. Viewed at: https://www.budget.gov.hk/2017/eng/.

pressures on public finances, resulting from, *inter alia*, an ageing population. They are confident that participation in the Belt and Road Initiative will accelerate economic growth, provide new business opportunities and, hence, generate more tax revenues.

1.19. The external position of the HKC economy is sound, with annual reserves gains that have resulted in the accumulation of large foreign reserves, amounting to US$431.4 billion in 2017, and equivalent to 36.7 months of retained imports of goods (Table 1.1).

1.20. Reflecting its savings and investment balance, HKC's current account surplus increased throughout the review period, owing to persistent positive results in both the primary income and the services balances, which have more than offset the deficit in the goods trade and secondary income accounts (Table 1.3). The current account surplus represented 4.3% of GDP in 2017. The trade in goods balance was in deficit throughout the period under review and, despite an increase in export growth in 2017, merchandise imports grew faster than exports, resulting in a deficit equivalent to 7.0% of GDP in that year. The surplus in the services balance showed a declining trend in the first three years of the review (especially in 2016), but increased in 2017 as exports of services reverted to moderate growth with improvements across all major subsectors. The primary income balance recorded a surplus during the period, in particular in 2017 due to increased earnings from overseas investments made by local firms and residents.

1.21. The capital and financial accounts recorded net outflows during the period under review. A net inflow of financial non-reserve assets was recorded over the same period, except in 2016. Both direct investment and portfolio investment continued to show strong activity during the review period, showing the attractiveness of HKC as an investment destination and also its position as a main financial hub. A net inflow of direct investment was countered during most of the period by a net outflow of portfolio investment and/or other investment.

Table 1.3 Balance of payments, 2014-17

(HK$ million)

	2014	2015	2016	2017
Current account	31,453	79,553	98,664	114,946
Goods and services balance	4,632	57,301	57,040	24,217
Goods balance	-250,931	-177,302	-129,693	-186,673
Exports	3,986,769	3,889,225	3,892,886	4,191,267
Imports	4,237,700	4,066,527	4,022,579	4,377,940
Services balance	255,563	234,603	186,733	210,890
Credit	829,085	808,948	764,839	811,396
Debit	573,522	574,345	578,106	600,506
Primary income	46,607	44,376	62,593	110,734
Credit	1,254,733	1,274,457	1,273,534	1,400,657
Investment income	1,251,844	1,271,459	1,270,432	1,397,251
Compensation of employees	2,888	2,998	3,102	3,406
Debit	1,208,126	1,230,080	1,210,941	1,289,923
Investment income	1,202,608	1,224,200	1,204,603	1,283,106
Compensation of employees	5,518	5,880	6,338	6,817
Secondary income	-19,786	-22,124	-20,969	-20,005
Credit	8,802	9,650	10,442	12,843
General Government	0	0	0	0
Other sectors	8,802	9,650	10,442	12,843
Debit	28,588	31,775	31,411	32,848
General Government	2,225	2,250	1,772	1,906
Other sectors	26,363	29,525	29,639	30,943
Capital account	-748	-216	-374	-646
Financial account	-73,037	-128,426	-100,730	-154,397
Financial non-reserve assets	66,052	153,570	-91,874	96,111
Direct investment	-85,718	794,800	447,758	167,473
Assets	-1,092,502	-608,769	-586,386	-786,084
Liabilities	1,006,784	1,403,568	1,034,144	953,557
Portfolio investment	-64,384	-970,938	-469,591	305,014
Assets	-276,143	-661,239	-530,219	23,160
Equity and investment fund shares	-318,227	-420,217	-354,693	-103,489
Debt securities	42,085	-241,022	-175,526	126,649
Liabilities	211,759	-309,700	60,628	281,854
Equity and investment fund shares	136,745	-329,678	19,335	88,814
Debt securities	75,013	19,978	41,293	193,041

	2014	2015	2016	2017
Financial derivatives	118,359	99,178	36,327	39,646
Assets	449,093	564,185	738,192	635,854
Liabilities	-330,734	-465,006	-701,866	-596,208
Other investment	97,795	230,531	-106,368	-416,022
Assets	-925,077	285,040	-322,076	-1,462,979
Liabilities	1,022,872	-54,510	215,708	1,046,957
Reserve assets	-139,089	-281,996	-8,856	-250,509
Net errors and omissions	42,332	49,089	2,440	40,098
Balance of payments	139,089	281,996	8,856	250,509
Memorandum:				
Current account as % of GDP	1.4	3.3	4.0	4.3

Source: C&SD online information.

1.3 Developments in trade and investment

1.3.1 Trends and patterns in merchandise and services trade

1.22. HKC remains highly dependent on international trade, as shown by the fact that its exports and imports of goods and services represent 375% of GDP (Table 1.1). In 2017, HKC ranked as the world's 6th largest exporter and the 5th largest importer of goods, and the 8th largest exporter and the 12th largest importer of services.[16]

1.3.1.1 Merchandise trade[17]

1.23. By virtue of its high specialization in the services sector and the small size of its production base, the economy of HKC depends heavily on merchandise imports to meet its domestic consumption needs. This situation, together with HKC's role as a major trading *entrepôt*, has resulted in a persistent deficit in the goods trade balance, which, in turn, has been offset by sustained surpluses in the services trade balance. In 2017, HKC's total merchandise imports amounted to US$589.8 billion, while total exports were US$550.2 billion.

1.24. Between 2014 and 2017, total exports (re-exports and domestic exports) grew at an average annual rate of 1.6% in value terms (Tables A1.1 and A1.2). Export performance was uneven during this period, showing a contraction in 2015, followed by a modest recovery in 2016, and an increase (6.5%) in 2017 owing to the global economic upswing and, in particular, vibrant demand from Asian markets. HKC's merchandise imports recorded a similar trend during the review period (Table A1.3): after subdued growth in 2014 and declines in 2015 and 2016, imports picked up by 7.8% in 2017, lifted by buoyant re-export trade activity and robust domestic demand. Nonetheless, during the entire period, imports contracted by an average annual rate of 0.6% in value terms.

1.25. Re-exports are the driving force of HKC's overall merchandise exports, accounting for 97% of total exports of goods in 2017.[18] Mainland China is the origin of about 55% of HKC's re-exports. Imports related to re-exports represented 75% of total merchandise imports in 2017, whereas "retained imports" (i.e. for domestic use) made up the rest.[19]

1.26. In 2017, re-exports of goods grew by a remarkable 8.3% on the back of a broad-based upswing in global demand, hence reversing three years of consecutive decreases. The product composition of re-exports continues to be dominated by machinery and electrical equipment (in particular, telecommunications equipment, semiconductors and computer items).[20] This product

[16] Counting the EU-28 as one. WTO, *Strong trade growth in 2018 rests on policy choice*, Press release, 12 April 2018. Viewed at: https://www.wto.org/english/news_e/pres18_e/pr820_e.htm.

[17] Merchandise trade figures are based on UNSD Comtrade data.

[18] Re-exports are goods that have previously been imported into HKC and are subsequently exported without having undergone any manufacturing processes that permanently change the shape, nature, form or utility of the goods.

[19] The value of retained imports is derived by subtracting the estimated import value of re-exports from the value of imports. The estimated import value of re-exports is obtained by removing the re-export margin from the value of re-exports.

[20] According to the Hong Kong Trade Development Council (HKTDC), HKC was the world's largest exporter of electronic integrated circuits; the second largest exporter of computer parts and accessories; and

category increased its share in total re-exports to 65.6% in 2017 (up from 60.6% in 2014), mainly due to a surge in sales of electronic integrated circuits and other computer components to Mainland China.[21] Other re-exported products are precious stones and metals and pearls; precision instruments; textiles and textile articles; and plastics and rubber (Table A1.1 and Chart 1.1).

1.27. Domestic exports also showed an uneven performance during the period under review (Table A1.2), with an upsurge in 2016 that can be attributed to a sharp increase in exports of non-monetary gold. Domestic exports are concentrated in precious stones and metals, and pearls, which accounted for 76.5% of all domestic exports in 2017. Other domestic products exported are prepared food, beverages and tobacco; chemicals; base metals and articles thereof; and plastic and rubber (Table A1.2 and Chart 1.1). The share of machinery and electrical equipment decreased to 2.6% in 2017, down from 6.8% in 2014, which can be explained by the fact that most local manufacturers have continued to shift their production facilities to Mainland China in order to reduce costs.[22]

1.28. Imports of goods (including retained imports) increased in 2017, supported by vibrant re-export trade amid improvements in regional trading activities and robust domestic demand. Machinery and electrical equipment remains the largest import item and has increased its share in total imports to 62.1% (from 54.7% in 2014), with electrical machinery alone accounting for 51.5% of the total. Other major import items are precious stones and metals, and pearls; and precision instruments (Table A1.3 and Chart 1.1).

1.29. Mainland China is HKC's main trading partner, receiving 55.3% of HKC's re-exports and supplying 44.6% of its imports (Tables A1.4 and A1.6 and Chart 1.2). This is a reflection of HKC's key *entrepôt* role for trade between Mainland China and the rest of the world, as well as its deepening economic ties with Mainland China. Total two-way trade between HKC and Mainland China amounted to US$561 billion in 2017.

1.30. Other Asian markets are also important for HKC's trade, having gained in significance in recent years. In 2017, nearly 21% of HKC's re-exports and 40% of its domestic exports were destined for other Asian economies (including Japan), compared to 18.8% and 21.4%, respectively, in 2014 (Tables A1.4 and A1.5, and Chart 1.2). With a few exceptions (e.g. Japan), the shares of other Asian economies in HKC's re-exports and domestic exports have increased in the past years, mirroring vibrant intra-regional trade flows sustained by strong manufacturing and trading activities in the region. Notably, the shares of some ASEAN economies and India have seen an increase. The European Union (EU-28) and the United States are also import destination markets for HKC, but their respective shares in re-exports have decreased. By contrast, the shares of the EU-28 and Switzerland in HKC's domestic exports grew significantly in the last couple of years, which appears to be linked to a surge in exports of non-monetary gold.

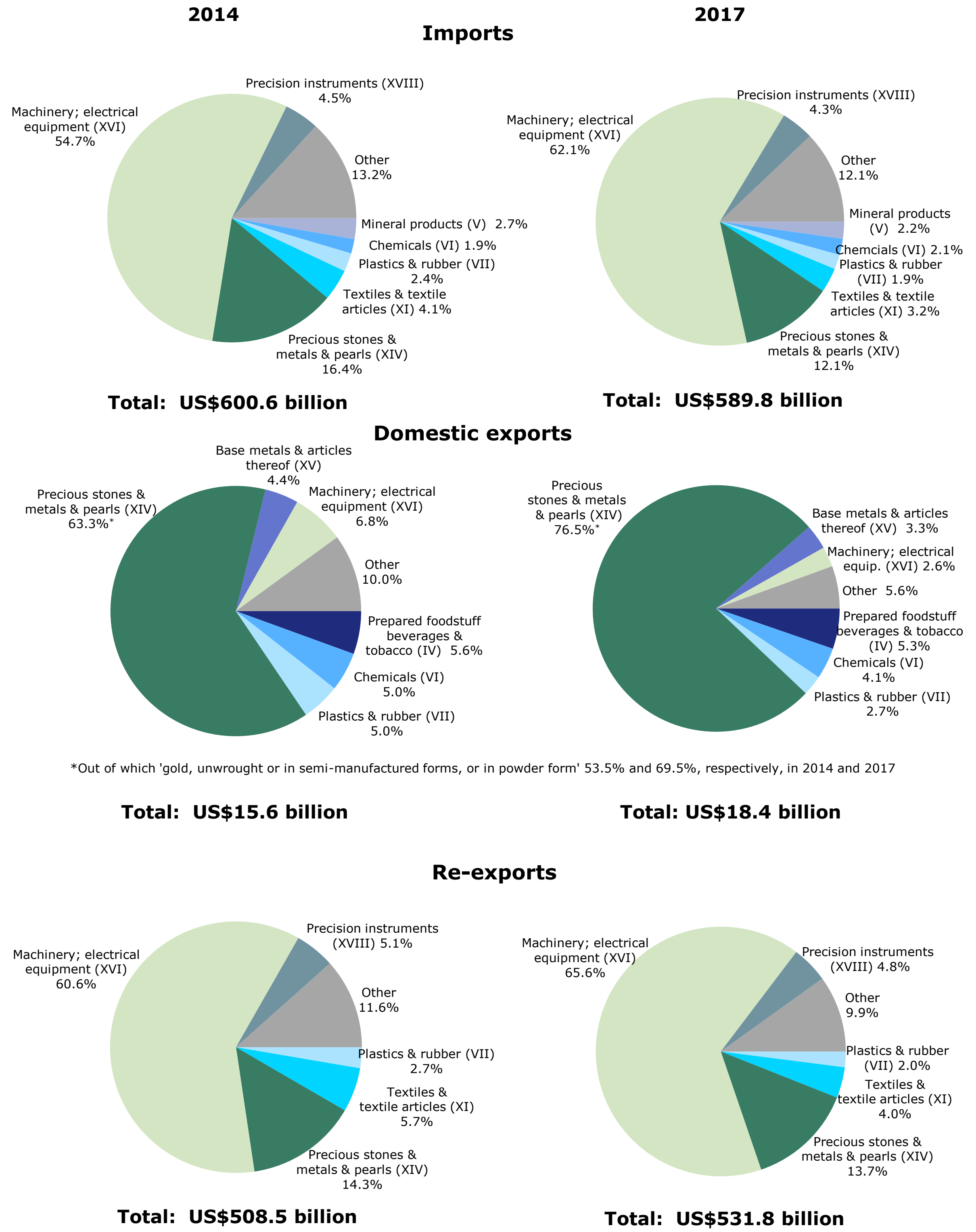
1.31. With regard to imports, besides Mainland China, other major HKC suppliers of goods in Asia are Chinese Taipei, Singapore, Japan and the Republic of Korea; Asian economies (excluding Mainland China) accounted for 37.6% of HKC's imports in 2017. While the European Union and the United States are also important HKC suppliers, their relative shares have decreased slightly (Table A1.6 and Chart 1.2).

the third largest exporter of telephones/mobile phones, sound recording apparatus, video recording apparatus and electric micro motors in value terms in 2015. HKTDC online information. Viewed at: http://hong-kong-economy-research.hktdc.com/business-news/article/Hong-Kong-Industry-Profiles/Electronics-Industry-in-Hong-Kong/hkip/en/1/1X47J8XF/1X00401Z.htm.

[21] HKTDC online information.

[22] HKTDC online information.

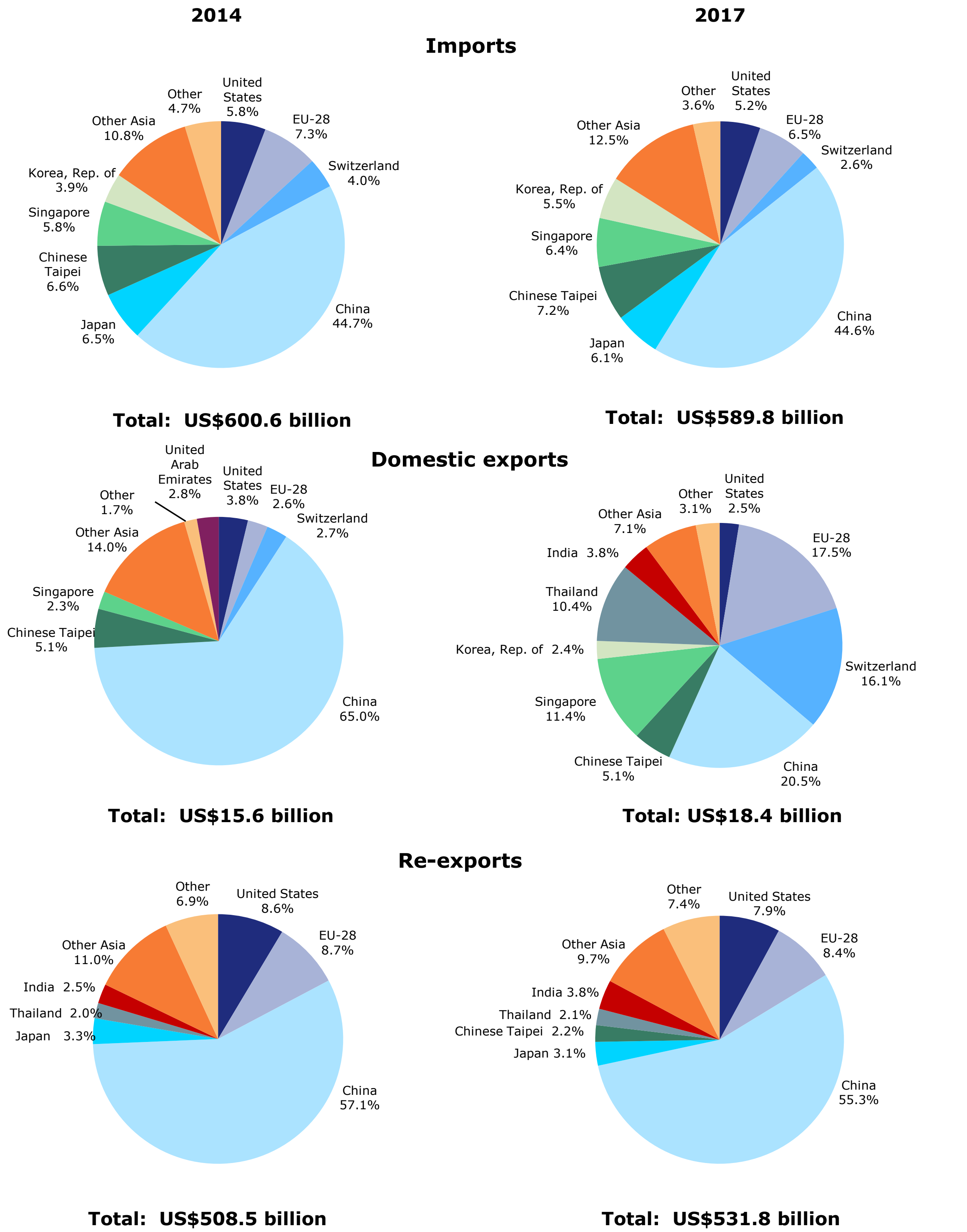
Chart 1.1 Product composition of merchandise trade by HS section, 2014 and 2017



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

Source: WTO calculations based on the UNSD Comtrade database.

Chart 1.2 Direction of merchandise trade, 2014 and 2017



Source: WTO calculations based on figures from the UNSD Comtrade database.

1.3.1.2 Services trade

1.32. Amid a sluggish global economic environment, services exports decreased at an annual average rate of 0.7% between 2014 and 2017, according to balance-of-payments (BOP) data. Exports of services slackened in particular in 2015 and 2016, due partly to slow global growth and the appreciation of the US dollar, with exports of travel services and transport services being the most affected.[23] However, as the external environment improved in 2017, HKC's exports of services reverted to growth across all major subsectors: exports of transport services showed fast growth, owing to dynamic regional trade and cargo flows; financial services exports picked up amid buoyant global financial markets and cross-border financing activities; exports of travel services resumed growth after years of decline, thanks to the recovery of inbound tourism, especially from Mainland China; and exports of business services also improved.[24]

1.33. Imports of services grew at an average annual rate of 1.5% between 2014 and 2017, based on BOP figures. In 2017, they grew by 3.9% (in value terms), bolstered by imports of travel services, reflecting strong interest from HKC residents in overseas travel, and supported by improved job and income conditions. Imports of transport services resumed growth, owing to increased intra-regional trade activity. Likewise, imports of business services grew, underpinned by the more favourable global economic environment. On the other hand, imports of manufacturing services fell by 1.3% in value terms between 2014 and 2017, reflecting subdued outward processing activities.

1.34. HKC has continued to maintain a substantial surplus in the trade in services balance over the review period. In terms of contribution to exports, the main services subsectors were travel, transport and financial services. On the import side, the main categories were travel, transport and manufacturing services (Table 1.4). "Other business services" have traditionally been an important component in both exports and imports of services.

Table 1.4 Composition of trade in services, 2014-17

(HK$ million and %)

	2014	2015	2016	2017
Total credit (HK$ billion)	829.1	808.9	764.8	811.4
	(% of total credit)			
Manufacturing services	0.0[a]	0.0[a]	0.0[a]	..
Maintenance and repair services	0.3	0.3	0.3	..
Transport	29.9	28.5	28.6	29.1
Travel	35.9	34.6	33.3	32.0
Construction	0.3	0.2	0.1	..
Insurance and pension services	1.1	1.3	1.5	1.4
Financial services	16.5	18.4	18.1	19.3
Charges for the use of intellectual property	0.6	0.6	0.7	..
Telecommunications, computer and information services	2.6	2.7	2.9	..
Other business services	12.4	13.0	14.0	..
Personal, cultural and recreational services	0.2	0.2	0.3	..
Government goods and services	0.1	0.1	0.1	..
Total debit (HK$ billion)	573.5	574.3	578.1	600.5
	(% of total debit)			
Manufacturing services	16.1	15.7	15.3	14.8
Maintenance and repair services	0.2	0.2	0.2	..
Transport	24.9	23.4	22.7	22.6
Travel	29.8	31.1	32.4	33.0
Construction	0.5	0.2	0.2	..
Insurance and pension services	2.0	2.0	1.9	1.9
Financial services	6.0	6.5	6.3	6.5
Charges for the use of intellectual property	2.6	2.5	2.5	..
Telecommunications, computer and information services	2.6	2.6	2.6	..
Other business services	15.1	15.5	15.5	..
Personal, cultural and recreational services	0.1	0.1	0.2	..
Government goods and services	0.2	0.2	0.2	..

.. Not available.

a Denotes a % share of less than 0.05%.

Source: C&SD online information. Viewed at: http://www.censtatd.gov.hk; and IMF online information.

[23] Exports of travel services were also affected by the effect of the "One trip per week" Individual Visit Endorsement, implemented in April 2015, which replaced the "Multiple-entry" visit endorsement and resulted in a decrease in the number of visitors from Shenzhen in Mainland China. Government online information. Viewed at: http://www.info.gov.hk/gia/general/201504/13/P201504130887.htm.

[24] Government of the Hong Kong Special Administrative Region (2018), 2017 Economic Background and 2018 Prospects. Viewed at: https://www.hkeconomy.gov.hk/en/pdf/er_17q4.pdf.

1.3.2 Trends and patterns in direct investment

1.35. HKC is one of the largest destinations and sources of direct investment in the world. In 2016, it ranked as the fourth-largest recipient of direct investment inflows worldwide (the second-largest in Asia after Mainland China), and the sixth-largest source of direct investment outflows.[25] This reflects HKC's position as an important business hub for foreign and Mainland Chinese companies, as well as the absence of foreign exchange controls and restrictions on overseas investment.

1.36. The stock of HKC's direct investment liabilities[26] continued to increase during the period under review. At end-2017, it stood at HK$17,190 billion, equivalent to 646% of GDP (Table A1.7). At end-2016, HKC ranked as having the second-largest stock of inward direct investment in the world, after the United States.[27] Mainland China remains a major source of HKC's inward direct investment, accounting for 25.7% of the total stock at end-2016. The British Virgin Islands, with a share of 34.2% at end-2016, has become the largest source since 2014. This can be explained by the practice of some HKC businesses setting up non-operating companies overseas and then re-channelling funds back to HKC. Other major sources of HKC's inward direct investment are the Cayman Islands, the Netherlands, Bermuda, and the United States.

1.37. The stock of HKC's direct investment assets[28] also saw an increase over the review period, reaching HK$15,906 billion at end-2017, or 598% of GDP. Mainland China is the largest recipient, with a share of 40.2% of the total stock of HKC's outward direct investment at end-2016, followed closely by the British Virgin Islands, with 38.8% (Table A1.7). The Cayman Islands, Bermuda and the United Kingdom are other major recipients.

1.38. Analysed by major economic activity of Hong Kong enterprise groups (HKEGs)[29], the composition of HKC's inward and outward direct investment has remained stable (Table A1.8). Both inward and outward stocks are mostly located in the services sector. Notably, those engaged in "Investment and holding, real estate, professional and business services" made up 67.5% and 78.7% of the total stocks of inward and outward direct investment, respectively, at end-2016. Other major economic sectors of HKEGs having received inward direct investment were banking; import/export, wholesale and retail trades; and financing (except banking, investment and holding companies); whereas other major economic sectors of HKEGs having made outward direct investment were import/export, wholesale and retail trades; banking; and manufacturing.

[25] Rankings are based on Figures I.11 and I.14, UNCTAD (2017), *World Investment Report 2017*. Viewed at: http://unctad.org/en/PublicationsLibrary/wir2017_en.pdf.

[26] The stock of direct investment liabilities is compiled based on the "asset/liability principle", in accordance with international statistical standards.

[27] Rankings on FDI inward and outward stocks are based on Annex Table 2, UNCTAD (2017).

[28] The stock of direct investment assets is compiled based on the "asset/liability principle", in accordance with international statistical standards.

[29] A HKEG consists of a HKC parent company, and its HKC branches, subsidiaries and associates. It also includes any HKC subsidiaries and associates of the HKC subsidiaries, and any HKC subsidiaries of the HKC associates.

2 TRADE AND INVESTMENT REGIMES

2.1 General Framework

2.1. There have been no significant changes in the constitutional and legal framework of Hong Kong, China (HKC) since its previous Review in 2014. The Constitution of China and the Basic Law together form the constitutional framework of HKC. Under the Basic Law, HKC is guaranteed a high degree of autonomy, with executive, legislative and independent judicial power, including that of final adjudication; it maintains an independent taxation system and retains its status as a free port and a separate customs territory. Under the Basic Law, the HKC Government is required to provide an appropriate economic and legal environment for the maintenance of the status of HKC as an international financial centre.[1]

2.2. The Chief Executive is the head of the Government, and has policy-making and executive powers.[2] The Government, as the executive authority of HKC, is responsible for policy formulation and implementation, as well as carrying out other administrative affairs and conducting external affairs as authorized under the Basic Law. The Legislative Council, as the legislature, is responsible for enacting, amending and repealing laws. Laws adopted by the Legislative Council take effect after the Chief Executive signs and promulgates them.[3]

2.3. Judicial power in HKC is exercised independently by the courts. The Chief Executive appoints judges upon the recommendation of an independent commission. When adjudicating cases that require the interpretation of those Basic Law provisions concerning affairs that are the responsibility of the Central Government of China, or concerning the relationship between the central authorities and HKC, and if such interpretations could affect the judgement, the courts must seek, through the Court of Final Appeal, interpretation of the relevant provisions of the Basic Law from the Standing Committee of the National People's Congress of China before making their final judgements; these latter are non-appealable. The Court of Final Appeal has sought interpretation of Basic Law provisions once so far, in relation to the immunity of foreign states.[4]

2.4. In descending order of importance, the Basic Law is followed by ordinances, and their subsidiary regulations. The Import and Export Ordinance (Cap. 60) remains the main legislation governing international trade. The Department of Justice maintains a database ("Hong Kong e-Legislation"), which provides the public with free online access to all HKC's legislation.[5]

2.5. Free-trade agreements (FTAs) between HKC and its trading partners are not required to be ratified by the Legislative Council before entering into force. However, when legislative means are required in order to implement provisions in the FTA (e.g. the introduction of new legislation, or the amendment of existing legislation), the usual legislative procedures must be followed.

2.2 Trade Policy Formulation and Objectives

2.6. Since its previous Review, HKC's overall trade policy objectives have remained unchanged. They include: promoting a free, open, and stable multilateral trading system; safeguarding its rights and fulfilling its obligations under multilateral, regional, and bilateral trade and trade-related agreements and arrangements; and securing, maintaining, and improving access for its exports to foreign markets.

2.7. Under the Basic Law, HKC is a separate customs territory and is authorized to maintain and develop relations and conclude and implement agreements with foreign states and regions in the

[1] Article 109 of the Basic Law.

[2] Except for the appointment, removal, or disciplining of officials and the adoption of measures in emergencies, the Chief Executive consults the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council. At present, the membership of the Executive Council comprises 16 appointed Principal Officials and 16 non-officials. Members of the Executive Council are appointed by the Chief Executive.

[3] Articles 49 to 51 of the Basic Law stipulate provisions for situations where disagreements occur between the Chief Executive and the Legislative Council.

[4] In 2012.

[5] Department of Justice online information, "Hong Kong e-Legislation". Viewed at: https://www.elegislation.gov.hk.

fields of, *inter alia,* economics and trade.[6] As at 31 December 2017, HKC was a member of 54 international intergovernmental organizations which are not restricted to States, under the name Hong Kong, China. HKC participates in other multilateral agreements to which China is a party and whose application has been extended to HKC; it also participates in agreements that HKC had implemented before 1 July 1997 but to which China is not a party.[7] Currently, about 260 multilateral agreements are applicable to HKC, covering, *inter alia*, customs, civil aviation, shipping, health, and intellectual property.[8]

2.8. The Secretary for Commerce and Economic Development formulates trade and investment policies.[9] The Secretary is assisted by a number of bodies and funds, including the Trade and Industry Department (TID), the Intellectual Property Department, the Office of the Communications Authority, and Invest Hong Kong, as well as HKC Economic and Trade Offices, which has a worldwide network. The Government must launch a public consultation exercise when formulating major trade policies/measures.[10]

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

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.10. HKC is an original Member of the WTO and a firm supporter of the multilateral trading system.[11] The authorities state that HKC's WTO membership is the cornerstone of its external trade policy; its participation in the WTO is guided by the following objectives: to sustain the momentum of progressive global trade liberalization; and to strengthen and update the rules-based multilateral trading system so that it continuously provides an effective framework to promote trade expansion and liberalization, and protects HKC against arbitrary and discriminatory actions.

2.11. During the review period, HKC participated actively in the WTO; the authorities state that it has done so in the pursuit of progressive trade liberalization. HKC is a signatory of the revised WTO plurilateral Agreement on Government Procurement (GPA), and the Information Technology Agreement (ITA), including its expansion agreement (ITA Expansion).[12] The authorities state that HKC supports all constructive efforts to achieve the liberalization of tariffs on environmental goods.

2.12. The authorities state that HKC attaches great importance to trade facilitation; it was the first Member to notify the WTO that it would implement all provisions contained in Articles 1 to 12 of the Trade Facilitation Agreement (TFA) upon its entry into force, without using any of the flexibilities provided for in the Agreement. HKC was also the first Member to deposit its instruments of acceptance for the TFA (on 8 December 2014).[13]

2.13. HKC has an excellent record of providing notifications to the WTO. At the end of January 2018, there were no outstanding requirements for regular notifications (Table A2.1).

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[6] Articles 116 and 151 of the Basic Law.

[7] Article 153 of the Basic Law.

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

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

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

[11] WTO document WT/MIN(17)/ST/3, 13 December 2017.

[12] HKC has bound the tariffs of all IT items covered under the ITA Expansion since 1 July 2016.

[13] WTO document WT/LET/1025, 11 December 2014.

2.14. During the period under review, HKC was not involved in any WTO dispute settlement cases either as a complainant or a respondent; HKC did not participate as a third party in any cases.

2.3.2 Regional and preferential trade agreements

2.3.2.1 Overview

2.15. Since its previous Review, HKC has been active in forging FTAs with its trading partners, with a view to securing more favourable market access for its goods and services.[14] To date, it has signed seven FTAs, three of which were signed during the review period. The Closer Economic Partnership Arrangement with Macao, China (HK-Macao CEPA) was signed on 27 October 2017 and entered into force on the same day, with the liberalization measures on trade in goods and services implemented on 1 January 2018.[15] HKC also signed an FTA and an associated Investment Agreement with ASEAN on 12 November 2017, and an FTA with Georgia was signed on 28 June 2018; they are to enter into force once the relevant parties complete the necessary procedures.[16] Furthermore, under the CEPA with Mainland China, four subsidiary agreements were signed and entered into force over the review period, broadening and deepening CEPA's coverage in the areas of trade in services, investment, and economic and technical cooperation. According to the authorities, HKC's applied trade regime is in line with the commitments under the FTAs HKC is party to, and is applied *erga omnes*.

2.16. HKC has bound its tariff-free regime and agreed to substantial sectoral coverage and liberalization in services in the FTAs to which it is party. The FTAs also cover other areas, including trade facilitation, government procurement, intellectual property, and recognition of qualifications.

2.17. HKC launched FTA negotiations with Maldives in September 2016, and Australia in May 2017.[17]

2.3.2.2 Closer Economic Partnership (CEP) Agreement with New Zealand

2.18. The CEP Agreement has eliminated tariffs on exports of all goods from HKC to New Zealand since 1 January 2016 pursuant to the schedule of phased tariff reduction.[18] Other aspects of the CEP Agreement have remained unchanged since the previous Review.[19] The CEP Agreement was considered by the Committee on Regional Trade Agreements on 20 March 2012.[20]

2.3.2.3 FTA with EFTA

2.19. The first meeting of the Joint Committee (JC) established under the FTA between HKC and the EFTA States was held in October 2017. The JC adopted rules of procedures necessary for the effective implementation of the FTA, and an Annex of comprehensive disciplines governing domestic regulation, which seeks to ensure that measures affecting trade in services are transparent, administered in a reasonable and objective manner, and do not constitute unnecessary barriers to trade. The Annex is to first take effect between HKC and Switzerland, and

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[14] Commerce and Economic Development Bureau online information, "2017 Policy Address at the Legislative Council Panel on Commerce and Industry". Viewed at: https://www.legco.gov.hk/yr16-17/english/panels/ci/papers/ci20170125cb1-464-3-e.pdf.

[15] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkmacao/index.html.

[16] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkasean/index.html.

[17] TID online information. Viewed at: https://www.tid.gov.hk/english/aboutus/presspeech/press/2016/20160506.html, and http://www.info.gov.hk/gia/general/201705/16/P2017051600348.htm?fontSize=1.

[18] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hknzcep/index.html, and http://www.tid.gov.hk/english/trade_relations/hknzcep/index.html.

[19] See WTO document WT/TPR/S/306/Rev.1, 28 January 2015, and TID online information: https://www.tid.gov.hk/english/ita/fta/hknzcep/index.html for the details of the Agreement.

[20] WTO document WT/REG291/M/1, 17 April 2012.

is to apply to other EFTA States pursuant to a decision of the JC.[21] Other aspects of the Agreement have remained unchanged since the previous Review.[22]

2.3.2.4 FTA with Chile

2.20. On 9 October 2014, an FTA with Chile, which was signed in 2012, entered into force.[23] Since 1 January 2016, it has provided duty-free treatment for 98% of Chilean tariff lines on HKC-origin products. The FTA was considered by the Committee on Regional Trade Agreements on 25 September 2015.[24] Commitments by both parties are beyond those under GATS.

2.21. In addition to the FTA, HKC and Chile signed an Investment Agreement on 18 November 2016, which is to enter into force after the completion of the necessary procedures by both parties.[25] The Investment Agreement complements the FTA and provides non-discriminatory treatment and protection of investments.

2.3.2.5 CEPA with Mainland China

2.22. During the review period, HKC has continued to deepen integration with Mainland China under the framework of their CEPA: four subsidiary agreements concerning service liberalization in Guangdong, trade in services, investment, and economic and technical cooperation were signed during the review period (Table 2.1).[26]

Table 2.1 CEPA subsidiary agreements, 2014-18

Title	Date of signature/ implementation	Main content
Agreement between the Mainland and Hong Kong on Achieving Basic Liberalization of Trade in Services in Guangdong (Guangdong Agreement)	18 December 2014/ 1 March 2015	The Guangdong Agreement introduced pilot measures regarding service liberalization in Guangdong, as the first step towards liberalizing trade in services between Mainland China and HKC.
Agreement on Trade in Services (Services Agreement)	27 November 2015/ 1 June 2016	The Services Agreement consolidated and expanded the services liberalization measures provided in the CEPA since its signature in 2003, including those in the Guangdong Agreement.
Investment Agreement	28 June 2017/ 1 January 2018	The Investment Agreement provided for market access commitments to non-services sectors, and measures for investment protection and promotion.
Agreement on Economic and Technical Cooperation (Ecotech Agreement)	28 June 2017/ 28 June 2017	The Ecotech Agreement consolidated and updated the economic and technical cooperation activities provided in the CEPA since 2003.

Source: WTO documents WT/REG162/N/1/Add.8, WT/REG162/N/1/Add.9, and WT/REG162/N/1/Add.10, and TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html.

2.23. Under CEPA provisions for trade in goods, products originating in HKC may enter the Mainland China market with a zero-tariff preference.[27] The rules of origin to determine whether a product originates in HKC are decided by consultations between the relevant authorities of

[21] TID online information. Viewed at: https://www.tid.gov.hk/english/aboutus/presspeech/press/2017/20171031.html.
[22] See WTO document WT/TPR/S/306/Rev.1, 28 January 2015, and TID online information: http://www.tid.gov.hk/english/ita/fta/hkefta/index.html, for the details of the Agreement.
[23] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkclfta/index.html.
[24] WTO document WT/REG356/M/1, 12 October 2015.
[25] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkclfta/index.html, and http://www.tid.gov.hk/english/ita/ippa/index.html.
[26] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa12.html, https://www.tid.gov.hk/english/cepa/legaltext/cepa13.html, https://www.tid.gov.hk/english/cepa/legaltext/cepa14.html, and https://www.tid.gov.hk/english/cepa/legaltext/cepa15.html.
[27] CEPA rules of origin basically include changes of HS headings, value-added thresholds, and major processing operations. Products covered by the rules are contained in a consolidated list, which is amended every six months, after consultations with the stakeholders of both parties.

Mainland China and HKC. As at 1 June 2018, the parties have developed rules of origin covering about 22% of Mainland China's tariff lines (1,901 lines).[28] In 2017, the tariff lines with agreed CEPA rules of origin accounted for about 64% of HKC's domestic export to Mainland China (Table 2.2).

Table 2.2 CEPA preference utilization rates, 2014-17

	Export value of Certificate of Hong Kong Origin for CEPA (CO-CEPA) products (HK$ million)	Export value of CO-CEPA products as a %age of total domestic exports to China	CEPA preference utilization rate[a]
2014	10,161	43.8	61.3
2015	7,878	38.6	55.6
2016	7,004	37.7	57.1
2017	7,611	44.1	64.1

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

Source: Information provided by the HKC authorities.

2.24. Between 2014 and 2017, pharmaceutical products accounted for the largest share of CEPA preferential exports to Mainland China in terms of export value (31.8%), followed by plastics and plastic articles (28.7%), and food and beverages (16.4%).

2.25. The Guangdong Agreement introduced measures to liberalize trade in services between Guangdong and HKC. It forms the basis for the Services Agreement, which covers relevant measures under the CEPA since 2003, including pilot measures in the Guangdong Agreement. Under the Services Agreement, HKSSs enjoy preferential access to the Mainland China market. To be qualified as an HKSS, any business that provides services in the form of a juridical person must have "substantive business operations" in HKC.[29] The Services Agreement specifies "substantive business operations" in terms of the nature and scope of businesses, years of operation, payment of profit tax, scale of business premises, and employment of staff.[30] The HKSS certificate is issued by the TID, and is a pre-requisite for applying to the authorities of Mainland China for CEPA preferential treatment. As of 31 January 2018, 3,192 HKSS certificates had been issued, up from 2,800 in May 2014. Transport and logistics accounted for the largest number of certificates issued (44%), followed by distribution services (11%), air transport services (9%), and placement and supply services of personnel (5%).[31] The CEPA is "nationality neutral" as it allows HKC-based companies of any nationality to use preferential access opportunities to Mainland China.

2.26. Liberalization in services trade under the Services Agreement is based on a negative-list approach for mode 3, while a positive-list approach is provided for services in modes 1, 2, and 4, as well as in telecommunications and cultural services.[32] Overall, there are 153 services trade sectors that Mainland China has fully or partially opened up to HKC's services industry, accounting for 95.6% of all the 160 services trade sectors.[33] In respect of mode 3, national treatment is applied to HKC in 62 sectors.[34]

2.27. Government procurement and competition policy are not covered under the CEPA.

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[28] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/tradegoods/rules_origin.html. In order to benefit from the preference, a CO-CEPA must accompany the shipment.

[29] The definition of, and criteria for qualifying as, "substantive business operations" are provided in Annex 3 to the CEPA Agreement on Trade in Services. The criteria include: having engaged in business for at least three years (except for specific sectors, the minimum number of years of operation is five, including construction, banking, insurance, air transport ground services and third-party international shipping agency services); liable for profit tax in HKC; rental or ownership of business premises; and employment of 50% of the staff locally. TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa13.html.

[30] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/files/sa26-6-2017_annex3_e.pdf.

[31] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/statistics/hkss_statistics.html.

[32] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa13.html.

[33] The 160 sectors are specified in WTO document S/L/92, 28 March 2001.

[34] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa13_note.html.

2.28. As a new subsidiary agreement under the framework of the CEPA, the Investment Agreement provides measures to liberalize or facilitate investment, as well as measures to protect investment. A negative-list approach is adopted with respect to investment liberalization. With the exception of the 26 measures listed, investors from HKC (HKIs) may enjoy preferential treatment accorded by Mainland China in all non-services sectors.[35] HKIs may be either natural persons or enterprises. HKIs as enterprises must be established pursuant to the law of HKC, and must be engaged in substantial business operations.[36]

2.29. The Investment Agreement also provides mechanisms for the settlement of investment disputes between investors and the host governments, as well as investment facilitation measures, *inter alia*, optimization of investment procedures, facilitation of obtaining investment information, coordination among regulatory institutions, and transparency of laws and regulations.[37]

2.30. The Agreement on Economic and Technical Cooperation incorporates and updates the measures concerning economic cooperation and trade facilitation which have been included in the CEPA since 2003. The Agreement provides for deeper cooperation in 22 key areas, among which cooperation activities have been newly added under 12 areas; these include legal and dispute resolution services, financial, accounting, innovation and technology, electronic commerce, intellectual property, and the participation of HKC in the "Belt and Road" Initiative and in subregional cooperation.[38]

2.3.2.6 HK-Macao CEPA

2.31. The HK-Macao CEPA was signed and entered into force on 27 October 2017 (the liberalization measures of trade in goods and services have been implemented since 1 January 2018). It binds tariffs at zero for all imported goods originating from each side. Each party committed to not applying non-tariff measures inconsistent with the WTO rules or tariff quotas on goods from the other party.[39]

2.32. Under the provisions for trade in services in the HK-Macao CEPA, a positive-list approach is adopted. Macao, China agreed to WTO-plus commitments regarding HKC in certain services sectors, including business, communication, education, environmental, recreational, cultural and sporting, and transport services. HKC also agreed to WTO-plus commitments in certain services sectors, including environmental, health related and social, and certain business services.

2.33. Government procurement and competition policy are not covered under the HK-Macao CEPA.

2.3.2.7 The FTA between HKC and ASEAN

2.34. According to the authorities, the FTA and the Investment Agreement are to enter into force on 1 January 2019 at the earliest for the parties (which must include HKC and at least four ASEAN Member States (AMSs)) that have completed their required procedures.[40] HKC is to bind its tariffs at zero for all imported goods originating from AMSs upon the entry into force of the FTA. Meanwhile, the AMSs have made individual tariff reduction commitments for goods of HKC origin (Table 2.3).

2.35. The FTA covers trade in services with a positive-list approach. HKC has obtained AMS commitments regarding HKC's market access to AMS services, *inter alia*, professional, business, telecommunications, construction and related engineering, educational, financial, tourism and

[35] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/investment/investment.html.

[36] The criteria for qualifying as "substantive business operations" are similar to those of HKSSs, including a minimum of three years in operation; having paid profit tax in HKC; renting or owning business premises; and employing at least 50% of the staff locally. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html.

[37] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/files/cepa14_main.pdf.

[38] TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/files/further_liberal_2017.pdf.

[39] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkmacao/index.html.

[40] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkasean/files/AHKFTA_Chapter_14.pdf.

travel-related, transport and arbitration services, with specific commitments varying among individual members; while HKC made commitments in sectors that address the interests of individual AMSs, such as architectural, engineering, urban planning and landscape architectural, audio-visual, distribution, educational, environmental, tourism and travel related, recreational, cultural and sporting, and transport services.

Table 2.3 Schedule of Tariff Commitments of ASEAN Member States (AMS)

AMS	Schedule of Tariff Commitments
Singapore	Elimination of all tariffs for goods of HKC origin, with effect from the date on which the FTA enters into force for Singapore
Brunei Darussalam, Malaysia, the Philippines and Thailand	Elimination of tariffs for about 85% of their tariff lines within 10 years, with a reduction of tariffs for about another 10% within 14 years
Indonesia and Viet Nam	Elimination of tariffs for about 75% of their tariff lines within 10 years, with a reduction of tariffs for about another 10% within 14 years
Cambodia, Laos and Myanmar	Elimination of tariffs for about 65% of their tariff lines within 15 years, with a reduction of tariffs for about another 20% within 20 years

Source: TID online information, "Key Outcomes of Free Trade Agreement between Hong Kong, China and the Association of Southeast Asian Nations". Viewed at: https://www.tid.gov.hk/english/ita/fta/hkasean/index.html.

2.36. The Investment Agreement complements the FTA. It provides non-discriminatory treatment of investments in non-service sectors, as well as protection and facilitation of investments in all sectors. It is comprised of one main text and two side agreements. Apart from general principles and provisions on the treatment and protection of investments, the main text provides a work programme for further discussion on certain issues, including the investor-Party dispute settlement mechanism and the schedules of reservations. The side agreement between HKC, Brunei Darussalam, Malaysia and Singapore sets out the four Parties' agreed definition of "natural person of a Party" for the application of the Agreement among themselves, notwithstanding the discussion of the definition to be held in the work programme.[41] The side agreement between HKC and Singapore sets out the two Parties' agreed understanding regarding the valuation criteria for "real value" of compensation for the expropriated investment under Article 10 of the main text.[42]

2.37. Government procurement and competition policy are not covered under the FTA.

2.3.3 Other agreements and arrangements

2.38. HKC is a member of the Asia-Pacific Economic Cooperation (APEC) forum. In 2017, 86.8% of merchandise imports into HKC were from APEC members, and 78.9% of its domestic exports of merchandise went to them. In the 24th Meeting of APEC Ministers Responsible for Trade (MRTs) in May 2018, MRTs reaffirmed their support for the rules-based multilateral trading system, and their commitment to resisting all forms of protectionism.[43]

2.39. During the review period, HKC was involved in the negotiation of the plurilateral Trade in Services Agreement (TISA). TISA negotiations have been suspended since December 2016.

2.40. HKC is a beneficiary of the Generalized System of Preferences (GSP) operated by the Russian Federation. HKC's entitlement to the benefits under Canada's General Preferential Tariff scheme was discontinued as from 1 January 2015. It would appear that HKC's trade covered under these schemes is very small. In 2017, no relevant Certificate of Origin was issued to cover goods under the Russian Federation's GSP.

[41] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkasean/files/IPPAASEAN_SideAgreement_HK_Brunei_Malaysia_Singapore.pdf.

[42] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/fta/hkasean/files/IPPAASEAN_SideAgreement_HK_Singapore.pdf.

[43] APEC online information. Viewed at: https://www.apec.org/Meeting-Papers/Sectoral-Ministerial-Meetings/Trade/2018_trade/chair.

2.4 Investment Regime

2.41. In accordance with the Basic Law, HKC does not impose any restrictions on investment, capital flows, or foreign exchange. Foreign services providers and foreign investors generally receive national treatment, except for regulatory requirements on investment in the banking[44] and broadcasting[45] sectors. There are no minimum capital requirements for investments.

2.42. The Companies Ordinance (Cap. 622) was amended in 2015 to reflect changes to the terminology.[46] It was further amended in 2018 to introduce a requirement for companies to maintain a register of significant controllers.[47] Separately, the Companies (Winding Up and Miscellaneous Provisions) Ordinance was amended in 2016 to improve the regime on winding up (liquidation).[48]

2.43. Foreign investors may set up a new company in HKC by incorporating a company locally. A foreign investor establishing a place of business in HKC for a company incorporated outside HKC may operate the company in HKC by registering the company as a non-Hong Kong company.[49] When incorporating a local company or registering a non-Hong Kong company, it is also necessary to apply for business registration, which may be done at the same time through a one-stop registration mechanism.[50] The one-stop service is jointly implemented by the Companies Registry (CR) and the Inland Revenue Department, with a view to facilitating the registration procedure.[51] In 2017, procedures for the incorporation of local companies took 4 working days if using hard copies; or one hour if using e-submission; and registration for non-Hong Kong companies took 11 working days.[52] For public information, the CR maintains an Index of Company Names and a Companies Register, which contains extensive information relating to companies. Businesses in sectors requiring specific licences must acquire these from the relevant authorities before commencing business operations.[53] These sectors include restaurants, *karaokes,* travel agencies, employment agencies, banks, fund managers, and insurance brokers.

2.44. Invest Hong Kong, a government agency, aims to attract and retain foreign direct investment (FDI). It offers facilitation services and sector-specific advice to support companies throughout the investment process, and provides aftercare support services to companies already established in HKC.[54]

2.45. In 2015, the Arbitration Ordinance (Cap. 609) was amended with a view to removing some legal uncertainties relating to the opt-in mechanism provided for domestic arbitration under Part 11; under the amended Ordinance, parties to an arbitration agreement can opt for domestic arbitration and agree on the number of arbitrators and still retain their right to seek the court's assistance on the consolidation of arbitrators, decisions on preliminary issues, and challenges to

[44] All authorized institutions (local or overseas) must appoint a chief executive and not less than one alternative chief executive, who must normally reside in HKC. See Hong Kong Monetary Authority's Guide to Authorization. Viewed at: http://www.hkma.gov.hk/eng/key-functions/banking-stability/guide-authorization.shtml.

[45] The regulatory requirements restrict persons and companies from exercising control of licensed broadcasters on the basis of residency requirements. See Hong Kong Communications Authority online information. Viewed at: https://www.coms-auth.hk/en/licensing/broadcasting/matters/restrictions/index.html.

[46] The amendments reflected the change of the short title of the Insurance Companies Ordinance to the Insurance Ordinance. Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2015/12!en.

[47] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2018/3!en.

[48] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2016/14!en.

[49] According to the Companies Ordinance (Cap. 622), non-Hong Kong companies refer to companies incorporated outside HKC but that have established a place of business in HKC. Viewed at: https://www.cr.gov.hk/en/companies_ordinance/docs/briefingnotes_part16-e.pdf.

[50] Inland Revenue Department online information, "Application procedures: general". Viewed at: https://www.ird.gov.hk/eng/faq/osbrq.htm and https://www.investhk.gov.hk/en/setting-hong-kong/incorporate-company.html.

[51] Inland Revenue Department online information, "Date of implementation". Viewed at: https://www.ird.gov.hk/eng/faq/osbrq.htm.

[52] CR online information, "Performance Pledges". Viewed at: https://www.cr.gov.hk/en/about/performance.htm.

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

[54] For details, see Invest Hong Kong online information, "How we can help". Viewed at: https://www.investhk.gov.hk/en/setting-hong-kong/how-we-can-help.html.

and appeals against arbitral awards under Cap. 609.[55] In 2017, Cap. 609 and the Mediation Ordinance (Cap. 620) were amended with a view to allowing for third-party funding of arbitration and mediation.[56] The 2017 amendments clarified the legal position in relation to the arbitration of disputes involving intellectual property rights (IPRs).[57]

2.46. During the period under review, HKC's taxation regime remained largely unchanged; it is based on territoriality, i.e. only income/profit derived locally is subject to tax. Income derived from a source outside HKC by a local resident is not taxed in most cases. HKC has continued to pursue comprehensive double taxation agreements/arrangements (DTAs) with its trading partners, with the aim of providing certainty to investors. As of end-May 2018, HKC had signed DTAs with 40 jurisdictions, among which 11 were signed during the review period. All these DTAs have entered into force, with the exception of those with Saudi Arabia, India, and Finland, which were signed on 24 August 2017, 19 March 2018, and 24 May 2018, respectively.[58] In addition, HKC has entered into seven Tax Information Exchange Agreements since 2014, with a view to enhancing tax transparency.[59]

2.47. HKC has opted for investment promotion and protection agreements (IPPAs) as a means of attracting foreign investment and enhancing protection of HKC's outbound investments. As at end-May 2018, HKC had signed 20 IPPAs with ASEAN; Australia; Austria; the Belgo-Luxembourg Economic Union; Canada; Chile; Denmark; Finland; France; Germany; Italy; Japan; Korea, Republic of; Kuwait; the Netherlands; New Zealand; Sweden; Switzerland; Thailand; and the United Kingdom.[60] All of these agreements have entered into force, except those with Chile and ASEAN. In addition, HKC has concluded IPPA negotiations with the Kingdom of Bahrain, Myanmar, Mexico, and United Arab Emirates. Signing of these IPPAs is subject to the completion of necessary procedures by the parties. HKC is negotiating IPPAs with Iran and the Russian Federation.

[55] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2015/11!en, and Legislative Council online information. Viewed at: http://www.legco.gov.hk/yr14-15/english/bills/brief/b201501231_brf.pdf.

[56] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2017/6!en.

[57] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/2017/5!en.

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

[59] Inland Revenue Department online information. Viewed at: https://www.ird.gov.hk/eng/tax/dta_tiea_agreement.htm.

[60] TID online information. Viewed at: https://www.tid.gov.hk/english/ita/ippa/index.html.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

3.1.1.1 Customs procedures and trade facilitation

3.1. Under the Basic Law, HKC maintains its status as a free port and a separate customs territory that implements its own customs procedures. The main legal instrument regulating external trade is the Import and Export Ordinance (Cap. 60) and its subsidiary regulations. These include, among others, the Import and Export (General) Regulations (Cap. 60A), the Import and Export (Strategic Commodities) Regulations (Cap. 60G), and the Import and Export (Registration) Regulations (Cap. 60E).[1]

3.2. The Customs and Excise Department (C&ED) is in charge of the implementation of border/boundary measures, including with respect to the enforcement of IPRs, the suppression of smuggling activities, the interdiction of narcotics, and the collection of revenue.[2] The C&ED is also responsible for administering trade facilitation programmes. Other agencies engaged in border/boundary controls include the Agriculture, Fisheries and Conservation Department (AFCD) and the Food and Environmental Hygiene Department (FEHD), which are responsible for the enforcement of sanitary and phytosanitary (SPS) measures.

3.3. HKC runs an efficient customs system by global standards. In 2017, it ranked as the third most competitive economy (among 137) in terms of "burden of customs procedures" in the World Economic Forum's Global Competitiveness Index.[3] It also ranked 31st among 190 economies in the World Bank Doing Business 2018 index for ease of trading across borders.[4] This means that HKC's procedures for documentary and border/boundary compliance for both imports and exports are faster and less costly than in most other constituencies, including high-income OECD countries and East Asia and Pacific economies.

3.4. Any person or firm may engage in import and export activities in HKC. However, traders of controlled chemicals and dutiable goods (liquors, tobacco, hydrocarbon oils and methyl alcohol) must be licenced by the C&ED before commencing operations; traders of food products must register with the FEHD as prescribed by the Food Safety Ordinance (Cap. 612); and persons importing cars for commercial purposes must register as importers/distributors with the C&ED within 30 days of the commencement of their business.[5]

3.5. According to the Import and Export (Registration) Regulations (Cap. 60E), importers must submit a declaration to the C&ED within 14 days after the goods have been imported, except for exempted articles (including transhipped or transit goods, and goods imported by the Government).[6] The declaration must be filed electronically via service providers appointed by the Government. To verify particulars given in the declaration, the C&ED may require the production of documents supporting the declaration, including the cargo manifest, the bill of lading, the airway bill or similar document, the invoice, the packing list and, if required, import licences, removal permits or other authorizations.

[1] HKC customs legislation can be viewed at: http://www.customs.gov.hk.
[2] C&ED online information. Viewed at: http://www.customs.gov.hk/en/enforcement/index.html.
[3] World Economic Forum (2017), Global Competitiveness Index 2017-2018. Viewed at: http://reports.weforum.org/global-competitiveness-index-2017-2018/competitiveness-rankings/#series=EOSQ050.
[4] The World Bank Group (2017), Doing Business 2018. Viewed at: http://www.doingbusiness.org/data/exploreeconomies/hong-kong-china#trading-across-borders.
[5] In addition, under two new producer responsibility schemes that will come into effect in the second half of 2018, importers and local manufacturers of regulated electrical and electronic equipment, and glass beverage containers, to the local market will need to register with the Environmental Protection Department (EPD) and pay a recycling levy for each product.
[6] Exempted articles are stipulated in Regulation 3 of the Import and Export (Registration) Regulations (Cap. 60E). Viewed at: https://www.elegislation.gov.hk/hk/cap60E?xpid=ID_1438403523489_003.

3.6. In conducting cargo clearance, the C&ED screens cargo information including electronic cargo data, cargo manifests and related shipping documents, and selects cargo for physical examination based on a risk-based and intelligence-led approach.

3.7. The C&ED implements several electronic clearance schemes for the submission of advance cargo information by shippers and cargo agents. For sea cargo, there are three voluntary schemes: the Electronic Submission of Cargo Manifest Statement One (EMAN 1 Scheme), the Advance Cargo Information–River Trade Vessel Scheme (ACI-RTV Scheme), and the e-Sea Customs Clearance Scheme (e-SCC). Through the EMAN 1 Scheme and the ACI-RTV Scheme, carriers can submit advance cargo manifests of consignments transported by ocean and river vessels; while the e-SCC allows freight forwarders to submit bills of lading in electronic form to the C&ED for pre-arrival verification and clearance. Through these schemes, cargos may be discharged immediately upon arrival of the vessels, unless selected for inspection by the C&ED.

3.8. For cargo transported by air, the Air Cargo Clearance System (ACCS) enables carriers to submit advance cargo information electronically to the C&ED at least one hour before the arrival of the aircraft; in normal circumstances, clearance can be completed before the arrival of the aircraft. For cargo transported by truck, the use of the Road Cargo System (ROCARS) is mandatory since November 2011. Carriers are required to submit cargo information to the C&ED through ROCARS at least 30 minutes and at most 14 days before the arrival or departure of the truck cargo consignment.[7]

3.9. During the period under review, HKC adopted measures to further streamline customs procedures and facilitate trade, including the enhancement of an IT-based tracking system for road cargo; the introduction of the Free Trade Agreement Transhipment Facilitation Scheme (FTA Scheme); the full implementation of the Authorized Economic Operator Programme (AEO), and the conclusion of several AEO mutual recognition arrangements. HKC was the first Member to accept the WTO Trade Facilitation Agreement on 8 December 2014, and has designated all the provisions of the Agreement under Category A, which means that HKC is committed to implementing all TFA provisions since the entry into force of the Agreement in February 2017.[8]

3.10. With the aim of enhancing its role as a logistics hub, HKC operates a number of schemes to promote transhipment trade. The Intermodal Transhipment Facilitation Scheme (ITFS) facilitates the movement of air–land and sea–land transhipment cargoes through simplified clearance procedures. The application of electronic lock and GPS technologies enables the C&ED to track transhipment cargoes and trucks, and subject them to only one inspection at either the entry or exit point. Carriers and forwarders of transhipment cargoes may participate in the ITFS on a voluntary basis. In March 2016, the C&ED launched the Single E-lock Scheme (the Scheme) in co-operation with Mainland China's Customs. Under the Scheme, the ITFS is interconnected with the Speedy Customs Clearance (SCC) system of Guangdong Province to provide a seamless clearance service. With the application of one single e-lock and GPS technology accredited by both Customs authorities, duplicate inspections at the boundary are to be reduced, hence contributing to expedite the clearance process of transhipment cargoes. Carriers or shippers willing to participate in the Scheme must register with the ITFS (HKC) and the SCC (Guangdong Province), and install the e-lock and GPS equipment accredited by both Customs authorities on their vehicles.

3.11. In December 2015, the C&ED put in place a voluntary FTA Scheme to facilitate certain qualified cargo transhipped through HKC to enjoy preferential tariff treatment under FTAs signed by Mainland China with other economies. The FTA Scheme provides for C&ED supervision services and issuance of non-manipulation certificates to certify transhipment cargoes that have not undergone any processing during their stay in HKC. The FTA Scheme covers transhipment cargo in HKC heading for Mainland China from Chinese Taipei under their Economic Cooperation Framework Agreement (ECFA), and from 22 countries under their respective FTAs with Mainland China[9], as well as transhipment cargo heading for Australia, Korea, Republic of; and Chinese Taipei from Mainland China.[10] The C&ED has indicated that, as at 31 March 2018, a total of 10,490 applications

[7] For more information, see the C&ED web page. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/ecargo/index.html.

[8] WTO document WT/PCTF/W/20, 28 April 2014.

[9] These are the FTAs with: Australia; Korea, Republic of; New Zealand; Singapore; Pakistan; Iceland; Switzerland; Chile; Costa Rica; Peru; ASEAN; and the Asia Pacific Trade Agreement.

[10] C&ED online information. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/fta/index.html.

under the FTA Scheme were received, involving a trade value of US$837 million and preferential tariffs of US$56 million. In addition, the C&ED issues certificates for non-US frozen chicken products transhipped to Mainland China through HKC. It also maintains a customs cooperation arrangement for Mainland China-bound wine consignments passing through HKC to receive immediate customs clearance on Mainland China. In 2015, this arrangement was extended from designated ports in Guangzhou and Shenzhen to all ports in the Beijing, Shanghai, Tianjin, Guangzhou and Shenzhen customs districts. In November 2017, this was further extended to all ports in all 42 customs districts in Mainland China.[11]

3.12. HKC has been implementing an AEO programme since 2012, based on the SAFE Framework of the World Customs Organization. Under the programme, local companies of all sizes that meet pre-established security and compliance criteria are granted AEO status, and benefit from trade facilitation measures. There are two tiers of accredited companies: Tier 1 AEOs and Tier 2 AEOs, with the latter having to comply with additional criteria.[12] The two-tier system is designed to facilitate the participation of SMEs. The advantages enjoyed by AEOs include fewer customs inspections and priority customs clearance. Participation in the AEO programme is voluntary, free of charge and open only to companies established in HKC. As of April 2018, 44 companies were accredited as AEOs. In recent years, HKC has actively engaged in signing AEO Mutual Recognition Arrangements (MRAs) with its trading partners: Mainland China (2013); India (2013); Korea, Republic of (2014); Singapore (2014); Thailand (2015); Malaysia (2016); Japan (2016); Australia (2017); and New Zealand (2018). HKC is currently holding MRA discussions with Canada, the European Union, Israel and Mexico.

3.13. The Government is working on the development of a full-fledged Trade Single Window (TSW) to further facilitate trade in goods and to maintain HKC's competitiveness as a trading and logistics hub. A consultation paper on this matter was issued for public consultation in 2016.[13] The TSW will provide a one-stop electronic platform for the trading community to lodge 50-plus business-to-government documents for meeting regulatory requirements in relation to importing and exporting goods. Upon full implementation of the TSW, the trading community will no longer need to approach different government agencies individually, and will be able to lodge all the 50-plus documents electronically round the clock through a centralized platform. The TSW is also expected to have the technical capability to interface with business platforms and with the TSWs of other economies. The TSW will be rolled out in phases until 2023. Phase 1 is scheduled to be launched 2018, and will cover 13 types of trade documents for which applications can be made through the TSW on a voluntary basis.

3.14. HKC does not require the use of customs brokers or pre-shipment inspections.

3.1.1.2 Customs valuation

3.15. Since HKC applies zero rates to all tariff lines, customs valuation is used essentially for the purpose of calculating internal taxes (e.g. excise duties) collected at the border/boundary. The valuation method to assess excise duties and the first registration tax in HKC has remained largely unchanged since the previous Review.

3.16. Under Section 26A of the Dutiable Commodities Ordinance (Cap. 109), for the purpose of assessing excise duties, the value of goods is the normal price which the goods would fetch, at the relevant time, on their sale in the open market between a buyer and seller independent of each other. The "normal price" does not include the cost of transport or insurance and other charges incidental to the delivery of the goods. The "relevant time" means, in the case of imported goods, the time when such goods are removed from the seller's premises for the purpose of export, and, in the case of goods manufactured in HKC, the time when such goods are removed from the premises on which they were manufactured. Where a "normal price" cannot be determined,

[11] TID online information. Viewed at: https://www.tid.gov.hk/english/import_export/nontextiles/wine/index.html.

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

[13] Commerce and Economic Development Bureau. Development of a Trade Single Window. Consultation Paper. April 2016. Viewed at: http://www.cedb.gov.hk/citb/doc/en/trade_single_window_consultation_paper_e.pdf.

Customs may fix a value to assess and calculate the excise duty. For imported and domestically produced liquor, the excise duty is assessed on the basis of the ex-factory price.

3.1.2 Rules of origin

3.17. Given its status as a free port, HKC does not require certificates of origin for imported goods. Nevertheless, traders must indicate the origin of goods on their import/export declarations for statistical purposes.

3.18. HKC administers an origin certification system to facilitate HKC exports to foreign markets (Section 3.2). In the case of re-exports, the origin initially conferred by the place where goods originated is maintained. There has been no change to the regulations relating to rules of origin during the period under review.

3.19. Preferential rules of origin are implemented under HKC's FTAs with Mainland China, New Zealand, the EFTA member states and Chile, and will also be implemented once the HK-ASEAN FTA enters into force in 2019.[14] Exports of HKC origin are eligible for tariff preferences under these agreements if they meet the specified origin criteria.

3.1.3 Tariffs

3.20. HKC maintains all applied MFN tariffs at zero and does not apply any tariff-rate quotas.

3.21. HKC applies the Convention on the Harmonized Commodity Description and Coding System. In 2018, HKC had a total of 7,577 tariff lines (based on the HS 2017 nomenclature), of which 47.5% were bound, all at zero rate (Table 3.1). The small increase in the percentage of bound lines (from 45.6% in 2014) is mainly explained by the implementation of HKC's tariff elimination commitment under the Information Technology Agreement (ITA) Expansion on 1 July 2016, and by the shift from the HS2012 to the HS2017 nomenclature.

3.22. Of the 3,602 bound tariff lines, 1,041 lines correspond to agricultural products (WTO definition). All agricultural tariff lines are bound, as well as all tariff lines on fish and fishery products. On the other hand, only 39.2% of non-agricultural tariff lines are bound, and all petroleum products remain unbound.

Table 3.1 Bound tariff structure by WTO definitions, 2018

	Total no. of lines	No. of bound lines[a]	Percentage of total[a]
Total lines	**7,577**	**3,602**	**47.5**
WTO agriculture	**1,041**	**1,041**	**100.0**
Animals and products thereof	173	173	100.0
Dairy products	27	27	100.0
Fruit, vegetables and plants	317	317	100.0
Coffee and tea	28	28	100.0
Cereals and preparations	125	125	100.0
Oil seeds, fats and oils and their products	90	90	100.0
Sugars and confectionary	26	26	100.0
Beverages, spirits and tobacco	77	77	100.0
Cotton	5	5	100.0
Other agricultural products n.e.s.	173	173	100.0
WTO non-agriculture (incl. petroleum)	**6,536**	**2,561**	**39.2**
Fish and fishery products	385	385	100.0
Minerals and metals	1,027	672	65.4
Chemicals and photographic supplies	1,491	164	11.0
Wood, pulp, paper and furniture	326	311	95.4
Textiles	705	100	14.2
Clothing	528	8	1.5
Leather, rubber, footwear and travel goods	214	90	42.1
Non-electric machinery	681	251	36.9

[14] The preferential rules of origin are available at the TID website. Viewed at: https://www.tid.gov.hk/english/import_export/cert/cert_coverage.html and https://www.tid.gov.hk/english/ita/fta/hkasean/index.html#fta-tabs-nav01.

	Total no. of lines	No. of bound lines[a]	Percentage of total[a]
Electric machinery	359	197	54.9
Transport equipment	216	25	11.6
Non-agriculture articles n.e.s.	555	358	64.5
Petroleum	49	0	0.0

a Including 110 tariff lines that are partially bound only.

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

3.1.4 Other charges affecting imports

3.23. Excise duties apply on the consumption of four commodity groups, whether locally produced or imported. These commodities are liquor (with an alcohol content of more than 30% by volume), tobacco, hydrocarbon oil, and methyl alcohol.[15] Duties on tobacco products have been gradually increased on public health grounds over the past years. The latest increase, in February 2014, raised the duty rate by almost 12% to HK$1,906 per 1,000 cigarettes (Table 3.2). In fiscal year 2017/18, excise duties collected amounted to HK$10,701 million (Table 3.3).

Table 3.2 Excise duty rates, 2013 and 2018

Commodity	2013	2018
	(%)	
Liquor[a]		
Liquor with an alcohol strength of more than 30% by volume, measured at a temperature of 20°C	100	100
Liquor, other than wine, with an alcohol strength of not more than 30% by volume, measured at a temperature of 20°C	0	0
Wine	0	0
	(HK$)	
Tobacco		
Cigarettes (per 1,000 cigarettes)	1,706	1,906
Cigars (per kg)	2,197	2,455
Chinese-prepared tobacco (per kg)	419	468
All other manufactured tobacco except tobacco intended for the manufacture of cigarettes (per kg)	2,067	2,309
Hydrocarbon oil (per litre)		
Aircraft spirit	6.51	6.51
Light diesel oil	2.89	2.89
Motor spirit (unleaded petrol)	6.06	6.06
Motor spirit (leaded petrol)	6.82	6.82
Ultra-low sulphur diesel	2.89	2.89
Euro V diesel	0.00	0.00
Methyl alcohol		
Methyl alcohol and any mixture thereof with an alcohol strength of up to 30% by volume, measured at a temperature of 20°C (per hectolitre)	840.00	840.00
For every 1% of alcohol strength exceeding 30% by volume	28.10	28.10

a Where there is no or insufficient information available to determine the value of imported liquor of less than 12 litres, the Commissioner of Customs and Excise (or an authorized officer) may assess the duty payable at a rate of HK$160 per litre. For the purpose of assessing and calculating duty, the transaction value of the goods will be used as the primary basis for determining value.

Source: C&ED online information. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/dutiable/types/index.html.

Table 3.3 Internal tax collection, 2013/14—2017/18

(HK$ million)

Fiscal year		2013/14	2014/15	2015/16	2016/17	2017/18
Excise duties		9,720	10,010	10,712	10,254	10,701
Liquor	Local	0.2	0.2	0.5	0.1	0.1
	Imported	415	406	431	449	523
Tobacco	Local	191	190	206	200	201
	Imported	5,658	5,879	6,327	5,781	6,225

[15] These are stipulated in the Dutiable Commodities Ordinance (Cap. 109). Viewed at: https://www.elegislation.gov.hk/hk/cap109!en@2014-12-05T00:00:00.

Fiscal year		2013/14	2014/15	2015/16	2016/17	2017/18
Hydrocarbon oil	Local	n.a.	n.a.	n.a.	n.a.	n.a.
	Imported	3,451	3,529	3,744	3,820	3,747
Methyl alcohol	Local	n.a.	n.a.	n.a.	n.a.	n.a.
	Imported	5	6	4	4	5
First registration tax		8,338	9,549	9,311	7,814	8,583

n.a. Not applicable.

Source: Information provided by the authorities.

3.24. HKC does not impose any value-added tax or goods and services tax.

3.25. HKC applies a progressive "first registration tax" (FRT) on the taxable value of new motor vehicles, which is applied exclusively on imports as no vehicles are manufactured in HKC. The tax rates remained the same during the review period, ranging from 40% to 115% for private cars (Table 3.4). For environmental reasons, electric vehicles and environment-friendly commercial vehicles (goods vehicles, buses, light buses, taxis and special purpose vehicles) have been granted concessions on this tax (see also Section 3.3.1). For fiscal years 2017/18 to 2020/21, the FRT concession on private electric cars has been capped at HK$97,500, while the tax continues to be fully waived for commercial electric vehicles. In fiscal year 2018/19, the FRT concession on electric vehicles was continued, and a new "One-for-One Replacement" Scheme was introduced and will be implemented until 31 March 2021. Under this Scheme, private car owners who buy a new private electric car and scrap an eligible private car they own will enjoy a higher FRT concession of up to HK$250,000 when fulfilling certain conditions. In fiscal year 2017/18, the revenue collected from the FRT amounted to HK$8,583 million, or 1.4% of the estimated total revenue.[16]

Table 3.4 FRT rates for motor vehicles, 2017/18

(%)

Commodity	2017/18
1. Private cars	
- on the first HK$150,000	40
- on the next HK$150,000	75
- on the next HK$200,000	100
- on the remainder	115
2. Taxis	3.7
3. Public and private light buses	3.7
4. Public buses, except buses that are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Cap. 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) within the North-West Transit Service Area as defined in the Ordinance	3.7
5. Private buses, except buses that are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Service Ordinance (Cap. 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) within the North-West Transit Service Area	3.7
6. Motor cycles	35
7. Motor tricycles	35
8. a. Goods vehicles, other than van-type light goods vehicles	15
b. Van-type light goods vehicles not exceeding 1.9 tonnes, the permitted gross weight for vehicles	
- on the first HK$150,000	35
- on the next HK$150,000	65
- on the remainder	85
c. Van-type light goods vehicles exceeding 1.9 tonnes, the permitted gross weight for vehicles	17
9. Special purpose vehicles	3.7

Source: Information provided by the authorities.

3.26. In addition to the above internal taxes, the only other charges applying to imports (and exports) are the trade declaration fee (Table 3.5) and the licensing administrative charges, where required, for specific goods; the latter vary according to the type of licence. In fiscal year 2017/18, trade declaration fees collected (for both imports and exports) amounted to HK$970 million.[17] In February 2018, the Government proposed to cap the charge for each import and export

[16] The percentage is calculated based on the estimated revenue in the 2018/19 Budget. Information provided by the authorities.

[17] Information provided by the C&ED.

declaration at HK$200, so as to lower the cost of importing and exporting high-value goods to and from HKC. The proposed amendment was approved on 20 June 2018 and implemented as of 1 August 2018.

Table 3.5 Import and export declaration charges, 2018

(HK$)

	Declaration charges
Import	
Non-food items	HK$0.2 in respect of the first HK$46,000 of the value of the goods HK$0.125 in respect of each additional HK$1,000 or part thereof, and rounded up to the nearest 10 cents
Food items	HK$0.2 per declaration irrespective of the value
Export	
Goods, whether of HKC origin or not[a]	HK$0.2 in respect of the first HK$46,000 of the value of the goods HK$0.125 in respect of each additional HK$1,000 or part thereof, and rounded up to the nearest 10 cents

a A clothing industry training levy of HK$0.30 in respect of each HK$1,000 value or part thereof is charged on exports of HKC manufactured clothing and footwear items specified in the Industrial Training (Clothing Industry) Ordinance (Cap. 318), in addition to the export declaration charge.

Source: C&ED. Viewed at: http://www.customs.gov.hk/en/cargo_clearance/declaration/charges/index.html.

3.1.5 Import prohibitions, restrictions, and licensing

3.1.5.1 Import prohibitions and restrictions

3.27. HKC prohibits or restricts the importation of certain items for reasons of public health, animal health, safety, security and environmental protection, or to comply with obligations under international treaties and agreements. The import control regime has remained largely unchanged since the previous Review, apart from some amendments to the lists of controlled items, mainly to reflect requirements arising from international conventions to which HKC is party.

3.28. Prohibited items include ozone-depleting substances (unless covered under the Montreal Protocol), rough diamonds from countries not participating in the Kimberly Process, elephant ivory and elephant ivory products (unless exempted), hazardous waste[18], certain radio-communications apparatus[19], certain chemical products, asbestos or asbestos containing materials, fighting dogs and all species of the family *Desmodontinae* (vampire bats). Transit through HKC is prohibited for nuclear materials, and chemicals or biological weapons. Restricted imports include rough diamonds from countries participating in the Kimberly Process, controlled chemicals, pharmaceutical products including dangerous drugs, proprietary Chinese medicines and 36 Chinese herbal medicines, psychotropic substances and antibiotics, arms, ammunition, weapons, fireworks, sand, pesticides, strategic commodities, rice, animals, animal carcasses[20], animal products[21], plants, endangered species, game, meat, poultry, eggs, milk and frozen confections, radioactive substances and irradiating apparatus, and biological materials. Restrictions are generally administered through licensing schemes.

3.1.5.2 Import licensing

3.29. HKC applies import licensing schemes essentially for public health, animal health, safety, security and environmental purposes, as well as to comply with international obligations and to facilitate the collection of excise duties (Table 3.6). Some of the products subject to licensing are listed in Schedule 1 of the Import and Export (General) Regulations (Cap. 60A)[22], while others are

[18] Imports of hazardous waste from countries listed in Schedule 9 of the Waste Disposal Ordinance (Cap. 354), mostly EU and OECD countries, are prohibited.

[19] Imports of radio jammers, and DECT 6.0 radio-communications apparatus operating outside 1880-1900 MHz, that cause interference to existing services and PHS radio-communications apparatus operating within 1895-1906.1 MHz are banned unless they are for re-export.

[20] This refers to the carcass of a dog/cat, or of any mammal, that has died on the journey to HKC, and the undressed carcass of any animal.

[21] This refers to a part or a derivative of a dog/cat or any mammal that has been infected with rabies.

[22] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap60A?xpid=ID_1438403522958_001.

stipulated in respective ordinances. HKC has submitted to the WTO its replies to the questionnaire on import licensing procedures, and has provided information on the different licensing schemes it currently applies, the procedural requirements involved, and the government departments that administer them.[23]

Table 3.6 Import licensing schemes, 2017

Goods	Licensing authority	Rationale
Strategic commodities[a]	TID	To prevent HKC from being used as a conduit for the proliferation of weapons of mass destruction, and to ensure HKC's continuous access to technology and high-tech products
Rice	TID	To maintain a stable supply and a reserve stock for emergencies
Pesticides	TID (for pesticides containing methyl bromide); AFCD (for pesticides other than methyl bromide)	Public health concerns
Rough diamonds	TID	International obligation under the Kimberley Process
Ozone-depleting substances	TID	International obligation under the Montreal Protocol
Pharmaceutical products and medicines; proprietary Chinese medicines and 36 Chinese herbal medicines; radioactive substances and irradiating apparatus; and biological materials	Department of Health	Public health, safety, and security; and international obligations
Tobacco, liquors, methyl alcohol and hydrocarbon oil[b]	C&ED	Excise duties collection and administration
Controlled chemicals[b]	C&ED	To prevent diversion of controlled chemicals into the illicit manufacture of narcotic drugs and psychotropic substances
Optical disc mastering and replication equipment	C&ED	To enforce the IPR regime and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities
Sand	Civil Engineering and Development Department	To protect beaches and seabeds
Frozen or chilled meat and poultry	Food and Environmental Hygiene Department (FEHD)	Public health and food safety
Genetically modified organisms (intended for release into the environment)	AFCD	Biosafety; conservation of local biodiversity; international obligations under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
Live animals, animal carcasses, and animal products	AFCD	Sanitary considerations
Plants, plant pests, and soil	AFCD	Phytosanitary considerations
Endangered species of animals and plants	AFCD	International obligations under CITES
Non-pesticide hazardous chemicals[c]	Environmental Protection Department	To protect human health and the environment in accordance with, *inter alia*, the principles of the Stockholm Convention and the Rotterdam Convention
Waste	Environmental Protection Department	To fulfil international obligations under the Basel Convention and to ensure the environmentally sound management of waste

a Radio-transmitting equipment, arms, ammunition, and explosives are subject to additional controls by other relevant authorities.
b Importers must apply to the C&ED to become a licensed importer.
c The licensing system does not apply if the chemical is a constituent element of a product.

Source: WTO document G/LIC/N/3/HKG/21, 28 September 2017; and information provided by the authorities.

[23] WTO document G/LIC/N/3/HKG/21, 28 September 2017.

3.30. Under the Import and Export Ordinance (Cap. 60), HKC controls the import, export, transhipment and certain transit[24] of strategic commodities, through a licensing system operated by the TID. The commodities subject to licensing control are listed in the Schedules to the Import and Export (Strategic Commodities) Regulations (Cap. 60G), which include arms, ammunition, chemical and biological weapons and their precursors, nuclear material and equipment, and industrial dual-use goods.[25] End-use control is also imposed on products that are used in connection with the development of weapons of mass destruction. The Schedules are updated as appropriate to keep them aligned with international control regimes, with any change requiring legislative approval. The latest amendment took effect in July 2017.

3.31. The TID is also responsible for issuing import licences for rice, rough diamonds, pesticides (containing methyl bromide) and ozone-depleting substances. Imports of rice are subject to licensing under the Reserved Commodities Ordinance (Cap. 296) for the purpose of maintaining a stable supply of rice and a reserve stock for emergencies. Imports of rough diamonds are only allowed if covered by a valid Kimberly Process Import Certificate. Only ozone-depleting substances under the Montreal Protocol may be imported under licence, and quotas apply to imports of hydrochlorofluorocarbons (HCFCs).[26] Import licences for pesticides (other than methyl bromide) intended for the protection of public health, are issued by the AFCD under delegation from the TID. In 2014, 2015 and 2018, amendments were made to the Pesticides Ordinance (Cap. 133) to include nine more pesticides in order to reflect changes in relevant international conventions.[27]

3.32. The C&ED administers import licences for dutiable commodities, controlled chemicals and optical disc mastering and replicating equipment. Importers of dutiable commodities (liquor, tobacco, hydrocarbon oil, and methyl alcohol) and controlled chemicals[28] must be licenced by the C&ED before they can apply for removal permits (for dutiable goods) or for import authorization (for controlled chemicals), which are required for each consignment. Since 27 July 2017, traders must submit licence applications for dutiable commodities electronically through the Dutiable Commodities System.[29] Import licensing for optical disc mastering and replicating equipment is mandated under the Import and Export Ordinance (Cap. 60), and its purpose is to prevent the use of this equipment for copyright infringing activities.

3.33. Imports of pharmaceutical products and medicines, proprietary Chinese medicines and 36 Chinese herbal medicines, radioactive substances, irradiating apparatus and biological materials are controlled through import licences issued by the Department of Health. Only pharmaceutical products and medicines that have been registered with the Pharmacy and Poisons Board, and proprietary Chinese medicines that have been registered with the Chinese Medicine Board, are allowed to be imported for local sale and distribution. Companies must hold an appropriate dealer's licence issued by the respective Board before they can apply for an import licence for each consignment of goods. Since July 2016, HKC has fully implemented an electronic Pharmaceutical Licence Application and Movement Monitoring System (PLAMMS) for the application of import licences for the purpose of re-exporting pharmaceutical products and medicines which are not required to be registered under the Pharmacy and Poisons Board.[30]

3.34. Under the Plant (Importation and Pest Control) Ordinance (Cap. 207) administered by the AFCD, imports of plants are subject to import licences (supported by phytosanitary certificates) and imports of plant pests or soil require a prior authorization. The AFCD also issues licences for the import of animals and plants under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the special permits required for all live animals and

[24] "Article in transit" refers to an article brought into HKC solely for the purpose of taking it out of HKC, and which remains at all times in or on the vessel or aircraft in or on which it is brought into HKC. Transit articles are usually not subject to control unless they are the more sensitive strategic commodities (e.g., some munitions, items of nuclear concern, and articles for a use relating to nuclear, chemical or biological weapons, etc.).

[25] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap60G.

[26] HCFC quotas are allocated on a yearly basis in accordance with the requirements of the Montreal Protocol. For details, see WTO document G/LIC/N/3/HKG/21, 28 September 2017.

[27] The Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

[28] Listed in Schedules 1 and 2 of the Control of Chemicals Ordinance (Cap. 145). Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap145!en?xpid=ID_1438402721479_001.

[29] WTO document G/LIC/N/2/HKG/8, 26 September 2017.

[30] WTO document G/LIC/N/2/HKG/6, 6 February 2015.

birds imported into HKC. In 2014, amendments were made to the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) to take into account changes made to the CITES Convention. In January 2018, further amendments were made to ban, by phases, trade (i.e. import, re-export and domestic sale) in elephant ivory (unless exempted) in view of a recommendation by CITES.[31]

3.35. An import licence is required to import frozen or chilled meat or poultry. A company must be registered as a food importer with the Food and Environmental Hygiene Department (FEHD) before applying for an import licence. As of December 2015, advance written permission from the FEHD and a health certificate from the place of origin are required for the import of poultry eggs. The Environmental Protection Department is responsible for administering the import permit/licensing scheme for non-pesticide hazardous chemicals, as well as the permits required for the import of waste. Between 2014 and 2018, amendments were made to the Hazardous Chemicals Control Ordinance (Cap. 595) to include eight more non-pesticide hazardous chemicals, in order to reflect changes in the Rotterdam Convention and the Stockholm Convention. These amendments have all come into effect. In 2016, amendments were also made to the Waste Disposal Ordinance (Cap. 354) to cover e-waste and container waste; these amendments are expected to come into effect in December 2018. In order to protect beaches and the seabed, the import of sand is subject to a permit issued by the Civil Engineering and Development Department.

3.36. Except for the import of frozen or chilled meat and poultry, an administrative fee is usually charged for the application and processing of an import licence. The authorities have indicated that, where fees are charged, such fees are commensurate with the cost of the service rendered. The validity of an import licence depends on the type of product involved, and can range from 28 days to one year. Import licences are not transferable.

3.37. Licensing and notification requirements for textile products imported into HKC were removed on 21 November 2014. Traders registered under the Textiles Trader Registration Scheme (TTRS) are no longer required to lodge import notifications. Registration in the TTRS is voluntary.[32]

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.38. As indicated in relevant notifications to the WTO, HKC has not set up an authority responsible for conducting investigations on anti-dumping and countervailing measures, and thus has taken no anti-dumping or countervailing actions to date.[33] Similarly, HKC has no legal or institutional framework on safeguard measures, nor has it ever applied such measures.

3.1.7 Other measures affecting imports

3.39. HKC does not apply local content requirements.

3.2 Measures Directly Affecting Exports

3.2.1 Customs procedures and requirements

3.40. Any person exporting or re-exporting goods must submit a declaration to the C&ED within 14 days after the goods have been exported or re-exported, except for exempted articles.[34] To verify any particulars given in the declaration, the C&ED may require the production of documents supporting the declaration, including the cargo manifest, the bill of lading, the airway bill or similar document, the invoice, the packing list and other documents such as removal permits, certificates or authorizations as required by the relevant laws for controlled goods. The C&ED adopts a risk-based and intelligence-led approach in selecting cargo for physical inspection. The authorities have indicated that air cargo is released within 80 minutes, and sea cargo within five working days.

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[31] The ban will be implemented in three phases, culminating with the prohibition on the possession for commercial purposes of all ivory, including pre-Convention and post-Convention ivory (except for antique ivory), from 31 December 2021.

[32] TID online information. Viewed at: https://www.tid.gov.hk/english/import_export/textiles/ts_maincontent.html.

[33] WTO documents G/ADP/N/193/HKG and G/SCM/N/202/HKG, 14 July 2010.

[34] Exempted articles are established in Regulation 3 of the Import and Export (Registration) Regulations (Cap. 60E).

3.41. The TID administers an origin certification system to facilitate exports of HKC products. The system helps exporters comply with import regulatory requirements in overseas markets and benefit from trade preferences in accordance with the preferential rules of origin stipulated in the respective FTAs between HKC and its trading partners.[35] Under such Agreements, the TID currently issues preferential "Certificates of Hong Kong Origin" for goods exported to Mainland China and New Zealand[36], and will also issue them under the HK-ASEAN FTA once it enters into force. In order to apply for a "Certificate of Hong Kong Origin", manufacturers must first obtain a Factory Registration from the TID to demonstrate their capability to produce the goods concerned. The Factory Registration is valid for one year and can be renewed. Besides the TID, the Government has authorized five other organizations to issue "Certificates of Hong Kong Origin", namely, the Hong Kong General Chamber of Commerce; the 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.

3.42. Under the Customs Facilitation Arrangement between HKC and Mainland China, as of November 2017, wine consignments passing through HKC and imported through any port in all 42 customs districts of Mainland China enjoy immediate customs clearance. HKC companies wishing to benefit from this scheme must apply to the TID for registration as Registered Wine Exporters.

3.2.2 Taxes, charges, and levies

3.43. HKC does not apply any duties or taxes on exports. Excise duties may be refunded (up to the amount paid) if the commodities subject to the duties are exported, and a written consent from the Commissioner of Customs and Excise is obtained.[37]

3.44. A fee is charged on each export (and import) declaration lodged with Customs (Table 3.5 above). Further details are set out in paragraph 3.26 above. As of 1 August 2018, the charge for each export declaration is capped at HK$200.

3.45. In addition, a Clothing Industry Training Levy of HK$0.30 per HK$1,000 of export value, or part thereof, is charged on exports of locally manufactured clothing and footwear.[38] The Levy is used to support the operation of the Clothing Industry Training Authority.

3.2.3 Export prohibitions, restrictions, and licensing

3.46. HKC prohibits exports of rough diamonds to non-participants of the Kimberly Process, and exports of ozone-depleting substances to countries outside the Montreal Protocol. In accordance with the United Nations Sanctions Ordinance (Cap. 537), HKC implements trade sanctions imposed by the UN Security Council.[39]

3.47. Certain goods are subject to export controls, such as export licences/permits, removal permits or certificates for reasons of public health, safety, security and environmental protection, as well as to comply with international obligations and collect excise duties. Export controls essentially mirror those applied to imports, with the exception of powdered formula, frozen and chilled meat and poultry, live animals and plants (Table 3.7). During the review period, the export control regime remained largely unchanged, except for a few amendments made to the lists of controlled items in order to reflect changes in international export control regimes.[40]

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[35] For the purpose of obtaining preferential tariff treatment for exports to New Zealand (for products excluding HS Caps. 61 and 62), EFTA States and Chile, HKC exporters may complete a declaration of origin. A certificate of origin is not required.

[36] The "Certificate of Hong Kong Origin (New Zealand)" is applicable to goods falling within Caps. 61 and 62 of the Harmonized System.

[37] Dutiable Commodities Ordinance (Cap. 109). C&ED online information. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/dutiable/payment/index.html.

[38] The items are listed in Schedule 1 to the Industrial Training (Clothing Industry) Ordinance (Cap. 318).

[39] UN Security Council Resolutions adopted by China extend to HKC.

[40] The list of strategic commodities was amended in 2017; amendments were made to local legislation to bring it in line with CITES in 2014 and 2018; and the list of waste materials requiring export licensing was updated to add e-waste and container waste in 2016.

Table 3.7 Export licensing schemes, 2017

Goods	Licensing authority	Rationale
Powdered formula for infants and young children aged under 36 months	TID	To tackle the shortage of powdered formula in the local market caused by parallel traders, and to safeguard the health of local infants and young children aged under 36 months
Strategic commodities[a]	TID	To prevent HKC from being used as a conduit for the proliferation of weapons of mass destruction, and to ensure HKC's continuous access to technology and high-tech products
Radio-communications transmitting apparatus	Office of the Communications Authority	To comply with the relevant legislation requirement
Rough diamonds	TID	International obligations
Ozone-depleting substances	TID	International obligations
Rice	TID	To maintain a stable supply and a reserve stock for emergencies
Pesticides	TID (for pesticide containing methyl bromide); AFCD (pesticides other than methyl bromide)	International obligations
Pharmaceutical products and medicines; proprietary Chinese medicines and 36 Chinese herbal medicines	Department of Health	Public health, safety, and security; and international obligations
Tobacco, liquors, methyl alcohol and hydrocarbon oil	C&ED	Excise duty collection and administration
Controlled chemicals	C&ED	To prevent diversion of controlled chemicals into the illicit manufacture of narcotic drugs and psychotropic substances
Optical disc mastering and replication equipment	C&ED	To enforce the IPR regime, and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities
Sand	Civil Engineering and Development Department	To protect beaches and seabeds
Genetically modified organisms (intended for release into environment)	AFCD	Biosafety; international obligations under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
Endangered species of animals and plants	AFCD	International obligations
Non-pesticide hazardous chemicals[b]	Environmental Protection Department	To protect human health and the environment in accordance with, *inter alia*, the principles of the Stockholm Convention and the Rotterdam Convention
Waste	Environmental Protection Department	To fulfil international obligations under the Basel Convention and to ensure the environmentally sound management of waste

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

Source: WTO document G/LIC/N/3/HKG/21, 28 September 2017; and information provided by the authorities.

3.48. HKC maintains the export licensing scheme introduced in March 2013 on exports of powdered formula for infants and children aged under 36 months.[41] The rationale of the licensing requirement is to safeguard the health of those children by ensuring an adequate and stable supply of powdered formula. Specifically, the objective is to address the shortage caused by the diversion of the product from the local market by parallel traders, as the demand for powdered formula is met exclusively by imports. The TID generally issues export licences only to importers of powdered formula registered with the FEHD, and the licences may only be used for re-export.

[41] Transit and transhipment cargos of powdered formula are exempted from the licensing requirement.

3.49. The textiles control arrangements were removed as of 21 November 2014, so textile exports are no longer subject to licensing requirements or notifications.[42] Traders are, nevertheless, encouraged to join the TTRS (Section 3.1.5.2 above).

3.2.4 Export support and promotion

3.50. HKC does not apply any export subsidies, as can be seen from its notifications to the WTO Committee on Subsidies and Countervailing Measures.[43] By virtue of its status as a free port, HKC does not maintain any export processing zones or special economic zones.

3.51. Export assistance in HKC consists mainly of the provision of credit insurance, marketing and branding support, as well as trade promotion activities.

3.52. The Hong Kong Trade Development Council (HKTDC) is a statutory body dedicated to promoting HKC as a platform for doing business with Mainland China, Asia and the rest of the world, supported by a network of more than 40 offices around the world, including 13 offices in Mainland China. The HKTDC helps HKC companies, especially SMEs, to explore and capitalize on export business opportunities, through organizing promotion activities, such as trade fairs, exhibitions, conferences, overseas missions and networking events, and providing market intelligence and research studies across a broad range of industries and services. In addition, the HKTDC's website features a business-matching platform with more than 1.8 million registered international buyers and 130,000 products and services suppliers. The HKTDC organizes some of the world's largest annual exhibitions for products such as electronics, jewelry, watches and clocks, gifts, and lighting; and showcases HKC's advantages in the services sector (e.g. ICT, finance, design and marketing, logistics, IP trade, etc.). In 2016/17, the HKTDC organized more than 320 trade fairs and promotion activities.[44]

3.2.5 Export finance, insurance, and guarantees

3.53. With the aim of encouraging export trade, the Hong Kong Export Credit Insurance Corporation (HKECIC) provides HKC exporters with insurance protection against non-payment risks arising from commercial and political events.[45] Its contingent liability under contracts of insurance is guaranteed by the Government. Through a resolution of the Legislative Council in May 2017, the statutory maximum liability of the HKECIC under contracts of insurance was increased from HK$40 billion to HK$55 billion, with a view to strengthening its underwriting capacity.[46] The HKECIC offers a range of insurance policies at competitive prices covering exports and re-exports, as well as goods shipped offshore from Mainland China or other countries without passing through HKC. In most cases, the percentage of indemnity in the event of loss is 90%.

3.54. Under the Small Business Policy, the HKECIC provides small exporters (with an annual turnover of less than HK$50 million) flexible arrangements and advantages in contracting insurance (e.g., an annual policy fee waiver and a 20% discount on the premium). In fiscal year 2016/17, the value of HKECIC's insured business reached HK$131.2 billion, an increase of 18.8% over the previous year (Table A3.1). Mainland China, with a share of 31.2%, replaced the United States (27.8%) as the largest insured market, while the United Kingdom ranked third, followed by Germany and Switzerland. In terms of the goods insured, electronics (27.1%) and electrical appliances (18.8%) were the two largest product groups, followed by textiles and clothing (which, in fiscal year 2015/16, had ranked second), and toys and metallic products.

3.55. Through the Export Marketing Fund (EMF), the TID helps SMEs registered in HKC to expand their markets overseas through participation in export promotion activities, including trade fairs/exhibitions (at home and abroad), trade missions, and placing advertisements in printed

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[42] Trade and Industry Department Circular TID CL 10-3/2 (C), 23 October 2014. Viewed at: https://www.tid.gov.hk/english/aboutus/tradecircular/all_in_one/2014/as072014.html.

[43] WTO documents G/SCM/N/315/HKG, 30 June 2017; and G/SCM/N/284/HKG, 2 July 2015.

[44] HKTDC online information. Viewed at: http://info.hktdc.com/Mediaroom/media_resources/en/background.html.

[45] The HKECIC was set up in 1966 under the Hong Kong Export Credit Insurance Corporation Ordinance (Cap. 1115).

[46] Legislative Council online information. Viewed at: https://www.legco.gov.hk/yr16-17/english/fc/fc/papers/fi17-01e.pdf.

trade publications or on eligible websites targeting export markets. In 2015, the scope was expanded to cover promotion activities through electronic media and setting up or enhancing corporate websites. Applications are activity-specific; successful applicants receive a grant covering 50% of the approved expenditures or HK$50,000, whichever is less.[47] While the number of applications by enterprise is not limited, there is a cumulative ceiling of HK$200,000 per SME, subject to conditions. At end-December 2017, the total amount committed through the EMF fund stood at almost US$419 million (Table A3.2).

3.56. The Dedicated Fund on Branding, Upgrading and Domestic Sales (BUD Fund) of HK$1 billion was set up in 2012. It comprises the Enterprise Support Programme (ESP) and the Organization Support Programme (OSP). The ESP provides funding to HKC enterprises to improve their competitiveness and further their business development in Mainland China, while the OSP provides funding to non-profit-distributing organizations (such as trade and industrial organizations, professional bodies and research institutes) to implement projects aimed at enhancing the overall competitiveness of HKC enterprises in Mainland China's market (Section 3.3.1.3).

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.3.1.1 Taxation

3.57. HKC maintains a simple tax system, with low rates by regional standards. Direct taxes (i.e. profits, salaries and property taxes) are the main contributors to total tax revenue, accounting for almost 60% in fiscal year 2016/17 (Table 3.8).

3.58. All businesses are subject to a tax on profits arising in or deriving from HKC. During most of the review period, the profits tax rate was set at 16.5% for corporations and 15% for unincorporated businesses. Starting from the year of assessment 2018/19, a two-tiered profits tax rates regime has been introduced, under which the tax rate for the first HK$2 million of profits of corporations is lowered from 16.5% to 8.25%. Profits above that amount will continue to be subject to the tax rate of 16.5%. For unincorporated businesses, the two-tiered tax rates are correspondingly set at 7.5% and 15%.

Table 3.8 Government revenues, 2013-17

	2013/14	2014/15	2015/16	2016/17
Government revenue (HK$ million)	455,346	478,668	450,007	573,124
of which				
Tax revenue (HK$ million)	288,065	354,026	344,598	347,936
	(% of tax revenue)			
Direct taxes	63.70	57.89	59.75	59.47
Profits tax	41.96	38.94	40.69	40.02
Salaries tax and personal assessment	20.84	18.12	18.18	18.48
Property tax	0.90	0.83	0.87	0.97
Indirect taxes	36.30	42.11	40.25	40.53
Bets and sweeps tax	6.27	5.50	5.84	6.07
Stamp duty	14.41	22.14	18.19	17.79
Air passenger departure tax	0.78	0.66	0.73	0.75
Duties	3.37	2.83	3.11	2.95
General rates	5.18	6.29	6.60	6.11
First registration tax (motor vehicles)	2.89	2.70	2.70	2.25
Royalties and concessions	1.54	0.82	0.86	3.03
Fees and charges (tax loaded fees)	1.72	2.11	2.22	1.55
Estate duty	0.13	0.05	0.01	0.01
Taxi concessions	--	--	--	0.04
Non-tax revenue (HK$ million)	167,281	124,642	105,409	225,188

Source: WTO calculations based on Census and Statistics Department (C&SD) online information.

[47] For details on expenditures covered, see EMF online information at: https://www.smefund.tid.gov.hk/english/emf/emf_expends.html.

3.59. Depreciation in respect of certain capital expenditures is allowed. For capital expenditure on the construction of industrial buildings or structures, depreciation is allowed up to 24% in the first year, and at an additional 4% annually thereafter, until the total expenditure is written off. For commercial buildings or structures, depreciation is allowed at 4% each year until the total expenditure is written off. Capital expenditure on machinery and plant that are used specifically and directly for any manufacturing processing is entitled to a 100% deduction in the first year.

3.60. For residents and non-residents, a salaries tax is imposed on all income arising in or derived from HKC, from an office, employment or any pension. Under certain circumstances, exemption or relief from this tax can be claimed on a year-by-year basis. This tax is calculated at progressive rates, ranging from 2% to 17%, with a ceiling rate of 15% applying to the overall tax liability. With effect from the year of assessment 2018/19, the Government proposed to increase the number of tax bands from four to five, with marginal rates at 2%, 6%, 10%, 14%, and 17%, respectively, and to widen each tax band from HK$45,000 to HK$50,000. In addition, the Government proposed to increase the child allowance, the dependent parent/grandparent allowance, and to introduce a new personal disability allowance. Both proposals were approved by the Legislative Council.

3.61. Since 2012/13, a one-off reduction of profits tax and salaries tax for each taxpayer has been proposed by the Government every year in the annual Budget and has been approved by the Legislative Council. For the year of assessment 2017/18, the Government proposed a one-off reduction of the profits tax and salaries tax of 75%, subject to a ceiling of HK$30,000. The authorities have indicated that one-off reductions were part of the Government's measures to share the fruits of economic success with the community.

3.62. *Ad valorem* stamp duties (AVD) are imposed on the lease, sale or transfer of immovable property, as well as on the sale of HKC stocks. AVD rates were raised for all immovable property transactions carried out on or after 23 February 2013. For residential property transactions carried out on or after 5 November 2016, AVD rates were further increased with the introduction of a flat rate of 15% on the "consideration" or value of the residential property, whichever is higher.[48] In addition to AVD, a buyer's stamp duty (BSD) of 15% is levied on residential property acquired by non-HKC permanent residents. These measures are aimed at improving demand management and ensuring that local buyers are accorded priority in the residential property market. On top of AVD and BSD (if applicable), a special stamp duty (SSD) is also payable if the residential property is disposed of by the seller or transferor within 24 months (if the property was acquired between 20 November 2010 and 26 October 2012) or 36 months (if the property was acquired on or after 27 October 2012) from the date of acquisition.

3.3.1.2 Tax incentives

3.63. A number of tax exemptions and concessions are granted to businesses and individuals. Exemptions from profits tax apply to dividends and capital gains, and on interest and profits arising from sovereign bonds issued in HKC by the Central People's Government.[49] A concessionary rate of 50% of the profits tax rate is granted on trading profits and interest income derived from qualifying debt instruments issued in HKC and on the offshore businesses of professional reinsurance companies. Exemptions also apply under certain conditions to profits derived from transactions in securities in HKC offshore funds. Deductions are allowed for certain expenses incurred in the process of earning income, such as the purchase of registered trademarks, copyrights and registered designs; fees to register trademarks and patents; scientific research; and repairs to plant and business premises, among others. There is also a 100% profits tax deduction for the first year of the purchase of environmentally-friendly commercial vehicles, machinery and equipment.

3.64. Some new profits tax incentives were introduced in the last few years. In 2015, the exemption on offshore funds was extended to private equity funds, subject to conditions. In 2016,

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[48] The term "consideration" is used under the Stamp Duty Ordinance (Cap. 117) but it is not defined. It generally refers to the total amount that the buyer agrees to pay to the vendor for the acquisition of a property.

[49] Originally, the exemption was applicable to Renminbi (CNY) sovereign bonds only, but it was extended to cover all other non-Renminbi denominated sovereign bonds in March 2018.

interest deductions from profits tax were granted for corporate treasury centres (CTCs)[50] and the profits tax for specified treasury activities was reduced by 50%. Furthermore, to attract open-ended fund companies (OFCs) to domicile in HKC, the legislature passed a bill in March 2018, under which all types of OFCs (irrespective of whether they are onshore or offshore, publicly or privately offered) can enjoy profits tax exemption in HKC. The tax exemption was implemented on 30 July 2018.

3.65. Other tax incentives include a stamp duty waiver for the trading of all exchange traded funds (ETFs), and a first registration tax (FRT) concession for electrical vehicles and environmentally-friendly commercial vehicles.[51] Since 2007/08, a one-off "general rates" concession has also been proposed by the Government every year in the annual Budget, and has been approved by the Legislative Council. General rates are one of HKC's indirect taxes levied on properties, and are charged at a percentage of the rateable value, which is the estimated annual rental value of a property at a designated valuation reference date, assuming that the property was then vacant and to let. For 2018/19, the Government proposed a rates concession, subject to a ceiling of HK$2,500 per quarter for each rateable property, as part of the measures to share the fruits of economic success with the community.

3.3.1.3 Non-tax incentives

3.66. HKC maintains several non-tax incentives programmes, essentially in the form of financial support, which are provided to assist SMEs, research and development (R&D) activities, and some services sectors (Table A3.2). Most of these programmes were already in place at the time of the last Review, although, in some cases, their scope has been expanded since then. A few additional schemes have been introduced, mainly to support innovation and technology (I&T) activities. Some of the major programmes and new schemes are described below.[52]

3.67. The TID provides several funding schemes and other support services to foster the development and competitiveness of SMEs.[53] In general, to be eligible for assistance, businesses must qualify as SMEs[54], be registered under the Business Registration Ordinance (Cap. 310), and have substantial operations in HKC.

3.68. The SME Loan Guarantee Scheme (SGS) offers loan guarantees to SMEs to help them secure loans from participating lending institutions (PLIs)[55] for acquiring business installations and equipment or meeting working capital needs (Table 3.9). The SGS guarantees up to 50% of the non-revolving loans granted by the PLIs, subject to a cap of HK$6 million per SME; the guarantee period is up to five years. In order to help SMEs overcome liquidity problems in the wake of the 2008 global financial crisis, the Government launched a Special Loan Guarantee Scheme with more flexible terms to guarantee loans for general business uses. Applications under this special scheme were closed in December 2010. As of end-2017, the cumulative approved loans of this special scheme totalled HK$94.4 billion and the cumulative amount of guarantee committed was HK$74 billion.[56]

[50] A CTC is effectively an in-house bank within a multinational corporation, focusing on the optimal procurement and usage of capital for the operations of the group.

[51] Until fiscal year 2016/17, the FRT was waived altogether for electric vehicles, and the concession on environmental-friendly vehicles applied to both private and commercial vehicles.

[52] For details on the assistance programmes for fisheries and agriculture, see WTO documents G/SCM/N/315/HKG, 30 June 2017, and G/SCM/N/284/HKG, 2 July 2015.

[53] SMEs are considered crucial for the HKC economy, as they constitute over 98% of the local business establishments and employ over 45% of the workforce in the private sector (as at December 2017).

[54] SMEs are defined as any manufacturing business which employs fewer than 100 individuals in HKC, or any non-manufacturing business which employs fewer than 50 individuals in HKC.

[55] Currently, there are 38 PLIs providing loans under the SGS. Viewed at: http://www.smefund.tid.gov.hk/english/sgs/sgs_procedures.html.

[56] TID online information, "Special Loan Guarantee Scheme". Viewed at: http://www.smefund.tid.gov.hk/english/spgs/spgs_statistics.html.

Table 3.9 Support under the SME Loan Guarantee Scheme, 2014-17

(HK$ million)

	2014	2015	2016	2017
Business installation and equipment loans				
No. of applications	127	75	57	42
No. of approvals	117	71	50	44
Total amount of guarantee committed	69.68	39.24	30.71	16.56
Total amount of loans approved	139.36	79.29	61.42	33.12
Working capital loans				
No. of applications	997	903	730	728
No. of approvals	915	835	687	700
Total amount of guarantee committed	1,064	1,165	935	1,018
Total amount of loans approved	2,125	2,350	1,871	2,036

Source: Information provided by the authorities.

3.69. Through the SME Development Fund (SDF), financial support is provided to non-profit-distributing organizations, such as trade and industrial organizations, professional bodies or research institutions, to undertake projects that help enhance SMEs' competitiveness. Funding covers up to 90% of the total project expenditure, with a cap of HK$5 million per project (increased from HK$2 million in 2015). As mentioned earlier, funding is also available under the EMF to help SMEs expand their businesses through participation in a range of export promotion activities (Section 3.2.5). In 2015, the total commitment of the EMF and SDF funds together was increased from HK$3.75 billion (about US$0.5 billion) to HK$5.25 billion (US$0.7 billion).[57]

3.70. The Dedicated Fund on Branding, Upgrading and Domestic Sales (BUD Fund) comprises two schemes: the Enterprise Support Programme (ESP) and the Organization Support Programme (OSP).[58] The ESP, implemented by the Hong Kong Productivity Council, provides financial support to HKC enterprises to enhance their competitiveness in Mainland China, by developing their brands, upgrading and restructuring their operations, and promoting sales to the Mainland China market. SMEs may apply for funds under the ESP. Funding is provided in the form of cash grants covering up to 50% of the total approved project cost, with the enterprise contributing the rest in cash. There is a cumulative funding cap of HK$500,000, and a maximum of three approved projects per enterprise; each project must be completed within 24 months. Between January 2014 and December 2017, the total amount of funding approved under the ESP was HK$324.13 million (US$41.6 million). The OSP, administered by the TID, provides funding for non-profit-distributing organizations to carry out projects aimed at assisting non-listed enterprises in HKC to develop the Mainland China market. From January 2014 to December 2017, total funding approved under the OSP was HK$108.60 million (US$13.9 million).[59]

3.71. HKC maintains a number of incentive schemes for R&D projects, mostly administered by the Innovation and Technology Commission (ITC) under the Innovation and Technology Fund (ITF). Support is provided mainly through grants and cash rebates (Table A3.2). The largest schemes in terms of value are: the Innovation and Technology Support Programme (ITSP), under which US$113.45 million of grants were approved in 2017; the Internship Programme (US$20.85 million); and the R&D Cash Rebate Scheme (US$12.22 million). The ITSP provides grants for midstream/downstream R&D projects undertaken mainly by universities, research centres, industry support organizations, professional bodies, and trade and industry associations. The Internship Programme supports the recruitment of interns to assist in R&D projects under the ITF, or carried out by incubatees or I&T tenants of the Hong Kong Science and Technology Parks Corporation or Cyberport. Under the R&D Cash Rebate Scheme, enterprises receive a cash rebate, which is currently equivalent to 40% of their R&D expenditure (30% in 2014).

3.72. In 2015, the Small Entrepreneur Research Assistance Programme (SERAP) was replaced by the Enterprise Support Scheme (ESS), which provides financial support to enterprises to conduct in-house R&D activities. Funding is provided on a dollar-for-dollar matching basis, with a ceiling of HK$10 million for each project.[60] Two other new schemes were launched by the ITC during the review period: the Technology Voucher Programme (2016), which provides funding for the use of

[57] Information provided by the authorities.
[58] BUD Fund online information. Viewed at: https://www.bud.hkpc.org/en.
[59] Information provided by the authorities.
[60] For further details, see: http://www.itf.gov.hk/l-eng/ESS.asp.

technological services and solutions by local enterprises to improve productivity or upgrade their business processes; and the Innovation and Technology Venture Fund (ITVF) (2017), with funds of HK$2billion, which seeks to stimulate venture capital (VC) fund investment in local innovation and technology start-ups. The Government will co-invest with partner VC funds at an overall matching investment ratio of approximately 1 to 2. Selection of partner VC funds is in progress, and it is expected that co-investments will be made in the second half of 2018.[61]

3.73. There are also several incentive/funding schemes targeting services, such as the film industry (Film Development Fund), the creative industries (CreateSmart Initiative)[62], and other professional services. The Professional Services Advancement Support Scheme, launched in November 2016, provides funding support to trade and industry organizations, professional bodies, and research institutes to increase exchanges of professional services with their external counterparts, promote the relevant publicity activities, and enhance their standards and external competitiveness.

3.3.2 Standards and other technical requirements

3.74. HKC has no central body for the development of standards or comprehensive legal framework regulating this area. Instead, different regulatory agencies issue their own standards and technical requirements, using international or overseas standards as a reference or aligning domestic standards with international standards where appropriate. The authorities state that their policy is to avoid situations where the setting of standards would dictate market development or become a means of protecting certain sectors of the industry.[63] The Product Standards Information Bureau (PSIB) of the ITC is HKC's enquiry and notification point for the purposes of the WTO Technical Barriers to Trade (TBT) Agreement.[64]

3.75. Since its last Review, HKC has submitted seven notifications to the TBT Committee.[65] Two concerned technical regulations (formula products and food for infants; and edible fats and oils and "waste cooking oils"); four referred to conformity assessment procedures (voluntary water-efficiency labelling on flow controllers and water closets, and energy labelling on various types of electrical appliances); and one was an addendum about the promulgation of a voluntary marketing and quality code (formula milk and food products for infants), whose draft had been notified in 2012. A comment period of at least 60 days was generally provided in the notifications, with proposed dates for adoption and entry into force set well after the expiry of the comment period. No specific trade concerns have been raised in the WTO TBT Committee concerning standards or technical regulations applied by HKC during the period under review.

3.76. Technical regulations (i.e. mandatory standards) currently in force include products such as motor vehicles, ocean-going vessels, household electrical appliances, portable air compressors, boilers and pressure vessels, building materials, toys and children's products, consumer goods, food, firefighting equipment, lifts and escalators, and telecommunications apparatus and equipment, among others. These technical regulations are applied on environmental, safety and health grounds (Table A3.3).

3.77. The competent regulatory agencies are in charge of setting their respective conformity assessment procedures in accordance with relevant legislation. Importers are responsible for ensuring that products meet applicable technical regulations and standards; generally, mandatory product certification is not required. The C&ED is responsible for ensuring that consumer goods comply with safety requirements at the border/boundary.

3.78. The Hong Kong Accreditation Service (HKAS), under the ITC, provides accreditation services to laboratories, certification bodies, and inspection bodies. The HKAS system comprises three accreditation schemes: the Hong Kong Laboratory Accreditation Scheme (HOKLAS), the Hong Kong Certification Body Accreditation Scheme (HKCAS), and the Hong Kong Inspection Body

[61] Innovation and Technology Fund online information. Viewed at: http://www.itf.gov.hk/.
[62] The "creative industries" are: advertising, architecture, design, digital entertainment, film, music, printing and publishing, and television.
[63] ITC online information. Viewed at: http://www.itc.gov.hk/en/quality/psis/srca/policy.htm.
[64] WTO document G/TBT/ENQ/38/Rev.1, 8 July 2011.
[65] WTO documents G/TBT/N/HKG/45-50 (different dates), and G/TBT/N/HKG/43/Add.1, 21 June 2017.

Accreditation Scheme (HKIAS). In April 2018, there were 273 organizations accredited under these schemes: 227 laboratories; 25 certification bodies; and 21 inspection bodies.[66]

3.79. The HKAS is a member of the International Accreditation Forum (IAF), the International Laboratory Accreditation Cooperation (ILAC), the Pacific Accreditation Cooperation (PAC), and the Asia Pacific Laboratory Accreditation Cooperation (APLAC). It is also a signatory to the multilateral mutually recognition agreement (MRAs) administered by these organizations. Since January 2014, the HKAS has expanded the scope of its MRAs to cover energy management system certification, food safety management system certification, greenhouse gas validation and verification, and proficiency testing providers. As of April 2018, the HKAS had concluded MRAs with over 90 economies worldwide.[67]

3.80. With the aim of turning HKC into a regional testing and certification hub, the Government and the Hong Kong Council for Testing and Certification (HKCTC) have put in place a number of measures to foster the development of this industry, which the authorities consider has a clear competitive advantage and growth potential.[68] For example, in February 2016, the "nil waiver fee" was introduced to facilitate the operation of testing and calibration laboratories in industrial buildings. This means that owners of industrial premises can apply to the Lands Department for a waiver of lease conditions in order to accommodate testing and calibration laboratories, and successful applicants are exempted from the payment of the corresponding waiver fee.[69] Testing and certification bodies and services are also eligible to apply under the recently established funding schemes: the Technology Voucher Programme and the Professional Services Advancement Support Scheme (Table A3.2).

3.81. HKC's labelling requirements concern mainly food products, certain household electrical appliances, Chinese herbal medicines, proprietary Chinese medicines and pharmaceutical products. Pharmaceutical products are, for example, required to have indications of the name of the pharmaceutical product, the name and quantity of each active ingredient, the name and address of the manufacturer, the product registration number, the batch number, the expiry date, the dosage, and the route and frequency of administration on the label.

3.82. Food labelling requirements are administered by the Centre for Food Safety (CFS) under the FEHD, and are stipulated in Schedule 3 of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W). Pre-packaged food labels must contain the following information in either Chinese or English or in both: the name of the food; the list of ingredients, including any allergens and additives[70]; an indication of the "use by" or "best before" date; a statement of special conditions for storage or instructions for use; the name and address of the manufacturer or packer; and the count, weight or volume of food. Regular inspections are conducted and random food samples tested to verify the labelled content. Offenders are liable to a maximum fine of HK$50,000 and six months' imprisonment.[71] Genetically-modified (GM) food is not subject to labelling requirements, rather a voluntary "positive labelling" approach is used, whereby any food product containing 5% or more of an individual GM ingredient should be labelled as GM food. The authorities do not recommend negative labelling (i.e. "GM free"), as they consider this might mislead consumers.

3.83. The Mandatory Energy Efficiency Labelling Scheme is administered by the Electrical and Mechanical Services Department, and requires local manufacturers or importers of the prescribed products to submit specified information and documents for the assignment of reference numbers. Local manufacturers or importers are required to attach energy labels in the prescribed format specified in the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) before supplying

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

[67] The list of agreements can be found at: http://www.itc.gov.hk/en/quality/hkas/agreement.htm.

[68] In 2016, there were about 670 private establishments in the testing and certification industry, with total business receipts of HK$14.1 billion and a direct economic contribution of HK$7.3 billion to GDP. The largest testing subsectors are: medical testing; toys and games; textiles, clothing and footwear; construction materials; and electrical products. Viewed at: https://www.hkctc.gov.hk/en/doc/AdministrationPaper_ci20180227cb1-604-3-e.pdf.

[69] HKCTC Report for 2016-17. Viewed at: http://www.hkctc.gov.hk/en/doc/HKCTCAnnualReport_2016-17_Eng.pdf.

[70] For additives, the label must specify the functional class and specific name or identification number under the International Numbering System for Food Additives adopted by the Codex Alimentarius Commission.

[71] Centre for Food Safety online information. Viewed at http://www.cfs.gov.hk/english/faq/faq_03.html.

these products in HKC. Local suppliers (including wholesalers and retailers) are not allowed to supply any specified product which has not been assigned a reference number and does not bear energy labels. Some types of household electrical appliances are subject to energy-efficiency labelling in order to inform consumers' choice.

3.3.3 Sanitary and phytosanitary requirements (SPS)

3.84. The Food and Environmental Hygiene Department (FEHD), through the Centre for Food Safety (CFS), and the Food and Health Bureau (FHB) are the authorities responsible for food safety and related issues. The Agriculture, Fisheries and Conservation Department (AFCD) is the competent authority for animal health and plant protection. The TID is HKC's enquiry point under the WTO Agreement on SPS.[72] This institutional set-up has remained basically unchanged since HKC's last TPR.

3.85. From January 2014 to December 2017, HKC submitted six SPS notifications to the WTO: four referred to new measures (including an emergency measure) and two were addenda to previously notified measures. The notifications covered food for human consumption, edible fats and oils of animal origin, and horses from specified countries.[73] All four new measures were based on international standards, and the authorities considered them to be in conformity with those standards. A comment period of at least 60 days was generally provided in the notifications. No specific trade concerns have been raised in the WTO SPS Committee regarding SPS measures applied by HKC during the review period.

3.86. HKC participates in meetings of the Codex Alimentarius Commission, the World Organization for Animal Health (OIE) and the Commission on Phytosanitary Measures of the International Plant Protection Convention (IPPC) under the auspices of Mainland China.

3.87. The Public Health and Municipal Services Ordinance (Cap. 132, Part V) and its subsidiary regulations, and the Food Safety Ordinance (Cap. 612) are the main laws governing food safety.[74] The Public Health and Municipal Services Ordinance regulates the protection of food purchasers, offences in connection with the sale of unfit and adulterated food, composition and labelling of food, food hygiene, and seizure and destruction of unfit food. The Food Safety Ordinance, passed in 2012, introduced new safety control measures, including a requirement for food importers and distributors to register with the FEHD and to keep transaction records in order to enhance food traceability. The Food Safety Ordinance also empowers the Director of the FEHD to issue Food Safety Orders to control, prohibit or recall imports or the supply of any food on public health grounds.

3.88. Food importers are responsible for ensuring that food products comply with all applicable laws and requirements. A prior import licence and/or a written permission from the FEHD is required for the importation of high-risk items such as frozen confections, milk and milk beverages, game, meat, poultry and eggs. Imports of these products are allowed only if they come from sources duly recognized by the FEHD: sources for frozen confections, milk and milk beverages are recognized on a manufacturing plant basis, while game, meat and poultry sources are country-specific. Under the Imported Game, Meat, Poultry and Eggs Regulations (Cap. 132AK), imports of these products require a health certificate issued by a competent body in the exporting country. Failure to submit the health certificate or the prior written permission upon entry into HKC is considered an offence liable, on conviction, to a fine of HK$50,000 and to imprisonment for six months.[75] Imports of meat and poultry transhipped through HKC in sealed refrigerated containers do not require a transhipment certificate, provided the seals remain intact during transport.

3.89. Following OIE guidelines and notifications, the Centre for Food Safety may temporarily suspend imports of poultry meat and poultry products (including eggs) for human consumption from areas where avian influenza in poultry is reported. In such cases, HKC will inform the

[72] WTO document G/SPS/ENQ/26, 11 March 2011.

[73] WTO documents G/SPS/N/HKG/39, 16 April 2014; G/SPS/N/HKG/39/Add.1, 25 June 2014; G/SPS/N/HKG/40, 15 October 2014; G/SPS/N/HKG/41, 10 August 2015; G/SPS/N/HKG/42, 8 June 2017; and G/SPS/N/HKG/35/Add.1, 6 July 2017.

[74] CFS online information. Viewed at: http://www.cfs.gov.hk/english/food_leg/food_leg.html.

[75] CFS online information. Viewed at: http://www.cfs.gov.hk/english/import/import_ifc.html.

Consulate-General and the competent authorities of the exporting countries/places concerned, and issue press releases. As at June 2018, 22 areas were subject to temporary import suspension, in most cases of a limited scope and duration.[76]

3.90. Import controls and requirements on food products are imposed for public health reasons, and are based on risk assessment. The CFS conducts reviews and analysis of food-related hazards to public health, using the risk analysis framework established by international food safety authorities and best available scientific evidence. The CFS also runs a food surveillance programme, under which the Centre's inspectors take samples of food at import, wholesale and retail levels for microbiological, chemical and radiation testing. The results are published monthly.[77]

3.91. During the review period, amendments were made to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W). The amendments, based on Codex standards, became effective in March 2014, December 2015 and June 2016, and provided for, respectively: (i) the reduction of fees on small volume exemption applications submitted by electronic means; (ii) changes to the nutritional composition and labelling of infant formulae[78]; and (iii) changes to the nutritional labelling of follow-up formulae and pre-packaged food for infants and young children.[79]

3.92. Also during the period under review, HKC started implementation of the Pesticides Residues in Food Regulation (Cap. 132CM), which came into effect in August 2014.[80] The Regulation sets out a list of pesticide maximum residue limits in food products, mostly based on the standards of the Codex Alimentarius Commission and the standards of some major food exporting economies. Imports or sales of food containing a pesticide not included on the list are not permitted unless it is demonstrated that consumption of such food is not dangerous or prejudicial to health, on the basis of a risk assessment conducted by the CFS.

3.93. In June 2017, the authorities proposed amendments to the Food Adulteration (Metallic Contamination) Regulations in order to update them and better prevent the adverse health effects posed by metallic contaminants in food. Basically, the proposed amendments would provide for the establishment of specific maximum levels targeting individual foods or food groups in accordance with the Codex principles and modern international regulatory trends in this area.[81]

3.94. The AFCD is responsible for enforcing SPS controls on imports of live animals and plants. Under the Public Health (Animals and Birds) Ordinance (Cap. 139), a special permit from the AFCD is required for imports (including transhipment) of live animals and poultry, except for imports of non-CITES animals and poultry from Mainland China, which are regulated in separate legislation.[82] On arrival, animals must be accompanied by a valid animal health certificate issued by the competent veterinary authority of the exporting country. Inspection procedures at the border/boundary, and quarantine restrictions, apply, in order to prevent the introduction of animal diseases into HKC.

3.95. The Plant (Importation and Pest Control) Ordinance (Cap. 207), also enforced by the AFCD, regulates the importation of plants and parts thereof.[83] The Ordinance draws on the principles and

[76] The authorities have indicated that in such cases they inform the Consulate-General and the competent authorities of the exporting countries/places concerned, and issue press releases.

[77] CFS online information. Viewed at: http://www.cfs.gov.hk/english/programme/programme_fs/programme_fs.html.

[78] The Amendment Regulation mandates that infant formula must contain energy and 33 nutrients in accordance with the standards from Codex Alimentarius. It also contains labelling prescriptions.

[79] The amended Regulation requires the labelling of energy value and contents of nutrients for follow-up formula and pre-packaged food for infants and young children. CFS online information. Viewed at: http://www.cfs.gov.hk/english/food_leg/food_leg_Formula_Products_for_Infants.html.

[80] The Pesticides Regulation, reported in the 2014 TPR, can be found at the CFS website at: http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/whatsnew_fstr_21_Pesticide.html.

[81] WTO document G/SPS/N/HKG/42, 8 June 2017.

[82] The authorities note that the exemption from special permit is a trade facilitation measure, given that Mainland China is the largest supplier of poultry and live animals for human consumption in HKC.

[83] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap207!en.

procedures of the IPPC and the Plant Protection Agreement for the Asia Pacific Region.[84] Imports of plants are subject to a Plant Import Licence (PIL) and must be accompanied by a valid phytosanitary certificate issued by the competent authority in the country/place of origin. Imports of cut flowers; fruit and vegetables for consumption; grains, pulses, seeds and spices for consumption or industrial use; timber and timber products; dried tobacco; and plants and soil from Mainland China are exempted from these requirements. Certain plants (specified in the First Schedule of the Ordinance) are subject to fumigation requirements and/or quarantine conditions.

3.96. The Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) regulates the release into the environment and the transboundary movement of genetically modified organisms (GMOs).[85] No one is allowed to release a GMO into the environment or import a GMO intended to be released into the environment unless the GMO has been approved by the AFCD or is exempted from approval.[86] This requirement does not apply to GMOs in transit or transhipment, or if the GMO is a pharmaceutical product for human use. Exports of GMOs intended for release into the environment are not permitted, unless an export notification is submitted to the competent authority, and/or approval of the competent authority of the place of destination is obtained according to the legal or regulatory requirements of that place, and copies thereof are sent to the Director of the AFCD.[87]

3.97. Any person wishing to release a GMO into the environment or import a GMO for the same purpose must submit an approval application in a specified form and a risk assessment report on the possible adverse biosafety effect of the GMO. In addition, importers must provide information, *inter alia,* on the regulatory status of the GMO in the place from which it is to be imported.[88] The authorities have indicated that no applications for either release or import for release have been submitted since the Ordinance (Cap. 607) came into effect.

3.98. Imports of GMOs (whether for release into the environment; contained use; direct consumption as food or feed; or processing) must be accompanied by the documents prescribed in the Regulations, containing information such as the GMO's common and scientific names, its new or modified traits and characteristics, and the contact details of the exporter and importer.[89] The documentation requirements do not apply to import shipments of GMOs for contained use or for processing that are unintentionally mixed with other living organisms, where the quantity of the GMOs in the total quantity of living organisms in the lot does not exceed the prescribed percentage, which is currently set at 5%.[90] The AFCD carries out random sampling on shipments to verify compliance with the restrictions on the import and export of GMOs intended for release into the environment and the documentation requirements.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.99. The fundamental law governing HKC's competition regime is the Competition Ordinance (Cap. 619), passed by the Legislative Council on 14 June 2012. The Competition Commission is the principal competition authority.[91] During the period under review, the main development in

[84] AFCD online information. Viewed at: http://www.afcd.gov.hk/english/quarantine/qua_plants/qua_plants_pq/qua_plants_pq_imp/qua_plants_pq_imp.html.

[85] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap607!en@2011-03-2T00:00:00?xpid=ID_1438403519183_003.govern.

[86] Sections 6 and 7 of the Genetically Modified Organisms (Control of Release) Ordinance. Two varieties of GM papaya and any GMO that is contained in a veterinary vaccine are exempted from AFCD approval.

[87] Sections 23 and 24 of the Genetically Modified Organisms (Control of Release) Ordinance.

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

[89] The Genetically Modified Organisms (Documentation for Import and Export) Regulation, Cap. 607A.

[90] Section 26 of Genetically Modified Organisms (Control of Release) Ordinance.

[91] The Competition Commission was established in 2013 under the Competition Ordinance as an independent statutory body to create and safeguard a competitive environment. The Commission's powers and responsibilities include: (i) enforcing the Competition Ordinance and investigating conduct that may contravene competition rules; (ii) promoting public understanding of the value of competition and the Ordinance's role in this regard; (iii) promoting undertakings' adoption of appropriate internal controls and risk management systems which ensure their compliance with the Ordinance; (iv) advising the Government on competition matters in and outside HKC; (v) studying matters affecting competition in markets; and (vi) promoting research in the area of competition law and policy.

this area was the issuance of a series of guidelines, guidance notes and policy documents by the Competition Commission, and the full entry into force of the Competition Ordinance on 14 December 2015. Among the above instruments, the most important are the following: the Guideline on the First Conduct Rule (cartels); the Guideline on the Second Conduct Rule (abuse of substantial market power); the Guideline on the Merger Rule; the Guideline on Complaints; the Guideline on Investigations; and the Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 (Block Exemption Orders). The Competition Ordinance, including its subsidiary legislation, constitutes HKC's comprehensive legal framework on competition.[92] Table 3.10 presents an overview of these instruments.

3.100. The Competition Ordinance applies to anti-competitive agreements and concerted practices, abuse of substantial market power and certain mergers, whether the anti-competitive conduct takes place in HKC or abroad. As regards anti-competitive agreements, the Competition Ordinance (First Conduct Rule) prohibits any type of agreements or concerted practices if their object or effect is to prevent, restrict or distort competition in HKC. A distinction is made between serious anti-competitive conduct (namely, price fixing, market sharing, output limitation and bid-rigging) and other forms of anti-competitive conduct, which may harm competition in certain contexts (e.g., selective distribution arrangements, franchising agreements and resale price maintenance). Different enforcement options are available to the Commission in each case. The Ordinance provides a "safe harbour" for smaller undertakings: the First Conduct Rule will not apply if the combined annual turnover of the relevant undertakings does not exceed HK$200 million, except where serious anti-competitive conduct is involved. A leniency policy was established in November 2015, whereby the Competition Commission will agree not to commence proceedings for a pecuniary penalty against the first cartel member that reports cartel conduct to the Competition Commission and meets all the requirements for receiving leniency.[93]

Table 3.10 HKC's legislation and relevant instruments on competition policy

Instruments	Main contents
Legislation	
Competition Ordinance (Cap. 619), including its subsidiary legislation	The Ordinance serves as the overarching legislation on competition policy. It consists of three competition rules, respectively on: the prohibition of anti-competitive agreements and concerted practices (First Conduct Rule), abuse of substantial market power (Second Conduct Rule) and anti-competitive mergers and acquisitions (Merger Rule). It spells out rules on how complaints and investigations should be conducted in this regard, and sets up the institutional arrangement on competition law enforcement: the respective roles of the Competition Commission and the Competition Tribunal.
Guidelines[a] and guidance notes	
Guideline on the First Conduct Rule	Provides an overview of key concepts used by the Competition Commission in relation to the First Conduct Rule. It also explains the Commission's approach to various types of business conduct, such as price fixing, market sharing, bid-rigging, output limitation and resale price maintenance.
Guideline on the Second Conduct Rule	Spells out the Competition Commission's approach to defining the relevant market (which also applies to the First Conduct Rule and the Merger Rule) and assessing market power. It explains the Commission's approach to certain types of business conduct, including predatory pricing, tying and bundling, margin squeeze, refusals to deal and exclusive dealing.
Guideline on the Merger Rule	Provides an overview of key concepts used by the Competition Commission in relation to the Merger Rule, and the Commission's approach and analytical tools for assessing mergers. It also addresses relevant enforcement procedures.
Guideline on Complaints	Explains the procedures to submit complaints, the use of information in a complaint, and the role of complainants in the process.
Guideline on Investigations	Sets out the main steps, relevant procedures and possible outcomes of a Commission investigation.
Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 (Block Exemption Orders)	Outlines the main steps and possible outcomes of an application for exclusions, exemptions or block exemptions, and provides procedural protections for those involved in an application.
Guidance Note on How to Assess "Turnover" for Exclusions from the Competition Ordinance Conduct Rules	Summarizes and explains the rules about the calculation of turnover to assist undertakings in determining whether they are entitled to use the "safe harbour".

[92] The Competition Ordinance and its subsidiary legislation are available at: http://www.compcomm.hk/en/legislation_guidance/legislation/legislation/comp_ordinance_cap619.html.
[93] The Leniency Policy is available at: https://www.compcomm.hk/en/legislation_guidance/policy_doc/files/Leniency_Policy_Eng.pdf.

Instruments	Main contents
Guidance Note on Fees Payable for Making an Application to the Competition Commission	Establishes the fees charged by the Competition Commission for applications for available exclusions and exemptions. It also provides information about how the Competition Commission proposes to consider requests to waive or reduce fees, and the circumstances in which a fee will be refunded.
Guidance Note on Investigation Powers of the Competition Commission and Legal Professional Privilege	Explains how legal professional privilege is reserved against the investigations by the Competition Commission.
Policy documents	
Enforcement Policy	Supplements the Competition Ordinance and the guidelines, spelling out how the Competition Commission intends to exercise its enforcement function in investigating possible contraventions of the First and Second Conduct Rules.
Leniency Policy for Undertakings Engaged in Cartel Conduct	Outlines the Competition Commission's approach to leniency applications, and provides a template agreement. It also sets out confidentiality issues regarding leniency.

a The six Guidelines are jointly issued by the Competition Commission and the Communications Authority. They are not substitutes for the Competition Ordinance and do not have a binding legal effect. The Competition Tribunal and other courts are ultimately responsible for interpreting the Ordinance. The Competition Commission and the Communications Authority are not bound by their own interpretation of the Ordinance.

Source: Information provided on the official website of the Competition Commission.

3.101. Regarding abuses of substantial market power, the Second Conduct Rule prohibits undertakings with a substantial degree of market power from abusing that power by engaging in conduct that has the object or effect of preventing, restricting or distorting competition in HKC. Examples of such conduct in the relevant guidelines include: (i) predatory pricing to prevent potential competitors from entering into the market; (ii) tying and bundling; (iii) margin squeeze[94]; (iv) refusal to deal; and (v) exclusive dealing. Factors such as the market share of the undertaking; its power to make pricing and other decisions; and barriers for competitors to enter into the relevant markets are taken into account when assessing market power. A "safe harbour" is also established under the Second Conduct Rule for smaller undertakings with an annual turnover not exceeding HK$40 million.

3.102. Apart from the "safe harbours", the Competition Ordinance allows for a number of exclusions and exemptions from the first two conduct rules (Table 3.11).These include agreements enhancing overall economic efficiency; agreements or conduct undertaken in order to comply with a legal requirement; undertakings entrusted by the Government with a service of general economic interest; and agreements or conduct resulting in a merger.[95] Exemptions may also be granted on public policy grounds, or to avoid conflicts with HKC's international obligations. Moreover, most statutory bodies are exempted from the application of the substantive competition rules.[96] In 2018, the authorities will review the exemptions for statutory bodies.

3.103. With regard to mergers and acquisitions, the Competition Ordinance (Merger Rule) prohibits mergers that have, or are likely to have, the effect of substantially lessening competition in HKC. However, this Rule is currently applicable only to mergers involving undertakings that hold a carrier licence[97], or that directly or indirectly control an undertaking that holds such a licence. The authorities have indicated that, as part of the review of the Competition Ordinance, an area to be looked into may include the scope of the Merger Rule. No merger notification is required under

[94] Margin squeeze may occur in a market where an undertaking has a dominant market position in supplying downstream clients with goods or services, while this undertaking also has its own operations in the downstream. Under such scenario, the concerned undertaking may harm competition by reducing the margin between the price it charges for the input to its competitors in the downstream market and the price its downstream operations charge to its own customers.

[95] Schedule 1 of the Competition Ordinance. Viewed at: https://www.elegislation.gov.hk/hk/cap619!en@2016-10-20T00:00:00.

[96] Six statutory bodies (Ocean Park, Matilda and War Memorial Hospital, the Federation of Hong Kong Industries, the General Committee of the Federation of Hong Kong Industries, Helena May, and Kadoorie Farm) are subject to provisions of the Competition Ordinance by virtue of the Competition (Application of Provisions) Regulation (Cap. 619A). On the other hand, seven entities (the Stock Exchange and other financial entities) are excluded from the application of the First and Second Conduct Rules by virtue of the Competition (Disapplication of Provisions) Regulation (Cap. 619B).

[97] As defined under the Telecommunications Ordinance (Cap. 106).

the Competition Ordinance. The Merger Rule does not apply if the economic efficiencies from the merger outweigh the harm caused to competition.

Table 3.11 Exclusions and exemptions from the Conduct Rules

Relevant exclusion or exemption	Exclusion or exemption from the First Conduct Rule	Exclusion or exemption from the Second Conduct Rule
General exclusions		
Agreements enhancing overall economic efficiency	Yes	No
Compliance with legal requirements	Yes	Yes
Services of general economic interest	Yes	Yes
Mergers	Yes	Yes
Agreements of lesser significance	Yes	No
Conduct of lesser significance	No	Yes
Block exemption orders	Yes	No
Public policy exemption	Yes	Yes
International obligations exemption	Yes	Yes
Statutory body and specified person or activities exclusions	Yes	Yes

Source: Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 Block Exemption Orders.

3.104. Regarding any anti-competitive conduct by undertakings operating in the telecommunications and broadcasting sectors, the Competition Ordinance stipulates that the Communications Authority has concurrent jurisdiction with the Competition Commission in carrying out relevant investigations and enforcement proceedings. In December 2015, both authorities signed a Memorandum of Understanding (MoU) on mutual coordination and cooperation in this regard.[98] Given the Communications Authority's specific function of regulating the broadcasting and telecommunications sectors, and the restricted application of the Merger Rule under the Competition Ordinance to mergers involving carrier licensees concerned, the Communications Authority will ordinarily take the role of lead authority on matters which fall within the concurrent jurisdiction of both authorities. Where a matter involves issues that are partly within the concurrent jurisdiction and issues that are partly outside the concurrent jurisdiction, the two authorities will discuss and agree on how best to progress the matter on a case-by-case basis.

3.105. The Competition Ordinance authorizes the Competition Commission to issue a block exemption order in respect of a category of agreements which enhance overall economic efficiency. The order may be issued either on the Competition Commission's own volition or upon request by an undertaking or an association of undertakings. Detailed information on the application and issuance of exemptions is contained in the Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 (Block Exemption Orders).[99] On 8 August 2017, the Competition Commission issued its first block exemption order since the full commencement of the Competition Ordinance. The order provides a block exemption for vessel sharing agreements between liner shipping companies.[100]

3.106. In order to enforce the Competition Ordinance, the Competition Commission has several options available. Where they have reasonable cause to believe that a contravention of the First or Second Rule has occurred which, in the case of the First Rule, involves serious anti-competitive conduct, the Competition Commission may bring proceedings directly before the Competition Tribunal, or issue an "infringement notice" offering not to bring proceedings if the undertaking concerned makes a commitment to comply with the requirements of the notice. In cases where the contravention does not involve serious anti-competitive conduct under the First Conduct Rule, the Competition Commission must, before bringing proceedings, issue a "warning notice" requiring

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[98] The MOU is available at: https://www.compcomm.hk/en/about/inter_agency/files/MoU_e_final_signed.pdf.

[99] The Guideline is available at: https://www.compcomm.hk/en/legislation_guidance/guidance/applications/files/Guideline_Applications_Eng.pdf.

[100] The Block Exemption Order is available at: https://www.compcomm.hk/en/enforcement/registers/block_exemption/files/Block_Exemption_Order_and_Guidance_Note_final.pdf. The Competition Commission's Statement of Reasons for this exemption is available at: https://www.compcomm.hk/en/enforcement/registers/block_exemption/files/Statement_of_Reasons_Non_confidential_version.pdf.

the undertaking to put an end to the relevant conduct; if the undertaking fails to do so, the Competition Commission may bring proceedings before the Competition Tribunal.

3.107. The power to adjudicate proceedings and impose penalties lies with the Competition Tribunal, a specialized superior court established under the Competition Ordinance, which commenced operations in December 2015. Where a violation of the Competition Ordinance is determined, the Competition Tribunal can impose pecuniary penalties of up to 10% of an undertaking's annual turnover in HKC, for each year of contravention up to a maximum of three years. The Competition Tribunal may impose other remedies, such as ordering an undertaking to refrain from engaging in the infringing conduct; declaring an agreement to be void or voidable, or requiring the parties to modify or terminate an agreement. It may also require the payment of compensation for damages, and disqualify an individual from serving as a director of an undertaking. Persons that have suffered loss or damage as a result of an act determined to be a contravention of the Ordinance may also bring lawsuits before the Competition Tribunal to seek compensation. The time-limit for follow-on actions is three years. The proceedings of the Competition Tribunal are regulated by the Competition Tribunal Rules (Cap. 619D) and relevant Practice Directions.[101]

3.108. On 23 March 2017, the Competition Commission filed enforcement proceedings in the Competition Tribunal for the first time. The proceedings were against five IT companies over an allegation of bid-rigging in a tender in mid-2016 for the supply and installation of an IT server system. On 14 August 2017, the Commission filed a second case before the Competition Tribunal alleging that 10 engineering and construction companies had contravened the First Conduct Rule by engaging in market sharing and price fixing in relation to the provision of renovation services at a public rental housing estate. At the time of writing this report, none of the cases had yet been heard.

3.109. In accordance with the Competition Commission's Enforcement Policy, when considering whether to initiate an investigation, the Commission gives priority to cases concerning: cartel conduct; agreements that infringe the First Conduct Rule causing significant harm to competition; and abuses of substantial market power.[102] Advocacy is another major focus of the work of the Competition Commission and, as a result of its efforts in this area, public awareness of the Competition Ordinance has grown, and a compliance culture is taking shape in HKC. In mid-2015, the Competition Commission launched a compliance project of trade and professional associations to review the published practices of over 350 trade associations. Associations with high-risk practices, such as price restrictions or setting fee scales, were identified and asked to change their practices.[103]

3.110. Moreover, a growing number of complaints, queries and referrals ("enforcement contacts") about potentially anti-competitive conduct or other aspects of competition policy have been received by the Competition Commission since the Competition Ordinance came into full effect. Between 14 December 2015 and 31 March 2017, the Competition Commission received a total of 2,105 enforcement contacts.[104] The majority of these were related to the First Conduct Rule, with cartel conduct and resale price maintenance being the major concerns. As regards the Second Conduct Rule, tying and bundling and exclusive dealing were the main issues raised (Table 3.12). In 2016 and 2017, around 100 enforcement contacts were assessed further, of which about 18% proceeded to in-depth investigation.

3.111. The Competition Policy Advisory Group (COMPAG), which previously handled complaints related to competition, now deals with competition-related complaints concerning only the entities that fall outside the scope of the Competition Ordinance. This includes complaints against most of the statutory bodies, and any other entities, agreements and conduct which have been exempted from the application of the competition rules.

[101] The Competition Tribunal Rules are available at: https://www.elegislation.gov.hk/hk/cap619D!en. The Practice Directions are available at: http://legalref.judiciary.hk/doc/npd/eng/CTPD1.htm and http://legalref.judiciary.hk/doc/npd/eng/CTPD2.htm.

[102] Enforcement Policy paragraph 3.5. See also the Competition Commission's Annual Reports. Available at: https://www.compcomm.hk/en/media/reports_publications/annual_reports.html.

[103] Competition Commission Annual Report 2015-2016, pages 40 and 53.

[104] During the same period, the Communications Authority received a total of 119 complaints or enquiries under the Competition Ordinance, some of which were referred by the Competition Commission.

Table 3.12 Enforcement contacts by type of alleged conduct, December 2015-March 2017

First Conduct Rule	No.	Second Conduct Rule	No.	Others	No.
Cartel conduct	583	Tying and bundling	103	Not related to a Conduct Rule[a]	806
Resale price maintenance	323	Exclusive dealing	83		
Exchange of information	96	Refusal to deal	52		
Exclusive dealing	112	Predation	34		
Other	263	Other	175		

a The contact was unrelated to the Competition Ordinance or was about the general state of competition, rather than an allegation of specific anti-competitive conduct by an undertaking.

Note: Each case may involve allegations of multiple types of anti-competitive conduct.

Source: Competition Commission Annual Reports 2015-2016 and 2016-2017.

3.112. The Competition Commission is an active member of the International Competition Network (ICN), and has participated in the work of various ICN Working Groups, including by hosting webinars and co-chairing the Advocacy Working Group. The Competition Commission also liaises closely with competition agencies around the world on both a bilateral and a multilateral basis. In December 2016, the Competition Commission signed its first international MoU with the Canadian Competition Bureau, under which the two agencies agreed to share competition law knowledge and enforcement experience, and engage in other forms of technical cooperation including staff exchanges. These international exchanges have benefitted the Competition Commission during its formative years

3.3.4.2 Price controls

3.113. As a general rule, HKC does not apply price controls on goods or services. Nevertheless, the fees for pilotage services in ports are set by the Director of the Marine Department, after consultation with the relevant stakeholders.[105] In 2016, pilotage dues were revised upwards to adjust them to inflation and the market situation.[106] The authorities monitor the prices of public transport and some energy products.

3.3.5 State trading, state-owned enterprises, and privatization

3.114. HKC has notified the WTO that it does not maintain state-trading enterprises in accordance with the working definition of such enterprises in Paragraph 1 of the Understanding on the Interpretation of Article XVII.[107]

3.115. While economic activity in HKC is virtually free from government intervention, the authorities play a significant role in fostering certain key economic sectors, in particular transport services and infrastructure, through financial participation in several corporations (Table 3.13).[108]

Table 3.13 Enterprises in which the Government has financial stakes, 2018

Company	Government shareholding (%)
Airport Authority (AA)	100.0
Hong Kong Cyberport Development Holdings Limited	100.0
Hong Kong Science and Technology Parks Corporation (HKSTPC)	100.0
Kowloon-Canton Railway Corporation (KCRC)	100.0
IEC Holdings Ltd.	88.2
MTR Corporation Limited (MTRCL)	75.2
Hong Kong International Theme Parks Limited (HKITP)	52.9
West Rail Property Development Limited (WRPDL)	49.0
New Hong Kong Tunnel Company Ltd.	7.5
Hong Kong Exchanges and Clearing Ltd. (HKEx)	6.0

Source: Information provided by the authorities as at 4 April 2018.

[105] Section 22 of the Pilotage Ordinance (Chapter 84).
[106] Pilotage (Dues) (Amendment) Order 2016. Viewed at: https://www.legco.gov.hk/yr15-16/english/subleg/brief/2016ln088_brf.pdf.
[107] WTO document G/STR/N/17/HKG, 19 January 2018.
[108] The Treasury online information. Viewed at: http://www.try.gov.hk/internet/eharch_annu_statend17.html#p.

3.3.6 Government procurement

3.116. According to the policy statement in the Financial Services and the Treasury Bureau (FSTB) website, HKC maintains an open and non-discriminatory government procurement regime. The authorities are committed to providing equal opportunities for domestic and foreign suppliers and service providers to participate or compete in HKC's government procurement.[109] The basic principles underpinning government procurement are public accountability, value for money, transparency, and open and fair competition.

3.117. HKC is a party to the WTO Agreement on Government Procurement (GPA) and ratified the Protocol amending the Agreement in 2012. Under the revised GPA, HKC is committed to allowing suppliers from other GPA parties to participate in procurements above specified thresholds by its 62 government agencies and five other entities, with a small number of exclusions.[110] HKC has also undertaken commitments to open its procurement market to suppliers and service providers from New Zealand and Chile under its respective trade agreements with these countries.[111] HKC has endorsed APEC's Transparency Standards on Government Procurement.

3.118. The share of government procurement in the HKC economy is small. During the period 2014-17, the average annual value of government procurement contracts (including goods, services and construction works) above specified thresholds was HK$113.87 billion, representing on average 4.62% of GDP (Table 3.14). In 2017, over 80% of the goods purchased was imported.[112]

3.119. During the review period, HKC introduced some changes to its government procurement regime, in order to bring regulations in line with the revised GPA, which came into force on 6 April 2014, as well as to simplify tender procedures and documentation, foster the participation of SMEs, and promote green procurement. HKC has regularly submitted notifications under the revised GPA.[113]

3.120. The procurement process continues to be generally governed by the Stores and Procurement Regulations (SPRs)[114], supplemented by relevant financial circulars and memoranda from the FSTB. The SPRs apply to all procurement of goods (except land and buildings) and services (including construction and engineering) by most government agencies.[115]

3.121. For commonly used goods, HKC uses a centralized procurement approach. The Government Logistics Department (GLD) serves as the central procurement office in this regard. It purchases a wide variety of goods in bulk used by most government entities, and provides them with expertise and services throughout the different phases of the procurement process, including contract administration. It also acts as the procurement agent for specific products and equipment required by government departments and some non-government organizations.

[109] FSTB online information. Viewed at: https://www.fstb.gov.hk/tb/en/guide-to-procurement.htm#topic-2.

[110] The 62 government agencies represent essentially the structure of the Government. The five entities include the Airport Authority, the Hospital Authority, the Housing Authority and Housing Department, the Kowloon Canton Railway Corporation and the MTR Corporation Limited. For procurements of goods and general services, the threshold is SDR 130,000 for government agencies and SDR 400,000 for other entities. For construction works, the threshold is SDR 5 million for all types of procuring entities. Details of HKC's market access coverage and exclusions are contained in WTO document GPA/113, 2 April 2012, pp. 255-264. Subsequent modifications to HKC's schedule are contained in WTO documents WT/Let/946, 18 June 2014; and WT/Let/1137, 17 March 2016.

[111] HK-New Zealand Closer Economic Partnership Agreement (HK-NZ CEPA). Viewed at: https://www.tid.gov.hk/english/trade_relations/hknzcep/files/HKNZCEP121_HKEntities.pdf; and HK-Chile FTA. Viewed at: https://www.tid.gov.hk/english/trade_relations/hkclfta/files/Annex9.1.pdf.

[112] Data provided by the authorities.

[113] HKC's notifications under the revised GPA include: local currency equivalent of thresholds (GPA/W/336, 9 December 2015; and GPA/THR/HKG/1, 20 December 2017) and procurement statistics (GPA/130/Add.2, 8 October 2015; GPA/137/Add.3, 26 August 2016; GPA/142/Add.6, 31 August 2017; and GPA/142/Add.6/Corr.1, 4 September 2017).

[114] The SPRs are available at: http://www.fstb.gov.hk/tb/en/docs/espr_chapter3.pdf.

[115] A few government agencies (namely, the HKMA, the Independent Police Complaints Council (IPCC) and the Ombudsman's Office) in Annex 1 of HKC's schedule, and all five entities in Annex 3, have their own procurement rules.

Table 3.14 Government procurement, 2014-17

(HK$ million and %)

	Central government entities[a]	Other entities[b]	Total[c]	Ratio to GDP
Total 2014	**37,443.46**	**44,912.04**	**82,355.50**	**3.67**
Goods	2,852.52	11,468.48	14,321.00	
Services (other than construction)	4,052.13	2,966.78	7,018.91	
Construction services	30,538.81	30,476.78	61,015.59	
Total 2015	**63,973.51**	**58,717.81**	**122,691.32**	**5.11**
Goods	4,127.12	14,979.98	19,107.10	
Services (other than construction)	6,866.13	5,061.19	11,927.32	
Construction services	52,980.26	38,676.64	91,656.90	
Total 2016	**35,976.58**	**81,349.93**	**117,326.51**	**4.71**
Goods	2,544.02	9,004.41	11,548.43	
Services (other than construction)	6,253.44	7,035.05	13,288.49	
Construction services	27,179.12	65,310.47	92,489.59	
Total 2017	**80,627.52**	**52, 486.05**	**133,113.57**	**5.00**
Goods	4,069.78	12,581.52	16,651.30	
Services (other than construction)	6,054.90	6,441.06	12,495.96	
Construction services	70,502.84	33,463.47	103,966.31	

a For central government entities, statistics include only procurement of goods and services of a value exceeding HK$1.43 million, and construction services of a value exceeding HK$4 million for 2014-16 and HK$7 million for 2017.

b For other entities, statistics include only procurement of goods and services of a value exceeding SDR 0.4 million (approximately HK$4.74 million in 2014-15, and HK$4.565 million in 2016-17), and construction services of a value exceeding SDR 5 million (approximately HK$59.26 million in 2014-15, and HK$57.06 million in 2016-17).

c There may be a slight discrepancy between the sum of individual items and the totals due to rounding.

Source: Information provided by the authorities.

3.122. Construction services are procured by individual work departments that operate under the supervision of the Development Bureau (DEVB). The DEVB provides them with general guidance and technical advice on tendering procedures and contract administration, and keeps a register of approved works contractors and a performance reporting system.

3.123. Under the SPRs, four types of procuring methods are allowed, namely: open tendering; selective tendering; single and restricted tendering; and pre-qualified tendering. Procurement contracts of a value above HK$1.43 million for goods and general services, and above HK$7 million for construction and engineering services, are normally subject to open tendering, whereby all interested suppliers are invited to participate.[116] Tender notices must be published in the Government Gazette and, where the procurement is covered by the GPA, this must be specified in the tender notice. In addition, the procuring entities may publish tender notices on the Internet, or in local and/or international press and journals, if necessary. For works contracts not exceeding HK$55 million and procurements not covered by the GPA, it suffices to publish tender notices on the Internet. Tender notices must include a brief description of the conditions of participation, and the requirements for specific documents or certifications. Tenderers are normally given a minimum of three weeks to prepare and submit their bids. For procurements covered by the GPA, at least 40 days must be allowed for receipt of tenders.

3.124. Selective tendering takes place when suppliers on a relevant approved list are invited to submit tenders. This method may be used where there is a frequent need to invite tenders for certain goods or services, but not all suppliers in the market are capable of providing the required goods or services. Hence, the procuring entities may establish lists of qualified suppliers, which must be approved by the Permanent Secretary for Financial Services and the Treasury (Treasury) (for goods and general services) or by the Permanent Secretary for Development (for works and related materials). The qualification criteria and assessment method must not discriminate among overseas suppliers, or between domestic and overseas suppliers. For procurements covered by the GPA, tenders from non-qualified suppliers will be considered unless there are exceptional

[116] The value for procuring goods and services (other than construction and engineering services) that is subject to open tendering is within the GPA threshold (i.e. SDR 130,000 = HK$1.48 million approximately by end-2017), while the value for procuring construction and engineering services is far below the GPA threshold (i.e. SDR 5,000,000 = HK$57.06 million approximately by end-2017).

circumstances; and the qualification criteria should be limited to those essential to ensuring that the suppliers have the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurements.[117] A supplier may not be denied qualification for the reason that it has not previously been awarded contracts by a GPA-covered entity.[118] Notices of tender invitations must be published in the Government Gazette, on the Internet, and/or sent by letter to all qualified suppliers. For procurements covered by the GPA, procuring entities shall notify and invite the suppliers on the approved lists of qualified suppliers to submit tenders.[119] Notices inviting interested suppliers to apply for admission to the lists are published continuously on the websites of the relevant procuring entities. New applications for admission to the pre-qualification lists are allowed at any time. A supplier shall not be excluded from participation in a tender exercise simply on the grounds that there is no sufficient time to examine its request for admission to the approved list.[120]

3.125. Single or restricted tendering is only allowed under exceptional circumstances where open and competitive tendering would not be an effective means of obtaining the required goods or services. For example, in cases of extreme urgency; in order to protect IPRs; where the required procurement is a work of art; where there is an absence of competition for technical reasons; or where services are to be provided by utility companies. When this method is used, tenders are invited from only one or a limited number of suppliers, prior approval of the Permanent Secretary for Financial Services and the Treasury (Treasury) of the FSTB or the Director of the GLD. Notices of tender invitation are to be sent by letter to the tenderers, without stating that they are invited on a single or restricted basis.

3.126. Pre-qualified tendering is used when it is necessary to pre-qualify a list of tenderers that are financially and technically capable of undertaking a particular project or supplying a particular product. These include: projects that require pre-testing of equipment to determine its suitability; projects of an extremely complex nature, high value or subject to very rigid completion programmes; projects that call for a high level of co-ordination, technical expertise, or a non-standard form of contract; and products which are critical to the procuring entities. Pre-qualification is conducted on a project/product basis and must be approved by Permanent Secretary for Financial Services and the Treasury (Treasury) of the FSTB, with the advice of the Central Tender Board. Invitations for pre-qualification are published in the Government Gazette. If necessary, the invitation may also be published on the Internet, in the local press, and selected overseas journals for the particular trade or product. Notices of tender invitation are sent by letter to the pre-qualified tenderers. For GPA-covered procurement, no less than 25 days must be allowed for submitting applications to be pre-qualified.

3.127. Under the SPRs, procuring entities must normally use pre-established contract forms when inviting tenders. The tender documents must contain a complete description of essential information, including the delivery dates, any limitation on the means by which tenders may be submitted, and the authentication and encryption requirements where the tenders may be submitted by electronic means.[121] Tender specifications must be drawn up in a manner that meets the principles of maintaining open and fair competition, and shall not be prepared or applied with the purpose or the effect of creating unnecessary obstacles to trade or competition amongst potential tenderers. Specifications must be based on functional and performance requirements, and, where practicable, on international standards. They shall not refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier.

3.128. HKC uses Standing Offer Agreements (SOAs), in which the terms governing contracts to be awarded during a given period are established. SOAs are used mainly in the procurement of IT-related products and services, as well as those stores which are commonly required by many procuring entities. When the provision of such products/services is required, the procuring entities invite the selected SOA contractors to provide the requisite quantities of products/services based on the selection criteria set out in the terms of the SOA contracts. SOA contracts are normally invited through open tender, and the award of contracts to selected contractors is basically on a competitive basis.

[117] SPR 320 (c); included to ensure compliance with the revised GPA.
[118] SPR 320 (c); included to ensure compliance with the revised GPA.
[119] SPR 320 (a); included to ensure compliance with the revised GPA.
[120] SPR 320 (a); included to ensure compliance with the revised GPA.
[121] SPR 345 (c) (i); included to ensure compliance with the revised GPA.

3.129. During 2014-17, a total of 4,115 government procurement contracts (above the thresholds specified in the SPRs) were awarded, of which 62.8% were through open tender procedures, 11.3% through selective tendering, 20.5% through restricted or single tendering, and 5.4% through pre-qualified tendering (Table 3.15).

Table 3.15 Government procurement contracts awarded by type of procedure, 2014-17

	2014	2015	2016	2017
Central government entities[a]				
Contracts awarded	475	559	502	493
Open tender	349	424	414	397
Selective tender	95	101	65	71
Of which pre-qualified tender	4	3	0	2
Restricted tender (including single tender)	31	34	23	25
Other entities[b]				
Contracts awarded	520	485	512	569
Open tender	241	204	273	281
Selective tender	103	106	72	77
Of which pre-qualified tender	57	75	37	46
Restricted tender (including single tender)	176	175	167	211
Complaints by suppliers, contractors or consulting firms[c]	5	4	5	3

a The statistics cover only procurement of goods and services of a value exceeding HK$1.43 million, and construction services of a value exceeding HK$4 million in 2014-16 and HK$7 million in 2017.
b The statistics cover only procurement of goods and services of a value exceeding SDR 0.4 million (approximately HK$4.74 million in 2014-15, and HK$4.57 million in 2016-17), and construction services of a value exceeding SDR 5 million (approximately HK$59.26 million in 2014-2015, and HK$57.06 million in 2016-17).
c Complaints submitted against Annex 1 and Annex 3 entities to the Central Tender Board, the GLD Tender Board or the Independent Review Body on Bid Challenges.

Source: Information provided by the authorities.

3.130. Tender evaluation is done against the technical specifications, essential requirements, and terms and conditions laid down in the tender notices/documents. Two methods are eligible in tender evaluation: the lowest-price method, and the overall marking method. Under normal circumstances, the lowest-price method is used, whereby tenders are ranked according to their price and the contract is awarded to the tenderer that is fully capable of undertaking the contract at the lowest price. The overall marking method is used where the quality of the goods or services is of such importance that there is a need for a separate assessment of the technical aspects of the tender. Under this method, the contract is awarded to the tenderer that meets all the essential requirements, attains the passing marks (if any), and obtains the highest overall score (i.e. the sum of the price and technical scores). The criteria for marking and the calculation formula are contained in the Guidelines for Adopting a Marking Scheme for Tender Evaluation (Appendix III (G) of the SPR). The procuring entity submits its recommendation regarding the most advantageous tender to the relevant tender board or committee for approval.

3.131. Several tender boards/committees are established for considering and making decisions on tenders. The Central Tender Board considers high value tenders, i.e. above HK$30 million for goods and general services, and above HK$100 million for construction services. The GLD Tender Board is in charge of tenders (except for construction works) with a value not exceeding HK$30 million.[122] The Public Works Tender Board is responsible for construction and related contracts not exceeding HK$100 million.[123] The tender committees of government departments and bureaux are responsible for their own tenders (other than construction and engineering services), with a value not exceeding HK$5 million.

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

3.133. HKC maintains several review mechanisms to ensure fairness and due process in government procurement. The procedures to handle general procurement complaints are

[122] Increased from HK$15 million as from 1 July 2017.
[123] Increased from HK$30 million as from 27 May 2016.

established in the SPRs. An aggrieved supplier or contractor may, at any time, lodge a complaint about the process or outcome of a tender, directly with the procurement entity or the relevant tender board. The resolution of a complaint may lead to a change in the procurement policy and/or the application of sanctions on the procurement officer.

3.134. For procurements covered by the GPA, HKC has set up a dedicated, Independent Review Body on Bid Challenges. The procedures for handling bid challenges are set out in the Rules of Operation of the Review Body.[124] A tenderer may lodge a challenge to the Review Body within 10 working days after he/she knew, or reasonably should have known, the basis of the challenge. A challenge shall not be considered if such a period exceeds 30 working days. All complaints must be handled in an impartial and timely manner, and an early and substantial reply must be given to the complainant. The Review Body is also in a position to receive and review procurement challenges arising from HKC's FTAs with New Zealand and Chile. Where a breach is found, the Review Body may recommend a remedy in the form of corrective measures or compensation, which is limited to the costs for tender preparation or the costs for the challenge, or both. Other control mechanisms include the Audit Commission, the Office of the Ombudsman, the Legislative Council, and the Independent Commission against Corruption, which deals with complaints regarding alleged corruption.

3.135. Between 2014 and 2017, 17 procurement-related complaints were submitted to the relevant tender boards or the Review Body on Bid Challenges (Table 3.15 above). The authorities have indicated that all complaints had been withdrawn or had not been successful.

3.136. During the review period, in order to facilitate the participation of suppliers, especially SMEs, in government procurement, HKC has put in place measures to streamline the financial vetting requirements in tendering. The measures include: (1) for non-works procurement, financial vetting is conducted only for the successful tenderer, unless there is a need to do so during the tender evaluation process; (2) the threshold for conducting financial vetting for procurements of goods and services has been increased from HK$5 million to HK$15 million; and (3) the amount of contract deposit required for goods and services varies depending on the financial strength of the successful tenderer and the risk associated with the contract.[125] In addition, in order to facilitate and speed up procurement procedures, the approval process has been streamlined, and procuring entities have been empowered to approve procurements with a value not exceeding HK$5 million. Also, the ceilings of procurement values that require approval by the relevant tender boards have been increased[126], as well as the ceilings for allowing the use of quotation procedures in the case of low-value procurements of works and engineering services.[127]

3.137. The GLD manages the e-Tender Box (ETB) system, which is an electronic platform for the procurement of goods and services (excluding works) that go through tendering procedures and are processed by the GLD. GLD suppliers, GLD subscribers and applicants for inclusion in the GLD Suppliers Lists can make use of the ETB to view tender notices, download tender documents, submit tender offers and make enquires by logging into the Procurement and Contract Management System (PCMS).[128] In 2016, the GLD awarded 149 contracts, accounting for 35% of the total number of goods and general services contracts awarded by government entities.[129]

3.138. Since 2000, HKC has introduced green procurement rules in the SPRs that require departments and bureaux to take environmental considerations into account in setting out the tender specifications, and to purchase green products and services as far as possible and where economically rational. These considerations include recyclability, energy efficiency, clean technology and/or clean fuels, water consumption, emissions of irritating or toxic substances, and production of toxic substances upon disposal. The Environmental Protection Department (EPD) has further developed green specifications and guidelines for 150 items of goods and services commonly used by departments and bureaux with reference to the standards and practices generally adopted in the market to practise green procurement. The green specifications are

[124] The Rules are available at: https://www.tid.gov.hk/english/aboutus/advcommittee/files/reviewbody_rules.pdf.
[125] SPR 362.
[126] From HK$15 million to HK$30 million for the GLD Tender Board, and from HK$30 million to HK$100 million for the Public Works Tender Board. SPR 116.
[127] From HK$4 million to HK$7 million.
[128] For further details, see: http://www.gldetb.gov.hk.
[129] Information provided by the authorities.

mandatory when there are adequate models and sufficient supplies of such goods in the market. For supplies with uncertain market availability, the green specifications are deemed as desirable. For tenders with identical offers in all respects, the one which meets the desirable green specifications will be given preference. Since July 2015, procuring entities are required to take the following measures to foster green procurement: adopt as far as practicable the green specifications issued by the EPD in their purchases; make an annual report on green procurements; and incorporate green guidelines into new cleansing contracts and minimum emission standards into tender requirements for new vehicle hiring services contracts.[130]

3.3.7 Intellectual property rights (IPRs)

3.3.7.1 Legal and institutional frameworks

3.139. Under the Basic Law, the Government is responsible for developing its own intellectual property (IP) policy. Accordingly, HKC has set up a sound legal framework for the protection of IPRs, covering trademarks, copyright, patents, industrial designs, layout-designs of integrated circuits, trade secrets and undisclosed information, plant varieties, and geographical indications (Table 3.16). The Government also recognizes the major international IP conventions[131], and is a signatory of the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS).

3.140. During the period under review, the Government enacted the Patents (Amendment) Ordinance 2016, which provides the legal foundation for introducing an "original grant" patent (OGP) system into HKC, which will become effective in due course (Section 3.3.7.3). Apart from this, HKC's IP legislation remained largely unchanged since 2014; an attempt to update the copyright law through a bill introduced in 2014 did not bear fruit. The latest HKC notifications to the WTO regarding IP legislation mainly refer to amendments to update the membership coverage of international conventions.[132]

3.141. At the institutional level, the main bodies in charge of the protection and enforcement of IPRs are the Intellectual Property Department (IPD), the C&ED and the Agriculture, Fisheries and Conservation Department (AFCD). The IPD is responsible for advising the Secretary for Commerce and Economic Development on IP policy and legislation; operating HKC registries for patents, designs, trademarks (including GIs as certification or collective trademarks), and copyright licensing bodies[133]; and promoting public awareness of the importance of IPR protection, mainly through educational programmes and publicity campaigns. The IPD is also HKC's contact point for the purposes of the TRIPs Agreement. The AFCD is the competent authority in matters pertaining to the granting of plant variety rights.

Table 3.16 Framework protecting IPRs, 2018

IPRs	Eligibility of protection	Length of protection
Patents		
Standard patent	Inventions that are new, involve an inventive step, and are susceptible to industrial application. Grant of a standard patent is based on the reregistration of the corresponding patent already granted by any of the following 3 designated patent offices outside HKC: the State Intellectual Property Office of Mainland China; the European Patent Office (designating the	Renewable up to a maximum of 20 years from the filing date of the corresponding patent application filed with the designated patent office

[130] Environment Bureau Circular Memorandum No. 6/2015.

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

[132] The latest notifications are contained in WTO documents IP/N/1/HKG/29; IP/N/1/HKG/P/9; IP/N/1/HKG/30; IP/N/1/HKG/D/4; IP/N/1/HKG/31; IP/N/1/HKG/T/7; IP/N/1/HKG/32; and IP/N/1/HKG/L/5, all dated 18 April 2017.

[133] Trademarks, patents, designs, and domain names must be registered, whereas copyright and layout-designs (topography) of integrated circuits do not require registration in order to be protected.

IPRs	Eligibility of protection	Length of protection
	United Kingdom); or the United Kingdom Patent Office	
Short-term patent	Inventions that are new, involve an inventive step and are susceptible to industrial application	Renewable up to a maximum of 8 years from the filing date
Trademarks		
Registered trademarks	Marks that are capable of distinguishing the goods or services of one undertaking from those of other undertakings; there are absolute and relative grounds for the refusal of a registration	10 years from the filing date of the application for registration; may be renewed indefinitely for periods of 10 years
Industrial designs		
Registered industrial designs	Designs that are new and applied to an article by any industrial process and the appearance of the article is material	Renewable for periods of 5 years up to a maximum of 25 years from the filing date
Copyright		
Unregistered industrial designs	Protected under the Copyright Ordinance, for articles produced from the original design drawing. Protection is automatic	15 years from the end of the year in which the article was first marketed
Copyright in original literary (including computer programs), dramatic, musical, and artistic works; sound recordings, films, broadcasts, cable programmes; typographical arrangements of published editions of literary, dramatic or musical works; performers, and persons that have exclusive recording contracts with performers	No formalities are required for copyright protection for a work in HKC. Works of authors from anywhere in the world, or works first published anywhere in the world (including those made available to the public on the Internet), also qualify	Protection usually extends for 50 years from the end of the year after the creator dies or in which the work was made or published. Exceptions: (1) Protection for the typographical arrangement of published editions of literary, dramatic or musical works is for 25 years from the end of the year in which the edition was first published; and (2) government copyright is protected for 125 years from the end of the year in which the work was made
Other IPRs		
Geographical indications (GIs)	Same as for registered trademarks but only registrable as collective or certification trademarks. The use of a false GI applied to goods in a fashion calculated to mislead consumers may be a criminal offence under the Trade Descriptions Ordinance GIs may also be protected by the common law passing-off action (whether or not they are registered) if the owner can prove: (1) the goodwill or reputation attached to the relevant goods in the mind of the purchasing public by association with the GI; (2) misrepresentation by the defendant that is likely to lead the public into believing that the goods offered by him are those of the GI owner; and (3) the owner suffers damage by reason of the erroneous belief engendered by the defendant's misrepresentation	Same as for registered trademarks Protected by passing-off action as long as the relevant conditions are fulfilled
Plant varieties	Proprietary rights of plant breeders, or the owners of the variety, over cultivated plant varieties they have bred or discovered and developed	25 years for trees and vines, and 20 years in other cases
Layout-designs (topographies) of integrated circuits	Layout-designs (topographies) that are original	Where the layout-design has been commercially exploited with the owner's consent, 10 years after the end of the year in which it

IPRs	Eligibility of protection	Length of protection
		was first exploited. Otherwise, 15 years after the end of the year in which it was created
Trade secrets and undisclosed information	Information disclosed to a person that is under a duty to keep it confidential, including confidential information in a commercial setting, such as formulae, methods, technologies, designs, product specifications, business plans, and client lists	Until the information becomes public knowledge

Source: Information provided by the authorities.

3.142. The C&ED is responsible for enforcing the criminal aspects of IPR infringement, by investigating and prosecuting copyright and trademark offences, and false trade descriptions. The C&ED has investigative and seizure powers, and cooperates with overseas enforcement authorities as well as the private sector (Section 3.3.7.7).

3.3.7.2 Copyright

3.143. The protection of copyright is regulated by the Copyright Ordinance (Cap. 528), which was substantially amended in 2007 and 2009 (Table A3.4). Two bills submitted by the Government in 2011 and 2014 to amend the Copyright Ordinance, with the aim of enhancing copyright protection in the digital environment, lapsed without being approved by the Legislative Council. Among the main proposed amendments were the recognition of technology-neutral exclusive rights for copyright owners to communicate their works through any mode of electronic transmission, the introduction of criminal liability for unauthorized electronic communication of copyright works, a safe harbour for online service providers, and the expansion of the list of exceptions or "permitted acts" (i.e., parody, satire, commentary or quotation).

3.144. The authorities have indicated that they remain committed to reviewing their copyright regime, with the purpose of meeting HKC's economic and social development needs and catching up with technological advances and international trends. The Government conducted a public consultation in 2017 to review the provisions of the Copyright Ordinance, which might require amendments in order to be aligned with the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.[134] Taking into account the results of the consultation, the Government plans to introduce a bill into the Legislative Council in the 2018-19 Legislative Session to amend the Copyright Ordinance so as to align the relevant provisions with the Marrakesh Treaty.[135]

3.3.7.3 Patents

3.145. The patent regime is principally governed by the Patents Ordinance (Cap. 514). Certain technical amendments to the Ordinance were brought into force during the review period (in 2014, 2015 and 2017) (Table A3.4). One of the main changes since 2014 is the enactment of the Patents (Amendment) Ordinance 2016 (see below).

3.146. HKC grants two types of patents: standards patents and short-term patents (unchanged since its previous Review). Standard patents are based on a re-registration system, which means that, for a patent to be granted in HKC, a corresponding patent must have been registered and granted by any of the three "designated patent offices", i.e. the State Intellectual Property Office (SIPO) of Mainland China, the United Kingdom Patent Office, or the European Patent Office (EPO) (designating the United Kingdom).[136] Short-term patents are granted to protect inventions with a

[134] For details, see: Consultation Paper on Review of Copyright Exceptions for Persons with a Print Disability. Viewed at: http://www.ipd.gov.hk/eng/pub_press/press_releases/Consultation_Paper_e.pdf.

[135] See: Outcome of the Consultation and the Government's proposed way forward. Viewed at: https://www.ipd.gov.hk/eng/intellectual_property/copyright/Legislative_Council_Panel_on_Commerce_and_Industry_e.pdf.

[136] An application for a standard patent may also be based on an international application under the Patent Cooperation Treaty, which has been published and entered its national phase in one of the

relatively short commercial life.[137] Both standard and short-term patents are enforceable in HKC courts. Patent owners may take civil action to prevent infringement of their rights and seek remedies such as injunctions, orders for delivery, damages, or an account of profits made by the infringing party.

3.147. In 2011, the Government launched a review of the local patent system, with the aim of modernizing it and fostering the development of HKC as a regional innovation and technology hub. Following its review, the Government announced in February 2013 its decision to reform the patent regime by, *inter alia*, introducing an original grant patent (OGP) system – whereby standard patent applicants will be able to file their applications directly in HKC without having to first apply for a corresponding patent overseas -, and refining the existing short-term patent system. To take the reform forward, the Government introduced a bill into the Legislative Council, which was subsequently enacted as the Patents (Amendment) Ordinance 2016 in June 2016. The Ordinance lays out the basic legal framework of the future patent regime.[138] The statutory amendments, which are expected to enter into force in 2019 at the earliest, are the following:

- Introducing an OGP system as an alternative filing route for seeking standard patent protection in HKC, to be run in parallel with the existing "re-registration" system.[139]

- Refining the existing short-term patent system by, *inter alia*, introducing post-grant substantive examination in relation to enforcement proceedings, refining the provisions on groundless threats of infringement proceedings, and allowing a second independent claim in a short-term patent application.

- Introducing an interim regulation of local patent practitioners pending the establishment of a full-fledged regulatory regime, by prohibiting the use of certain titles or descriptions that the authorities consider misleading.[140]

3.148. As part of the preparatory measures to establish the OGP system, HKC signed two co-operation arrangements with Mainland China's SIPO in 2013 and 2017, respectively. Under these arrangements, SIPO will provide technical assistance to HKC's Patent Registry in conducting the substantive examination of patent applications, and staff training.

3.149. Under the Patents Ordinance, any person may apply for a compulsory licence for a standard patent. Licences may be allowed on limited grounds, including where the patented invention is capable of being commercially worked in HKC but is either not being so worked or is not being worked to the fullest extent that is reasonably practicable, or where the demand for a patented product is not being met on reasonable terms. Government use of a patented invention is allowed during periods of extreme urgency declared by the Chief Executive, and the proprietor must be compensated for loss of profit. Effective in 2008, HKC amended its legislation to implement the WTO "Paragraph 6 system", enabling it to grant compulsory licences for exports of pharmaceutical products to WTO Members with no or insufficient capacity to manufacture the patented products. Compulsory licences to import pharmaceutical products may only be granted

three designated patent offices. Standard patents are granted subject to formality examination; no substantive examination is needed.

[137] Applications may be filed directly with HKC's Patents Registry, based on a search report from an international searching authority or one of the three designated patent offices. They may also be based on an international patent application for a utility model, designating Mainland China under the PCT, which has entered its national phase in Mainland China. Short-term patent applications are also only subject to formality examination.

[138] The text of the Patents (Amendment) Ordinance 2016 is available at: http://www.gld.gov.hk/egazette/pdf/20162023/es12016202317.pdf.

[139] Standard patent applications filed under the OGP system will be subject to substantive examination in addition to formality examination. Pending the creation of an indigenous capacity of HKC's Patents Registry to conduct substantive examination, HKC will enlist the technical assistance of SIPO in conducting substantive examination of OGP applications in the early years of the OGP system.

[140] These prohibited titles and descriptions include "registered patent attorney", "registered patent agent", "certified patent attorney" and "certified patent agent", as well as those that would reasonably cause anyone to believe that a person using such titles or descriptions holds a qualification specifically granted for approving the person to provide patent agency services in HKC, and that such qualification is endorsed by the Government or recognized by law. At the same time, the amendments provide for appropriate exemptions to cater for the use of certain legitimate and reasonable titles or descriptions in HKC, notably relating to a person's qualification for the lawful provision of patent agency services outside HKC.

during a period of extreme urgency. These provisions will remain after the OGP system is put in place. No compulsory licences have ever been issued.

3.150. The Pharmacy and Poisons Board, established under the Pharmacy and Poisons Ordinance (Cap. 138), is responsible for the registration of pharmaceutical products. A newly registered pharmaceutical product, whose application for registration relies on undisclosed test data or other data submitted to the Pharmacy and Poisons Board, will be granted an eight-year data exclusivity protection. This means that, if the originator product has been registered in HKC by the first applicant for less than eight years, other applicants will not be allowed to rely on, or refer to, the undisclosed test data or other data submitted in relation to that product. As from March 2016, the Pharmacy and Poisons Board includes a condition on the pharmaceutical product registration certificate, stipulating that the registered pharmaceutical product shall not infringe the patent rights of other registered pharmaceutical products in HKC. Otherwise, the Board may consider de-registering the product in question. As regards agricultural chemical products, undisclosed test or other data submitted to the AFCD for the purpose of applying for the registration of a pesticide is kept confidential, and is not permitted to be used in other registration applications unless with the written authorization of the supplier of the original data.[141]

3.3.7.4 Trademarks

3.151. Trademark protection is regulated by the Trade Marks Ordinance (Cap. 559), which came into effect in 2003. For a trademark to receive statutory protection in HKC, it must be registered with the IPD. Nevertheless, a foreign trademark not registered in HKC can be protected by the tort of passing-off, or under the provision implementing the Paris Convention, if the trademark is well known.

3.152. In 2014, the Government launched a public consultation on the proposed application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) to HKC, so as to enable trademark owners to apply for registration in one or more member countries by filing a single application. The results of the consultation were largely favourable and, in early 2017, the Government decided to proceed with the implementation of the international registration system under the Madrid Protocol. To this effect, amendments to the trademark law are being prepared, and other tasks are being undertaken, including the development of a dedicated information technology system. Once the legislative amendments are enacted and the preparatory work is completed, the Government will seek the application of the Madrid Protocol in the territory. The authorities expect to implement it in 2022.

3.3.7.5 Parallel imports

3.153. Since the previous Review, there has been no change regarding the parallel imports regime. The Copyright Ordinance prohibits parallel imports of a copyright work or the use of parallel imported copies for the purpose of dealing in (selling, letting for hiring, offering for sale or hire, or distributing for profit), and playing or showing the works to the public, if the copies concerned are movies, TV dramas or musical (sound or visual) recordings.[142] All of these acts are liable to both civil and criminal sanctions within 15 months following the work's first publication anywhere in the world, and to civil sanctions where the work has been published for more than 15 months. No restrictions apply on parallel imports of computer software products, including for commercial dealings, except if the principal attraction of the product involves musical sound or visual recordings, movies, TV dramas, e-books, or a combination of these. As for other types of copyright works, there are generally no restrictions for end-users to import or possess parallel imported copies, whether for personal or business use. Under the Trade Marks Ordinance, parallel imports of trademarked goods are allowed, unless the goods have been impaired or changed, and the distinctive character or reputation of the mark is adversely affected. The Patents Ordinance expressly provides that the proprietor of a patent for a product or process has the exclusive right to import a patented product or a product made with a patented process.

[141] AFCD online information, Guide to Application for Pesticide Registration. Viewed at: https://www.afcd.gov.hk/english/publications/publications_qua/pub_qua_pes/files/PPRD12G04E_112017.pdf.

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

3.3.7.6 IP trading

3.154. During the period under review, HKC continued its efforts to consolidate itself as a regional IP trading centre. In line with this, in March 2015, the Working Group on IP Trading, led by the Secretary for Commerce and Economic Development, released a report that contains recommendations in four strategic areas: (i) enhancing the IP protection regime; (ii) supporting IP creation and exploitation; (iii) fostering IP intermediary services and manpower capacity; and (iv) pursuing promotion, education, and external collaboration efforts.[143]

3.155. The Government has accepted the recommendations, and has since been working with stakeholders on their implementation. Key items of the progress made so far include the launch of a free IP consultation service for SMEs, and of the website "Hong Kong – The IP Trading Hub" to provide a one-stop shop for the dissemination of IP trading information[144], as well as the setting up of an IP Manager Scheme and training programmes to help enterprises build up their manpower capacity in IP management and trading. Also, in a bid to developing IP dispute resolution services, an amendment to the Arbitration Ordinance (Cap. 609), effective on 1 January 2018, made it explicit that all IPR disputes, including the validity of IPRs, may be settled by arbitration. Moreover, in order to promote IP commercialization, the Government introduced a bill into the Legislative Council in April 2018, proposing to expand the scope of profits tax deductions for capital expenditure incurred for the purchase of IPRs from the existing five types (i.e. patents, copyright, registered designs, registered trademarks and rights to know-how) to eight (layout-designs (topography) of integrated circuits, plant varieties and performances). The bill was passed on 20 June 2018 and took effect on 29 June 2018.

3.3.7.7 Enforcement

3.156. The C&ED is responsible for enforcing criminal sanctions against copyright and trademark infringements. Right owners and any other member of the public may report suspected infringements of copyright or trademarks to the C&ED for further action. The C&ED has the power to take actions, such as the investigation of infringements, the arrest of offenders, the seizure of counterfeit and pirated goods, and the prosecution of trademark and copyright offences. Prosecution of the most serious criminal cases is undertaken by the Department of Justice. The C&ED's enforcement strategy is directed against both the supply and retail of pirated and counterfeited goods. On the supply side, efforts target illegal activities at the import, export, manufacturing, wholesale and distribution levels. On the retail side, the C&ED carries out sustained enforcement actions to clamp down on street-level piracy and counterfeiting activities.[145]

3.157. In addition to fighting against pirated optical disc activities at the manufacturing, storage, retail and import/export levels, the C&ED strives to combat the use of pirated software and copyright works for commercial purposes. Under the Prevention of Copyright Piracy Ordinance (Cap. 544), local optical disc and stamper manufacturers are required to obtain a licence from the C&ED, and to mark identification codes on all their products; these are also subject to import/export licensing.

3.158. The C&ED helps rights-owners to enforce their rights in relation to copyright and trademark goods through the adoption of border/boundary measures. It has the power to take enforcement action *ex officio*, without the reporting of infringements by right-owners.

3.159. HKC police officers have the power of arrest and seizure when they come across suspected copies of infringing goods while performing their duties. The cases are then passed on to the C&ED for further investigation and prosecution.

3.160. The C&ED promotes the public awareness of IPRs through several schemes, such as the Youth Ambassador against Internet Piracy, the E-auctioning with Integrity (to prevent online auctioning of counterfeit goods), and reward schemes for information leading to the seizure of pirated or counterfeit goods. In addition, the C&ED manages the Intellectual Property Rights

[143] The Report of the Working Group on Intellectual Property Trading is available at: http://www.ip.gov.hk/materials/news/20150320162103.19.pdf.
[144] The website can be accessed at: http://www.ip.gov.hk/en/index.html.
[145] C&ED website. Viewed at: http://www.customs.gov.hk/en/enforcement/ipr_protection/strategy/index.html?print=1.

Protection Alliance, a platform to strengthen strategic partnership with IPR owners, and co-operates with overseas enforcement authorities to combat infringement of IPRs.

3.161. In recent years, HKC has stepped up efforts to address the challenges of IPR infringement activities in the digital environment, such as the operations of cyberlockers[146] and the use of set-top boxes for the illegal transmission of copyright works.[147] In order to enhance enforcement capacity, the C&ED has established anti-Internet-piracy teams specially dedicated to combating online piracy. The Electronic Crime Investigation Centre (ECIC), set up in 2013, formulates online investigation procedures and conducts training courses for enforcement officers; it was accredited ISO 9001:2015 in early 2017. The Computer Forensic Laboratory and the Computer Analysis and Response Team provide specialized support in collecting and analyzing digital evidence to be presented to courts in piracy cases. The C&ED has also developed several electronic systems to monitor and trace infringement activities on the Internet. For example, the "SocNet" monitoring system, launched in 2015, combats the sale of IPR infringing goods through social media platforms. With a view to stepping up enforcement action, in end-2017, the C&ED launched the new Big Data Analytics System, which is an automatic round-the-clock system to analyze mass information on different Internet platforms for effective screening and updates on IP infringing activities.

3.162. The Electronic Recordation and Triage Centre, established in 2014, helps right holders, especially those based outside HKC, to complete recordation of their copyright and trademarks, and conduct preliminary examination of offending goods without having to visit the C&ED in person.

3.163. By using new technologies to combat IPR infringement online, maintaining close co-operation with stakeholders and other customs authorities, and deploying IPR awareness campaigns, the C&ED has aimed to strengthen its enforcement capacity in recent years. It regularly conducts special operations, seizes IPR infringing goods, and arrests and prosecutes offenders. In 2017, for example, the C&ED intervened in 916 infringement cases[148], of which 115 relating to copyrights and 866 to forged trademarks (not including trade descriptions), seized goods worth HK$118 million, and arrested 718 persons. Major seizures include electrical and electronic products, optical discs, pharmaceutical products, and clothing and accessories (Table 3.17).

Table 3.17 C&ED: cases, seizures, and arrests, 2014-17

	2014	2015	2016	2017
Copyright				
No. of cases	60	118	124	115
Persons arrested	87	159	158	145
Value of seizure (HK$ million)	3	4	3	11
Trademarks and trade descriptions				
No. of cases	1,076	1,098	975	989
- Online infringement cases	179	192	199	195
Persons arrested	752	905	749	750
Value of seizure (HK$ million)	93	112	161	117

Source: C&ED. Viewed at: http://www.customs.gov.hk/filemanager/common/pdf/statistics/enforcement_cases_en.pdf.

3.164. The actions deployed by the C&ED are supported by a judicial system that imposes fines and criminal sentences aimed at deterring illegal IPR activities. The details of the types of penalties imposed are described in Table A3.5. Any person may sue another for the infringement of any IPR by commencing a civil action in a court. The courts dealing with civil action include the Small

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

[147] For example, in June 2014, in cooperation with a copyright owner, the C&ED detected and smashed a syndicate circumventing paid channels by uploading the channels to overseas servers for transmission to set-top boxes through the Internet. In May 2015, in cooperation with the Macao Customs, the C&ED cracked down on a discussion forum on the Internet involved in the distribution of pirated TV programmes through cyberlockers.

[148] A single infringement case may involve both copyright infringement and counterfeit trademarks, so the total number of actual cases cannot be aggregated according to the number of infringing categories.

Claims Tribunal, the District Court and the High Court. Criminal cases of IPR related offences are also adjudicated in the courts; those dealing with criminal cases include the Magistrates' Courts, the Juvenile Court, the District Court and the High Court.[149]

3.165. The C&ED has indicated that, in order to guard against the transshipment of IPR infringing goods, it has implemented the following measures over the past years: (i) exchanged intelligence and experiences with law enforcement agencies outside HKC; (ii) maintained close cooperation with its Mainland China counterparts to combat cross-boundary IPR infringing activities (e.g. establishing designated liaison channels with Mainland China Customs and the IPR administrative/enforcement authorities in Mainland China to expedite intelligence and information sharing; and mounting parallel operations from time to time); (iii) developed partnership arrangements and signed MoUs with major express courier service providers, and collaborating closely with the Hong Kong Post to facilitate enforcement actions on suspicious parcels containing IPR infringing goods; (iv) worked with the logistics industry to enhance collaboration; (v) signed customs cooperation agreements with major trading partners to enhance exchanges and enforcement coordination; and (vi) coordinated closely with international organizations, notably the WCO, INTERPOL, the WTO and APEC in IPR protection. The C&ED has also stated that it will remain vigilant and closely liaise with other jurisdictions in the area of intelligence exchange to facilitate IPR enforcement at both the source and destination jurisdictions.

[149] For more information on the courts, see the website of the Judiciary at: http://www.judiciary.gov.hk.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.1 Agriculture

4.1. HKC's agriculture and fisheries sectors remain very small, accounting for less than 0.1% of GDP in 2016 and less than 0.1% of total employment in 2017. In 2017, there were around 2,400 farms, cultivating around 710 hectares of agricultural land, and employing some 4,100 people. The main agricultural products are leafy vegetables and high-value cut flowers.

4.2. The Agriculture, Fisheries and Conservation Department (AFCD) is responsible for overseeing the production and marketing of agricultural produce, enforcing regulations, and preserving ecological integrity. The Food and Environmental Hygiene Department (FEHD) is in charge of the administration of food safety programmes (including for imported agricultural food).

4.1.2 Farm support measures

4.3. The focus of HKC's agricultural policy remains unchanged since the previous Review; it includes providing basic infrastructure, extension, and advisory services, and credit facilities to farmers. The AFCD's support measures include carrying out research in*, inter alia,* pest control, crop husbandry, soil management, new product varieties, and production techniques to help farmers improve productivity. The Government also provides infrastructure support, such as the rehabilitation of fallow land and the improvement of irrigation and drainage facilities, as well as loans on concessional terms and emergency relief in times of natural disasters. The total accumulated deposit under loan funds administered by the AFCD was HK$47.5 million as at end-2017.[1]

4.4. Under the Accredited Farm Scheme, which remains unchanged since the previous Review, farms are monitored and supervised for pest control and for the proper use of pesticides. Certified farms may sell their produce at accredited retail outlets with the help of the Vegetable Marketing Organization.[2] At end-2017, a total of 316 farms were accredited under the scheme, supplying some 36.5 tonnes of accredited produce daily.

4.5. The AFCD provides technical support to local farmers producing organic agricultural products, through the introduction of organic production standards and requirements, and helps farmers resolve problems concerning pest management, horticultural practices and soil management. At end-2017, there were 309 farms producing about six tonnes of organic vegetables a day.[3]

4.6. In 2016, the Government announced a New Agriculture Policy, with a view to promoting the modernization and sustainable development of local agriculture.[4] The main initiatives under the Policy include: (1) establishing a HK$500 million Sustainable Agricultural Development Fund (SADF), with a view to providing financial support for the modernization and sustainable development of local agriculture; (2) establishing an agricultural park, with a view to helping nurture agro-technology and agro-business management; (3) commissioning a consultancy study on agricultural priority areas, with a view to identifying large areas of agricultural land and exploring ways to provide incentives for their revitalization; and (4) facilitating the development and modernization of local agriculture and the wider adoption of hydroponics and agro-technology. The SADF, launched in December 2016, provides financial support to projects that are deemed productivity-enhancing to benefit the whole agriculture sector in HKC; a Farm Improvement

[1] Government online information, "Hong Kong: The Facts. Agriculture and Fisheries". Viewed at: https://www.gov.hk/en/about/abouthk/factsheets/docs/agriculture.pdf.

[2] The Vegetable Marketing Organization is a statutory authority that controls the movement and sale of vegetables in Kowloon and the New Territories. It was first established on 3 September 1946.

[3] Government online information, "Hong Kong: The Facts. Agriculture and Fisheries". Viewed at: https://www.gov.hk/en/about/abouthk/factsheets/docs/agriculture.pdf.

[4] Government online information. Viewed at: http://www.info.gov.hk/gia/general/201601/14/P201601140558.htm. Food and Health Bureau online information. Viewed at: http://www.fhb.gov.hk/download/press_and_publications/otherinfo/160128_nap/e_paper_on_nap.pdf. Legislative Council online information. Viewed at: http://www.fhb.gov.hk/download/press_and_publications/otherinfo/160128_nap/e_paper_on_nap.pdf.

Scheme (FIS) provides direct grants to farmers up to a maximum of HK$30,000, with a view to encouraging the mechanization of farms.

4.7. During the review period, HKC notified the WTO Committee on Agriculture that, up to the financial year ending March 2017, all its domestic support measures were under the "green box" (i.e. exempt from the reduction commitment).[5] Total monetary outlays for these measures increased over the review period, amounting to HK$123.1 million in 2016-17 (HK$103.7 million in 2013-14). Pest and disease control measures accounted for over 50% of total annual outlays. HKC also notified that no export subsidies were provided to agriculture during the period under review.[6]

4.1.3 Rice

4.8. Under the Rice Control Scheme, rice is designated as a reserved commodity in accordance with the Reserved Commodities Ordinance (Cap. 296). Imports and exports of rice are subject to licences, and the Government enforces a reserve stock to ensure sufficient supply for local consumption; in general, only businesses registered as stockholders with the TID may import rice.[7] Upon registration, they are required to make an undertaking to import specific quantities on a quarterly basis, and to import such quantities within the relevant period. By end-March 2018, there were 213 registered stockholders of rice.[8] Since the previous Review, the Rice Control Scheme has remained largely unchanged.

4.9. The reserve stock is maintained at all times to meet sudden surges in demand or needs during short-term supply shortages or other emergencies; all registered stockholders are required to contribute to it by holding a quantity of rice proportionate to their import volumes. During the review period, the reserve stock was maintained at a level "sufficient for consumption by the local population for 15 days", which was between 13,100 tonnes and 14,100 tonnes a year. In the event of an emergency or a supply shortage, the Government has the power to ask rice stockholders to release stocks to the market or to import rice in excess of their undertakings, and to set maximum wholesale prices. The stocks have not been released since 1989.

4.10. In order to allow for the implementation of Mainland China's export quotas for rice and other grain products (rice flour and wheat flour), imports of rice from Mainland China are subject to registration requirements. Registered HKC importers may import rice from authorized exporters in Mainland China, provided that supplies are entirely used for local consumption and not re-exported. There has been no change in the registration requirements since the previous Review.

4.1.4 Fisheries

4.11. Although their contribution to GDP and employment is minimal, the fishing and aquaculture supply about 20% of HKC's seafood consumption. In 2017, the estimated production of the fisheries industry was 128,000 tonnes, valued at HK$2.6 billion. The fishing fleet consists of about 5,100 vessels. In 2017, fish ponds produced 2,500 tonnes of freshwater fish, valued at HK$56 million, while marine fish culture production was 1,000 tonnes, worth HK$78 million.

4.12. The AFCD provides basic infrastructure, technical advice, liaison services, marketing, and training to assist fishermen and to encourage conversion to sustainable fisheries. Fishermen and fish farmers may also benefit fro low-interest loans under funds administered by the AFCD: the Fisheries Development Loan Fund (FDLF)[9], the Fish Marketing Organization Loan Fund[10], and the

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[5] WTO documents G/AG/N/HKG/36, 28 April 2014; G/AG/N/HKG/38, 28 April 2015; G/AG/N/HKG/40, 22 April 2016; and G/AG/N/HKG/42, 5 May 2017.

[6] WTO documents G/AG/N/HKG/35, 15 January 2014; G/AG/N/HKG/37, 23 January 2015; G/AG/N/HKG/39, 29 January 2016; G/AG/N/HKG/41, 17 January 2017; and G/AG/N/HKG/43, 12 January 2018.

[7] Exceptions to the licensing requirements include rice brought into HKC in any vessel in a reasonable amount for consumption by the crew; carried in personal luggage in an amount of not exceeding 15kg for personal use or as a gift; or as a transhipment cargo.

[8] TID online information. Viewed at: http://www.tid.gov.hk/english/import_export/nontextiles/nt_rice.

[9] AFCD online information. Viewed at: https://www.afcd.gov.hk/english/fisheries/fish_cap/fish_cap_techsup/fish_cap_fdlf.html.

[10] AFCD online information. Viewed at: http://www.afcd.gov.hk/english/fisheries/fish_cap/fish_cap_techsup/fish_cap_fmolf.html.

Kadoorie Agriculture Aid Loan Fund[11] (Table 4.1). Between April 2014 and March 2018, 1,164 loans totalling around HK$1,035 million were granted to the fisheries industry. During the review period, HKC notified its loan schemes for the fisheries sector to the WTO Committee on Subsidies and Countervailing Measures.[12] The AFCD also operates a voluntary Accredited Fish Farm Scheme to monitor the hygiene standards of fish farms and the quality of cultured fish, a fish health management programme, and a good aquaculture practices programme.

Table 4.1 Loan programmes by the AFCD, April 2014–March 2018

Loan fund	Loans issued	
	Number of cases	Amount (HK$ million)
FDLF	110	845.2
Fish Marketing Organization Loan Fund (normal loan)	14	1.4
Fish Marketing Organization Loan Fund (fishing moratorium loan)	986	181.2
Kadoorie Agriculture Aid Loan Fund	54	6.8
Total	1,164	1,034.6

Source: Information provided by the HKC authorities.

4.13. To assist owners of fishing vessels affected by a ban on trawling in HKC waters introduced in December 2012, the FDLF had provided one-off loans for upgrading vessels to operate outside HKC waters or for switching to more sustainable fishing operations; the deadline for applying for these loans was 31 December 2015. Currently, loans are provided under the FDLF to encourage fishermen and fish farmers to switch to sustainable fisheries operations or environmentally friendly operations. In February 2015, the total approved commitment of the FDLF was raised to HK$1,100 million (compared with HK$290 million previously).[13] Furthermore, a HK$500 million Sustainable Fisheries Development Fund (SFDF) was established in 2014 to provide financial assistance (grants) for carrying out research and development programmes that would help improve the operating environment and competitiveness of the fishing industry. Between April 2014 and March 2018, eight applications, comprising six projects on aquaculture and two on fisheries-related eco-tourism, were approved, involving a total commitment of about HK$41 million.

4.2 Mining and Energy

4.14. Mining and quarrying accounted for less than 0.1% of GDP in 2016; electricity, gas and water supply, and waste management accounted for around 1.4% of GDP in the same year. HKC is a net energy importer; according to the authorities, it has only a small amount of indigenous energy resources (e.g. solar energy). There is no legislation regulating market conditions *per se* in the energy sector; this is unchanged from the previous Review.[14] The Environment Bureau's policy monitors prices and the strategic reserves of energy, and sets the fuel mix for electricity generation regarding, *inter alia,* environmental targets (e.g. those related to carbon emissions and energy intensity).[15]

[11] AFCD online information. Viewed at: https://www.afcd.gov.hk/english/agriculture/agr_loan/agr_loan_kaalf/agr_loan_kaalf.html.

[12] WTO documents G/SCM/N/284/HKG, 2 July 2015; and G/SCM/N/315/HKG, 30 June 2017.

[13] WTO document G/SCM/N/315/HKG, 30 June 2017.

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

[15] The Government has set the emission targets for 2020 specifically to reduce sulphur dioxide by 35-75%, nitrogen oxides by 20-30%, and respirable suspended particulates by 15-40% (from 2010). It has also set a target to reduce HKC's carbon intensity by 50-60% by 2020 (from 2005). Considering, *inter alia*, these targets, HKC has set the fuel mix for electricity generation in 2020, under which: (a) the percentage of local gas generation will increase to around 50% of the total fuel mix; (b) nuclear imports will account for around 25%; (c) the development of renewable energy and energy saving will be further promoted in HKC; and (d) the remaining demand for electricity will be met by coal-fired generation.

4.15. HKC imports and, to a lesser extent, exports electricity through a grid connected with Mainland China.[16] It also imports all its natural gas through pipelines connected to Mainland China.[17]

4.16. In HKC, there are no restrictions on the import and distribution of refined oil products (e.g. petroleum, diesel, and liquefied petroleum gas (LPG)).[18]

4.17. There are two *de facto* monopolies in electricity generation, transmission and distribution; both are privately owned. One company supplies electricity to Kowloon and the New Territories, including several outlying islands; the other supplies electricity to Hong Kong Island and the neighbouring islands. Electricity is also imported from the Guangdong province of Mainland China.[19] There have been no new policy initiatives on electricity since the previous Review.

4.18. Town gas is supplied solely by one company (a *de facto* monopoly); some areas/estates in HKC are supplied with cylinder/piped LPG. Under a voluntary code of practice entered into with the HKC Government, the oil and gas companies maintain strategic reserves of gas oil and naphtha, respectively, with a view to mitigating the consequences of any temporary disruption in the oil supply and ensuring that sufficient reserves of oil products are available over a period of shortage.[20]

4.19. The price of electricity and town gas is monitored by the Environment Bureau. Monitoring is based on mutual agreements (Scheme of Control Agreements (SCAs) with electricity companies, and an Information and Consultation Agreement (ICA) with a gas company). The SCAs involve, *inter alia*, the regulation of tariffs and permitted rates of return. According to the authorities, electricity companies do not have any exclusive rights. The town gas company operates in a market where consumers may choose to use gas or electricity for cooking and/or water-heating. While it is currently not subject to any price or profit regulation, the company has entered voluntarily into an ICA with the Government since 1997, with a view to increasing transparency in its tariff setting mechanism. Pursuant to the ICA, the company must consult with the Government three months in advance of any tariff adjustment and, upon request, brief the Legislative Council Panel on Economic Development and the Energy Advisory Committee on such adjustments. Like the electricity companies, the town gas company does not have any exclusive rights. The Bureau also monitors retail prices of auto-fuels.

4.20. During 2014-15, the Government conducted a review of the overall development of the electricity market and the regulatory framework. The review also covered the feasibility of introducing more competition in the sector. Following this, a three-month public consultation was conducted between March and June 2015. Considering the outcome of the public consultation in respect of the regulation of the electricity market, the Government held discussions with the electricity companies and entered into the post-2018 SCAs, which were signed in April 2017. The authorities consider that, while the requisite market conditions are not yet present for introducing competition, under the post-2018 SCAs, the electricity companies will cooperate with the Government to undertake the necessary preparatory work to pave the way for introducing potential new suppliers in the future.

[16] One of the power companies in HKC supplies electricity to Mainland China. In 2017, the amount of electricity exported was 1,341 million kWh. CLP group online information. Viewed at: https://www.clpgroup.com/en/investors-information/financial-reports/our-reports?year=2017.

[17] For one of the power companies, natural gas is imported from two sources in Mainland China to its power stations for electricity generation. One source is the gas fields in the South China Sea via a 780 km submarine pipeline, and the other is the Second West-East Natural Gas Pipeline through Shenzhen Daichan Island. For the other power company, the LNG terminal in Shenzhen Dapeng Bay supplies natural gas through a 93 km submarine pipeline for electricity generation. The LNG terminal also supplies natural gas through a 34 km pipeline to the Towngas production plant.

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

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

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

4.21. The Government signed a memorandum of understanding (MoU) on energy cooperation with the National Energy Administration of Mainland China in August 2008, to ensure a continuous supply of natural gas and nuclear-generated electricity to HKC for the subsequent two decades.[21] Under the MoU, the Central People's Government provides a guarantee on the supply of natural gas, and the HKC branch line of Mainland China's Second West-East Natural Gas Pipeline, which provides HKC with natural gas from Turkmenistan via Mainland China, has been constructed. In addition, energy suppliers of HKC and Mainland China also renewed an agreement on the supply of nuclear electricity from the Daya Bay Nuclear Power Station for a further term of 20 years from 2014.

4.3 Manufacturing

4.22. Manufacturing accounted for around 1.1% of GDP in 2016 and 2.5% of total employment in 2017. In 2016, most (around 98.7%) enterprises in the manufacturing sector were SMEs, employing less than 100 persons each. The average number of persons employed per establishment in the manufacturing sector was 11.7 persons in the same year.

4.23. HKC has adopted no new policy initiatives concerning manufacturing since its previous Review. The Government provides support in the form of loans and non-tax incentives to SMEs (Sections 3.2.5 and 3.3.1).

4.4 Services

4.4.1 Telecommunication services

4.4.1.1 Statistical overview

4.24. HKC is a significant and mature telecommunications market, as evidenced by the high penetration rates of mobile and broadband. HKC's policy objective of becoming a major telecom regional hub, notably as a node for submarine telecom cables, has remained unchanged since its previous Review.

4.25. Box 4.1 below describes the main economic indicators of the telecommunications sector.

Box 4.1 Main economic indicators of the telecommunications sector, 2012-17

Gross output of the telecom industry (billion HK$)
2012: 69; 2016: 93

Employment
2017: 20,300

Exports (million HK$)
2014: 13,776; 2015: 14,169; 2016: 14,283

Imports (million HK$)
2014: 8,643; 2015: 8,626; 2016 8,894

Penetration rates (as of December 2017)

Total telephone subscribers (per 100 inhab.): 303.5
Total mobile customers: 18.3 million[a]
Total telephone lines: 4.2 million[b]
Fixed telephone subscribers (per 100 inhab.): 56.0
Mobile phone subscribers (per 100 inhab.): 247.5
Fixed (wired)-broadband subscriptions (per 100 inhab.): 35.7
Mobile broadband subscriptions (per 100 inhab.): 230
Internet users (per 100 inhab.): 89.4% of all persons aged 10 and over had used the Internet during the previous 12 months in a survey carried out from June to September 2017 by the Census and Statistics

[21] Government online information. Viewed at: http://www.info.gov.hk/gia/general/200808/28/P200808280188.htm.

Department (C&SD)
Broadband Internet subscribers (per 100 inhab.): 265.8[c]

Main actors

Number of companies providing value-added telecom services
As of 31 December 2017, 598 companies were authorized to provide value-added telecom services.

Names and market shares of the leading companies for fixed telecom services
As of 31 December 2017, 27 carrier licensees were authorized to provide local-fixed telecommunications services, and 42 carrier licensees were authorized to provide external fixed-telecommunications services. No information regarding the market share of the main suppliers is available.

Broadband Internet service providers
As of 1 May 2018, 235 facility-based and service-based telecommunications service providers were authorized to provide Internet services (including narrowband and broadband).

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

State ownership
There is no direct government ownership.

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

No information is available, according to the authorities.

a Refers to the sum of post-paid and pre-paid SIM cards.
b Refers to the sum of exchange lines and non-exchange lines.
c "Fixed (wired)-broadband subscriptions" refers to the sum of cable modem, digital subscriber line (DSL) and fibre-to-the-home/building broadband Internet subscriptions to the public Internet, and "wireless-broadband subscriptions" refers to the sum of terrestrial fixed wireless-broadband and active mobile-broadband subscriptions to the public Internet.

Source: Information provided by the HKC authorities; *ITU, Measuring the Information Society Report, 2017 edition.*

4.26. Table 4.2 below indicates the average telecommunication prices in HKC, which are among the lowest in the world.

Table 4.2 Average telecom prices in HKC, 2016

Type of telecom service	% of gross national income per capita	Comparable statistics for world average
Mobile broadband prices (500 MB)	0.3	3.7
Mobile broadband prices (1 GB)	0.7	6.8
Mobile-cellular prices	0.2	5.2
Fixed-broadband prices	0.6	13.9

Source: ITU, *Measuring the Information Society Report*, 2017 edition.

4.4.1.2 Trade regulatory regimes

4.27. The trade regulatory regime of HKC's telecommunication services has remained largely unchanged since its previous Review.[22]

4.28. Policy developments during the review period included: the signing of three new FTAs containing commitments on telecommunication services; the reassignment of the frequency spectrum for existing mobile services upon the expiry of the existing assignment terms; the reallocation and reassignment of the frequency spectrum for the preparation of 5G services; the making available of the 5 GHz Shared Band for the provision of public mobile services; the review of licencing conditions in carrier licences; the rearrangement of the eight-digit numbering plan; the

[22] WTO document WT/TPR/S/306/Rev.1, 28 January 2015.

further enhancement of transparency; and the facilitation of the development of wireless Internet of Things (IoT) services (see below for details).

4.29. The Government plans to provide financial incentives to telecommunication companies with a view to encouraging the extension of fibre-based network to villages in remote areas. It plans to commence the tender process and award the tenders in 2019, and expects that the fibre-based networks will be extended to the villages concerned in phases from 2021 onwards.

4.30. Box 4.2 below recapitulates the GATS and the FTA commitments of HKC, while Box 4.3 describes the applied regulatory regime for regulatory supervision, competition and interconnection issues, and Box 4.4, the applied regulatory regime for other regulatory aspects of telecommunication services.

Box 4.2 Bound trade regimes of the telecommunications sector

GATS commitments
Unchanged since the previous Review.

FTA commitments

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

Unchanged since the previous Review.

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

HKC–New Zealand CEP Agreement (entered into force on 1 January 2011)
Unchanged since the previous Review.

CEPA with Mainland China (entered into force on 29 June 2003; its subsidiary agreement, the Agreement on Trade in Services, entered into force on 27 November 2015)[a]

Paragraph 2 of Article 3 of the Agreement on Trade in Services stipulates that HKC will not impose any new discriminatory measures on Mainland China's services or service suppliers in the areas where Mainland China has undertaken specific commitments on the liberalization of trade in services for HKC. The two sides will formulate further liberalization of trade in services of HKC for Mainland China's services and service suppliers.

HKC-Chile FTA (entered into force on 9 October 2014)

Local services: in addition to GATS commitments, two more subsectors were liberalized: d) telex services; and e) telegraph services
Market access: Modes 1 and 2: same regime as GATS; Mode 3: none; Mode 4: commitment on business visitors, in addition to GATS commitments
National treatment: same regime as GATS

International services: Modes 1, 2, and 3: same regime as GATS; Mode 4: commitment on business visitors, in addition to GATS commitments

Value-added services
Market access: Mode 2: same regime as GATS; Mode 1: none; Mode 3: none; Mode 4: commitment on business visitors, in addition to GATS commitments
National treatment: Modes 3 and 4: same regime as GATS; Mode 1: none; Mode 2: none

HKC-Macao CEPA (entered into force on 27 Oct 2017)

Local services: In addition to GATS commitments, two more subsectors were liberalized: d) telex services; and e) telegraph services
Market access: Modes 1 and 2: same regime as GATS; Mode 3: none; Mode 4: commitment on business visitors, in addition to GATS commitments
National treatment: same regime as GATS

International services: Modes 1, 2 and 3: same regime as GATS; Mode 4: commitment on business visitors, in addition to GATS commitments

Value-added services
Market access: Mode 2: same regime as GATS; Mode 1: none; Mode 3: none; Mode 4: commitment on

business visitors, in addition to GATS commitments
National treatment: Modes 3 and 4: same regime as GATS; Mode 1: none; Mode 2: none

HKC-ASEAN FTA (signed on 12 November 2017; and is to enter into force after the relevant parties complete the necessary procedures)

Local services: In addition to GATS commitments, two more subsectors were liberalized: d) telex services; and e) telegraph services
Market access: Modes 1 and 2: same regime as GATS; Mode 3: none; Mode 4: commitment on business visitors, in addition to GATS commitments
National treatment: same regime as GATS

International services: Modes 1, 2 and 3: same regime as GATS; Mode 4: commitment on business visitors, in addition to GATS commitments

Value-added services:
Market access: Modes 2 and 3: same regime as GATS; Mode 1: none; Mode 3: commitment on business visitors, in addition to GATS commitments
National treatment: Modes 3 and 4: same regime as GATS; Mode 1: none; Mode 2: none

a TID online information. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa13.html.

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

Box 4.3 Applied regulatory regime for regulatory supervision, competition and interconnection

Regulatory supervision

Unchanged since the previous Review.

The Communications Authority (CA), the independent regulator *stricto sensu*, and the Office of the Communications Authority (OFCA), the CA's executive arm, oversee both the broadcasting sector and the telecommunications sector, with the aim of meeting the regulatory challenges arising from the new era of convergence.

The Competition Ordinance (Cap. 619) (the Ordinance) prohibits three types of anti-competitive conduct in the market: (i) anti-competitive agreements, concerted practices and decisions of an association of undertakings (known as the First Conduct Rule); (ii) abuse of market power (Second Conduct Rule); and (iii) mergers that are likely to substantially lessen competition, which is applicable only to the telecommunications sector (the Merger Rule).

The Ordinance provides that the CA has concurrent jurisdiction with the Competition Commission (Commission) with respect to investigations and the bringing of enforcement proceedings regarding competition cases in the broadcasting and telecommunications sectors. On the handling of complaints against anti-competitive practices, the Commission and the CA conduct enforcement actions in accordance with the requirements on concurrent jurisdiction in the Ordinance, which entered into force fully on 14 December 2015. From this date to 31 March 2017, the CA received 119 complaints or enquiries under the Ordinance, some of which were referred by the Commission. The cases entailed claims of anti-competitive unilateral and/or coordinated conduct. After due consideration, the cases were closed with no investigation opened. The CA also considered three cases under the Merger Rule during the period, and concluded that no issue was raised that required the commencement of an investigation.

The Commission and the CA have signed an MoU under the Ordinance. The MoU seeks to coordinate the performance of the functions of the Commission and the CA under the Ordinance, and set out detailed arrangements for the two bodies in respect of dispute resolution, provision of assistance, allocation of responsibility, supply of information, authorship of educational materials or guidelines, etc.

The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (amended TDO) criminalizes unfair trade practices in the consumer transactions of goods and services, including "false trade descriptions", "misleading omissions", "aggressive commercial practices", "bait advertising", "bait-and-switch" and "wrongly accepting payment". While the Customs and Excise Department is the main enforcement agency of the amended TDO, concurrent jurisdiction is conferred on the CA to enforce the relevant sections in relation to commercial practices of licensees under the Telecommunications Ordinance (Cap. 106) and the Broadcasting Ordinance (Cap. 562) that are directly connected with the provision of a telecommunications service or broadcasting service under the two Ordinances. From the commencement of the amended TDO on 19 July 2013 and up to 31 March 2017, the CA received 2,557 complaints thereunder. The alleged unfair trade practices mainly involved false trade descriptions of services, and misleading omissions.

Interconnection and competition issues

Fixed-interconnection regime
There is no regulatory guidance by the CA regarding carrier-to-carrier local interconnection charges, including those between fixed carriers, between fixed and mobile carriers, and between mobile carriers.

All carriers are encouraged to conduct negotiations and reach agreements with each other on interconnection matters on a commercial basis. If the interconnecting carriers cannot reach agreement on the terms and conditions of interconnection, either party may seek determination from the CA under Section 36A of the Telecommunications Ordinance (Cap. 106).

Number of complaints filed or resolutions issued of interconnection disputes among operators: zero in 2017

Source: Information provided by the HKC authorities.

Box 4.4 Other regulatory aspects

There have been no regulatory changes since the previous Review in the following areas: facility-sharing, local loop unbundling; mobile interconnection (not subject to any regulation); mobile roaming rates; accounting rates; price caps and regulations; universal service; and autonomous liberalization.

Number portability

Following the implementation of the Unified Carrier License (UCL) regime in 2008, the then Telecommunications Authority (now the CA) decided that all prior determinations concerning the responsibilities of charges in relation to fixed number portability (ONP) and mobile number portability (MNP) activities were to be sunset on 29 June 2010. All operators assigning telephone numbers are required to facilitate number portability at their own expense.

Transparency

With a view to enhancing transparency and better protecting consumers in the process of contract conclusion, the Communications Association of Hong Kong (CAHK), an association for HKC's communications industries, promulgated a self-regulatory Industry Code in December 2010, which was implemented by all major fixed and mobile network operators starting from July 2011. Regarding the implementation experience and consumer feedback, the CAHK revised the Code in October 2014 on the advice of the OFCA and following discussions with participating operators. The revised Code took effect on 1 May 2015.

With a view to enhancing service information transparency and better informing consumers, the OFCA has, since November 2016, published on its website details of the arrangements adopted by major residential broadband service providers to handle service termination requests from consumers. The published information is intended to enable consumers to better understand existing practices of different service providers, which would help reduce disputes over service termination matters.

On 31 March 2017, the CAHK amended the Code for the Provision of Chargeable Mobile Content Services, with a view to streamlining the arrangements for the telecommunications industry's self-regulation of chargeable Mobile Content Services (MCSs) to safeguard consumer interests. The Code requires all third-party content service providers, before initiating delivery of MCSs to customers, to indicate clearly to them the chargeable nature of the services, provide them with clear information on all charges, obtain clear consent from them for the provision of MCSs, and clearly set out the unsubscribing mechanisms, which should be simple and convenient.

Spectrum management

Reassignment of the 3G spectrum
After two rounds of public consultations launched in March and December 2012, respectively, the CA and the Secretary for Commerce and Economic Development (SCED) announced in November 2013 their respective decisions to adopt a hybrid administratively-assigned cum market-based approach for the reassignment of the 118.4 MHz of paired spectrum in the 1.9-2.2 GHz band (3G spectrum) upon expiry in October 2016 of the existing assignments, and on the methods for determining the related spectrum utilization fee. Each of the four incumbent 3G mobile network operators (MNOs) was offered the right of first refusal (RFR) to be reassigned two thirds of the 3G spectrum they held at that time. The remaining one third of the paired spectrum, together with any spectrum in respect of which the incumbent 3G operators did not exercise their RFR, was to be reassigned by way of auction.

Further to the above and a subsequent market consolidation, the auction was held in December 2014, with a total of 49.2 MHz of spectrum being acquired by two incumbent 3G MNOs and one existing MNO which did not hold any 3G spectrum. The concerned spectrum is assigned for a term of 15 years, from 22 October 2016 until 21 October 2031.

Reassignment of the spectrum in the 900 MHz and 1800 MHz bands
In February 2016 and February 2017, the CA and the SCED jointly conducted two rounds of consultations on the reassignment arrangements of 49.8 MHz of spectrum in the 900 MHz band and 148.8 MHz of spectrum in the 1800 MHz band, the existing assignments of which would expire within the period between November 2020 and September 2021. Coupled with 1.4 MHz of currently unused spectrum in the two frequency bands, a total of 200 MHz of spectrum was available for reassignment/assignment for public mobile services. The CA and the SCED promulgated their respective decisions in December 2017 on the arrangements for spectrum reassignment and the related spectrum utilization fee. Under the hybrid administratively-assigned cum market-based approach adopted by the CA for spectrum reassignment, each of the four incumbent MNOs is to be offered an RFR to be reassigned 20 MHz of spectrum in the 1800 MHz band. The remaining 70 MHz of spectrum in the 1800 MHz band and the 50 MHz of spectrum in the 900 MHz band, together with any spectrum in respect of which the incumbent MNOs do not exercise their RFR, are to be assigned by way of auction. Preparation is underway for the offer of the RFR to the incumbent MNOs in the third quarter of 2018 and for the auction to be conducted around the end of 2018. The new 15-year assignment term of the spectrum in the 900 MHz and 1800 MHz bands is to commence in January and September 2021, respectively.

Preparation for the launch of 5G services
With a view to meeting the rising aspirations of mobile service users towards 2020 and beyond, the CA has been preparing spectrum allocation and assignment for the launch of 5G services around 2020. In March 2017, a work plan was released for providing additional radio spectrum for mobile services, which include making available spectrum in the 26 GHz and 28 GHz bands, as the first batch of spectrum for 5G services in late 2018/early 2019. The CA is also to assign 200 MHz of spectrum in the 3.4-3.6 GHz band for the provision of public mobile services when this frequency block is reallocated from the fixed satellite service to the mobile service with effect from 1 April 2020.

Making available the 5 GHz Shared Band for the provision of public mobile services
On 1 June 2018, the CA announced its decision to make available 580 MHz of spectrum in the 5 GHz band (the 5 GHz Shared Band) for the provision of public mobile services on a shared basis, as well as the associated regulatory and licensing regime. The move is intended to enable HKC to become one of the first in the world to adopt advanced mobile technologies such as Licensed Assisted Access for the provision of higher speed public mobile services. With a total bandwidth of 580 MHz, this adds to the existing total spectrum capacity of 552 MHz in the sub-3 GHz bands already assigned to MNOs.

More efficient utilization of the eight-digit numbering plan
Considering that the numbers available for allocation in the eight-digit numbering plan in HKC are expected to be exhausted soon, the CA adopted several measures to efficiently utilize eight-digit numbering for implementation in phases. Measures include the reallocation of numbers in different levels, i.e. 7(0-3)X, 4X, 8(1-3)X and the release of the majority of numbers in the Special Number Blocks (number blocks in a special or easily recognizable pattern), and the increase of the threshold of the utilization rate from 70% to 80%, for the allocation of additional numbers to operators. These measures have been implemented since 1 July 2017.

Licensing

Licence conditions in the carrier licences
To avoid inconsistencies in licence regulations provided in sector-specific provisions and cross-sectoral regulatory controls, the CA and the SCED jointly reviewed the licence conditions under the Telecommunications Ordinance (Cap. 106). On 5 September 2014, the CA proposed to remove one of the General Conditions (GCs), which restricted attachment to public buildings and trees, and five Special Conditions (SCs) concerning network location, requirements of the installation of lines or cables, works in public streets, interference with works of others, and the licensee of the network. The removal of the SCs and the GC took effect on 10 March 2015 and 1 July 2016, respectively.

Facilitating the development of Wireless Internet of Things (WIoT) services
The CA approved the creation of the new WIoT Licence on 1 December 2017 for the provision of WIoT platforms and services using the shared frequency band of 920–925 MHz, with a view to laying down the foundation for embracing the IoT, 5G mobile services, and future smart city applications in HKC. WIoT Licences are subject to less stringent regulatory control and lower licence fees as compared with the current UCL. Existing MNOs can deploy their assigned mobile spectrum for the provision of WIoT services, making use of mobile technologies (e.g. Narrowband-IoT) in accordance with the conditions of their UCLs.

Source: Information provided by the HKC authorities.

4.4.2 Financial services

4.4.2.1 Statistical overview

4.31. Financial services contributed to 17.7% of HKC's GDP in 2016, and provided 6.7% of employment in 2017. Box 4.5 describes the main economic indicators of the financial services sector in general, while Boxes 4.6 to 4.9 describe in more detail the economic indicators of the banking subsector (Box 4.6), of the insurance subsector (Box 4.7), of the stock exchange and securities subsectors (Box 4.8), and of the mandatory provident fund schemes subsector (Box 4.9).

Box 4.5 Main economic indicators of the financial services sector

General

Share of financial services in the GDP
2012 (of which insurance): 15.9% (2.9%)
2016 (of which insurance): 17.7% (3.7%)

Share of financial services in total employment
2012 (of which insurance): 6.3% (1.3%)
2016 (of which insurance): 6.7% (1.6%)

Net financial services exports
2013: HK$95,378 million (net financial services exports excluding insurance and pension services)
HK$2,493 million (net insurance and pension services exports)
2016: HK$101,932 million (net financial services exports excluding insurance and pension services)
HK$171 million (net insurance and pension services exports)

Capital stock of HKC financial services providers abroad
Insurance services providers:
2012: HK$201.7 billion (2.2% of the total stock of outward direct investment (DI))[a]
2016: HK$255.2 billion (2.1% of the total stock of outward DI)[a]

Banking and securities services providers: not available

Significance of the financial services arm of Hong Kong Post
The only financial services provided by Hong Kong Post are remittance services. The total remittance amount in 2016/17 was HK$201 million (comprising inbound HK$91 million (i.e. e-remittance HK$90.75 million and postal remittance HK$0.25 million) and outbound HK$110 million (i.e. e-remittance HK$109 million and postal remittance HK$1 million)). The market share is insignificant.

a Caution should be exercised in the interpretation of the outward DI statistics. The stock of outward DI (i) includes only claims by HKC residents that have a lasting interest and a significant degree of influence or an effective voice in the management (for statistical purposes, an effective voice is taken as being equivalent to a holding of 10% or more of the voting power) of the non-resident enterprises; and (ii) comprises both equity and investment fund shares (including equity, shares and reinvestment of earnings) and debt instruments (inter-company debt). Thus, the definition of outward DI statistics does not exactly match with the definition of "Capital Stock Abroad".

Source: Information provided by the HKC authorities.

Box 4.6 Banking subsector

Banking services

Number of banks and recent consolidations
2014[a]: 203 banks[b] (of which, foreign-controlled banks[c]: 47; branches of foreign banks[d]: 145)
2017[a]: 191 banks[b] (of which, foreign-controlled banks[c]: 44; branches of foreign banks[d]: 138)
Number of banks by type (end-April 2018): 154 licensed banks; 19 restricted licensed banks; 17 deposit-taking companies; and 48 local representative offices of overseas banking institutions. These institutions (except for the latter) operate a network of 1,307 local branches.

The top three banks' assets as a share of the total assets of all commercial banks at end-2014 and end-2017
2014: 31%; 2017: 32%

Authorized institutions' (AIs) total assets at end-2014 and end-2017
2014: HK$18,442 billion (of which, foreign-controlled banks: HK$5,503 billion; branches of foreign banks: HK$8,085 billion)
2017: HK$22,697 billion (of which, foreign-controlled banks: HK$6,761 billion; branches of foreign banks: HK$ 10,057 billion)

Lending activities (AI loans outstanding at end-2014 and end-2017)
2014: HK$7,276 billion (of which domestic lending: 70%; foreign lending: 30%)
2017: HK$9,314 billion (of which domestic lending: 70%; foreign lending: 30%)

AI investment in listed and unlisted shares at end-2014 and end-2017
2014: HK$210 billion
2017: HK$213 billion

a Figures as at 31 December.
b HKC maintains a three-tier system of deposit-taking institutions, namely, licensed banks (LBs), restricted-licence banks (RLBs) and deposit-taking companies (DTCs). They are collectively known as AIs. The figure includes LBs, RLBs and DTCs. Only LBs may operate current and savings accounts, accept deposits of any size and maturity from the public, and pay or collect cheques drawn by or paid in by customers. RLBs are principally engaged in merchant banking and capital markets activities, and may take deposits of a maturity of HK$500,000 and above. DTCs are mostly owned by, or otherwise associated with, banks; they are engaged in a range of activities, in particular consumer finance. They are restricted to taking deposits of HK$100,000 or above with an original term to maturity of at least three months.
c Foreign-controlled banks refer to banks, including LBs, RLBs and DTCs, incorporated in HKC with non-HKC-beneficial ownership.
d Branches of foreign banks refer to banks, including LBs, RLBs and DTCs, incorporated outside HKC.

Source: Information provided by the HKC authorities.

Box 4.7 Insurance subsector

Insurance

Number of insurance companies and recent consolidations
2012: 155 companies, of which life: 44 (29 of which were incorporated outside HKC); non-life: 92 (34 of which were incorporated outside HKC); composite: 19 (9 of which were incorporated outside HKC).
2017: 159 companies, of which life: 47 (28 of which were incorporated outside HKC); non-life: 93 (35 of which were incorporated outside HKC); composite: 19 (8 of which were incorporated outside HKC).

Life insurance premium volume to GDP
2013: 12.1; 2017: 16.6%

Non-life insurance premium volume to GDP
2013: 2.0%; 2017: 1.8%

Insurance density (US$/inhab.)
2013: 5,343; 2016: 7,894

Insurance penetration (% of GDP)
2013: 14.0%; 2016: 18.1%

Concentration
Cumulative market share of the top five companies as at end-December 2016: life insurance 66.4%; non-life insurance 29.9%; health insurance: not available; reinsurance: not available.

Source: Information provided by the HKC authorities.

Box 4.8 Stock exchange and securities subsectors

Stock exchange and securities

Capitalization of the companies listed
2013: Total market cap. HK$24,042.8 billion (i.e. 11.3 times the GDP of that year)
2017: Total market cap. HK$33,998.8 billion (i.e. 12.8 times the GDP of that year)

Stock market total turnover to GDP (%)
2013: 713.9; 2017: 815.8

Private bond market capitalization to GDP (%)
No information is available, according to the authorities.

Public bond market capitalization to GDP (%)
No information is available, according to the authorities.

Securities turnover on the stock exchange (secondary market, 2017)
68.1% of equities; 16.6% of derivative warrants; 8.4% of Callable Bull/Bear Contracts (CBBCs) and 6.7% of Unit Trusts

Source: Information provided by the HKC authorities.

Box 4.9 Mandatory provident fund schemes subsector

Constituent funds of mandatory provident fund schemes

Number of funds: March 2014: 477; December 2017: 469

Total assets: March 2014: HK$516,192 million; December 2017: HK$843,515 million

Source: Information provided by the HKC authorities.

4.4.2.2 Trade and regulatory regimes for financial services

4.4.2.2.1 Trade and regulatory regimes for insurance services

4.32. Since its previous Review in 2014, there have been a few changes in the regime, including: (1) the conclusion of the HKC-Macao CEPA and the HKC-ASEAN FTA, and the entering into force of the HKC-Chile FTA, which contain extensive commitments on insurance services; (2) the establishment, on 26 June 2017, of a new Insurance Authority (IA) in charge of supervision and licensing; and (3) the adoption of new measures aimed at, *inter alia,* ensuring that customers are informed about insurance products, and introducing a group and cross-sector supervision resolution regime over insurers.

4.33. Box 4.10 recapitulates the GATS and FTA commitments of HKC, while Box 4.11 describes the applied regulatory regime and the main recent regulatory evolutions in the sector.

Box 4.10 Bound trade regimes for insurance services

GATS commitments

Unchanged since the previous TPR.

FTA commitments

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

Unchanged since the previous TPR.

HKC–New Zealand CEP Agreement (entered into force on 1 January 2011)
Unchanged since the previous TPR.

CEPA with Mainland China (entered into force on 29 June 2003; its subsidiary agreement, the Agreement on Trade in Services, entered into force on 27 November 2015)

Paragraph 2 of Article 3 of the Agreement on Trade in Services stipulates that HKC will not impose any new discriminatory measures on Mainland China's services or service suppliers in the areas where Mainland China has undertaken specific commitments on the liberalization of trade in services for HKC. The two sides will formulate further liberalization of trade in services of HKC for Mainland China's services and service suppliers.

HKC-Chile FTA (entered into force on 9 October 2014)
The commitments of HKC on insurance and insurance-related services for Modes 1-3 essentially reflect its GATS commitments as defined in Section 2 of Annex 12.5 to the HKC-Chile FTA. Mode 4: commitment on business visitors, in addition to GATS commitments.

HKC-Macao CEPA (entered into force on 27 October 2017)

The commitments of HKC on insurance and insurance-related services for Modes 1-3 essentially reflect its GATS commitments as defined in Annex 1 to the HKC-Macao CEPA. Mode 4: commitment on business visitors, in addition to GATS commitments.

HKC-ASEAN FTA (signed on 12 November 2017; and is to enter into force after the relevant parties complete the necessary procedures)
The commitments of HKC on insurance and insurance-related services for Modes 1-3 essentially reflect its GATS commitments as defined in Annex 8-1 to the HKC-ASEAN FTA. Mode 4: commitment on business visitors, in addition to GATS commitments.

Source: HKC GATS Schedule, and information provided by the HKC authorities.

Box 4.11 Applied trade regime and general regulatory framework for insurance services

Applied trade regime

Consistent with the commitments under HKC's FTAs, and applied *erga omnes*.

No changes in the following areas
Preferential arrangements, bilateral agreements and MOUs, licensing criteria and procedures, and the following aspects of prudential regulations: differences of treatment between domestically owned firms, foreign-owned branches, and foreign-owned subsidiaries; recognition of home country supervision of foreign insurance companies; minimum capital requirements to obtain a licence; administrative allocation of insurance services; and the approval process for life and non-life premiums and products.

General regulatory framework
During the period under review, some regulations were amended, including an amendment in 2015 to the previous Insurance Companies Ordinance to replace it with the new Insurance Ordinance (Cap. 41) and its subsidiary legislation, which regulate the provision of insurance services in HKC.

Supervisory authorities
On 26 June 2017, the IA took over the statutory functions of the Office of the Commissioner of Insurance (OCI). The OCI was disbanded on the same day.

Prudential regulations

IA

On 10 July 2015, the Insurance Ordinance (Cap. 41) was enacted to provide for, *inter alia,* the establishment of an IA, with a view to modernizing the regulatory framework of insurance in HKC, and ensuring the financial and operational independence of the IA from the Government and the relevant industry. The primary regulatory functions of the IA are to ensure the financial soundness of insurers and the protection of policy holders. Currently, insurance intermediaries are still governed by three self-regulatory organizations (i.e. the Insurance Agents' Registration Board, the Hong Kong Confederation of Insurance Brokers, and the Professional Insurance Brokers' Association). According to the authorities, the IA is to take over the duties of the three self-regulatory organizations and administer a new statutory licensing regime of directly regulating insurance intermediaries in mid-2019.

To achieve long-run financial independence, the Insurance Ordinance (Cap. 41) empowers the IA to collect a premium levy from policy holders, authorization fees from insurance companies, and fees from users for specific services from 1 January 2018. Regulatory details are provided in the Insurance (Levy) Regulation (Cap. 411), which entered into force on the same day.
Policy-holders Protection Fund

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

The related legislation is being drafted and is expected to be put before the Legislative Council in the 2018-19 legislative year.

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

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

During the review period, a number of measures were adopted with a view to ensuring that customers are informed about insurance products.

Standard Benefit Illustrations for Participating Policies and Standard Illustration for Universal Life (Non-Linked) Policies were issued in October 2015, with the aim of enhancing the transparency of life insurance policies and enabling customers to make informed decisions. For participating policies, insurance companies must include projections under pessimistic and optimistic scenarios to show the variations in non-guaranteed benefits. For Universal Life (Non-Linked) Policies, insurers must explain changing interest rates when indicating crediting interest rates.

In addition, to fully inform Mainland China visitors of the risks of buying insurance in HKC, insurers must include an "Important Facts Statement for Mainland China Policy Holders" in new applications of individual long-term insurance policies made by Mainland China visitors, with effect from 1 September 2016.

Group and cross-sector supervision
In order to work closely with regulators in other jurisdictions in regulating major insurance groups, the IA participates in and convenes supervisory colleges. In 2016, the IA held two supervisory colleges in HKC for two insurance groups based in HKC, respectively, and participated in other supervisory colleges.[a]

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

The RBC regime is to be developed in four phases. Phase one included the development of the framework, the consultation of which was concluded on 30 September 2015. According to the authorities, the RBC framework comprises requirements for quantitative aspects (including the assessment of capital adequacy and valuation); qualitative aspects (consisting of corporate governance, Enterprise Risk Management, and an Own Risk and Solvency Assessment); transparency disclosure; and group-wide supervision.

Phase two involves the development of detailed rules of the RBC framework; phase three will focus on legislation; and phase four on implementation.

Currently, the RBC regime is in phase two, and the IA is carrying out Quantitative Impact Study (QIS) exercises in respect of quantitative aspects for data collection and impact analysis. The IA completed the first QIS in late 2017 and will launch the second and third QISs around mid-2018 and mid-2019, respectively.

Regarding the qualitative aspects, the IA aims to issue a guideline on enterprise risk management by late 2018.

Resolution regime
The Financial Stability Board (FSB)'s Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes) set 12 standards, with a view to ensuring that systemically important financial institutions are allowed to fail safely without posing a threat to the stability of the financial system.

In line with the FSB's standards, the Financial Institutions (Resolution) Ordinance (Cap. 628) (FIRO) came into operation on 7 July 2017. Under the Ordinance, a cross-sector resolution regime was established, where the Monetary Authority, the IA and the Securities and Futures Commission (SFC) are the respective resolution authorities for the banking, insurance, and securities and futures sectors. They are vested with a range of powers to effect the resolution of what they consider "non-viable systemically important" financial institutions in HKC, with a view to mitigating risks posed by non-viability to the stability and effective working of the HKC financial system, while imposing losses on the institutions' shareholders and creditors (thereby minimizing risks posed to public funds).[b]

Insurtech development[c]
On 29 September 2017, the IA introduced two "Insurtech" initiatives, i.e. Insurtech Sandbox and Fast Track.

Sandbox allows insurers to conduct pilot trials of Insurtech in a controlled environment, which is intended to enable insurers to collect market data on the one hand, and for the IA to keep up to date with Insurtech trends so as to be able to better regulate insurance innovations on the other. Fast Track introduced a queue for new authorization applications from insurers, through digital distribution channels.

a IA online information (pp. 107-108). Viewed at: https://www.ia.org.hk/en/infocenter/files/AR2016.pdf.
b Legislative Council online information. Viewed at: http://www.legco.gov.hk/yr15-16/english/bills/brief/b201511201_brf.pdf, and Hong Kong Monetary Authority (HKMA) online information. Viewed at: http://www.hkma.gov.hk/eng/key-functions/banking-stability/resolution.
c IA online information. Viewed at: https://www.ia.org.hk/en/aboutus/insurtech_corner.html.

Source: Information provided by the HKC authorities.

4.4.2.2.2 Trade and regulatory regimes for banking and other financial services

4.34. Since its previous Review, the main changes for banking services in HKC concern the following areas: (1) the conclusion of a HKC-Macao CEPA and a HKC-ASEAN FTA as well as the entering into force of the HKC-Chile FTA, which contain extensive commitments on banking services; (2) the extension of the supervision of the Hong Kong Monetary Authority (HKMA) to Stored Value Facilities (SVF) and Retail Payment Systems (RPS); (3) measures to bring the financial regulatory regime of HKC in line with international standards as set out in Basel III reform package and FSB's Key Attributes; and (4) the enhancement of regulatory regime for anti-money-laundering.

4.35. Regarding "other financial services" (mainly securities, Mandatory Provident Fund Scheme, mutual funds) the main changes since the previous review include: a further disclosure requirement for Independent Non-Executive Directors (INEDs) in listed companies, and a mandatory diversity policy for their boards; the expansion of the scope of the short position reporting regime; stock and bond connect initiatives with Mainland China; the establishment of a regulatory regime for over-the-counter (OTC) derivatives; the introduction of a regulatory framework for a new open-ended fund company structure; the enhancement of the Code on Unit Trusts and Mutual Funds and the Code on Real Estate Investment Trusts; the launch of the mutual recognition of funds schemes with France, Mainland China, and Switzerland; and the stamp duty waiver for Exchange Traded Funds (ETFs). In the MPF sector, a Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 was adopted in June 2016 to, *inter alia,* require trustees operating MPF schemes to provide in each scheme a Default Investment Strategy (DIS) with standardized features set out in the legislation.[23]

4.36. Box 4.12 recapitulates the GATS and FTA commitments of HKC, while Boxes 4.13 to 4.15 describe the regulatory regime and the recent regulatory evolutions for banking services (Box 4.13), securities (Box 4.14) and mutual funds and asset management (Box 4.15), respectively.

Box 4.12 Bound regimes for banking services and other financial services

GATS commitments
Unchanged since the previous Review.

FTA commitments

HKC-EFTA States FTA
Unchanged since the previous Review.

HKC–New Zealand CEP Agreement (entered into force on 1 January 2011)
Unchanged since the previous Review.

CEPA with Mainland China (entered into force on 29 June 2003; its subsidiary agreement, the Agreement on Trade in Services, entered into force on 27 November 2015)
Paragraph 2 of Article 3 of the CEPA Agreement on Trade in Services stipulates that HKC will not impose any

[23] The DIS, launched on 1 April 2017, is designed mainly for scheme members that do not give their trustees any investment instructions for their MPF benefits, to be consistent with the objective of building up long-term retirement savings. Financial Services and Treasury Bureau online information. Viewed at: https://www.fstb.gov.hk/fsb/topical/doc/dis_amendment_ordinance_e.pdf.

new discriminatory measures on Mainland China's services or service suppliers in the areas where Mainland China has undertaken specific commitments on the liberalization of trade in services for HKC. The two sides will formulate further liberalization of trade in services of HKC for Mainland China's services and service suppliers.

HKC-Chile FTA (entered into force on 9 October 2014)
Acceptance of deposits and other repayable funds from the public

Market access:
Modes 1 and 2: same regime as GATS.
Mode 3: all authorized institutions (i.e. RLBs and DTCs) shall maintain a physical presence in HKC.
Mode 4: commitment on business visitors, in addition to GATS commitments
National treatment: same regime as GATS.

Other commitments of HKC on banking and other financial services essentially reflect its GATS commitments as defined in Section 2 of Annex 12.5 to the HKC-Chile Agreement.

HKC-Macao CEPA (entered into force on 27 October 2017)
Acceptance of deposits and other repayable funds from the public
In line with the commitments under the HKC-Chile FTA

All payment and money transmission services
Market access: Modes 1-3: same regime as GATS; Mode 4: commitment on business visitors, in addition to GATS commitments

National treatment:
Modes 1, 2 and 4: same regime as GATS.
Mode 3: none, other than that all licensees operating SVFs must appoint a chief executive and not less than one alternative chief executive, each of whom shall be an individual who is ordinarily resident in HKC.

Other commitments of HKC on banking and other financial services essentially reflect its GATS commitments as defined in Annex 1 to the HKC-Macao CEPA.

HKC-ASEAN FTA (signed on 12 November 2017; and is to enter into force after the relevant parties complete the necessary procedures)
In line with the commitments under the HKC-Macao FTA, which are applied *erga omnes*.

Applied trade regime

In line with the commitments under the HKC-Macao FTA and the HKC-ASEAN FTA, and is applied *erga omnes*.

Source: Information provided by the HKC authorities.

Box 4.13 Regulatory framework for banking services

No changes since the last Review in the following areas

Preferential arrangements affecting banking services, recognition of prudential measures of other countries through international agreements or unilaterally, licensing, and the deposit insurance scheme.

Regulatory framework for banking services
The framework for the prudential regulation of the banking sector in HKC is based on international standards set by the Basel Committee and the FSB. In this regard, the regulatory basis is provided in the Banking Ordinance (Cap. 155) (BO) and its subsidiary legislation. During the period under review, the BO was amended, and several pieces of subsidiary legislation were drafted to implement recent Basel FSB standards (see below).

Supervisory authorities
The HKMA is the regulatory authority for banking sectors in HKC.

It is empowered to implement the regulatory regime for SVFs, RPSs and the Clearing and Settlement System (CSS) under the Payment Systems and Stored Value Facilities Ordinance (Cap. 584), with a view to promoting the safety and efficiency of the operations of SVFs, RPSs and the CSS in HKC.

Licensing
The HKMA is the licensing authorization authority. During the review period, there was no change in the licensing requirements.

The banking industry in HKC has adopted a three-tier system of deposit-taking institutions, including LBs, RLBs and DTCs, which are collectively known as AIs. Only LBs are allowed to operate current and savings accounts, and take deposits of any size and maturity. RLBs are allowed to take deposits of any maturity of HK$500,000 and above, and their main operations are in merchant banking and capital market activities. DTCs may accept deposits of HK$100,000 or above with an original term of maturity of at least three months.

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

The authorities indicated that the HKMA implemented Basel III in accordance with the internationally agreed timeline.

The Monetary Authority periodically proposes amendments to the BO and to the rules made under it (viz. Banking (Capital) Rules (Cap. 155L) (BCR), Banking (Disclosure) Rules (Cap. 155M) (BDR) and Banking (Liquidity) Rules (Cap. 155Q) (BLR)), with a view to aligning the regulatory regime in the light of relevant international standards and evolving practices. The BO and the BCR were amended in 2012 to provide the legal framework for the introduction of Basel III.

During the review period, the BO and several pieces of subsidiary legislation were amended to implement the Basel III capital and liquidity requirements and other related Basel standards. This covered amendments to: (1) the BCR for implementing the Basel III capital buffer requirements, the Basel revised securitization framework, the minimum leverage ratio requirement, and the capital treatment of expected loss provisions under International Financial Reporting Standard 9; (2) the BDR for implementing revised disclosure requirements; and (3) the BLR for implementing the net stable funding ratio. In addition, the BO was amended in 2018 to mandate recovery planning by banks, and provided for new rule-making powers to facilitate the implementation of the revised Basel Committee's exposure standards locally in 2019.

Financial Sector Assessment Programme (FSAP)
In May 2014, the IMF concluded its examination of HKC under the FSAP, and concluded that banks in HKC were well positioned to absorb a significant realization of risks.[a]

The FSB's Key Attributes set 12 standards to ensure that systemically important financial institutions can be allowed to fail safely without posing a threat to the stability of the financial system.

In line with the FSB's standards, the FIRO came into operation on 7 July 2017. Under the FIRO, a cross-sector resolution regime was established where the Monetary Authority, the IA and the SFC are respective resolution authorities for banking, insurance, and securities and futures sectors. To operationalize the resolution regime, three Codes of Practice chapters under the Ordinance have been published to date by the HKMA, namely: (1) Core Information Requirements for Resolution Planning; (2) The HKMA's Approach to Resolution Planning; and (3) Operational Independence of the Monetary Authority as Resolution Authority. Furthermore, the HKMA issued a public consultation on the policy proposals in relation to LAC requirement rules for authorized institutions under the FIRO in January 2018. The provisions in the Banking (Amendment) Ordinance 2018 relating to recovery planning, which implement relevant Key Attributes of the FSB, came into effect on 2 February 2018.

Specific provisions against money-laundering
During the period under review, the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615), applicable to financial institutions, was amended to extend the customer due diligence and record-keeping requirement to designated non-financial business and professions. The amended Ordinance (the Anti-Money Laundering and Counter-Terrorist Financing Ordinance) came into operation on 1 March 2018.

Bank deposit insurance scheme
No changes in the scope and level of protection since the previous Review. With a view to implementing a fast compensation regime, the amended Deposit Protection Scheme Ordinance (Cap. 581) entered into force on 24 March 2016.

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

Source: Information provided by the HKC authorities.

Box 4.14 Regulatory framework for securities

The SFC is the regulatory agency responsible for the securities and futures markets. The Securities and Futures Ordinance (Cap. 571) (SFO) and a number of other provisions provide the legal basis for the SFC to regulate the securities and futures markets.

Provisions on shareholders' rights in companies listed on the stock exchange and on companies' obligations to disclose information
The statutory disclosure regime: no changes since the previous Review.

On 3 November 2017, consultations to review the Corporate Governance Code (the Code) of the Stock Exchange of Hong Kong (SEHK) and its Listing Rules (the Rules) were launched, with a view to, *inter alia,* enhancing the overall independence of INEDs. Key proposed amendments included the disclosure requirement of the nomination and selection process for INEDs.

The Companies Ordinance (Cap. 622), amended in July 2012, entered into force on 3 March 2014. The Companies Ordinance was further amended in 2013 and 2015. The 2013 Amendment modified Schedules 7 and 10 of the Ordinance; and two items describing conditions under which offences would not be subject to proceedings were added to Schedule 7. The 2015 Amendment mainly involved adjustments of terminology.

A company is a separate legal entity, that is, it is a legal person in its own right and separate from its owners. The benefit of limited liability through operating as a limited company also brings with it obligations insofar as the company must comply with the various provisions of the Companies Ordinance (Cap. 622). These obligations include the timely disclosure and reporting of specified information about the company, its officers and shareholders, and any changes in such information, to the Registrar of Companies, so that members of the public have ready access to the latest information of the company kept by the Registrar of Companies.[a]

Securities and Futures Short Position Reporting Rules
The Securities and Futures (Short Position Reporting) Rules (Cap. 571A) stipulate a short position reporting regime, under which those who hold short positions in specific shares are required to report to the SFC. In March 2017, the SFC expanded the scope of the short position reporting regime to cover all 889 Designated Securities (compared with 127 previously) that can be short sold, with a view to enhancing the transparency and monitoring of short selling activities.[b] Designated Securities refer to securities with sufficient liquidity, including constituent stocks of equity indices, ETFs, underlying stocks of options and futures contracts, as well as other stocks with a relatively large market capitalization and turnover volume. The list of Designated Securities is reviewed regularly.

Position limit regime
On 1 June 2017, the SFC expanded the categories of persons that may be authorized to hold or control a position in certain futures contracts in excess of the prescribed limits, and increased the prescribed limits for stock options contracts with a view to facilitating market development.[c]

Regulatory regime for credit rating agencies
Unchanged since the previous Review.

Stock and Bond Connect Initiatives with Mainland China
In November 2014, the Shanghai-Hong Kong Stock Connect[d] was launched. This has allowed investors from Mainland China to trade securities listed in Hong Kong Exchanges and Clearing Limited (HKEX); and investors in HKC have been allowed to purchase selected A shares listed in the Shanghai Stock Exchange (SSE). This scheme was extended to Shenzhen through the Shenzhen-Hong Kong Stock Connect in December 2016. On 1 May 2018, the daily quotas were increased to renminbi (RMB) 52 billion for each of the northbound trading links and RMB 42 billion for each of the southbound trading links. In July 2017, "Bond Connect[e]" was launched; in the first phase, it allows overseas investors to invest in Mainland China's bond market through HKC.

Regulatory regime for OTC derivatives
In 2014, the Securities and Futures (Amendment) Ordinance 2014 was enacted, with a view to complying with the G20 commitments on regulating the OTC derivatives markets.[f] The Amendments provided a regulatory framework for the OTC derivatives market in HKC, including introducing the mandatory reporting, clearing, and platform-trading obligations, which are being implemented in phases. Phase one, which came into effect on 10 July 2015, introduced the mandatory reporting of transactions in certain interest rate swaps (IRSs) and non-deliverable forwards; and the development of a framework for the OTC regulatory regime. Phase two required the mandatory clearing of dealer-to-dealer trades in certain interest rate derivatives and the designation of central counterparties (CCPs) for the purposes of mandatory clearing; and expanded mandatory reporting to cover all interest rate derivatives, foreign exchange derivatives, equity derivatives, credit derivatives and commodity derivatives. Such mandatory clearing took effect on 1 September 2016, and the expanded mandatory reporting took effect on 1 July 2017.

The SFC and the HKMA issued a joint consultation in April 2017 and published consultation conclusions in June 2017 on proposals to exclude certain exchange-traded derivatives and Delta One Warrants from the definition of "OTC derivative products". Furthermore, the SFC issued a two-month consultation in December 2017 on proposals to refine the scope of regulated activities under the OTC derivatives regime. The consultation also included proposals related to risk mitigation, client clearing, record keeping and other conduct requirements for OTC derivatives transactions, licensing fees, insurance, and competence and training requirements under the new OTC derivative licensing regime; and proposals to require licensed corporations to properly manage financial exposures to group affiliates and other connected persons. The consultation closed in February 2018.

In March 2018, the SFC and the HKMA issued a joint consultation on enhancements to the OTC derivatives regulatory regime to mandate the use of Legal Entity Identifiers for the reporting obligation, expand the clearing obligation, and adopt a trading determination process for introducing a platform trading obligation.

For non-centrally cleared OTC derivatives (NCCDs) transactions of HKC banks, the HKMA promulgated the Non-Centrally Cleared OTC Derivatives Transactions - Margin and Other Risk Mitigation Standards under the Supervisory Policy Manual in January 2017, which set the margining requirements and risk mitigation requirements for NCCDs. Those requirements started to be phased in from 1 March 2017, subject to a six-month transition period.

Resolution regime
The FSB's Key Attributes set 12 standards to ensure that systemically important financial institutions can be allowed to fail safely without posing a threat to the stability of the financial system.

In line with the FSB's standards, the FIRO came into operation on 7 July 2017. Under the FIRO, a cross-sector resolution regime was established where the Monetary Authority, the IA and the SFC are respective resolution authorities for the banking, insurance and securities and futures sectors.

Supervision Collaboration
On 13 November 2015, the Securities and Futures (Amendment) Ordinance 2015[g] entered into force, which allowed the SFC to provide supervisory assistance to regulators in other jurisdictions, with the aim of enhancing the stability and development of the HKC financial market.

Manager-in-Charge regime
In October 2017, the SFC implemented the Manager-In-Charge (MIC) regime, with a view to enhancing the accountability of senior management of licensed corporations and to promote awareness of senior management obligations under the existing regulatory framework. Under the regime, firms are required to identify their MICs responsible for managing core functions, and to notify the SFC of their management structures in a standardized format. In addition, MICs of overall management oversight and key business line functions are expected to be licensed by the SFC as responsible officers.

Enhanced conduct regulations
In 2017, the SFC enhanced conduct regulations governing intermediaries distributing investment products and fund managers in light of international regulatory developments. The SFC also issued a new set of guidelines on online distribution and advisory platforms in 2018, with a view to facilitating the growth of online platforms.

a For further elements, see: http://www.cr.gov.hk/en/compliance/obligations.htm.
b For further elements, see: http://www.legco.gov.hk/yr15-16/english/subleg/brief/2016ln039_brf.pdf.
c For further elements, see: http://www.legco.gov.hk/yr16-17/english/subleg/brief/2017ln044_brf.pdf.
d For further elements, see: http://www.hkex.com.hk/mutual-market/stock-connect/reference-materials/announcement?sc_lang=en.
e For further elements, see: http://www.chinabondconnect.com/en/index.htm, and http://www.hkma.gov.hk/eng/key-information/press-releases/2017/20170516-5.shtml.
f For further elements, see: https://www.elegislation.gov.hk/hk/2014/6!en, http://www.legco.gov.hk/yr14-15/english/subleg/brief/95-97_brf.pdf, and https://www.fstb.gov.hk/fsb/ppr/legco/doc/b030216_e.pdf.
g For further elements, see: http://www.legco.gov.hk/yr14-15/english/bills/b201506121.pdf, and http://www.info.gov.hk/gia/general/201511/13/P201511120824.htm.

Source: Information provided by the HKC authorities.

Box 4.15 Regulatory framework for mutual funds and asset management

New open-ended fund company (OFC) structure
The Securities and Futures (Amendment) Ordinance 2016, which enables the introduction of a new OFC structure in HKC, came into force in June 2016.[a] The new OFC regime is to allow funds to be set up in the form of a company, with the flexibility to create or cancel shares when investors subscribe or redeem the funds. Previously, an open-ended investment fund could be established under the laws of HKC in the form of a unit trust but not in a corporate form, due to various restrictions on capital reduction under the Companies

Ordinance (Cap. 622). Following the passage of the Bill, the SFC launched a consultation on the Securities and Futures (Open-ended Fund Companies) Rules (Cap. 571AQ) (QFC Rules) and Code on Open-ended Fund Companies in mid-2017, which set out the proposed detailed regulations concerning OFCs. The consultation conclusions were published in May 2018. The new OFC regulatory regime and the associated tax treatment were expected to commence in July 2018 following the completion of the legislative process of the OFC-related subsidiary legislation (including the OFC Rules), which were gazetted in May 2018.

Code on Unit Trusts and Mutual Funds (UT Code)
On 30 January 2015, the SFC amended the UT Code, with a view to providing public funds with greater flexibility in determining the means of making public their offer and redemption prices, net asset values (NAVs) and notices of dealing suspension. To update the regulatory regime for public funds to align it with international standards and address the risks posed by financial innovation and fast moving market developments, the SFC launched a three-month consultation on the proposed amendments to the UT Code on 18 December 2017. Key proposals included strengthening the requirements for key operators (management companies, trustees and custodians), providing greater flexibility and enhanced safeguards for fund activities (particularly in relation to derivatives, securities lending, and repo and reverse repo transactions), and introducing new types of funds (including active exchange-traded funds (ETFs)). The SFC is currently considering the consultation responses.

Real Estate Investment Trust (REIT) market development
The SFC amended the Code on REITs in August 2014, with the aim of providing greater flexibility to investment in properties under development or engagement in property development activities, and investment in financial instruments.

Mutual recognition of funds (MRF)
Under an MRF arrangement, eligible public funds can be distributed in another country's market through a streamlined vetting process. The SFC signed MoUs with Switzerland and France on 2 December 2016 and 10 July 2017, respectively, with the aim of providing MRF in both markets.[b] The MoU with France was HKC's first agreement of funds recognition with an EU member. Four HKC funds have been approved to date by the Swiss Financial Market Supervisory Authority (FINMA) for public offering in Switzerland.

On 22 May 2015, the Mainland China-HKC MRF initiative was jointly launched by the SFC and the China Securities Regulatory Commission (CSRC), with a view to strengthening financial cooperation between HKC and Mainland China. The initiative was implemented on 1 July 2015, with an initial investment quota of RMB300 billion for in and out fund flows each way.[c] To date, 64 funds[d] have been approved by the two regulators. As of 30 April 2018, the cumulative net sales of Mainland China funds and HKC funds amounted to about RMB420 million and RMB11.5 billion, respectively, representing a year-on-year increase of 278% and 56%, respectively.

Stamp Duty Waiver for ETFs
Stamp duty for ETFs has been waived since 13 February 2015, pursuant to the Stamp Duty (Amendment) Ordinance 2015[e], which aimed to enhance the development of ETF trading and to increase the competitiveness of HKC as an international financial hub.

a For further elements, see: https://www.gld.gov.hk/egazette/pdf/20162023/es12016202316.pdf.
b SFC online information. Viewed at: https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=16PR132, and https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=17PR95.
c SFC online information. Viewed at: http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=15PR52.
d The CSRC and the SFC have authorized 14 HKC funds and 50 Mainland China funds for distribution to the public in the Mainland China and HKC, respectively.
e For further elements, see: https://www.fstb.gov.hk/fsb/ppr/legco/doc/b051214_e.pdf.

Source: Information provided by the HKC authorities.

4.4.3 Legal services

4.4.3.1 Statistics overview

4.37. HKC's trade in legal services is in surplus, with exports increasing at an average annual rate of 10.3% between 2006 and 2016.[24] As at 16 March 2018, there were 12,313 practising lawyers, of which 9,398 were solicitors, 1,422 barristers and 1,493 foreign lawyers (Box 4.16). There were 891 HKC law firms, 85 foreign law firms, and 37 associations.

[24] Calculation based on data from *Hong Kong Trade in Services Statistics* in 2007, 2010, 2013, and 2016.

Box 4.16 Main economic indicators of the legal services

Share of value added of legal, accounting and auditing services in GDP[a]
2007: 1.1%
2016: 1.4%

Share of legal, accounting and auditing services in total employment
2007: 1.2%
2016: 1.4%

Net legal services exports (HK$ million)
2007: 624
2016: 1,307

Employment

Number of practising lawyers
2007: 8,008 (of which solicitors: 5,925; barristers: 1,042; foreign lawyers[b]: 1,041) (as of December 2007) (number of foreign legal professionals admitted via (a) the Barristers Qualification Examination: none; (b) the Overseas Lawyers Qualification Examination: data not available) (as of 31 December 2007)
2018: 12,313 (of which solicitors: 9,398; barristers: 1,422; foreign lawyers: 1,493) (as of 16 March 2018) (number of foreign legal professional admitted via (a) the Barristers Qualification Examination: data not available yet; (b) the Overseas Lawyers Qualification Examination: data not available) (as of 30 April 2018)

Number of registered law firms
2007: 765 (of which HKC law firms: 709; foreign law firms: 56) (as of 31 December 2007)
2018: 976 (of which HKC law firms: 891; foreign law firms: 85) (as of 16 March 2018)

Number of registered associations (foreign law firms associated with HKC law firms)
2007: 18 (as of 31 December 2007)
2018: 37 (as of 16 March 2018)

a Share of value added of the legal, accounting and auditing services in GDP. Share of value added of only legal services in GDP is not available.
b Foreign lawyers refers to those who offer services to the public as a practitioner of foreign law, other than a solicitor or barrister.

Source: Information provided by the authorities; the Law Society of Hong Kong (LawSoc); the Census and Statistics Department; and the Hong Kong Bar Association.

4.4.3.2 Regulatory regime

4.38. The legal profession in HKC is made up of two branches, namely, solicitors and barristers; they are self-regulated by LawSoc and the Hong Kong Bar Association, respectively. The legal framework is provided in the Legal Practitioner Ordinance (Cap. 159) and its subsidiary legislation.[25]

4.39. A solicitor is not allowed to practise as a barrister at the same time, and vice versa. In addition, solicitors have limited rights of audience. They are only allowed to appear in specific courts, such as the Lands Tribunal, the Magistrates' Courts, and the District Court, whereas barristers have unlimited rights of audience in all courts. In the Legal Practitioners (Amendment) Ordinance 2010, eligible solicitors are allowed to apply for higher rights of audience and thus to appear as solicitor advocates before higher courts.[26] As at 1 May 2018, there were 54 solicitors advocates.[27]

4.40. Barristers may operate as self-employed independent legal practitioners or practise in chambers; while solicitors may operate as sole practitioners, or in general partnerships or in group practices.[28] Under the Legal Practitioners (Amendment) Ordinance 2012, which entered into force

[25] Subsidiary legislation includes, *inter alia*, the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159Q); the Foreign Lawyers Practice Rules (Cap. 159R); the Foreign Lawyers Registration Rules (Cap. 159S); and the Barristers (Qualification for Admission and Pupillage) Rules (Cap. 159AC).
[26] Higher courts include the Competition Tribunal, the High Court and the Court of Final Appeal.
[27] LawSoc online information. Viewed at: http://www.hklawsoc.org.hk/pub_e/HRA/default.asp.
[28] International Bar Association (IBA), pp. 211-217, *Report on Regulation and Trade in Legal Services, an Extract for Trade in Services Agreement Negotiations,* June 2014. Viewed at:

on 1 March 2016, the forms of solicitor operations were expanded to include limited liability partnerships (LLPs). To operate an LLP, an additional top-up insurance coverage of HK$10 million in respect of any one claim is required.[29] As at 11 May 2018, there were 21 local and 14 foreign LLP law firms in HKC.[30] According to the authorities, the introduction of LLPs may encourage small and medium-sized firms to merge with bigger practices so that a wider range of legal services would be available, and also to attract more foreign law firms to practise in HKC.[31]

4.41. Foreign lawyers may work as foreign legal consultants in corporations or companies if they provide legal services only to their employer corporations or companies. Their practices are not regulated by LawSoc.[32] Foreign lawyers working only as foreign legal consultants in corporations or companies (i.e. as in-house lawyers) do not need to be registered with LawSoc because they are not offering their services "to the public as a practitioner of foreign law".

4.42. Under the Foreign Lawyers Practice (Amendment) Rules 2007, if a foreign firm shares a building or common areas with another business, the principal of the foreign firm must ensure that signs are displayed conspicuously at the main entrance of the foreign firm to distinguish the premises of that firm from those occupied by the others.

4.4.3.3 Trade regime

4.43. HKC has made no commitments regarding legal services in its GATS Schedule or in FTAs with its trading partners, except in the CEPA with Mainland China, where HKC has committed to not imposing any new discriminatory measures on Mainland China's legal services or service suppliers.[33] CEPA commitments are not applicable to other external services or service suppliers.

4.44. Legal practitioners from overseas may work in HKC as foreign lawyers or as local lawyers (solicitors/barristers). Foreign lawyers are those who offer services in foreign law in HKC. They must be registered with LawSoc before practising. A firm to which Section 39B(1) of the Legal Practitioner Ordinance (Cap. 159) applies may be registered as a foreign law firm if it satisfies the qualifications set out under Section 7 of the Foreign Lawyers Registration Rules (Cap. 159S).[34] For example, if a branch of an overseas firm is seeking to register, at least one of the partners intending to practise in HKC must have been a partner in the overseas firm on a full-time basis for a period of 12 months immediately preceding the request for registration; and must have at least five years' practising experience. In other cases, *inter alia,* each of the partners intending to practise shall have practising experience of not less than three years. The Council of LawSoc may waive any of the requirements under Section 7(1) of the Foreign Lawyers Registration Rules (Cap. 159S) if it considers it appropriate in particular cases. The registration criteria set no quantitative restrictions.

4.45. Foreign lawyers are prohibited from practising HKC law; they can be employed by a HKC law firm provided that the number of foreign lawyers is not greater than that of HKC solicitors.[35] Legal professionals from overseas may also qualify as HKC solicitors or barristers after specified requirements are satisfied.[36] To be admitted as a solicitor, an overseas lawyer with a minimum of

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http://www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwjznZ77_sPPAhXEUBQKHVFbBmYQFggrMAI&url=http%3A%2F%2Fwww.ibanet.org%2FDocument%2FDefault.aspx%3FDocumentUid%3D1D3D3E81-472A-40E5-9D9D-68EB5F71A702&usg=AFQjCNEdNW5Pk4rQIaSlNmhRO1Y8u2QgiA.

[29] An LLP refers to a form of partnership in which the personal assets of innocent partners, other than their interests in partnership property, are protected from liabilities caused by the negligence, wrongful act or omission, or misconduct of any other partner(s) in the provision of professional services by the firm.

[30] LawSoc online information. Viewed at: http://www.hklawsoc.org.hk/pub_e/memberlawlist/mem_llp.asp.

[31] Government online information. Viewed at: http://www.info.gov.hk/gia/general/201512/11/P201512110550.htm.

[32] WTO document WT/TPR/M/173/Add.1, 16 February 2007.

[33] Information provided by the authorities. See also Paragraph 2 of Article 3 of the Agreement on Trade in Services. Viewed at: https://www.tid.gov.hk/english/cepa/legaltext/cepa13.html.

[34] Department of Justice online information. Viewed at: https://www.elegislation.gov.hk/hk/cap159S!en?xpid=ID_1438402757141_002.

[35] See the Foreign Lawyers Registration Rules (Cap. 159S), Section 13(1). Viewed at: https://www.elegislation.gov.hk/hk/cap159S!en?INDEX_CS=N&xpid=ID_1438402757031_001.

[36] More details can be found in the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159Q) and the Barristers (Qualification for Admission and Pupillage) Rules (Cap. 159AC) for solicitors and barristers, respectively.

two years of post-admission experience in the practice of law in any common law jurisdiction (at least five years of experience for non-common law regions)[37] must pass the required examinations under the Overseas Lawyers Qualification Examination.[38] To qualify as a barrister, an overseas legal professional with at least three years of practice must pass the Barristers Qualification Examination and complete not less than six months of pupillage.[39] In addition, there are residency requirements for overseas lawyers seeking admission as solicitors or barristers.[40] As at end-March 2018, HKC had not entered into any MRAs on qualifications in legal services.

4.46. Foreign law firms are prohibited from practising HKC law and employing or taking into partnership HKC solicitors who hold a practising certificate. According to Section 7 of the Legal Practitioner Ordinance (Cap. 159), no person shall be qualified to act as a solicitor unless, among other conditions, they hold a current practising certificate.[41] One or more foreign law firms may enter into association with a HKC law firm, to share fees, profits, premises, management and non-lawyer employees, but only the HKC law firm may practise HKC law.[42] The number of foreign lawyers in such an association must not exceed that of local solicitors[43]; this, according to the authorities, is to ensure a balanced mix of foreign lawyers and HKC lawyers in the association so as to provide a comprehensive service to the public.[44] Foreign law firms can adopt the same corporate forms as local law firms, including sole proprietorship and general partnership. Since 1 March 2016, when the Legal Practitioners (Amendment) Ordinance 2012 entered into force, law firms may also operate in the form of LLPs. According to Section 2 of Cap. 159, a HKC law firm means a law firm in which: (1) all of the partners are solicitors; or (2) the sole practitioner of which is a solicitor. According to LawSoc information, all the partners in a HKC firm must hold unconditional practising certificates.

[37] According to the 2014 amendment to the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159Q), experience in the practice of law in all the common law jurisdictions or non-common law jurisdictions (as the case may be) in which the applicant was qualified to practice will be counted for the purpose of Section 4 or 5 of the Overseas Lawyers (Qualification for Admission) Rules; and practical legal training can be recognized as practising experience for the purposes of the qualifying examination. Viewed at: https://www.elegislation.gov.hk/hk/2014/ln57!en, and https://www.elegislation.gov.hk/hk/cap159Q.

[38] *Admission as a Solicitor in Hong Kong for Overseas Lawyers 2018 Information Package*. Viewed at: http://www.hklawsoc.org.hk/pub_e/admission/OLQE2018/OLQE%20INFO%20PACK.pdf, and http://www.hklawsoc.org.hk/pub_e/admission/oversea.asp.

[39] Hong Kong Bar Association online information. Viewed at: http://www.hkba.org/overseas-lawyer.

[40] Residency requirements for solicitors are that the person: (1) has resided in HKC for at least three months immediately before the date on which the person applied for the certificate; (2) intends to reside in HKC for at least three months immediately after his admission; (3) has been ordinarily resident in HKC for at least seven years; or (4) has been present in HKC for at least 180 days of each of at least seven years (see Section 4(1A) of the Legal Practitioner Ordinance (Cap. 159)). Residency requirements for barristers are that he or she has: (1) resided in HKC for at least three consecutive months immediately before the date of his/her application for admission; (2) been ordinarily resident in HKC for at least seven years; (3) been physically present in HKC for at least 180 days of each of at least seven years within the 10 years immediately preceding the date of his/her application for admission (Section 27(2)(b) of the Legal Practitioner Ordinance (Cap. 159)).

[41] By virtue of Section 45(1) of Cap. 159, a person that is not qualified to act as a solicitor shall not act as a solicitor, or as such sue out any writ or process, or commence, carry on or defend any action, suit or other proceedings, in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any court or magistrate.

[42] The Legal Practitioner Ordinance (Cap 159), Section 39C. Viewed at: https://www.elegislation.gov.hk/hk/cap159!en?xpid=ID_1438402747905_003&INDEX_CS=N.

[43] The Foreign Lawyers Registration Rules (Cap. 159S), Section 13(3). Viewed at: https://www.elegislation.gov.hk/hk/cap159S!en?INDEX_CS=N&xpid=ID_1438402757031_001.

[44] WTO document WT/TPR/M/109/Add.1, 17 February 2003.

5 APPENDIX TABLES

Table A1.1 Merchandise re-exports by HS sections and major HS chapters, 2014-17

HS section	HS chapter/subheadings	2014	2015	2016	2017
Total (US$ billion)		**508.5**	**497.5**	**491.1**	**531.8**
			(% of total)		
01 Live animals and products		0.6	0.7	0.8	0.9
02 Vegetable products		0.4	0.4	0.6	0.5
03 Fats and oils		0.0	0.0	0.0	0.0
04 Prepared food, beverages and tobacco		0.5	0.6	0.7	0.6
05 Mineral products		0.1	0.1	0.1	0.1
06 Chemicals and products thereof		1.3	1.3	1.3	1.3
07 Plastics and rubber		2.7	2.5	2.3	2.0
	39 Plastics and articles thereof	2.6	2.4	2.1	1.9
08 Raw hides and skins; leather, fur skins and articles thereof		1.9	1.7	1.3	1.2
09 Wood, cork, straw		0.1	0.1	0.0	0.0
10 Pulp of wood; paper and paperboard		0.7	0.7	0.6	0.5
11 Textiles and textile articles		5.7	5.3	4.6	4.0
	61 Clothing, knitted or crocheted	2.0	1.8	1.6	1.3
	62 Clothing, not knitted or crocheted	1.7	1.7	1.4	1.2
12 Footwear, headgear, etc.		1.0	0.9	0.7	0.6
13 Articles of stone, plaster, cement		0.6	0.5	0.6	0.5
14 Precious stones and metals, pearls		14.3	13.3	12.9	13.7
	7108 Gold, unwrought or in semi-manuf. forms, or in powder form	8.2	7.6	6.9	7.4
	7102 Diamonds, not mounted or set	3.2	3.0	3.1	3.2
15 Base metals and articles thereof		1.5	1.4	1.2	1.1
16 Machinery, electrical equipment		60.6	62.9	65.1	65.6
	84 Machinery and mechanical appliances	13.5	12.9	12.4	12.7
	8471 Automatic data processing machines (--)	3.5	3.7	3.9	3.9
	8473 Parts of typewriters, word processing machines, etc.	5.2	4.8	4.2	4.5
	85 Electrical machinery	47.1	50.0	52.8	52.9
	8542 Electronic integrated circuits	15.2	17.2	20.2	21.2
	8517 Telephone sets	13.7	15.1	15.3	14.3
17 Transport equipment		0.5	0.4	0.4	0.4
18 Precision instruments		5.1	4.9	4.9	4.8
	90 Optical, measuring, and other precision instruments	3.1	2.9	3.1	3.2
	91 Clocks, watches and parts thereof	2.0	2.0	1.8	1.6
19 Arms and ammunition		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		2.1	2.0	1.6	1.8
21 Works of art, collectors' pieces and antiques		0.1	0.1	0.1	0.1
Not classified		0.1	0.1	0.1	0.1

Source: WTO calculations based on the UN Comtrade database.

Table A1.2 Merchandise domestic exports by HS sections and major HS chapters, 2014-17

HS section HS chapter/headings	2014	2015	2016	2017
Total (US$ billion)	**15.6**	**13.1**	**25.5**	**18.4**
	(% of total)			
01 Live animals and products	0.1	0.1	0.1	0.1
02 Vegetable products	0.0	0.0	0.0	0.0
03 Fats and oils	0.1	0.2	0.1	0.1
04 Prepared food, beverages and tobacco	5.6	7.1	3.6	5.3
24 Tobacco and manufactured tobacco substitutes	2.7	3.4	1.7	2.2
05 Mineral products	1.5	1.8	0.9	1.3
06 Chemicals and products thereof	5.0	5.5	2.8	4.1
30 Pharmaceutical products	2.9	2.9	1.5	2.3
07 Plastics and rubber	5.0	4.3	2.0	2.7
39 Plastics and articles thereof	4.9	4.3	1.9	2.6
08 Raw hides and skins; leather, fur skins and articles thereof	0.3	0.3	0.0	0.0
09 Wood, cork, straw	0.0	0.0	0.0	0.0
10 Pulp of wood; paper and paperboard	2.5	2.9	1.3	1.9
11 Textiles and textile articles	1.8	1.3	0.4	0.5
12 Footwear, headgear, etc.	0.0	0.0	0.0	0.0
13 Articles of stone, plaster, cement	0.1	0.2	0.1	0.2
14 Precious stones and metals, pearls	63.3	61.6	82.2	76.5
7108 Gold, unwrought or in semi-manuf. forms, or in powder form	53.5	53.7	78.3	69.5
7113 Articles of jewellery and parts thereof of precious metal	6.1	6.7	3.0	4.7
7106 Silver, unwrought or in semi-manuf. forms, or in powder form	2.1	0.5	0.5	1.7
15 Base metals and articles thereof	4.4	4.4	1.9	3.3
72 Iron and steel	2.1	2.1	1.0	1.7
16 Machinery, electrical equipment	6.8	7.3	3.4	2.6
85 Electrical machinery	2.6	3.2	1.5	1.8
17 Transport equipment	0.0	0.1	0.1	0.1
18 Precision instruments	2.2	1.7	0.6	0.8
19 Arms and ammunition	0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles	0.7	0.7	0.3	0.3
21 Works of art, collectors' pieces and antiques	0.3	0.1	0.1	0.0
Not classified	0.3	0.3	0.2	0.2

Source: WTO calculations based on the UN Comtrade database.

Table A1.3 Merchandise imports by HS sections and major HS chapters, 2014-17

HS section HS chapters/subheadings	2014	2015	2016	2017
Total (US$ billion)	**600.6**	**559.3**	**547.1**	**589.8**
	(% of total)			
01 Live animals and products	2.2	2.1	2.2	2.1
02 Vegetable products	1.0	1.0	1.1	1.1
03 Fats and oils	0.0	0.0	0.0	0.0
04 Prepared food, beverages and tobacco	1.4	1.5	1.7	1.6
05 Mineral products	2.7	2.3	1.8	2.2
27 Mineral fuels and oils	2.6	2.2	1.8	2.1
06 Chemicals and products thereof	1.9	2.0	2.1	2.1
07 Plastics and rubber	2.4	2.3	2.0	1.9
39 Plastics and articles thereof	2.3	2.1	1.9	1.8
08 Raw hides and skins; leather, fur skins and articles thereof	1.9	1.8	1.3	1.2
09 Wood, cork, straw	0.1	0.1	0.1	0.1
10 Pulp of wood; paper and paperboard	0.6	0.6	0.6	0.5
11 Textiles and textile articles	4.1	4.0	3.6	3.2
12 Footwear, headgear, etc.	0.8	0.8	0.7	0.6
13 Articles of stone, plaster, cement	0.6	0.5	0.6	0.5
14 Precious stones and metals, pearls	16.4	13.1	12.3	12.1
7102 Diamonds, not mounted or set	3.7	3.4	3.4	3.5
7108 Gold, unwrought or in semi-manuf. forms, or in powder form	9.2	6.5	5.4	5.0
7113 Articles of jewellery and parts thereof of precious metal	2.4	1.9	2.1	2.1
15 Base metals and articles thereof	1.6	1.5	1.3	1.3
16 Machinery, electrical equipment	54.7	58.7	61.1	62.1
84 Machinery and mechanical appliances	11.2	11.1	10.5	10.6
8471 Automatic data processing machines (--)	3.8	4.0	3.9	3.6
8473 Parts of typewriters, word processing machines, etc.	3.2	3.1	2.7	3.3
85 Electrical machinery	43.6	47.6	50.6	51.5
8542 Electronic integrated circuits	16.3	18.1	21.6	23.8
8517 Telephone sets	11.5	13.9	13.9	12.9
8541 Diodes, transistors and similar semiconductor devices	2.6	2.5	2.5	2.5
17 Transport equipment	1.2	1.3	1.2	1.2
18 Precision instruments	4.5	4.4	4.4	4.3
90 Optical, measuring, and other precision instruments	2.7	2.7	2.9	2.8
19 Arms and ammunition	0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles	1.6	1.5	1.3	1.4
21 Works of art, collectors' pieces and antiques	0.3	0.4	0.4	0.3
Not classified	0.0	0.0	0.0	0.1

Source: WTO calculations based on the UN Comtrade database.

Table A1.4 Merchandise re-exports by destination, 2014-17

	2014	2015	2016	2017
Re-exports (US$ billion)	**508.5**	**497.5**	**491.1**	**531.8**
	(% of re-exports)			
Americas	11.0	11.3	10.6	9.9
United States	8.6	8.8	8.4	7.9
Other America	2.4	2.5	2.2	2.1
Mexico	0.7	0.8	0.7	0.7
Europe	9.8	9.6	10.7	10.2
EU-28	8.7	8.6	8.9	8.4
Germany	1.8	1.8	1.7	1.8
United Kingdom	1.2	1.3	1.5	1.5
Netherlands	1.4	1.4	1.6	1.2
France	1.0	0.9	0.9	0.9
Italy	0.6	0.6	0.7	0.6
Belgium	0.9	0.7	1.6	1.6
EFTA	0.8	0.7	1.5	1.6
Switzerland	0.2	0.2	0.2	0.2
Other Europe	0.6	0.4	0.5	0.6
Commonwealth of independent states (CIS)	0.5	0.3	0.4	0.5
Africa	0.8	0.9	0.9	0.9
Middle East	2.0	2.1	2.2	2.1
United Arab Emirates	1.2	1.2	1.4	1.4
Asia	75.9	75.7	75.0	76.2
Mainland China	57.1	56.3	55.2	55.3
Japan	3.3	3.2	3.0	3.1
Other Asia	15.5	16.2	16.8	17.8
India	2.5	2.7	3.1	3.8
Chinese Taipei	1.5	1.7	1.9	2.2
Thailand	2.0	1.7	1.9	2.1
Viet Nam	1.6	1.9	1.8	1.9
Singapore	1.5	1.9	1.8	1.7
Korea, Republic of	1.6	1.4	1.4	1.4
Macao, China	1.2	1.2	1.0	1.0
Australia	0.8	0.9	0.9	0.8
Malaysia	0.6	0.7	0.7	0.7
Philippines	0.7	0.7	0.7	0.7
Indonesia	0.5	0.6	0.6	0.6

Source: UN Comtrade database.

Table A1.5 Merchandise domestic exports by destination, 2014-17

	2014	2015	2016	2017
Domestic exports (US$ billion)	**15.6**	**13.1**	**25.5**	**18.4**
	(% of domestic exports)			
Americas	4.4	4.8	3.1	3.2
United States	3.8	3.9	2.7	2.5
Other America	0.6	0.9	0.4	0.7
Canada	0.3	0.5	0.2	0.4
Europe	5.5	9.5	21.2	33.8
EU-28	2.6	3.0	13.9	17.5
United Kingdom	1.0	1.4	13.0	16.6
France	0.4	0.6	0.2	0.2
Italy	0.3	0.3	0.1	0.2
Germany	0.3	0.2	0.3	0.2
Netherlands	0.3	0.2	0.1	0.1
EFTA	2.7	6.4	7.3	16.1
Switzerland	2.7	6.3	7.3	16.1
Other Europe	0.2	0.1	0.0	0.2
Turkey	0.1	0.1	0.0	0.1
Commonwealth of independent states (CIS)	0.1	0.0	0.0	0.0
Africa	0.3	0.4	0.1	0.2
Middle East	3.1	4.4	0.9	2.0
United Arab Emirates	2.8	4.2	0.8	1.8
Asia	86.4	80.7	74.5	60.7
Mainland China	65.0	57.0	57.4	20.5
Japan	1.2	1.0	0.6	0.7
Other Asia	20.2	22.6	16.5	39.4
Singapore	2.3	4.1	2.3	11.4
Thailand	1.5	2.6	2.7	10.4
Chinese Taipei	5.1	5.0	3.0	5.1
India	1.5	0.6	1.1	3.8
Korea, Republic of	1.8	1.7	2.7	2.4
Viet Nam	1.8	2.1	1.1	1.8
Macao, China	1.6	1.7	0.8	1.4
Indonesia	0.5	1.4	0.8	1.1
Malaysia	1.2	1.1	0.6	0.7
Australia	1.6	1.0	0.7	0.5
Philippines	0.6	0.6	0.2	0.3
Other	0.2	0.2	0.1	0.1

Source: UN Comtrade database.

Table A1.6 Merchandise imports by supplier, 2014-17

	2014	2015	2016	2017
Total imports (US$ billion)	**600.6**	**559.3**	**547.1**	**589.8**
	(% of total imports)			
Americas	7.7	6.9	6.4	6.4
United States	5.8	5.5	4.8	5.2
Other America	1.8	1.3	1.7	1.2
Brazil	0.5	0.4	0.4	0.4
Europe	11.5	10.5	10.2	9.2
EU-28	7.3	7.1	6.7	6.5
United Kingdom	1.8	1.7	1.1	1.4
Germany	1.3	1.2	1.2	1.2
France	0.9	0.9	1.3	1.1
Italy	1.2	1.1	1.4	1.0
Belgium	0.6	0.6	0.4	0.5
Netherlands	0.6	0.5	0.3	0.4
EFTA	4.0	3.4	3.4	2.6
Switzerland	4.0	3.4	3.3	2.6
Other Europe	0.1	0.1	0.1	0.1
Commonwealth of independent states (CIS)	0.2	0.2	0.3	0.2
Africa	1.0	0.8	1.0	0.7
South Africa	0.8	0.6	0.8	0.5
Middle East	1.6	1.5	1.0	1.3
United Arab Emirates	0.7	0.8	0.2	0.7
Asia	78.1	80.2	81.0	82.2
Mainland China	44.7	46.7	44.7	44.6
Japan	6.5	6.3	6.3	6.1
Other Asia	27.0	27.2	30.1	31.6
Chinese Taipei	6.6	6.5	8.9	7.2
Singapore	5.8	6.2	2.2	6.4
Korea, Republic of	3.9	4.0	5.5	5.5
Malaysia	2.2	2.2	3.0	2.5
India	2.1	2.0	3.0	2.3
Thailand	2.1	2.0	2.1	2.0
Philippines	1.2	1.4	1.6	1.9
Australia	1.4	0.9	1.3	1.5
Viet Nam	0.9	1.2	1.4	1.3
Indonesia	0.5	0.4	0.5	0.5
Other	0.0	0.0	0.0	0.0

Source: UN Comtrade database.

Table A1.7 Stock of direct investment by selected major country/territory, 2014-17

	2014	2015	2016	2017
Direct investment liabilities[a] (HK$ billion)	**12,714.5**	**13,697.3**	**14,142.2**	**17,190.1**
Ratio to GDP (%)	562.6	571.1	567.8	646.0
Total of inward direct investment of all countries/territories[a] (HK$ billion)	11,602.9	12,335.9	12,608.1	..
	(% of total)			
British Virgin Islands	35.5	35.1	34.2	..
Mainland China	30.1	26.5	25.7	..
Cayman Islands	3.4	7.0	7.7	..
Netherlands	6.4	6.3	6.3	..
Bermuda	5.3	4.6	4.7	..
United States	3.3	2.6	2.5	..
Singapore	2.7	2.8	2.3	..
United Kingdom	1.1	2.1	2.2	..
Japan	2.0	1.8	1.8	..
Chinese Taipei	0.6	0.6	0.9	..
Other countries/territories	9.5	10.6	11.8	..
Direct investment assets[a] (HK$ billion)	**12,358.5**	**13,230.8**	**13,526.9**	**15,905.6**
Ratio to GDP (%)	546.8	551.7	543.1	597.7
Total of outward direct investment of all countries/territories[a] (HK$ billion)	11,246.9	11,869.4	11,992.8	..
	(% of total)			
Mainland China	40.5	39.6	40.2	..
British Virgin Islands	40.9	40.8	38.8	..
Cayman Islands	2.2	3.8	4.1	..
Bermuda	2.5	1.9	1.9	..
United Kingdom	2.2	2.1	1.3	..
Australia	1.2	1.1	1.1	..
Singapore	0.8	0.6	0.8	..
United States	0.7	0.7	0.7	..
Luxembourg	0.7	0.6	0.6	..
Canada	0.7	0.6	0.6	..
Other countries/territories	7.8	8.1	9.7	..

.. Not available.

a The total of inward (outward) direct investment of all countries/territories is different from the aggregate direct investment liabilities (assets) due to the adoption of different presentation principles, with the former compiled based on the "directional principle" and the latter based on the "asset/liability principle" in accordance with the international statistical standards. The total of inward (outward) direct investment of all countries/territories should be referred to in calculating the shares of individual investor (recipient) countries/territories, while the direct investment liabilities (assets) should be referred to in the analyses on aggregate statistics.

Source: Data received from the authorities, and C&SD online information.

Table A1.8 Stock of direct investment by major economic activity of HKEGs, 2014-17

	2014	2015	2016	2017
Direct investment liabilities[a] (HK$ billion)	**12,714.5**	**13,697.3**	**14,142.2**	**17,190.1**
Ratio to GDP (%)	562.6	571.1	567.8	646.0
Total of inward direct investment of all economic activities[a] (HK$ billion)	11,602.9	12,335.9	12,608.1	..
	(% of total)			
Investment and holding, real estate, professional and business services	67.0	67.5	67.5	..
Banking	11.3	11.1	11.9	..
Import/export, wholesale and retail trades	11.3	10.6	9.9	..
Financing (except banking, investment and holding companies)	2.8	2.7	2.8	..
Construction	1.7	2.5	2.1	..
Transportation, storage, postal and courier services	1.7	1.4	1.5	..
Insurance	1.3	1.3	1.4	..
Information and communications	0.8	0.7	0.7	..
Manufacturing	0.7	0.8	0.6	..
Accommodation and food services	0.3	0.3	0.3	..
Other activities	1.3	1.3	1.4	..
Direct investment assets[a] (HK$ billion)	**12,358.5**	**13,230.8**	**13,526.9**	**15,905.6**
Ratio to GDP (%)	546.8	551.7	543.1	597.7
Total of outward direct investment of all economic activities[a] (HK$ billion)	11,246.9	11,869.4	11,992.8	..
	(% of total)			
Investment and holding, real estate, professional and business services	78.2	77.7	78.7	..
Import/export, wholesale and retail trades	7.1	8.4	7.6	..
Banking	3.9	3.1	2.5	..
Manufacturing	2.0	2.4	2.4	..
Insurance	2.1	1.8	2.1	..
Transportation, storage, postal and courier services	1.7	1.5	1.6	..
Information and communications	1.0	0.9	0.9	..
Construction	0.3	0.4	0.7	..
Accommodation and food services	0.6	0.6	0.6	..
Financing (except banking, investment and holding companies)	0.8	0.7	0.6	..
Other activities	2.4	2.3	2.2	..

.. Not available.

a The total of inward (outward) direct investment of all economic activities is different from the aggregate direct investment liabilities (assets) due to the adoption of different presentation principles, with the former compiled based on the "directional principle" and the latter based on the "asset/liability principle" in accordance with the international statistical standards. The total of inward (outward) direct investment of all economic activities should be referred to in calculating the shares of individual economic activities, while the direct investment liabilities (assets) should be referred to in the analyses on aggregate statistics.

Source: Data received from the authorities, and C&SD online information.

Table A2.1 Selected notifications from HKC, 30 April 2018

Agreement	Requirement/contents	Document reference of most recent notification
Agriculture Articles 10 and 18.2	Export subsidies (outlays and quantities)	G/AG/N/HKG/43, 12 January 2018
Article 18.2	Domestic support	G/AG/N/HKG/42, 5 May 2017
Application of Sanitary and Phytosanitary Measures Article 7 and Annex B	Changes in sanitary and phytosanitary measures and information on measures applied, including emergency measures	G/SPS/N/HKG/42, 8 June 2017 G/SPS/N/HKG/35/Add.1, 6 July 2017
Government Procurement Article XIV:4 of the revised GPA	Government procurement statistics	GPA/142/Add.6, 31 August 2017 GPA/142/Add.6/Corr.1, 4 September 2017
Annex 3 to GPA/1	Threshold values in national currencies	GPA/THR/HKG/1, 20 December 2017
Implementation of Article VI of the GATT 1994 (Anti-Dumping) Articles 16.4 and 16.5	Anti-dumping actions taken, and competent authorities	G/ADP/N/193/HKG, 14 July 2010
Import Licencing Procedures Article 7.3	Questionnaire; rules and information concerning import licensing procedures	G/LIC/N/3/HKG/21, 28 September 2017
Articles 1.4(a) and 8.2(b)	Changes to laws and regulations and related information on procedures	G/LIC/N/1/HKG/6, 6 January 2015
Market Access	Quantitative restrictions	G/MA/QR/N/HKG/3, 29 September 2016
Rules of Origin Article 5.2	Non-preferential rules of origin	G/RO/N/86, 1 October 2012
Paragraph 4 of Annex II	Preferential rules of origin	G/RO/N/170, 24 May 2018
State Trading GATT 1994 Art. XVII: 4(a) and Par. 1 of the Understanding on the Interpretation of Art. XVII.	Activities of state trading enterprises.	G/STR/N/17/HKG, 19 January 2018
Subsidies and Countervailing Measures Article 25.1 GATT 1994 Article XVI:1	Subsidies programmes	G/SCM/N/315/HKG, 30 June 2017
Articles 25.11 and 25.12	Countervailing actions taken, and competent authorities	G/SCM/N/202/HKG, 14 July 2010
Safeguards Article 12.6	Safeguard legislation	G/SG/N/1/HKG/1, 20 March 1995
Technical Barriers to Trade Article 5.6.2	Technical regulations, standards, and conformity assessment procedures	G/TBT/N/HKG/50, 8 February 2018
Article 15.2	Administrative arrangements; laws/regulations	G/TBT/2/Add.1, 29 January 1996
Trade in Services Article III:3	Changes in laws, regulations and administrative guidelines	S/C/N/874, 3 February 2017 S/C/N/875, 3 February 2017
Article V:7(a)	Notification of regional trade agreements	S/C/N/898, 19 December 2017
TRIPS Article 63.2	Laws and regulations	IP/N/1/HKG/32, 18 April 2017
Article 69	Contact points	IP/N/3/HKG/1, 20 December 2012
Free Trade Area GATT 1994 Article XXIV:7(a) GATS Article V:7(a)	Regional trade agreements	WT/REG390/N/1, 19 December 2017
Trade Facilitation	Notification based on Articles 1:4, 10:4:3, 10:6:2 and 12:2:2 of the Agreement	G/TFA/N/HKG/1, 12 May 2017

Source: WTO Secretariat.

Table A3.1 HKECIC: Insured business by major markets and products, 2015/16–2016/17

(HK$ million)

	Insured business in 2016-17	% of total value in 2016-17	Insured business in 2015-16	% of total value in 2015-16
Markets				
Mainland China	41,001	31.2	20,896	18.9
United States	36,421	27.8	38,486	34.8
United Kingdom	9,252	7.0	9,746	8.8
Germany	4,024	3.1	3,920	3.6
Switzerland	2,319	1.8	3,074	2.8
Top five markets	93,017	70.9	76,122	68.9
Other markets	38,194	29.1	34,362	31.1
Total	**131,211**	**100.0**	**110,484**	**100.0**
Products				
Electronics	35,571	27.1	23,129	20.9
Electrical appliances	24,667	18.8	14,898	13.5
Textiles/clothing	22,175	16.9	21,434	19.4
Toys	8,339	6.4	8,622	7.8
Metallic products	2,620	2.0	..	..
Chemicals	..	..	2,986	2.7
Top five products	93,372	71.2	71,069	64.3
Other products	37,839	28.8	39,415	35.7
Total	**131,211**	**100.0**	**110,484**	**100.0**

.. Not available.

Source: HKECIC online information, "Annual Reports". Viewed at: http://www.hkecic.com/en/information_annual_reports.aspx.

Table A3.2: Selected incentives and assistance measures, 2014-17

Sector	Objective	Agency in charge	Form of support	Total amount 2014-17 (US$ million)
SMEs				
SME Loan Guarantee Scheme (SGS)	To help SMEs secure loans from participating lending institutions (PLIs) for acquiring business installations and equipment and for general business use in meeting working capital needs	Trade and Industry Department (TID)	Government provides up to 50% guarantee to loans granted by PLIs to SMEs, subject to a maximum guarantee amount of HK$6 million (about US$770,000) per SME. Each SME is allowed to recycle the guarantee once after it has fully paid up the loan backed up by the guarantee, subject to a maximum guarantee amount of another HK$6 million	At end-2014: US$2,774 At end-2015: US$2,929 At end-2016: US$3,053 At end-2017: US$3,185
Special Loan Guarantee Scheme (SpGS) (Application period closed)	To help HKC's enterprises secure loans from PLIs to tackle the liquidity problem arising from the global financial crisis	TID	Government provides up to 80% guarantee for loans granted by PLIs to HKC enterprises, subject to a maximum loan amount of HK$12 million (about US$1.54 million) for each enterprise, of which up to HK$6 million (about US$770,000) could be used as a revolving credit line	At end-2014: US$9,488 At end-2015: US$9,488 At end-2016: US$9,489 At end-2017: US$9,489
SME Export Marketing Fund (EMF)	To help SMEs expand their businesses through participation in promotion activities targeting export markets, e.g., exhibitions, trade missions, advertising in printed trade publications, export promotion activities conducted on electronic platforms/media, and setting up/enhancing corporate websites	TID	Government provides a maximum of 50% of the approved expenses, subject to a ceiling of HK$50,000 (about US$6,410) per application. The cumulative grant ceiling for each SME under the EMF is HK$200,000 (about US$25,641), subject to conditions	At end-2014: US$ 354.86 At end-2015: US$ 381.12 At end-2016: US$ 401.43 At end-2017: US$418.80
SME Development Fund (SDF)	To provide financial support to non-profit-distributing organizations, such as trade and industrial organizations, professional bodies, research institutes, etc., to carry out projects that could enhance SMEs' competitiveness	TID	Government provides funding support of 90% of the total expenditure for each approved project, capped at HK$5 million (about US$641,000)	At end-2014: US$34.98 At end-2015: US$37.63 At end-2016: US$41.30 At end-2017: US$44.30
Dedicated Fund on Branding, Upgrading and Domestic Sales (the BUD Fund)	To support enterprises to enhance their competitiveness and further their business development in Mainland China's market, through developing brands, upgrading and restructuring their operations, and promoting domestic sales in Mainland China	Enterprise Support Programme: Hong Kong Productivity Council Organization Support Programme: TID	Enterprise Support Programme: Government provides funding support of 50% of the total approved project cost, capped at HK$500,000 (about US$64,100) per enterprise for a maximum of 3 projects Organization Support Programme: Government provides funding support of 90% of the total expenditure for each approved project, capped at HK$5 million (about US$641,000)	Enterprise Support Programme: At end-2014: US$16.08 At end-2015: US$23.04 At end-2016: US$36.34 At end-2017: US$52.37 Organization Support Programme: At end-2014: US$17.80 At end-2015: US$20.15 At end-2016: US$24.30 At end-2017: US$28.68

Sector	Objective	Agency in charge	Form of support	Total amount 2014-17 (US$ million)
Innovation and technology				
Innovation and Technology Support Programme (ITSP)	To support midstream/downstream R&D projects undertaken mainly by universities, and R&D centres in collaboration with private companies, industry support organizations, professional bodies, and trade and industry associations	Innovation and Technology Commission (ITC)	Funding support is normally given as a grant, which may be used for meeting manpower costs, costs for the procurement of equipment, and other direct costs specifically required for the conduct of the project	In 2014: US$76.55 In 2015: US$92.41 In 2016: US$79.69 In 2017: US$113.45
University-Industry Collaboration Programme	To stimulate private-sector interest in R&D through leveraging the knowledge and resources of universities	ITC	The support is given as a grant, subject to a cash contribution by the company amounting to no less than 50% of the project cost	In 2011: US$1.81 In 2012: US$3.42 In 2013: US$3.08 In 2014: US$3.10 In 2015: US$3.55 In 2016: US$3.53 In 2017: US$5.36
General Support Programme	To support projects that contribute to fostering an I&T culture in HKC, and those beneficial to the upgrading and future development of its industries	ITC	Support is given as a grant, with at least 10% of the project cost contributed by the applicant's sponsor	In 2014: US$3.65 In 2015: US$3.33 In 2016: US$3.71 In 2017: US$3.69
Patent Application Grant	To assist local companies and individuals who have never owned any patents in any countries or territories to apply for patents for their own inventions	Hong Kong Productivity Council (HKPC)	A grant of up to HK$250,000 or 90% of the total direct cost of the patent application, whichever is the lower	In 2014: US$4.90 In 2015: US$5.16 In 2016: US$5.32 In 2017: US$5.67
New Technology Training Scheme	To assist companies wishing to have their staff trained in a new technology that would be useful to their business	Vocational Training Council (VTC)	Funding support of up to 50% of training cost to employers	In 2013/14: US$0.21 In 2014/15: US$0.20 In 2015/16: US$0.28 In 2016/17: US$0.29
R&D Cash Rebate Scheme	To reinforce the research culture among business enterprises and encourage them to establish stronger partnerships with designated local public research institutions	ITC	Cash rebate equivalent to 40% of the expenditure in: projects under the Innovation and Technology Fund (ITF), and projects funded entirely by the companies and conducted by the designated local research institutions	In 2014: US$5.50 In 2015: US$6.24 In 2016: US$8.38 In 2017: US$12.22
Public Sector Trial Scheme	To support the production of prototypes/samples and the conducting of trial schemes in the public sector to promote the realization and commercialization of R&D results under ITF projects and arising from incubatees/graduate tenants of the Hong Kong Science and Technology Parks Corporation (HKSTPC) and Cyberport	ITC	A grant not exceeding 50% of the actual cost of the original R&D project (and up to 100% for projects initiated by R&D centres) For incubatees/graduate tenants of the HKSTPC and Cyberport, a maximum grant of HK$1 million per application applies	In 2014: US$6.73 In 2015: US$10.12 In 2016: US$3.63 In 2017: US$8.17

Sector	Objective	Agency in charge	Form of support	Total amount 2014-17 (US$ million)
Internship Programme	To support the recruitment of interns to assist in R&D projects funded by the ITF or undertaken by incubatees or I&T tenants of HKSTPC and Cyberport	ITC	A maximum monthly internship allowance of HK$16,000 for graduates with a Bachelor's degree and HK$19,000 for graduates with a Master's or higher degree from a local university. Each ITF project and eligible company can engage 2 interns for 24 months	In 2014: US$8.79 In 2015: US$8.73 In 2016: US$11.73 In 2017: US$20.85
Technology Voucher Programme	To support local non-listed enterprises in using technological services and solutions to improve productivity, or upgrade or transform their business processes	ITC	Funding of no more than two thirds of the total approved project cost. Subject to a cumulative funding ceiling of HK$200,000, up to three projects from each eligible enterprise may be approved	In 2017: US$4.0
Innovation and Technology Venture Fund (ITVF)	To encourage investment from venture capital (VC) funds in innovation and technology start-ups	ITC	The Government co-invests with selected VC funds at an overall matching investment ratio of approximately 1:2. Selection of partner VC funds is in progress and co-investment with them is expected to be made in the second half of 2018	Nil
Enterprise Support Scheme (ESS)	To support companies undertaking applied R&D projects with a view to encouraging more private sector R&D investment in HKC	ITC	Funding is provided on a dollar-for-dollar matching basis, with a ceiling of HK$10 million (about US$1.28 million) for each approved project. It may be used for meeting manpower costs, the procurement of equipment, and other direct costs specifically required for conducting the project.	In 2014: N/A In 2015: US$5.82 In 2016: US$3.27 In 2017: US$6.32
Services				
Professional Services Advancement Support Scheme (PASS)[a]	To support non-profit-distributing organizations (i.e. trade and industry organizations, professional bodies or research institutes) to carry out projects aimed at increasing the exchanges and co-operation of HKC's professional services with their overseas counterparts, promoting publicity activities, and improving the competitiveness and standards of HKC's professional services	Commerce and Economic Development Bureau	For each approved project, the Government provides a grant to cover a maximum of 90% of the total project cost, or HK$3 million (about US$0.38 million), whichever is lower	At end-October 2017: US$0.9
Film Development Fund (FDF)	To support projects and activities which contribute towards the development of HKC's film industry	Create Hong Kong (CreateHK)	The FDF provides grants to: (a) cover 20% of the production budget or HK$2 million (US$256,000) (whichever is lower) of small-budget film productions; (b) cover the full production costs (from HK$3.25 million (US$417,000) to HK$5.5 million (US$705,000)) for new filmmakers to produce their first commercial feature film; and (c) support other film-related projects conducive to the development of the film industry. The FDF provides financing to contribute 40% to the production budget or HK$6 million (US$769,000) (whichever is lower) of small-to-medium budget film productions	In 2014: US$4.52 In 2015: US$5.27 In 2016: US$3.65 In 2017: US$7.90
CreateSmart Initiative (CSI)	To support initiatives that contribute towards the development of creative industries (except the film industry)	Create HK	The CSI provides funding in the form of grants, which may be used for meeting manpower costs, the costs for the procurement of equipment, and other direct costs specifically required for the conduct of the project	In 2014: US$12.06 In 2015: US$15.84 In 2016: US$30.23 In 2017: US$17.66

a Launched in November 2016, PASS is modelled on the former Professional Services Development Assistance Scheme (PSDAS), which was completed in 2015.

Source: Information provided by the authorities.

Table A3.3 Regime of standards and technical requirements, 2017

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2014
Environmental protection		
Air Pollution Control Ordinance (Cap. 311)	To provide for the control of air pollution from stationary sources and motor vehicles. The import, transhipment, supply, and use of all forms of asbestos and asbestos-containing materials is now banned.	The Ordinance was amended in April 2014 to further protect public health by tightening the asbestos control, starting from 4 April 2014
Air Pollution Control (Fuel Restriction) Regulations (Cap. 311I)	To prohibit the use of high sulphur content solid and liquid fuel (sulphur content shall not exceed 1% by weight for conventional solid fuels and 0.005% by weight for liquid fuels) for commercial and industrial appliances, and require the use of gaseous fuel in certain areas of the territory.	Nil
Air Pollution Control (Vehicle Design Standards) (Emissions) Regulations (Cap. 311J)	To set out the emissions standards for vehicles. Newly registered vehicles shall comply with the latest EU or the equivalent U.S. or Japanese emissions standards.	The Regulations were amended in 2017 to progressively tighten the emissions standards for specified classes of newly registered vehicles, in phases starting from 1 July 2017
Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap. 311L)	To set out the specifications of motor vehicle fuel to be used in motor vehicles, and prohibit the sale of leaded petrol. The statutory specifications of motor vehicle diesel and unleaded petrol are pitched at Euro V standards.	Nil
Air Pollution Control (Emission Reduction Devices for Vehicles) Regulation (Cap. 311U)	To require scheduled vehicles to be installed with approved emissions reduction devices. Under the Regulation, the Director of Environmental Protection shall maintain a register of all approved emissions reduction devices. The Director of Environmental Protection may include in the register an emissions reduction device only if he is satisfied that the device can reduce the emissions of air pollutants from a motor vehicle in a manner and to an extent satisfactory to him, and it is suitable for installation on a motor vehicle.	Nil
Air Pollution Control (Dry-Cleaning Machines) (Vapour Recovery) Regulation (Cap. 311T)	To control the emission of perchloroethylene (PCE) from the dry-cleaning industry through the imposition of PCE emission standards on dry-cleaning machines in use. Specifically, the concentration of PCE inside the drum of dry-cleaning machines must not exceed 300 ppmv at the end of the drying cycle.	Nil
Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) Regulation (Cap. 311S)	Petrol storage tanks and petrol dispensers of petrol filling stations and petrol delivery vehicles are required to be installed with vapour recovery systems.	Nil
Air Pollution Control (Volatile Organic Compounds) Regulation (Cap. 311W)	Import and local manufacture of regulated VOC-containing products for local sale and use is allowed only if their VOC contents meet the prescribed standards.	Nil
Air Pollution Control (Air Pollutant Emission) (Controlled Vehicles) Regulation (Cap. 311X)	To phase out pre-Euro IV diesel commercial vehicles, including goods vehicles, light buses and non-franchised buses, by 2020, and to limit the service life of diesel commercial vehicles first registered on or after 1 February 2014 to 15 years.	Nil
Air Pollution Control (Marine Light Diesel) Regulation (Cap. 311Y)	To provide for the specifications for marine light diesel supplied in HKC. Specifically, the sulphur content shall not exceed 0.05% by weight.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2014
Air Pollution Control (Non-road Mobile Machinery) (Emission) Regulation (Cap. 311Z)	To control the emissions of non-road mobile machinery (NRMMs) through regulating the sale, lease and use of NRMMs.	The Regulation came into effect on 1 June 2015
Air Pollution Control (Ocean-Going Vessels) (Fuel at berth) Regulation (Cap. 311AA)	To mandate ocean-going vessels (OGVs) to switch to low sulphur fuel (with a sulphur content not exceeding 0.5%) while at berth in HKC.	The Regulation came into effect on 1 July 2015
Ozone Layer Protection Ordinance (Cap. 403)	To comply with the requirements of the Montreal Protocol on substances that deplete the ozone layer.	Nil
Ozone Layer Protection (Controlled Refrigerants) Regulation (Cap. 403B)	To prohibit any intended release of controlled refrigerants from motor vehicle air-conditioners or refrigeration equipment containing more than 50 kg of refrigerant to charge into the atmosphere, and to conserve the controlled refrigerants through the use of approved recycling and recovery equipment.	Nil
Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation (Cap. 403C)	To prohibit the import from all countries of products containing ozone-depleting substances listed in the Schedule to the Ordinance.	Nil
Noise Control (Air Compressors) Regulations (Cap. 400C)	To stipulate noise emission standards for certain portable air compressors.	Nil
Noise Control (Hand Held Percussive Breakers) Regulations (Cap. 400D)	To stipulate prescribed noise emission standards for certain hand-held percussive breakers.	Nil
Noise Control (Motor Vehicles) Regulation (Cap. 400I)	To stipulate noise emission standards, as prescribed in the Schedule, for motor vehicles, including motorcycles, to comply with their first registration.	Nil
Motor vehicles		
Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A)	To set out the control of vehicle construction and maintenance.	A new Regulation R39A on Reversing Video Device came into effect on 1 October 2014. In connection with this, new clauses were added to the interpretations under Regulation 2. Schedule 3 was amended, and came into effect on 7 July 2017 to increase the passenger seating capacity of light buses from 16 to 19.
Road Traffic (Safety Equipment) Regulations (Cap. 374F)	To permit or require the provision or use of specified safety equipment (including seat belts, anchorage points, seats with integral seat belt anchorage, and protection helmets, in compliance with specified overseas standards/design rules) by persons driving, riding in or on, or using, any class of vehicle, and controlling the sale, hire or possession of such equipment.	Nil
Construction		
Buildings Ordinance (Cap. 123) and its subsidiary legislation	To provide for the planning, design, and construction of buildings and associated works; to make provisions for the rendering safe of dangerous buildings and land; and to make provisions for the regular inspection of buildings and the associated repairs to prevent the buildings from becoming unsafe. The drafting of codes of practice and design manuals has made reference to available international requirements.	Nil
Product safety		
Toys and Children's Products Safety Ordinance (Cap. 424)	To prescribe the requirement for toys and children's products to comply with the applicable safety standards.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2014
Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulations (Cap. 424C)	To stipulate the concentration limits of six types of phthalates in toys and children's products intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and containing any plasticized material.	Nil
Consumer Goods Safety Ordinance (Cap. 456)	To stipulate that consumer goods shall comply with general safety requirements.	Nil
Fire Service (Installation & Equipment) Regulations (Cap. 95B)	To regulate the local sale and supply of portable firefighting equipment, e.g. fire extinguishers and fire blankets, to ensure that their design and make conform with a set of recognized international or overseas standards by requiring testing and subsequent approval by the Fire Services Department before use in HKC.	Nil
Electricity Ordinance (Cap. 406) and its subsidiary legislations	To prescribe safety requirements of all electrical products designed for household use, and issue certificates of safety compliance. Under the Electrical Products (Safety) Regulation (Cap. 406G), enacted in May 1998 to replace a previous regulation, all electrical products designed for household use and supplied in HKC shall comply with both essential and specific safety requirements, and shall be issued with certificates of safety compliance. The safety requirements are based on the relevant international or overseas standards relevant for the purpose of the regulation. Concerning the safety standards, IEC standards as well as relevant international/national standards that comply with the prescribed safety requirements of the EPSR, are acceptable.	Nil
Lifts and Escalators Ordinance (Cap. 618)	To ensure the safety of new brands/models of lifts or escalators, written approval of the Director of Electrical and Mechanical Services is required before installation.	Nil
Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470)	To ensure the safety of builders' lifts or tower working platforms, the authority is the Director of Electrical and Mechanical Services.	Nil
Gas Safety Ordinance (Cap. 51)	To control, in the interests of safety, the importation, manufacture, storage, transport, supply and use of gas, in accordance with the directive of the Gas Authority (Director of Electrical and Mechanical Services) for the purposes of the Ordinance.	Nil
Telecommunications		
Telecommunications Ordinance (Cap. 106) and its subsidiary regulations	To make better provisions for the licensing and control of telecommunications, telecommunications services, and telecommunications apparatus and equipment. Regulations in the form of licences, exemption orders/class licences and Hong Kong Communications Authority (HKCA) specifications have been stipulated for such purpose. The specifications are identical to, or essentially in line with, international standards.	Nil
Dangerous goods		
Dangerous Goods Ordinance (Cap. 295) and its subsidiary legislation	To prescribe rules on classification, labelling, packing, and storage of dangerous goods.	Nil
Air transport		
Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A)	To provide for the general policy on the application, approval, issue, revocation and suspension of: (i) licences and operating permits for scheduled journeys; and (ii) permits for journeys other than scheduled journeys, and related general provisions.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2014
Energy Efficiency		
Energy Efficiency (Labelling of Products) Ordinance (Cap. 598)	To require local manufacturers or importers of the prescribed products to submit specified information and documentation for the assignment of reference numbers, and to attach energy labels before supplying these products in HKC.	The scope was expanded to cover televisions, storage type electric water heaters and induction cookers; and the coverage of room air conditioners, and of washing machines of a washing capacity from not exceeding 7 kg to not exceeding 10 kg, was extended to include the heating function.

Source: Information provided by the authorities.

Table A3.4 Intellectual Property laws and regulations, 2018

Title	Brief description
Patents	
Patents Ordinance (Cap. 514)	Makes provisions for patents and related matters. Amended in 2008 to implement the compulsory licensing scheme under Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the Protocol amending the WTO TRIPS Agreement (WTO document IP/N/1/HKG/17, 7 April 2008). Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in HKC (WTO document IP/N/1/HKG/20, 17 March 2010). Amended on several occasions, most recently in 2017 to reflect the latest membership position of the Paris Convention for the Protection of Industrial Property, and the WTO (WTO document IP/N/1/HKG/29; IP/N/1/HKG/P/9, 18 April 2017).
Patents (Amendment) Ordinance 2016 (not yet in force)	Provides for the basic legal framework of the new patent system, and makes provisions for: (i) introducing an OGP system for the granting of standard patents to be run in parallel with the existing re-registration system; (ii) refining the existing short-term patent system; and (iii) implementing an interim regulatory measure for local patent practitioners.
Patents (Transitional Arrangements) Rules	Provides transitional arrangements for the registration of patents in the Register of HKC for patents registered under the old Registration of Patents Ordinance, which was repealed in 1997, and certain patents registered under the United Kingdom Patents Acts 1949 and 1977.
Patents (General) Rules	Prescribes provisions and procedures under the Patents Ordinance (Cap. 514).
Patents (Designation of Patent Offices) Notice	Makes designations under Section 8 of the Patents Ordinance (Cap. 514).
Plant varieties	
Plant Varieties Protection Ordinance (Cap. 490)	Provides, *inter alia*, a *sui generis* regime for the granting and protection of proprietary rights to persons who breed or discover and develop plant varieties. Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in HKC (WTO document IP/N/1/HKG/20, 17 March 2010).
Plant Varieties Protection Regulation (Cap. 490A)	Prescribes provisions and procedures under the Plant Varieties Protection Ordinance (Cap. 490).
Trademarks (including trade descriptions)	
Trade Marks Ordinance (Cap. 559)	Makes provisions for the registration of trademarks, thereby simplifying application and examination procedures, reducing the fee for the registration of a trademark; broadening the range of marks that can be registered (e.g. by allowing distinctive sound and smell marks to be registered); simplifying procedures for recording assignments and licences; and allowing multiclass applications. Amended on several occasions, most recently in 2017 to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/31, 18 April 2017).
Trade Marks Rules	Prescribes provisions and procedures under the Trade Marks Ordinance (Cap. 559). Amended in 2006 to facilitate enhanced electronic services (WTO document IP/N/1/HKG/13, 22 May 2006).
Trade Descriptions Ordinance (Cap. 362) (as amended by Intellectual Property (World Trade Organization Amendments) Ordinance)	Contains provisions prohibiting the use of false trade descriptions and the forgery of trademarks in relation to goods.
Geographical indications (GIs)	
Trade Marks Ordinance (Cap. 559) Trade Descriptions Ordinance (Cap. 362)	Enables GIs to be registered as certification or collective trademarks. The use of a false GI applied to goods in a fashion calculated to mislead consumers may be classed as a criminal offence under the Trade Descriptions Ordinance.

Title	Brief description
Copyright and related rights	
Copyright Ordinance (Cap. 528)	Makes provisions in respect of copyright and related rights and for related purposes. Amended in 2007 to (i) maintain the scope of existing business end-user criminal liability in relation to the possession of infringing copies of four categories of works, i.e. software, movies, television dramas, and musical recordings (the possession offence); (ii) refine the copyright exemption regime (including the introduction of a fair dealing provision for instructional purposes); (iii) introduce new permitted acts (including exceptions for producing specially adapted copies of copyright works for persons with a print disability, and for the efficient transaction of public business in urgent circumstances); (iv) relax the legal prohibitions against the use of parallel imported copies of copyright works by business end-users, and shorten the period during which dealing in parallel imports would cause criminal liability; (v) introduce measures to strengthen enforcement; (vi) introduce new rights and liabilities, i.e. rental rights for films and underlying works in sound recordings, moral and rental rights for performers, civil liabilities against persons that tamper with rights management information attached to copyright works, against persons that deal in circumvention tools or provide circumvention services, and against persons that circumvent a technological measure used for copyright protection; and (vii) criminal liabilities against persons engaging in the commercial dealing of circumvention tools or provision of circumvention services on a commercial basis for the circumvention of technological measures, against persons that either make with a view to distributing, or distribute, infringing copies of newspapers, magazines, periodicals and books on a regular or frequent basis (the "copying and distribution offence" targeting business end-users); and against directors, partners, or other persons responsible for the internal management of organizations that have committed the possession offence or the copying and distribution offence. Amended in 2009 to (i) prescribe the numeric limits within which the copying and distribution offence will not apply; and (ii) exclude Intranet distribution (except email and fax transmissions) from the scope of the offence in the interim, pending formulation of the numeric limit applicable to such type of distribution in consultation with stakeholders.
Prevention of Copyright Piracy Ordinance (Cap. 544)	Makes provisions for the prevention of copyright piracy using the medium of optical discs (including stampers). Sets out a statutory licensing scheme for manufacturers of optical discs in HKC, and requires optical discs manufactured in HKC to be marked with an assigned manufacturer identification code. Also, combats bootlegging of copyright work by stipulating that the unauthorized possession of video recording equipment in certain places of public entertainment is an offence.
Industrial designs	
Registered Designs Ordinance (Cap. 522)	Establishes a system for the registration of new designs. Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in HKC (WTO document IP/N/1/HKG/20, 17 March 2010). Amended on several occasions, most recently in 2017 to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/30; IP/N/1/HKG/D/4, 18 April 2017).
Registered Designs Rules	Prescribes provisions and procedures under the Registered Designs Ordinance (Cap. 522). Amended in 2015 to adjust the level of certain prescribed fees.
Copyright Ordinance (Cap. 528)	Provides protection for commercially exploited artistic works.
Layout-designs (topographies) of integrated circuits	
Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445)	Provides a *sui generis* IP regime for the protection of layout-designs (topographies) of integrated circuits and for legal remedies against infringement. Amended on several occasions, most recently in 2017 to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/32; IP/N/1/HKG/L/5, 18 April 2017).
Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation	Designates countries, territories or areas as qualifying countries, territories or areas under Section 24 of the Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445).

Title	Brief description
Protection of undisclosed information	
Non-statutory protection of undisclosed information	Protection under the common law on confidentiality.
Personal Data (Privacy) Ordinance	Requires data users to use information only for the purposes for which it was collected, to inform people of the purposes for which data is collected, and to protect such information against unauthorized or accidental disclosure.

Source: WTO notifications and information provided by the authorities.

Table A3.5 Enforcement of intellectual property rights, 2014-17

	2014	2015	2016	2017
Prosecution and sentencing under the Copyright Ordinance and the Prevention of Copyright Piracy Ordinance				
Persons given a prison sentence[a]	28	19	23	62
% of sentences of:				
<6 months	71.4	68.4	73.9	69.3
6-12 months	28.6	31.6	21.7	21.0
>12 months	0	0	4.3	9.7
Maximum sentence passed (months)	10	7	16	27
% of cases with fines of:	69.7	74.2	75.7	44.8
<HK$50,000	92.4	93.9	94.9	96.8
HK$50,000-100,000	7.6	6.1	5.1	3.2
>HK$100,000	0	0	0	0
Maximum fine (HK$)	80,000	50,000	80,000	100,000
Total fines (HK$)	859,500	719,940	1,157,870	437,700
Prosecution and sentencing under the Trade Descriptions Ordinance[b]				
Persons given a prison sentence[a]	206	131	100	99
% of sentences of:				
<6 months	94.2	90.8	88	77.8
6-12 months	5.8	9.2	12	14.1
>12 months	0	0	0	8.1
Maximum sentence passed (months)	8	8	10	18
% of cases with fines of:	81.3	78.7	80.9	73.3
<HK$50,000	95.6	97.7	95.3	97.4
HK$50,000-100,000	3.2	2.3	3.9	2.0
>HK$100,000	1.2	0	0.8	0.6
Maximum fine (HK$)	200,000	60,000	100,000	140,000
Total fines (HK$)	5,765,090	4,143,485	5,104,610	2,963,913
Seizure of illegal merchandise goods				
Pirated optical discs				
Quantity ('000)	45	11.1	70	387
Value (HK$ million)	1	2.73	1.75	11
Counterfeit goods				
Quantity ('000)	1,600	1,200	1,500	1,200
Value (HK$ million)	84	104	158	107

a Including immediate imprisonment and suspended imprisonment sentence.
b Including all charges under the Trade Descriptions Ordinance (i.e. not limited to forged trademarks charges).

Source: Information provided by the authorities.