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TRADE POLICY REVIEW MECHANISM

HONG KONG

Report by the Secretariat

In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (L/6490), the Secretariat submits herewith Volume A (Text) of its report on Hong Kong. Volume B (Tables) is presented in document C/RM/S/7B.

The report is drawn up by the Secretariat on its own responsibility. It is based on the information available to the Secretariat and that provided by Hong Kong. As required by the Decision, in preparing its report the Secretariat has sought clarification from Hong Kong on its trade policies and practices.

Document C/RM/G/7 contains the report submitted by the Government of Hong Kong.

NOTE TO DELEGATIONS

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CONTENTS

			Page
I.	THE ECONOMIC ENVIRONMENT		1
	(1)	Major Features of the Hong Kong Economy	1
	(2)	Recent Economic Performance	2
	(3)	Trade Performance	4
		(i) Growth of services and entrepôt trade	5
		(ii) Commodity pattern of trade	6
		(iii) Regional patterns of trade	8
		(iv) External trade constraints	9
	(4)	Outlook	9
II.	TRADE POLICY REGIME: OBJECTIVES AND FRAMEWORK		11
	(1)	Introduction	11
	(2)	Trade Policy Objectives	11
		(i) General trade policy objectives	11
		(ii) Objectives in the Uruguay Round	11
	(3)	General Trade Legislation	13
		(i) Hong Kong in GATT	13
		(ii) Hong Kong's domestic legislation	14
	(4)	Structure of Trade Policy Formulation	15
		(i) Executive and legislative branches of Government	15
		(ii) The Administration	17
	(5)	Statutory Bodies Involved in Trade Matters	22
	(6)	Private Sector Advisory Bodies	23
		(i) Advisory boards	23
		(ii) Chambers of Commerce and Industrial Associations	24
	(7)	Independent Review Bodies	25
	(8)	Trade Agreements and Cooperation	25

			Page
III.	TRADE-RELATED ASPECTS OF THE FOREIGN EXCHANGE REGIME		26
	(1)	Exchange Rate Movements and Trade	26
	(2)	Foreign Exchange Allocation	27
	(3)	Foreign Investment	28
IV.	TRADE POLICIES AND PRACTICES BY MEASURE		32
	(1)	Overview	32
	(2)	Measures Directly Affecting Imports	32
	(i)	Tariffs	32
	(ii)	Other duties and charges	33
	(iii)	Import prohibitions	34
	(iv)	Import licensing	34
	(v)	Standards	38
	(vi)	Quarantine restrictions	40
	(vii)	Government procurement	41
	(viii)	Article XIX action	42
	(ix)	Anti-dumping and countervailing duty measures	42
	(x)	Voluntary restraints and similar arrangements	42
	(xi)	Countertrade	43
	(xii)	Rules of origin	43
	(3)	Measures Directly Affecting Exports	43
	(i)	Taxes and other charges, tax exemptions	43
	(ii)	Export prohibitions and licensing controls	43
	(iii)	VRAs, bilateral restraint arrangements and similar arrangements	44
	(iv)	Certificate of Hong Kong Origin	44
	(v)	Rules of origin	45
	(vi)	Export Credit Insurance	46
	(4)	Measures Affecting Production and Trade	47
	(i)	Industrial development	47
	(ii)	Industrial estates	49
	(iii)	Training and productivity	49
	(iv)	Trade development activities	50
	(v)	Intellectual property protection	51

Page

V. TRADE POLICIES AND PRACTICES BY SECTOR 52

(1) Overview 52

(2) Food, beverages and tobacco 55

(3) Industry 56

(i) Textiles and clothing 56
(ii) Electrical goods and electronic equipment 60
(iii) Clocks, watches, professional, scientific equipment, photographic goods 62
(iv) Chemicals, plastics, toys, sports goods 63
(v) Ores and metals 63
(vi) Other sectors 64

Annex: European Communities Rules of Origin for Textiles and Clothing 65

VI. TRADE DISPUTES AND CONSULTATIONS 66

(1) GATT Dispute Settlement Cases 66

(i) Article XXIII cases 66
(ii) Dispute settlement cases under the MFA 67
(iii) Dispute settlement cases under Tokyo Round Agreements 67

(2) Other cases 68

VII. SUMMARY OBSERVATIONS 69

(1) Hong Kong in World Trade 69

(2) Institutional Framework 69

(3) Trade Policy Features and Trends 70

(i) Recent evolution 71
(ii) Type and incidence of trade policy instruments 71
(iii) Temporary measures 73
(iv) New initiatives 73

(4) Trade Policies and Foreign Trading Partners 73

I. THE ECONOMIC ENVIRONMENT

(1) Major Features of the Hong Kong Economy

1. Hong Kong is a small territory consisting of the islands of Hong Kong, Lantau, and Lamma, with a number of smaller islands off the coast of South China, and the larger mainland area of Kowloon and the New Territories. The territory is under British sovereignty and jurisdiction. It has full responsibility for its domestic affairs and possesses full autonomy in the conduct of its external commercial relations. Under the 1984 Sino-British Joint Declaration on the Question of Hong Kong, the territory will become a Special Administrative Region of China on 1 July 1997.

2. The population of Hong Kong is nearly six million. Between 1986 and 1989, the population grew at 1.4 per cent a year. The corresponding annual growth of the labour force was only 1 per cent. Over 93 per cent of the total population lives in urban areas. During the past ten years or more, substantial developments have been carried out in new towns, principally in the New Territories, and in established areas on Hong Kong Island and in Kowloon, to relieve overcrowding, replace slums and shanties, and provide housing together with workplaces.

3. Hong Kong's total GDP at current prices was estimated in 1989 to be some HK$492 billion, equivalent to HK$85,325 or some US$10,939 per capita. The per capita income level is therefore comparable to that of New Zealand or Singapore (Table I.1).

4. Hong Kong's economy is heavily concentrated in the services and manufacturing sectors. In 1989, the services sector produced 72 per cent of total output and provided 60 per cent of total jobs.[1] Manufacturing accounted for 20 per cent of production and around 30 per cent of employment, and construction for another 5 per cent. Agriculture, mining and quarrying accounted together for less than half of one per cent of GDP.[2]

5. The major service sectors of the Hong Kong economy are wholesale, retail, and import/export trades; restaurants and hotels; the finance, insurance and business services sector; community, social and personal services, including general government services; real estate; and transport, storage and communications. The share of commercial services, including hotels and restaurants, in GDP rose from 19 to 25 per cent between 1982 and 1988. In 1987 (the most recent year for which detailed data are available), the distributive trades, including import and export trade, accounted for 81 per cent of value added in this sector.

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[1] Comparable figures for the United States are 67 and 69 per cent.

[2] However, local production of vegetables, pigs, poultry and marine fish still account for approximately 33, 19, 37 and 69 per cent of total supply (Hong Kong Government, 1989 Economic Background).

6. The share of manufacturing in total production varied in the 1980s between one-fifth and one-quarter of GDP, but appears to be declining slowly.[3] The main manufacturing sectors of the economy are clothing, textiles, electrical and electronic products, plastic products and fabricated metal products. In the late 1980s, these five sectors, combined, accounted for 70 per cent of value added in manufacturing, with the textile and clothing complex alone making up 40 per cent of the total.

7. Labour productivity in manufacturing has shown steady gains partly because of investment in new plant and equipment and partly because of relocation of labour-intensive activities outside Hong Kong, leaving relatively higher value added activities within the territory. As an approximation, the labour intensity of output in Hong Kong can be judged by the share of wages in value added. On this basis, clothing remains the most labour-intensive of the manufacturing sectors, followed by plastic products, fabricated metal products, textiles and electrical or electronic products.

(2) Recent Economic Performance

8. During the 1980s, real GDP grew at an average annual rate of some 7 per cent. However, this average disguises considerable variations year-to-year. Growth of over 9 per cent in 1981 was followed by a marked slowdown to 3 per cent in the following year, succeeded by renewed economic growth reaching 9½ per cent in 1984. Thereafter, the economy stagnated for one year, followed by a prolonged economic boom, with GDP growth reaching nearly 14 per cent in 1987. Since then, rates of growth have declined markedly to an estimated 2½ per cent in 1989 (Table I.2). In the first few months of 1990, the economy stagnated.

9. A mixture of economic and political factors have determined the performance of Hong Kong's economy in the past decade. In the beginning of the 1980s, the world economic recession, increased protectionism in many of Hong Kong's principal trading partners, and increasing competition from other Asian economies, particularly Taiwan and Korea, made market conditions more difficult for Hong Kong. At the time, political uncertainty about the territory's future after 1997 also contributed to a fall in confidence which affected investment patterns, consumption and the stability of the currency. Initial action to stabilize the currency was taken by the authorities in October 1983 by linking the Hong Kong dollar to the United States dollar at a fixed rate of HK$7.8/US$1. The signing of the 1984 Sino-British Joint Declaration on the Question of Hong Kong contributed to reducing political uncertainty and bringing greater stability to the economic outlook.

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[3] In 1980, manufacturing accounted for 24 per cent of domestic output; in 1982, for 21 per cent; in 1984, for 24 per cent; in 1986, for 22 per cent; and in 1988, for 20 per cent.

10. Between 1983 and 1987, Hong Kong benefited considerably from the strong economic performance of OECD countries. It also profited from the rapid development of the Asian region. The dominant factor at this time, however, was the opening up of the Chinese market. This provided a notable spur to investment by Hong Kong entrepreneurs, the development of outward processing arrangements in many sectors of the economy, and the growth of domestic exports and re-exports. Growth in other countries of the Asian region, including Japan, Taiwan and the ASEAN group, also contributed to the diversification of Hong Kong's trade and investment patterns, and to the recovery of the economy.

11. In 1988 and 1989, capacity constraints to further rapid economic growth emerged. Unemployment fell to a record low level (Table I.2). Demand for labour, especially in the services and construction sectors outstripped the growth in the population of working age. Reflecting pressures on wages and other costs, inflation accelerated from a low point of 3 per cent in 1986 to 10-11 per cent in 1989 (CPI).[4]

12. Private consumption, which had increased by almost 11 per cent in 1987, continued to grow, at 9 per cent in 1988 (Table I.3). However, growth in investment fell from nearly 15 to 6 per cent, with a slow rate of expansion in private building and a 3 per cent fall in public-sector construction. At the same time, domestic exports declined, particularly to the United States.

13. In 1989, real private consumption expenditure further slackened to a 3 per cent increase. Domestic investment grew by only 1 per cent, with the growth of investment in plant and equipment falling from 15 to 1 per cent. It was not until late 1989 that labour market conditions were beginning to ease somewhat, with a decline in the high level of reported vacancies.

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[4]Despite the recent slow-down in economic activity, labour market conditions have become steadily tighter since the mid-eighties. The overall level of unemployment fell from nearly 4 per cent in 1984 to only 1.1 per cent in 1989. Labour shortages emerged in many sectors of the economy, including skilled data-processing personnel, office and secretarial staff and construction workers. Employment in manufacturing declined, while that in services, particularly commercial, tourist, trade-related and transport services, increased strongly. Pressure on wage levels, partly seen in the form of greater worker mobility, increased considerably. The Government estimates that earnings in manufacturing rose by 16 per cent in money terms, or 6 per cent in real terms, in the year up to September 1989. Corresponding estimates for services are 21 per cent (10 per cent) for financial institutions, 19 (8) for commerce, 16 (6) for transport, storage and communications and 13 (3) for restaurants and hotels.

14. During the period 1987-89, the slowdown in growth in the OECD economies as a group affected Hong Kong's trade. In particular, the slackening in the growth of United States consumption and its improving international competitiveness reduced growth in its import volume. These changes were not fully offset by import growth in Hong Kong's other major markets.

15. Conditions in China also affected both actual economic conditions and expectations. The austerity programme pursued in China led to a marked slowdown in the economy. Conditions after 4 June 1989 reinforced the trend and affected Hong Kong's economic performance. Investment growth dropped. Tourism suffered. The rate of emigration from Hong Kong increased. Exports to China (except those for outward processing) also fell significantly.[5]

(3) Trade Performance

16. Overseas trade has always played, and still plays, a key rôle in the Hong Kong economy. Its share has risen markedly in recent years. In 1989, the value of total merchandise trade flows was 231 per cent of total expenditure on GDP, compared to 162 per cent of GDP in 1983. If exports and imports of services are added, the total value of trade amounted in 1989 to 263 per cent of expenditure on GDP (against 192 per cent in 1983).[6] In 1988 (the most recent year for which data are available), Hong Kong was the eleventh largest world merchandise exporter, with 2.2 per cent of total world exports.

17. During the period 1979-83, Hong Kong's visible trade was consistently in substantial deficit. The balance moved into surplus in 1985, supported by rapid growth of re-exports. It swung back into deficit in 1988. In 1989, re-export growth again offset the poor performance of domestic exports, and imports grew slowly, reflecting reduced economic growth. The visible trade balance once again showed a surplus equal to 0.7 per cent of total visible trade. Services trade, by contrast, has consistently been in surplus; and, since 1984, Hong Kong has had a steady and, in recent years, growing surplus in visible and invisible trade combined (Table I.4).

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[5]Hong Kong Government estimates show an 11 per cent decline in domestic exports to China and a 16 per cent decline in re-exports, except for outward processing, in the third quarter of 1989 over the corresponding period of 1988.

[6]Services are defined by Hong Kong to include shipping, air transportation, insurance, tourist expenditure, production and distribution of films and TV programmes, hotel management, advertising and market research, news transmission, and dealing and broking in financial assets. This definition differs from "commercial services" as included in GATT Secretariat tables in other GATT reports.

(i) Growth of services and entrepôt trade

18. The Hong Kong economy is accustomed to adapting rapidly to changes, particularly in the external trading environment. Over the past decade, the faster rapid growth of the services sector than of manufacturing has been linked to factors including the development of Hong Kong as an financial centre (both local and international) and a centre for administration of multinational business, and the rapid growth of Hong Kong's entrepôt functions.

19. The development of financial services in Hong Kong has grown very rapidly since the freeing, in 1978, of legal provisions preventing new bank licensing.[7] The gross output of financial services more than tripled in the period 1980-87. Both domestic and offshore banking are permitted and financial markets of all kinds have expanded.

20. China's presence in Hong Kong's financial markets has grown particularly rapidly. The Bank of China group is the second largest banking group and, with the Hongkong Bank group, has become a significant net lender in the local interbank market. The China International Trade and Investment Corporation has made major investments in large Hong Kong enterprises in many sectors, and a number of businesses have Chinese participation or whole ownership.

21. Along with financial services, other business and professional services have expanded to secure the local business sector and as overseas contractors. Hong Kong is a centre for legal, accounting, data processing, market research, engineering, architectural and other consulting services. The "Business Services" share of domestic value added rose from 2.2 per cent to 3.3 per cent in the period 1980-87.

22. The growth of re-exports and hence of the entrepôt function in Hong Kong is a re-emergence of Hong Kong's original, historical trading rôle as a safe deepwater port, with easy access to the South China region, well placed on international, Pacific and South Asian trade routes. All these aspects of Hong Kong's position have come into play in the modern development of the entrepôt rôle.

23. With respect to China, Hong Kong has become the major port of entry and exit for Chinese imports and exports. Hong Kong has used its physical and cultural advantages, as well as its financial and managerial skills, to develop trade with the South China region, centred on Guangdong Province

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[7] One study has noted that Hong Kong's financial sector serves three different, but interrelated markets: the local financial services markets, the regional markets, and the institutions which finance trade with China. Although these three market segments overlap, they differ significantly in the rôle which each plays in the development of Hong Kong's economy. See Stanford Research Institute (1989), Building Prosperity, p. 108.

and the Pearl River basin. By 1989, re-exports from China through Hong Kong were the largest element in Hong Kong's re-export trade, with the United States the largest single market. China was also the largest market for re-exports through Hong Kong. Among other elements, Hong Kong is the major channel for indirect trade between China, on the one hand, and Taiwan and the Republic of Korea on the other, where direct trade links are prohibited. Because of the convenience of communications through the territory, a certain amount of China's internal trade is also conducted through Hong Kong.

24. Apart from the traditional entrepôt functions such as shipping, insurance, storage and breaking of bulk, many Hong Kong traders have increasingly moved into managing relations between Chinese suppliers and market-economy buyers. Services provided include provision of specifications, quality assurance, marketing and providing links between overseas buyers and Chinese exporters. In this way the value added by services in Hong Kong has grown.

(ii) Commodity pattern of trade

25. Although clothing and textiles, taken together, are still the largest manufacturing industries in terms of output, exports and employment, their share has fallen since the mid-1970s. The tendency has been to move up-market to the extent possible. Production has moved into closer cooperation with export customer firms on design, quality, fashion and rapid shipment, while new technologies have been introduced in such areas as cutting and knitting.

26. Electronics and electrical appliances, watches and clocks, and toys, grew rapidly in the 1970s and 1980s, responding to new export demand stimuli. More recently, industries such as photographic and optical goods, printing, food and beverage processing, jewellery, leather products and industrial machinery have increased in importance.

27. The picture which emerges from these trends has several elements. The first is a move out of the garment industry into alternative sources of light industrial development. This was at least partly prompted by barriers to trade in textiles and clothing. The second is a move into progressively more skill- and technology-intensive types of light manufacturing (precision engineering, opticals, printing). The third is development of greater design and servicing capacity within industries in Hong Kong. Lastly, there has been a move towards greater manufacture of machinery and equipment within Hong Kong itself for use in Hong Kong industries as well as for export.

28. As wage levels in Hong Kong have risen, many Hong Kong manufacturers have taken advantage of the opening of Southern China to move labour-intensive operations out of Hong Kong. This has been particularly evident in toys, plastic goods, and clocks and watches, in which sub-contracting and outward processing have become important. A survey carried out in 1989 by the Hong Kong Government shows that some 76 per cent and 44 per cent of Hong Kong's domestic and re-exports to China were for

outward processing. The origin rules inherent in the MFA bilateral agreements are likely to have inhibited the development of outward or part processing of products in South China, as has occurred in some of Hong Kong's other industrial sectors.

29. The overall pattern of Hong Kong's merchandise trade has thus changed markedly over the past decade. The main contributory factor has been the rapid growth of re-export trade. In 1978, re-exports accounted for only 11 per cent of total merchandise trade and under one-third of domestic exports. In 1988, re-exports were nearly 28 per cent of total merchandise trade, and exceeded the value of domestic exports by 26 per cent. The figures for 1989 show the value of re-exports growing by a further 27 per cent, while domestic exports increased by only some 3 per cent. Re-exports thus accounted for over 30 per cent of total trade.

30. Hong Kong's domestic exports remain heavily concentrated in clothing, textiles and light manufacturing, although some changes have taken place among these categories (Tables I.6 and AI.1).[8] The structure of re-exports is more diversified, and somewhat different (Table AI.2). Major items of re-exports from China include clothing, textiles, electronic goods including radios and tape recorders, and travel goods including handbags. Major items of re-exports to China were textile yarn and fabrics, textile made-up articles, electrical machinery, and artificial resins and plastic materials.[9] Re-exports through Hong Kong not involving China account for 16 per cent of the total. The principal sources of such trade are Japan, the United States, Taiwan and the Republic of Korea.

31. The structure of total imports shows that, in 1989, textiles and clothing together accounted for over 20 per cent, with imports of textile yarns and fabrics 60 per cent of the combined share.[10] Electrical, electronic and office machinery and equipment together accounted for a further one-fifth, up from 13 per cent in 1979 (Tables 1.7 and AI.3).

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[8]Clothing and textiles taken together accounted for 39.6 per cent of domestic exports in 1989 (43 per cent in 1978): electrical, telecommunications and office equipment for 22 per cent (13 per cent), watches and clocks for 7.3 per cent (8 per cent), and "miscellaneous manufactures" including toys and jewellery, etc. for 12 per cent (17 per cent).

[9]Textiles and clothing together accounted for 23 per cent of the total in 1989 (16 per cent in 1979); electrical, office and telecommunications equipment for 20 per cent (13 per cent); chemicals for 7 per cent; toys for 7 per cent and food (shellfish, fruit, vegetables) for 3 per cent, with other products such as cameras, watches and clocks, travel goods, and various assorted products bringing up the rear.

[10]However, the share of clothing in total imports increased from 2 to 8 per cent between 1979 and 1989.

Chemicals (almost half of which were plastics materials) accounted for 8 per cent of the total; food, drink and tobacco for 8 per cent; and watches and clock parts for a further 4 per cent. The structure of retained imports reflects even more closely the composition of Hong Kong's domestic economy.

(iii) Regional patterns of trade

32. In 1989, Hong Kong's main trading partners for domestic exports were the United States, the European Communities (particularly the Federal Republic of Germany and the United Kingdom), China and Japan. These trading partners together accounted for 77 per cent of domestic exports, with the United States alone taking 32 per cent.[11] Clothing and accessories still form the largest export to developed markets.[12] Major export items to China are telecommunications and other electronic equipment, textile yarns and fabrics, polymerization and copolymerization products, and watches and clocks.

33. The main sources of imports into Hong Kong were China (35 per cent), Japan (17 per cent), the EC, the United States, Taiwan, Korea and Singapore (Table I.8). China was the main supplier of raw materials and semi-manufactures, consumer goods and foodstuffs. Other major suppliers of raw materials and semi-manufactures were Japan, Taiwan, Republic of Korea, and the United States; of consumer goods, Japan; and of capital goods, China, Japan, and the United States. For re-exports, the main sources were China (54 per cent), Japan, Taiwan and the United States; the principal destinations were China, the United States, Japan, Taiwan and the Republic of Korea.[13]

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[11]The share of the United States has fallen from 44 to 32 per cent between 1985 and 1989. The value of domestic exports to the United States actually declined in 1989. China's share has, in the same period, increased from 12 to 19 per cent.

[12]In 1989, these items accounted for 47 per cent of exports to the United States, 59 per cent to West Germany, 50 per cent to the United Kingdom and 36 per cent to Japan.

[13]Hong Kong's published data show that 99 per cent of goods imported from China were re-exported, principally to the United States (35 per cent), Japan, back to China, EC countries, Republic of Korea and Taiwan, while re-exports to China were mainly of goods originating in Japan, Taiwan, the United States, Korea and China itself. In turn, 92 per cent of goods re-exported to the United States through Hong Kong, 89 per cent of those to the Federal Republic of Germany and the United Kingdom, and 61 per cent of those to Japan, were of Chinese origin: principally toys, clothing and travel goods, and electronics and telecommunications equipment.

(iv) External trade constraints

34. In a number of areas, and in some major markets, Hong Kong faces external constraints on its trade. The most significant of these is the complex of MFA bilateral restraint agreements negotiated on trade in textiles and clothing, where Hong Kong's major products have often been subject to low growth and other restrictive conditions.[14] A second area of concern, however, is the application of anti-dumping measures against some Hong Kong products, particularly in the European Communities. Hong Kong has been especially concerned by the application of such measures to textiles or clothing products already under MFA restraint. Thirdly, Hong Kong has in recent years been "graduated" (i.e. withdrawn) from the lists of trading entities eligible to benefit from tariff preferences under the Generalized System of Preferences (GSP) in the United States and New Zealand.

(4) Outlook

35. The Hong Kong economy is expected to continue to grow slowly in 1990, with some possible recovery in the second half. The current medium-term basis for Government estimates of tax revenue and public expenditure is a trend growth rate of 5½ per cent per annum, reduced by half a percentage point from previous assumptions. Constraints on productive capacity and pressures on costs will continue to affect business growth, but the Government expects that inflation may fall slightly.

36. In the 1990 Budget, the Government announced an extensive, long-term programme of infrastructure spending. Major items in the programme include the construction of a new airport by early 1997, the extension, stage by stage, of the container port, and the development of new tertiary education facilities. (Some of these projects, in particular the container port, will be partly or wholly financed by private investment.) Overall, total consolidated public sector expenditure for 1990-91 is expected to be almost one-quarter higher than in 1989-90, or 9.4 per cent higher in real terms, implying an inflation rate of nearly 15 per cent. To allow for increased public spending and broaden the tax base away from a heavy dependence on direct taxes, the Government raised many taxes and charges in the 1990 Budget. However, a proposed wholesale tax (value added tax) was not introduced, although the question is still under study.[15]

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[14] See Chapters IV and V.

[15] The public sector of Hong Kong comprises Central Government, Urban and Regional Councils, the Housing Authority, and funds established for specific purposes, namely the Capital Works Reserve Fund, Development Loan Fund, Mass Transit Fund, and Student Loan Fund. Since 1984, the Hong Kong Government accounts have shown a consistent surplus, rising to 3.7 per cent of GDP in 1988. In 1989-90, the surplus on General Revenue account was

(Footnote Continued)

37. Official estimates for 1990 put the growth of domestic exports at only 2½ per cent in real terms. Both domestic exports and re-exports are likely to continue to be restrained by the austerity measures introduced by China.

38. The future growth of Hong Kong's economy will continue to be linked to the development of external markets, diversification of exports and the competition which Hong Kong faces from other sources. Given the importance of trade in GDP, possible changes in the external environment, such as major global trade liberalization or a rekindling of protectionist pressures, remain crucial for Hong Kong's prosperity.

39. Serious efforts are being made by the authorities to develop the spread of export markets, in addition to the traditional destinations of the United States and Western Europe, to such areas as the Middle East, other South East Asian markets, the Soviet Union and Eastern Europe. Nevertheless, it is unlikely that the trend in the geographical evolution of trade will change much in the short run. Developed markets remain Hong Kong's principal customers, while the integration of the Hong Kong and South China economies, and hence the growth of China's share in Hong Kong's trade, is likely to continue.

40. The economic constraints faced by Hong Kong in developing its productive structure are thus strongly linked to global economic conditions. Developments in economic growth in the OECD area remain very important. Hong Kong is also required to keep a careful eye on its relative competitiveness vis-à-vis China, other South East Asian economies, and other developing countries or those (like Eastern European countries) in the process of transformation of the economic system. The present relatively high rate of inflation (with a fixed exchange rate) and the relatively low level of private investment are likely to continue to affect the situation adversely, at least in the short run.

41. The extent to which existing capacity constraints can be overcome depends on factors such as the speed of introducing less labour-intensive techniques into industry, commerce and other services, and the ability of the Hong Kong economy to train, and to retain, a more highly skilled work force. Strong efforts are being made by the administration and the various development entities to ensure the viability of Hong Kong's factors of production in the future. Political confidence is, however, as significant a determinant of the situation as economic capabilities.

(Footnote Continued)
HK$22 billion, or some 4½ per cent of GDP. As in previous years, a substantial sum was transferred to the funds (accumulated Government reserves at the end of 1989-90 were some HK$71 billion). Nevertheless, public expenditure increased considerably in recent years. Estimates for 1989-90 suggest that consolidated public expenditure represented around 17 per cent of GDP, with growth in spending well above the long-term trend of economic growth.

II. TRADE POLICY REGIME: OBJECTIVES AND FRAMEWORK

(1) Introduction

42. Hong Kong, as a major East Asian manufacturing centre, port and entrepôt, pursues a policy of open trade. Import and export controls are kept to a minimum, to the extent consistent with its position under GATT and other international agreements to which it is party. Most goods enter and leave Hong Kong free of duty or other restrictive trade measures.

(2) Trade Policy Objectives

(i) General trade policy objectives

43. Hong Kong's general trade policy objectives are linked to its open policy stance, its autonomy in the conduct of its economic and trade affairs and its separate contracting party status in GATT. Hong Kong is therefore keenly interested in maintaining an open multilateral trading system. It operates actively to safeguard its rights and fulfil its obligations under GATT and the Tokyo Round Codes and is a major participant in the Arrangement Regarding International Trade in Textiles (the MFA). Overall, its primary concern is to secure the freest possible access for Hong Kong products in international markets.

44. Hong Kong does not, as a general rule, pursue specific sectoral trade policy objectives, except in the context of its participation in the MFA.

(ii) Objectives in the Uruguay Round

45. Hong Kong participates very actively in the Uruguay Round. Its main objectives in the Round are to reverse protectionism, improve market access for Hong Kong goods, and strengthen GATT rules, particularly in the fields of safeguards, anti-dumping and rules of origin. Hong Kong is particularly interested in the phasing-out of the MFA and the integration of the textiles and clothing sector into the General Agreement. Hong Kong also supports the establishment of GATT-based multilateral framework agreements in the "new" areas of trade in services, trade-related investment measures and trade-related aspects of intellectual property rights.

46. Hong Kong has made specific negotiating proposals, either alone or jointly with other participants, in the Uruguay Round Negotiating Groups on Tariffs, Non-Tariff Measures, Textiles and Clothing, GATT Articles, MTN Agreements, Safeguards, Intellectual Property, Dispute Settlement, and Functioning of the GATT System. Hong Kong is also taking an active part in the Uruguay Round negotiations on trade in services.

47. On tariffs, Hong Kong joined with a number of other participants in advocating a formula approach to address tariff peaks and other issues in implementing the target tariff reduction. It also supported the principle of no *a priori* exclusion of any product or sector from the negotiations. Hong Kong is participating actively in the tariff negotiations now in progress.

48. In the non-tariff measures field, Hong Kong has taken a particular interest in the question of rules of origin. It is especially concerned to establish a multilateral agreement in this area which would ensure non-discrimination, minimize the possibilities for arbitrary or unilateral changes, and establish conditions for multilateral surveillance of rules of origin.

49. On textiles and clothing, Hong Kong has taken the view that MFA restrictions should be phased out over a five-year period and that trade provisions concerning this sector should be integrated into normal GATT rules. During the phase-out period, exporters should be assured of stable shipping conditions; therefore, any transitional arrangements should continue to be based on export controls, and should build on an MFA-based approach.[16] Moreover, phasing-out of MFA restrictions must provide greater market access for all exporters and not continue "special" lower growth rates for the major suppliers.

50. In seeking to revise GATT Articles, Hong Kong has joined with a number of other countries in proposing, inter alia, modifications to the "principal supplier" rule of Article XXVIII of the General Agreement in order to make the concept of "suppliers' rights" in respect of tariff concessions more flexible.

51. Hong Kong's position on textiles and clothing and its approach to safeguards and other "rule-making" aspects of the negotiations are closely linked. In the area of safeguards, Hong Kong, along with a group of other Pacific area countries (Australia, New Zealand, Singapore and the Republic of Korea) considers unconditional m.f.n. treatment should be the fundamental basis for any agreement on safeguards and opposes any proposal to introduce aspects of selectivity into Article XIX of the General Agreement.

52. Provisions on anti-dumping are a major source of concern to Hong Kong in the negotiations because of its recent experience of anti-dumping actions taken by the EC and the United States. Hong Kong has stressed the "exceptional" rôle of national anti-dumping provisions, the need for adequate determination of injury, and the problems which can arise from discretionary application of anti-dumping systems. It has made detailed proposals concerning the calculations used in the determination of dumping, the determination of injury, and the "cumulation" of injury when goods are imported from a number of different sources or companies. Hong Kong is strongly opposed to the use of anti-dumping procedures on goods which are at the same time subject to quantitative restraints, such as textiles and clothing.

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[16] See Chapter V for a description of the Hong Kong textile export control system.

53. On intellectual property rights (IPRs), Hong Kong's view is that the Uruguay Round should secure an agreement founded on basic GATT principles of m.f.n. treatment, non-discrimination, national treatment and transparency. Parties to the agreement should also be obliged to provide for the protection of intellectual property within their own legal systems at a level no lower than contained in the agreement. It has also stated that the enforcement provisions of such an agreement should recognize the balance of rights and interests between IPR holders, their legitimate competitors and the consumer; differences in national legal systems; the geographical and resource constraints facing the participants; and the need to ensure that protection for IPRs does not result in the creation of barriers to legitimate trade. Hong Kong considers that border measures, on their own, are insufficient to ensure effective enforcement, and proposes that additional provision be made for enforcement action to be taken within domestic jurisdiction up to and including the point of export.[17] Hong Kong has also joined with a number of other countries in outlining transitional arrangements which might form part of an agreement on TRIPS.

54. In the context of the functioning of the GATT system, Hong Kong has joined with a number of other countries in proposing that greater transparency of trade policy-making at national level would contribute to greater coherence in global economic policy-making.

55. Hong Kong, as a major trader in many service sectors (banking and other financial services, shipping, air transport, real estate, professional services, hotels and catering) has an interest in reaching a GATT-based multilateral agreement in trade in services which would not rule out, a priori, any service sector. However, Hong Kong has put forward an indicative list of the service sectors in which it has a trading interest. This comprises eight main groups, namely distribution, travel, resource, financial, information, professional, technical and transportation services.

(3) General Trade Legislation

(i) Hong Kong in GATT

56. The GATT has no legal status in Hong Kong's domestic law. It has not been incorporated directly into Hong Kong law by any domestic legislative act. Private citizens cannot, therefore, take action against the Hong Kong Government for non-observance of GATT provisions.

57. Hong Kong has been a contracting party to GATT in its own right since 23 April 1986 under Article XXVI(5) of the General Agreement.[18]

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[17] See Chapter IV for a description of Hong Kong's own laws and procedures concerning the enforcement of intellectual property rights.

[18] Before that date, Hong Kong's participation in GATT was governed by the Declaration made on 28 June 1948 by the United Kingdom concerning the

(Footnote Continued)

58. After 1 July 1997, when Hong Kong becomes a Special Administrative Region of China, it will keep its status as a free port and separate customs territory, its economic and trading system, and will continue to determine its own economic and trade policies. It will be able on its own, under the name of "Hong Kong, China", to maintain and develop relations and conclude and implement economic, trade or other agreements with States, regions and relevant international organizations. Hong Kong will continue to be a contracting party to the GATT.[19]

59. Hong Kong has accepted the Tokyo Round Codes on Technical Barriers to Trade, Government Procurement, Anti-Dumping Procedures, Subsidies and Countervailing Measures, Customs Valuation and Import Licensing. Hong Kong is also a party to the Arrangement regarding International Trade in Textiles (the MFA).

(ii) Hong Kong's domestic legislation

60. Hong Kong's primary legislation is framed in Ordinances (laws) passed by the Legislative Council and approved by the Governor. The day to day operation of an Ordinance may be carried out under Regulations issued by the administrative body responsible for putting it into effect. The principal law governing trade in goods is the Import and Export Ordinance.[20] Specific provisions regarding trade, and in particular for import and export licensing, are applied according to regulations issued under this Ordinance, as well as various other Ordinances and regulations. Details of these provisions are given in Chapter IV.[21]

(Footnote Continued)
application of the GATT to Hong Kong. Between the time of the United Kingdom's joining the European Communities and its own succession to GATT, Hong Kong maintained a separate seat in GATT bodies as part of the United Kingdom delegation under the name of "United Kingdom - Hong Kong".

[19] GATT document L/5987.

[20] Chapter 60 of Laws of Hong Kong, last amended in 1989.

[21] These include the Reserved Commodities Ordinance (administered by the Trade Department); the Public Health (Animals and Birds) Regulations, the Dogs and Cats Regulations, the Poultry (Slaughtering for Export) Regulations, the Animals and Plants (Protection of Endangered Species) Ordinance, the Forest and Countryside Ordinance, the Wild Animals Protection Ordinance (administered by the Agriculture and Fisheries Department); the Dutiable Commodities Ordinance and the Acetylating Substances (Control) Ordinance (administered by the Customs and Excise Department); the Sand Ordinance (administered by the Civil Engineering Services Department); the Dangerous Goods (General) Regulations (administered by the Labour Department (Mines Division); the Dangerous Drugs Ordinance (administered by the Department of Health); the

(Footnote Continued)

(4) Structure of Trade Policy Formulation

(i) Executive and legislative branches of Government

61. The Hong Kong Government is headed by the Governor, who is the representative of the British Crown. The territory has autonomy in its external commercial and economic relations.

62. The Governor is advised on the development of policy by an Executive Council (ExCo) which has currently 15 members, a majority of whom are also members of the Legislative Council.[22]

63. The Governor is required to consult ExCo on all important matters of policy. He has the right under certain circumstances to act against the Council's advice or to refuse a member's request to discuss a particular question, but this right has never been used in recent times. ExCo also advises on all principal legislation (ordinances) before its introduction into the Legislative Council, and has the power to make regulations in certain areas under ordinances.

64. Laws, framed as ordinances, are enacted by the Legislative Council (LegCo) which has a current membership of 57. The Governor presides; there are three ex officio members (the Chief Secretary, the Financial Secretary and the Attorney General), seven official members, 20 members appointed by the Governor, and 26 members elected by nine "functional" constituencies and by an electoral college comprising the members of the District Boards, the Urban Council and the Regional Council.[23] Elections are normally held every three years.

(Footnote Continued)
Telecommunications Ordinance (administered by the Post Office); the Firearms and Ammunition Ordinance (administered by the Royal Hong Kong Police Force); the Public Health and Municipal Services Ordinance (administered by the Department of Health) and the Ozone Layer Protection Ordinance (administered by the Environmental Protection Department).

[22]Four members are ex officio (the Chief Secretary, the Commander British Forces, the Financial Secretary and the Attorney-General). The other 11 are appointed by the Governor.

[23]The "functional" constituencies represent major occupational or professional groups (commercial, industrial, labour, social services, medical and health care, finance and accountancy, teaching, legal, and engineering and associated professions). The commercial, industrial, finance and accountancy, labour, and medical/health care associations elect two members each, and the social services, teaching, legal and engineering groups one each.

65. Bills, generally proposed by the Government, pass through three readings and a committee stage in LegCo. Before a Bill is introduced by the administration - which requires the approval of the Governor in Council - the ideas underlying it will normally have been discussed within a number of advisory boards and committees established by the Government, as well as with chambers of commerce and trade and industrial associations. After the second reading of a Bill has been moved, there will normally be a stage of intensive discussion in ad hoc groups of LegCo members, which will consider public submissions, if any, and also involve the relevant government officials, before the Bill is debated in Council.

66. Non-official Members of the two Councils are assisted in their work by a standing Office of the Members of the Executive and Legislative Council (OMELCO). OMELCO also acts as a further point of contact between Members and the public.

67. Since February 1989, an Ombudsman (the Commissioner for Administrative Complaints) has been established. Members of the public may address complaints regarding maladministration to the Commissioner through members of LegCo. The Commissioner is required to inform the complainant, and the LegCo member by whom the complaint was referred, of the result of his investigation. He is also required to report his opinion and reasons, together with a statement of any remedy and recommendation considered necessary, to the head of department affected. If this report is not, in the Commissioner's opinion, adequately acted on, the report and recommendations may be submitted to the Governor. Where it is the Commissioner's opinion that a serious irregularity or injustice has occurred, he may report accordingly to the Governor; such a report is bound by law to be laid before the Legislative Council. To date, no complaints have been made relating to trade questions.

68. Hong Kong maintains a Government Office in London and Economic and Trade Offices in Brussels, Geneva, New York, San Francisco, Washington and Tokyo.

(ii) The Administration

69. The principal officers of the Hong Kong Administration are the Chief Secretary, the Financial Secretary and the Attorney General. The Chief Secretary is the head of the Public Service and of the Government Secretariat, and is the senior official member of the ExCo and LegCo. The Financial Secretary is responsible for the operations of the Finance, Monetary Affairs, Trade and Industry and Economic Services Branches of the Secretariat. Each of these Branches is in turn headed by a Secretary (Secretary for the Treasury, Secretary for Monetary Affairs, Secretary for Trade and Industry, Secretary for Economic Services) (Chart II.1).

70. The main Branches of the Secretariat relating to trade and external economic affairs are:

- Trade and Industry Branch (key institution for the formulation and review of trade policies).

- Finance Branch (co-ordinates public revenue and expenditure; advises on taxation questions; prepares the annual Budget; is responsible for the revenue collection function of the Customs and Excise Department).

- Monetary Affairs Branch (responsible for banking legislation and regulations; administers the Exchange Fund; maintains relations with note-issuing banks and supervises note issues; has the power to intervene in foreign exchange markets).

- Economic Services Branch (responsible for general economic policies, economic assessment and forecasting as well as for specific economic services like shipping, civil aviation, telecommunications, energy, tourism and food supply).

(a) Trade and Industry Branch, Trade Department and Industry Department

71. The Trade and Industry Branch is at the centre of trade policy formulation and review. The Trade Department is responsible for the implementation of trade policy, whilst the Industry Department is also closely involved in trade-related activities.

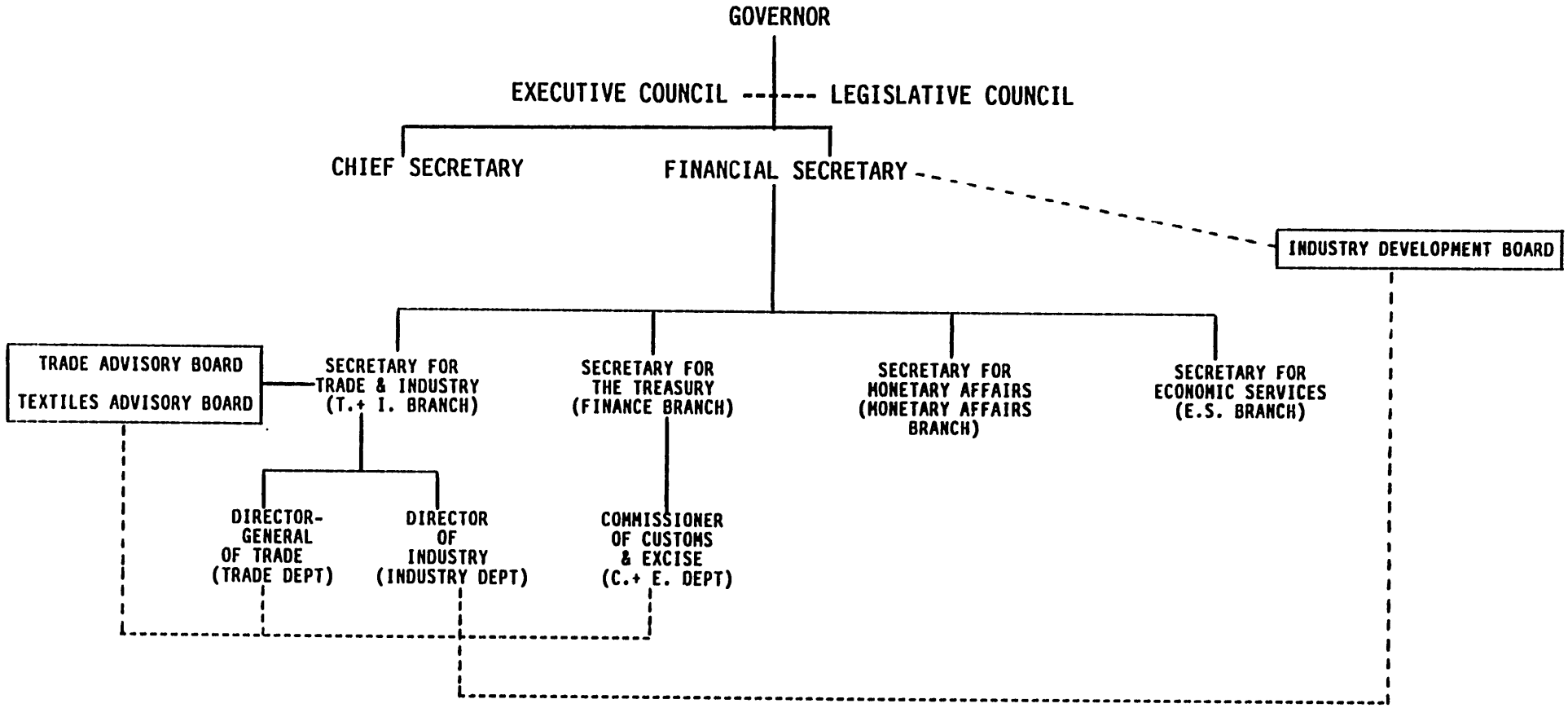
72. Chart II.2 shows the current structure of the Trade Department. The objectives of the Department are stated to be:

(a) to work, in Hong Kong's interests, for a free and open multilateral trading system through participation in the GATT and other relevant international, multilateral or regional institutions/fora;

(b) to safeguard Hong Kong's rights and fulfil its obligations as a contracting party to the GATT;

Chart II.1

HONG KONG GOVERNMENT: PRINCIPAL ENTITIES INVOLVED IN TRADE POLICY FORMULATION



(c) within the context of the GATT, to secure, maintain and improve access for Hong Kong exports to international markets through economic and trade relations with government authorities overseas and through efforts to remove trade barriers wherever they exist;

(d) to ensure and maintain the integrity of all measures adopted by Hong Kong in fulfilment of its international obligations under multilateral and bilateral trade agreements;

(e) to ensure the integrity and efficient operation of the textile exports control system so that maximum use can be made of the limited quota available under negotiated trade agreements in Hong Kong's restrained markets; and

(f) to ensure the integrity and efficient operation of all other import/export control or surveillance systems which the Department is committed to implement.[24]

73. The Trade Department has five divisions under the authority of two Deputy Directors-General who report to the Director-General of Trade. The Multilateral Division deals mainly with Hong Kong's GATT participation, but also with the UN Economic and Social Commission for Asia and the Pacific (ESCAP), the Customs Co-operation Council (CCC) and other multilateral organizations. It also services the Trade Advisory Board. Three regional Divisions deal with relations with North America, the EEC and other regions; the EEC Division also services the Textiles Advisory Board and the Other Regions Division is the link with the Trade Development Council. The fifth (Systems) Division deals, inter alia, with the textiles export control system (an activity which employs more than half the Department's staff), factory registration, certification of origin and import/export licensing other than on textiles.

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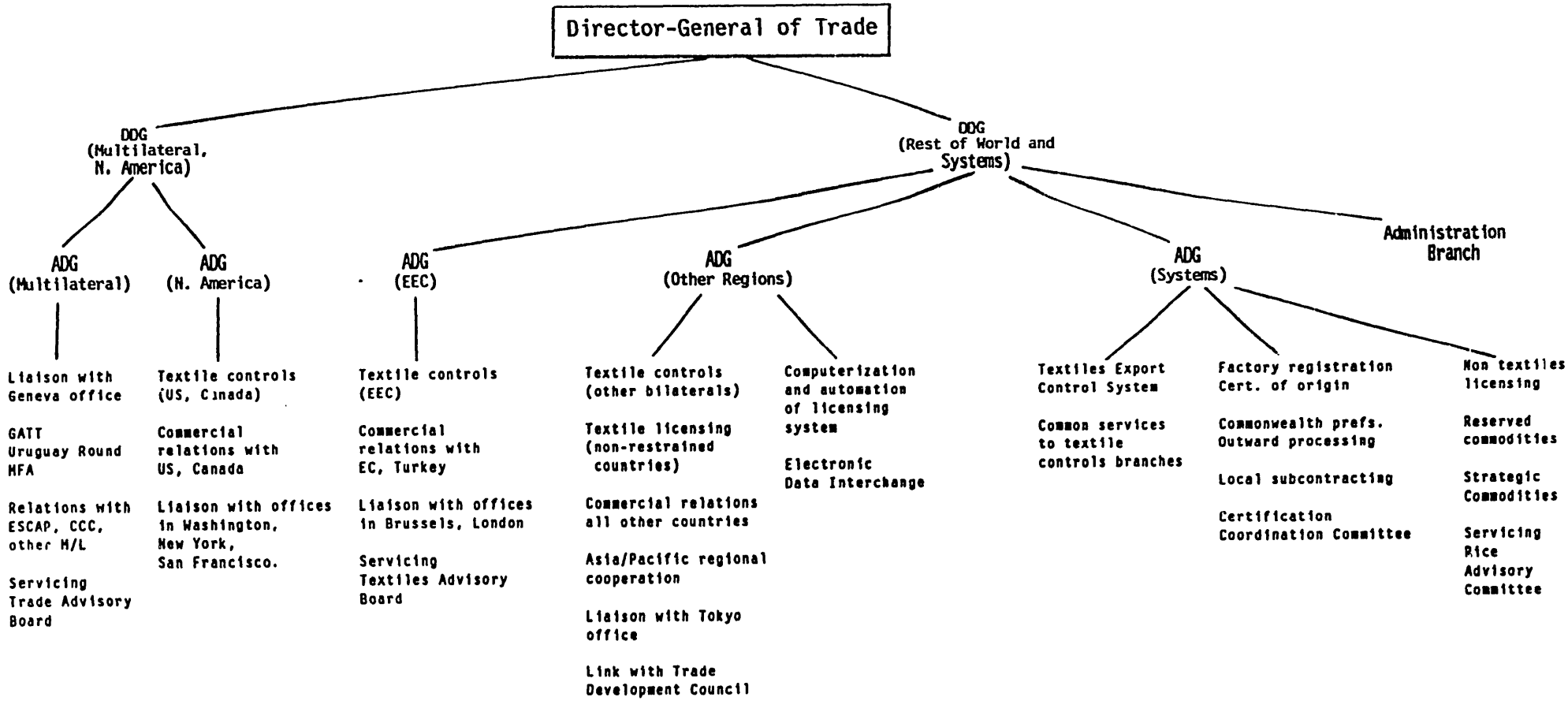
[24] Hong Kong Trade Department (1989) Handbook.

Chart II.2

HONG KONG : STRUCTURE OF TRADE DEPARTMENT



74. The Industry Department is also closely involved in trade-related work. The Department's objectives are to assist in improving the competitiveness of Hong Kong's manufacturing industries, to facilitate production through infrastructural support, and to promote and facilitate inward investment in manufacturing and manufacturing support services. The Department, under the guidance of the Industry Development Board, carries out or commissions techno-economic and market research studies on major industries.[25] In addition, it monitors the adequacy of Hong Kong's industrial infrastructure, particularly the availability of land and trained manpower.

75. The Department's Inward Investment Division provides information to overseas investors on conditions for industrial investment and operation in Hong Kong through a "One-Stop Unit" linked to consultants in the Government's overseas offices in New York, San Francisco, London, Brussels and Tokyo. The Department's Industrial Extension Service actively provides, through visits to firms, information on the industrial support measures available in Hong Kong. Other support services include work related to quality standards through the Quality Services Division; industrial support initiatives linked with work on technological subjects in Hong Kong's Universities and the Hong Kong Polytechnic; and planning for the availability of land for industrial development.

(b) Customs and Excise Department

76. The Customs and Excise Department is responsible for enforcing the laws regarding dutiable commodities, dangerous drugs, import and export controls, intellectual property rights, collecting revenue on dutiable commodities and carrying out trade-related inspections and investigations. It collects revenue on dutiable commodities, supports the Trade Department by carrying out factory and consignment inspections to ensure their compliance with international requirements, checking costings and investigating possible licensing and origin frauds. (In this connection, the rate of restrained export licences checked is to rise from 2.3 per cent in 1988 to 4.7 per cent in 1990.)

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[25] Recent studies of this type include reports on the metal and light engineering, electronics, plastics, and textiles and clothing industries; smaller-scale studies were carried out or research commissioned on industrial automation, sheet metal processing, precision machining, integrated circuits and semi-conductors, computer-aided design of electronic systems, development of computer-aided design (CAD) and computer-aided manufacture (CAM) systems, technology transfer and other areas.

(c) Other Departments involved in trade matters

77. A large number of other Departments are involved in trade-related matters. Since 1989-90, the Agriculture and Fisheries Department has provided an inspection and certification service to assist exporters to comply with importing countries' requirements concerning merchandise containing constituents of animal origin. The Census and Statistics Department compiles trade statistics from import and export declarations, and compiles various kinds of social and economic statistics. The Government Laboratory is responsible for regulatory testing of goods. The Post Office makes available counter services, on an agency basis, for the Trade Department in respect of import and export licences, classifying equipment under the Strategic Commodities Ordinance, and administering the Telecommunications Ordinance. The Registrar-General's Department is responsible for administering the Trade Marks Ordinance and the Registration of Patents Ordinance. The Department of Health imposes public health control on the import of pharmaceutical products and medicines, radio-active substances and irradiating apparatus, and game, meat and poultry. The Environmental Protection Department exercises control on the import and export of ozone-depleting substances.

(5) Statutory Bodies Involved in Trade Matters

78. Hong Kong has a number of statutory bodies involved in trade matters. A brief description of the most important bodies in this context is presented below. More detailed accounts of the work of these bodies are given in Chapter IV.

79. The Hong Kong Trade Development Council is a statutory body established by the Government to promote and develop the territory's two-way trade with the world. To achieve this objective, the Council provides marketing research and promotional services to Hong Kong industries, especially in their efforts on market diversification, product diversification, and upgrading the quality and image of Hong Kong's products. Its objectives are to promote market diversification, product diversification and upgrading of the image of Hong Kong products. Its 30 offices and market consultants throughout the world process trade inquiries, provide up-to-date trade and economic information and offer advice to businessmen interested in developing trade with or through Hong Kong. Extensive trade promotion programmes and missions are carried out both abroad and in Hong Kong as well as receiving inward missions. Various magazines and newspapers on Hong Kong products, fashions and general trade trends are produced. The Council also administers the new Hong Kong Convention and Exhibition Centre.

80. The Hong Kong Export Credit Insurance Corporation is a statutory body established to provide insurance cover for exporters on a commercial basis and to insure exporters against commercial or political risks of non-payment for goods purchased on credit in countries outside Hong Kong.

81. The Hong Kong Productivity Council is financed by an annual government grant and by fees earned from its services. It provides an integrated range of training, consultancy, technical and laboratory-based services in areas critical to the development of industry with a view to enhancing productivity. It organizes overseas study missions for local industrialists in relation to technologies and techniques. The Council also undertakes consultancy projects for local and foreign companies in areas as diverse as feasibility studies, production management, new plant, personnel recruitment, marketing and technical assistance.

82. The Hong Kong Industrial Estates Corporation develops and manages industrial estates to enable industries with a relatively high level of technology, which cannot operate in multi-storey factory buildings to set up in Hong Kong. Applicants may buy, on leasehold, land on the industrial estates or buy or lease standard factories.

(6) Private Sector Advisory Bodies

(i) Advisory boards

83. Links between the Government and the private sector of industry and commerce are strong and multi-faceted. There are many private sector advisory bodies, with close connections to various levels of the Government. In relation to trade and industrial affairs, the most important of these are the Trade Advisory Board, the Textiles Advisory Board and the Industry Development Board.

84. The Trade Advisory Board is chaired by the Secretary for Trade and Industry. It currently has three official members (the Director-General of Trade, the Director of Industry and the Commissioner of Customs and Excise) and 14 non-official members appointed by the Governor from senior members of the business and trading community. Its function is to advise the Secretary for Trade and Industry on matters affecting Hong Kong's trade, other than trade in textiles and clothing.

85. The Textiles Advisory Board has a similar function in respect of any question (other than labour concerns) affecting Hong Kong's trade in textiles and clothing. The Board is also chaired by the Secretary for Trade and Industry. It currently has three official members who are the same as for the Trade Advisory Board, and 17 non-official members from the private sector.

86. Any important Government policies relating to trade and trade negotiations will be discussed in full by the Boards before a final decision is taken. In respect of multilateral trade issues, the Boards are an important domestic frame of reference for Hong Kong's positions in the Uruguay Round, the Multifibre Arrangement and GATT as a whole. Their members, as important participants in the Hong Kong business community, keep close watch on any areas of trade or trade policy which appear likely to affect the interests of Hong Kong firms.

87. The Industry Development Board is chaired by the Financial Secretary, and has six official members and 13 members from the private sector. Private sector representatives include not only industrialists, but also

representatives of tertiary educational institutions responsible for the training of higher-level manpower and at which research into industrial development questions is carried out. The Board's function is to advise the Government on matters affecting Hong Kong's manufacturing industry. The Board has five subsidiary committees, responsible for the review of policies in specific industrial areas and in industrial technology. In recent years, these committees have commissioned, through the Industry Department and private consultants, a series of techno-economic studies of various major Hong Kong industries (electronics, metals and light engineering, plastics, and textiles and clothing) on a four-year cycle, in order to identify factors determining or inhibiting the growth of these industries.

(ii) Chambers of Commerce and Industrial Associations

88. Formal Government/Industry links are also carried on through a number of Chambers of Commerce and Industrial Associations.

89. The Hong Kong General Chamber of Commerce is the oldest of these bodies, established in 1861. Its membership of some 2,800 companies, which includes most of the major corporations in Hong Kong, extends throughout all branches of commerce and industry, but is mainly involved in the trade and service sectors. The Chamber is a "functional" member of the Legislative Council. It services the Hong Kong Coalition of Service Industries and has been instrumental in introducing such methods as bar coding to Hong Kong businesses. One major interest of the Chamber is in co-ordinating work in process in the territory to build up a Hong Kong-wide system of electronic data interchange, in relation to trade formalities. Internationally, the Chamber is a member of the International Chamber of Commerce, and services the Hong Kong Committee of the Pacific Basin Economic Council.

90. The Chinese General Chamber of Commerce, established in 1900, has a membership of some 6,000 Chinese firms and businessmen economy-wide. Apart from its general functions as a chamber of commerce, it maintains particularly close links with trade organizations in China. It has been authorized since 1957 by Chinese Export Commodities Fair organizations in China to issue invitations to Hong Kong Chinese firms to take part in such fairs. The Chamber is a "functional" constituency of the Legislative Council.

91. The Chinese Manufacturers' Association of Hong Kong, established in 1934, has over 3,600 member firms. In addition to general operations concerning missions, fairs and exhibitions, the Association is particularly concerned with product development, technical education and training, and testing and certification through its own laboratories. It is also responsible for organizing a competition in the Machinery and Equipment Award Category of the Governor's Award for Industry.

92. Established in 1952, the Indian Chamber of Commerce, Hong Kong has a membership of approximately 500, mainly engaged in trading activities. The main objectives of the Chamber are to promote and protect Hong Kong's trade

and industry, and to represent the views of the Indian mercantile community in Hong Kong on trade issues. It handles trade enquiries, issues circulars and newsletters to keep members informed of current trade developments in Hong Kong and overseas markets, and organizes trade missions.

93. The Federation of Hong Kong Industries, established in 1960, is the only statutory body among these associations. Membership covers all industrial sectors. The Federation services the Hong Kong Toys Council, Chemical and Pharmaceutical Industries Council, Hong Kong Transport Services Council, Hong Kong Plastics Industry Council, Hong Kong Mould and Die Council, the Design Council of Hong Kong, Hong Kong Q-Mark Council, Hong Kong Electronics Industry Council and Young Industrialists Council. It carries out industrial research, insurance business, quality assurance, and is responsible for organizing the Consumer Product Design Award of the Governor's Award for Industry. The Federation is a "functional" constituency of the Legislative Council.

94. As noted in Chapter IV, these five organizations also have the right to issue Hong Kong Certificates of Origin. Close liaison is maintained with the Government in this area.

(7) Independent Review Bodies

95. There are no independent bodies established to review trade policies as a general measure in Hong Kong.

(8) Trade Agreements and Cooperation

96. The GATT, including the Tokyo Round Codes and the MFA, is the major international trade agreement to which Hong Kong is party. Hong Kong is also, however, a member of the Customs Co-operation Council, an associate member of the United Nations' Economic and Social Commission for Asia and the Pacific and the International Maritime Organization. Hong Kong is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the notification of the United Kingdom.

97. Hong Kong has been involved in the dialogue being held between OECD countries and Asian economies since July 1989. In the Pacific area, Hong Kong has attended, as an observer, recent meetings of the Pacific Economic Co-operation Conference (PECC, a tripartite government-business-academic body established to promote regional trade and economic policy cooperation).[26]

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[26] The PECC currently comprises Australia, Brunei, Canada, China, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, the Pacific Island Nations, the Philippines, Singapore, Taiwan, Thailand and the United States.

III. TRADE-RELATED ASPECTS OF THE FOREIGN EXCHANGE REGIME

(1) Exchange Rate Movements and Trade

98. Since 17 October 1983, the Hong Kong dollar has been maintained at a rate of HK$7.80 to the United States dollar.[27] Before that date, the currency had been floating freely since late 1974.[28] The link of the nominal exchange rate to the United States dollar was introduced after a period of considerable instability in the value of the Hong Kong dollar, related to political uncertainties around the Sino-British negotiations on Hong Kong's future.

99. The Government's view is that a fixed exchange rate with the United States dollar provides needed stability against speculation in a period when political events may give rise to it. A fixed parity with the United States dollar is preferred to a trade-weighted index using a basket of currencies, because the highest proportion of Hong Kong's trade, including that with China, is paid for in United States dollars. The Government regards the present exchange rate mechanism, based on a system of cash and interest rate arbitrages, as operating well. It is noted that no serious external imbalance has occurred since the introduction of the linked exchange rate in 1983.

100. Since 1983, the nominal exchange rate target established with the United States dollar has been maintained. The Hong Kong dollar has remained within relatively narrow limits, aligned with the United States

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[27] The link between the Hong Kong dollar and the United States' dollar is maintained through the domestic bank note issuing mechanism. Hong Kong has no Central Bank as such. The typical functions of a central bank are performed partly by the Government (which, inter alia, manages the foreign exchange reserves and undertakes supervision of financial instructions) and partly by selected commercial banks (which, inter alia, issue banknotes and act as banker to the Government). Hong Kong's bank notes are issued by the Hongkong and Shanghai Banking Corporation Limited and the Standard Chartered Bank against obligatory counterpart holdings of Certificates of Indebtedness issued by the Exchange Fund. Before 1983, such Certificates were simply denominated in Hong Kong dollars. Since October 1983, they have been denominated in United States dollars at the fixed rate of 7.80. The forces of arbitrage operate against the fixed rate for note issue to bring the market rate of the Hong Kong dollar close to the linked rate of 7.80.

[28] Previously, the Hong Kong dollar had been linked to the pound sterling from 1935 to mid-1972 and to the United States dollar from mid-1972 to late 1974.

dollar at around the prescribed rate of HK$7.80.[29] However, Hong Kong's trade performance is influenced by the exchange value of the Hong Kong dollar against other major currencies as well, and by cost and price developments in Hong Kong relative to its trading partners. This brings effective exchange rates into focus.

101. Between 1985 and 1987, both nominal and real effective exchange rates of the Hong Kong dollar depreciated significantly, largely reflecting the depreciation of the United States dollar. Throughout this period, the real exchange rate was lower than the nominal effective rate (Chart III.1). Subsequently, in 1988 and 1989, there was a renewed appreciation of the currency in real terms, reflecting the inflationary pressures noted in Chapter I.

102. Such a development of the real effective exchange rate should show itself in the performance of Hong Kong's domestic export volume and, because of the close association of export growth and economic expansion, in GDP growth. In fact, export volume increased dramatically between 1985 and 1987, grew less rapidly in 1988 and stagnated in 1989 (Chart III.1). GDP growth shows a similar, though less pronounced pattern.[30]

(2) Foreign Exchange Allocation

103. Hong Kong has no exchange controls, taxes or subsidies on purchases or sales of foreign exchange. The Articles of Agreement of the International Monetary Fund are applied to Hong Kong.

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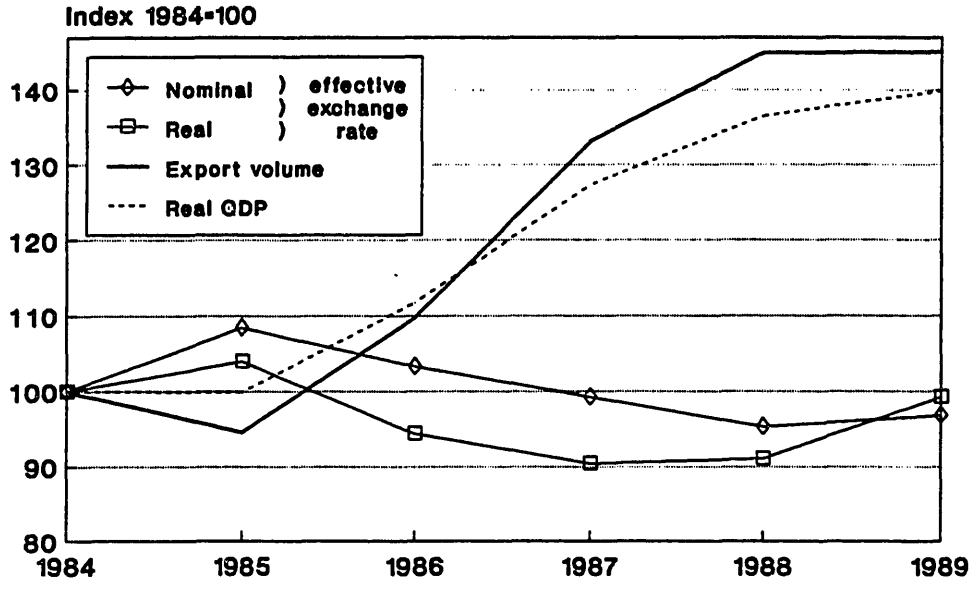
[29] Between 1988 and 1990, the authorities have introduced three new instruments to strengthen monetary management through more effective control over interbank liquidity and to supplement market forces, in order to maintain exchange rate stability. These are the possibility of applying negative interest rates on large, short-term Hong Kong dollar customer deposits in Hong Kong, special accounting arrangements between the Exchange Fund and the Hong Kong Association of Banks, and short-term Exchange Fund Bills. The institutional mechanism by which these instruments may be applied is the link between the Exchange Fund and the banking system.

[30] As noted in Chapter I, however, Hong Kong's trade performance has also been affected by changes in its production structure. In particular, the share of domestic exports has been influenced by the relocation of labour-intensive production processes into China.

Chart III.1
Nominal and real effective exchange rates, exports and GDP for Hong Kong, 1984-89



Source: Hong Kong Government, Morgan Guaranty Trust.

(3) Foreign Investment

104. Entry of licensed banks, restricted licence banks and deposit-taking companies into the banking and finance sector is controlled under the Banking Ordinance by the Commissioner of Banking. Overseas banks may be accepted to operate in Hong Kong if they are incorporated in countries whose monetary authorities exercise effective supervision and have no objection to the establishment of a branch in Hong Kong; which have total assets, less contra-items, in excess of US$14 billion; and subject to "some acceptable form of reciprocity" to Hong Kong banks. Even though the asset criterion is not fulfilled, a foreign bank may be accepted if the authorities believe that the establishment of a bank from the country in question would serve Hong Kong's interest as a broad-based international financial centre.

105. Foreign deposit-taking companies may also be registered if they fulfil conditions relating to ownership, supervision, and assets.[31]

106. There are no other restrictions on foreign investment in Hong Kong. Companies establishing business must register with the Inland Revenue Department. Registration fees are payable in respect of head and all branch offices. The Companies Ordinance requires companies incorporated overseas establishing a place of business in Hong Kong to lodge details of the company's Articles of Association or equivalent, names of the directors and secretary, responsible persons resident in Hong Kong, incorporation, registered office and principal office in Hong Kong and, unless exempt, accounts. A registration fee is payable.

107. A picture of foreign investment inflows into Hong Kong manufacturing by sector and origin is given in the annual Industry Department Estimates.[32] These show that, in current value, gross foreign investment rose by 34 per cent between 1986 and 1988, with the largest investment in 1988 in the electronics sector, followed by textiles and clothing (Chart III.2). The United States maintained its position as the largest source of gross foreign investment, although its share fell from 41 to 34 per cent. The shares of Japan and the United Kingdom increased from 21 and 5½ per cent to 27 and 9 per cent respectively in the three years (Chart III.3).

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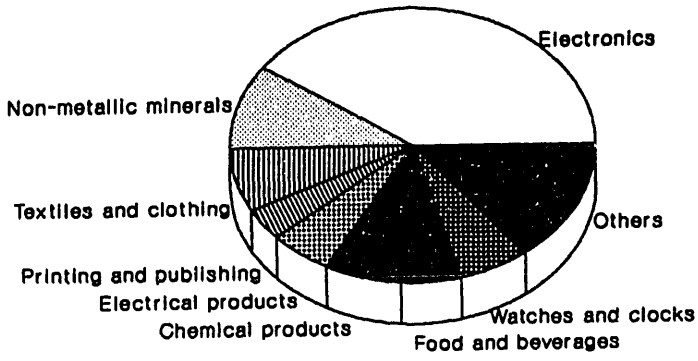
[31] See Commissioner of Banking, Hong Kong (1989), Annual Report for 1988.

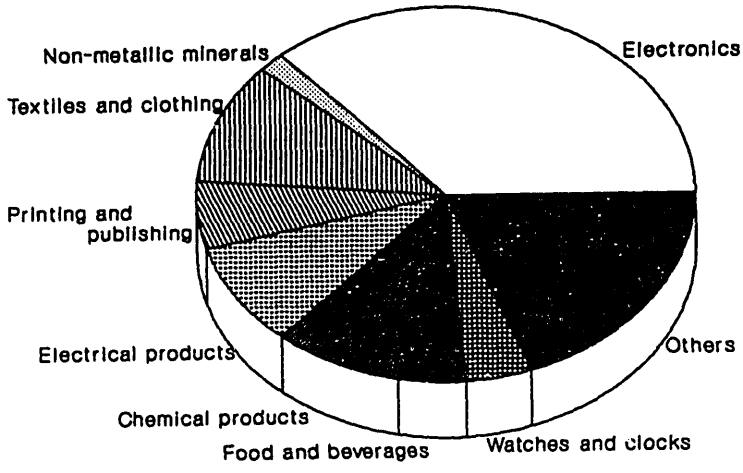
[32] Hong Kong Government (1989 and 1990) Estimates for the years ending 31 March 1990 and 31 March 1991. Volume I - General Expenditure Account: Expenditure Summaries, Controlling Officers' Reports. Head 73 - Industry Department.

Chart III.2
Inward investment into Hong Kong by sector 1986 and 1988

1986
Total US$ 2.5 billion



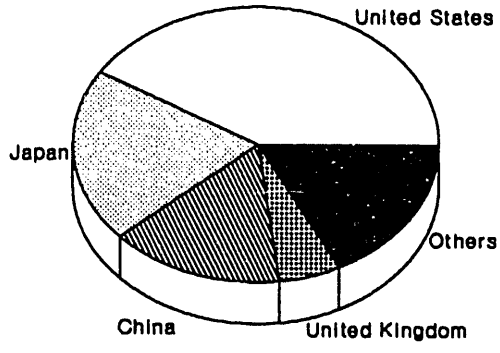
1988
Total US$ 3.4 billion



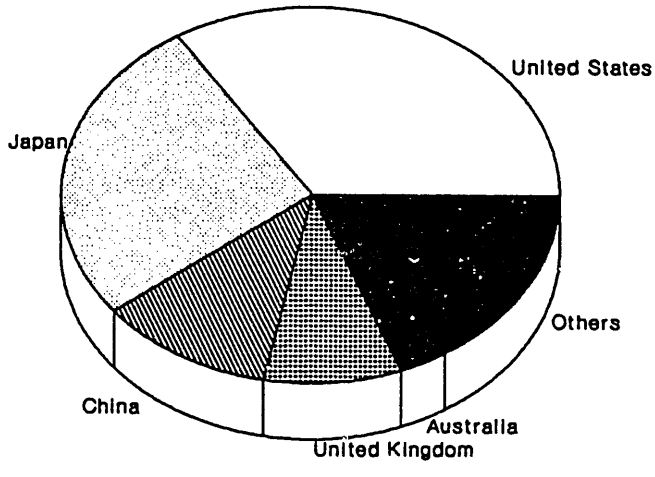
Source: Hong Kong Government.

Chart III.3
Inward investment into Hong Kong by country of origin, 1986 and 1988

1986
Total US$ 2.5 billion



1988
Total US$ 3.4 billion



Source: Hong Kong Government.

IV. TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

108. All goods enter and leave Hong Kong free of tariff. Excise duties are levied on some goods at the same rates for imported and locally-manufactured products. Import and export licensing provisions are mainly for monitoring purposes, related to strategic, public health or environmental considerations, or to the implementation of export restrictions on textiles.

109. On the export side, an elaborate system of textile export licensing and certification is maintained to give effect to bilateral MFA commitments. Provisions for origin certification of merchandise generally are important, and involve both government and private sector organizations. Official export credit insurance is provided through a statutory body which operates in competition with the private sector.

110. Hong Kong does not undertake "targeting" of sectors for trade development. However, various government agencies act as catalysts and stimulants to industrial development in areas identified in techno-economic or market studies. Emphasis is placed on the provision of industrial infrastructure, including land and factories, improvement of skills, technology and other value adding factors, and trade promotion. These efforts are increasing in importance as shortages of specific skills develop.

(2) Measures Directly Affecting Imports

(i) Tariffs

(a) Average tariff levels

111. Hong Kong applies zero tariffs on all imports from all sources.

(b) Tariff bindings

112. Hong Kong's GATT tariff schedule (Schedule LXXXII) contains 74 bound tariff lines at Harmonized System eight-digit level. Twelve items are bound at zero rate. For a further 53 items, duties are bound not to exceed those payable on similar products manufactured in Hong Kong. For five tobacco items, the schedule states that duties on products of Malawi origin may differ from general rates. The United States has the initial negotiating rights on 65 items.

(c) Customs valuation

113. Hong Kong is a party to the Agreement on Customs Valuation. Hong Kong's policy is not to levy customs duties. Hong Kong therefore has no laws, regulations or administrative procedures for valuing goods for customs purposes. Should Hong Kong at any time contemplate levying customs duties, valuation would be in accordance with the Agreement and the

necessary changes to laws and regulations would be notified to the Committee under Article 25:2.[33] To date, no notifications have been made.

(ii) Other duties and charges

114. Excise duties, defined on a specific or mixed specific/ad valorem basis, are levied for revenue purposes on hydrocarbon oil, liquor, methyl alcohol, tobacco, non-alcoholic beverages and cosmetics, irrespective of whether they are produced locally or imported (Table IV.1). Such products include a high proportion of imported goods. Net revenue from duties collected on these products was estimated at HK$4.2 billion in 1988-89, or 5.7 per cent of the total government recurrent revenue.

115. Refunds of these duties may be granted on duty-paid goods exported from Hong Kong with the consent of the Commissioner of Customs and Excise, goods for the consumption of consular staff and other individuals entitled to exemptions, or goods drawn as samples by the Government Chemist. A partial refund of duties paid on light diesel oil for road vehicles is paid to franchised bus companies and the railway corporation. Drawback is payable on locally manufactured duty-paid goods which are for export or for sale as ships' and aircrafts' stores.

116. In the budget for 1990, excise duties were increased more than necessary to compensate for inflation, in order to provide extra revenue and move the balance of direct and indirect taxation towards indirect (Table IV.1). The excise duty on hydrocarbon oil was increased by 30 per cent. Specific duties on all liquors and alcohol were raised by an average of 10 per cent, while the ad valorem component on wine and champagne was increased by 75 per cent (from 20 to 35 per cent) and that for brandy, whisky and other spirits by one-sixth (from 30 to 35 per cent). Tobacco duties were also raised by 26 per cent for cigarettes and smoking tobacco, 24 per cent for cigars and 20 per cent for Chinese prepared tobacco.

117. Other charges directly affecting imported goods include, in particular, a motor vehicle first registration tax. This tax was introduced in 1961. Rates of 70, 80 and 90 per cent were, until 1989, levied on "basic", "semi-luxury" and "luxury" cars (defined in terms of c.i.f. import value). A rate of 15 per cent was levied on goods vehicles and other commercial or public service vehicles, and 70 per cent on motorcycles. In the 1990 budget, all rates were raised by 10 percentage points, except for taxis, buses and other "special purpose" vehicles, while the maximum c.i.f. values of the three classes of cars were increased (Table IV.2).

[33] GATT document VAL/1/Add.9.

(iii) Import prohibitions

118. Absolute prohibitions of imports into Hong Kong cover the following products:

- imports of arms, ammunition, military vehicles and paramilitary equipment from South Africa;

- imports of chlorofluorocarbons and halons from non-parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (from 1 January 1990);

- smokeless tobacco products which the WHO has ruled to be carcinogenic, as defined in the Smokeless Tobacco Products (Prohibition) Regulations of 1987;

- food containing non-permitted colouring matters, certain metals, artificial sweeteners (and the sweeteners themselves), aflatoxins or erucic acid, and preservatives or anti-oxidants.[34]

(iv) Import licensing

119. Hong Kong's policy is to keep import licensing to a minimum. A number of products are subject to licensing controls for reasons which include strategic control, public health, maintenance of reserve stocks of essential goods, surveillance purposes (partly connected with the MFA), sanctions against South Africa, environmental protection and protection of endangered species.[35]

120. Import licences are issued by the Trade Department, without intervention of other agencies, for imports from all sources of rice, textiles and clothing, strategic commodities other than explosives, arms and ammunition, and imports of gold coins, iron and steel from South Africa.[36]

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[34] Relevant regulations include the Colouring Matter in Food Regulations 1983 as amended to 1986, the Food Adulteration (Metallic Contamination) Regulations 1983 as amended to 1986, the Food Adulteration (Artificial Sweeteners) Regulations 1970 as amended to 1986, the Harmful Substances in Food Regulations 1983 as amended to 1986, and the Preservatives in Food Regulations 1973 as amended to 1986.

[35] GATT document L/5640/Add.36/Rev.3.

[36] Imports of gold coins, iron and steel from South Africa are generally prohibited in line with the Commonwealth Accord of 20 October 1985.

121. Generally, import licences are approved within one to three working days. If licence applications are refused, reasons are given and applicants have a statutory right of appeal to the Governor. Licences are valid for 28 days for textiles and for ozone-depleting substances, six weeks for "reserved" (reserve stock) commodities, and six months for other products. These periods can be extended at the discretion of the Director-General of Trade on his judgement of the merits of individual requests.

122. Import and export licensing is required for strategic commodities, to monitor and control the flow of such products in accordance with obligations laid down by the Co-ordinating Committee for Multilateral Export Controls (COCOM). The products affected are described in the Schedule to the Hong Kong Import and Export (Strategic Commodities) Regulations, which is identical with the schedule established by COCOM.[37]

123. Applications for import licences for arms and ammunition must be supported by a licence for possession or a dealer's licence issued by the police. For other strategic goods, import and export licences are issued by the Trade Department after vetting by its Strategic Commodities Section. Licences for exports to a destination proscribed by COCOM (Co-ordinating Committees for Multilateral Export Controls) are approved if the consignment has been authorized under COCOM rules or is supported by a valid export licence issued by a COCOM member.

124. Import licences and export licences for open destinations are normally issued within a delay of up to three working days. Export licences to proscribed destinations for goods supported by COCOM members are usually given within a week. Hong Kong itself is classed as an "open destination" by COCOM. Other exports to COCOM-proscribed destinations are subject to an assessment procedure which can take up to two months.

125. Hong Kong has, since February 1990, followed plurilaterally accepted guidelines in controlling exports of certain chemical weapon precursors. Fifteen chemicals are currently subject to such controls (Table IV.3).

126. Public health controls and/or animal and plant health controls cover cigarettes and methyl alcohol, agricultural pesticides, radioactive substances and irradiating apparatus, pharmaceuticals and medicines, dangerous drugs and acetylating substances, live animals, birds, reptiles, carcasses, plants, plant pests, soil, meat and poultry. There is, in addition, a miscellaneous group which includes food containing added colouring, certain metals or artificial sweeteners, frozen confections, milk and milk beverages, and smokeless tobacco products.

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[37] Products included in strategic commodity licensing thus comprise a wide variety of sophisticated electronics products, as well as arms, ammunition and explosives.

127. In all these cases, import licence applications must be supported by prior endorsement from the relevant authorities:

- The Customs and Excise Department requires a person who imports dutiable commodities to obtain an import and export licence for the particular commodity, a removal permit to be presented for any movement of such goods and a duty-paid permit for payment of duty on goods for local consumption. The Department requires applicants to have adequate knowledge and background in the business, as well as adequate premises for the sale of licensed goods. Various fees are charged for the right to manufacture, store, import or export dutiable goods. For example, a fee of HK$500 is charged for every import and export licence for goods valued over HK$2,000.

- The Agriculture and Fisheries Department issues import licences for agricultural pesticides, as well as for live animals, birds and reptiles, plants, plant pests and soil. Imports of horses from Asian countries are prohibited for animal health reasons. The import of animals and plants belonging to endangered species recognized under the Convention on International Trade in Endangered Species (CITES) is prohibited unless imported under a CITES licence issued in advance.

- Licences from the Radiation Board are required for radioactive substances and irradiating apparatus. Import licences are only issued to holders of "radioactive substances licences" and "irradiating apparatus licences" issued by the Department of Health. Considerations include the justification of the materials in terms of their net benefit; protection of workers and the public from health risks; whether the sources of radiation meet international standards; whether the goods are properly packaged and labelled by International Atomic Energy Agency standards; whether radioactive waste disposal is properly provided for; and whether apparatus is radiologically safe for use.

- All pharmaceuticals and medicines require registration with the Pharmacy and Poisons Board, based on safety, quality and efficacy criteria. Appeals can be made to the Pharmacy and Poisons Appeal Tribunal against decisions to refuse to register, or to deregister, such products.

- The Customs and Excise Department controls imports of acetylating substances which may be used in the manufacture of illegal drugs.

- The Hygiene Division of the Department of Health (formerly the Municipal Services Branch of the Government Secretariat) is responsible for import control on game, meat and poultry, including frozen meat and poultry, under the Imported Game, Meat and Poultry Regulations 1976. Applications for import

permits are considered on the basis of public health, particularly the animal disease situation in the country of origin, and the type of legislation in force, including certification provisions. Generally, only meat certified by competent authorities in exporting countries, recognized by the Hong Kong Government, can be imported, unless expressly authorized by a health officer.[38] The Hygiene Division is also responsible for controlling the import of foods containing preservatives, colours etc. A positive list of permitted additives is maintained, based on the Codex Alimentarius and criteria laid down by other authoritative bodies. The latest amendment to the list was made in 1982 in respect of colours.

128. Licensing for reserve stock purposes is maintained on rice, frozen meat and poultry. The general purpose of such licensing is to provide the Government with information on stocks of staple foods in case of emergencies. The objective of the reserve stock scheme for rice is to ensure regular and adequate supply and to provide a reserve stock for emergency purposes (see Chapter V for details of the scheme).

129. Import and export licences for ozone-depleting substances are controlled by the Environmental Protection Department under the Ozone Layer Protection Ordinance, in which Hong Kong gives effect to the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer[39]. The objective of import licensing is to ensure that the amount of controlled substances retained for local consumption does not exceed the levels agreed under the 1987 Montreal Protocol. For Hong Kong, the level for chlorofluorocarbons is 2,305.8 tonnes for the period 1 July 1990 to 30 June 1991.

130. Imports from non-signatories of the Montreal Protocol have been banned since 1 January 1990. Imports may only be made by registered applicants. "Normal" quotas are allocated to applicants who have imported ozone-depleting substances for local consumption in 1986-88, in proportion to their market share in that period. "Free" quotas are allocated under a points system, with preference generally given to end-users or applicants who have installed recycling facilities.

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[38] A list of competent authorities and the products for which recognition is given is published in the Hong Kong Government Gazette in accordance with the Regulations. The countries in which competent authorities are recognized are Argentina, Australia, Botswana, Brazil, Canada, China, Denmark, France, Federal Republic of Germany, Japan, Kenya, Republic of Korea, Malawi, Namibia, Netherlands, New Zealand, Poland, Singapore, South Africa, Sweden, Thailand, United Kingdom, United States, Uruguay, Zambia and Zimbabwe.

[39] The substances are CFCs 11, 12, 113, 114 and 115 and halons 1211, 1301 and 2402.

131. Licensing for surveillance purposes is maintained on imports and exports of radio transmitting equipment and on imports of sand, textiles and clothing.

132. Licensing requirements on radio transmission equipment are administered by the Post Office under the Telecommunications Ordinance. Permits are generally granted as long as the equipment is properly classified and that it is for sale or commercial use, while a radio dealer's licence is usually required for imports or exports of larger quantities.

133. The Sand Ordinance is intended as a means to protect the seabed and beaches. Anyone transporting sand into or within Hong Kong must have a permit.

134. All textile imports are required to be under and in accordance with a valid licence. The import licensing system is designed to monitor the flow of imports into Hong Kong, in order to reinforce surveillance under the Textiles Export Control System (see below). It is not restrictive and all applications are processed instantly. Applications for import licences must be filed with the Trade Department on a consignment-by-consignment basis before the actual arrival of the consignment. Late applications may exceptionally be made after goods have been imported into Hong Kong if they are supported by the shipping documents, a letter giving the reasons for late application and declaring whether the company has taken delivery of the goods from the transporters and, if delivery has not been taken, confirmation of this from the transporters. About one-third of the import licence applications are submitted late.

135. Finally, import licences are required for imports of plants and animals of endangered species (as classified by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)). Any imports of such species or of materials derived from them must be endorsed by the Agriculture and Fisheries Department. In the recent case of ivory, Hong Kong received a special derogation to allow it to continue to sell ivory in stock over a six-month period.

(v) Standards

136. Hong Kong is a party to the Agreement on Technical Barriers to Trade. No special legislation was needed for Hong Kong to implement its provisions. Responsibility for the adoption and operation of technical regulations, standards and certification systems lies with the Hong Kong Government as a whole.[40] The relevant Government departments are responsible for the operation of technical regulations, standards or

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[40] See Hong Kong Statement to the GATT Committee on Technical Barriers to Trade (TBT), 1989.

certification included in specific laws.[41] Notices of proposed technical regulations, technical standards, rules or certification systems, and texts of those adopted, are published in the Hong Kong Government Gazette.

137. There is no domestic system of technical regulations or standards or certification requirements for products that would significantly affect the trade of other parties. Hong Kong applies no mandatory standards on goods for local consumption.[42]

138. Since April 1987, the Industry Department has been Hong Kong's correspondent member of the International Standards Organization (ISO). The Industry Department is also a subscribing member of the International Electrotechnical Commission (IEC) and receives its standards regularly.

139. The Industry Department Quality Services Division is the organization responsible for administering Hong Kong's technical standards. It also provides information for manufacturers and traders concerning standards to be observed in overseas markets. The Division maintains measurement standards and provides calibration services through its Standards and Calibration Laboratory. There is a library of documented standards in its Product Standards Information Bureau.

140. The Hong Kong Laboratory Accreditation Scheme (HOKLAS) accredits laboratories in different testing disciplines. Exported goods with test certificates endorsed by HOKLAS are accepted in the United Kingdom without further testing. Similar agreements with the Australian National Association of Testing Authorities and the American Association for Laboratory Accreditations have recently been concluded. An agreement with the New Zealand Testing Laboratory Registration Council is under negotiation.

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[41] Department of Health - food and drugs under the Public Health Municipal Services Ordinance and dangerous drugs under the Dangerous Drugs Ordinance; Transport Department - road traffic under the Road Traffic Ordinance Police, Marine Department, Fire Services Department and Mines Division of the Labour Department - goods under the Dangerous Goods Ordinance; Radiation Board, Department of Health - radiological products under the Radiation Ordinance; Fire Services Department - inflammables under the Fire Services Ordinance; Buildings and Lands Department - articles related to buildings under the Buildings Ordinance; Telecommunications Authority of the Post Office - radio and telecommunications products under the Telecommunications Ordinance; Pharmacy and Poisons Board, Department of Health - pharmaceuticals and poisons under the Pharmacy and Poisons Ordinance; Customs and Excise Department - alcohol and hydrocarbons under the Dutiable Commodities Ordinance; Marine Department - ships and ship equipment under the Merchant Shipping Ordinance.

[42] See Hong Kong Statement to the GATT TBT Code, 1989.

141. The Industry Department circulates, every six months, a reminder to all government departments responsible for the adoption and operation of technical regulations, standards and certification systems in Hong Kong regarding its obligations under the Code, including a request to inform the Industry Department of any new or revised regulations as they are contemplated. The point of liaison with GATT and the consultation point for other contracting parties seeking information on quality standards in Hong Kong is the Industry Department.[43]

142. Hong Kong is an associate member of the International Maritime Organization (IMO) and is a party to various IMO conventions (Table IV.4). These conventions lay down minimum standards which are required to be enforced by member States relating to ship safety, training and certification of seafarers, marine pollution, carriage of passengers, limitations of liability and other related matters.

143. Hong Kong uses WHO standards to assess the standard of manufacturing practice of a pharmaceutical manufacturer when he applies for free Sales Certificates in respect of pharmaceutical products. The Department of Health makes reference, whenever applicable, to the standards of the Joint FAO/WHO Codex Alimentarius Commission and the International Commission on Microbiological Specifications for Foods when recommending food regulations to the legislature.

(vi) Quarantine restrictions

144. The import of animals and birds into Hong Kong is subject to advance permits/licences issued by the Agriculture and Fisheries Department under the Public Health (Animals and Birds) Ordinance, the Dogs and Cats Ordinance and the Plant (Importation and Pest Control) Ordinance. Birds and reptiles are not usually subject to any quarantine requirement. Dogs, cats and other mammals are subject to periods of quarantine varying up to six months depending on their country of shipment, rabies and other infectious disease vaccination status and certification of routing by the airline.[44]

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[43] Hong Kong has made 13 notifications under the Code between 1982 and 1989. These cover levels of aflatoxin and metals permitted in certain foods, legal requirements for bottled water, conditions for import of fresh and frozen game, meat and poultry, marking of gold and platinum articles, and technical requirements for a variety of radio and telephone equipment.

[44] For example, dogs and cats from the United Kingdom, Ireland, Australia and New Zealand (Group I - rabies-free - countries) may be exempted from quarantine if all documentary requirements are fully complied with; quarantine for those from "Group II" countries may be reduced to 30 days (Austria, the Bahamas, Bahrain, Belgium, Brunei, Canada, Cyprus, Denmark, Fiji, Finland, France, Federal Republic of Germany, Gibraltar,

(Footnote Continued)

(vii) Government procurement

145. Hong Kong is a party to the Agreement on Government Procurement. The entity named in the Agreement is the Government Supplies Department. Regulations covering government procurement are contained in Sections IV and V of the Stores Regulations of the Hong Kong Government. The Agreement itself is incorporated into Hong Kong's regulations in Financial Circular No. 8/81 of April 1981.[45]

146. All purchases of over HK$10,000 (SDR 971) by Government bodies are subject to the control of the Government Supplies Department. The threshold level for 1990 and 1991 above which Hong Kong Government purchases have to be made according to the rules laid down in the Agreement on Government Procurement is SDR 130,000, or approximately HK$1,338,000.

147. Open public tender or selective tender are the most common forms of Government purchasing for consignments above the Code thresholds. However, single tenders may be invited in cases of unforeseen urgencies, reasons of security, compatibility of equipment, very limited sources of supply, or "patented" or "proprietary" articles. Figures provided by the Hong Kong authorities show that the annual SDR value of contracts covered by the Code in the period 1981-89 varied between 66 and 179 million SDRs (HK$499 and 1,690 million). Open tender accounted for between 32 and 80 per cent of this annual value, while open and selective tender, taken together, accounted for between 67 and 90 per cent (Table IV.3).

148. For open public tender, invitations to tender are published in the Hong Kong Government Gazette and principal English and Chinese language newspapers. Copies of tenders are often also sent to the Crown Agents in London and sometimes to their agencies in Japan, the United States, Singapore and the Republic of Korea. Six to eight weeks are usually given as a tendering period.

149. For selective tendering, lists of qualified suppliers in Hong Kong and overseas are maintained by the Government Supplies Department, indexed by commodity based on SITC headings broken down into smaller categories

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(Footnote Continued)
Guam, Hawaii, Iceland, Italy, Jamaica, Japan, Luxembourg, Malaysia, the Maldives, Malta, Mauritius, the Netherlands, Norway, New Caledonia, Oman, Papua New Guinea, Portugal, the Seychelles, Singapore, the Solomon Islands, South Africa, Spain, Sweden, Switzerland, Taiwan, the United States, Vanuatu, the Virgin Islands); those from other countries may be reduced to four months.

[45] Sections IV and V of the Stores Regulations have been circulated to signatories to the Agreement on Government Procurement in GPR/3/Add.6 and a copy of Financial Circular No. 8/81 has been made available to the Secretariat.

known as "Purchasing Group Codes". The lists are published in the Hong Kong Government Gazette "in about August every year". Interested companies and persons are invited to inspect these in the Government Supplies Department and to be considered for qualification Suppliers interested in qualification are required to provide product information and documentary evidence of ownership. After technical evaluation by the relevant Government departments, if the products are considered suitable, further information is sought on suppliers' financial status and organization. If found satisfactory, suppliers are then registered for a trial period. Invitations to tender, which are not made public, are sent to registered suppliers on the approved lists in respect of each class of goods. A minimum value of approximately HK$20,000 is generally applied for open or selective tender to be required.

150. Tenders for goods to be purchased by Government departments, up to a limit of HK$2 million, are submitted to the Government Supplies Tender Board. Above this limit, tenders are submitted to the Central Tender Board, consisting of the Secretary for the Treasury, the Secretary for Works, Senior Assistant Crown Solicitor and the Director of Government Supplies. Four other Tender Boards deal with particular departments' needs, mainly for construction, maintenance or service contracts (which may nevertheless involve substantial purchasing of goods) up to certain limits.[46] Tender Boards consider elements of life in service, servicing arrangements, cost of spares, delivery times as well as price in assessing the value for money offered by a particular bid. The Boards are not required to accept the lowest offer. No preferences are given to local suppliers.

(viii) Article XIX action

151. Hong Kong has never taken any safeguard action under Article XIX of GATT.

(ix) Anti-dumping and countervailing duty measures

152. Hong Kong has no legal provisions governing anti-dumping or countervailing action and has never taken such action.

(x) Voluntary restraints and similar arrangements

153. No agreements are maintained with any country to limit exports to Hong Kong.

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[46] The relevant Boards and limits are: Public Works Department Tender Board - HK$2 million; City and New Territories Administration Tender Board, Printing Department Tender Board - HK$1 million each; Marine Department Tender Board - HK$400,000.

(xi) Countertrade

154. There are no legal provisions in Hong Kong covering countertrade. The Government does not engage in countertrade and maintains no information on the extent of countertrade or similar arrangements in which Hong Kong firms may be involved.

(xii) Rules of origin

155. Hong Kong does not require certificates of origin for goods imported into Hong Kong, nor for goods transiting through Hong Kong. For goods imported for further processing, Hong Kong origin rules are generally following in according Hong Kong origin status for the finished goods for export to other markets.[47]

(3) Measures Directly Affecting Exports

(i) Taxes and other charges, tax exemptions

156. Export declaration charges are levied on exports of merchandise from Hong Kong. A training levy is collected from exporters of clothing and footwear items of Hong Kong origin. Charges are made on air cargo throughput, aircraft landing and parking, including a peak movement surcharge. There are also charges on berthing, embarkation and other transactions connected with marine ferries. Anchorage, buoy, cargo handling, examination and registration fees, port and light dues and port clearance fees are levied by the Marine Department. Together, the revenue from these charges accounted in 1988 for some HK$1,127 million or 1.7 per cent of total recurrent Government revenue.[48]

(ii) Export prohibitions and licensing controls

157. A ban on the sale to South Africa of arms and other goods designed for military or para-military purposes has been in force under provisions relating to United Nations resolutions since December 1978.

158. Apart from textiles and clothing, discussed below, the following goods are subject to export licensing or conditional prohibitions:

- strategic commodities;

- chemical weapon precursors;

- acetylating substances which may be used in drug manufacture;

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[47] See GATT document C/RM/G/7, Report by Hong Kong, Appendix 3.

[48] Kai Tak airport is the busiest in Asia and the port of Hong Kong also Asia's busiest container harbour.

- reserved commodities;
- agricultural pesticides, pharmaceuticals, dangerous drugs, poultry carcasses or products;
- ozone depleting substances;
- endangered species and their parts or derivatives under the CITES Agreement, including medicines claiming to contain rhinoceros ingredients;
- radio transmitting equipment;
- dutiable commodities.

(iii) VRAs, bilateral restraint arrangements and similar arrangements

159. On products other than textiles and clothing, Hong Kong's exports are not subject to any VRAs, OMAs or similar agreements or arrangements.

160. The only arrangement involving export restraints in which Hong Kong participates is the Arrangement Regarding International Trade in Textiles (the MFA). Hong Kong has been subject to restrictions on textile and clothing products since the inception of the "Short-Term" Arrangement on Cotton Textiles. The scope and complexity of restrictions faced by Hong Kong has grown steadily with the industry itself.

161. Currently, Hong Kong maintains bilateral restraint agreements under the MFA with seven importing entities (Austria, Canada, the EC, Finland, Norway, Sweden and the United States). To administer export restraints under the MFA bilateral agreements, an elaborate system of export control has been created. A detailed system of certification of origin for Hong Kong products also exists to facilitate the administration of these agreements. Details of this arrangement are given in Chapter V.[49]

(iv) Certificate of Hong Kong Origin

162. The Trade Department is responsible for issuing Certificates of Hong Kong Origin (CO). Export licence applications for restrained textiles exported to the United States and the EEC need to be supported by certificates of Hong Kong origin. The certificates are also necessary to facilitate customs clearance in importing countries. "Form A" Certificates of Origin for use in case of GSP benefits are also issued by the Trade Department, as are endorsed certificates for claiming Commonwealth Preference in Mauritius and St. Helena.

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[49] See Table AV.1 for details of products under restraint in Hong Kong's current bilateral textile agreements.

163. Before a manufacturer can apply for COs, he must register his factory premises with the Trade Department. The process involves inspection of the factory premises by the Customs and Excise Department. If the registration is accepted, COs may then be issued to the manufacturer concerned on the basis of declarations that the goods concerned are wholly obtained or produced in Hong Kong or the product of a manufacturing process in Hong Kong which has changed "permanently and substantially" the shape, nature, form or utility of the basic materials used in manufacture. COs are only granted to companies which can satisfy registration requirements and which pass an inspection by the Customs and Excise Department. Sub-contracting of the principal processes of manufacture (i.e. the origin-conferring processes) within Hong Kong is subject to prior approval by the Trade Department, whereas subsidiary processes (the other minor processes) may be sub-contracted without prior approval. Outward processing is also allowed, subject to prior approval, to the extent that it does not cover any origin-conferring manufacturing processes.

164. In addition, "Certificates of Origin - Processing" can be issued in cases where goods cannot qualify as Hong Kong origin because insufficient manufacturing processes have been performed in Hong Kong. Such certificates only certify that goods have undergone certain manufacturing processes in Hong Kong. Requirement of the certificate is sometimes stipulated by overseas importers as one of the conditions for a specified transaction.

165. COs are issued by the Trade Department itself and by five government-approved certification organizations[50]. The certificates issued by these organizations have, in law, the same status as those issued by the Trade Department itself. The Department helps the organizations with training of staff dealing with origin questions, assists them in co-ordinating their practices and procedures and monitors the quality of certification by the five organizations.

(v) Rules of origin

166. The Hong Kong Government follows the Kyoto Convention in ascribing origin to goods wholly produced or substantially transformed in Hong Kong. The Trade Department includes information on new or changed origin rules in circulars informing companies of relevant commercial developments in overseas markets. Hong Kong's origin rules are followed in according Hong Kong origin status for exports to overseas markets, with the exception of textile exports to the European Communities' market. Under the current bilateral agreement between Hong Kong and the EC, the origin of textile products is determined in accordance with the rules in force in the EC.

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[50] These are the Hong Kong General Chamber of Commerce, the Indian Chamber of Commerce, Hong Kong, the Federation of Hong Kong Industries, the Chinese Manufacturers' Association of Hong Kong, and the Chinese General Chamber of Commerce.

These origin rules are generally in line with those of Hong Kong.[51] Other than in this case, the Hong Kong Government does not require Hong Kong products to comply with the origin rules of other trading partners.[52]

(vi) Export Credit Insurance

167. Official export credit insurance for goods and services is provided through the Hong Kong Export Credit Insurance Corporation (ECIC). The Corporation was established in 1966. Although wholly owned by the Government, it receives no subsidy and is expected to pay its way, taking good years with bad. It is autonomous in its day-to-day operations. However, a twelve-member Advisory Board, appointed by the Governor and chaired by a non-official, advises the Corporation in the conduct of its business under its Ordinance.

168. Cover provided by the ECIC extends to commercial risks (insolvency, default, or repudiation of contract by the buyer) and political risks (blockage or delay of transfer of foreign exchange, war or civil disturbance, import ban or cancellation of import licences). Up to 90 per cent of losses may be covered. By Letter of Authority, claims may be paid directly to a policy holder's bank. This arrangement is accepted as collateral against discounted export bills.

169. In providing insurance cover for short-term export credit, the ECIC assesses and advises policy holders on the creditworthiness of overseas buyers in the context of the market in question. In addition, the Corporation provides a risk management service by which policy holders can be advised on ways to prevent or minimise losses. Premiums are inversely related to the risk grading of the export market and the length of credit involved. The Corporation is not involved in the provision of credit.

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[51] See Annex to Chapter V.

[52] United States' rules of origin as applied since 1984 were introduced on an interim basis in September 1984 under Section 204 of the Agricultural Act of 1956 and put on a statutory footing in the Textile and Apparel Trade Enforcement Act of 1985. The rules state that a product originates in a particular foreign source if (i) it is wholly the growth, product, or manufacture of that foreign source, or (ii) the article has been substantially transformed by means of a substantial processing operation into a new and different article of commerce with a name, character or use distinct from the article or material from which it was so transformed. No article can be considered to have been substantially transformed if it has merely undergone simple packing or combining operations, joining together by sewing, looping, linking or other means of attaching otherwise completed component parts, cutting from previously marked materials, or such processing operations as dyeing, printing, showerproofing, superwashing or other finishing operations.

170. The ECIC has no monopoly of export credit insurance business in Hong Kong. Nor does it provide insurance at subsidized rates. It competes with local and foreign banks, insurance companies and factoring agencies; in many cases, exporters may use overseas companies, with closer links to local debt recovery agencies in the export market, for risk management and insurance.

171. The total value of trade insured by the ECIC in financial year 1988-89 was HK$10.7 billion, or some 2.1 per cent of total merchandise exports including re-exports (Table IV.4). On a five-year total, 57 per cent of insured trade was exports to European countries and 26 per cent to North America. The relatively high ratio of insured exports to Europe was stated to be due to the fact that a large share of business with North America was done on Letter of Credit terms. By contrast, trade with North America accounted for 50 per cent of claims paid over the past five years and Europe for 27 per cent.

172. The main insured sectors in the five year period to 1988-89 were clothing and textiles (35 per cent), toys (10 per cent) and radios and electronic components (11 per cent). Toys accounted for 29 per cent of claims paid over the period (because of the failure of a major American toy store chain in 1987-88), and clothing and textiles for 20 per cent.

(4) Measures Affecting Production and Trade

173. The Hong Kong authorities do not maintain any direct production subsidies, nor any measures aimed at "picking winners" or "targeting" particular export sectors.

174. Nevertheless, the Government is involved, directly or through autonomous agencies, in encouraging and stimulating the business environment through the provision of industrial facilities, trade promotion activities and upgrading of skills and technology. Examples of developmental activities of this type are the work of the Industry Development Board, the Industry Department, the Hong Kong Industrial Estates Corporation, the Hong Kong Trade Development Council and the Hong Kong Productivity Council.

(i) Industrial development

175. The Industry Development Board, chaired by the Financial Secretary and consisting of industrialists, government officials, representatives of universities and colleges, and trade and industrial organizations, is the principal advisory body on all major industrial questions.

176. The Industry Department has overall responsibility for industrial promotion. It aims at improving the manufacturing sector's competitiveness through providing developmental or infrastructural support and promoting investment which introduces new or improved products, designs, processes or management techniques. It works closely with universities, polytechnics and with other Governmental and industry sponsored bodies, to improve the level of technological and personal development in industry.

177. Although the Department does not target particular sectors, it carries out a regular cycle of techno-economic and market research studies on major industries, and research concerning other sectors, aimed at identifying prospects for, and obstacles to, their development and enabling the Government to assess where support is needed. Industries covered regularly include electronics, metals and light engineering, plastics, and textiles and clothing. Ad hoc studies have been made of the watches and clocks, photographic and optical goods, toys, household electrical appliances and printing sectors. A full survey of Hong Kong's manufacturing industries was carried out in 1989. This survey will in future be undertaken annually.

178. Recent general initiatives undertaken by the Department along with other agencies include the establishment of a centre for the demonstration of clothing technology; the creation of a partnership between the Hong Kong Design Innovation Company (a public-owned agency established in 1985) and the Hong Kong Productivity Council to encourage product design and innovation services for manufacturers; a technical cooperation agreement with Japan to improve high-precision sheet metal processing techniques; and increased provision for training in new technologies through loans for individuals to be trained locally or overseas.

179. Through its Inward Investment Division, the Department seeks to publicize Hong Kong as a location for new industrial investment. It maintains overseas Industrial Promotion Units in San Francisco, New York, Brussels, London and Tokyo. These make and maintain contacts with overseas firms, establish linkages between overseas and local manufacturing entities, and provide a referral service for possible joint venture projects and help with missions to Hong Kong. The "One Stop Unit" based in Hong Kong is a central point for advice and referral on all aspects of establishing an industrial investment project in the territory.

180. The Department's Industrial Extension Service directly markets a variety of information on the various industrial support services available in Hong Kong. Established on a permanent footing in April 1989, the Service visits some 500 factories per year to encourage manufacturers to make use of the services of Government departments and other agencies to solve their problems.

181. The Government sells land for industrial development, in addition to that developed by the Industrial Estates Corporation.[53]

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[53] All land in Hong Kong is Government-owned, and leases may be sold by public auction, tender or private treaty. Most industrial land leases are sold for the construction of multi-storey flatted factories. There is no restriction on leasehold of land by non-residents.

(ii) Industrial estates

182. Land and services for manufacturing firms which cannot operate in multi-storey factories, because of the land-intensive nature of their operations or their particular technology, is provided by the Hong Kong Industrial Es tes Corporation. The Corporation is a statutory, non-profit body which administers fully-developed industrial estates. Currently, two estates have been developed and a third is planned. All are situated near new town developments in the New Territories.

183. Facilities available in the industrial estates may be either in the form of developed sites on which an investor can build his own factory, or ready-made factory buildings. Land is leased at a price (premium) related to the development cost of the land, including reclamation, all civil engineering costs and overheads.

184. In assessing applications for sites in industrial estates, the Corporation gives priority to industries which will introduce higher levels of technology, skills, new products or manufacturing processes into Hong Kong. The level of investment in new machinery and equipment, the level of added value based on Hong Kong materials and labour, and the contribution which the investment can make either to exports or import substitution are taken into account in weighing up applications. No differentiation is made between local and foreign investors.

185. Industries established so far in the estates include steel tubes, machinery for the plastics industry, electronic and electrical equipment, tempered glass, pharmaceuticals, dyeing and finishing of yarns and fabrics, domestic appliances and a wide variety of other products. There is a balance among local, foreign and joint-venture enterprises. Applications for sites in the estates reflect the economic and political situation of the territory and business confidence overall.

(iii) Training and productivity

186. Support to industry for improving the level of productivity and skills is provided by the Hong Kong Productivity Council (HKPC). The Council was established in 1967. It is a statutory body whose aims are to promote increased productivity of industry in Hong Kong, advise the Governor on issues related to productivity, and work together with other individuals or bodies concerned with programmes or techniques to increase industrial productivity. Most of the Council's income comes from direct Government subvention, with about one third from fees for its services.

187. The main areas of the Council's operation are in consultancy services, training activities, industrial exhibitions, industrial information services and liaison with industries. Consultancy activities have included the development of software for production technologies and management, advice on quality management, stockholding techniques and accounting systems, development of new production or assembly techniques or automated tools, computer-assisted design and manufacturing services. Training activities include a wide range of management programmes,

technology programmes and EDP activities. Some of these are particular to individual industries (e.g. textile and apparel technology, watch design); others more general courses leading to internationally recognized qualifications.

188. In-house as well as external training programmes are organized. Exhibitions organized include software, computer aided manufacturing and design and other technological areas. The information services of the Council provide a large frame of reference to technical journals and reference books as well as information to individual clients, from international databases, on such areas as market development, intellectual property, or environmental control.

189. The Council maintains laboratories developing microprocessor applications (including Chinese-language software), metals processing (particularly heat treatment), computer-aided design and manufacturing, and environmental and pollution control. All of these work directly with local Hong Kong industries. The growth of industrial automation, particularly CAD/CAM applications, and of metals processing facilities, have been particularly rapid.

(iv) Trade development activities

190. The Hong Kong Trade Development Council is a statutory body established in 1966. Its aim is to promote and develop Hong Kong's trade, imports as well as exports; to expand markets and develop new trading partners. The Council is governed by a 19-member council drawn from industry, trade and Government representatives. It is fully financed by the Government and maintains 30 overseas offices or consultants. The Council charges fees to Hong Kong-based businesses on a cost-recovery basis.

191. The Council organizes a large number of international trade fairs in Hong Kong. It also co-ordinates Hong Kong's participation in overseas fairs and exhibitions. It maintains a large data bank of manufacturers, importers and exporters and a number of reference libraries to provide Hong Kong and foreign companies with trade information and business contacts, including a specialized library for China trade.

192. While maintaining close links with major markets, the Council's current priorities are in developing new markets outside Hong Kong's traditional export destinations of Europe and the United States, and in promoting new manufactured products from more knowledge- and technology-intensive industries or new service sectors, including design and quality services. Geographically, the marketing focus is on Asian and Pacific markets including Australia, China, Japan, Singapore, Republic of Korea and Taiwan. The Council is also actively exploring trade prospects in Eastern Europe, the Gulf states, India, the Soviet Union, Turkey and Latin American countries including Brazil, Chile, Mexico, Panama and Paraguay.

193. The Council's work is not limited to exports but covers promotion of Hong Kong's trade as a whole. On the import side, for instance, its main emphasis is on promoting imports which will contribute to the territory's value-adding capacities in goods and services.

194. As an encouragement for foreign enterprises interested in developing trade relations with Hong Kong, no charge is imposed upon those foreign enterprises for seeking the Council's assistance in introducing business contacts.

(v) Intellectual property protection

195. Copyright, patent, trademark, trade description and industrial design are all important concerns in Hong Kong's trade. The rights and obligations under the Paris Convention for the protection of copyright and industrial property, the Berne Convention and the Universal Copyright Convention have been extended and made applicable to Hong Kong through the United Kingdom's accession.

196. Hong Kong's domestic legislation comprises:

- in the patents field, the Registration of Patents Ordinance;
- in the copyright field, the United Kingdom Copyright Act 1956 (as amended by the United Kingdom's Design Copyright Act 1968), as extended to Hong Kong by Order in Council and supplemented by the Copyright Ordinance;
- in the trademarks and trade descriptions field, the Trademarks Ordinance and the Trade Descriptions Ordinance;
- in the industrial design field, the United Kingdom Designs (Protection) Ordinance, which extends the effect of registration under the Registered Designs Act 1949, as amended, to Hong Kong.

The laws provide criminal sanctions against, inter alia, manufacture and distribution of pirated copyright works and counterfeit trademark goods. Enforcement is the responsibility of the Customs and Excise Department. The law provides customs officers with investigatory powers at all levels where copyright piracy and trademark counterfeiting may be encountered from street level sale, to manufacturing industry and trade through import or export. A new Intellectual Property Department will soon be established to administer Hong Kong's intellectual property laws, except those relating to enforcement matters, and to serve as a focus for intellectual property matters.

197. In the period 1985-89, goods seized amounted to some HK$416 million. They include computer software, manuals, diskdrives and main boards, photocopied books, music and video cassettes including blank tapes, watches, leather goods, fashion accessories, sunglasses and a variety of other products. Hong Kong is taking an active rôle in the Uruguay Round negotiations on intellectual property and has tabled proposals concerning standards and enforcement procedures.

V. TRADE POLICIES AND PRACTICES BY SECTOR

(1) Overview

198. The very high trade-orientation of the Hong Kong economy means that almost any governmental measures in the fields of taxation, licensing or other areas will have a direct effect on its international trade flows.

199. There are no tariffs as such. Domestic excise duties and indirect taxes are applied to goods both domestically produced and imported. However, several domestic excise duties and other indirect taxes, such as the first-registration fee on motor vehicles, have their main impact on imports of a certain number of specific products. Similarly, there are no export taxes. However, all imports and exports are subject to trade declaration charges. Exports of clothing and footwear items of Hong Kong origin are subject to a training levy. In addition, port and transit fees imposed for revenue purposes have their primary incidence on trade and services related to trade and provide an appreciable share of current Government revenue.

200. No safeguards, anti-dumping or countervail, or VRAs affect imports into Hong Kong. But within certain sectors, import and export licensing policies have an effect on trade in specific products. Most import licensing is applied for monitoring reasons. A few products are subject to import control for "reserve" purposes; in particular rice[54] and frozen meats. Public health controls limit imports of meat and poultry to those countries from which health certification can ensure the quality of the goods. There are also quarantine measures on imports of live animals.

201. Government procurement guidelines do not provide for any preferences.

202. To the extent that direct export controls are applied, these are intended to fulfil international commitments under the MFA and COCOM requirements.

203. As discussed in Chapter IV, other trade measures outside the fields of textiles and clothing are largely confined to measures to promote trade, productivity and skills. However, Government agencies or statutory bodies are very active in these areas. Assistance is largely aimed at supporting new developments leading to greater technological capacity or value added. The Hong Kong Government provides no direct subsidies to either manufacturers or traders.

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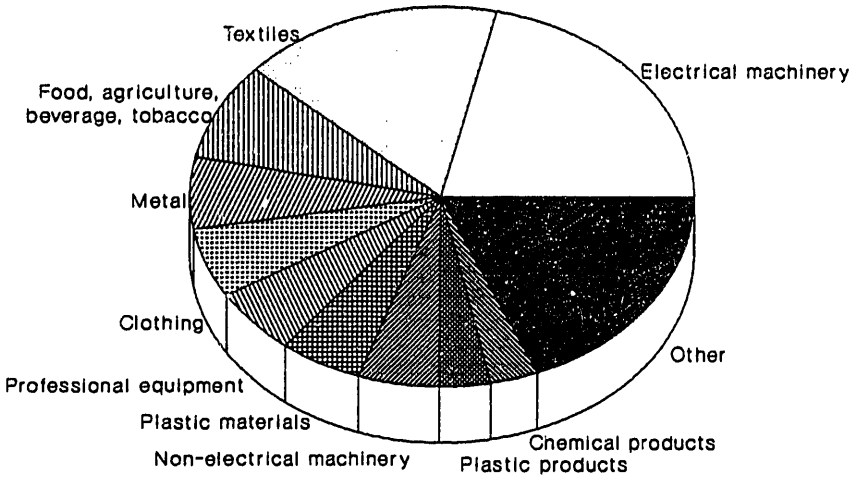
[54] See paragraph 212: rice is the only product on which a specific import quota requirement exists.

204. In this Chapter, the application of trade policies is considered in relation to the main sectoral breakdown of Hong Kong's trade. One point which comes through very clearly is that there is no hierarchy or escalation of import protection by product category or stage of processing. This distinguishes the trade policies of Hong Kong from those of many of its trading partners.

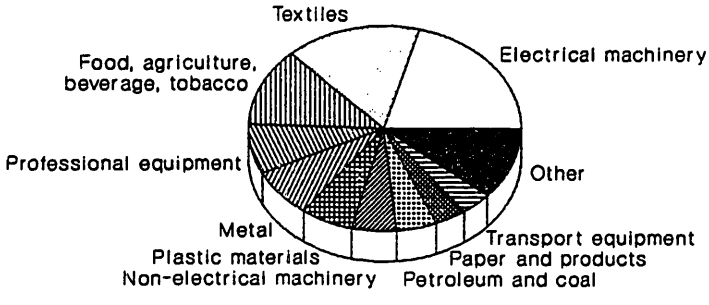
205. Another specific feature which affects the discussion of Hong Kong's trade pattern and the impact of trade measures is the large and growing rôle of Hong Kong as an entrepôt. As noted in Chapter I, re-exports from Hong Kong are now greater in value than domestic exports and are growing more rapidly; retained imports, correspondingly, also account for less than 40 per cent of the recorded value of total imports. The impact of this development on Hong Kong's productive structure is presumably more evident in the service sector than in the manufacturing sector. However, it has also had its effects on the sectoral structure of trade. In particular, the sectoral breakdown of total imports and retained imports has diverged, and is likely to continue to do so, with retained imports more closely related to the domestic production and export structure (Chart V.1 and Table V.1).

Chart V.1
Hong Kong: Total and retained merchandise imports, 1989
(Per cent and US$ billion)

Total imports (US$ 72 billion)



Retained imports (US$ 28 billion)



Source: Hong Kong Government.

206. It is not, therefore, particularly useful to base an analysis of Hong Kong's trade policy on the breakdown of total imports. In this Chapter, the broad divisions used in relation to industry will be those of Hong Kong's principal production and export sectors.

207. The main domestic export sectors are clothing and textiles; electrical and electronic goods including telecommunications equipment; clocks, watches, optical and photographic goods; plastic goods, sports goods and toys; and metal manufactures. Taken together, these account for around 80 per cent of domestic exports. These are therefore the main industrial sectors on which attention will be focused. In addition, imports of chemicals (a major input into many sectors) and of food, beverages and tobacco as well as motor vehicles (which are the main sectors of imports affected by excise and similar duties) will be considered.

(2) Food, beverages and tobacco

208. Almost all Hong Kong's food is imported. Food, beverages and tobacco account for some 8 per cent of total imports and 11 per cent of retained imports. The main food products imported are fresh or preserved meat and fish, fruit and vegetables, live animals (mainly pigs and poultry), tea, coffee, spices, grains and milled products, and beverages and tobacco (Table V.2).

209. Re-exports of food, beverages and tobacco account for 5 per cent of Hong Kong's re-export trade (Table V.3). The principal products are frozen fish and shellfish (mainly from China to Japan), preserved vegetables (mainly from China to the United States), tobacco and manufactures (mainly from the United States to China) and spices and tea (mainly from China to Singapore).

210. Excise duties are levied on alcoholic liquors, non-alcoholic beverages and tobacco. The estimated average rate of duty on these products was about 27 per cent (revenue/c.i.f. import value) in 1989. In the 1990 Budget, duties on alcoholic liquors, including industrial alcohol, were raised to give an estimated extra yield of HK$50 million (approximately 5 per cent of estimated revenue in 1989-90).

211. Imports and sales of methyl alcohol are subject to control by the Customs and Excise Department, under the Dutiable Commodities Ordinance, for public health reasons. For the same reasons, imports of smokeless tobacco products are prohibited. Restrictions apply to the use of colouring matters, artificial sweeteners, and preservatives in food under a number of regulations amended up to 1990 (Chapter IV, para. 127).

212. Imports of live animals for slaughter as well as fresh and frozen game, meat and poultry are controlled under the Public Health (Animals and Birds) Regulations and the Imported Game, Meat and Poultry Regulations for public health and animal disease reasons (Chapter IV, para. 127).

213. Imports of rice, frozen meat and poultry are subject to reserve stock requirements for internal security purposes to ensure the availability of

these essential foodstuffs for emergency situations. Imports of frozen meat and poultry are not subject to quota control. For rice, a quarterly basic import quota is established, based on current levels of consumption. The present quota is 90,000 tonnes, divided into 1,000 equal shares of 90 tonnes each which are allocated by the Director-General of Trade to each registered stockholder on the basis of past performance.[55] Currently, there are 46 registered rice stockholders. These stockholders are also importers. Each stockholder is required to sell a certain volume on the open market, in addition to any direct contract sales. Stockholders are obliged to provide information on price developments to the Government, which monitors the price in Hong Kong against world market levels. Each stockholder must maintain minimum stocks prescribed by the Director-General of Trade. These collectively amount to 45,000 tonnes of rice, which is sufficient for about 50 days' consumption. Stocks must be turned over at least once every two years. Stockholders are required to import a defined amount (the basic quota plus or minus a certain percentage) in each period; no more, no less. Imports may be made from any source. Over the past five years, the main source of rice imported into Hong Kong has been Thailand whose share increased from 43 to 62 per cent between 1985 and 1989. Other major sources include China, Australia and the United States.

(3) Industry

214. The main industrial sectors in Hong Kong are textiles and clothing; electronic products and electrical goods, including computers, clocks and watches; toys; and plastic products. These sectors account for almost 70 per cent of total manufacturing employment and over three-quarters of manufacturing output. Hong Kong is also engaged in the manufacture of fabricated metal products, printing and publishing, paper and paperboard products, transport equipment, including shipbuilding and aircraft servicing, and several other industries.

(i) Textiles and clothing

215. Textiles and clothing, taken together, are still the largest manufacturing industries in Hong Kong, both in value added and employment. Over the past twenty years, the focus of the sector has shifted much more towards clothing. Hong Kong is a major centre of apparel manufacturing and has become increasingly known for design as well as production. The sector has also moved significantly up-market in recent years with more sophisticated methods of production and design, including computer-aided design, cutting and knitting, becoming widespread.

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[55] Total annual consumption of rice in Hong Kong has remained stable at around 350,000 tonnes over the past ten years; with increasing prosperity and diversity of eating habits, the per capita annual consumption of rice has fallen from 120 kgs. in 1961 to 61 kgs. in 1989.

216. Clothing is the largest single domestic export category, although its share in total domestic exports fell from 38 to 31 per cent between 1978 and 1988. Made-up clothing from woven fabric still accounts for the largest export value in the sector, 52 per cent in 1988, down from 57 per cent in 1978. Clothing also accounts for significant shares of imports and re-exports (6 per cent of total imports but only 1 per cent of retained imports; 9 per cent of re-exports). The main sources of import is China and channels of re-exports are the United States, Japan and Federal Republic of Germany.

217. Textile fibres, yarns and fabrics are the largest categories both for imports and re-exports (Table V.4). They account for 14 per cent of imports (both total and retained) and 14 per cent of re-exports. Main sources of imports are China, Taiwan and Republic of Korea and the main re-export channels are China, Republic of Korea and Japan.

218. The clothing and textiles industries also account for a considerable share of imports of machinery and equipment and chemical products including dyes and finishing products; approximately, these may account for some 2 per cent of total merchandise imports. In addition, the industries absorb substantial imports of general industrial machinery, data processing equipment, and other general supplies such as packing materials, plastics and other chemicals.

219. There are no tariffs on trade in textiles and clothing (Table V.5). However, to meet its obligations under MFA bilateral agreements, Hong Kong maintains an elaborate structure of import and export licensing on textiles and clothing. The administrative costs involved are not small: nearly 1,000 people in the public sector are deployed to administer textile quotas and the certificates of origin (Table V.6). It is evident that substantial resources in the private sector are additionally absorbed in dealing with the control mechanisms; however, figures are not available.

(a) Import licensing

220. All textiles importers are required to be registered with the Trade Department before they apply for import licences. Exemptions from registration may, however, be granted to importers not engaged in regular import activity, such as exhibition organizers. Imports of textiles and clothing must be made under licence. Import licensing is intended to monitor the flow of imports in order to maintain adequate surveillance under the textile export control system, under which Hong Kong manages its restrained products within its bilateral agreements under the MFA.[56]

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[56] See Table AV.1 for details of products under restraint in Hong Kong's current bilateral textile agreements with Austria, Canada, the EC, Finland, Norway and the United States.

(b) Export control and licensing

221. The textile export control system operated by the Trade Department has the stated objectives of ensuring that Hong Kong fully discharges its MFA and bilateral agreement obligations, derives optimum benefits from the rights it has secured under the agreements and is able to compile up-to-date and accurate information on the pattern and destination of Hong Kong's exports and re-exports of textiles.

222. All textiles and apparel exports from Hong Kong are required by law to be covered by valid licences issued by the Director-General of Trade. Two types of licence are issued: one covering exports of textiles not subject to specific quota restraints, re-exported goods, samples, personal shipments and bona fide gifts, and the other covering only textiles which are subject to specific quota restraints.

223. All companies which participate in the export of textiles and clothing subject to quota restraints must be registered with the Trade Department either as exporters or as manufacturers. Registrations are renewed annually, at a fee currently standing at HK$1,000 per annum. Currently there are some 11,000 to 12,000 firms registered for textile exports in Hong Kong.

224. For textiles under quota restraints, the restraint limits for each category in each period are apportioned and distributed among qualified Hong Kong companies as textiles export quotas. Export licence applications for textile products subject to restraint must be made against quotas held by the company making the application. Export permits must also be obtained where sub-limits are set for quota categories covering two or more products. Quotas and permits must only be used to cover goods of Hong Kong origin (see section on rules of origin below).

225. To qualify to supply quota for the export of a textiles or clothing consignment, a company must fulfil the functions of either an exporter or a manufacturer. The rules specify that a qualifying company must either perform at least four out of six stipulated functions of receiving orders from overseas buyers, receiving payments from overseas buyers, purchasing or supplying (one function) the raw materials for the manufacture of the goods, contracting with the manufacturer to make the goods, making payment to the manufacturer for the goods, or arranging the export of the goods: or perform the principal processes in the manufacture of the consignment in question. The aim of these provisions is to ensure that a supplier of quota is genuinely involved in the export or manufacture of the consignment concerned.

226. Quotas are generally allocated according to past performance. When a product is newly brought under restraint, quotas are allocated to companies according to their performance during a reference period, usually the most recent twelve-month period for which shipment data are available. Quotas are usually allocated to the exporter and the manufacturer of the goods on a 50/50 basis, unless the same firm performs both functions, in which case it will receive 100 per cent allocation against its shipments during the

reference period. Any quota balance remaining after allocation to all qualified companies is put into a pool and made available to all comers under a "free quota" system.

227. For subsequent restraint periods, quotas are allocated on the basis of the actual performance of a particular company. A company which used less than 95 per cent of its quota is offered a reallocation equal to the amount it used; one which used 95 per cent or over is offered 100 per cent; and one which, in addition to using over 95 per cent, did not transfer out any of its quota, is offered 100 per cent plus the appropriate growth factor for the product within the agreement.

228. Textile quotas may be transferred among firms. This enables companies with no quota rights, or insufficient quota rights, to obtain them, and companies which can no longer use their quota rights to get rid of them, thus optimising the use of quotas. There is a thriving market in quota rights.[57] In addition, quota-holders which cannot use their quotas fully during a given year are encouraged to surrender the balance of their quotas to the Department of Trade. Degressive incentives are offered to do this. Companies which surrender unused quotas in the first four months of the quota year are offered allocations equal to 50 per cent of the amount surrendered in the following year, those which surrender quotas in the 5th to 7th month are offered 25 per cent, and those which surrender in the 8th and 9th months receive no allocation in the next year.

229. No official records are kept of the quota premia earned by sales of textile quotas among Hong Kong firms. However, there is evidence that these are often substantial, and may vary directly with the scarcity of quota on particular categories and the profitability of exporting to a particular market.[58] They may also be negative where a particular line has gone out of fashion or where quotas are in surplus.

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[57] Transfers may be either "temporary" (where the firm to which the quota is transferred may use it during the same restraint period but the quota use is actually credited to the transferring firm) or "permanent" (where the firm to which the quota is transferred obtains the right to use it and can claim quota for the following year on this basis).

[58] For example, quota premia on exports of main items of clothing to the United Kingdom and West Germany in 1987 and 1988 were found to vary between 7 and 28 per cent of the export price of the garments; average premia on exports of cotton, wool and man-made fibre sweaters to the United States in 1986-88 were estimated at levels falling from 189 to 93 per cent of export price for cotton sweaters, 16 to 8.5 per cent for wool sweaters and 31 to 8 per cent for man-made fibre sweaters. (Z.A. Silberston and Michèle Ledić: "The Future of the Multi-Fibre Arrangement, Implications for the UK Economy", London, HMSO, 1989). A discussion of other estimates of quota rents is contained in GATT document

(Footnote Continued)

230. New entrants may come into the textile quota market either through transferring quotas from other firms or through the "free quota" schemes. Free quotas come from a number of sources, including the balance of quotas remaining after allocations to companies on the basis of past performance, quotas allocated to but not accepted by companies, quotas recovered from temporary transferors and not allocated to temporary transferees, surrendered quotas, carry-over, unutilized quotas at the end of a textiles year, and quotas forfeited by companies which have not complied with the conditions of allocation and utilization.

231. The Hong Kong Government attaches great importance to the integrity of its textiles export control system because export control gives Hong Kong greater flexibility and certainty and enables Hong Kong to maximise use of its quotas. Hong Kong is the only territory among all economies exporting textiles to the United States which has been able to retain an export control system administered by the exporting administration. This presumably helps Hong Kong producers and exporters to maximise the quota rents available under the MFA system.

232. Certificates of origin (and export licences) are required to cover exports of restrained textile products to the United States and the European Communities (See Chapter IV). Under the Hong Kong/EC textiles agreement, the origin of products is determined in accordance with the rules in force in the EC.[59]

233. The origin requirements inherent in the MFA bilateral agreements and the quota rents to be gained on restricted exports are likely to have inhibited the development of outward or part processing of products in South China, as has occurred in some other industrial sectors of Hong Kong.[60]

(ii) Electrical goods and electronic equipment

234. The electrical and electronics industries are Hong Kong's second largest export earners. They account for about 15 per cent of net manufacturing output and some 14 per cent of employment. The range of

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(Footnote Continued)
COM.TEX/W/223, The Economic Consequences of Liberalizing World Trade in Textiles and Clothing: A Survey of the Empirical Literature.

[59] See Annex to this Chapter for a description of the rules of origin in force for textiles and clothing in the EC. See also Chapter IV, para. 166 and Chapter VI, para. 259.

[60] "Hong Kong itself may not find it easy to expand its exports significantly, given its labour shortages, but it would be free, in the absence of the MFA, to source to a greater extent than at present in China", Silberston and Ledić, op. cit., p. 46.

goods produced in Hong Kong is very wide, from relatively simple electrical fittings through quartz crystals, liquid crystal displays, semi-conductors, switching devices, sophisticated microcircuits and assemblies, and finished goods such as computers and peripherals, computer-aided design and testing equipment, televisions, video and audio systems, telephones and a variety of other goods.

235. Although the industry has, in a number of areas, moved away from simple assembly-type operations, trade flows in all directions have remained intense. The categories "electrical machinery", "telecommunications" and "office machinery including computers" account for 20 per cent of imports, 22 per cent of domestic exports and 20 per cent of re-exports through Hong Kong (Table V.7 and V.8). Aggregate imports disguise a certain volume of finished goods imported from other sources, in particular Japan, China, Korea and Taiwan, for local or tourist consumption. Some imported and some domestically produced goods will therefore be re-exported from Hong Kong without necessarily appearing in the trade statistics. However, overall, imports of such electrical and electronic items as transistors, microcircuits, switchgear and other industrial equipment (many of which are inputs into local production) accounted for about 10 per cent of imports in 1988.

236. The high figure for re-exports of these categories (over a quarter of total trade) reflects the growing re-location of much of the industry in China, as part of the rapid development of the Pearl River basin. Re-exports have grown from 16 per cent of total exports of these categories in 1978 to 53 per cent in 1988.

237. Strategic control licensing under COCOM is the main export and import control measure applied by the Hong Kong Government in this area.

238. The Hong Kong authorities attach great importance to the protection of intellectual property rights. Civil and criminal remedies for infringement are available in Hong Kong. The Customs and Excise Department's Intellectual Property Bureau has powers to investigate, seize goods and arrest individuals found contravening Hong Kong's legislation (the Copyright Ordinance, the U.K. Copyright Act 1956 as extended to Hong Kong and the Trade Descriptions Ordinance, 1987). Computer software and manuals have been among the goods seized under copyright legislation and computer disk drives and main boards among those seized under trade marks and descriptions legislation.

239. There are no other significant measures affecting imports of these products into Hong Kong (Table V.6). Radio transmitting equipment is monitored by the Post Office. To the extent that the industry utilises ozone-depleting chemicals such as CFCs in the production process, the Trade Department and the Environmental Protection Department are involved in registration and licensing of users (Chapter IV, para. 130).

240. As noted in Chapter IV, a substantial amount of assistance by Government has gone into facilitating the development of various aspects of the electronics industry, broadly defined. This is one of the areas where

the Industry Department carries out techno-economic and market research studies. The Hong Kong Productivity Council also devotes significant resources to this sector, such as through assisting the development of both hardware and software manufacturing capacities. Hong Kong's shortage of skilled labour provides a spur to the development of higher-technology manufacturing processes. Efforts by Government and industry to create conditions for greater adaptation focus on rapid dissemination of information and links with overseas suppliers, local product and service development, and increased training and education provisions.

(iii) Clocks, watches, professional, scientific equipment, photographic goods

241. The share of the watch and clock industry in domestic manufacturing output is around 3 per cent, and in employment 3 per cent. Watches and clocks account for some 5 per cent of total exports and 8 per cent of domestic exports. Imports of this category accounted for 4 per cent of total imports in 1988, principally of watch movements and cases for assembly. Japan and Switzerland are the main sources of imports. Re-exports are not a significant proportion of trade in this group of products.

242. Hong Kong is the world's second largest producer (in volume) of watches, after Japan, and the world's largest exporter in volume.[61] Competition for Hong Kong products has come both from the resurgence of the Swiss watch industry and from sub-contracting by Japanese and Swiss manufacturers of assembly operations to China and other Asian sources.[62]

243. Photographic and optical goods are also significant Hong Kong exports with some US$350 million exported in 1988 (Table V.9).

244. As with electronic equipment, questions of intellectual property rights protection have been a major concern of the Hong Kong authorities in this field, particularly in relation to watches and sunglasses. Otherwise, apart from the strategic commodities' restrictions mentioned above which may apply to certain photographic goods, no trade barriers exist in Hong Kong in this area (Table V.10).

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[61] See Hong Kong Government (1990), Hong Kong 1990: Tribune de Genève, 30 January 1990, "Assemblages chinois".

[62] The Stanford Research Institute notes that "China is, all at the same time, a growing competitor, a supplier, and a customer for Hong Kong's products in the toys, watches, and light manufacturing field... the available option of moving production from Hong Kong to China has allowed many companies to postpone the adoption of newer, higher-quality, and higher-productivity manufacturing methods". (Stanford Research Institute (1989), Building Prosperity, p. 95.)

(iv) Chemicals, plastics, toys, sports goods

245. According to GATT Tariff Study data, Hong Kong's imports of chemicals amounted to some US$6 billion, or nearly 10 per cent of imports in 1988. The main item within the chemicals group is plastic materials which alone accounted for some 4 per cent of total imports (Table V.10).

246. While much of this is for use in Hong Kong's own plastics industry, a high proportion of chemical products are re-exported. According to Hong Kong's statistics, the share of imported plastic materials retained in Hong Kong fell from 54 to 45 per cent between 1985 and 1989, while those of other chemicals have stood at around 32 to 35 per cent over the period. This structure partly reflects the growing trade between Hong Kong and mainland China. No major trade controls exist on the import side. Products containing CFCs or other ozone-destroying substances are subject to controls.

247. The toys, sports goods and plastics goods industries, including plastics materials, account for some 8 per cent of Hong Kong's domestic exports, and for 10 per cent of re-exports. Toys are the main category in both exports and re-exports (Table V.12).

248. One marked phenomenon of the 1980s was the rapid re-location of the toy industry to China. The US dollar value of re-exports of toys from China grew between 1983 and 1988 by almost thirtyfold, from US$70 million to US$2,075 million. This also shows itself in a very low, and in 1989 negative, value of retained imports of plastic manufactures (Table V.2).

249. Hong Kong's industrial base in this field has deepened with increased manufacturing of parts, components and (to some extent) machinery for the plastics industry. Industrial estates have assisted in these developments.

250. No import controls or particular regulations are in force, except for the restrictions on ozone-depleting substances mentioned above (Table V.11). In the field of toys, intellectual property rights concerns have been significant, as many Hong Kong firms manufacture for major brand names.

(v) Ores and metals

251. According to the GATT Tariff Study, Hong Kong's imports of ores and metals were in 1988 some US$3.8 million, or around 6 per cent of total imports. Semi-manufactures of steel, aluminium and copper were the main items imported (Table V.13).

252. Most imports of basic metal products are retained for manufacturing processes in the territory (Table V.14). On the other hand, the share of fabricated metal products in total imports of ores and metals fell from 47 to 35 per cent between 1985 and 1989. No significant trade measures exist, except where strategic restrictions might apply.

253. In Hong Kong, a large number of smaller industries coexist with the major ones mentioned above. Among these are printing and publishing, jewellery, leather products, and the manufacture of industrial machinery. Furthermore, imports into Hong Kong encompass almost the full range of products traded internationally, including such major items as motor vehicles which are not produced domestically.

254. The main import-related measure relevant to these items is the first registration fee on motor vehicles, which affects both consumer spending and industrial investment. The tax can be regarded as a revenue measure, with impact on imports.

255. Other import controls applied in Hong Kong on a general level are outlined in Chapter IV. These are maintained mainly for health, safety or security reasons.

Annex:
European Communities Rules of Origin for Textiles and Clothing

1. The rules of origin presently adopted by EC for trade in textiles and clothing are laid down in Commission Regulation No. 749/78 of 10 April 1978 (Official Journal No. L 101 of 14 April 1978). They define "originating products" as those which have undergone "one complete process" in the country from which they are exported. "One complete process" is defined as a process resulting in a change of tariff heading under the CCT.

2. Specifically considered as insufficient working or processing to be classified as originating products, irrespective of whether there is a change of tariff heading are: operations to ensure preservation of products during transport or storage; simple operations (removal of dust, sifting or screening, classifying, matching including making up of sets, washing, cutting up; packing, bulk-breaking or assembly of consignments; marking, labelling simple assembly of parts of products to constitute a complete product; and combinations of these operations).

3. Further exceptions to the "process" criterion are contained in special provisions contained in Lists A and B attached to the regulation. For example, List A provides that "incomplete or unfinished" knitted or crocheted goods, or goods knitted or crocheted directly to shape, must be manufactured from yarn, as must "incomplete" woven goods. List B lists products where no change in tariff heading occurs in a "complete process". In respect of knitted or crocheted articles made up by sewing or assembling pieces of knitted or crocheted fabric, and articles of woven apparel and clothing accessories included in the list, their origin is still ascribed to the "complete making up" of the products concerned. "Complete making up" is taken to mean all the operations following cutting of the fabric or knitting or crocheting of the fabric directly to shape. Making-up is not necessarily considered as incomplete where a finishing operation has not been carried out.

VI. TRADE DISPUTES AND CONSULTATIONS

256. Hong Kong relies on the procedures of GATT, the MFA and the MTN Codes to which it is party, to settle disputes in international trade. It has no domestic legislation or procedures for instigating or settling complaints.

(1) GATT Dispute Settlement Cases

(i) Article XXIII cases

257. No complaints have been made against Hong Kong under Article XXIII of GATT. Nor have any complaints been made against Hong Kong under the dispute settlement procedures of the MTN Agreements.

258. Hong Kong has initiated two complaints under GATT procedures:

(a) In June 1978, the United Kingdom on behalf of Hong Kong requested the establishment of a Panel under Article XXIII:2 concerning Article XIX action taken by Norway against Hong Kong on imports of textiles. Norway had, in January 1978, introduced a global quota system on imports of certain textile products from a number of suppliers, including Hong Kong. Consultations on export levels from Hong Kong to Norway failed to reach an agreement and in July 1978 Norway notified to GATT its intention to take Article XIX action on these textile items. Further consultations between Hong Kong and Norway were held between July 1978 and May 1979, without result. Hong Kong renewed its request for a Panel in July 1979. The Panel's report was adopted by the GATT Council in June 1980. It ruled that Norway's action under Article XIX was not consistent with Article XIII, providing for non-discriminatory application of quantitative restrictions, to the extent that Norway had allocated shares of its Article XIX quota to other major suppliers but had failed to allocate a share to Hong Kong. The Panel therefore found that Norway should immediately either terminate its action taken under Article XIX or make it consistent with the provisions of Article XIII. In the end, although several rounds of consultations were then held, no mutually acceptable restraint levels were found. The Norwegian Article XIX action continued in force until 30 June 1984. Norway acceded to MFA III in 1983 and concluded a three-year bilateral agreement with Hong Kong for the period 1 July 1984 to 30 June 1987.

(b) In September 1982, following inconclusive bilateral consultations, the United Kingdom on behalf of Hong Kong requested the establishment of a Panel under Article XXIII:2 of GATT against the EEC, in respect of quotas established by France on eight products, including quartz digital and analogue

watches.[63] The Panel report was adopted in July 1983. It found that the French restrictions violated Article XI and recommended their termination. Restrictions on three product categories (knitwear, clothing and microscopes) were removed in November 1983, while quotas were increased for umbrellas and radios and quantitative limitations on radio parts, pleasure boats and some toys were removed. In 1984, the EEC introduced a global quota under Article XIX in respect of quartz digital watches. The quotas maintained by France were removed progressively. Imports were completely liberalized by 1 January 1987.

(ii) Dispute settlement cases under the MFA

259. In 1984, Hong Kong brought a dispute settlement case against the United States, under Article 11.5 of the MFA, concerning changes in the United States' rules of origin which affected Hong Kong's knitwear industry.[64] The Textiles Surveillance Body (TSB) noted that the changes in rules of origin had the effect of upsetting the balance of rights and obligations under the then existing bilateral agreement, and thus affecting its economic content and creating uncertainty. It therefore recommended that the two parties hold further consultations with a view to restoring the balance of rights and obligations, and that they should cooperate to avoid disruption to the orderly and equitable development of Hong Kong's trade. Consultations were held in Washington in February 1985 but no agreement as reached. The United States formally introduced its revised country of origin rules in March 1985. Between August 1984 and March 1985 the Hong Kong knitwear industry invested heavily in knitting machinery to permit them to adjust to the new United States' rules. Hong Kong has reserved its right to revert to this issue under the bilateral agreement, the MFA and the GATT.

(iii) Dispute settlement cases under Tokyo Round Agreements

260. In June 1989, Hong Kong requested consultations with the EEC under Article 15.2 of the Anti-Dumping Code, concerning duties levied on imports of video-cassettes from Hong Kong. Consultations were held in July 1989. No agreement was reached. Hong Kong has reserved its right to take further multilateral action.

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[63] The products were knitwear other than of cotton, man-made fibres or wool; clothing other than of cotton, man-made fibres or wool; umbrellas; radio receivers; pleasure boats for marine use; compound optical microscopes; quartz watches; and toys.

[64] See above, Chapter IV, footnote 52.

(2) Other Cases

261. No other trade disputes have been brought to the attention of the Secretariat. So far, Hong Kong has not had any disputes with countries which are not contracting parties to the GATT.

VII SUMMARY OBSERVATIONS

(1) Hong Kong in World Trade

262. Hong Kong, despite its small size in geography and population, is the eleventh largest trading entity among contracting parties, with 2.2 per cent of total world merchandise trade. The share of external trade in gross domestic product has grown rapidly. Merchandise trade was equal to 230 per cent of GDP in 1989, up from 144 per cent in 1979 (263 and 192 per cent for trade in goods and services).

263. During the 1980s, Hong Kong's economy evolved considerably in the context of fluctuating, but rapid economic growth (7 per cent annually). The services sector grew markedly in importance to almost three-quarters of total value added, while output of manufacturing expanded less and its share in total GDP declined from one-quarter to one-fifth. However, the manufacturing sector has developed up-market and diversified.

264. As with manufacturing output, Hong Kong's domestic exports are still heavily concentrated in clothing and textiles, but the importance of other sectors, particularly electronic equipment and components, watches and printing is growing. Machinery and equipment now account for around one-quarter of domestic exports. The technological and design content of exports has increased.

265. Some of these developments were linked to the opening up of the Chinese economy. Many labour-intensive operations have been moved to mainland China. In line with this development, Hong Kong's historical entrepôt rôle has grown in importance. Re-exports have increased from 26 to over 60 per cent of total exports, with China as Hong Kong's largest market and supplier.

266. The smooth development of external trade is crucial to Hong Kong's economic well-being. In the last three years, economic growth in Hong Kong has slowed down considerably as the labour market became tight, and capacity constraints resulted in accelerated inflation. Economic activity in Hong Kong was particularly affected by the austerity measures taken by China since 1987 and the events of June 1989. In the first months of 1990, the economy stagnated.

(2) Institutional Framework

267. Hong Kong's trade policies are formulated and implemented on the basis of a clear and transparent legal framework of Ordinances (laws) and regulations. Ordinances are passed by the Legislative Council and promulgated by the Governor in Council. The Executive Council advises the Governor on all important policy formulation questions. The Trade and Industry Branch is the main trade policy making body in the administration. The Trade Department administers trade policy and contributes to its

formulation. The Industry Department advises on industrial development policies, which are closely related to trade.

268. Consultations with private sector manufacturers, service providers and traders on trade-related policy questions are extensive. The highest level institutional linkages are through the Trade and Textiles Advisory Boards and the Industry Development Board. These are official bodies, which include senior public and private sector representatives. Chambers of Commerce and industrial associations, many of which are also represented in Government committees or in the Legislative Council, provide further channels of communication between the Government and the private sector. Informal contacts between the Government and the private sector are frequent.

269. There is therefore a substantial system of co-ordination and consultation, but Hong Kong's small size and close-knit trading community implies a relatively streamlined process of policy formulation. Foreign firms established in Hong Kong are part of the Chambers of Commerce and hence participate in the consultative process. The representation of the consumer interest is less well developed.

270. No independent bodies, statutory or private, exist to review trade policies in Hong Kong. However, since February 1989, members of the public have had the possibility of addressing complaints regarding any Government department to the Commissioner for Administrative Complaints (ombudsman), through members of the Legislative Council. So far, the Commissioner has not received any trade-related administrative complaints.

(3) Trade Policy Features and Trends

271. Hong Kong has been a contracting party to GATT in its own right since April 1986. Hong Kong is a party to all the Tokyo Round codes, except those relating to meat and dairy products and the Agreement on Trade in Civil Aircraft.

272. Hong Kong's trade policies are based on GATT principles. All imports are granted m.f.n. treatment. Hong Kong does not participate in any customs-union or free-trade area arrangements. It has taken an active part in discussions relating to trade with OECD countries and to regional issues, including the development of trade in the Pacific area.

273. The evolution of Hong Kong's trade is also linked to its policy, since October 1983, of maintaining a fixed nominal exchange rate against the US dollar. The real effective exchange rate is estimated to have depreciated markedly between 1985 and 1987, but has appreciated since. This is reflected in Hong Kong's export volume and GDP growth rates.

(i) Recent evolution

274. Traditionally, the Hong Kong Government has intervened little in import flows. On the export side, however, a considerable share of domestic exports is subject to management. This is generally linked with international arrangements to which Hong Kong is party, in particular the MFA for textiles and clothing, and to export restriction provisions for strategic goods. No major changes have taken place in this general policy orientation in recent years.

275. Hong Kong devotes public resources and policies towards encouraging and facilitating industrial development through the provision of infrastructure (land, public works), training and technology development facilities. Government policies aimed at improving the framework for industrial development have expanded in scope. The Government plans to increase Hong Kong's economic and trading capacity through a major programme of public works (new airport, port expansion) and of training and education. These initiatives, in particular the extension of the container port, involve substantial participation of the private sector.

(ii) Type and incidence of trade policy instruments

276. Relatively few import measures are applied by Hong Kong. All goods enter Hong Kong duty-free. Tariff bindings, most of which are at zero rates, currently cover a limited number of items. Domestic indirect taxation, although applied equally to domestic and imported products, falls to a large extent on imported goods. Excise duties are applied to hydrocarbon oils, liquor, methyl alcohol, tobacco, non-alcoholic beverages and cosmetics. Motor vehicles, all of which are imported, are subject to a first registration tax.

277. Import licensing controls are applied for purposes of strategic control, public health, reserve stocks, surveillance, environmental protection and safeguarding of threatened species. The Trade Department is the central body issuing import licences. A number of other departments are involved in issuing or approving applications in particular cases. Most import licences are approved within one to three working days.

278. Rice and ozone-depleting substances are the only products subject to import quotas. Rice quotas are maintained for reserve stock purposes. Importers are required to import fixed amounts determined by the Trade Department and to maintain minimum stocks.

279. In respect of standards, Hong Kong does not apply mandatory technical regulations for goods imported for domestic consumption. All proposed technical regulations or standards are published. The Industry Department provides services to manufactures and traders concerning standards in overseas markets, as well as calibration and laboratory services.

280. In Government purchasing, no preferences are given to imports from any source. Purchasing is either by open, selective or single tender. While procedures for open tender are transparent, the criteria for selective or single tendering are less clear, and their importance in overall Government purchasing may be considerable.

281. Hong Kong applies COCOM rules to imports and exports of strategic commodities, including many electronic products. Export authorisations for such products depend on vetting by the Strategic Commodities Section of the Trade Department.

282. Export licences are also required for rice, frozen meat and poultry, ozone depleting substances, chemical weapon precursors, acetylating substances, pesticides, pharmaceuticals and dangerous drugs, products of endangered species, radio transmitters, and textiles and clothing.

283. The export licensing system for textiles and clothing is particularly elaborate to ensure Hong Kong's observance of its bilateral agreements under the MFA. For products under restraint, quotas are allocated to registered quota-holders in relation to past performance. Quotas may be traded among firms and unused quotas may be surrendered to the Trade Department for re-allocation to new exporters. A considerable trade in quotas exists. Several empirical studies show that substantial quota rents accrue to Hong Kong traders and manufacturers, and thus create some vested interest in the management of world trade in textiles and clothing.

284. Hong Kong has specific legal provisions, based on the Kyoto Convention, for defining local origin for many products. On this basis, the Government and a number of approved certifying organizations issue certificates of origin for exported goods. Special origin rules apply to textiles and clothing exported to the European Communities.

285. Although the Hong Kong Government does not maintain any direct export or production subsidies, as noted above, substantial public resources are devoted to efforts to facilitate industrial and trade development. The Industry Department works closely with other governmental and academic institutions to assist in improving the competitiveness of industry through the introduction of new techniques, provision of infrastructural support and the development of skills. It carries out regular studies of Hong Kong's industrial base and provides assistance through its links with other statutory bodies. The Hong Kong Trade Development Council seeks to develop all aspects of external trade through consultancies, fairs, exhibitions and the provision of information.

286. Official export credit insurance is provided on commercial terms by a statutory corporation which competes in the market with private insurers. Other statutory bodies involved in industrial promotion include the Hong Kong Industrial Estates Corporation and the Hong Kong Productivity Council. These bodies are closely linked to the Industry Department and to the Government's overall efforts for industrial promotion. In their different

ways, they provide support and facilities for the establishment or development of new industries and new skills in Hong Kong.

287. Hong Kong attaches great importance to the protection of intellectual property. It has taken considerable steps to ensure the enforcement of its domestic legislation.

(iii) Temporary measures

288. Hong Kong has never taken safeguard action under Article XIX of GATT, nor recourse to anti-dumping measures, countervailing measures or trade measures related to balance of payments considerations (indeed, it does not maintain official statistics on the balance of payments). No domestic legislation exists on which such actions could be based.

(iv) New initiatives

289. Recent Budget changes have brought about increases in rates of excise duties and motor vehicle registration taxes more than proportionate to the rate of inflation. The aim is to provide higher Government revenue and contribute to changing the taxation pattern towards greater reliance on indirect taxation.

(4) Trade Policies and Foreign Trading Partners

290. Hong Kong's economy remains almost completely reliant on trade. It is thus heavily dependent on developments in its main foreign trading partners, and their trade policies have a strong impact on Hong Kong's overall prosperity. Restraint agreements and regulations maintained under the Multi-Fibre Arrangement have influenced the long-term development of the clothing and textiles industries in the territory, inter alia, by tying production patterns to the availability of quotas for different categories of textiles and clothing. More recently anti-dumping measures by trading partners have given rise to considerable concern.

291. Serious efforts are being made to broaden the range of export destinations for Hong Kong's goods, and to lessen the reliance on products which have traditionally been subject to import restrictions or export restraint agreements. Some success is being achieved in both these aims, but more evidently, to date, in product diversification. Hong Kong's manufactured exports have become less labour-intensive and more technologically sophisticated.

292. Hong Kong's trade with China has expanded particularly rapidly over the past decade. The growth of total exports, including re-exports, hides a considerable relative decline in domestic manufactured exports. To some extent, domestic exports of labour-intensive products have been replaced by re-exports of goods from China. Overall, the economy is now considerably more dependent on, and integrated with, that of South China than ten or even five years ago, and is thus more influenced by economic and political

developments in China. Hong Kong will retain its present status of contracting party to GATT after becoming a Special Administrative Region of China in 1997.

293. For an outward-oriented economy like Hong Kong, a well functioning multilateral trading system is of evident importance. The Uruguay Round offers a particular opportunity for promoting its interests in the growth and diversification of trade in goods and services. Hong Kong participates actively in the Round particularly in such subject areas as rules of origin, textiles and clothing, negotiating rights on tariffs, safeguards, anti-dumping procedures, intellectual property and services. Improvements in these areas and, more generally, success in the Round in liberalizing market access worldwide and clarifying multilateral trade rules will help Hong Kong maintain its economic progress and prosperity.