

MAINLAND/HONG KONG
CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT ("CEPA")

Preamble

To promote the joint economic prosperity and development of the Mainland and the Hong Kong Special Administrative Region (hereinafter "the two sides"), to facilitate the further development of economic links between the two sides and other countries and regions, the two sides decided to sign the Mainland/Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA").

CHAPTER 1

GENERAL PRINCIPLES

Article 1

Objectives

To strengthen trade and investment cooperation between the Mainland and the Hong Kong Special Administrative Region (hereinafter called "Hong Kong") and promote joint development of the two sides, through the implementation of the following measures :

1. progressively reduce or eliminate tariffs and non-tariff barrier on substantially all the trade in goods between the two sides;
2. progressively achieve liberalization of trade in services through reduction or elimination of substantially all discriminatory measures;
3. promote trade and investment facilitation.

Article 2

Principles

The conclusion, implementation and amendment of "CEPA" will adhere to the following principles :

1. to abide by the "one country, two systems " principle;
2. to be consistent with the rules of the World Trade Organisation (hereinafter called the "WTO");
3. to accord with the needs of both sides to adjust and upgrade their economic regime;
4. to achieve mutual benefits, complementarity and joint prosperity;
5. to take progressive action, dealing with the easier issues first.

Article 3

Inception and Development

1. From 1 January 2004, the two sides will implement the specific commitments in liberalization of trade in goods and services under "CEPA".
2. The two sides will broaden and enrich the content of "CEPA" through continuous and further liberalization between them.

Article 4

Non-application of Specific Provisions in China's WTO Accession Documents

The two sides recognise that through over 20 years of reform and liberalisation, the market economy system of the Mainland has been continuously improving, and the mode of production and operation of Mainland enterprises is in line with the requirements of a market economy. The two sides agree that Articles 15 and 16 of the "Protocol on the Accession of the People's Republic of China to the WTO" and paragraph 242 of the "Report of the Working Party on the Accession of China" will not be applicable to trade between the Mainland and Hong Kong.

CHAPTER 2

TRADE IN GOODS

Article 5

Tariffs

1. Hong Kong will continue to apply zero tariff to all imported goods of Mainland origin.
2. From 1 January 2004, the Mainland will apply zero tariff to the import of those goods of Hong Kong origin as set out in Schedule 1 of Annex 1.
3. Not later than 1 January 2006, the Mainland will apply zero tariff to the import of goods of Hong Kong origin that are outside Schedule 1 of Annex 1. Detailed implementation procedures are set out in Annex 1.
4. Any new goods benefiting from elimination of import tariffs in accordance with paragraph 3 of this Article will be inserted into Annex 1.

Article 6

Tariff Rate Quota and Non-tariff Measures

1. Either side will not apply any non-tariff measure that is inconsistent with WTO rules to goods imported and originated from the other side.

2. The Mainland will not apply tariff rate quota against goods of Hong Kong origin.

Article 7

Anti-dumping Measures

The two sides undertake that either side will not apply anti-dumping measures to goods imported and originated from the other side.

Article 8

Subsidies and Countervailing Measures

The two sides reiterate that they will abide by the WTO "Agreement on Subsidies and Countervailing Measures" and Article XVI of "the General Agreement on Trade and Tariffs 1994", and undertake not to apply countervailing measures to goods imported and originated from each other.

Article 9

Safeguards

If because of the implementation of "CEPA", the import of products in Annex 1 from one side to the other increases in such quantities as to cause or threaten to cause serious injury to like or directly competitive products to the domestic industry of the other side, the affected side may after written notification temporarily suspend concessions in respect of those goods of the other side, and will, at the request of the other side, promptly commence consultations under Article 19 of "CEPA" so that an agreement may be reached.

CHAPTER 3

ORIGIN

Article 10

Rules of Origin

1. The rules of origin applicable under "CEPA" relating to preferential measures of trade in goods are set out in Annex 2.

2. To ensure the implementation of the preferential measures in respect of trade in goods, the two sides decide to strengthen and extend the content and scope of mutual assistance in administration, including the establishment and strict implementation of the procedures for issuing certificates of origin, the establishment of auditing and

regulatory systems, the development of a computer link and electronic data interchange between the issuing and regulatory authorities of both sides. Details are set out in Annex 3.

CHAPTER 4

TRADE IN SERVICES

Article 11

Market Access

1. Either side will progressively reduce or eliminate existing restrictive measures against services and service suppliers of the other side in accordance with the content and timetable set out in Annex 4.

2. At the request of either side, the two sides may through consultation pursue further liberalization of trade in services.

3. Any new measures on liberalization of trade in services implemented pursuant to paragraph 2 of this Article will be inserted into Annex 4.

Article 12

Service Suppliers

1. The definition and related provisions on "service suppliers" under "CEPA" are set out in Annex 5.

2. A service supplier of another WTO Member that is a juridical person constituted under the laws of one side will be entitled to treatment granted by the other side under the "CEPA", provided that it engages in substantive business operations as stipulated in Annex 5 in the area of the former side.

Article 13

Financial Services Cooperation

The two sides will adopt the following measures to further strengthen cooperation in the areas of banking, securities and insurance :

1. The Mainland supports state-owned commercial banks and certain shareholding commercial banks in re-locating their international treasury and foreign exchange trading centres to Hong Kong.

2. The Mainland supports Mainland banks in developing network and business activities in Hong Kong through acquisition.

3.The Mainland supports the full utilization of financial intermediaries in Hong Kong during the process of reform, restructuring and development of the financial sector in the Mainland.

4.The two sides will strengthen cooperation and information sharing between their financial regulators.

5.The Mainland will, following the principles of observing market discipline and enhancing regulatory efficiency, support eligible Mainland insurance companies and other companies, including private enterprises, in listing in Hong Kong.

Article 14

Cooperation on Tourism

1.In order to further promote the development of the tourism industry of Hong Kong, the Mainland will allow residents in Guangdong Province to visit Hong Kong individually. This measure will be implemented on a trial basis first in Dongguan, Zhongshan and Jiangmen and it will be extended to the entire Guangdong Province not later than 1 July 2004.

2.The two sides will strengthen cooperation on tourism promotion, including promotion of tourism between each other and development of external promotion programmes centered around the Pearl River Delta.

3.The two sides will cooperate to raise the service standards of their tourism industries and protect the lawful rights of tourists.

Article 15

Mutual Recognition of Professional Qualifications

1.The two sides will encourage mutual recognition of professional qualifications and promote the exchange of professional talents between each other.

2.Competent authorities and professional bodies of both sides will in consultation with each other consider and design specific methodologies for mutual recognition of professional qualifications.

CHAPTER 5

TRADE AND INVESTMENT FACILITATION

Article 16

Measures

The two sides will pursue trade and investment facilitation through greater transparency, standards conformance and enhanced information exchange.

Article 17

Areas of Cooperation

1.The two sides will promote cooperation in the following areas :

- A. trade and investment promotion;
- B. customs clearance;
- C. quarantine and inspection of commodities, food safety and quality assurance;
- D. electronic commerce;
- E. transparency in law and regulations;
- F. small and medium-sized enterprises;
- G. Chinese medicine and medical products.

2.Details on the cooperation in the areas listed in paragraph 1 of this Article are set out in Annex 6.

3.At the request of either side, the two sides may expand the scope and content of trade and investment facilitation through consultation.

4.Any new scope or content concluded under paragraph 3 of this Article will be inserted into Annex 6.

CHAPTER 6

OTHER PROVISIONS

Article 18

Exceptions

“CEPA” and the provisions in its Annexes will not affect the Mainland or Hong Kong's ability to maintain or adopt exception measures consistent with the rules of the WTO.

Article 19

Institutional Arrangements

1.The two sides will set up a Joint Steering Committee (hereinafter called "Steering Committee"). The Steering Committee will comprise senior representatives or officials designated by the two sides.

2.Liaison Offices will be set up under the Steering Committee. Working groups may be set up as the need arises. Liaison offices will be set up in the Ministry of Commerce of

the Central People's Government and the Commerce, Industry and Technology Bureau of the Hong Kong Special Administrative Region Government.

3.The functions of the Steering Committee include :

- (A) supervising the implementation of “CEPA”;
- (B) interpreting the provisions of the “CEPA”;
- (C) resolving disputes that may arise during the implementation of “CEPA”;
- (D) drafting additions and amendments to the content of “CEPA”;
- (E) providing steer on the work of the working groups;
- (F) dealing with any other business relating to the implementation of “CEPA”.

4.The Steering Committee will meet at least once a year , and may convene special meetings within 30 days upon request by either side.

5.The two sides will consult to resolve any problems arising from the interpretation or implementation of “CEPA” in the spirit of friendship and cooperation. The Steering Committee will make its decisions by consensus.

Article 20

Miscellaneous

1.Except as otherwise provided in “CEPA”, any action taken under it will not affect or nullify the rights and obligations of either side under other existing agreements to which it is a party.

2.The two sides will endeavour to refrain from increasing restrictive measures that would affect the implementation of “CEPA”.

Article 21

Annexes

The Annexes to “CEPA” form an integral part of “CEPA”.

Article 22

Amendments

The provisions of “CEPA” or its Annexes may be amended in writing when the need arises. Any amendment will come into effect after it has been signed by the duly authorised representatives of the two sides.

Article 23

Coming Into Effect

CEPA will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of June , 2003 in the Chinese language.

Vice Minister of Commerce

People's Republic of China Financial Secretary
Hong Kong Special Administrative Region of the People's Republic of China

(signature)

(signature)

[Note: Amendments made to the previous version of the courtesy English translation and reflected in this latest version are essentially editorial, the signed Chinese text which is authentic has not been amended in any way. Footnote number 1 is a note of the CEPA text; other footnotes are to explain the amendments made to the courtesy English translation and hence only appear in this English version.]

<Courtesy English Translation : 29 September 2003>

Annex 1

Arrangements for Implementation of
Zero Tariff for Trade in Goods

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA"), the Mainland and the Hong Kong Special Administrative Region have concluded this Annex on the arrangements for implementation of zero tariff for trade in goods.
2. Hong Kong continues to apply zero tariff to all imported goods of Mainland origin.
3. From 1 January 2004, the Mainland will implement by stages zero tariff on imported goods of Hong Kong origin. The term "imported goods of Hong Kong origin" refers to those goods that fulfil the requirements stipulated in Annex 2 of CEPA. The responsible department of the Hong Kong Special Administrative Region Government and its approved certification organisations will issue certificates of origin under CEPA according to the relevant laws of Hong Kong. Importers of goods benefiting from zero tariff under CEPA should submit to the Mainland Customs the certificates of origin issued by the responsible department of the Hong Kong Special Administrative Region Government or its approved certification organisations in accordance with the procedures set out in Annex 3 of CEPA.

4. From 1 January 2004 the Mainland will apply zero tariff to imported goods of Hong Kong origin as set out in Table 1 of this Annex. Table 1 forms an integral part of this Annex. Changes in the Mainland tariff codes will result in corresponding changes in the tariff codes set out in Table 1. In submitting applications for goods benefiting from zero tariff, Hong Kong manufacturers should use the tariff codes prevailing in that year.

5. The Mainland will apply zero tariff to imported goods of Hong Kong origin other than those set out in Table 1 of this Annex not later than 1 January 2006. The detailed implementation procedures are as follows:

(1) Application and Verification

1. From 1 January 2004, Hong Kong manufacturers may, in accordance with the rules made by the Hong Kong Special Administrative Region Government, submit applications for goods benefiting from zero tariff to the Hong Kong Trade and Industry Department.

2. The applicants will provide to the Hong Kong Trade and Industry Department the description of the goods, and information and data on the production capacity or projected level of production.

3. The Hong Kong Trade and Industry Department and the Hong Kong Customs and Excise Department will assess and verify the information provided by the applicants, and consolidate the applications for goods currently being produced and goods proposed to be produced separately.

(2) Confirmation and Consultations

1. Before 1 June each year, the Hong Kong Trade and Industry Department will submit the consolidated list on description of goods, and information and data on the production capacity or projected level of production to the Ministry of Commerce.

2. In conjunction with the relevant Mainland departments, the Ministry of Commerce and the Hong Kong Trade and Industry Department will jointly examine and confirm the list of goods before 1 August that year.

3. After confirmation of the list of goods, the General Administration of Customs and the Hong Kong Trade and Industry Department will enter into consultations on the rules of origin for the relevant goods. Both sides will complete the consultations on the rules of origin before 1 October that year.

(3) Announcement and Implementation

1. For goods currently being produced in Hong Kong, the Mainland will, in accordance with the consensus reached in the consultations, supplement the list of goods and the corresponding rules of origin in Table 1 of this Annex and Table 1 of Annex 2 respectively. Beginning 1 January of the year following the completion of consultations, the Mainland will, in accordance with the certificates of origin issued by

the Hong Kong issuing authorities, apply zero tariff to the import of the relevant goods under CEPA.

2. For products proposed to be produced in the future, the Mainland will, in accordance with the consensus reached in the consultations, supplement the rules of origin for these goods in Table 1 of Annex 2. After the applicant has put the proposed goods into production, the Hong Kong Trade and Industry Department will conduct verification jointly with the Hong Kong Customs and Excise Department and inform the Ministry of Commerce. The Mainland will, after confirmation by both sides, supplement the list of goods in Table 1 of Annex 1. Beginning 1 January of the year following confirmation by both sides, the Mainland will, in accordance with the certificates of origin issued by the Hong Kong issuing authorities, apply zero tariff to the import of the relevant goods under CEPA.

3. Both sides will announce the confirmed list of goods and the rules of origin before 1 December each year.

(4) The timetable for tariff reduction will be deferred by one year if information on goods seeking to benefit from zero tariff under CEPA is submitted by the Hong Kong Trade and Industry Department to the Ministry of Commerce after 1 June each year.

6. In the event that the implementation of this Annex causes substantial impact on the trade and relevant industries of either side, the two sides will, at the request of one side, conduct consultations on the relevant provisions in this Annex.

7. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September 2003 in the Chinese language.

Vice Minister of Commerce
People's Republic of China
Hong Kong Special
People's Republic of China

Financial Secretary
Administrative Region of the

(Signature)

(Signature)

<Courtesy English Translation : 29 September 2003>

Annex 2

Rules of Origin for Trade in Goods

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA"), the Mainland and the Hong Kong Special Administrative Region have concluded this Annex on the rules of origin for trade in goods.

2. Goods seeking zero tariff under CEPA and directly imported by one side from the other side will have the origin determined in accordance with the principles set out below:

(1) goods wholly obtained in one side is regarded as originating in that side; or

(2) for goods not wholly obtained in one side, a goods originates in that side only if it has undertaken substantial transformation in that side.

3. The term "goods wholly obtained in one side" as set out in Article 2(1) of this Annex refers to:

(1) mineral products mined or extracted in that side;

(2) plants or vegetable products harvested or collected in that side;

(3) live animals born and raised in that side;

(4) products obtained in that side from live animals specified in paragraph (3) of this Article;

(5) products obtained from hunting or fishing in that side;

(6) fish and other marine products obtained by fishing conducted in the high seas by vessels holding a licence issued by that side and flying the national flag (for Mainland vessels) or the Hong Kong Special Administrative Region flag (for Hong Kong vessels);

(7) products obtained from the processing of products set out in paragraph (6) of this Article aboard vessels holding a licence issued by that side and flying the national flag (for Mainland vessels) or the Hong Kong Special Administrative Region flag (for Hong Kong vessels);

(8) waste and scrap articles collected in that side which are produced from consumption in that side and fit only for the recovery of raw materials;

(9) waste and scrap which are produced from processing or manufacturing operations in that side and fit, only for the recovery of raw materials;

(10) goods obtained through processing in that side of products set out in paragraphs (1) to (9) of this Article.

4. Processes or treatment for the following specified purposes, whether undertaken individually or collectively, is regarded as minor processing treatment. Such treatment

will not be taken into account in determining whether the goods are wholly obtained or not:

- (1) processing or treatment for transportation or storage of goods;
- (2) processing or treatment to facilitate packaging and delivery of goods;
- (3) processing or treatment such as packaging or display for distribution and sale of goods.

5. On the criteria for “substantial transformation” set out in Article 2 (2) of this Annex, the two sides agree on the following:

(1) the criteria for determining “substantial transformation” may include “manufacturing or processing operations”, “change in tariff heading”, “value-added content”, “other criteria” or “mixed criteria”;

(2) “manufacturing or processing operations” refers to the principal manufacturing or processing operations carried out in the area of one side which confer essential characteristics to the goods derived after the operations;

(3) “change in tariff heading” refers to the processing and manufacturing operations of non-originating materials carried out in the area of one side and resulting in a product of a different four-digit tariff heading under the “Product Description and Harmonized System Codes”. Moreover, no production, processing or manufacturing operations will be carried out in countries or territories other than that side which will result in a change in the four-digit tariff heading;

(4) “value-added content” refers to the total value of raw materials, component parts, labour costs and product development costs exclusively incurred in one side being greater than or equal to 30% of the FOB value of the exporting goods, and that the final manufacturing or processing operations should be completed in the area of that side. The formula for calculation is as follows:

$$\frac{\text{value of raw materials} + \text{value of component parts} + \text{labour costs} + \text{product development costs}}{\text{FOB value of the exporting goods}} \times 100\% \geq 30\%$$

(i) “product development” refers to product development carried out in the area of one side for the purposes of producing or processing the exporting goods. Development expenses incurred should be related to the exporting goods. These expenses include fees payable for the development of designs, patents, patented technologies, trademarks or copyrights (collectively “these rights”) carried out by the manufacturer himself, fees payable to a natural or legal person in the area of one side for undertaking development of these rights, and fees payable for purchasing these rights owned by a natural or legal person in the area of one side. The fees payable should be clearly identifiable under generally accepted accounting principles and the requirements of

“Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994”;

(ii) calculation of the above “value-added content” will be consistent with generally accepted accounting principles and the “Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994”;

(5) “other criteria” refers to methods agreed by both sides in determining origin, other than “manufacturing or processing operations”, “change in tariff heading” and “value-added content” as set out above;

(6) “mixed criteria” refers to the use of two or more of the above criteria in determining origin.

6. Simple diluting, mixing, packaging, bottling, drying, assembling, sorting or decorating will not be regarded as substantial transformation. Enterprises adopting production or pricing practices with the purpose of circumventing provisions in this Annex will also not be regarded as substantial transformation.

7. In determining the origin of the goods, the origin of energy, factory premises, facilities, machinery and equipment, and tools for production of the goods will not be taken into account; origin of the materials used in the production process but not constituting the composition or the component parts of the goods will also not be taken into account.

8. The following factors will not be taken into account in determining origin:

(1) package, packaging materials and repository accompanying the goods for import customs declaration and classified as the same item with the goods in the “Customs Import and Export Tariff of the People’s Republic of China”;

(2) parts, spare parts, tools and explanatory materials accompanying the goods for import customs declaration classified as the same item with the goods in the “Customs Import and Export Tariff of the People’s Republic of China”.

9. The two sides have drawn up the “Schedule on Rules of Origin for Hong Kong Goods Benefiting from Tariff Preference for Trade in Goods” (Table 1 of this Annex) in accordance with the eight-digit tariff headings of the “Customs Import and Export Tariff of the People’s Republic of China” and the criteria prescribed in this Annex. Table 1 forms an integral part of this Annex. Under CEPA, goods which meet the origin requirements of Table 1 of this Annex are regarded as having undergone substantial transformation in Hong Kong.

For goods of Hong Kong origin and goods proposed to be produced in Hong Kong which are entitled to zero tariff under Article 5 of Annex 1, their rules of origin will be supplemented in Table 1 of this Annex.

10. The goods seeking zero tariff under CEPA should be directly transported from the port of one side to the port of the other side.

11. Upon implementation of this Annex, if one side considers necessary to amend the content of this Annex or the rules of origin of the goods listed in the Table 1 of this Annex due to the advancement of production technologies or other reasons, one side may request the other side to enter into consultations and submit a written explanation with supporting data and information. Resolution will be made through consultations conducted by the Joint Steering Committee established under Article 19 of CEPA.

12. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September 2003 in the Chinese language.

Vice Minister of Commerce
People's Republic of China Financial Secretary
Hong Kong Special Administrative Region of the People's Republic of China

(signature)

(signature)

<Courtesy English Translation : 29 September 2003>

Annex 3

Procedures for the Issuing and Verification of Certificates of Origin

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA"), the Mainland and the Hong Kong Special Administrative Region have concluded this Annex on the procedures for the issuing and verification of certificates of origin, and for strengthening enforcement co-operation between the two sides.

2. The issuing authorities of certificates of Hong Kong origin are the Hong Kong Trade and Industry Department and the "approved bodies" specified in the "Protection of Non-Government Certificates of Origin Ordinance" (Chapter 324, Laws of Hong Kong). If there is any change to the Hong Kong issuing authorities, the Customs General Administration will be informed immediately.

3. The content and format of the certificate of Hong Kong origin is set out in Form 1. Form 1 is an integral part of this Annex. Any change to the content and format of the certificate of origin will be agreed by both sides through consultation.

4. The Hong Kong Trade and Industry Department will provide specimens of the official stamps on the certificates of origin to the Customs General Administration for record purpose. If there is any change to the official stamps used on the certificates of origin, the Customs General Administration will be informed immediately.

5. Prior to exportation of goods of Hong Kong which are entitled to zero tariff under CEPA, the exporter or manufacturer will apply for a certificate of Hong Kong origin from the Hong Kong issuing authorities.

6. A certificate of Hong Kong origin issued by the Hong Kong issuing authorities must satisfy the following requirements:

(1) A certificate of origin will have a unique certification reference number.

(2) Each certificate of origin will only cover one batch of goods that enter into the Mainland at the same time. A certificate of origin may contain not more than five eight-digit tariff heading items, and all of them must be goods listed in Table 1 of Annex 1 of CEPA.

(3) A certificate of origin will specify the designated single port of discharge.

(4) The Mainland Harmonized System code for products on a certificate of origin will be completed in accordance with the eight-digit tariff code stipulated in the applicable "Customs Import and Export Tariff of the People's Republic of China".

(5) The quantity unit on a certificate of origin will be completed by reference to the applicable quantity unit as used in the actual transaction.

(6) Correction or double printing is not allowed on a certificate of origin; otherwise, the certificate must be re-issued.

(7) A certificate of origin will be valid for 120 days from the date of issue.

(8) A certificate of origin will be printed in Chinese on A4 size paper according to the format of Form 1. This language requirement will be implemented not later than 1 July 2004.

(9) In the event of theft, loss or damage of a certificate of origin, the exporter or manufacturer may make a written request to the Hong Kong issuing authorities for the issue of a duplicate certificate. The exporter or manufacturer will ensure that the original copy has not been used. The duplicate certificate will bear the words "certified true copy". If the original certificate has been used, the duplicate certificate will be invalid. If the duplicate certificate has been used, the original certificate will be invalid.

7. The two sides will manage the origin declarations of Hong Kong goods which are entitled to zero tariff under CEPA through interconnection, and will transmit the following information by means of electronic data interchange through a dedicated line to the Customs General Administration:

(1) From 1 January 2004, the Hong Kong Trade and Industry Department will, within ten days after the end of each quarter, transmit to the Customs General Administration production data and information on certificates of origin issued for Hong Kong goods benefiting from zero tariff in the previous quarter;

(2) After the issue of a certificate of origin by the Hong Kong issuing authorities, the Hong Kong Trade and Industry Department will immediately transmit basic information on the certificate of origin, including the certificate number, name of exporter, factory registration number, port of discharge, Mainland Harmonised System code of the product, product name, quantity unit and quantity, amount and currency, and the name of the Hong Kong issuing authority, etc., to the Customs General Administration through a designated line;

(3) The customs administration at the port of clearance will verify the certificate of origin submitted by the importer against the electronic data transmitted by the Hong Kong Trade and Industry Department. If the information is verified to be in order, an acknowledgement will be sent to the Hong Kong Trade and Industry Department within seven days to complete the verification and endorsement process;

(4) Other information which is considered necessary by the two sides.

8. In making an import declaration, the importer should take the initiative to inform the customs administration at the port of clearance that the goods are eligible for zero tariff and submit a valid certificate of origin. If the information is verified to be in order through interconnection by the customs administration at the port of clearance, the imported goods will be granted zero tariff treatment. In the event that the information cannot be verified through interconnection, the customs administration at the port of clearance may, at the request of the importer, act in accordance with the stipulated import procedures and release the goods. However, a deposit of an amount equal to the tariff charged at the applicable non-CEPA import tariff rate will be collected for the goods concerned. The customs administration at the port of clearance will verify the details on the certificate of origin within 90 days following the release of the goods and, in accordance with the verification results, proceed with the procedure to either return the deposit or convert the deposit to import tariff.

9. If the customs administration at the port of clearance has doubts about the authenticity of the content of a certificate of origin, it may, through the Customs General Administration or its authorised customs unit, seek assistance from the Hong Kong Customs and Excise Department for verification. The Hong Kong Customs and Excise Department will respond within 90 days after receiving such requests. If the Hong Kong Customs and Excise Department cannot complete the verification and confirm the status of the certificate of origin of the goods concerned within 90 days, the Customs General Administration may notify the customs administration at the port of clearance to act in accordance with the stipulated import procedures and release the goods. However, a deposit of an amount equal to the tariff charged at the applicable non-CEPA import tariff rate will be collected for the goods. After verification by the Hong Kong Customs and Excise Department, the customs administration at the port of

clearance will, in accordance with the verification results, immediately proceed with the procedure to either return the deposit or convert the deposit to import tariff.

10. The two sides may incorporate the administrative assistance required for the purpose of implementing the rules of origin in Annex 2 of CEPA and this Annex in the "Customs Co-operative Arrangement" concluded between the Customs General Administration and the Hong Kong Customs and Excise Department. The two sides may exchange relevant information, including information about the origin of the goods imported from Hong Kong to the Mainland, the authenticity of the contents in a certificate of origin, whether the Hong Kong goods enjoying zero tariff comply with the rules of origin, and other information which may facilitate the monitoring of the proper implementation of this Annex. Subject to the agreement of both sides, the staff of one side may conduct visits to the other side for the purpose of understanding the relevant situation.

11. The customs administrations of the two sides will notify each other and take appropriate legal action if the investigation by one side confirms that goods subject to zero tariff do not comply with the requirements set out in Table 1 of Annex 2 of CEPA and this Annex.

12. Both sides will maintain the confidentiality of information in respect of information exchanged for the purpose of verifying the origin of goods imported. In the absence of consent from the applicant of the certificate of origin, no such information will be disclosed or used for other purposes, unless it is required by judicial proceedings.

13. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September 2003 in the Chinese language.

Vice Minister of Commerce

People's Republic of China

Hong Kong Special Administrative Region of the People's Republic of China

Financial Secretary

(signature)

(signature)

<Courtesy English Translation: 29 September 2003>

Annex 4

Specific Commitments on Liberalization of Trade in Services

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereafter called "CEPA"), the Mainland and Hong Kong Special Administrative Region

have concluded this Annex on the specific commitments of the liberalization of trade in services.

2.As from 1 January 2004, the Mainland will apply to services and service suppliers of Hong Kong the specific commitments set out in Table 1 of this Annex. Table 1 forms an integral part of this Annex. The commitments for value-added telecommunication services will apply as from 1 October 2003.

3.In respect of the service sectors, sub-sectors or relevant measures not covered by this Annex, the Mainland will apply Annex 9 of the "Schedule of Specific Commitments on Services List of Article II MFN Exemptions" of the "Protocol on the Accession of the People's Republic of China".

4.In respect of the implementation of the specific commitments set out in Table 1 of this Annex, apart from applying the provisions of this Annex, the relevant laws and regulations, and administrative regulations of the Mainland should also be applicable.

5.As from 1 January 2004, Hong Kong will not impose any new discriminatory measures on Mainland's services and service suppliers in those areas of services covered in Table 1 of this Annex.

6.The two sides will, through consultations, formulate and implement further liberalization of Hong Kong's service sectors for the Mainland. The relevant specific commitments will be listed in Table 2. Table 2 forms an integral part of this Annex.

7.The two sides will, through consultations, formulate and implement specific commitments of Hong Kong in relation to Mainland people obtaining professional qualifications of Hong Kong.

8.In the event that the implementation of this Annex causes substantial impact on the trade and relevant sectors of either side, the two sides will conduct consultations on the relevant provisions of this Annex at the request of either side.

9.This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September 2003 in the Chinese language.

Vice Minister of Commerce

People's Republic of China

Financial Secretary

Hong Kong Special Administrative Region of the People's Republic of China

(signature)

(signature)

Table 1

The Mainland's Specific Commitments on Liberalization of Trade in Services for Hong Kong

Sectors or sub-sectors

1. Business services

A. Professional services

a. Legal services (CPC861)

Specific commitments 1. To allow Hong Kong law firms (offices) that have set up representative offices in the Mainland to operate in association with Mainland law firms,

except in the form of partnership. Hong Kong lawyers participating in such association cannot handle matters of Mainland law.

2. To allow Mainland law firms to employ Hong Kong legal practitioners². Such practitioners who are employed by Mainland law firms must not handle matters of Mainland law.

3. To allow the 15 Hong Kong lawyers who have already acquired Mainland lawyer qualifications to intern and practise on non-litigation legal work in the Mainland.

4. To allow Hong Kong permanent residents with Chinese citizenship to sit the legal qualifying examination in the Mainland and acquire Mainland legal professional qualification in accordance with the “State Judicial Examination Implementation Measures”.

5. To allow those who have acquired Mainland legal professional qualification under item 4 above to engage in non-litigation legal work in Mainland law firms in accordance with the “Law of the People's Republic of China on Lawyers”.

6. The minimum residency requirement is waived for all Hong Kong representatives stationed in the Mainland representative offices of Hong Kong law firms (offices) located in Shenzhen and Guangzhou. For the Hong Kong representatives stationed in the Mainland representative offices of Hong Kong law firms (offices) located in places other than Shenzhen and Guangzhou, their minimum residency requirement is 2 months each year.

Sectors or sub-sectors

1. Business services

A. Professional services

b. Accounting, auditing and bookkeeping services (CPC862)

Specific commitments 1. Hong Kong accountants who have already qualified as Chinese Certified Public Accountants (CPAs) and practised in the Mainland (including partnership) are treated on par with Chinese CPAs in respect of the requirement for annual residency in the Mainland.

2. The validity period of the “Temporary Auditing Business Permit” applied by Hong Kong accounting firms to conduct temporary auditing services in the Mainland is 1 year.

Sectors or sub-sectors

1. Business services

A. Professional services

d. Architectural services (CPC8671)

e. Engineering services (CPC8672)

f. Integrated engineering services (CPC8673)

g. Urban planning and landscape architectural services (except general urban planning) (CPC8674)

Specific commitments To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, architectural services, engineering services, integrated engineering services, urban planning and landscape architectural services in the Mainland.

Sectors or sub-sectors

1. Business services

A. Professional services

h. Medical and dental services (CPC9312)

Specific commitments 1. The majority of medical personnel employed by Hong Kong-Mainland joint venture hospitals or clinics can be Hong Kong permanent residents.

2.The maximum duration of the licence to provide short-term medical, dental and Chinese medicine services in Mainland is 3 years for practitioners who are legally eligible to practise in the Hong Kong Special Administrative Region. On expiry, the licence for short term practice is renewable.

3. To allow Hong Kong permanent residents, who have acquired a medical degree from the University of Hong Kong, or the Chinese University of Hong Kong, and who are legally eligible to practise in Hong Kong and have completed 1 year internship in Hong Kong, to sit the Mainland's qualification examination. A "medical practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

4. To allow Hong Kong permanent residents who have acquired a dental degree from the University of Hong Kong and who are legally eligible to practise in Hong Kong and have practised for more than 1 year to sit the Mainland's qualification examination. A "medical (dental) practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

5.To allow Hong Kong permanent residents in possession of a medicine higher degree from a full-time tertiary institution approved by the Education Administration Department of the Mainland State Council to sit the Mainland's qualification examination after they have passed the Hong Kong qualification examination, and after they have completed one year of internship and become legally eligible to practise in Hong Kong. A "medical practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

6. To allow Hong Kong permanent residents in possession of a dental higher degree from a full-time tertiary institution approved by the Education Administration Department of the Mainland State Council to sit the Mainland's dental qualification examination after they have become legally eligible to practise through examination in Hong Kong and after they have been licensed to practise for over one year. A "medical (dental) practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

7. Hong Kong permanent residents in possession of a medicine or dental higher degree from a full-time tertiary institution approved by the Education Administration Department of the Mainland State Council may sit the Mainland's qualification

examination in accordance with paragraphs 5 and 6 above. They may also sit the Mainland's qualification examination after they have completed one year's internship in the Mainland and passed an assessment in accordance with the relevant requirements. A "medical (or medical (dental)) practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

8. To allow Hong Kong permanent residents who have acquired a Chinese medicine degree from the Chinese University of Hong Kong or the Hong Kong Baptist University and are legally eligible to practise in Hong Kong to sit the Mainland's qualification examination on the condition that they have completed 1 year's internship in a third-level Chinese medicine hospital in the Mainland and have passed the performance test; or that they have been practising in Hong Kong for more than 1 year. A "medical (Chinese medicine) practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

9. To allow Hong Kong permanent residents who are in possession of a Chinese medicine higher degree from a full-time tertiary institution approved by the Education Administration Department of the Mainland State Council to sit the Mainland's medical qualification Examination after they have become legally eligible to practise in Hong Kong for over one year through the Chinese medicine qualification examination for one year. They may also sit the Mainland's medical qualification examination after they have completed one year of internship in the Mainland and passed an assessment and in accordance with the relevant requirements. A "medical (Chinese medicine) practitioner's qualification certificate" of the Mainland will be issued to those who pass the examination.

10. The categories of medical qualification examinations that Hong Kong permanent residents may apply to sit are clinical medicine, Chinese medicine and dental medicine.

Sectors or sub-sectors

1. Business services

D. Real estate services

a. Real estate services involving own or leased property (CPC821)

b. Real estate services on a fee or contract basis (CPC822)

Specific commitments 1. To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, high standard real estate projects services in the Mainland.

2. To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, real estate services on a fee or contract basis in the Mainland.

Sectors or sub-sectors

1. Business services

F. Other business services

a. Advertising services (CPC871)

Specific commitments To allow Hong Kong service suppliers to set up wholly-owned advertising firms in the Mainland.

Sectors or sub-sectors

1. Business services

F. Other business services

c. Management Consulting services (CPC86501, 86502, 86503, 86504, 86505, 86506, 86509)

Specific commitments 1. To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, management consulting services, including general management consulting services, financial management consulting services (except business tax), marketing management consulting services, human resources management consulting services, production management consulting services, public relations services and other management consulting services in the Mainland.

2. The minimum registered capital requirement for Hong Kong service suppliers providing management consulting services in the Mainland follows the requirements in the "Company Law of the People's Republic of China".

Sectors or sub-sectors

1. Business services

F. Other business services

Convention services and exhibition services (CPC87909)

Specific commitments To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, convention services and exhibition services in the Mainland.

Sectors or sub-sectors

2. Communication services

C. Telecommunication services

Valued-added services

Specific commitments

1. As from 1 October 2003, to allow Hong Kong service suppliers to set up joint venture enterprises in the Mainland to provide the following five types of value-added telecommunication services :

- (1) internet data centre services;
- (2) store and forward services;
- (3) call centre services;
- (4) internet access services;
- (5) content services.

2. Hong Kong service suppliers' shareholding in the joint venture enterprises engaging in the value-added telecommunication services mentioned in item 1 above should not exceed 50%.

3. There will be no geographic restriction for the joint venture enterprises formed by Hong Kong service suppliers and the Mainland to provide value-added telecommunication services mentioned in item 1 above.

Sectors or sub-sectors

2. Communication services

D. Audiovisual services

Videos distribution services (CPC83202), Sound recording products distribution services

Cinema theatre services

Chinese language motion pictures and motion pictures jointly produced

Specific commitments Videos, sound recording products distribution services

1. To allow Hong Kong service suppliers to provide, in the form of joint venture, videos and sound recording products (including motion picture products) distribution services in the Mainland.¹

2. To allow majority shareholding, not exceeding 70%, for Hong Kong service suppliers. Cinema theatre services

1. To allow Hong Kong service suppliers to construct, renovate and operate cinema theatres on an equity joint venture or contractual joint venture basis.

2. To allow majority shareholding, not exceeding 75%, for Hong Kong service suppliers.

Chinese language motion pictures and motion pictures jointly produced

1. Chinese language motion pictures produced in Hong Kong may be imported for distribution in the Mainland on a quota-free basis, after vetting and approval by the relevant Mainland authority.

2. Chinese language motion pictures produced in Hong Kong refer to those motion pictures made by production companies which are set up or established in accordance with the relevant laws of the Hong Kong Special Administrative Region, and which own more than 75% of the copyright of the motion pictures concerned. Hong Kong residents should comprise more than 50% of the total principal personnel in the motion pictures concerned.

3. Motion pictures jointly produced by Hong Kong and the Mainland are treated as Mainland motion pictures for the purpose of distribution in the Mainland. Translated versions of the motion pictures in languages of other Chinese ethnic groups and Chinese dialects, which are based on the Putonghua version, are allowed to be distributed in the Mainland.

4. For motion pictures jointly produced by Hong Kong and the Mainland, there is no restriction on the percentage of principal creative personnel from Hong Kong, but at least one-third of the leading artistes must be from the Mainland; there is no restriction on where the story takes place, but the plots or the leading characters must be related to the Mainland.

Sectors or sub-sectors

3. Construction and related engineering services

CPC511, 512, 513 , 514, 515, 516, 517, 518
Specific commitments

1. For construction enterprises set up in the Mainland by Hong Kong service suppliers, the performance of both the enterprises in Hong Kong and in the Mainland is taken into account in assessing the qualification of the construction enterprises in the Mainland. However, the number of managerial and technical staff in the construction enterprises in the Mainland will be the actual number of staff working there.
2. To allow Hong Kong service suppliers to wholly acquire construction enterprises in the Mainland.
3. Construction enterprises in the Mainland set up and invested by Hong Kong service suppliers are exempted from foreign investment restrictions when undertaking Chinese-foreign joint construction projects.
4. Construction enterprises in the Mainland invested by Hong Kong service suppliers will follow the relevant laws and regulations in the Mainland for application of construction qualification certificates. Those which have acquired such certification are permitted in accordance with laws to bid for construction projects in all parts of the Mainland.

Sectors or sub-sectors

4. Distribution services
 - A. Commission agents' services (excluding salt and tobacco)
 - B. Wholesale trade services (excluding salt and tobacco)

Specific commitments

1. To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, commission agents' services and wholesale trade services and to set up wholly-owned external trading companies in the Mainland.
2. To apply for the setting up of wholesale commercial enterprises in the Mainland on a wholly-owned, equity joint venture, or contractual joint venture basis, Hong Kong service suppliers must fulfill the following conditions:

The average annual sales value of a Hong Kong service supplier in the preceding 3 years is not less than US\$30 million; the asset in the preceding year is not less than US\$10 million; the minimum registered capital for setting up an enterprise in the Mainland is RMB 50 million. For setting up a wholesale commercial enterprise in the Central and Western Region², the average annual sales value of a Hong Kong service supplier in the preceding 3 years is not less than US\$20 million; the minimum registered capital is RMB 30 million.

3. To apply for the setting up of external trading companies in the Mainland on a wholly-owned, equity joint venture or contractual joint venture basis, the Hong Kong service suppliers must fulfill the following conditions:

The average annual trade value with the Mainland of a Hong Kong service supplier in the preceding 3 years is not less than US\$10 million; for setting up an external trading company in the Central and Western Region, the average annual trade value with the Mainland of a Hong Kong service supplier in the preceding 3 years is not less than US\$5 million; the minimum registered capital for setting up a company in the Mainland is RMB 20 million; for setting up an external trading company in the Central and Western Region, the minimum registered capital is RMB 10 million.

4. There are no geographic restrictions for Hong Kong service suppliers to provide, in the form of wholly-owned operations, commission agents' services and wholesale trade services in the Mainland.

Sectors or sub-sectors

4. Distribution services

C. Retailing services (excluding tobacco)

Specific commitments

1. To allow Hong Kong service suppliers to set up wholly-owned retail commercial enterprises in the Mainland.

2. To apply for the setting up of retail commercial enterprises in the Mainland on a wholly-owned, equity joint venture or contractual joint venture basis, Hong Kong service suppliers must fulfill the following conditions:

The average annual sales value of a Hong Kong service supplier in the preceding 3 years is not less than US\$100 million; the minimum asset in the previous year is US\$10 million; the minimum registered capital for setting up an enterprise in the Mainland is RMB 10 million. For setting up a retail commercial enterprise in the Central and Western Region, the minimum registered capital is RMB 6 million.

3. To allow Hong Kong service suppliers to set up retailing enterprises in all cities at the prefectural level in the Mainland, and cities at the county level in Guangdong Province.

4. To allow Hong Kong service suppliers to set up wholly owned retailing enterprises in the Mainland for sale of motor vehicles.²

5. To allow Hong Kong permanent residents with Chinese citizenship to set up, in accordance with the relevant laws and regulations, and administrative regulations, individually owned stores in Guangdong to provide retailing services excluding franchising operation, without being subject to the approval procedures applicable to foreign investments. The sales area of such stores should not exceed 300 square metres.

Sectors or sub-sectors

4. Distribution services

D. Franchising

Specific commitments To allow Hong Kong service suppliers to engage, in the form of wholly-owned operations, in franchising in the Mainland.

Sectors or sub-sectors

7. Financial services

A. All insurance and insurance-related services

- a. Life, health and pension/ annuities insurance
- b. Non-life insurance
- c. Reinsurance
- d. Services auxiliary to insurance

Specific commitments

1. To allow groups formed by Hong Kong insurance companies through re-grouping and strategic mergers to enter the Mainland insurance market subject to established market access conditions (total assets held by the group of over US\$ 5 billion; more than 30 years of establishment experience attributable to one of the Hong Kong insurance companies in the group; and a representative office established in the Mainland for over 2 years by one of the Hong Kong insurance companies in the group).

2. The maximum limit of capital participation by a Hong Kong insurance company in a Mainland insurance company is 24.9%.

3. To allow Hong Kong residents with Chinese citizenship, after obtaining the Mainland's professional qualifications in actuarial science, to practise in the Mainland without prior approval.

4. To allow Hong Kong residents, after obtaining the Mainland's insurance qualifications and being employed or appointed by a Mainland insurance institution, to engage in the relevant insurance business.

Sectors or sub-sectors

7. Financial services

B. Banking and other financial services (excluding insurance and securities)

- a. Acceptance of deposits and other repayable funds from the public;
- b. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- c. Financial leasing;
- d. All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts (including import and export settlement);
- e. Guarantees and commitments;
- f. Trading for own account or for account of customers: foreign exchange.

Specific commitments 1. For Hong Kong banks to set up branches or body corporates in the Mainland, the total asset requirement at the end of the year preceding application is not less than US\$ 6 billion; for finance companies to set up body corporates, the total asset requirement at the end of the year preceding application is not less than US\$ 6 billion.

2. There will be no requirement for setting up a representative office in the Mainland before a Hong Kong bank establishes a joint venture bank or joint venture finance company in the Mainland, or before a Hong Kong finance company establishes a joint venture finance company in the Mainland.

3. For Mainland branches of Hong Kong banks to apply to conduct RMB business:
(1) they should have been operating in the Mainland for more than 2 years;
(2) in conducting profitability assessment, the relevant authorities will base their assessment on the overall profitability position of all branches of the bank in the Mainland instead of the profitability position of its individual branches.

Sectors or sub-sectors

7. Financial services

B. Banking and other financial services

Securities

Specific commitments

1. To allow the Hong Kong Exchanges and Clearing Limited to set up a representative office in Beijing.

2. To simplify the relevant procedures for Hong Kong professionals applying in the Mainland for securities and futures industry qualifications. Hong Kong professionals applying to obtain securities and futures industry qualifications of the Mainland need only to undertake training and pass examination on Mainland laws and regulations; and examination on professional knowledge is not required.

Sectors or sub-sectors

9. Tourism and travel related services

A. Hotels (including apartment buildings) and restaurants (CPC641-643)

B. Travel agency and tour operator (CPC7471)

Others

Specific commitments

1. To allow Hong Kong service suppliers to construct, renovate and operate, on a wholly-owned basis, hotels, apartment buildings and restaurant establishments in the Mainland.

2. There will be no geographic restriction on Hong Kong travel agencies forming joint venture travel agencies in the Mainland where the Mainland agencies have majority shareholding.

3. To allow residents of Beijing, Shanghai, and Guangzhou, Shenzhen, Zhuhai, Dongguan, Zhongshan, Jiangmen, Foshan and Huizhou of the Guangdong Province to visit Hong Kong individually for tourism, and to allow the same in respect of the whole of Guangdong Province not later than 1 July 2004.

Sectors or sub-sectors

11. Transport services

A. Maritime transport services

H. Auxiliary services

International transport (freight and passengers) (CPC7211, 7212, less cabotage transport services)

Container station and depot services

Others

Specific commitments

1. To allow Hong Kong service suppliers to set up wholly-owned enterprises in the Mainland to operate international ship management services, storage and warehousing for international maritime freight, container station and depot services, and non-vessel operating common carrying services.

2. To allow Hong Kong service suppliers to set up wholly-owned shipping companies in the Mainland to provide regular business services for vessels that they own or operate, such as shipping undertaking, issuance of bills of lading, settlement of freight rates, signing of service contracts, etc.

3. To allow Hong Kong service suppliers to use liner vessels serving main routes to move, without any restrictions, empty containers that they own or rent, as long as customs procedures are observed.

Sectors or sub-sectors

11. Transport services

F. Road transport services

Freight transportation by road in trucks or cars (CPC7123)

Road passenger transportation (CPC7121, 7122)

Specific commitments 1. To allow Hong Kong service suppliers to set up wholly-owned enterprises in the Mainland to provide road freight transport services.

2. To allow Hong Kong service suppliers to provide direct non-stop road freight transport services between Hong Kong and individual provinces, cities and autonomous regions in the Mainland.

3. To allow Hong Kong service suppliers to set up wholly-owned enterprises in the Western Region of the Mainland to provide road passenger transport services

Sectors or sub-sectors

11. Transport services

H. Services auxiliary to all modes of transport

Storage and warehouse services (CPC742)

Specific commitments 1. To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, storage and warehousing services in the Mainland.

2. The minimum registered capital requirement for storage and warehousing enterprises in the Mainland set up and invested by Hong Kong service suppliers will be the same as that for Mainland enterprises.

Sectors or sub-sectors

11. Transport services

H. Services auxiliary to all modes of transport

Freight forwarding agency services (CPC748, 749, excluding freight inspection)

Specific commitments 1. To allow Hong Kong service suppliers¹ to provide, in the form of wholly-owned operations, freight forwarding agency services in the Mainland.

2. The minimum registered capital requirement for international freight forwarding agency enterprises in the Mainland set up and invested by Hong Kong service suppliers will be the same as that for Mainland enterprises.

Sectors or sub-sectors

Service sectors (sectors not set out in GNS/W/120)

Logistics services

Specific commitments To allow Hong Kong service suppliers to provide, in the form of wholly-owned operations, logistics services in the Mainland, which include road transport, storage and warehousing, loading and unloading, value adding processing, packaging, delivery and related information and consultancy services for ordinary road freight; freight transport agency services within the Mainland; and the management and operation of logistics services through computing network.

Table 2

Hong Kong's Specific Commitments on Liberalization of Trade in Services for the Mainland¹

<Courtesy English Translation: 29 September 2003>

Annex 5

Definition of "Service Supplier" and Related Requirements

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA"), the Mainland and Hong Kong Special Administrative Region have concluded this Annex on the definition of "service supplier" and related requirements.

2. Unless otherwise stipulated in CEPA and its Annexes, "service supplier" as used in CEPA and its Annexes refers to any person that supplies a service. In this context:

2.1. "person" means either a natural person or a juridical person;

2.2. “natural person”:

2.2.1. in the case of the Mainland, means a citizen of the People's Republic of China;

2.2.2. in the case of Hong Kong, means a permanent resident of the Hong Kong Special Administrative Region of the People's Republic of China;

2.3. “juridical person” means any legal entity duly constituted or otherwise organized under the applicable laws of the Mainland or the Hong Kong Special Administrative Region, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association (business association).

3. The specific criteria for Hong Kong service suppliers who provide services in the form of juridical persons:

3.1. with the exception of the legal services sector, a Hong Kong service supplier, when applying to provide the relevant services under Annex 4 in the Mainland, should:

3.1.1. be incorporated or established pursuant to the Companies Ordinance or other relevant laws of the Hong Kong Special Administrative Region, and have obtained a valid Business Registration Certificate. If required by law, it should also have obtained the licence or permit for providing such services; and

3.1.2. engage in substantive business operations in Hong Kong. The criteria for determination are:

(1) The nature and scope of business

The nature and scope of the services provided by a Hong Kong service supplier in Hong Kong should encompass the nature and scope of the services it intends to provide in the Mainland.

(2) Years of operation required

A Hong Kong service supplier should be incorporated or established in Hong Kong, and have engaged in substantive business operations for 3 years or more.

A Hong Kong service supplier providing construction and related engineering services should be incorporated or established in Hong Kong, and have engaged in substantive business operations for 5 years or more; there is no limitation on the years of substantive business operations in Hong Kong for Hong Kong service suppliers providing real estate services;

A Hong Kong service supplier providing banking and other financial services (excluding insurance and securities), i.e. a Hong Kong bank or finance company should have engaged in substantive business operations for 5 years or more after it has been granted a relevant licence by the Monetary Authority pursuant to the Banking Ordinance;

A Hong Kong service supplier providing insurance and related services, i.e. a Hong Kong insurance company should be incorporated or established in Hong Kong and have engaged in substantive business operations for 5 years or more.

(3) Profits tax

During the period of substantive business operations in Hong Kong, a Hong Kong service supplier should have paid profits tax in accordance with the law.

(4) Business premises

A Hong Kong service supplier should own or rent premises in Hong Kong to engage in substantive business operations. The scale of its business premises should be commensurate with the scope and the scale of its business.

For a Hong Kong service supplier providing maritime transport services, 50% or more of the ships owned by it, calculated in terms of tonnage, should be registered in Hong Kong.

(5)Employment of staff

Among the staff employed by the Hong Kong service supplier in Hong Kong, more than 50% should be residents staying in Hong Kong without limit of stay, and people from the Mainland staying in Hong Kong on One Way Permit.

3.2. A Hong Kong law firm (office) of the legal services sector, when applying to provide the relevant services under Annex 4 in the Mainland, should:

3.2.1. pursuant to the relevant legislation of the Hong Kong Special Administrative Region be registered and established as a Hong Kong law firm (office) and have obtained a valid Business Registration Certificate.

3.2.2. the sole proprietor and all the partners of the relevant law firm (office) should be registered practising lawyers,

3.2.3. The principal scope of business of the relevant law firm (office) should be to provide Hong Kong legal services in Hong Kong.

3.2.4. The relevant law firm (office) or its sole proprietor or partners should pay profits tax in accordance with the law.

3.2.5. The relevant law firm (office) should have engaged in substantive business operations in Hong Kong for 3 years or more.

3.2.6. The relevant law firm (office) should own or rent premises in Hong Kong to engage in substantive business operations.

4.Unless otherwise stipulated in CEPA and its Annexes, Hong Kong service suppliers providing services in the form of natural persons should be permanent residents of the Hong Kong Special Administrative Region of the People's Republic of China.

5.Service suppliers of the Mainland should fulfil the definition of Article 2 of this Annex. Specific criteria will be determined by the two sides through consultation.

6.To obtain the treatment under CEPA, a Hong Kong service supplier should provide:

6.1. In the event that the Hong Kong service supplier is a juridical person, the Hong Kong service supplier should submit the following documents and information, and statutory declaration, which have been verified by relevant institutions (persons) of Hong Kong, as well as the certificate issued by the Government of the Hong Kong Special Administrative Region:

6.1.1. Documents and information (if applicable)

(1)Copy of the Certificate of Incorporation issued by the Companies Registry of the Hong Kong Special Administrative Region;

(2)Copy of Hong Kong Special Administrative Region's Business Registration Certificate and an Extract of Information on the Register of Businesses;

(3)Annual reports or audited financial statements of the Hong Kong service supplier for the past 3 years (or 5 years);

(4)Original or copy of document(s) substantiating the owning or renting of business premises in Hong Kong by the Hong Kong service supplier;

(5)Copy of the Profits Tax Returns, Notice of Assessment and Demand for Tax in respect of the Hong Kong service supplier for the past 3 years (or 5 years); in the event

of loss, the Hong Kong service supplier should provide supporting document(s) from the relevant department of the Hong Kong Special Administrative Region regarding the loss;

(6) Copy of the Employer's Return of Remuneration and Pensions of the Hong Kong service supplier in respect of the remuneration and pension of its employees in Hong Kong, and the original or a copy of other relevant document(s) substantiating that the company fulfils the requirement of Article 3.1.2.(5) of this Annex on the percentage threshold;

(7) Original or copy of other relevant document(s) that can substantiate the nature and scope of the business in Hong Kong of the Hong Kong service supplier.

6.1.2. Statutory declaration

For any Hong Kong service supplier applying to obtain treatment under CEPA, its authorized representative should make a statutory declaration pursuant to the procedures and requirements of the Oaths and Declarations Ordinance of the Hong Kong Special Administrative Region. The form of the declaration will be decided by the relevant authorities of the Mainland and the Hong Kong Special Administrative Region through consultation.

6.1.3. Certificate

A Hong Kong service supplier should submit the documents and information, and the statutory declaration as required under Article 6.1.1 and 6.1.2 of this Annex to the Trade and Industry Department of the Hong Kong Special Administrative Region (hereinafter called "TID") for examination. TID may, in the circumstances it considers necessary, entrust other government departments of the Hong Kong Special Administrative Region, statutory bodies, or independent professional personnel (institutions) to conduct verification. TID will issue a certificate to the applicants that it considers to have fulfilled the criteria of Hong Kong service suppliers as required under this Annex. The contents and form of the certificate will be decided by the relevant authorities of the Mainland and the Hong Kong Special Administrative Region through consultation.

6.2. In the event that a Hong Kong service supplier is a natural person, the Hong Kong service supplier should provide identification of his or her Hong Kong permanent resident status, and for Chinese citizens among such service suppliers, they should also provide their Home Visit Permit for Hong Kong and Macau Residents or Hong Kong Special Administrative Region passport.

6.3. Copies of the statutory declarations and the identification documents of natural persons, as well as the documents and information that in TID's view should be attested by a lawyer, as required under Article 6.1.1 and 6.1.2 and 6.2 of this Annex, should be attested by attesting officers recognized by the Mainland.

7. When applying to the Mainland's examining authorities to obtain treatment under CEPA, Hong Kong service suppliers should follow the following procedures:

7.1. When a Hong Kong service supplier applies to provide the services under Annex 4 in the Mainland, it should submit to the Mainland's examining authorities the documents and information, statutory declaration and certificate as required under Article 6 of this Annex.

7.2. Pursuant to the powers conferred under Mainland laws and regulations, the Mainland examining authorities, in examining the application for supplying Hong Kong services, should at the same time verify the qualifications of the Hong Kong service supplier.

7.3. When the Mainland examining authority holds a different view in respect of the qualification of the Hong Kong service supplier, it should inform the Hong Kong service supplier within a stipulated period, and notify the Ministry of Commerce. The Ministry of Commerce will in turn inform TID, giving the reasons for divergent views. The Hong Kong service supplier may, through TID and with written justification, request the Ministry of Commerce to reconsider. The Ministry of Commerce should give a written reply to TID within a stipulated period.

8. Hong Kong service suppliers who are already providing services in the Mainland should apply to obtain treatment under CEPA in accordance with the requirements of Articles 6 and 7 of this Annex.

9. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September 2003 in the Chinese Language.

Vice Minister of Commerce
People's Republic of China Financial Secretary
Hong Kong Special Administrative Region of the People's Republic of China

(signature)

(signature)

<Courtesy English Translation : 29 September 2003>

Annex 6

Trade and Investment Facilitation

1. Pursuant to the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter called "CEPA"), the Mainland and the Hong Kong Special Administrative Region have concluded this Annex on cooperation in trade and investment facilitation.

2. The two sides agree to cooperate in trade and investment facilitation in seven areas, namely, trade and investment promotion; customs clearance facilitation; commodity inspection and quarantine, food safety, quality and standardization; electronic business; transparency in laws and regulations; cooperation of small and medium enterprises, and cooperation in Chinese medicine industry. Cooperation in these areas will follow the guidance and coordination of the Joint Steering Committee set up in accordance with Article 19 of CEPA.

3. Trade and Investment Promotion

The two sides recognize the importance of mutual trade and investment to their economic and social development. Taking into account the actual development of trade

and investment as well as the need for growth, the two sides agree to strengthen cooperation in trade and investment promotion.

3.1. Cooperation Mechanism

Relevant working groups under the Joint Steering Committee will be made full use of in guiding and coordinating cooperation in trade and investment promotion between the two sides.

3.2. Content of Cooperation

Based on past cooperation experience, as well as the development of economic and trade exchanges and cooperation of both sides, the two sides will strengthen cooperation in the following areas:

3.2.1. Notify and publicize their respective policies and regulations on external trade and foreign investment promotion, with a view to achieving information sharing.

3.2.2. Exchange views and conduct consultations to solve common problems relating to trade and investment of both sides.

3.2.3. Strengthen communication and cooperation in mutual investment and joint promotion of foreign investment.

3.2.4. Strengthen cooperation in organizing exhibitions and arranging delegations to participate in overseas exhibitions.

3.2.5. Conduct exchanges on other issues of mutual concern relating to trade and investment promotion.

3.3. Participation of Other Entities

The two sides note that the participation of semi-official and non-official organizations in the area of trade and investment promotion has positive effect and significance. The two sides agree to support and assist these organizations in various ways to launch trade and investment promotion activities.

4. Customs Clearance Facilitation

Recognizing the importance of close and long-term cooperation between the two Customs Administrations and of the implementation of customs clearance facilitation to their economic and social development, the two sides agree to strengthen cooperation in customs clearance facilitation.

4.1. Cooperation Mechanism

The two sides will steer and coordinate cooperation in customs clearance facilitation through the Annual Review Meeting between the senior leaders of the Customs General Administration and the Customs and Excise Department of Hong Kong, and will promote the launch of cooperation in customs clearance facilitation through expert groups of the Customs Administrations and relevant departments of the two sides.

4.2. Content of Cooperation

Taking into account the need for different customs clearance systems and monitoring modes as well as experience in cooperation, the two sides agree to strengthen cooperation in the following areas:

4.2.1. Establish a reciprocal notification system to report their respective policies and regulations on customs clearance and management of clearance facilitation.

4.2.2. Conduct studies and exchanges on the differences between their respective customs clearance systems and on existing problems, with a view to enriching the specific content of cooperation in customs clearance facilitation.

4.2.3. Explore the expansion of the scope for further cooperation in strengthening control and enhancing efficiency in respect of customs clearance in areas such as sea and land transportation, intermodal operation and logistics.

4.2.4. Strengthen cooperation in establishing a crisis management mechanism at control points and adopt effective measures to maintain as far as possible smooth clearance on the two sides.

4.2.5. Establish a regular liaison mechanism, to make full use of the Guangdong and Hong Kong Customs Working Group on Operational Efficiency of Control Points set up under the Guangdong Branch of the Customs General Administration and the Customs and Excise Department of Hong Kong.

4.2.6. Strengthen the work of the Expert Group on Cargo Data Sharing and Road Cargo Clearance set up under the two Customs Administrations, study the feasibility of data interchange and development of electronic customs clearance system at control points, strengthen the risk management of customs clearance with technical solutions, and enhance efficiency in customs clearance.

5. Commodity Inspection and Quarantine, Food Safety and Quality and Standardization
Recognizing the importance of protecting the health and safety of Mainland and Hong Kong people in the course of trade in goods and movement of persons, the two sides agree to strengthen cooperation in the areas of commodity inspection and quarantine, food safety, health and quarantine of people, and certification, accreditation and standardization.

5.1. Cooperation Mechanism

The two sides will make use of the existing cooperation channels of relevant departments to promote the launch of cooperation in the relevant areas through visits, discussions and other modes of communication.

5.2. Content of Cooperation

The two sides agree to strengthen cooperation in the following areas:

5.2.1. Inspection and monitoring of electrical and mechanical products

To ensure the safety of consumers of both sides, the two sides will enhance information flow and exchange through established communication channels, in particular the exchange of information and intelligence on the safety of electrical and mechanical products, so as to jointly prevent safety problems associated with these products. The two sides will also promote cooperation in the training of inspection and supervisory officers.

The two sides are committed to implementing the "Cooperation Arrangement on Electrical and Mechanical Products Safety" signed between the State General Administration for Quality Supervision and Inspection and Quarantine, and the Electrical and Mechanical Services Department of Hong Kong on 12 February 2003.

5.2.2. Inspection and quarantine of animals and plants, and food safety

The two sides will make use of the existing coordination mechanism to step up cooperation in inspection and quarantine of animals and plants as well as in food safety, so as to enable both sides to enforce their respective regulations more effectively.

5.2.3. Monitoring of health and quarantine issues

The two sides will make use of the existing channels to regularly notify each other information on epidemic outbreaks and to step up academic exchange and joint research on health and quarantine issues; discuss health monitoring issues in respect of small vessels plying between the control points of Guangdong and Shenzhen; enhance cooperation in areas such as investigation and prevention of tropical infectious diseases and live vectors, surveillance and control of special articles and radioactive articles,

transmission of biological disease factors and the related inspection, treatment and control measures.

5.2.4. Certification, accreditation and standardization management

The two sides will urge their respective organizations to strengthen cooperation with a view to promoting conformity assessment (including testing, certification and inspection), accreditation and standardization management.

6. Electronic Business

The two sides recognize that the application and promotion of electronic business will create more trade and investment opportunities for both sides. They agree to step up exchange and cooperation in the area of electronic business.

6.1. Cooperation Mechanism

Under the guidance and coordination of the Joint Steering Committee, the two sides will set up a working group to act as a communication channel as well as a consultation and coordination mechanism for cooperation in electronic business, with a view to promoting cooperation and joint development in the area of electronic business.

6.2. Content of Cooperation

The two sides agree to cooperate in the following areas:

6.2.1. Cooperate in specialized projects in respect of the study and formulation of rules, standards and regulations of electronic business, with a view to creating a favourable environment for promoting and ensuring the healthy development of electronic business.

6.2.2. Strengthen exchange and cooperation in areas such as corporate application, promotion and training. Make full use of the relevant government departments of the two sides in promotion and coordination, step up promotion for electronic business, foster interchanges between the enterprises of the two sides, and facilitate the launching of electronic business among the enterprises through demonstration projects.

6.2.3. Strengthen cooperation in implementing e-government, intensify exchange and cooperation in the development of e-government at various levels.

6.2.4. Cooperate in economic and trade information exchange, and expand the scope and extent of cooperation.

7. Transparency in Laws and Regulations

The two sides recognize that enhanced transparency in laws and regulations is an important foundation for promoting economic and trade flow of both sides. In the spirit of serving the commercial and industrial enterprises in the two places, the two sides agree to strengthen cooperation in the area of enhanced transparency of laws and regulations.

7.1. Cooperation Mechanism

The two sides will cooperate through relevant working groups under the Joint Steering Committee as well as their respective representative agencies.

7.2. Content of Cooperation

The two sides agree to strengthen cooperation in the following areas:

7.2.1. Exchange information on the enactment and amendment of laws, regulations and rules in respect of investment, trade and other economic areas.

7.2.2. Disseminate in a timely manner information on policies and regulations through various media including newspapers, journals and websites.

7.2.3. Organize and support the organization of various briefings and seminars on economic and trade policies and regulations.

7.2.4. Provide advisory services to commercial and industrial enterprises through channels such as WTO enquiry points and websites of “Invest in China” and “China Business Guide” of the Mainland.

8.Cooperation of Small and Medium Enterprises

The two sides recognize that the development of small and medium enterprises plays an important role in increasing employment, promoting economic development and maintaining social stability. The two sides agree to promote exchanges and cooperation between small and medium enterprises of the two places.

8.1. Cooperation Mechanism

Establish an operational mechanism between relevant government departments of both sides for promoting cooperation between small and medium enterprises of the two sides, and to foster their cooperation and mutual development.

8.2. Content of Cooperation

The two sides agree to support and promote cooperation in the following areas:

8.2.1. Explore jointly the strategy and support policy for the development of small and medium enterprises through visits and exchanges.

8.2.2. Organize visits and exchanges on the organizational and operational modes of the intermediaries providing services to small and medium enterprises in the two places, and promote cooperation of the intermediaries.

8.2.3. Establish channels for providing information services to small and medium enterprises in the two places, exchange regularly relevant publications, set up dedicated websites, implement progressively information interchange and the interconnection of information website databases of the two sides.

8.2.4. Organize through different modes direct exchanges and communication between small and medium enterprises of the two places to promote their cooperation.

8.3. Participation of Other Entities

The two sides support and assist semi-official and non-official organizations to play a part in promoting cooperation between small and medium enterprises of the two places.

9.Cooperation in Chinese Medicine Industry

The two sides recognize that Chinese medicine, being a component of the excellent Chinese culture, bears tremendous market application potential and economic benefits of. Both sides have their own competitive edge in areas such as promoting the industrialization of Chinese medicine and advancing its modernization and internationalization. Cooperation in this area will have notable significance in the economic and social development of both sides. The two sides agree to strengthen cooperation in the development of the Chinese medicine industry.

9.1. Cooperation Mechanism

The two sides will strengthen and improve the mechanism of liaison and cooperation between their respective government departments so as to promote the development of cooperation in Chinese medicine industry of the two places.

9.2. Content of Cooperation

Based on the situation and development trend of cooperation in Chinese medicine in the two places, the two sides agree to strengthen cooperation in the following areas^oG

9.2.1. Communicate on the formulation of their respective regulations on and management of Chinese medicine with a view to achieving information sharing.

- 9.2.2. Enhance cooperation in research on Chinese medicine, exchange and share information on areas such as development strategy and development trend of the Chinese medicine industry.
- 9.2.3. Strengthen communication and coordination in registration management of Chinese medicine, implement standardization in the management of Chinese medicine, and facilitate mutual trade in Chinese medicine.
- 9.2.4. Cooperate in such areas as facility management and regulations and requirements for clinical trials, with a view to achieving mutual recognition of clinical data.
- 9.2.5. Conduct exchanges and cooperate in quality standardization for Chinese medicine, and jointly promote the enhancement of quality standards for Chinese medicine.
- 9.2.6. Support cooperation between the Chinese medicine enterprises of the two places and jointly strive for international market expansion.
- 9.2.7. Strengthen trade and investment promotion and cooperation in the Chinese medicine industry.
- 9.2.8. Conduct exchanges and consultations on ways to solve problems arising from cooperation in Chinese medicine industry.

9.3. Participation of Other Entities

The two sides will support and assist the participation of semi-official and non-official organizations in cooperation in Chinese medicine industry, including the cooperation already established between the National Center for Traditional Chinese Medicine and the Hong Kong Jockey Club Institute of Chinese Medicine Ltd.

10. According to paragraphs 3 and 4 of Article 17 of CEPA, any new scope or content of trade and investment facilitation agreed by the two sides will be incorporated into this Annex.

11. This Annex will come into effect on the day of signature by the representatives of the two sides.

Signed in duplicate at Hong Kong, this 29th day of September, 2003 in the Chinese language.

Vice Minister of Commerce

People's Republic of China

Financial Secretary

Hong Kong Special Administrative Region of the People's Republic of China

(signature)

(signature)