



How Hong Kong Can Accelerate Your China Entry and Reasons for Trust on IP Issues

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Muttenz, Switzerland

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HK ETO Berlin



The Fundamentals - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

An Overview

- 1 July 1997 - Hong Kong Special Administrative Region
- “One country, Two systems”
 - own legal system
 - own financial system
 - own economic system
 - own social system
 - own political system
- High degree of autonomy





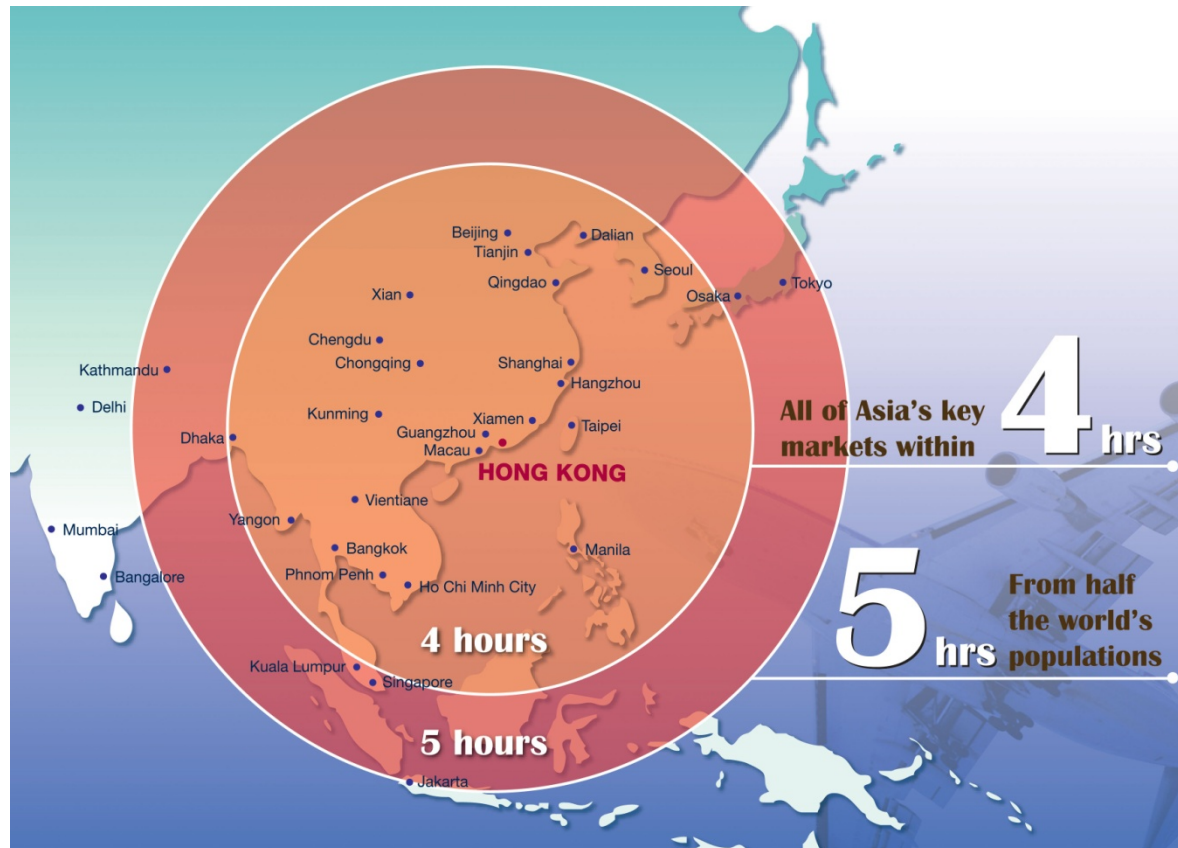
Hong Kong's Enduring Advantages

- Hong Kong retains its advantages:
 - Rule of law
 - Level playing field
 - Currency convertibility, separate from Renminbi
 - International business practices
 - Free flow of information
- Negotiates and signs own economic/trade agreements
 - Hong Kong is a full, separate member of WTO and APEC
- At the same time, Hong Kong is an integral part of China





Hong Kong's Strategic Location



New Markets & Customers

- Easy access to high-growth economies
- High demand for foreign products & services

Low-Cost Production & Sourcing

- Major production centres in China, Vietnam etc.

Half the world's population within five hours flight time!

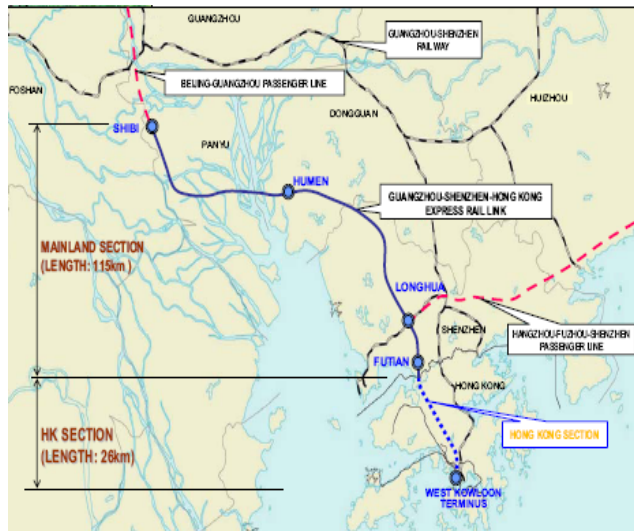




Investment In Infrastructure



- Includes 10 major projects, generating from commissioning to a mature stage, estimated US\$12.8 billion revenue, create 250,000 new jobs.
- Enhanced connectivity with the Mainland.





Closer Economic Partnership Arrangement (CEPA)

- Mainland and Hong Kong's first free trade agreement
- Covers trade in goods and services
- Provides easier, earlier and wider access to Mainland for HK-made products and HK-based service companies
- Available to people and businesses of all nationalities

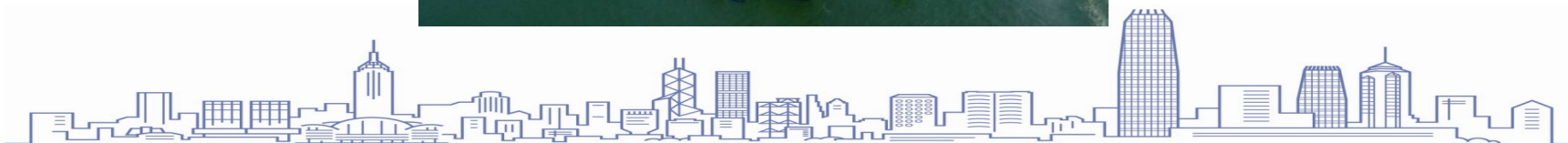




Trade in Goods



- Zero Tariff Benefits: ALL products of Hong Kong origin (except for prohibited articles) to the Mainland since 1 January 2006
- Criterion: Products to meet CEPA rules of origin (ROOs) [products need to fulfill certain made in Hong Kong requirements]
- Products with no agreed ROOs: consultations held twice a year





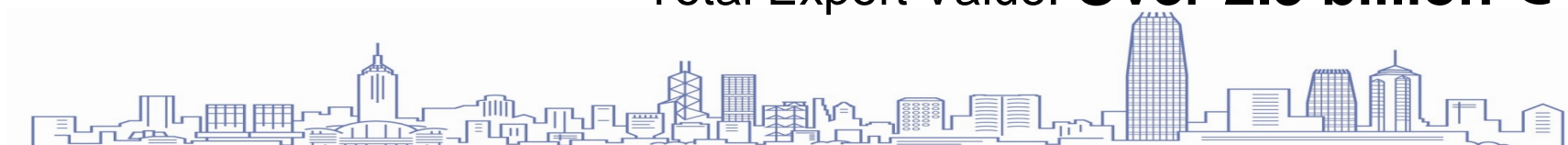
Trade in Goods



Cumulative Certificates of Origin (CEPA) Statistics (as of end April 2010)

Top Product Categories	Export Value (million HK\$)
1. Pharmaceutical Products	8,310
2. Plastics and Plastic Articles	5,884
3. Textiles and Clothing	2,771
4. Food and Beverages	1,974
5. Base Metal Products	1,662
:	:
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Total Export Value: **Over 2.3 billion €**





Trade in Services

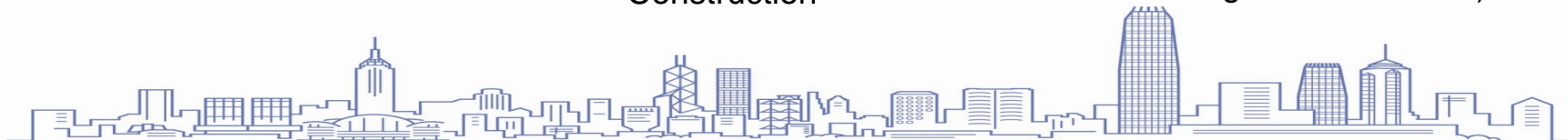


Preferential Treatment

- ◆ Accounting
- ◆ Advertising
- ◆ Air Transport
- ◆ Audiovisual
- ◆ Banking
- ◆ Building-cleaning
- ◆ Computer and related services
- ◆ Convention and Exhibition
- ◆ Cultural
- ◆ Distribution
- ◆ Environmental
- ◆ Freight Forwarding Agency
- ◆ Individually Owned Stores
- ◆ Information Technology
- ◆ Insurance

- ◆ Job Intermediary
- ◆ Job Referral Agency
- ◆ Legal
- ◆ Logistics
- ◆ Medical and Dental
- ◆ Management Consulting
- ◆ Market Research
- ◆ Patent Agency
- ◆ Photographic
- ◆ Printing
- ◆ Professional Qualification Examinations
- ◆ Public Utility
- ◆ Rail Transport ~NEW~
- ◆ Real Estate and Construction

- ◆ Related Scientific and Technical Consulting services
- ◆ Research and Development
~NEW~
- ◆ Securities and Futures
- ◆ Services incidental to Mining
- ◆ Services related Management Consulting
- ◆ Social Services
- ◆ Sporting
- ◆ Storage and Warehousing
- ◆ Telecommunications
- ◆ Tourism
- ◆ Trade Mark Agency
- ◆ Translation and Interpretation
- ◆ Transport (incl. Road Freight, Road Passenger and Maritime)



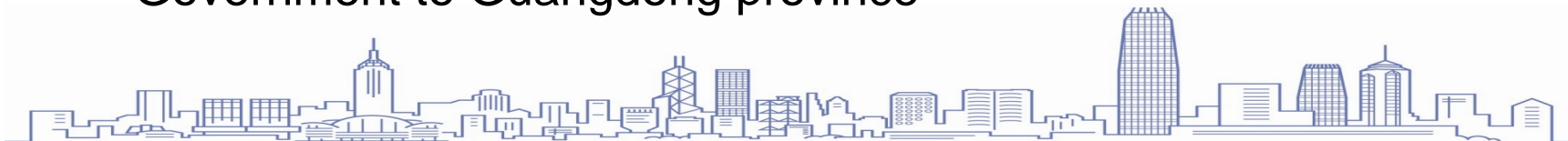
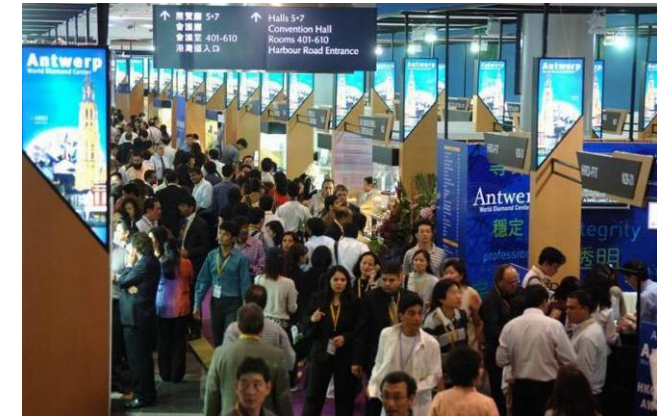


Trade in Services



Forms of Preferential Treatment

- Relaxing the equity share restrictions, e.g. wholly owned business allowed for Hong Kong service suppliers in certain distribution services
- Lowering registered capital / business turnover requirements, e.g. in banking services
- Relaxing the restrictions over geographical location and business scope, e.g. in tourism services
- Allowing cross border supply of services
- Delegating the approval authority, e.g. approval delegated from Central Government to Guangdong province





Trade in Services



Beneficiaries: Hong Kong Service Suppliers (HKSS)

- ◆ **Juridical persons** (e.g. companies, partnerships, sole proprietorships)
 - To obtain an **HKSS Certificate** from TID before applying directly to Mainland authorities for provision of services in the Mainland
 - ✓ Incorporated / established in HK
 - ✓ Substantive business operations for 3 or 5 years
 - ✓ Paid profit tax in HK
 - ✓ Owned or rented business premises in HK
 - ✓ Majority staff are HK residents
 - Applicable to businesses of **ALL NATIONALITIES** operating in HK





Trade in Services



Cumulative Statistics of HKSS Certificates (as of end Apr 2010)

Top Service Sectors	No. of HKSS Certificates issued
1. Transport and Logistics	1,199
2. Distribution	342
3. Air Transport	130
4. Advertising	101
5. Job Intermediary / Job Referral Agency	98
6. Construction Professional/ Construction and Related Engineering	92
:	:
Total	2,226





Trade and Investment Facilitation



- Trade and investment promotion
- Customs clearance facilitation
- Commodity inspection and quarantine, food safety and quality and standardization
- Electronic business
- Transparency in laws and regulations
- Cooperation of small and medium enterprises
- Cooperation in Chinese traditional medicine and medical products sector
- Protection of intellectual property
- Co-operation on branding





China's Risk Manager



“No other city in the world can help overseas investors manage the risks as well as Hong Kong. This is an important part of the reason why overseas firms prefer Hong Kong for the highest-value activities that they perform in the Asia-Pacific region.”

Michael Enright

Sun Hung Kai Properties Professor

School of Business, University of Hong Kong





Access Business Opportunities from Hong Kong



Business Opportunities:

- Access new markets
- Closer to customer
- Increase efficiency
- Faster to market
- Increase sales
- Improve competitiveness
- Reduce business risk

Typical Business Functions in Hong Kong:

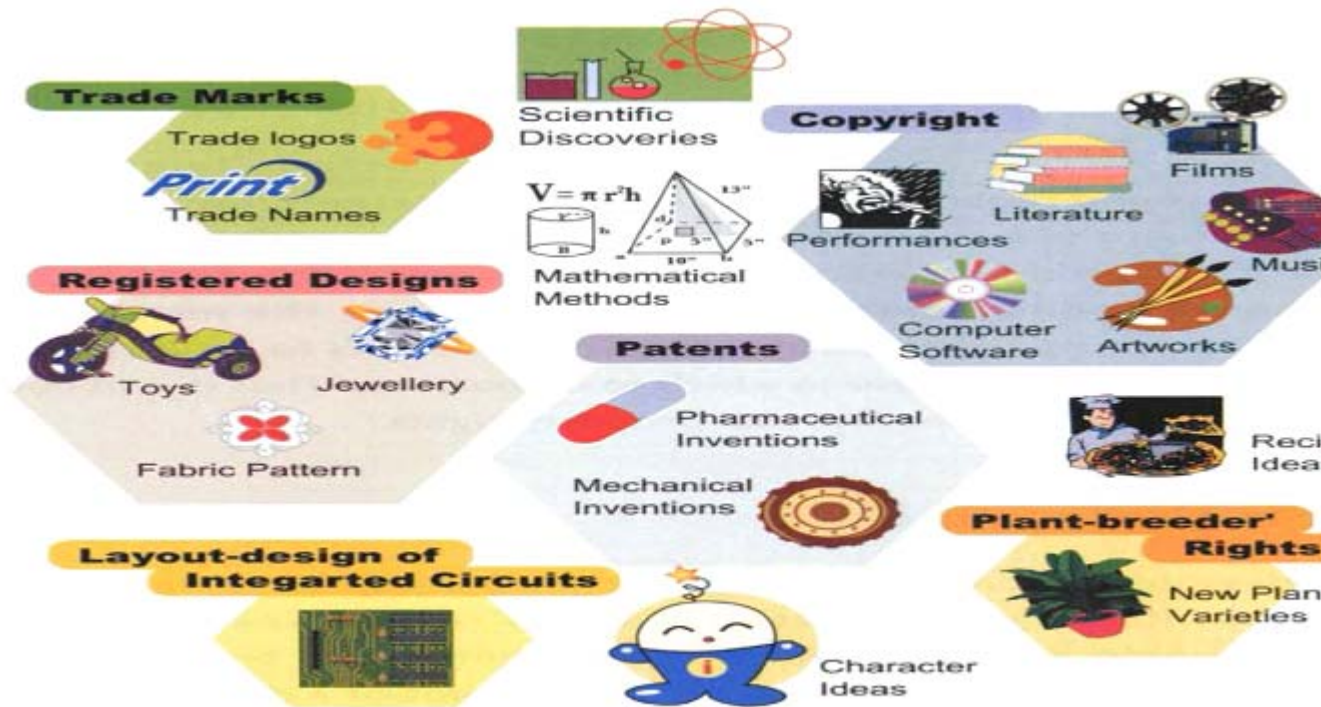
- Regional headquarters
- Global distribution
- High-value business functions
- Regional procurement
- International corporate
- R&D and design





Intellectual Property Protection in Hong Kong

What Intellectual Property Rights (IPR) are protected?





	Type of subject-matter normally protected	Whether registration is required for effective protection in HKSAR	Enforcement available in HKSAR
Trade Marks	trade or service names and logos	Yes	Civil, Criminal
Patents	Invention	Yes	Civil
Designs	industrial product designs, fabric designs	Yes	Civil
Plant Varieties	new agricultural or horticultural plant varieties	Yes	Civil
Integrated Circuit Designs	lay-out designs of integrated circuits ('mask' works)	No	Civil
Copyright	literature, drama, music, photographs, computer software, films, phonograms broadcasts, cable diffusion	No	Civil, Criminal



Hong Kong Model

*Effective
Legislative
Framework*

*Good Cooperation
with IPR holders
and IP authorities*

IPR Protection

*Extensive
Public
Education*

*Strong Law
Enforcement*





Effective Legislative Framework: Domestic Protection and International Protection

Domestic intellectual property

Laws : largely based on the English laws and consistent with international standards





International intellectual property

Conventions:

- the Paris Convention for the Protection of Industrial Property
- the Berne Convention for the Protection of Literary and Artistic Works
- the Universal Copyright Convention
- the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms
- the Patent Cooperation Treaty
- the Convention establishing the World Intellectual Property Organisation
- WTO TRIPs Agreement





Marked improvements

- 1997 – new laws on patents, registered design and copyrights (further amended in 2004 and 2007)
- 1998 – licensing system for optical disc (stampers in 2002) manufacturing in Hong Kong
- 2000 – enhanced enforcement and investigation powers to tackle copyright piracy and trade mark counterfeiting offences under Organized and Serious Crimes Ordinance





2001 – **criminal offence** for possessing video recording equipment in cinemas, theatres and concerts, and using pirated softwares, movies, musical recordings and TV dramas in business context

2003 – **new Trade Marks Ordinance** (further amended in 2006)

2008 & 2009 -

Proposals for Strengthening Copyright Protection in the Digital Environment **combating internet infringements** 2009





A strong enforcement team

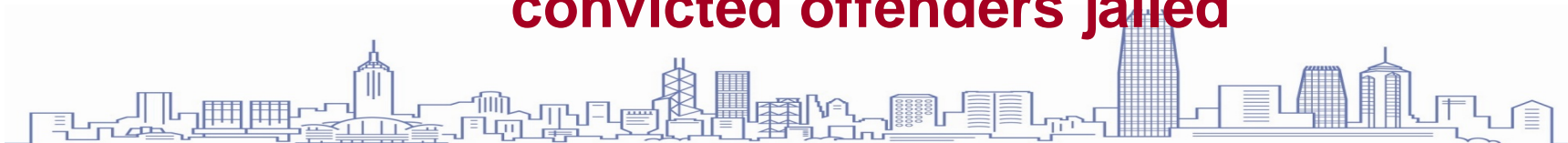
Customs and Excise Department (2,400 odd officers in IPR enforcement)





Remarkable Achievements in Enforcement

- **97% reduction** of retailed outlets of pirated optical discs [1000 (1998) to 30 (2009)]
- 2008 - **2.16 million pirated discs** (worth about 7.8 million euros) seized; 987 persons arrested
 - 1,824 cases of counterfeit goods and goods bearing false trade marks; 860 persons arrested; **close to 80% of convicted offenders jailed**





Hong Kong and Mainland China Co-operation in IPR protection

2000

- Mainland, Hong Kong and Macau IP Symposium (annually)

2003

- Guangdong / Hong Kong Expert Group on the Protection of IPR (annually)
- Online information on IP systems in the Pearl River Delta Region

2006

- Mainland and Hong Kong Closer Economic Partnership Arrangement in IP protection

2007

- Agreement on Guangdong / Hong Kong Co-operation in the Protection of IPR
- Shenzhen / Hong Kong Innovation Circle





Legal Cooperation with the Mainland

- Reciprocal Enforcement of Court Judgments (2006)
- Mutual Enforcement of Arbitral Awards (1999)

(Make it clear that Hong Kong be the venue for dispute resolution at all of the contracts at the initial stage)





Hong Kong

- The ideal place for developing and protecting your intellectual property
- Encourage researches and development





- DuPont Solar Energy Photovoltaic Technology Development Project
- RFID development – Airport cargo handling and Octopus Card
- IP protection in Hong Kong
- Product development and manufacturing in the mainland of China





Hong Kong's Professional Services

- Lawyers (Solicitors)
- Agents
- Arbitration
- Mediation
- Litigation
- Network with Mainland China





Steadfast supports

- Infrastructure – Hong Kong Science and Technology Parks
- Talent development – education and special funding under the Innovation and Technology Commission
- Institutional – Innovation and Technology Commission





Hong Kong – Leader in Asia in Intellectual Property Protection

Patents

- registration under Patents Ordinance before assignment / licensing freely
- the mainland of China not being covered, China-wide or worldwide registration may be arranged in Hong Kong

Trade Marks

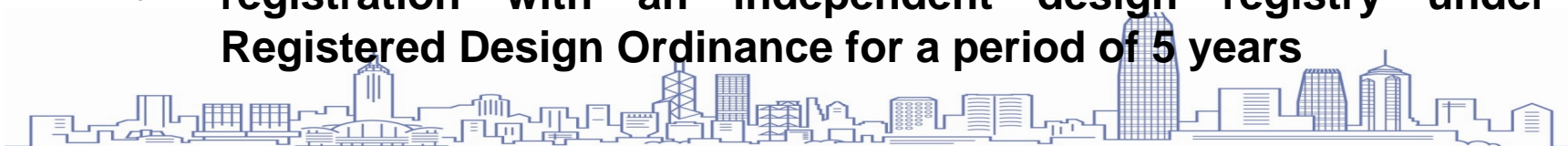
- register able under the Trade Marks Ordinance
- unregistered trade marks with certain amount of protection under Hong Kong's Common Law system

Copyright

- no registration required

Registered Design

- registration with an independent design registry under Registered Design Ordinance for a period of 5 years





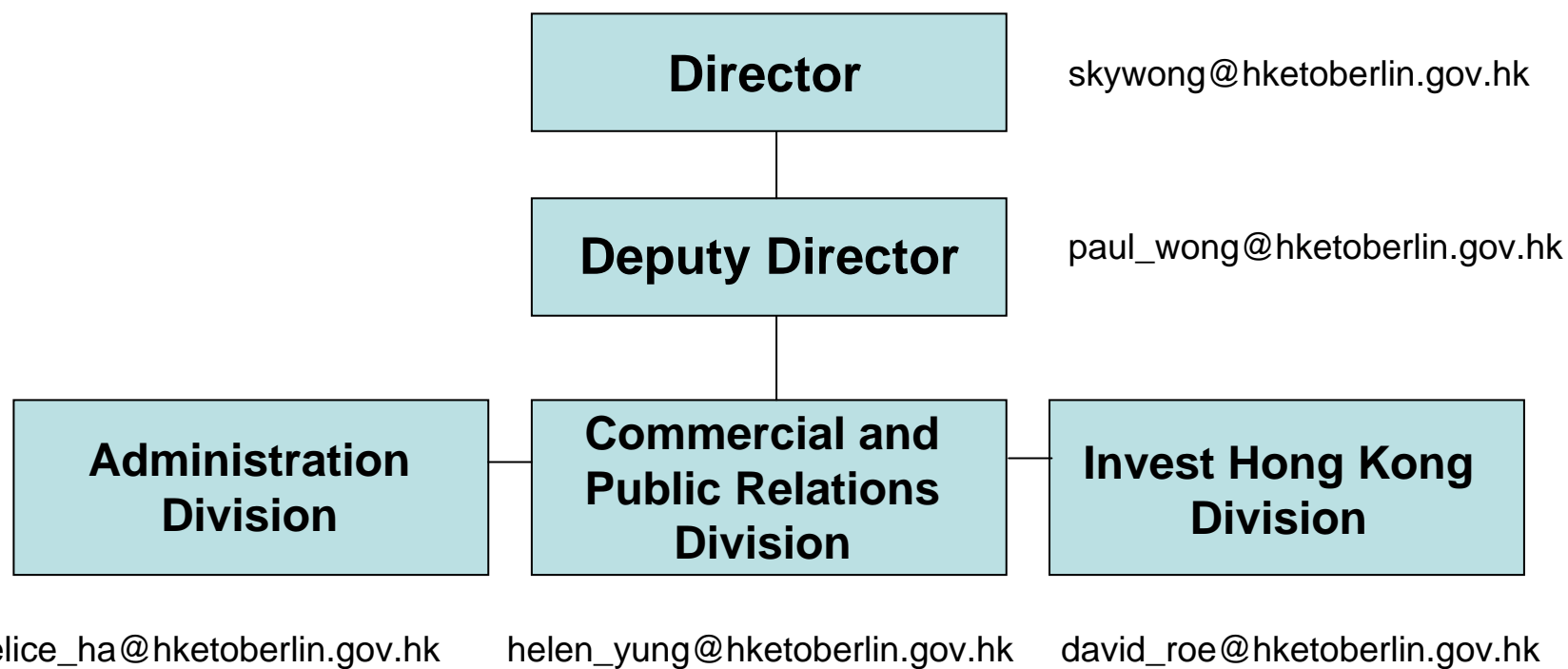
The Hong Kong Economic and Trade Office, Berlin

- First Government representative office set up (on 9 March 2009) overseas after the reunification in 1997 (The Basic Law Article 156)
- Provide you with:
 - ✓ *Information*
 - ✓ *Support*
 - ✓ *Practical Assistance*
- Continue to promote the interest of Hong Kong with Hong Kong Tourism Board and Hong Kong Trade Development Council





Organization Chart





For More Information

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Hong Kong SAR Government

www.gov.hk

Commerce and Economic Development Bureau

www.cedb.gov.hk

Invest Hong Kong

www.investhk.gov.hk

Hong Kong Trade Development Council

www.tdctrade.com

Hong Kong Tourism Board

www.hktb.com

CreateHK

www.createhk.gov.hk



www.hketoberlin.gov.hk

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