

# Hong Kong – a Business Platform into China

Presentation for the HKCBA Business Association  
by Klako Group



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## Hong Kong - Today

### ***Economic Performance of 2010***

- Export of goods soared to 6.8%
- Private Consumption spending grew by 5.8%
- Investment spending grew by 8.1%

### ***Outlook for 2011***

- Unemployment falling to 3.8%
- Average inflation rate for 2011 is 2.4%
- For the medium term, annual average growth is estimated at 4%

### ***For the 2010-2011 Financial Year***

- Total Revenue for 2010-2011 reached HKD \$374.8 billion
- Government Expenditure is estimated to reach HKD \$ 303.5 billion
- A consolidated surplus of HKD \$71.3 billion is forecast

### ***Investing in the Future – Increasing Initiatives for 2011 and 2012***

- HK-Zhuhai-Macao Bridge
- HK section of the Guangzhou – Shenzhen – HK Express Rail Link
- The Kai Tak Development Plan – Stage 1



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## Setting up a Business in Hong Kong

### **Authorized Capital**

The authorized share capital is the maximum amount of capital that a company can issue. Ordinarily the face value of a share is HK \$1.00. The company has to pay a capital fee of 0.1% for its authorized share capital. For example, if the authorized share capital of the company is HK \$10,000, then the capital fee shall be HK \$10.00. A company may increase the authorized share capital when and if it is required.

### **Issued Capital**

A company may according to its requirement issue any share capital within the limit of its authorized capital.

### **Shareholders**

The shareholders and directors meetings of a company shall form a quorum, which is the minimum number of shareholders or directors attending the meeting; otherwise the resolutions in the meeting shall be considered void. The minimum requirement under the Companies Ordinance for a quorum is 2 if the number of shareholders and directors is more than one. If the company has only one shareholder and one director, no meetings should be held, but resolutions should be prepared to record the company's resolutions.

### **Directors**

Directors are actually the persons who run the business of the company. They have full power to determine the policies in respect to administration, management, financing and general business operations of the company. They can represent the company to negotiate and conclude all kinds of contracts. The directors are appointed by the shareholders. Their term of service is specified in the M&A. The minimum number of directors in a company is 1 and director can be an individual or a company (when the director is an individual, his/her age shall be over 18).



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### **Company Secretary**

The company secretary is responsible for handling all documents and procedures required by the Companies Ordinance, such as the preparation of the minutes, keeping of the statutory records, submit the annual returns, assist the directors to prepare the Directors Report and prepare all documents and procedures for all changes in the company structure. The company secretary can be an individual or a company ordinarily residing in Hong Kong or a company registered in Hong Kong.

### **Quorum of Meetings**

All shareholders and directors meetings of a company shall form a quorum, which is the minimum number of shareholders or directors attending the meeting; otherwise the resolutions in the meeting shall be considered void. The minimum requirement under the Companies Ordinance for a quorum is 2 if the number of shareholders or directors is more than one. If the company only has one shareholder and one director, no meetings should be held, but resolutions should be prepared to record the company resolutions.

### **Chairman of the Meeting**

A meeting of a company will be led by a Chairman. Unless otherwise specified in the M&A, the chairman does not have any additional power nor voting rights.

### **Registered Office**

The registered office is the statutory correspondence address of a company in Hong Kong. You can choose any location in Hong Kong as the registered office of the company.



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### **Nature of Business**

When applying for the Business Registration Certificate, the company has to specify the nature of its business. The scope will be stated on the certificate. However, a company's business operation is not restricted by this nature of business. Normally a company could do any legal business whenever they are specified in the M&A without having to notify separately any of the government bureaus (unless restricted by other laws in Hong Kong, such as banking and insurance).

### **Bank Account**

Business transactions in Hong Kong are normally carried out through bank accounts. A company may open bank account(s) in one or more banks. Please note that different banks may have different requirements in terms of account opening procedures, please ensure that you are familiar with these in order to avoid any delays and misunderstandings.

### **Financial Statements Required**

A Hong Kong Company must keep accounting records, which may be kept at the registered office address or elsewhere at the discretion of the directors. Every company must appoint an auditor who must be a member of the Hong Kong Society of Accountants and hold a practicing certificate. Although there is no requirement to file accounts with the Registrar, there is a requirement to file accounts with the Hong Kong Inland Revenue Department.

### **License Fees**

The Business Registration Fee, currently at USD \$60, is due and payable within one month of the date of incorporation and then annually on the anniversary of the first payment.



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## Taxation in Hong Kong

Hong Kong is one of the few jurisdictions in the world that tax on a territorial basis. Many countries levy tax on a different basis and they tax on the worldwide profits of a business, including profits derived from an offshore source. Hong Kong profits tax is ONLY charged on profits derived from a trade, profession or business carried on in Hong Kong. Consequently this means that a company which carries on a business in Hong Kong, but derives profits from another place, is not required to pay tax in Hong Kong on those profits. Hong Kong sourced profits is currently subject to a rate of taxation at 16.5%. There is no tax on capital gains, dividends and interest earned.

The principle of Hong Kong profits tax is that it is a tax that has its source in Hong Kong rather than a tax based on residence. Income sourced elsewhere, even remitted to Hong Kong is not subject to Hong Kong profits tax at all. Consequently if a Hong Kong company's trading or business activities are based outside Hong Kong no taxation will be levied.

A factor that determines the locality of profits from trading in goods and commodities is generally the place where the contracts for purchase or sale are effected. "Effected" does not only mean that the contracts are legally executed but also covers negotiation, conclusion and execution of the terms of the contracts.

If a business earns commission by securing buyers for products or by securing suppliers of products required by customers, the activity which gives rise to the commission income is the arrangement of the business to be transacted between the principals. The source of the income is the place where the activities of the commission agent are performed. If such activities are performed through an office in Hong Kong, the income has a source in Hong Kong.

Certain sums, like royalties, paid or payable to non-resident persons for use of or the right to use certain intellectual property are subject to withholding tax. The payer who claims deduction for the use of the intellectual property against its assessable income is required to withhold a prescribed percentage from the payment while that recipient is not subject to Hong Kong profits tax. The prescribed percentage is 4.95% on the gross payment if the payer and the recipient are not related, but 16.5% if the payer and recipient are related.



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## The Double Taxation Agreements (DTA) in Hong Kong

Hong Kong has an arrangement with a number of jurisdictions for double taxation relief of shipping or airline income. It has also comprehensive double taxation agreements with 14 countries and 10 additional are pending in negotiations to relieve taxation on income, for instance, dividends, interest and royalties. The Hong Kong Inland Revenue Department allows a deduction for foreign tax paid on a turnover basis in respect of income which is also subject to tax in Hong Kong. Therefore businesses operating in Hong Kong do not generally have problems with double taxation of income.

### Recent Developments and Trends

• As a result of adoption of the latest international standard for exchange of information and actively negotiating tax treaties, Hong Kong is rapidly expanding its treaty network

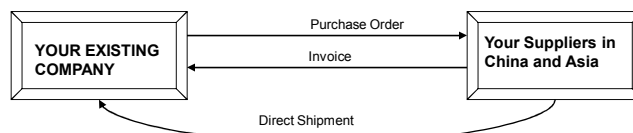
- Prior to the law change in 2010 – 5 CDTA's (in force)
- Since the law change in 2010 – 9 CDTA's (signed and pending ratification)
- CDTA's pending for signing only (as of September 2010)
  - France, Japan and Switzerland
- Being negotiated (as of September 2010)
  - Czech Republic, Denmark, Finland, India, Italy, Macau, Malaysia, Pakistan, Saudi Arabia, Spain and United Arab Emirates
- Given the proliferation of CDTAs enabling a zero percent rate of withholding tax on dividends, and in many cases, zero or reduced capital gains tax (CGT) Hong Kong is becoming an attractive holding company jurisdiction



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## Case Study 1: A Trading Company in Hong Kong as a Platform for Buying in China

### Your Current Structure



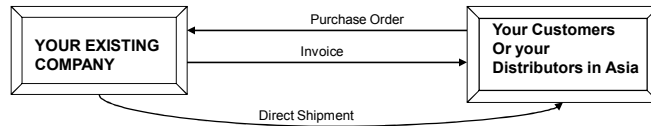
### How your International Import Program Works



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## Case Study 2: A Trading Company in Hong Kong as a Platform for Selling into China

### Your current Structure



### How the International Export Program Works



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## Benefits to Utilizing a Trading Company in Hong Kong

### **Greater Flexibility**

Having your own International Trade Program allows you far greater flexibility in how you sell and to whom you sell. You have the choice of whether to sell ex-warehouse or on an FOB Asian port basis. You have the choice of selling some product lines from your warehouse and others on an FOB basis. You have the choice of selling some of your customers from your head office and others from your Hong Kong company.

### **FOB Asian Port**

Selling on FOB terms means you do not have to incur freight, insurance and warehousing charges. This means you can sell at lower prices while maintaining your profit margins.

### **Prestige**

Having your own Hong Kong company with a Hong Kong address will give you greater 'face' among your Asian vendors. It shows your commitment to Asia and the growth of your business.

### **Less Credit Risk**

Many retailers will only buy on open account from a domestic supplier but will agree to open a L/C to an overseas supplier. Having your Hong Kong office as the supplier means you are more likely to get a L/C for their order. This will reduce your credit risk as you are guaranteed to get paid.



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## Benefits to Utilizing a Trading Company in Hong Kong

### Improve Cashflow and Free Up Your Capital

Your customer will be more inclined to give you a L/C if their order is opened to your Hong Kong company. The L/C can be transferred to your Asian vendor. This will free up your capital so you do not have any money tied up in the order.

### Bank Credit

You will have the advantage of receiving bank credit for your Hong Kong company after 1 to 2 years.

### Low Taxes

Hong Kong has extremely favorable tax structure for companies engaged in international trade. The profits generated by your Hong Kong company will be taxed at 16.5%. The profits can remain in your Hong Kong company, from where it is then possible to make outward investments around the world.

### Market Internationally

You will be able to market your products internationally from a Hong Kong base to new buyers who now see you as an Asian vendor.

### Confidentiality

We can structure your arrangements to ensure a high degree of confidentiality.



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## Case Study 3:

### Hong Kong as a Holding Company for a Representative Office in China



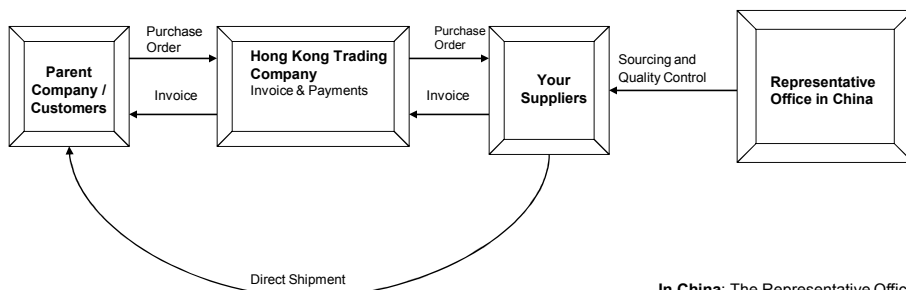
The Hong Kong Holding Company has the full liability for the company in China and frees the Parent company from any liability.



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### Case Study 4: Hong Kong Trading Company and Representative Office in China Sourcing in China



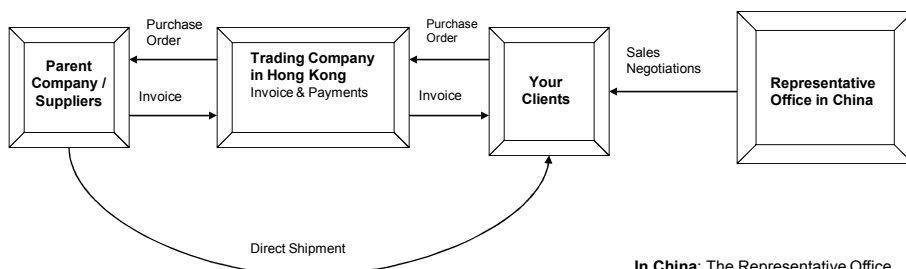
- Advantages:**
- Low Capital Investment
  - Less Risk
  - Tax Advantages
  - Well developed Trading Structure
  - No liability for the Parent Company
  - Cost effective

**In China:** The Representative Office  
Employs people for Sourcing and  
Quality Control (Office can be near  
Suppliers)



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### Case Study 5: Hong Kong Trading Company and Representative Office in China Sales in China



- Advantages:**
- Low Capital Investment
  - Less Risk
  - Tax Advantages
  - Well developed Trading Structure
  - No liability for the Parent Company
  - Cost effective

**In China:** The Representative Office  
Employs staff for the sales negotiations  
(established near clients)



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**Case Study 6:  
Hong Kong as a Holding / Trading Company for a Limited Company in China  
Sourcing, Sales, Manufacturing**



**Benefits of this type of structure:**

More convenient restructuring of China investment and ability to sell China investment without triggering Chinese regulations.

**Utilizing the advantages of the Double Taxation Agreement between Hong Kong and China:**

- Withholding tax for dividends received by a Hong Kong Company from the PRC is 5% providing that the Hong Kong Company holds at least 25% of the capital of the PRC enterprise compared to between 10 and 20% for other jurisdictions.
- Withholding tax for interest received by a Hong Kong Company from the PRC is 7% compared to between 10 and 20% for other jurisdictions.
- Withholding tax for royalties received by Hong Kong Company from the PRC is 7% compared to between 10 and 20% for other jurisdictions.
- Tax exemption relief to Hong Kong investors whereby capital gains derived from the transfer of shares in Mainland companies will be tax free, provided that following criteria are met:
  - The shares transferred are less than 25% of the entire shareholding of the Mainland company; and
  - The assets of the Mainland Company are not comprised mainly of immovable property situated in Mainland China.

**Case Study 7:  
Alternative Solution to a Joint Venture in China**



**Alternative Solution to a JV in China:**

- It may be more advantageous to the Foreign party, who is planning on establishing a Joint Venture in China, to initially setup the Joint Venture in Hong Kong as it would be based on Hong Kong Law rather than China Law. It would be much easier to exit this Joint Venture in Hong Kong in the future.
- It would be advantageous to receive your dividends from China in Hong Kong due to the Hong Kong Tax Laws and the Double Taxation Agreement between Hong Kong and China
- From this Hong Kong Joint Venture, you can then establish a Wholly Foreign Owned Enterprise in China (based on one shareholder which is then your Hong Kong Joint Venture).

## Klako Group - Our Services

Klako Group is an international accounting and consulting firm established in 1979.

Klako Group provides a wide range of market entry consulting, incorporation, tax, audit, accounting and human resource services to organizations interested in entering and expanding throughout China, Hong Kong, Singapore.

Klako Group is managed by an international and local team of over 100 certified public accountants, legal and professional consultants who work in our ten offices in China, Hong Kong and Singapore.

From our offices in Beijing, Chengdu, Dalian, Guangzhou, Hangzhou, Hong Kong, Shanghai, Shenzhen, Singapore and Tianjin, we offer the following services:

- Market Entry Consulting
- Incorporation
- Corporate Compliance
- Accounting & Administration
- Tax Advisory
- Audit & Assurance
- Trade & Supply Chain
- Recruitment

Our typical clients are small-to-medium sized privately owned companies as well multinational corporations. We recognize that each customer has individual requirements and our objective is to provide an efficient and cost effective service tailored to their specific needs. Our goal is to develop a lasting partnership with our customers with a focus on protecting their investments and maximizing their returns from their activities throughout China and Hong Kong.

Our International Desks speak English, German, Spanish, French, Italian, Portuguese, Russian and Japanese.



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## Klako Group – Our Team

Our founder, Mr. Klaus Koehler, has lived in Hong Kong since 1970. After many years of international trading activities with Hong Kong and China, he established Klako Group Holdings and its associated entities in 1979. Since then, Mr. Koehler has built up an experienced international team of accountants, legal and professional consultants (European, American, Chinese).

The members of our team are multilingual and combine many years of expertise in accounting, tax, manufacturing, international trade, consulting, recruitment, etc. Our cultural and professional diversity gives us the flexibility and knowledge required to understand our clients' needs and offer integrated service packages. Sharing our understanding and knowledge of both the West and China is one of our major principles for success.

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## Klako Group - Our Offices

If you would like to receive further information regarding our services, please do not hesitate to contact us:



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