

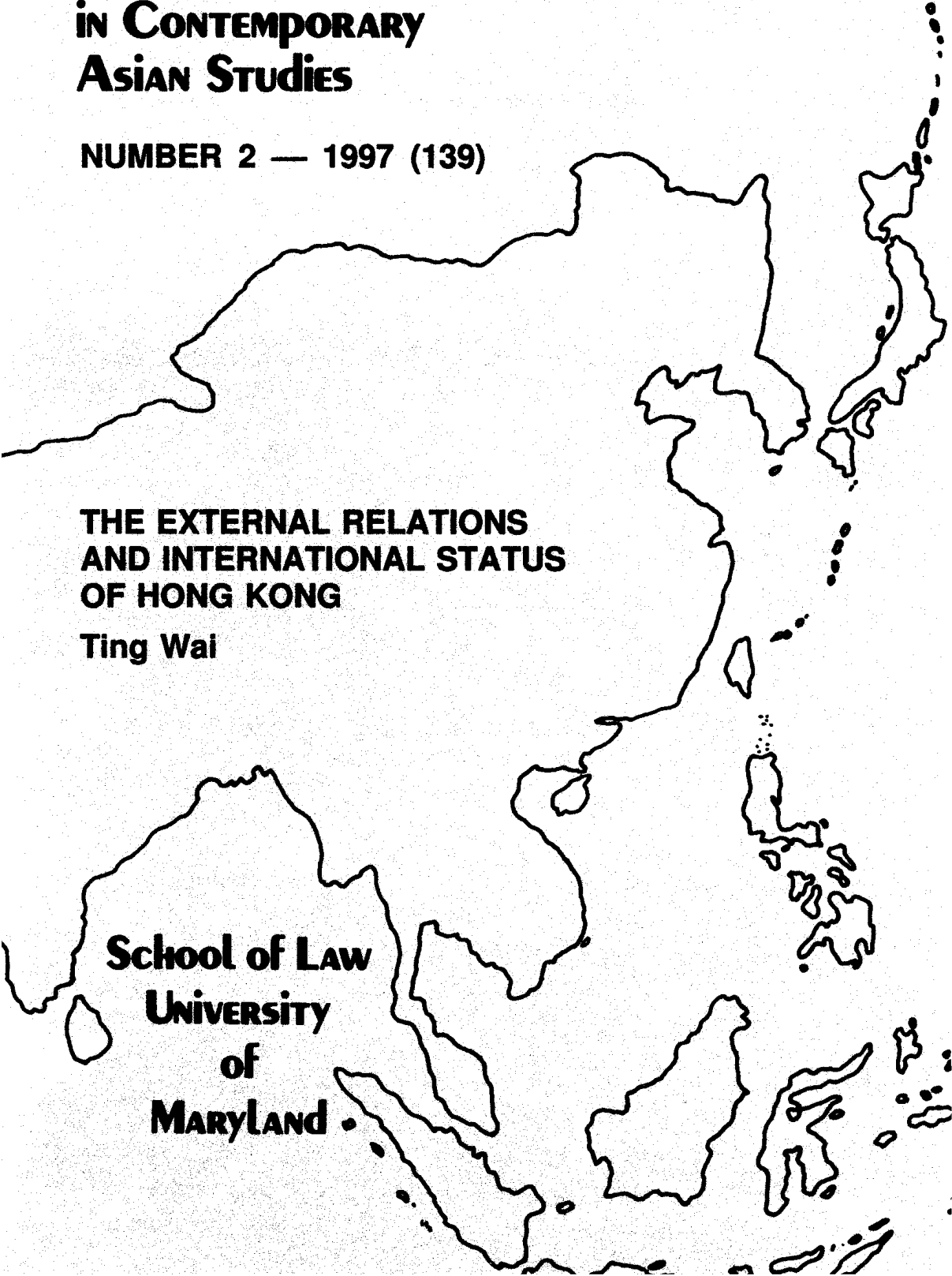
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**THE EXTERNAL RELATIONS
AND INTERNATIONAL STATUS
OF HONG KONG**

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I. HISTORICAL BACKGROUND

Hong Kong, populated mainly by ethnic Chinese but administered by the British government, has become an international city after going through several decades of rapid development. In the first century of Hong Kong's development after 1842, Hong Kong remained solely an entrepot. Its excellent port services and facilities enabled Hong Kong to become pivotal in commercial activities between China and the outside world. However, the establishment of the People's Republic of China (PRC) in 1949 brought along a crucial change in the development of Hong Kong.

Although in the early fifties Hong Kong suffered from economic sanctions imposed by the West against China due to the outbreak of the Korean War, the inflow of Shanghai capitalists who brought with them capital and expertise transformed Hong Kong into a major industrial center in Asia. With the government of Hong Kong adopting a laissez-faire economic and free trade policy, manufacturing and commercial activities prospered and the eventual economic "take-off" in Hong Kong took place in the sixties.

Since then, Hong Kong enjoyed double-digit growth until the late eighties, diversifying its economic activities into other areas. As one of the four "little dragons" in Asia, Hong Kong has become one of the most important financial, service, commercial and communication centers in the Asia-Pacific region. Hong Kong is not only the base of regional headquarters for many multinationals corporations which aspire to have access to the fast-developing Asia-Pacific and Chinese markets, it also serves as a financial base to raise funds for the Chinese enterprises which desperately seek precious capital for their expansion. With the further opening up of China, entrepreneurs remain optimistic about the economic future of Hong Kong and the role it will play in the modernization of China.

However, in the last fifteen years, people in Hong Kong have been obsessed by the eventual return of sovereignty from Britain to

China on July 1, 1997. The future of Hong Kong first became a problem in March 1979, when the former Governor of Hong Kong, Lord Maclehoze asked Deng Xiaoping, the paramount leader of China, what the Chinese government thought about the expiration of the treaty signed in 1898 on leasing the New Territories by the Ch'ing government of China to the United Kingdom for 99 years. Deng was perplexed and unprepared by the sudden and unforeseen question raised by the British government. He only replied by saying that investors in Hong Kong need not worry.

By the time British Prime Minister Thatcher visited Beijing in September 1982, the Chinese government had in fact decided to resume its sovereignty of Hong Kong. China promised to negotiate with Britain not on the question of sovereignty, which to China was undisputed, but on the remaining years of transition up to 1997. After a series of difficult negotiations, and after the British government eventually decided to abandon the issue of sovereignty, the two countries arrived at an agreement: the Sino-British Joint Declaration on the Question of Hong Kong, initialed in September and signed by the prime ministers of the two nations in December 1984.

This was not only the beginning of the end of British rule, it also was the end of the beginning of a whole series of issues on the transformation of Hong Kong into a Special Administrative Region (SAR) under Chinese sovereignty.

In fact, both British and Chinese sources have shown that the British government, under the influence of "Chinese experts" in the Foreign and Commonwealth Office, miscalculated the situation in 1979, resulting in the maladroit behavior of raising the issue before Deng Xiaoping. The Chinese communist government had made it very clear since 1949 that it did not recognize the three "unequal treaties" signed between the Ch'ing government and Britain in 1842, 1860 and 1898. The Treaty of Nanking in 1842 ceded Hong Kong island to Britain; the Treaty of Peking in 1860 ceded the Kowloon peninsula south of Boundary Street to Britain; and the Treaty signed in Peking in 1898 allowed the British to lease the New Territories for 99 years.

The PRC government declared these three treaties void, and after its entry into the United Nations in 1972, it even requested to eliminate the name Hong Kong from the list of colonies, although it agreed to the fact that Hong Kong was still under British rule. China, however, never indicated the exact date when this issue should be resolved. China only reiterated that the issue would be solved ultimately when the conditions for such a solution became

ripe. The logical corollary is that, if the British government did not raise the issue, China would possibly continue to tolerate British rule, as it had already tolerated for three decades since 1949. But as London raised the issue, China, to save face, would not refuse to resume sovereignty.

It seems paradoxical for Westerners to comprehend the Chinese attitude that the three treaties were not recognized and that Hong Kong was not a colony, although the city was *de facto* under British rule. For the Chinese communists, repulsing "imperialism" was a matter of principle. But for several decades since the establishment of the PRC, China had no intention to resume its rule over Hong Kong. This pragmatic approach towards Hong Kong originated from the policy allegedly designed by Zhou Enlai in the fifties: "*Changqi Dasuan, Chongfen Liyong*" ("preparing for long term, utilize fully").¹ The young PRC was under hostile containment imposed by Western powers.

In order to break through the embargo, maintain contacts with the outside world, obtain the necessary information and materials from the global community, and earn precious hard currency, China needed a "window" like Hong Kong that served also as a bridge-head in her foreign actions against the West. This policy was for a long time carefully executed, except for a brief moment in 1967 when, under the instigation of the extreme-left movements of the Cultural Revolution in China, riots were started by pro-China elements in Hong Kong aiming to overthrow the "British imperialists."

So, under the tacit consent of China, Hong Kong under British rule continued to prosper, and paradoxically, this was considered beneficial to Chinese interests. The opening up of China since 1979 even enabled Hong Kong to broaden its role. In the past, Hong Kong entrepreneurs aimed solely at the world market, and now an open China provided a new and vast outlet for the businesses of Hong Kong.

An increasingly international city situated at the junction of East and West and surviving even the Cold War with great pride will become part of China on July 1, 1997. Chinese leaders did guarantee the Hong Kong people some principles like "Hong Kong people ruling Hong Kong," a "high degree of autonomy," and a

1. See the interview of Wang Wen Fan, a former high official in the New China News Agency of Hong Kong, who was in charge of studying the return of Hong Kong to China, "On the Decision-Making Process to Recover the Sovereignty over Hong Kong," *Open Magazine*, No. 121 (January 1997), p. 50.

“socio-economic system remaining unchanged for 50 years”; these principles have been incorporated into the Basic Law, the mini-constitution of Hong Kong which was adopted in April 1990 by the National People’s Congress of China. However, people still worry whether the institutions firmly established in Hong Kong during the 155 years of British rule, such as the rule of law, freedom of speech, fair and free competition, and effective governance, will be detrimentally modified because of Chinese communist rule and its possible interference in the internal affairs of Hong Kong.

II. INTRODUCTION

The future of Hong Kong has become the focus of world attention in the last decade. This is not simply because it is difficult to comprehend how a capitalist society long under the British rule can be tolerated and coexist with the socialist system under the reign of the Chinese Communist Party (CCP) in a mutually beneficial way. More importantly, it is because Hong Kong has played a unique political and economic role in the international community. This is even more significant given the fact that Hong Kong is not a sovereign state, and therefore is not able to full exercise its influence in the development of the tumultuous international political situation.

After the Second World War, the socialist bloc and the capitalist bloc controlled by the two superpowers confronted each other in all aspects, including politics, the military and ideology. This confrontation determined the international political order for more than four decades, and Hong Kong served in reality as an extremely important base for the Western bloc in the Asia-Pacific region. Hong Kong served primarily the interests of the Western capitalist world, but, surprisingly, Hong Kong was successful in coexisting peacefully with Mainland China under socialism. Under the tacit consent of the Beijing regime, Hong Kong developed into a very modernized capitalist enclave at the door of China. Thus, it can be argued that Hong Kong is a strange product that grew out of the East-West confrontation in the Cold War period. Benefiting from her outstanding geo-political and geo-strategic position, as well as her excellent infrastructural development of transportation and communication, Hong Kong eventually became the most vital international city in the Asia-Pacific region, fulfilling several func-

tions — entrepot, financial center, commercial and services center, information center — all at the same time.²

As a metropolitan city of international character, Hong Kong provides supporting services not only to China but to the whole Asia-Pacific region. She is also a main target of investment in the eyes of Western powers, especially the United States and Japan. By 1997, Hong Kong will be returned to China after being embraced by the West as a British colony for a century and a half. This period of transition overlaps with critical moments during which the Soviet bloc collapsed, and the Chinese regime went on alert while the country continued to open up its economy. The impact and significance of Hong Kong in the international political community is undergoing severe changes.

It is in the interests of Western nations that Hong Kong continues to be the bridgehead in entering the vast Chinese market, and serves as “catalyst” in promoting change in China’s coastal provinces as well as the interior of the mainland. However, although the Chinese government appreciates greatly the economic prosperity brought about by the investments of Hong Kong Chinese industrialists in the Pearl River Delta region, Beijing emphasizes simultaneously the “division of politics from economics.”

According to Chinese leaders, Hong Kong should maintain its role as an international city in economics. In politics, first, the problems relating to the future of Hong Kong should not be “internationalized”, because all such problems are within the realm of Chinese sovereignty. Second, Hong Kong should not be permitted to become an “anti-China base” of the foreign powers. The immediate question is: after 1997, will China change Hong Kong, or will Hong Kong be able to transform China? Will the “contradictions” that exist between China and Hong Kong deepen and become more complex, or will the two converge and forge ahead cooperatively toward a brave new world? These questions are all closely related to the changing world order and western interests. Hong Kong’s future, therefore, has become a central theme in Sino-American, Sino-British and Mainland-Taiwan relations, with the result that Beijing must pay special attention to the role and status of this city when administering its foreign policies.

2. On the role of Hong Kong in Asia-Pacific region, consult Lo Chi Kin, “The Political Role of Hong Kong in Asia-Pacific Region,” in *Hong Kong in the Asia-Pacific Region: Challenge and Response to Her Roles*, Hong Kong: Center for Asia-Pacific Studies, Lingnan College, 1989, pp. 53-59.

This paper aims to examine thoroughly the problems imposed on the external relations and international status of Hong Kong during the transitional period. Problems involved are broken down into four different areas:

(1) Hong Kong in between China and the West.

Hong Kong used to belong to the Western bloc. China, preoccupied by her national interests, tacitly approved and tolerated the existence of this colony for years, although she was always criticized by many leftists in the world, including the Soviet Union. Starting from July 1997, Hong Kong will be a SAR under the sovereignty of China. How will the Western powers perceive the unique and important roles played by Hong Kong for the West in the Asia-Pacific region? Will Hong Kong become an outpost for the West to transform Mainland China? This would mean situating Hong Kong in the center of Sino-Western confrontation during the "New Cold War" period, as some pro-China opinion leaders in Hong Kong alleged.

Since 1949, China has consistently asked Britain not to allow Hong Kong to become a "base for subversion," in exchange for the cooperation of China in maintaining the status quo of Hong Kong. That is to say, the prosperity and stability of Hong Kong depends first of all on tacit Sino-British cooperation. Today, China continues to request that after 1997 Hong Kong should still not be a political base for foreign powers to counteract China; otherwise, it would invite excessive intervention of the central authorities which would be detrimental to the prosperity and stability of Hong Kong. What is the rationale behind this kind of argument? How does the complex interplay between the strong national stance of China and her increasing interactions with the rest of the world affect Hong Kong's international status?

(2) The Inevitability of Becoming a Chinese City But the Need to Maintain Its Status as an International City.

During the negotiations on the future of Hong Kong, which resulted in the Sino-British Joint Declaration, Britain succeeded in obtaining a rather "lenient" promise of "one-country, two-systems," which meant primarily a high degree of autonomy promised by the Chinese state to post-1997 Hong Kong. It is believed that the reason Hong Kong can enjoy such "benign" treatment is due to its wide range of international exchanges and unique international status, which consequently contributes greatly to the development

of China. In other words, as a truly international city, what Hong Kong can bring to China is unique from what other Chinese big cities could achieve, especially when they were not opened during the Mao era.

However, the return of sovereignty in 1997 brings a strategically very important problem to Hong Kong. After Hong Kong becomes one of the big cities in China, if its "international character" and the advantages that result from its international status erode and weaken, while other coastal cities like Canton and Shanghai are urged to catch up with Hong Kong in commerce, industry, finance and external relations, then gradually Hong Kong will be dwarfed and will look similar to other Chinese coastal big cities. By that time, without some degree of superiority, will it be meaningful to insist on "Hong Kong people ruling Hong Kong" or a "high degree of autonomy"? Certainly, big cities like Canton and Shanghai can hardly catch up with and replace Hong Kong in a relatively short span of time even with strenuous efforts. Hong Kong's multiple functions for China cannot be copied easily by other coastal cities. But the problem remains: approaching July 1997, what should Hong Kong do in order to maintain its "bridging" role, and hence continue to contribute to both the East and the West? The world needs Hong Kong, while Hong Kong also needs the linkage and support of the world. How can Hong Kong's international character be maintained while its "Chineseness" is augmented under Chinese sovereignty?

(3) International Status Guaranteed by International Agreements.

The Sino-British Joint Declaration, as an international legal document, and the "mini-constitution" of Hong Kong, the Basic Law, are legal documents that safeguard the status quo of Hong Kong. It is stressed that the external relations of Hong Kong are also to be respected and protected. But in terms of *Realpolitik* and at a technical level, what kinds of problems will Hong Kong encounter, given the present international profile of China? For instance, Hong Kong is allowed to maintain its member status in many international organizations, and to sign international agreements. However, if China is not a member of that international organization or not a signatory state of a certain treaty, how can it be assured that Hong Kong living under the sovereignty of the PRC can obtain the protection of that organization or treaty?

Hong Kong knows that "internationalization" is an effective instrument to ensure its future. As a result of the needs of Hong Kong's external economic relations, it is a contracting party of the General Agreement on Tariffs and Trade (GATT) (now the World Trade Organization (WTO)) and the Asia-Pacific Economic Cooperation (APEC) Conference. Hong Kong is also a prime site for the Asian headquarters of numerous multinational corporations. All these international relations naturally reflect Hong Kong's status as an economic and trade "capital" in the Asia-Pacific region. But can these relations sufficiently safeguard the role and status of Hong Kong?

(4) Policy Orientations of Western Countries in Defending Hong Kong's Status Quo.

Western powers, especially the United States, Japan and Britain, are major investors in Hong Kong. In addition, in facilitating trade and investments with China, Hong Kong's role is very significant. This further enhances the status of Hong Kong and consolidates its role as a middleman. The logical question is how these economically advanced countries assist in protecting Hong Kong's international status. For instance, without the enormous investments of Hong Kong industrialists in the South China region, with the final products of such investments eventually being sent to the United States, the annual review of "Most-Favored-Nation" (MFN) status by the United States could not become a political instrument for Washington in dealing with Beijing.

Making use of MFN treatment to lead and urge China to comply with international norms and be more responsible in both domestic and foreign policies is a significant theme of American policy *vis-à-vis* China. Only when China continues to pursue an open-door policy will it suit the interest of Hong Kong capitalists. Japan's policies seem to be more subtle and low-profile. Apparently the Japanese are only concerned about the commercial and investment environment. But in supporting the "internationalization" of Hong Kong, the Japanese government as well as Japan's economic and financial sectors are exercising extremely important influence in Hong Kong. The perceptions and policy orientations of these countries are undoubtedly significant variables in determining the future of Hong Kong.

III. THE WORLD OF HONG KONG AND HONG KONG IN THE WORLD

The world needs a distinctive place like Hong Kong, which is unmatched by other cities. In the former international political order of East-West confrontation, Hong Kong was forced to live in a narrow space between East and West, but amazingly it achieved incredible success, bringing enormous political and economic benefits to the Western countries, as well as to Mainland China. So, whether it is China or the West, both would like to see Hong Kong more actively playing its multi-functional role. Therefore, it can be argued that in a period of flux, when heterogeneous political forces in the world are diversifying, reorganizing and engaging in complex interactions, Hong Kong seeks to find the most suitable place for itself.

What do the Hong Kong people think about the world? In other words, what are the major characteristics of their *Weltanschauung* in relation to their life in that peculiar but glorious city? We would like to start our discussion by examining how Hong Kong looks at the world and the world's perception of Hong Kong. The mutual perceptions of Hong Kong and the world will then be linked up to our further discussion on the nature and direction of the external relations of Hong Kong. The world view study can be approached from three dimensions: the structural dimension, the emotional and attitudinal dimension, and the political-economic dimension.

A. Hong Kong People's World View

Structural Dimension

I now will examine how structural factors, such as the colonial history and political structure of Hong Kong and the complex nature of Hong Kong's capitalist society has affected people's perception of the world. Although physically speaking, China and Hong Kong are so close to each other, they are in fact in two extremes of the world: the psychological distance between Hong Kong's capitalism and Chinese socialism is enormous. Hong Kong was ruled by the British, but China never recognized her as a colony. In Chinese eyes, there was no question regarding the sovereignty of Hong Kong. The city had always been part of China, but because of historical reasons, it was temporarily ruled by the British. However, the psychological distance diminished in recent years with the con-

tinuous prosperous development of the South China Economic Zone.

It now can be said that China-Hong Kong relations have developed to a stage where the two are as close as lips and teeth. But it can hardly be said that they share a common view towards a common destiny. The intimate relationship is simply a marriage of pragmatism that results from mutual economic benefit. Politically, the Hong Kong people still want to keep their own distinctive identity, as demonstrated by the largest proportion of people who claim as their primary identity that they are Hongkongers. In 1985 the proportion reached 60%, as compared to 36% who regarded themselves as "Chinese." In 1988 the proportion of people who identified themselves as Hongkongers reached 63.6%, and only 28.8% regarded themselves as Chinese.³ Even in February 1997, survey results showed that there were still 64% who regarded themselves as "Hong Kong Chinese" or Hongkongers, while 31% identified themselves as Chinese.⁴ These figures are not pleasing to the CCP, which is accustomed to seeing the future of China from a nationalistic point of view in which reunification at all costs is the ultimate goal.

Since the early 1980s, Britain has not regarded Hong Kong people as true British nationals. China legally considers them as real Chinese nationals,⁵ but the majority of Hong Kong citizens do not want to identify with the communist regime, although their attitude is changing as July 1997 approaches. Chinese nationalism does not play a very significant role in the minds of Hong Kong Chinese, although they are also concerned with and proud of the various achievements accomplished by ethnic Chinese all over the

3. See Lau Siu-Kai and Kuan Hsin-Chi, *The Ethos of Hong Kong Chinese*, Hong Kong: The Chinese University Press, 1988, p. 2; Lau Siu-Kai, et al., *Indicators of Social Developments: Hong Kong 1988*, Hong Kong: Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong, 1991, pp. 177-178. However, according to another survey, the proportion has decreased to 48.4% of the polled who identified themselves as Hong Kongers against 45.9% who regarded themselves as Chinese. See Wong Siu-Lun, "Political Attitudes and Identity," in Ronald Skeldon, ed., *Emigration from Hong Kong*, Hong Kong: The Chinese University Press, 1995, pp. 167-168.

4. See "Golden Sunset, Red Sunrise: Hong Kong Public Attitudes in the Transition to PRC Rule," *The Hong Kong Transition Project Survey Results*, Hong Kong Baptist University, March 1997, p. 15.

5. Chinese born in Hong Kong can hold a British Dependent Territories Passport but have no right of abode in Britain or other rights such as the right of election or being elected. When they go to China, legally they are regarded as Chinese just like any Chinese on the Mainland. They have to obey Chinese laws and cannot be protected by the consular service of the British government.

world. Hong Kong people have no definite political entities (nation and state) to identify with in the political reality, and since the fate and destiny of Hong Kong cannot be controlled by Hong Kong people, they can hardly have any ideals regarding any nation, state and society, except a rather strong sense of belonging to Hong Kong.⁶ As a result, Hong Kong people are only concerned about their present situation, in seizing interests of immediate concern to themselves, and in the eyes of Lau Siu-Kai, Hong Kong people would only struggle for the benefits for themselves and their families. Lau calls it "utilitarian familism." This is the result of Hong Kong's uniqueness in a "borrowed time, borrowed place."

When discussing the successes of Hong Kong, many scholars tend to relate their analysis to the cultural tradition of Confucianism, such as the heavy emphasis on education, loyalty, discipline, obedience and respect of familial relations. However, in reality, without a free and open environment in which competition is the predominant value, all these values, considered to be favorable factors for economic development, might not be able to produce fruitful results. On the contrary, they might even become the values that suppress individual development and inhibit personality formation, as can be witnessed in other East Asian nations.

Hong Kong, inheriting the Western tradition, has a free and open environment which prompts everybody to fully develop and utilize their expertise and potential. At the same time, the British tradition of the rule of law and independent jurisprudence defends public order and the fairness of the socio-economic system. Only under these conditions can the cultural traditions of Confucianism play an active part in economic development. Instead of saying that Confucian ethics promote the development of capitalist civilization, it may be more appropriate to say that, the concept of organization and a strong sense of community, with other cultural values like loyalty and subservience in the Chinese mind, can cope with the capitalist spirit of fair and perfect competition, and even enlighten and vitalize the latter.⁷

Obviously, without the openness and the mechanism of competition in capitalism, the "superiority" of the Chinese cultural tradition cannot really show its effects. Besides, the effective implementation of legal and financial institutions is also an undeni-

6. Skeldon, *Emigration from Hong Kong*, *supra* note 3, p. 169.

7. For a useful dialogue on this problem, see Bryce Harland, "Whither East Asia?" *Pacific Review*, Vol. 6, No. 1 (Spring 1993), pp. 9-16.

able variable in promoting the prosperity and development of civilization.

In the past, it was argued that people in Hong Kong were politically apathetic, thus creating an image that Hong Kong was a city which emphasized only economics (personal interests), while paying little attention to politics. It was thought to be a place which assembled only people keen on profit-making, with no conscience and ideals at all in politics. However, recent research findings have shown that voters in Hong Kong are aware of their political rights and obligations, and demonstrate a high concern for public affairs and government performance, but they "pay relative little attention to input from institutions and processes such as political organizations, pressure groups, and elections,"⁸ and are "discouraged by a sense of impotence."⁹

Political apathy is no longer a characteristic of Hong Kong political culture. Yet, people in Hong Kong are developing a strong sense of political inefficacy, as the Hong Kong government that they used to trust is undergoing a perceived decline in governability. This becomes an impetus in the development of cynicism among the people of Hong Kong.¹⁰ But China seems willing to play down the importance of the changing political attitude of Hong Kong's people — rising political expectation and participation but also a strong sense of political inefficacy. The omnipotent CCP does not want to see any political action, movements and struggles in Hong Kong. The Director of the Hong Kong and Macau Affairs Office of the State Council, Lu Ping, points out:

Hong Kong should and must continue to maintain its status as an economic and financial center, international business center, and international transportation center. But, Hong Kong in any case should not become a political center, let alone an international political center. If Hong Kong becomes a field where international political forces confront and enter into rivalry, it will bring disaster to the six million people living there.¹¹

8. See Jermain T. M. Lam and Jane C. Y. Lee, *The Dynamic Political Actors in Hong Kong's Transition*, Hong Kong: Writers' and Publishers' Cooperative, 1993, p. 42.

9. *Id.*, p. 46.

10. See Lau Siu-Kai, "The Attitude of Hong Kong People Towards Hong Kong Government," *Guang Jiao Jing* (Wide Angle Monthly) (July 1992), pp. 48-57.

11. See *Wen Wei Po*, May 14, 1993, p. 2; *Ta Kung Pao*, May 14, 1993, p. 12.

He does not want Hong Kong to become a political stage full of internal political confrontation, upon which international powers practice intervention. Reading between the lines of his statement, though, it seems that China wants to rejuvenate the apathetic political character of Hong Kong.

However, the past apathetic attitude of Hong Kong people does not mean that in the past Hong Kong was exempt from political struggle. In reality, the ruling method of Britain has been consistently ingenious and artful. The Governor is an all powerful, authoritarian figure, but he succeeds in absorbing or even dissolving domestic political conflicts. On the one hand, the government has not allowed any hostile actions in Hong Kong against Communist China since the 1950s.¹² On the other hand, it has skillfully developed Hong Kong into a free port so as to attract capital investments from all over the world.

Since the interests of many nations, especially Western powers, are involved because of their investments and trade activities in the city, any problem that happens in Hong Kong immediately becomes an international affair. So it can be argued that the British are borrowing international forces from the global community to provide checks and balances against China.

Skillful political maneuvers also include providing abundant opportunities for Chinese refugees who escape from China seeking a better life. With the almost perennial existence of a corrupt and inefficient government in China, stable and prosperous life in Hong Kong for these people would by all means dilute any unfavorable sentiments against the colonial government. The impression of heavily emphasizing economics while ignoring politics is eventually formed in such conditions. In 1992, 45% of people in a survey expressed their trust towards local Hong Kong government, while the British and Chinese governments received trust ratings of only 20% and 18.4% of the respondents, respectively.¹³

While Hong Kong people ostensibly appear to attach great importance to international economics, because external economic relations are the lifelines for the survival of Hong Kong, in reality they are not so much concerned with international political events or phenomena. Even if they may pay attention to some foreign af-

12. See Leung Sheung Yuen, *Zhonggong zai Xianggang* (Chinese Communists in Hong Kong), Hong Kong: Wide Angle Press, 1989, pp. 153-157.

13. Lau Siu-Kai and Kuan Hsin-Chi, "The Orientations of Hong Kong Citizens: the Attitude of Hong Kong People towards Political Authority and the Legitimacy of Colonial Regime," *Guang Jiao Jing* (Wide Angle Monthly) (September 1993), p. 87.

fairs, they are only attracted selectively by those that are closely related to Hong Kong, especially in relation to the economic environment of the city, while the others are usually ignored.

For example, potential emigrants may show more interests toward their future host countries. During the Gulf War of 1990-1991, people were more concerned by how the conflict affected the price of properties in their capitalist enclave, but not the conflict itself. The international news pages in the Chinese newspapers of Hong Kong are usually called the "wire pages." The workers concerned are not specialists on international affairs, but are only translators of telex dispatches sent over by the four major news agencies. In-depth analysis and assessment of current affairs are generally lacking. Hong Kong is an international and cosmopolitan city where communication industries are flourishing and information flow is convenient. But it is strange to find that people there are disinterested in, and lack a deep understanding of, world affairs. Even the domestic development of the neighboring Asian countries is simply ignored.

Emotional Dimension

This section purports to examine the emotional dimension of Hong Kong people's world view. To what extent are people in Hong Kong affected by Chinese nationalism and cultural traditions? How do they perceive the CCP's rule and the legitimacy of colonial government?

The pragmatic and utilitarian character of the Hong Kong Chinese is reflected by their sense of belonging expressed towards this small piece of land. Apart from the new generation that was born and bred in Hong Kong after the Second World War, a great proportion of Hong Kong citizens are immigrants who have escaped from China. This latter group of people does not possess much sense of commitment regarding the land, the fellow compatriot living there, and the prosperous society that they all strive to build. If Hong Kong survives, they stay; but if it is in trouble, they are strongly motivated to leave again.

This kind of mentality naturally helps to promote the emigration trend, because the people are not even willing to sacrifice for the paradise that they have been living in for years. This situation is referred to as "lacking national sentiment," although strictly speaking, Hong Kong is not a nation.

Seeking the right for self-determination cannot even be considered, since the vehemently nationalistic CCP, which views reunifi-

cation as the ultimate goal, has made it clear that the independence of Hong Kong is impossible.

Hong Kong has no democracy, but people do not want to fight for it. The easy outlet for them is to emigrate to other countries so as to enjoy the fruit of democracy in those places. Moreover, after becoming foreign nationals they can always return to this part of the world to enjoy the economic benefits created by the open-door policy of China. Thus, the greatest political effort of the Hong Kong people is simply that one should use minimum effort and run minimum risk in order to get maximum value, which essentially means servicing all their individual economic interests. This is in brief the *Weltanschauung* of the Hong Kong people in viewing the world.

The lack of a strong "national" sentiment may not be harmful in the eyes of Hong Kong people. Just because they do not possess a strong sense of commitment towards the land, society and people in both Hong Kong and China, they need not bear the heavy burden relating to national sentiment and the problems of Hong Kong's future. They can easily change their identities and nationalities, and do not feel uneasy at all after becoming foreign nationals. Besides, they are industrious and open to challenges. After emigrating to other countries, their ability to survive in foreign environments is unusually strong. Hong Kong people can really be proud of saying that they are in fact the real "global men" who see the world as a "global village." They can "wander" freely in the "village," and can get the most out of it.

A people with such a world view facing a CCP which upholds the banner of nationalism and reunification must encounter serious difficulties in harmonizing each other. When China regains sovereignty over Hong Kong, apart from putting stress on mutual economic benefits and collective prosperity, what instruments can she employ in an effort to appease this special people of extreme pragmatism who can easily change their nationality and move to other countries at will?

Lack of national sentiment is always claimed to be a result of colonial education and a manifestation of the city's political socialization. Deprived of cultural and national identity, Hong Kong Chinese are compensated with political stability and economic prosperity. They widely believe in the honesty and efficiency of the

Hong Kong government,¹⁴ which guarantees them a stable life. Moreover, they believe that the government will act upon their requests and that they will be treated fairly.¹⁵

With no strong loyalty to Hong Kong, people will not fight for the sake of their home. Staying in a colony ruled by an able government that can react to the appeal of the public renders political action in Hong Kong unnecessary. It is thus not surprising to learn that in comparison to other developed countries, "Hong Kong Chinese participate less in almost all forms of conventional and unconventional actions."¹⁶ And in their political participation, which is rather limited in scope, protest against China comes just behind voting as the most important mode of participation.¹⁷ Parallel to the weak participation in politics is a strong sentiment of political powerlessness.¹⁸ The Hong Kong people conceive themselves as "powerless" people ruled by those vested with power, and do not believe in their strength to challenge the "establishment", whether it denotes Chinese or Hong Kong regimes.¹⁹

Revulsion against the Chinese government, a strong sense of political impotence, and disbelief in any possible reward following their political actions constitute the basic structure of the Hong Kong people's political world view. What is worse, people in Hong Kong are worrying about the decline of government authority: the new government of the SAR might even identify itself with Chinese interests and become overshadowed by the Beijing government. Its legitimacy is already under challenge.²⁰ The present government under British rule is perceived as responsible and responsive, and treats its people well. As SAR government authority may erode,

14. *Ibid.* See also Lau Siu-Kai, "Hong Kong People's Attitude towards Sino-British Relations during the Later Stage of Transitional Period," *Guang Jiao Jing* (Wide Angle Monthly), (November 1992), pp. 52-63.

15. See Lau Siu-Kai and Kuan Hsin-Chi, "The Attentive Spectators: Political Participation of the Hong Kong Chinese," *Journal of Northeast Asian Studies*, Vol. XIV, No. 1 (Spring 1995), p. 15.

16. *Id.*, p. 4.

17. *Id.*, p. 12.

18. *Id.*, p. 15.

19. This dichotomy between rulers and the ruled, powerful and powerless, is said to be a characteristic of Chinese political culture. See Lau Siu-Kai, "Politics without Social Foundations: Hong Kong Chinese' Attitudes towards Political Leadership," *Guang Jiao Jing* (Wide Angle Monthly) (September 1991), p. 59.

20. Lau & Kuan, "Orientations of Hong Kong Citizens," *supra* note 13, p. 92. According to Lau's survey, in 1992, 62.1% of the interviewees felt that Hong Kong government was losing its authority. See also Lau, "Hong Kong People's Attitude," *supra* note 14, p. 57.

the remaining political choice is quite straightforward for those who can afford to do so: leaving the city, even if some may have strong self-identification as “Hongkongers.” Statistics show that the majority of people do not think emigration is morally wrong: 55.6% of the respondents in a survey were neutral, 22.5% even approved, and only 11.3% disapproved.²¹

Political-Economic Dimension

Political transition in Hong Kong definitely affects the Hong Kong people’s views of the world. Political uncertainty results from a distrust of the Chinese government and skepticism towards the profundity and effectiveness of reforms in China. The affluent middle class notes that “China lacks a secure legal framework, and they most worry about the rampant corruption.”²² They do not trust local democratic processes to solve the problems of Hong Kong resulting from the “take-over” in 1997. For the lower income people, “[their] views towards politics range from cynicism, to feelings of incompetence, to fatalism”.²³ Many affluent professionals thus already left Hong Kong; however, they are not ready to accept the gloomy economic situation in the West. Some come back after obtaining foreign passports, others who have applied for and obtained an emigration visa stay in Hong Kong as long as possible and are prepared to leave if things turn bad. They “wait and see” and their stay in Hong Kong is based on economic reasons. Once they stay, they hope in turn for the best in the transformation of China, and they are becoming more receptive towards the current development in China.²⁴

In fact, hundreds of thousands of Hong Kong Chinese have quietly left the colony to “go to the world” since the 1997 issue emerged. The total number of emigrants in the decade after the signing of the Joint Declaration (1985-1994), as estimated by Hong Kong government, totals 462,100.²⁵ People used to say that Hong Kong people had no roots. It is because the “root” of the Hong Kong people is simply the whole world, and in their minds it is beyond the demarcations of national and state boundaries. Although Hong Kong and China are so close to each other, their psychologi-

21. Skeldon, *Emigration from Hong Kong*, *supra* note 3, p. 170.

22. *Id.*, p. 188.

23. *Id.*, p. 205.

24. *Id.*, pp. 190-197, based upon the research findings of Janet Salaff and Wong Siu-Lun.

25. *Id.*, p. 57.

cal distance is still quite great. In 1991, survey results show that left wing (pro-China) organizations and the New China (Xinhua) News Agency are not trusted by Hong Kong people. The percentage of distrust toward those organizations reaches 53.3% and 53.8%, respectively.²⁶

Many Hong Kong people prefer embracing the world, thus becoming an *étranger* in a foreign place, and are unwilling to return to the embrace of the motherland. The Hong Kong Chinese have been living for a long time under colonial rule, and they now have a crisis of confidence and faith *vis-à-vis* the Chinese regime. Also, for a long time they have developed an international field of vision.

Perhaps all these conditions make the Chinese in Hong Kong unconstrained by national sentiment. This in turn makes them feel less anxious about more difficult problems, like whether they should emigrate or whether they can easily adapt to a new life in a completely different place.

It seems that between Hong Kong and China there have always existed intricate East-West problems and difficulties. Hong Kong people can live quite well with the Western world. It is because the city is an "asset of the world,"²⁷ in the words of Governor Chris Patten. It survives on the basis of international economic and trade relations, and the international community is most happy to protect its future. But the ironic fact is that Hong Kong's survival depends to a large degree on the tacit approval of China.

Although on the one hand the right of survival of Hong Kong depends largely on developing frequent and intimate economic relationships with countries of the world, on the other hand it seems that Hong Kong is a "pure" land well insulated from major problems of the world, such as war, hunger, natural disasters, and ethnic conflicts. Even the conflicts among the major domestic forces in Hong Kong are mild and courteous. The "gentlemanly style" of politicians in Hong Kong can hardly be compared to those in South Korea and Taiwan. Everybody, despite his political stance, is frightened to break this consistently peaceful situation. No political forces can afford to bear the "crime" of destroying the stability and prosperity of this city. All are striving to protect the

26. Lau, "Politics Without Social Foundations," *supra* note 19, p. 52.

27. See *Wen Wei Po*, May 11, 1993, p. 11. When Governor Patten was interviewed in the United States on May 5, 1993, he stressed that Hong Kong was always an international city, or a society of an international type, and was also an international asset. Whether the suzerain of Hong Kong is China or Britain, the city remains an international city.

narrow margin of maneuverability kept by Hong Kong in between the great powers.

B. The World's Perception of Hong Kong

The world's perception of Hong Kong is gradually built upon the increasing international interactions of Hong Kong and the multifunctional role that she plays for the region as well as for the rest of the world. While Hong Kong people easily perceive themselves as "global men," Hong Kong is seen by many foreigners as an easy place to live, as can be demonstrated by the fact that Hong Kong is beloved by tourists and businessmen from all over the world.

The world's perception of Hong Kong can also be approached from a three-tier framework.

Structural Dimension

Hong Kong has become a super-model of economic success, based on the capitalist spirit of competition in a free and open environment. The colonial political structure, though it appears archaic in form, proves to be efficient in administering the city and guarantees the legal framework that is badly needed in defending the capitalist rules of the game. A policy of low taxes, excellent development of infrastructure and transportation systems, sophisticated communication facilities, efficient management of the government, a free market under minimum intervention, cultural activities and entertainment, and even nice cuisines for gourmets — all these make Hong Kong a paradise for investors.

In recent years Hong Kong has become a major support services center for China as well as for the entire Asia-Pacific region. As a major financial center in the region, Hong Kong plays a dual role. First, it is one of the major financial centers of the Asia-Pacific region, apart from Singapore and Tokyo. Second, it is the financial center for the economy of the ethnic Chinese community in this region, that is, a shelter for the capital of the rich Chinese scattered all over Southeast Asia.²⁸ The multifunctional role of Hong Kong brings forth the kind of dynamism and fields of vision that are unmatched by other Asian cities. Hong Kong's success can be demonstrated by the figures released by the Hong Kong Trade De-

28. The latest comprehensive study of Hong Kong's role in the world is the cover story in *Forbes Magazine* (Chinese edition), October 1995, pp. 32-80; see especially Chiu Yim-Ngan and Yeung Ling, "Uphold Her Position as an International Financial Center," *Zi Ben Jia* (*Forbes* in Chinese) (October 1995), pp. 46-53.

partment. In 1996, it was the world's 7th largest trading entity in goods, 7th largest importer and 9th largest exporter. For commercial services, it was the 10th largest exporter in 1996.

Emotional Dimension

In the eyes of foreigners, Hong Kong is particularly attractive. It is a place where East meets West, where modernity and tradition coexist in a harmonious way. The openness of Hong Kong's economic system and the lack of strong nationalistic sentiments renders the place receptive to foreigners. Hong Kong's very nature is basically an "immigrant" society where the majority of people came from China or belong to the second generation of Chinese immigrants. This facilitates its absorption and assimilation of foreign nationals. The city remains attractive as it transforms from a borrowed place to be part of China. As China continues to open up, Hong Kong stills occupies a dominant position as the gateway to China. The internationalization of its citizens will definitely continue after 1997.

Political-Economic Dimension

Despite the Sino-British controversies concerning the 1995 Legislative Council election,²⁹ foreign capital continues to pour into Hong Kong. Integration of Hong Kong into China attracts foreign businessmen to set up their bases in Hong Kong. Many multinationals still choose the city to house their Asia-Pacific as well as Greater China headquarters. These amount to 816 regional headquarters and 1491 regional head offices in 1996, while in 1995, the figures were 782 and 1286, respectively.³⁰ Certainly, Hong Kong

29. In October 1992, Governor Patten proposed to modify the mode of election. Among the 60 members of Legislative Council elected in September 1995, 20 were directly elected in their geographical constituencies, 30 from functional constituencies, and 10 from electoral college. Originally the people eligible to vote in functional constituencies were limited, but Patten changed the voting pattern in such a way that the whole working population can have the right to vote, thus changing the nature of limited suffrage of the functional constituencies to a quasi-universal suffrage. Besides, the electoral college was formed by the members of the District Boards, the Urban Council and the Regional Council, who were all elected by universal suffrage. As a result, the Legislative Council elected in September 1995 was much "more democratic" than originally designed. This aroused severe protest from China, and seventeen rounds of negotiations were held in 1993. No compromise was achieved, and eventually the election was carried out according to Patten's proposal.

30. *Report on the 1995 Survey of Regional Representation by Overseas Companies in Hong Kong*, Hong Kong Government Industry Department, 1995, pp. 7 and 12; *Re-*

encounters serious challenges from neighboring cities like Singapore, Taipei, or even Shanghai, all of which want to take over at least part of the functions exercised at present by Hong Kong, such as transportation and communications, or finance and banking. However, because of its geographical distance, Singapore's role as a base for multinationals in developing the Chinese market is still limited. Taiwan's wish to develop its own harbors in becoming entrepot in mainland-Taiwan trade still suffers from political uncertainty.³¹ Although Shanghai attracts some multinationals for their China headquarters, Hong Kong is still considered as the ideal base for their regional headquarters.³²

However, Hong Kong is losing its precious human resources (highly-educated professionals) to Western countries. It seems a paradox that those countries which draw most of the talent from Hong Kong are the very countries that attach great importance to their relationship with this city. Granting emigrating visas for such talent is seen by the applicants as well as by the countries concerned as a means to defend the future of Hong Kong. In the words of Ronald Skeldon, "emigration can be seen as a strategy that permits access to resources in different locations. It minimizes risk by spreading the distribution of assets and expanding access to markets. It minimizes risk to any single economic or political system."³³ The inflow and outflow of capital and human resources to and from Hong Kong constitute a rather interesting but perplexing situation for 1997.

Needless to say, the external relations of Hong Kong are conditioned by power politics. During the Korean War immediately after the establishment of the PRC, the embargo imposed by Western powers against China abruptly stopped the entrepot role Hong Kong previously played. However, the inflow of capitalists from China afterwards did succeed in turning Hong Kong into an industrial center. During the Vietnam War in the 1960s, Hong Kong was a leave base for American soldiers, while just across the Shenzhen

port on the 1996 Survey of Regional Representation by Overseas Companies in Hong Kong, Hong Kong Government Industry Department, 1996, pp. 11 and 16.

31. See *Zi Ben Jia*, *supra* note 28, pp. 69-78.

32. Four major banks, namely the Chase Manhattan Bank, Hong Kong Bank, Bank of East Asia and Chartered Bank have moved or are planning to move their China main offices to Shanghai, while Hong Kong remains the Asia-Pacific headquarters.

33. Ronald Skeldon, "Emigration from Hong Kong, 1945-1994: the Demographic Lead-Up to 1997," in Skeldon, *Emigration from Hong Kong*, *supra* note 3, p. 71.

River the great Chinese hinterland was injured by the disastrous Cultural Revolution.

Also influenced by the "leftist" revolutionary line, in foreign policy consideration, Beijing was aggressive in "exporting" the world revolution. However, despite the Sino-American rivalry over Vietnam, Hong Kong remained insulated. Subtle compromises accorded by the powers concerned determined the destiny of Hong Kong. It is not a sovereign state, but a unique product of international politics. The long time rule of the United Kingdom has succeeded in "internationalizing" Hong Kong, thus turning it into a great "asset" cherished by international society. The question is: how can the external relations of Hong Kong contribute to the maintenance of the characteristics and status quo of Hong Kong, or even help to enhance its development?

Three problems will be treated when analyzing the international relations of Hong Kong:³⁴

- (1) How are the different types of political forces, including the sovereign states, international organizations, multinationals and domestic civilian forces, engaged in the complex maneuver for the status of Hong Kong? How do they search for their own interests and at the same time serve to safeguard the order and prosperity of Hong Kong? What are their respective strengths and relative importance, and how do their complex interplays affect the future of Hong Kong?
- (2) How do the existing institutions, treaties or agreements, such as the Sino-British Joint Declaration, GATT (now WTO), various international covenants for human rights and the Basic Law, help to safeguard the status quo of Hong Kong?
- (3) How is sovereignty, in Chinese eyes, balanced or counteracted by other political phenomena, such as economic interdependence, and the emergence of a New International Political Order (or Disorder), in affecting the political struggle and performance of various "actors" in determining Hong Kong's future?

34. This differentiation is borrowed from René Rémond, *La Politique N'est Plus Ce qu'Elle Etait*, Paris: Calmann-Lévy, 1993, p. 9.

IV. THE RULE OF BRITAIN AND CHINA: THE "NON-SOVEREIGN ENTITY" FACING THE 1997 CHALLENGE

The reform proposal for the acceleration of democratization of Hong Kong as initiated by Governor Chris Patten has obtained the full support of the Western countries. However, the initiative has been continuously attacked by the Chinese government as playing the "international card."³⁵ The position of China is that although Hong Kong will remain an open and free international city after 1997, the problems relating to Hong Kong should not be "internationalized," because all these lie within the realm of sovereignty of the PRC. As a corollary, foreign intervention is not allowed.

In reality, the status of Hong Kong as an international city is clearly a product of history and international politics. The complex intersections of the national interests of great powers which counterbalance each other are political conditions for the formation of Hong Kong's unique status. On the one hand, since the existence of Hong Kong directly affects the national interests of Western countries and the city is engaged in closely knitted international linkages, it can succeed in exchanging for international support. On the other hand, Hong Kong as an international city can greatly contribute to China, whether she adopts a closed-door or open-door policy.

Because this function cannot easily be fulfilled by other Chinese coastal cities, Hong Kong is thus able to gain the rather generous policy of "one-country, two-systems" from China. The principles like "Hong Kong governed by the people of Hong Kong", a "high degree of autonomy", and "Hong Kong remaining unchanged for 50 years" are sufficient to indicate China's wish to maintain the international character of Hong Kong, so that it can continue its miracle of progress in order to better serve the modernization programs of China.

Now the question is, if the national interests of the West in relation to Hong Kong are not fully respected, and if the West's political acts in Hong Kong are regarded as "conspiracies" and intervention in China's domestic affairs, the West can be prevented from having a say in this city under the great principle of Chinese sovereignty, thereby limiting its freedom to maneuver in Hong

35. See the report made by *Wen Wei Po*, *supra* note 27. Also see Cheng Yu, "A Critique to Patten Playing 'International Card,'" *Zi Jing* (Bauhinia Magazine) (January 1993), pp. 14-15.

Kong. Even if Western countries remain economically present in Hong Kong, losing political influence in Hong Kong affairs would render Hong Kong less important, as she will no longer be a cosmopolitan place where the interests of major Western countries are heavily attached. The result is ironic: if Hong Kong reduces its "international character," it also will not be as beneficial to China.

So, China is facing a dilemma. Because foreign countries have participated in the operation of Hong Kong in various fields (for example; the economy, society, education and culture), Hong Kong has developed an outstanding international reputation, and as a result serves usefully as a door or a window for China in its contacts with the West. But western participation by all means brings certain political implications, and contributes significantly in shaping the value system and world view of people living in Hong Kong. The support of Western countries is needed to maintain the international character of Hong Kong, but the political influence that would accompany such support must be minimized but not eliminated.

This clear and sharp separation between open-door policy and refusal of political influence thereafter simply reflects a contradictory attitude in the minds of Chinese leaders in this era of openness and reform. They are still unable to extricate themselves from the burden of ideology and sovereignty. In the minds of CCP leaders, the existence of Hong Kong is only allowed as long as it can bring "benefits" to China; it is not permitted to "do harm" to China.

For instance, before and after the June Fourth massacre in 1989, over a million people in Hong Kong joined in manifestations of support for the Beijing students. As a result, Hong Kong was accused of being a base for "subversion." However, if the same kind of activities are prohibited in Hong Kong in the future, the city will no longer be a free Hong Kong, as her *raison d'être* would not be the same. Whether Mainland China would continue to obtain benefits from such a "Hong Kong" is doubtful.³⁶ China only pays attention to the substantial economic interests, and it seems to ignore the fact that if the free and open environment of Hong Kong is disturbed, Hong Kong will be radically different and consequently will not be as useful to China.

36. On this argument, consult Brian Hook, "The External Relations of Hong Kong," Sung Yun-Wing and Lee Ming-Kwan, ed., *The Other Hong Kong Report 1991*, Hong Kong: The Chinese University Press, 1991, p. 512.

By all means, Hong Kong is not a sovereign state, but it does enjoy a high degree of autonomy, and is particularly active on the international stage, albeit mainly in the economic aspect. Hong Kong is not an independent political entity, that is, without a status of constitutional independence; but its government's authority to rule, its devotion and ability of governing are stronger than many small nation-states. Moreover, Hong Kong has signed numerous bilateral and multilateral agreements with international organizations and sovereign states concerned in order to promote mutual economic cooperation. Thus, Hong Kong has a peculiar status in the international political community.³⁷ The Sino-British Joint Declaration and the Basic Law have provisions to guarantee the international status of Hong Kong, but whether or not the "internationalness" of the city can really be maintained remains unclear.

A. Predominant Role of Britain in Shaping Hong Kong

In the 155 years of British rule, this colony developed a great deal of uniqueness. First of all, the United Kingdom has not really colonized the place by emigrating British natives to the city, and it had no intention to completely modify the original social structure. As of July 1996, the number of British natives in Hong Kong amounted to only 27,400.³⁸ The fundamental goal of Britain in dominating and governing Hong Kong is to establish a stronghold in the Far East, so that it can serve the British foreign policies of entering and influencing Asia and China, and to protect British military, commercial and political interests.

When China was weak, Hong Kong could become a bridgehead for the military invasion of China. As China develops and becomes prosperous, Hong Kong can still be the base area for entering the vast Chinese market.³⁹ As long as Hong Kong remains stable, and is thus able to fulfill the interests of Britain in the Asia-Pacific region, the style of governing *vis-à-vis* the local Chinese majority can be relatively lenient.

The Governor, as the highest official sent by the British government to Hong Kong, enjoys a wide range of power. Until 1985,

37. James Tang borrows the concept of "Quasi-state" from Robert Jackson and provides some interesting observations. See James Tang, "Hong Kong's International Status," *Pacific Review*, Vol. 6, No. 3 (Autumn 1993), pp. 205-216.

38. Figure provided by the Immigration Department, Hong Kong.

39. See Yang Chi, ed., *Xianggang Gailun* (Introduction to Hong Kong), Vol. 2, Hong Kong: Joint Publishing, 1993, p. 7.

he even had the absolute power to appoint all the members of the Legislative Council. But he cannot be seen as a monarch. It should also be emphasized that apart from defense and foreign affairs, which are always in the portfolios of the British government, the colonial government does enjoy a high degree of autonomy.

On the one hand, the British-Hong Kong government "adopt[ed] an attitude of non-intervention towards the local Chinese society right from the beginning."⁴⁰ It fully respected the customs and traditions of local Chinese. For example, Chinese marriages could be based on the laws inherited from the Ch'ing Dynasty, *Ta Ch'ing Lu Li*, and this custom was abolished only in 1970. The death penalty, abolished in the United Kingdom long ago, was lawful in Hong Kong, although in reality it was never practiced after its abolition in Britain. It was only in 1991 that the Legislative Council passed a resolution to finally abolish the system.

In the early 1950s, some prominent scholars from China like Chien Mu and Tang Junyi established the New Asia College, but they were mocked by others. The latter asked how one can promote and develop the Chinese culture when living in the colony under the Union Jack. The reply of Tang was simply "mutual non-existence": they and the British did not mutually recognize their existence. In fact, this relationship of "mutually non-recognition of the other's existence" demands first of all a high degree of restraint and tolerance on the part of the British.

In the economy, the long-time British policy was *laissez-faire*. Despite the recent changes towards "minimum non-interference" and "selective intervention" in the budget philosophy, this does not imply that there will be excessive intervention of the "state" in economic development. In politics, the regime also does not intervene to a great extent in the society. Internal conflicts within the Chinese community can be solved by the community itself. The British-Hong Kong government is satisfied so long as it can win the support of the Chinese elite, and then if the latter can integrate and appease Chinese society, the legitimacy of the British regime would not be directly challenged.

In recent years, progressive democratization of the political institutions has enabled the elites of Chinese society to enter the Leg-

40. *Id.*, pp. 45-46.

islative Council through elections, thus gradually changing the government into a more "responsible" government.⁴¹

Even in the problems relating to external relations, the Hong Kong government also enjoys an increasingly high degree of autonomy. From the end of 1974, the currency reserves of the Hong Kong government that were originally deposited in the form of pounds sterling in the United Kingdom were freely disposed of by the government and invested in other markets. The proportion of pounds sterling in the total reserve has since been continuously in decline. Also, starting from 1969, Hong Kong was empowered to sign bilateral agreements with foreign countries, and from 1973 onwards she could even sign multilateral agreements.⁴² In 1990, Hong Kong initiated her own Shipping Registry; in 1986 Hong Kong became a contracting party to GATT (now WTO); and in 1991 she joined the APEC Conference together with Taiwan and Mainland China. Even in dealing with the United Kingdom, Hong Kong may also initiate counteractions. For instance, due to the opposition of Hong Kong people, the proportion of military expenditure that should be paid by Hong Kong tax payers in support of the British Army stationed in the city was decreased from 75% to 65% in 1988.⁴³

In principle, constitutionally speaking, the laws of Hong Kong must not counteract the decrees enacted by the British Parliament for the colony. The British Acts override the relevant ordinances of Hong Kong. If such clashes occur, the judiciary in Hong Kong can only declare the laws of Hong Kong void. However, the extent of legislation of British Parliament for Hong Kong is limited to only a few items. Laws which have extraterritorial effect are not within the jurisdiction of Hong Kong.

Legislative power on national defense, air routes, and problems relating to nationalities and signing of treaties is obviously dominated by the parliament of the sovereign state.⁴⁴ For example, after the British government had declared its acceptance of the "first asylum" policy for the Vietnamese refugees, Hong Kong was forced to receive any refugees who arrived in Hong Kong, and

41. See Cheung Bing-Leung, "State Intervention and Legitimacy Crisis: Hong Kong Experience," *Zhongguo Xingzheng Pinglun* (Chinese Public Administration Review), Vol. 1, No. 4 (September 1992), pp. 1-18.

42. See Norman Miners, *The Government and Politics of Hong Kong*, Fifth Edition, Hong Kong: Oxford University Press, 1991, pp. 214-223.

43. *Id.*, p. 219.

44. *Id.*, p. 214.

then waited to see whether they could be accepted and then transferred to a third country. The tragedy is that the reaction of the Western countries (including the United Kingdom itself) was one of notable indifference, and tens of thousands of Vietnamese refugees thus have been obliged to stay in confinement camps in Hong Kong for years. By the end of January 1997, there were still 5,461 Vietnamese migrants (detainees who are obliged to return to Vietnam) and 1,344 refugees (who are free in Hong Kong and waiting to go to a third country) in Hong Kong.⁴⁵ Despite all the vicissitudes, Hong Kong succeeded in its request of Britain to pay part of the cost for building the refugee camps.

After Great Britain decided to return Hong Kong to China, the British Parliament in 1985 passed the "Hong Kong Act" which allows the legislative body of Hong Kong to amend or repudiate any acts enacted by the British Parliament in relation to Hong Kong. From then on the Hong Kong jurisdiction could have extraterritorial application, such as decrees relating to shipping and air transport.

Hong Kong is not a sovereign state, but enjoys a high degree of autonomy, and the Chinese society can also develop without too much intervention from the regime. It is true to say that London only maintains an "indirect" rule over Hong Kong's domestic development and external relations. This perfectly reflects that the British interests are not totally centered on Hong Kong itself, but are focused on the United Kingdom's long-term strategic interests in the Asia-Pacific region. Even after 1997, Britain will still view Hong Kong as the most vital base for safeguarding her interests in the Far East. Apart from a necessity to extend her influence in the areas of culture, economics, politics and legal system,⁴⁶ the British government will certainly strive to promote a good Sino-British relationship, simply because offending China is essentially detrimental to the British goal of obtaining and protecting her interests in Asia.

45. See Secretary of State for Foreign and Commonwealth Affairs, United Kingdom, *White Paper on the Annual Report on Hong Kong 1996 to Parliament*, March 1997, p. 16. The latest information was provided on 28 January 1997 by the Refugees Control Center, Hong Kong government.

46. For example, the processes of localization of civil servants and bilingual legislation are both very slow, especially in the police, judiciary and attorney departments. See Ting Wai, "Hong Kong's Changing Political Order and Its Relations with Taiwan," *Issues & Studies*, Vol. 28, No. 8 (August 1992), pp. 61-62.

Beginning in April 1993, the two countries have had a series of seventeen negotiations on the reform of political institutions in Hong Kong. They failed to arrive at a compromise. Since China consistently asserted that the problems relating to political institutions had been solved, but changes initiated by Governor Patten were against the agreement achieved by the two countries in early 1990, it is inconceivable that the two sides can achieve anything. However, the discord in reform of political institutions of Hong Kong does not hamper Sino-British cooperation in other aspects. In fact, if British interests in China and Hong Kong are duly respected, then whether the process of democratization is fast or slow, or whether the people's forces are strong enough to have a larger voice for the cause of democracy are only of secondary importance. Interests of the Hong Kong people are not equivalent to British interests.

B. Political Constraints Imposed by China

Although China guarantees Hong Kong's right to have a high degree of autonomy and maintains its external relations with Western countries, Beijing persistently opposes the practice of a "three-legged stool,"⁴⁷ and the actual degree of autonomy enjoyed by Hong Kong will depend upon the mercy of Beijing. In the Sino-British Joint Declaration, clauses 7, 8, 9 and 11 of Annex I are all related to the external relations and international status of Hong Kong. Apart from matters concerning national defense and foreign policies, Hong Kong can possess full autonomy in international affairs, especially regarding matters concerning the economy, society, culture and foreign exchanges. The basic principles regarding external relations as expressed in the Joint Declaration are written into the Basic Law, as Clauses 150 to 157 in Chapter 7 on External Relations. Nevertheless, the guarantee provided by these legal documents cannot be said to be sufficient, because legal provisions exist that protect the sovereign and dominant position of the Central Authority in exercising its power over the Special Administrative Region.

47. This means that the problem of Hong Kong is just a transfer of sovereignty between the two countries, China and Britain; thus, it should be solved by the compromise of the two governments. Hong Kong is not an "independent political entity", so she has no right to send a delegate to the negotiations. Hong Kong officials can only be members of the British delegation. See Cheng Yu, "Reiterating the Old Tactic of 'Three-Leg Stool' Is Simply Useless," *Zi Jing* (Bauhinia magazine) (March 1993), pp. 26-28.

As a local government only, whether Hong Kong in the future will enjoy all the conditions as stipulated in the Basic Law depends unconditionally on how Beijing delegates its power. Hong Kong can use the name "Hong Kong, China" to participate in international organizations in the future and be a signatory member of international agreements. In addition, according to Clause 152 of the Basic Law, "the Central People's Government shall, where necessary, facilitate the continued participation of the Hong Kong Special Administrative Region in an appropriate capacity in those international organizations in which Hong Kong is a participant in one capacity or another, but of which the People's Republic of China is not a member." However, it can easily be deduced that, if the Central Government thinks that it is "not necessary," Hong Kong has no choice but to quit the organization. Similarly, according to Clause 153,

international agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region. The Central People's Government shall, as necessary, authorize or assist the government of the Region to make appropriate arrangements for the application to the Region of other relevant international agreements.

If the Beijing government conceives that the problem of Hong Kong will become "internationalized", and the city is to be used by foreign powers as an "anti-China base", the Central Authority can make use of Clause 18 of the Basic Law:

in the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the Central People's Government may issue an order applying the relevant national laws in the Region.

Moreover, Beijing can request Hong Kong to enact laws on its own to prohibit foreign political organizations from conducting political activities in the city, and to prohibit local political organizations from establishing ties with foreign groupings (Clause 23). Whether Hong Kong can rely on international forces and linkages to protect itself is thus questionable.

In reality, the Group on Cultural Affairs of the Preliminary Working Committee (PWC) of the Preparatory Committee for the Hong Kong SAR proposed in 1995 that the participation of non-governmental organizations in international organizations should be based on the principle of one-China. If a particular international organization accepts the "Republic of China" as a member, then Hong Kong should decline to be a member of that international organization.⁴⁸ Mainland-Taiwan relations thus would become a serious political constraint that would interfere with the international presence of Hong Kong, even though in the past Hong Kong had been neutral.

It may be useful to recall that two measures adopted by the British government after the June Fourth crisis in order to appease and pacify the citizens of Hong Kong have been severely attacked by China. One was the British Nationality (Hong Kong) Act enacted in 1990 through which 50,000 people having British Dependent Territories Citizens status were granted authentic British passports together with their families. This is generally referred to as the "right of abode in Britain" issue. The British government hoped that this would pacify despairing industrialists and professionals of Hong Kong, who wanted to continue working in Hong Kong.

However, the PRC insisted that London initiate an intriguing policy of "British governing Hong Kong" in disguised form. The counter-attack action of China was simply to declare that those who succeeded in getting the British passports would still be treated as Hong Kong Chinese citizens if they stayed in the SAR. That is, they would not be protected by the British Consulate. The second measure adopted by the British Hong Kong government was the "Bill of Rights" enacted by the Legislative Council in June 1991. The British believed that the guarantee provided by Clause 39 as stipulated in the Basic Law regarding the protection of human rights through international covenants was not strong enough:

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labor conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

48. See *Ming Pao*, July 25, 1995, p. A4, and *Hong Kong Economic Journal*, July 26, 1995, p. 8.

So, the Hong Kong government simply “extracted” those relevant provisions in the International Covenant on Civil and Political Rights and rewrote them in the Bill of Rights and had them enacted by the Legislative Council to become the law of Hong Kong. The Bill of Rights overrides all other laws; those which are in conflict with the Bill of Rights must be abolished.⁴⁹ It is easily understandable why the Bill is consistently under serious attack from China, as the latter always claims that the protection of rights and freedoms of the Hong Kong people is already clearly stipulated in the Basic Law. The British maneuver in this regard is considered an interference in China’s domestic affairs. As a result, China maintains that the Bill of Rights can never overrule the Basic Law. Whenever there is conflict, it should be judged in accordance with the Basic Law.

The British Parliament has even proposed the idea of setting up an “Human Rights Committee” in Hong Kong to supervise the human rights conditions in the city. According to the British government, China is also bound by the Sino-British Joint Declaration to report to the Human Rights Committee of the United Nations on the human rights situation in Hong Kong. However, all these proposals have been rigorously rejected by China.⁵⁰ In October 1995, China even alleged that those laws inconsistent with the Bill of Rights and already repealed by Hong Kong’s authorities should be “revived” after 1997.⁵¹ Due to rigorous opposition, China’s National People’s Congress in March 1997 abolished all or part of 24 ordinances,⁵² but whether they may be “revived” will be decided by the future SAR government. These laws include the famous Socie-

49. In the second paragraph of Clause 3, “Effect of Pre-Existing Legislation” in Part I, *Hong Kong Bill of Rights*, it is stipulated that “All pre-existing legislation that does not admit of a construction consistent with this Ordinance is, to the extent of the inconsistency, repealed.”

50. President Jiang Zemin, in receiving the French visitors in early April 1997, has indicated that China will sign the International Covenant on Economic, Social and Cultural Rights by the end of 1997. This demarche is welcome by pro-democracy elements of Hong Kong. But whether China will join the International Covenant on Civil and Political Rights remains pending. See *Hong Kong Economic Journal*, April 9, 1997, p. 7.

51. See *Wen Wei Po*, October 27, 1995, p. A12.

52. For a list of the Ordinances which are repealed by China, see *Wen Wei Po*, February 24, 1997, p. A8.

ties (Amendment) Ordinance amended in 1992, and the Public Security (Amendment) Ordinance amended in 1995.⁵³

So, any safeguard measures promulgated by foreign countries might be rejected as conflicting with China's sovereignty, and we must face the fact that the "cold war mentality" still determines the thinking of many Chinese leaders. They strongly believe that the proposal for political reform carried forward by Governor Patten is only part of the Western strategy in fighting against China: now that the Cold War has ended, the West is directing its spearhead against China, and Hong Kong is just a pawn in the Sino-American trial of strength, thus becoming the so-called "center of struggle in the post-Cold War period."⁵⁴ In May 1993, the Department of Propaganda of the Central Committee of CCP delivered a document entitled "On the United States Plan of Confrontation against China," the main theme of which is that Washington intends to infiltrate and subvert China in ideological and economic aspects. One major task among a total number of twelve China claims has been adopted by the United States government is:

To intervene in Hong Kong affairs publicly, openly support the changes of British government's policy against China, intend to turn Hong Kong into a place of international political confrontations and a springboard for Britain and United States against China.⁵⁵

In addition, the selling of advanced fighters to Taiwan by both France and the United States in 1992 is also seen as part of the "grand strategy."

Thus, whether Hong Kong can successfully maintain its international status and external relations depends first of all on the intricate Chinese perceptions of the Sino-Hong Kong relationship. The internationalized economic structure of Hong Kong successfully implicates western interests in the problems of Hong Kong's future. This forces China, as a Chinese proverb says, "to spare the

53. For the Chinese government's explanation, see Qian Qichen, Chairman of the Preparatory Committee of the Hong Kong SAR, "Report on the Activities of the Preparatory Committee of the Hong Kong SAR," *Wen Wei Po*, March 11, 1997, p. A8.

54. See Jing Xiao-Ru, "The Sino-British Duel Has International Background," *Ming Pao*, December 29, 1992, p. 41; Tsang Shu-Ki, "Hong Kong Becomes the Center of Struggle of the New Cold War," *Ming Pao*, December 2, 1992, p. 41; Lee Kuan-Yew also has similar arguments. See the interview of Lee Kuan-Yew in *Ming Pao*, December 18, 1992, p. 2, *Wen Wei Po*, December 18, 1992, p. 6.

55. Quoted from Chen Meng-Bin, "The United States Action of Strategic Containment Against China," *Jing Bao* (Mirror Monthly) (June 1993), p. 44.

rat to save the dishes," thus helping to stabilize the situation in Hong Kong. However, China is concerned with whether the internationalized economic structure will compel the political problems of Hong Kong to be "internationalized" also. This is regarded seriously by China not only as a source of instability in Hong Kong, but would also as interference in the domestic stability of the country. So the Chinese reaction is rigorous: China is watchful of Western actions all the time, and strongly repels the challenges from the West under her sacred principle of mutual non-intervention.

Nevertheless, the continuing open-door policy of China enables economic interdependence to be more influential on China's foreign policies and helps check her freedom of manoeuvre, although in return Hong Kong's external behavior will also be checked by the sacrosanct idea of sovereignty.

V. THE KEY FUNCTIONS PLAYED BY TWO COUNTRIES: THE UNITED STATES AND JAPAN

The frequent and intense exchanges with the outside world enable the phenomenon of economic interdependence to play a part in restraining to different degrees the freedom of maneuver of the concerned nation-states, simply because they are mutually dependent on resources, markets, capital and technology. When we look at Sino-American relations, their development is not without difficulty. However, although China apparently behaves very tough and is very keen on safeguarding her dignity in a just and assured manner, in reality she has made quite a lot of concessions.

Chinese foreign policies aim at defending China's sovereignty and at the same time serving the open-door policy, but now that sovereignty is undergoing some sort of "decay" due to economic interdependence. This results in a paradox in China's foreign policy practice: Beijing is definitely strong in speech, but in reality it gives continuous and impressive concessions in the face of pressure from the West.

In spite of the firm stance of China in defending its sovereignty over Hong Kong, it seems that in some other issues relating to sovereignty, the Chinese government is not so strict. One example pertains to the flow of information. The Asian Star Television Company based on Hong Kong was jointly owned by Li Ka-Shing, a Hong Kong tycoon in good standing with China, and CITIC, a major Chinese consortium which invests heavily in Hong Kong. China is similar to Singapore and Malaysia in having no "open sky" policy, although the receiver dishes of satellite television are flour-

ishing all over China. Millions of Mainland residents can easily watch programs made in Taiwan, Hong Kong or the West. However, after Rupert Murdoch obtained proprietorship of the Star TV in 1993, China felt threatened. Then, in October of the same year, the PRC government officially denounced the receiving of satellite television as illegal.

Another example is the boundary areas in Northeast China adjacent to Russia, and in Southwest China next to Vietnam, Laos and Burma. In these areas, the boundaries are "blurred" in the sense that people on both sides can freely cross the border and do business on the other side. Beijing even advocates putting aside the controversies regarding the sovereignty of the South China Sea Islands and the Diaoyutai Archipelagoes, and proposes to neighboring countries to jointly develop these islands. All these are sufficient to prove that, when the Chinese regime is facing a "Western threat," its position on the principle of sovereignty appears to be very tough and unyielding. But when the opposite side appears to be relatively weak and does not constitute a threat or pose a challenge, the supposedly sacrosanct principle of sovereignty becomes much less serious.

A. The High-Profile Americans

(1) MFN Issue

So far it is obvious that China is unwilling to yield to political pressure exerted by Western countries, but Beijing cannot ignore the influence brought about by the process dynamics of economic interdependence. The annual extension on the status of the MFN issue since 1990 is a skillful maneuver by Washington to affect the domestic development of China. China's external trade relies heavily on the American market. For instance, in 1995, 31.1% of China's total exports went to the United States.⁵⁶ When China opens up, and wants to gradually integrate into the international capitalist system, this is in fact the best guarantee for the future of Hong Kong. However, in this process of integration, some congressmen in Washington demanded after 1990 that China improve her human rights as a condition of renewal of MFN. In 1994, however, Clinton delinked the human right issue with the MFN.

56. See W. M. Morrison, V. N. Pregelj, K. Dumbaugh, and J. Grimmett, "Most-Favored-Nation Status and China: History, Current Law, Economic and Political Considerations, and Alternative Approaches," *CRS Report for Congress*, 96-923E, November 19, 1996, p. 22.

The source of the MFN issue is the Jackson-Vanik amendment (Section 402 of the Trade Act of 1974), which focuses on the emigration policy of "non-market economy" countries. In order for these countries to restore and benefit from the MFN treatment, they must comply with the freedom of emigration requirement of section 402. However, the American president is empowered to waive the requirements when a country concerned is deemed to have a free emigration policy.⁵⁷ When President Bush was in power, he granted MFN to China without any conditions, although some Congressmen, especially Democrats, tried to link it with the human rights conditions in China. This has then become a yearly debate. Until an amendment can be made to the Trade Act of 1974, such as replacing the requirements of Jackson-Vanik amendment with other requirements like human rights conditions, this congressional debate will certainly continue.

However, with the election of the Democratic President, Clinton, in the beginning of 1993, a shadow was cast on the economic future of Hong Kong as the Democrats adopted a high-profile attitude regarding the human rights condition in China. The final result concerning the granting of MFN for the year 1993 was that an "executive order" was issued by Clinton in May 1993. It was decided that the MFN would be extended one year to China, although certain conditions were added. Now the President and the Congress have adopted a unified position, which is contrary to the past four years when the two had different positions *vis-à-vis* China.

Clinton's Executive Order included two conditions that must be fulfilled: allowing people to freely migrate to other countries, and stopping the export of forced labor products to the United States. Moreover, Beijing has been required to improve significantly in the following respects:

- 1) abiding by the International Declaration of Human Rights;
- 2) releasing political prisoners and providing information on them;
- 3) instituting a more humanitarian treatment of prisoners;
- 4) protecting the "unique religion and cultural tradition" of Tibet; and,

57. *Id.*, p. 7; see also Hungdah Chiu, "China's Most-Favored-Nation Status," *American Asian Review*, Vol. XIV, No. 4 (Winter 1996), p. 119.

- 5) allowing the broadcast of international radio and television to China.⁵⁸

It seems that the number of conditions imposed on China has increased. After solving some problems, Washington continues to request Beijing to solve other problems, so that when China seeks to integrate into the world capitalist system, she has to fully cope with international (or Western?) norms, not only in economic exchanges, but also in human rights and freedom of information. The Clinton policy on the MFN issue was clearly influenced by the decree proposed by Congresswoman Pelosi and Senator Mitchell in April 1993, when the Tibet issue and persecution of non-atheists contemporaneously invited serious attention.⁵⁹

These two members of Congress insisted that China should be a responsible member of the international community and fully participate in it. Without doubt, if China could accept the universal values of human civilization, identify with the value systems of international society, and be open not only in economics but also in politics and human rights, Hong Kong would greatly benefit. The American government naturally takes into consideration the possible objective influence on Hong Kong when it designs its policy regarding China.

In 1994, Warren Christopher reviewed again the situation and concluded that China did fulfill the two basic requirements, and made some progress in the other five areas. Although China did make significant progress in improving human rights conditions in China (the provisional release of Wang Juntao and Chen Ziming in 1994, two prominent dissident intellectuals arrested after the June Fourth massacre, is a good example),⁶⁰ Beijing insisted that the MFN issue should be delinked from human rights conditions in China. This was strongly echoed in the United States in 1994, as more and more Americans supported this idea. They thought that the best way to encourage China to accept international norms was to enhance the further opening up of China. Unconditional or even permanent granting of MFN could serve this purpose.

58. See Susumu Awanohara, "Breathing Space: Clinton Delays on Conditions to China's MFN Renewal," *Far Eastern Economic Review*, June 10, 1993, p. 13.

59. R.F. Holden, "New China MFN Bill Like Last Year's Except for Tibet Provisos," *USIS* (United States Information Service) *News Release*, April 23, 1993.

60. However, Chen Ziming was arrested again in 1995, despite the fact that he suffered from cancer. In 1996 he was released from prison again, but has been under surveillance by the police.

Clinton, at the end of May 1994, officially declared that the MFN would be delinked from the human rights condition in China. In 1995 and 1996, he unconditionally renewed China's MFN. Currently, "many [Congressional] members now view the annual renewal of China's MFN status as a dysfunctional and unproductive exercise."⁶¹ Several bills for dealing with Sino-American relations have been introduced to the Congress, including one that would nullify the Jackson-Vanik waiver and prevent the granting of MFN status to China except by statute, and one that would extend permanent MFN status to China.⁶² These certainly reflect different American attitudes towards China. But the establishment of a Provisional Legislature in Hong Kong after July 1, 1997, and its tentative mandate to "revive" the old laws that would curb the freedom of Hong Kong people in the future, might push Hong Kong to the focus of the MFN debate in May 1997.

Before China's MFN issue is finally solved, Hong Kong lives in fear, because the loss of such status would cause tremendous damage to Hong Kong. According to the estimates of the Hong Kong government in April 1997, losing MFN would cost Hong Kong two-fifths or even three-fifths of its economic growth rate, resulting in a loss of 61,000 to 86,000 jobs. Loss of MFN would also mean a loss of about US\$22.5 billion to US\$31.8 billion in re-export trade values, that is 6% to 8% of the total reexports of Hong Kong.⁶³

(2) Trade and Intellectual Property Issues

The signing of the Sino-American "Memorandum of Understanding on Copyright" in January 1992, and the "Sino-American Memorandum of Understanding on Market Access" in October 1992 helped to eliminate part of the obstacles that China encounters in her application for entrance into the World Trade Organization, such as lowering import tariffs, gradually clearing the non-tariff barriers such as quotas, import licenses and others, and drafting of commercial laws and other relevant regulations.⁶⁴ Since 1992, the Chinese market has become more open, and foreign in-

61. Morrison et al., "Most-Favored-Nation Status and China," *supra* note 56.

62. See W. M. Morrison and J. P. Hardt, "Major Issues in U.S.-China Commercial Relations," in *China Economic Future: Challenges to U. S. Policy — Study Papers submitted to the Joint Economic Committee, Congress of the United States*, Washington, D.C.: U. S. Congress, 1996, p. 489.

63. See *Hong Kong Economic Journal*, April 5, 1997, p. 3.

64. Consult T. K. Chang, "After China Joins the GATT: Will It Continue to Face Annual MFN Renewal Battles," *East Asian Executive Report*, March 15, 1993, pp. 9-13.

vestors are now also allowed to invest in commerce and the service industry.

The two above-mentioned memoranda are beneficial to Hong Kong indirectly. The further opening of the Chinese market allows Hong Kong businessmen to enter the service industry and they can thus derive more profits. The beginning of a legislative procedure in China to protect copyrights protects the products and patents of Hong Kong. Hong Kong people seek to refrain from being involved in Sino-American or Sino-British disputes, although they benefit a lot as a middleman in trade and investment activities among the powers, and by the conformity of China to international norms.

(3) American Investments in Hong Kong

In reality, although British investors have a rather gloomy picture of Hong Kong, and some of them have decided to retreat from the colony (for instance their investment in the manufacturing sector of Hong Kong has decreased to the fifth position while investment from China ranks third),⁶⁵ American investments are on an upward trend. About 1,000 American companies have invested more than US\$13.8 billion in Hong Kong as of the end of 1995,⁶⁶ thus rendering the city the third largest overseas investment site of the United States. In 1996, 414 companies put their regional headquarters or regional offices in Hong Kong.⁶⁷ As a comparison, from 1979 until the end of 1995, the actual accumulated value of American capital invested in China amounted to only US\$10.7 billion.⁶⁸ Washington is also content with the bilateral trade between Hong Kong and the United States: in 1992 bilateral trade was valued at

65. "Foreign Investments in Hong Kong during the Latter Half of the Transitional Period," *The Foundation*, May 23, 1993, pp. 1-2 (published by the Hong Kong Foundation).

66. See Richard Soloman, "US Policy Toward Hong Kong," Statement before the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee, Washington, D.C., April 2, 1992, in *US Department of State Dispatch*, April 6, 1992, pp. 277-279; Consul General Richard Mueller, "America's Long-term Interest in Hong Kong," speech given to the Foreign Correspondents' Club, Hong Kong, May 2, 1995, *USIS News Release*, p. 8. See also "The US Presence in Hong Kong," The American Chamber of Commerce in Hong Kong, July 1996.

67. See *Report on the 1996 Survey of Regional Representation by Overseas Companies in Hong Kong*, Hong Kong Government Industry Department, December 1996, pp. 11 and 16. The number of regional headquarters has dropped from 426 in 1995.

68. See Morrison and Hardt, "Major Issues in U.S.-China Commercial Relations," *supra* note 62, p. 477.

US\$18 billion and the value of American exports to Hong Kong amounted to US\$9 billion.⁶⁹ The development is also on upward trend. In 1995 two-way trade surpassed US\$24 billion, with United States exports over US\$14.2 billion.⁷⁰ Hong Kong ranks thirteenth among the trading partners of the United States.

(4) Measures of American Assistance

Since the United States has many interests in Hong Kong, in order to help stabilize Hong Kong, senior American officials always indicate in a high-profile way their wish to see a high degree of autonomy, a free market system, freedom of the press, the rule of law and the continued development of democracy in Hong Kong. Moreover, the country has adopted a series of measures to assist the people of Hong Kong:

- 1) In 1992 the American government granted to Hong Kong "Intra-COCOM trading status," that is, Hong Kong can import the high-technology products for dual military-civilian uses which are originally under COCOM control, without applying for export licenses any longer.⁷¹ As COCOM has been defunct since 1994, the new "Wassenaar Agreement" to control exports of high-technology products, of which United Kingdom is a signatory member, also applies to Hong Kong.
- 2) More cultural exchange opportunities are encouraged, especially in education, as seen in the fact that about 60,000 Hong Kong citizens have studied in the United States in the past.⁷²
- 3) The "United States-Hong Kong Policy Act of 1992" passed in September 1992 became the legal basis for the American government in dealing with Hong Kong. Since Hong Kong on its return to China will

69. See "A Report to Congress on Conditions in Hong Kong as of 31 March 1993, as required by Sec. 301 of the United States-Hong Kong Policy Act of 1992," *USIS Foreign Policy Background*, April 6, 1993, p. 1.

70. See "A Report to Congress on Conditions in Hong Kong as of 31 March 1996, as required by Sec. 301 of the United States-Hong Kong Policy Act of 1992," prepared by the Secretary of State, United States, pp. 2-3.

71. "R. Soloman Before the House Foreign Affairs Committee," May 7, 1992, *USIS Foreign Policy Background*, May 8, 1992, p. 7. Also consult "R. Soloman Before the Senate Foreign Affairs Committee," April 2, 1992.

72. *Ibid.*, "Soloman Before the House Foreign Affairs Committee."

then be affected by any American laws concerning China, this law was enacted to permit Hong Kong to enjoy the status of a "non-sovereign entity," where the city can then be "detached" from China in the legal sense. In Clause 3 of Section 103, it is stipulated that "the United States. . . should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters."⁷³ In other words, after 1997, the American policy will also be "one-country, two-systems." This high-profile treatment by the United States is naturally under severe attack from Beijing.

- 4) The Immigration Act of the United States passed in 1990 increased the quota of Hong Kong immigrants from 5,000 to 10,000 per year, and further increased it to 25,620 in 1993.⁷⁴ Moreover, additional provisions allow Hong Kong citizens who obtain the qualifications for emigrating to the United States to continue residing in Hong Kong until the year 2002. These people are thus exempt from any fears about the future and can less anxiously work in Hong Kong even after 1997.

(5) Export Control and Law Enforcement in Hong Kong

The US government is particularly concerned with two issues: law enforcement and export control mechanisms of Hong Kong. The Americans are always worried about the question of whether the rule of law of Hong Kong will deteriorate. As a result, the US government cooperates with the Hong Kong government in a number of operations against drug trafficking, money laundering, organized crime, pirated goods from China, and smuggling of Chinese aliens to the United States. It is no secret that the United States has even increased its law enforcement personnel in Hong Kong during this last stage of transition.⁷⁵

73. "United States-Hong Kong Policy Act of 1992," *US Code Congressional and Administrative News*, November 9, 1992, 102nd Congress, 2nd Session, P. L. 102-383 [S.1731], October 5, 1992.

74. See R. L. Williams, "Speech before the National Committee on United States-China Relations, New York," April 16, 1991, *USIS News Release*, April 18, 1991, p. 3.

75. See *United-States Hong Kong Policy Act Report* as of March 31, 1996, *supra* note 70, p. 6.

Another issue is whether the export control mechanism of Hong Kong will still be effective after 1997. Exports and imports of sensitive strategic goods are under severe control in Hong Kong in accordance with the 1955 Import and Export (Strategic Commodities) Ordinance. Now Washington is worried about whether the 1955 Ordinance will still be part of the law beyond 1997. The fundamental questions are: if people vested with power in China participate in those illegal activities as mentioned, or ship strategic goods (or weapons of mass destruction) through Hong Kong to other countries, will the Hong Kong SAR government be able to carry out its law enforcement functions in an effective and efficient manner? Will cooperation with the US government in these problems suffer as a result?⁷⁶

Since it is almost impossible to find another city in Asia comparable to Hong Kong which provides so many advantages, the US government's concern regarding Hong Kong is very clear. Rule of law, civil rights and freedom of speech should be maintained. Washington makes it clear that development of a more democratic political institutions also should be encouraged. However, even researchers in the American Congress think that "the ability of the United States to directly affect the course of events in the run-up to the 1997 transition seems marginal unless it decides to confront Beijing more directly over the Hong Kong issue."⁷⁷ Even the visit of Martin Lee, leader of the Democratic Party of Hong Kong, to Washington in mid-April 1997, and his subsequent meeting with President Clinton, has aroused vehement attacks from Beijing.

B. The Low-Profile Japanese

In comparison to the Americans, the Japanese have adopted a rather low-profile approach regarding their attitude towards the political future of this city. Although they attach great importance to their economic interests in Hong Kong, they are reluctant to air any opinion toward Hong Kong politics.

76. For a more detailed analysis of the issue of law enforcement and export control, please see my article, "China, the United States, and the Future of Hong Kong" in Joseph Cheng and Beatrice Leung, eds., *Hong Kong SAR: In Pursuit of Domestic and International Order*, Hong Kong: Chinese University Press, 1997 (forthcoming).

77. See Kerry Dumbaugh, "Hong Kong's Return to China: Implications for US Interests," *CRS Issue Brief*, IB95119, August 23, 1996, p. 11.

Until the year 1990, the accumulated Japanese investments in Hong Kong amounted to a total of US\$9.2 billion,⁷⁸ while comparatively speaking, from 1979 to the end of 1991, the actual cumulative Japanese investment in China was valued at only US\$3.0 billion.⁷⁹ Until September 1994, the cumulative value of Japanese actual direct investment in Hong Kong had risen to US\$13.3 billion.⁸⁰ At the same time Japanese investments in China increased also at a rapid rate, the cumulative total at the end of 1994 was valued at US\$7.6 billion,⁸¹ thus still lagging behind that of Hong Kong.

Hong Kong is Japan's second largest export market, with Hong Kong imports from Japan reaching US\$25 billion in 1994.⁸² The Japanese business sector, with 122 companies setting up their regional headquarters and 388 setting up their regional offices in Hong Kong,⁸³ strongly believes that Hong Kong still has bright prospects for further development. They compare Hong Kong to Tokyo in the fifties and the sixties, with industries moving out while the cities themselves develop into very large financial and service centers.⁸⁴

Japan also sees Hong Kong as a base area to enter the Chinese market and the vast East Asia and Southeast Asia region. Japan is full of confidence in this city, but is worried that the people of Hong Kong pay too much attention to China while forgetting about the distinctive international character of their unique city. According to a survey conducted in July 1995 by the Japanese Chamber of Commerce and Industry in Hong Kong, Japanese companies are also worrying about public order, freedom of the press and publica-

78. Shigeto Sude, "Characteristics of Japanese Direct Investment in Hong Kong and Its Prospects," *Asian Perspectives*, Vol. 8, No. 1 (May 1991), p. 37 (published by Nomura Research Institute, Hong Kong).

79. See *Zhongguo Duiwai Maoyi Nianjian* (Almanac of China's Foreign Economic Relations and Trade), 1991-1992, Hong Kong: China Advertising Company, 1991, pp. 301, 581; see also the same almanac, 1992-1993, pp. 373, 611.

80. Information provided by Trade Department, Hong Kong government.

81. See *Zhongguo Duiwai Maoyi Nianjian* (Almanac of China's Foreign Economic Relations and Trade), 1995-96, p. 384.

82. Information provided by the Trade Department, Hong Kong government.

83. See *1996 Survey of Regional Representation*, *supra* note 67.

84. The author's interview of Mr. Yuki Kimura, Managing Director of Nomura Research Institute, Hong Kong, May 27, 1993. A useful, but somewhat outdated discussion on Japan's relations with Hong Kong is provided by Mineo Nakajima, "The Hong Kong Agreement and Its Impact on the International Position of Japan," in Jurgen Domes and Yu-Ming Shaw, eds., *Hong Kong: A Chinese and International Concern*, Boulder and London: Westview Press, 1988, pp. 196-202.

tions, real estate prices, brain drain and the declining proficiency in English among young people in Hong Kong.⁸⁵

Due to the need to enter the vast Chinese market and the deterioration of the business environment in Japan, Japanese enterprises continue to show tremendous interest in economic investments in Hong Kong, with an annual increase of 10% in the number of companies set up in the city.⁸⁶ But politically Japan is very cautious, and it prudently keeps a low profile. The basic attitude of the Japanese government is not to force other countries to adopt certain policies, because many countries still keep unpleasant memories of the Japanese invasion during World War II. But it is absolutely clear that Japan fully supports the development of democracy in Hong Kong, and it does not want the rule of law to decay in the city. The Consul General of Japan in Hong Kong, Hideaki Ueda, expressed very clearly that "Japan is optimistic about Hong Kong, but [he] warned China to leave Hong Kong's systems and markets intact."⁸⁷ The Japanese way of helping Hong Kong is indirect and subtle. By increasing investments in Hong Kong, since these investments need to be protected in any case, Japan doubtlessly will exert a significant degree of political influence upon Hong Kong, so that the city's established spirit and institutions (such as free competition, spirit of contract, and rule of law) can be strongly maintained in the future.

VI. INTERNATIONAL CHARACTER, INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL CIVIL SOCIETY

In order for Hong Kong to continue to contribute to China's modernization, the city must safeguard and promote its "international character," because the cosmopolitan nature of Hong Kong is a primary condition to maintain in exchange for a lenient policy from China. The actual role that Hong Kong plays for China cannot be easily fulfilled by other coastal cities, even if they all sought to be substitutes for Hong Kong. Murphy and Augelli borrow the concept of civil society from Gramsci, and declare that the exist-

85. See Hiroshi Zaizen (Senior Managing Director, Mitsubishi Corporation), "Promoting Hong Kong as an International Business Center," *Proceeding Towards 1997 and Beyond — Hong Kong Economic Development Conference*, April 12, 1996, Hong Kong, p. 126.

86. Chiu and Yeung, "Uphold Her Position," *supra* note 28, p. 36.

87. See J. Kahn, "Hong Kong Opposition Relishes Spotlight," *Asian Wall Street Journal*, April 15, 1997, p. 12.

ence of an international civil society is very helpful to solving the problems of the world economy.

Now, mobility of populations (from poor to rich countries), allocation of resources (industrial countries scramble for resources), application of technology, and ecology of environments are problems that extend beyond national boundaries. Nations find it difficult to control the mobility of populations, resources and goods, so a better coordination of national policies is needed to prevent a situation which is seemingly out of control.

The "international civil society," which includes international organizations, multilateral agreements among nation-states, inter-governmental organizations and international norms for official and unofficial exchanges, can then play an active role.⁸⁸ The international civil society helps to solve global economic problems, and check and balance states' power.

For example, after the Second World War, the United Nations played a significant part in the decolonization and development process of newly independent states. Turning back to Hong Kong, by making use of its extensive and profound international linkages, participation in international organizations is an important variable in promoting the prosperity and stability of Hong Kong. The international civil society can also check and balance the Beijing regime. Hong Kong is thus "borrowing forces from the outside world," so to speak. In the intricate and complex network of political maneuvers exercised by the powers that check and balance each other, Hong Kong seeks maximum room to maneuver in order to protect itself.

In the past, the respect for the rule of law and human rights in Hong Kong stemmed from the guarantee provided by the British system of democracy, and the foreign relations of Britain also brought Hong Kong into the Western bloc and the international capitalist system. In the future, the protection of the tradition of the rule of law and human rights will solely depend on the domestic policies and socio-economic development of China. In turn, Hong Kong's international linkages would depend on its functions to the states and non-state actors in the West, on whether Chinese foreign policies would become more open and pragmatic, and on the international field of vision of the Hong Kong people.

88. C.N. Murphy and E. Augelli, "International Institutions, Decolonization, and Development," *International Political Science Review*, Vol. 14, No. 1 (Spring 1993), pp. 71-85.

The European Union (EU) is a vital trading partner of Hong Kong, but with the formation of a unified European market at the end of 1992, Hong Kong in fact faces a much more serious challenge. The merchants of Hong Kong are frightened that a "European fortress" may take shape. This, they fear, will help consolidate "regionalism" and "protectionism" which will only be beneficial to the internal market of Europe. The EU can still make use of anti-dumping actions and quotas as weapons in restricting Hong Kong products,⁸⁹ in order to protect the internal economic development of the EU.

The integration of Europe may imply a bigger market and increased opportunities for Hong Kong, but at the same time it also arouses greater competition among the manufacturers, thus challenging Hong Kong industrialists further. The quota for textile products is always a big problem for the textile industry in Hong Kong. A unified market in Europe originally implied that internal quota restrictions for every European member country would be cancelled, but according to Clause 115 of the Rome Treaty, the individual country can still apply for import restrictions against products that are indirectly imported. In other words, the national import quota is preserved.⁹⁰

Since Hong Kong advocates the practice of free trade, based on the principle of mutual benefits, it should not be overly impeded by restrictive measures. However, it seems that the EU puts an emphasis more on "fair" trade than "free" trade.⁹¹ Hong Kong is well aware of this perception, and has accelerated the growth of exports to Asian countries. In 1992, exports to developing countries in Asia already amounted to 48.7% of the total exports of Hong Kong, while those to the European Union only amounted to 15.8%.⁹² This decreased further to 14.9% in both 1995 and 1996.⁹³ This naturally decreases the impact caused by a contraction of the

89. Consult *A Study on the Single European Market*, Research Department, Hong Kong Trade Development Council (August 1990), p. 6.

90. See *Hong Kong Economic Journal*, June 3, 1993, p. 6.

91. A French scholar, Francois Godement, points out that in the Commission of the EU, there are 150 officials responsible for the actions of "anti-dumping," while in the department on promoting European exports, there is but one person. See Francois Godement, "Europe and Asia: the Missing Link," *Asia's International Role in the Post-Cold War Era* (Part II), Adelphi Paper No. 276 (April 1993), London: IISS, p. 96.

92. Calculated from figures provided in *Hong Kong Trade Statistics — Domestic Exports and Re-exports*, December 1992, Census and Statistics Department, Hong Kong, pp. 7, 16.

93. *Ibid.*, December 1996, pp. 6, 8.

European market. Nevertheless, despite the rise of protectionism, Hong Kong continues to advocate the principle of multilateral free trade, because it is the crucial factor for her manifold successes. Hong Kong does not want to see the existence of trade blocs, as her survival would be threatened by protectionism.

So, although Hong Kong was a signatory member of the Multi-Fiber Agreement (MFA), it always advocated the termination of MFA and trade barriers against garments and textile products in the GATT. In fact, more than 60% of Hong Kong's textiles and clothing exports are restrained by quotas.⁹⁴ It also hoped that the GATT could work out fairer trade regulations and solutions to solve conflicts. Hong Kong wished that the Uruguay Round could arrive at some relatively fair agreements on anti-dumping actions, protective measures, textile products, service industries and copyright problems, such as an agreement not to implement any "anti-dumping" action to obstruct normal and reasonable commercial behavior. Hong Kong also wished that import countries would not be allowed to unilaterally reduce the import quota against some export countries, based on the pretext that domestic industries are affected.⁹⁵

The new multilateral trade measures agreed to in the Uruguay Round, together with the WTO, came into force on January 1, 1995. Since then, Hong Kong's textile and clothing exports to the EU have been subject to the Uruguay Round Agreement on Textiles and Clothing (ATC), replacing the old Hong Kong-EU Textiles Agreement. Although the EU agreed to phase out quota restrictions on textiles and clothing imports from Hong Kong over a period of 10 years, however, in the first stage, which lasts for three years until the end of 1997, the list of liberalized products does not include any of the 30 categories previously under quotas. That is to say, quota restrictions for these products continue. However, restrictions (export authorization surveillance) on the remaining 66 categories no longer exist.⁹⁶

94. See "Impact of the Uruguay Round on Hong Kong's Textiles and Clothing Industries," *Trade Developments*, December 1994, Hong Kong Trade Development Council Research Department, p. 3.

95. On the position of Hong Kong regarding the Uruguay Round Negotiation, see "Status Report on GATT and the Uruguay Round", *Topical Paper*, No. 14 (April 16, 1993), published by the Trade Development Council, Hong Kong.

96. See "EU's Implementation of the Uruguay Round Agreement," *Trade Watch*, March 20, 1995, Hong Kong Trade Development Council Research Department, pp. 5-6.

Tariff reductions is a significant achievement of the Uruguay Round Agreement, but customs tariffs on industrial products reduced by the EU vary according to categories of products, ranging from minimal reductions for sensitive products to a generous reduction in tariff for non-sensitive products. However, Hong Kong might "suffer" from a new feature of the new Generalized System of Preferences (GSP), which also came into force on January 1, 1995. Under the sector/country graduation mechanism, tariff concessions may be withdrawn when a country is regarded as economically well-developed, or is well-advanced in certain product sectors. Under this mechanism, certain products from Hong Kong have been entirely excluded from preferential treatment since January 1996. Most probably, Hong Kong will even "graduate" on January 1, 1998, which means that Hong Kong will be considered so rich that it can no longer be a GSP beneficiary.⁹⁷

In brief, Europe has become a less significant economic partner of Hong Kong, although the EU always stresses the increasing importance of Asia and China in its external relations, of which Hong Kong can play a useful role.

When Australia first proposed the establishment of APEC, ASEAN countries rejected the idea of having such an international organization. They were afraid that this international organization would injure national sovereignty and the individual states would be consistently under severe pressure from outside.⁹⁸ However, the attitude of Hong Kong is just the opposite, simply because by joining the international organization, the international status of Hong Kong would be guaranteed by outside forces.

Hong Kong participates in more than 40 international organizations in several capacities: using her own name as a formal member, participating as an associate member, or just participating in relevant activities without formal membership. The Sino-British Joint Liaison Group (JLG) has been negotiating on the issue of continual participation for Hong Kong in these organizations and has agreed on post-1997 membership in 31 organizations. There are ten other organizations in which Hong Kong currently participates

97. See "The New EU GSP Scheme," *Trade Watch*, January 1995, Hong Kong Trade Development Council Research Department, pp. 4-6.

98. See Donald Crone, "The Politics of Emerging Pacific Cooperation," *Pacific Affairs*, Vol. 65, No. 1 (Spring 1992), p. 71.

and JLG agreements are not required for Hong Kong's continued participation.⁹⁹

In addition, 220 multilateral agreements, signed by the United Kingdom, can be applied to Hong Kong. Similarly, the JLG has also agreed that 169 agreements or treaties will be effective after 1997. In the past, if Britain was a signatory member of these agreements, the agreements automatically applied to Hong Kong. During the period of transition up to 1997, if China is not a member of certain multilateral agreements or treaties, how these agreements would be applicable to Hong Kong involves a lot of technical difficulties. Generally, though, such decisions will depend on the policy orientations of the Beijing government.¹⁰⁰

Moreover, some 180 bilateral agreements signed by the British government, which were extended to Hong Kong in the past, will cease to apply to Hong Kong on 1 July 1997.¹⁰¹ The Sino-British JLG has regrouped these agreements into five major programs: air services, extradition, investment promotion and protection, mutual legal assistance in criminal matters, and reciprocal recognition and enforcement of judgments. Model agreements are drafted by the JLG. The Hong Kong government will then discuss the draft agreement with individual countries, and the agreements reached will be sent to the JLG for final approval. For the program on air services, the JLG has approached the final stage. The program on investment hopefully will be achieved by July 1, 1997. However, the negotiations with other countries regarding extradition and other legal matters still demand a lot of effort.¹⁰²

Apart from the above, Hong Kong in 1995 participated in 972 non-governmental organizations, a bit less than the 1013 organiza-

99. Information provided by Constitutional Affairs Branch, Hong Kong government, October 1996.

100. China notified United Nations Secretary General Annan of a list of 24 multilateral treaties that would apply to Hong Kong after July 1997. 14 of those treaties, China is not a signatory; however, they would continue to apply to Hong Kong. The United Nations is expected to receive similar notification from China regarding other multilateral treaties. See *China Time* (Taipei), June 8, 1997, p. 9; "China informs U.N. of treaties affecting Hong Kong," *Reuters North American Wire*, June 6, 1997.

101. See the report written by Tam Siu Man, "China and Britain Should Stress on Practical Matters of Hong Kong — Securing the International Status of Hong Kong." *Dandai* (Contemporary Monthly), No. 36 (March 1994), pp. 10-12.

102. Information provided by Constitutional Affairs Branch, Hong Kong government, November 1996.

tions in which China participates.¹⁰³ There are even 75 organizations that place their headquarters (principal secretariats) in Hong Kong, while China has only 53.¹⁰⁴ Regarding the Asia-Pacific region headquarters that multinational companies established in Hong Kong, the number is still on an upward trend: from 244 in 1984, it increased to 816 by the end of May 1996, of which 358 were established between 1990 and May 1996.¹⁰⁵ Another 1491 regional offices have been set up in Hong Kong through May 1996, of which 687 were established between 1990 and May 1996.¹⁰⁶

Singapore is regarded as a serious competitor of Hong Kong, but it is far behind Hong Kong despite the uncertain future Hong Kong must face. All these figures are sufficient to prove the outstanding status and unique position of Hong Kong in the Asia-Pacific region. Whether investing in China or East Asia, Hong Kong must be depended upon for its advanced telecommunication facilities, excellent transportation, good financial institutions, efficient support services and infrastructure. As long as the institutions in Hong Kong can maintain their excellence, the rule of law and human rights as well as the capitalist "rules of the game" (fair competition) are duly respected, and high quality service industries are provided, foreign investors will feel good about remaining in Hong Kong.

VII. CONCLUSION

Although those Western countries which have vested interests in Hong Kong have not created a "holy alliance" in "protecting" Hong Kong, it seems that unintentionally they have a tacit understanding to construct a loose multilateral framework in which every country is adopting some measure in order to build up mechanisms to safeguard the good traditions and character of Hong Kong. Economic interdependence has already played a role in checking the external behavior of China. Now other policies and measures are helping to define and consolidate the socio-economic system of Hong Kong.

The first includes legal provisions, such as the Bill of Rights passed by the Legislative Council of Hong Kong in 1991, and the

103. *Yearbook of International Organizations, 1995/1996*, Vol. 2, Union of International Associations, Munchen: Saur, 1995, p. 1685.

104. *Id.*, p. 1710.

105. These figures can be found in *1996 Survey of Regional Representation*, *supra* note 67, p. 11.

106. *Id.*, p. 16.

United States-Hong Kong Policy Act passed by the American Congress in 1992. These are legal measures that put human rights and freedom of Hong Kong people under international supervision.

The second focuses on economic measures. Facing the reality that Chinese investments are playing an increasingly important role in Hong Kong and the capitalist rules of the game might be affected, the United States and Japan are augmenting their proportion of investments in Hong Kong, so that Hong Kong can maintain its position as an international market, and safeguard the capitalist spirit of fair competition and rule by contract.

The third type is social. Increasing contacts and exchanges with people of Hong Kong, providing easier ways for them to migrate, and arousing worldwide attention about the human rights situation in Hong Kong before it becomes a real problem are all important tasks.

A rather interesting phenomenon that accompanies these measures is that among the citizens of Hong Kong, the number of foreign nationals present in Hong Kong is increasing. After the Sino-British Joint Declaration was signed in September 1984, foreign nationals in Hong Kong numbered 155,700 on December 31, 1984, but a decade later, by December 31, 1994, this had increased to 368,500. The number has further increased to 431,800 by the end of July 1996, almost three times the number in 1984.¹⁰⁷ Apart from those workers from other parts of Asia, foreign nationals, whether they are truly foreigners, or British subject Chinese, or Chinese of other nationalities, are basically educated professionals. They can play a significant role in the outstanding development of Hong Kong's economy, while politically, with "passport insurance," they have no fear of disturbance. This will liberate them from political pressure exerted by China. In fact, the sheer threat of leaving has given those people a stronger bargaining position vis-a-vis China, especially because these people are professionals who are badly needed by China.¹⁰⁸

However, China seems to be obsessed with the increasing number of "foreign nationals" in Hong Kong. In August 1996, the Preparatory Committee of the Hong Kong SAR resolved that those Hong Kong permanent citizens who have obtained foreign pass-

107. Information provided by the Immigration Department, Hong Kong government.

108. See Ronald Skeldon, "Emigration and the Future of Hong Kong," *Pacific Affairs*, Vol. 63, No. 4 (Winter 1990), p. 513.

ports can still be entitled to have full political rights if they are back on or before 30 June 1997, since any Hong Kong residents who have stayed in Hong Kong for more than seven years are considered by the British-Hong Kong government as permanent citizens, irrespective of their nationalities. There will be a "grace period" of eighteen months, that is, "foreigners" who were originally permanent citizens and who return to Hong Kong before the end of 1998 can enjoy the same benefits as those permanent citizens of foreign passport holders who stay beyond July 1, 1997. After that period, if Hong Kong permanent citizens with foreign passports return, in what capacity they can reside and work in the SAR depends on how they declare themselves. If they declare themselves "Chinese citizens," they enjoy the civil rights of a permanent citizen, but cannot be protected by their new "host" countries. If they declare themselves foreign nationals, they will be entitled to protection offered by the consular services of their host countries, but will not be treated as permanent citizens.¹⁰⁹ Only after seven years can they resume their status as permanent citizens.

Although Beijing sings its own praises about demonstrating flexibility and pragmatism in this complex issue of nationalities, the final solution is obviously a means utilized to limit the freedom of maneuver in political activities of those Hong Kong permanent citizens who will return to Hong Kong after obtaining a foreign passport.

So, the Hong Kong people, while remaining international, have to learn how to become "nationals" at the same time. What is obvious is that many Hong Kong Chinese want to become foreign nationals, while those who have become foreign nationals would like to return and benefit from the prosperity of Hong Kong and China. The complex phenomenon of the "internationalization" of Hong Kong's population might just be supportive of the argument that international relations are becoming a significant variable in protecting the prosperity and stability of Hong Kong.

109. See *Xianggang Jumin Jiuqi Hou De Guoji Yu Juliuquan* (Nationality and Right of Abode of Hong Kong Residents after 1997), Hong Kong: One Country Two Systems Economic Research Institute, December 1996, and *Right of Abode in the Hong Kong Special Administrative Region*, Hong Kong: Hong Kong Government Immigration Department, April 1997.

**Appendix 1: *List of Agreed Multilateral Treaties
to Apply to SAR****

A. *Civil Aviation*

1. Convention for the Unification of Certain Rules relating to International Carriage by Air, done at Warsaw on 12 October 1929 as amended by the Hague Protocol 1955.
2. Convention Supplementary to the Warsaw Convention for the Unification of Certain Rules relating to International Carriage by Air Performed by a Person Other Than the Contracting Carrier, done at Guadalajara on 18 September 1961.
3. The Convention on International Civil Aviation done at Chicago on 7 December 1944 as amended by the 1947 Protocol, 1954 Protocol, 1961 Protocol, 1962 Protocol, 1971 Protocol, 1974 Protocol, 1968 Buenos Aires Protocol and 1977 Montreal Protocol.
4. International Air Services Transit Agreement, done at Chicago on 7 December 1944.

B. *Conservation*

5. International Convention for the Regulation of Whaling, done at Washington on 2 December 1946 and Protocol to the 1946 Convention, done at Washington on 19 November 1956.
6. Plant Protection Agreement for the South-East Asia and Pacific Region, done at Rome on 23 December 1955 and the Amendment to the Plant Protection Agreement, done on 2 November 1967.
7. Convention on Wetlands of International Importance, especially as Waterfowl Habitat, done at Ramsar on 2 February 1971.
8. Convention for the Protection of the World Cultural and Natural Heritage, done at Paris on 23 November 1972.
9. Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on 3 March 1973.
10. Convention on the Conservation of Migratory Species of Wild Animals, done at Bonn on 23 June 1979.
11. Vienna Convention for the Protection of the Ozone Layer, done at Vienna on 22 March 1985; Montreal Protocol on

Substances That Deplete the Ozone Layer, done at Montreal on 16 September 1987; the 1990 London Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer; and the 1992 Copenhagen Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer.

12. Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel on 22 March 1989.
13. Convention on the Regulation of Antarctic Mineral Resource Activities, done at Wellington on 2 June 1988.

C. *Customs*

14. International Convention relating to the Simplification of Customs Formalities and Protocol of Signature, done at Geneva on 3 November 1923.
15. Agreement on the Importation of Educational, Scientific and Cultural Materials, done at Lake Success on 22 November 1950.
16. International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, done at Geneva on 7 November 1952.
17. Convention Concerning Customs Facilities for Touring and Additional Protocol to the 1954 Convention Concerning Customs Facilities for Touring relating to the Importation of Tourist Publicity Documents and Material, done at New York on 4 June 1954.
18. Customs Convention on the Temporary Importation of Private Road Vehicles, done at New York on 4 June 1954.
19. Customs Convention on the Temporary Importation for Private Use of Aircraft and Pleasure Boats, done at Geneva on 18 May 1956.
20. Customs Convention on the Temporary Importation of Commercial Road Vehicles, done at Geneva on 18 May 1956.
21. European Convention on Customs Treatment of Pallets Used in International Transport, done at Geneva on 9 December 1960.
22. Customs Convention Concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events, done at Brussels on 8 June 1961.

23. Customs Convention on the Temporary Importation of Professional Equipment, done at Brussels on 8 June 1961.
24. Customs Convention on the 'ATA Carnet' for the Temporary Admission of Goods, done at Brussels on 6 December 1961.
25. Convention on Temporary Admission, done at Istanbul on 26 June 1990.
26. Customs Convention on Containers, done at Geneva on 2 December 1972.
27. International Convention for Safe Containers, done at Geneva on 2 December 1972.

D. *Drugs*

28. Single Convention on Narcotic Drugs, done at New York on 30 March 1961; 1966 Amendments to Schedule I; 1967 Amendment to Schedule III; and the 1972 Protocol amending the Convention, done at Geneva on 25 March 1972.
29. United Nations Convention on Psychotropic Substances, done at Vienna on 21 February 1971.
30. The 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on 20 December 1988.

E. *Economic and Financial*

31. Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington on 18 March 1965.

F. *Health*

32. Agreement respecting Facilities to Be Given to Merchant Seamen for the Treatment of Venereal Diseases, done at Brussels on 1 December 1924.
33. The International Health Regulations, done at Boston on 25 July 1969.

G. *Human Rights*

34. United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on 10 December 1984.

35. United Nations Convention on the Rights of the Child, done at New York on 20 November 1989.
36. International Covenant on Economic, Social and Cultural Rights, done at New York on 19 December 1966.**
37. International Covenants on Civil and Political Rights, done at New York on 19 December 1966.**
38. International Agreement for the Suppression of the White Slave Traffic, signed at Paris on 18 May 1904.
39. International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910, and the Protocol amending the International Agreement for the Suppression of the White Slave Traffic, 1904, and the International Convention for the Suppression of the White Slave Traffic, 1910, done at Lake Success on 4 May 1949.
40. International Convention for the Suppression of the Traffic in Women and Children, opened for signature at Geneva on 30 September 1921.
41. International Convention with the Object of Securing the Abolition of Slavery and the Slave Trade, signed at Geneva on 25 September 1926 and the Protocol amending the Slavery Convention, done at New York on 7 December 1953.
42. Convention on the Political Rights of Women, done at New York on 31 March 1953.
43. Convention relating to the Status of Stateless Persons, done at New York on 28 September 1954.
44. Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956.
45. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, done at New York on 10 December 1962.
46. International Convention on the Elimination of All Forms of Racial Discrimination, done at New York on 7 March 1966.
47. Convention on the Elimination of All Forms of Discrimination Against Women, concluded at New York on 18 December 1979.@
48. Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 October 1980.@

H. *Intellectual Property*

49. Convention for the Protection of Industrial Property, done at Paris on 20 March 1883, as amended on 14 July 1967.
50. Convention for the Protection of Literary and Artistic Works, done at Berne on 9 September 1886, as amended on 2 October 1979 at Paris.
51. Universal Copyright Convention, done at Geneva on 6 September 1952 and its Protocols, Geneva 1952, as amended on 24 July 1971 at Paris.
52. Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, done at Geneva on 29 October 1971.
53. Patent Co-operation Treaty, done at Washington on 19 June 1970, as amended, on 28 September 1979 and modified on 3 February 1984.

I. *International Crime*

54. Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris on 9 December 1948.
55. International Agreement for the Suppression of Obscene Publications, done at Paris on 4 May 1910 and its Protocol, done at Lake Success on 4 May 1949.
56. International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, done at Geneva on 12 September 1923 and Protocol done at Lake Success on 12 November 1947.
57. Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963.
58. Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970.
59. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
60. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, done at New York on 14 December 1973.
61. International Convention Against the Taking of Hostages, done at New York on 17 December 1979.

62. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988, and Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.
63. Montreal Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988.
64. Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991.

J. *International Labor Conventions*

65. Unemployment Convention (ILC No. 2), Washington, 28 November 1919.
66. Maternity Protection Convention (ILC No. 3), Washington, 28 November 1919.
67. Minimum Age (Industry) Convention (ILC No. 5), Washington, 28 November 1919.
68. Minimum Age (Sea) Convention (ILC No. 7), Genoa, 9 July 1920.
69. Unemployment Indemnity (Shipwreck) Convention (ILC No. 8). Genoa, 9 July 1920.
70. Minimum Age (Trimmers and Stokers) Convention (ILC No. 15), Geneva, 11 November 1921.
71. Medical Examination of Young Persons (Sea) Convention (ILC No. 16), Geneva, 11 November 1921.
72. Right of Association (Agriculture) Convention (ILC No. 11), Geneva, 12 November 1921.
73. Minimum Age (Agriculture) Convention (ILC No. 10), Geneva, 16 November 1921.
74. Weekly Rest (Industry) Convention (ILC No. 14), Geneva, 17 November 1921.
75. Workmen's Compensation (Agriculture) Convention (ILC No. 12), Geneva, 12 November 1921.
76. Equality of Treatment (Accident Compensation) Convention (ILC No. 19), Geneva, 8 June 1925.

77. Workmen's Compensation (Accidents) Convention (ILC No. 17), Geneva, 10 June 1925.
78. Repatriation of Seamen Convention (ILC No. 23), Geneva, 23 June 1926.
79. Seamen's Articles of Agreement Convention (ILC No. 22), Geneva, 24 June 1926.
80. Forced Labor Convention (ILC No. 29), Geneva, 28 June 1930.
81. Protection against Accidents (Dockers) Convention (Revised) (ILC No. 32), Geneva, 27 April 1932.
82. Workmen's Compensation (Occupational Diseases) Convention (Revised) (ILC No. 42), Geneva, 21 June 1934.
83. Underground Work (Women) Convention (ILC No. 45), Geneva, 21 June 1935.
84. Recruiting of Indigenous Workers Convention (ILC No. 50), Geneva, 20 June 1936.
85. Minimum Age (Sea) Convention (Revised) (ILC No. 58), Geneva, 24 October 1936.
86. Minimum Age (Industry) Convention (Revised) (ILC No. 59), Geneva, 22 June 1937.
87. Contracts of Employment (Indigenous Workers) Convention (ILC No. 64), Geneva, 27 June 1939.
88. Penal Sanctions (Indigenous Workers) Convention (ILC No. 65), Geneva, 27 June 1939.
89. Certification of Able Seamen Convention (ILC No. 74), Seattle, 29 June 1946.
90. Labor Inspection Convention (ILC No. 81), Geneva, 11 July 1947.
91. Freedom of Association and Protection of the Right to Organize Convention (ILC No. 87), San Francisco, 9 July 1948.
92. Night Work of Young Persons (Industry) Convention (Revised) (ILC No. 90), San Francisco, 10 July 1948.
93. Accommodation of Crews Convention (Revised) (ILC No. 92), Geneva, 18 June 1949.
94. Migration for Employment Convention (Revised) (ILC No. 97), Geneva, 1 July 1949.

95. Right to Organize and Collective Bargaining Convention (ILC No. 98), Geneva, 1 July 1949.
96. Holidays with Pay (Agriculture) Convention (ILC No. 101), Geneva, 26 June 1952.
97. Abolition of Forced Labor Convention (ILC No. 105), Geneva, 25 June 1957.
98. Seafarers' Identity Documents Convention (ILC No. 108), Geneva, 13 May 1958.
99. Radiation Protection Convention (ILC No. 115), Geneva, 22 June 1960.
100. Employment Policy Convention (ILC No. 122), Geneva, 9 July 1964.
101. Medical Examination of Young Persons (Underground Work) Convention (ILC No. 124), Geneva, 23 June 1965.
102. Accommodation of Crews (Supplementary Provisions) Convention (ILC No. 133), Geneva, 30 October 1970.
103. Rural Workers' Organizations Convention (ILC No. 141), Geneva, 23 June 1975.
104. Human Resources Development Convention (ILC No. 142), Geneva, 23 June 1975.
105. Tripartite Consultation (International Labor Standards) Convention (ILC No. 144), Geneva, 21 June 1976.
106. Merchant Shipping (Minimum Standards) Convention (ILC No. 147), Geneva, 29 October 1976.
107. Working Environment (Air Pollution, Noise and Vibration) Convention (ILC No. 148), Geneva, 20 June 1977.
108. Labor Administration Convention (ILC No. 150), Geneva, 26 June 1978.
109. Labor Relations (Public Service) Convention (ILC No. 151), Geneva, 27 June 1978.
110. Labor Statistics Convention (ILC No. 160), Geneva, 25 June 1985.

K. *Marine Pollution*

111. International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brus-

- sels on 29 November 1969 and the Protocol done at London on 2 November 1973.
112. International Convention on Civil Liability for Oil Pollution Damage, done at Brussels on 29 November 1969 and its Protocol done at London on 19 November 1976.
 113. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, done at Brussels on 18 December 1971 and the Protocol done at London on 19 November 1976.
 114. Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 29 December 1972; 1978 Amendments to Annexes I and II Concerning Incineration at Sea; 1978 Amendments Concerning Settlement of Disputes; 1980 Amendments to Annexes I and II Concerning Lists of Substances; and 1989 Amendment to Annex III.
 115. International Convention for the Prevention of Pollution from Ships, done at London on 2 November 1973; Protocol done at London on 17 February 1978; and Annexes III and V to the Convention as modified by the Protocol of 1978.

L. *Merchant Shipping*

116. International Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea, done at Brussels on 23 September 1910.
117. International Convention for the Unification of Certain Rules of Law respecting Collisions between Vessels, done at Brussels on 23 September 1910.
118. Convention and Statute on Freedom of Transit, done at Barcelona on 20 April 1921.
119. Convention and Statute on the Regime of Navigable Waterways of International Concern, done at Barcelona on 20 April 1921.
120. Declaration Recognizing the Right to a Flag of States Having No Sea-Coast, done at Barcelona on 20 April 1921.
121. Convention and Statute on the International Regime of Maritime Ports, done at Geneva on 9 December 1923.

122. International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, done at Brussels on 25 August 1924 and its 1968 and 1979 Protocols.
123. International Convention on Certain Rules concerning Civil Jurisdiction in Matters of Collision, done at Brussels on 10 May 1952.
124. International Convention for the Unification of Certain Rules relating to Penal Jurisdiction in Matters of Collision or Other Incidents of Navigation, done at Brussels on 10 May 1952.
125. International Convention relating to the Arrest of Sea-going Ships, done at Brussels on 10 May 1952.
126. Convention on Facilitation of International Maritime Traffic, done at London on 9 April 1965, as amended by the 1973, 1977 and 1986 Amendments.
127. International Convention on Load Lines, done at London on 5 April 1966, as amended by the 1971, 1975 and 1979 Amendments.
128. International Convention on Tonnage Measurement of Ships, done at London on 23 June 1969.
129. Special Trade Passenger Ships Agreement, done at London on 6 October 1971, and its 1973 Protocol on Space Requirements Special Trade Passenger Ships.
130. Convention on the International Regulations for Preventing Collisions at Sea, done at London on 20 October 1972, and the Amendment done on 19 November 1981.
131. Convention on a Code of Conduct for Liner Conferences, done at Geneva on 6 April 1974.
132. Convention relating to the Carriage of Passengers and Their Luggage by Sea, done at Athens on 13 December 1974, and its 1976 Protocol.
133. International Convention for the Safety of Life at Sea, done at London on 1 November 1974 and its 1981, 1983 and 1988 Amendments; its Protocol done on 1 June 1978 and the 1981 Amendments to the 1978 Protocol.
134. Convention on Limitation of Liability for Maritime Claims, done at London on 19 November 1976.

135. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, done at London on 7 July 1978, and the 1995 Amendments.
136. International Convention on Maritime Search and Rescue, done at Hamburg on 27 April 1979.
137. International Convention on Salvage, concluded at London on 28 April 1989.
138. International Convention on Salvage, done at London on 28 April 1989.

M. *Political and Diplomatic*

139. Charter of the United Nations, done at San Francisco on 26 June 1945.
140. Statute of the International Court of Justice, done at San Francisco on 26 June 1945.
141. (General) Convention on the Privileges and Immunities of the United Nations, done at London on 13 February 1946.
142. Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, done at New York on 21 November 1947.
143. Convention on Diplomatic Relations, done at Vienna on 18 April 1961.
144. Convention on Consular Relations, done at Vienna on 24 April 1963.

N. *Postal*

145. Postal Parcels Agreement with Final Protocol and Detailed Regulations with Final Protocol, Seoul, 14 September 1994 and the Postal Operations Council Session in Berne, February 1995.
146. Universal Postal Convention with Final Protocol and Detailed Regulations with Final Protocol, Seoul, 14 September 1994 and the Postal Operations Council Session in Berne, February 1995.
147. General Regulations of the Universal Postal Union and Annex, Seoul, 14 September 1994.

O. *Private International Law*

148. Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958.
149. Convention Abolishing the Requirement of Legalization for Foreign Public Documents, done at the Hague on 5 October 1961.
150. Convention on the Conflicts of Laws relating to the Form of Testamentary Dispositions, done at the Hague on 5 October 1961.
151. Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, done at the Hague on 15 November 1965.
152. Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, done at the Hague on 18 March 1970.
153. Convention on the Recognition of Divorces and Legal Separations, done at the Hague on 1 June 1970.
154. Convention on the Law Applicable to Trusts and on Their Recognition, done at the Hague on 1 July 1985.

P. *Science and Technology*

155. Convention on Third Party Liability in the Field of Nuclear Energy, done at Paris on 29 July 1960 with its Additional Protocol done at Paris on 28 January 1964, as amended by the 1982 Protocol.
156. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, done at London, Moscow and Washington on 27 January 1967.
157. Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, done at London, Moscow and Washington on 22 April 1968.
158. Convention on International Liability for Damage Caused by Space Objects, done at London, Moscow and Washington on 29 March 1972.
159. Convention on the Registration of Objects Launched into Outer Space, done at New York on 14 January 1974.

Q. *Telecommunications*

160. Convention for the Protection of Submarine Cables, done at Paris on 14 March 1884 as amended by the Declaration on the Protection of Submarine Cables done at Paris on 1 December 1886 and the Protocol on the Protection of Submarine Cables done at Paris on 7 July 1887.
161. International Agreement on the Use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports, done at London on 16 October 1985.

R. *Trade*

162. International Convention Relating to International Exhibitions, done at Paris on 22 November 1928 and its Protocols done at Paris on 10 May 1948, 16 November 1966, 30 November 1972, and amendments done on 24 June 1982.

S. *Transport*

163. Convention on Road Traffic, done at Geneva on 19 September 1949.

T. *Warfare and Disarmament*

164. Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva on 12 August 1949.
165. Convention for the Amelioration of the Condition of the Wounded, Sick and Ship-wrecked Members of Armed Forces at Sea, done at Geneva on 12 August 1949.
166. Convention on the Treatment of Prisoners of War, done at Geneva on 12 August 1949.
167. Convention on the Protection of Civilian Persons in Time of War, done at Geneva on 12 August 1949.
168. Treaty on the Non-proliferation of Nuclear Weapons, done at London, Moscow and Washington on 1 July 1968.
169. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on Their Destruction, done at London, Moscow and Washington on 10 April 1972.

U. *List of Other International Instruments Establishing International Organizations*

1. *Asian Development Bank (ADB)*
Agreement Establishing the Asian Development Bank, done at Manila on 4 December 1965.
2. *Asia-Pacific Postal Union (APPU)*
Asia-Pacific Postal Convention, done at Yogyakarta on 27 March 1981 and its Final Protocol.
3. *Asia-Pacific Telecommunity (APT)*
Constitution of the Asia-Pacific Telecommunity, done at Bangkok on 27 March 1976.
4. *Customs Co-operation Council (CCC)*
International Convention Establishing a Customs Co-operation Council, done at Brussels on 15 December 1950.
5. *Food and Agriculture Organization (FAO)*
Constitution of the Food and Agriculture Organization, done at Quebec on 16 October 1945.
6. *General Agreement on Tariffs and Trade (GATT) / World Trade Organization (WTO)*
General Agreement on Tariffs and Trade, done at Geneva on 30 October 1947.
Agreement Establishing the World Trade Organization done at Marrakech on 15 April 1994.
7. *International Atomic Energy Agency (IAEA)*
Statute of the International Atomic Energy Agency, done at New York on 26 October 1956.
8. *International Bank for Reconstruction and Development (IBRD)*
Articles of Agreement of the International Bank for Reconstruction and Development, done at Washington on 22 July 1944.
9. *International Development Association (IDA)*
Articles of Agreement of the International Development Association, done at Washington on 26 January 1960.

10. *International Finance Corporation (IFC)*
Articles of Agreement of the International Finance Corporation, done at Washington on 25 May 1955.
11. *International Hydrographic Organization (IHO)*
Convention on the International Hydrographic Organization, done at Monaco on 3 May 1967.
12. *International Labor Organization (ILO)*
Constitution of the International Labor Organization, done at Versailles on 28 June 1919.
13. *International Maritime Organization (IMO)*
Convention on the International Maritime Organization, done at Geneva on 6 March 1948.
14. *International Mobile Satellite Organization (INMARSAT)*
Convention on the International Maritime Satellite Organization, done at London on 3 September 1976.
15. *International Monetary Fund (IMF)*
Articles of Agreement of the International Monetary Fund, done at Washington on 22 July 1944.
16. *International Telecommunications Satellite Organization (INTELSAT)*
Agreement relating to the International Telecommunications Satellite Organization (INTELSAT), done at Washington on 20 August 1971.
17. *International Telecommunication Union (ITU)*
Constitution and Convention of the International Telecommunication Union, done at Geneva on 22 December 1992, and at Kyoto in 1994.
18. *Multilateral Investment Guarantee Agency (MIGA)*
Convention Establishing the Multilateral Investment Guarantee Agency, done at Seoul on 11 October 1985.
19. *Network of Aquaculture Centres in Asia and the Pacific (NACA)*
Agreement on the Network of Aquaculture Centres in Asia and the Pacific, done at Bangkok on 8 January 1988.

20. *Universal Postal Union (UPU)*
Constitution of the Universal Postal Union, Vienna, 10 July 1964, as amended by the 1969 Tokyo, 1974 Lausanne, 1984 Hamburg, 1989 Washington and 1994 Seoul Additional Protocols.
 21. *World Health Organization (WHO)*
Constitution of the World Health Organization, done at New York on 22 July 1946.
 22. *World Intellectual Property Organization (WIPO)*
Convention Establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967, as amended by in 1979.
 23. *World Meteorological Organization (WMO)*
Constitution of the World Meteorological Organization, done at Washington on 11 October 1947.
- * As of June 6, 1996, China notified the United Nations that 24 multilateral treaties would apply to Hong Kong after July 1, 1997. For 10 of those treaties, such as:
- (1) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agent (Dec. 14, 1973);
 - (2) International Convention against the Taking of Hostages (Dec. 17, 1979);
 - (3) Convention on the Recognition and Enforcement of Foreign Arbitral Awards (June 10, 1958); and
 - (4) Customs Convention on Containers (Dec. 2, 1972),
China is a member. 14 of those treaties, such as:
- (1) International Convention relating to the Simplification of Customs Formalities and Protocol of Signature, done at Geneva on 3 November 1923;
 - (2) Agreement on the Importation of Educational, Scientific and Cultural Materials, done at Lake Success on 22 November 1950;
 - (3) International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, done at Geneva on 7 November 1952;

- (4) Convention Concerning Customs Facilities for Touring and Additional Protocol to the 1954 Convention Concerning Customs Facilities for Touring relating to the Importation of Tourist Publicity Documents and Material, done at New York on 4 June 1954;
- (5) Customs Convention on the Temporary Importation of Private Road Vehicles, done at New York on 4 June 1954; and,
- (6) Customs Convention on the Temporary Importation for Private Use of Aircraft and Pleasure Boats, done at Geneva on 18 May 1956,

will continue to apply to Hong Kong even though China is not a member. The United Nations is expected to receive similar notification from China regarding other international treaties. "China informs U.N. of treaties affecting Hong Kong," *Reuters North American Wire*, June 6, 1997.

- ** The continued application of the provisions of these two covenants to the HKSAR after 30 June 1997 is covered by JD156/BL39.
- @ To be extended to Hong Kong by the UK on or before 30 June 1997, and their continued application thereafter has been agreed in the JLG.

Source: Constitutional Affairs Branch, Hong Kong government, November 1996.

Appendix 2: International Organizations in Which Hong Kong Participates

Full Membership:

1. Asian Development Bank (ADB) (agreement reached in 1985)
2. Customs Co-operation Council (CCC)/World Customs Organization (WCO) (1986)
3. General Agreement on Tariffs and Trade (GATT)(1986)/World Trade Organization (WTO)(1995)
4. International Textiles and Clothing Bureau (ITCB) (1996)
5. Network of Aquaculture Centres in Asia and the Pacific (NACA) (1988)
6. World Meteorological Organization (WMO) (1986)

Participation as Part of Sovereign Government's (PRC)

Delegation:

1. Asia-Pacific Postal Union (APPU) (1986)
2. Food and Agriculture Organization (FAO) (1987)
3. International Atomic Energy Agency (IAEA) (1988)
4. International Bank for Reconstruction and Development (IBRD) (1989)
5. International Civil Aviation Organization (ICAO) (1996)
6. International Criminal Police Organization (INTERPOL) (1988)
7. International Development Association (IDA) (1989)
8. International Finance Corporation (IFC) (1989)
9. International Hydrographic Organization (IHO) (1988)
10. International Labor Organization (ILO) (1987)
11. International Mobile (formerly Maritime) Satellite Organization (INMARSAT) (1990)
12. International Monetary Fund (IMF) (1989)
13. International Telecommunication Satellite Organization (INTELSAT) (1990)
14. International Telecommunication Union (ITU) (1986)
15. United Nations Commission on Narcotic Drugs (UNCND) (1988)
16. United Nations Conference on Trade and Development (UNCTAD) (1987)
17. Universal Postal Union (UPU) (1986)
18. World Intellectual Property Organization (WIPO) (1994)

Associate Membership:

1. Asian and Pacific Development Centre (APDC) (1987)
2. Asia-Pacific Telecommunity (APT) (1988)
3. Economic and Social Commission for Asia and the Pacific (ESCAP) (1987)
4. Intergovernmental Typhoon Committee (ITC) (1987)
5. International Maritime Organization (IMO) (1986)
6. Statistical Institute for Asia and the Pacific (SIAP) (1987)
7. World Health Organization (WHO) (1988)

Organizations in Which Hong Kong Currently Participates, and Which Joint Liaison Group Agreement Is Not Required for Hong Kong's Continued Participation:

1. Asia Pacific Economic Cooperation Forum (APEC)
2. Asia-Pacific Metrology Program
3. International Association of Lighthouse Authorities
4. International Association of Ports and Harbors
5. International Organization for Standardization
6. National Conference of Standards Laboratories
7. United Nations Development Program
8. United Nations Environment Program
9. United Nations Fund for Drug Abuse Control
10. United Nations Fund for Population Activities

International Organizations in Which Hong Kong Currently Participates, But JLG Approval for Post-1997 Participation Remains Pending:

1. Asian Productivity Organization (APO)
2. Multilateral Investment Guarantee Agency (MIGA)*

* The JLG has agreed that the MIGA Convention will apply to Hong Kong after 1997, but no decision has been made on Hong Kong's participation as a MIGA member after 1997, as MIGA does not accept non-sovereign states as members.

Sources: (1) Constitutional Affairs Branch, Hong Kong government, November 1996.
 (2) United States - Hong Kong Policy Act Report as of March 31, 1996, as required by Section 301 of the United States - Hong Kong Policy Act of 1992, 22 U.S.C. §5731, as amended, submitted by the Department of State to the Congress.

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