

HONG KONG STUDY

ANNEX H

EXTERNAL RELATIONS

Present Position

1. The United Kingdom, as the metropolitan power, has responsibility for Hong Kong's external relations. The Hong Kong Government, being that of a dependent territory, has no capacity of its own to conduct external relations unless specifically entrusted with authority to do so by HMG.
2. In the exercise of its responsibility the United Kingdom has entered into a considerable number of international agreements (either bilateral or multi-lateral) that extend to Hong Kong and HMG are under an obligation to ensure their due performance. A list of some of these agreements are attached.
3. Where the terms of an international agreement extending to Hong Kong have necessitated its implementation in the municipal law of Hong Kong, legislative provision for this purpose has been made either by means of a UK Order in Council or an Ordinance of the local legislature, so that it may be generally assumed that the law of Hong Kong is in conformity with existing international obligations.
4. Because the UK's interests and those of Hong Kong do not always coincide in this field the Hong Kong Government

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is in practice permitted a great deal of latitude over external trade relations and largely conducts its own. In particular it has negotiated restraint agreements covering the export of certain products with its main trading partners, the US and the EC.

5. Outside the trade field, the bulk of Hong Kong's 'external affairs' are concerned with its relations with China. While these are the responsibility of HMG and all important matters are dealt with in London, or in Peking through H M Ambassador, the Hong Kong Government conduct much purely local business through contacts, direct or indirect, with the neighbouring Chinese authorities.

6. Primarily in order to further its commercial interests, the Hong Kong Government maintains offices in London, Geneva, Brussels and Washington (soon in New York as well). But apart from its London office, which is sui generis, these are technically part of UK Missions. In a few international fora, eg the Asian Development Bank and the Economic and Social Committee for Asia and the Pacific (ESCAP), there is direct participation by the Hong Kong Government, as a Dependent Territory.

Possible Changes

UK Requirement

7. It is important that the UK should retain authority to conduct external relations if sovereignty were relinquished. Otherwise confidence in the reality of British administration /would be

would be seriously undermined, and people in Hong Kong would fear that China would be free to take action in the external field which might damage the territory. There would also be numerous practical difficulties, and problems over nationality (see Annex K).

Effect of Relinquishment of Sovereignty

8. This would terminate the UK's responsibility for external relations in respect of Hong Kong, and that responsibility would devolve on the PRC unless arrangements were made between the UK and the PRC to permit the UK to continue to exercise that responsibility, or to be responsible for the conduct of external relations (see paragraph 9 below).

Recognition of Chinese Sovereignty with Continuing British Administration

9. A distinction exists between (a) having responsibility for external relations and (b) having responsibility for the conduct of external relations. For example, HMG have (a) in relation to Brunei but had (b) in relation to the Gulf States. For Tonga, HMG had (a) and (b), though presumably (a) subsumed (b).

10. If the Chinese were prepared to concede that the UK should continue to have responsibility for external affairs (or for the conduct of them) they could require explicit assurances that the UK's authority would not be exercised to the detriment of the PRC. They might well seek consultation arrangements to reinforce these assurances. Consultation of some sort would probably be unavoidable but should be kept as informal as possible.

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11. If Chinese sovereignty over Hong Kong were conceded, but British administration continued, China would become the international person with ultimate responsibility, so it would be logical for the UK to have responsibility for conduct, ie (b) rather than (a). This would accord with the 'caretaker' notion and the 'safeguarding of Chinese sovereignty'. But it is not certain that the Chinese would recognise the distinction.

Hong Kong as a Special Administrative Region

12. Similar considerations will apply in this case, but it would be even more important to have a cast iron agreement that, despite Hong Kong's nominal position as a Special Administrative Region, conduct of external relations remained with the UK.

Local Authority

13. The UK would continue to consult the Hong Kong Government in exercising its responsibility and arrangements could be made for more extensive delegation to the Hong Kong Government in the field of external relations than exist at present, thus conferring a greater degree of autonomy on Hong Kong. Nevertheless there would be practical and jurisprudential obstacles to the delegation of authority throughout the field of international relations.

Conclusions

14. In order to retain confidence, the UK would need to possess, and to be seen as possessing, effective international /responsibility

responsibility for the conduct of external relations in respect of Hong Kong. This would be legally possible. HMG would nevertheless be acting as a 'caretaker' under a 'management contract' and its authority would have to be exercised in this spirit. This would only be practically possible if its scope, and any necessary legal implementation, was reasonably well understood and accepted by the PRC.

SOME MULTILATERAL TREATIES APPLICABLE TO HONG KONG FROM 1950

TITLE	PLACE AND DATE OF SIGNATURE
1 Convention for the Suppression of Unlawful seizure of Aircraft.	The Hague December 1970
2 Treaty on the Prohibition of the Employment of Nuclear Weapons and other Weapons of Mass Destruction on the SeaBed and on the Sub-Soil Thereof.	London February 1971
3 International Wheat Agreement (and subsequent extensions).	Washington 1971
4 Constitution of Universal Postal Union and Additional Protocols.	Tokyo November 1969
5 Incured Letters and Boxes Agreement	Tokyo November 1969
6 Postal Parcels Agreement	Tokyo November 1969
7 International Convention on Load Lines	London April 1966
8 International Convention on Elimination of All Forms of Racial Discrimination	UN-NY March 1966
9 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.	London October 1967
10 International Covenant on Economic, Social and Cultural Rights.	UN-NY December 1966
11 International Covenant on Civil and Political Rights.	UN-NY December 1966
12 International Coffee Agreement.	New York March 1968
13 Protocol to International Convention for Unification of Certain Rules Relating to Bills of Lading.	Brussels February 1968
14 Agreement on the Rescue of Astronauts, the Return of Astronauts and Objects Launched into Outer Space.	London April 1968
15 Non-Proliferation Treaty.	London July 1968
16 International Convention on Tonnage Measurement of Ships.	London June 1969
17 International Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties.	Brussels November 1969

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| 18 | International Convention on Civil Liability for
Oil Pollution Damage. | Brussels
November 1969 |
| 19 | Convention on Taking of Evidence Abroad in Civil
of Commercial Matters. | Hague
March 1970 |
| 20 | Patent Co-operation Treaty. | Washington
June 1970 |
| 21 | Convention on the Recognition of Divorces and
Legal Separations. | Hague
June 1970 |
| 22 | Convention on the International Maritime
Sattellite Organisation. | London
September 1976 |
| 23 | International Convention on the Establishment
of an International Fund for Compensation for
Oil Pollution Damage. | London
November 1976 |
| 24 | Protocol to Athens Convention re Carriage of
Passengers and Luggage by Sea. | London
November 1976 |
| 25 | Protocol to the International Convention on
Civil Liability for Oil Pollution Damage. | London
November 1976 |
| 26 | International Convention for Safety of
Fishing Vessels. | London
October 1977 |
| 27 | Convention to promote Implementation of
ICO Standards. | Geneva
June 1976 |
| 28 | Convention on Prohibition of Military or
any other Hostile Use of Environmental
Modification Techniques. | Geneva
May 1977 |
| 29 | Convention on Limitation of Liability for
Maritime Claims. | London
February 1977 |
| 30 | Amendments to Annexes I and II of Convention
on Prevention of Marine Pollution by Dumping
of Wastes and other Matter. | London, Washington,
Mexico, Moscow
December 1978 |
| 31 | Amendments to Annexes XI, XIV and XV of above. | London
October 1978 |
| 32 | Convention on Offences and Certain other Acts
on Board Aircraft. | Tokyo
14 September 1963 |
| 33 | Convention on Consular Relations. | Vienna
24 April 1963 |
| 34 | Convention on Settlement of Investment
Disputes. | Washington
18 March 1965 |
| 35 | International Telecommunications Convention. | Montreux
12 November 1965 |
| 36 | Universal Postal Union Convention. | Vienna
10 July 1964 |
| 37 | Universal Copyright Convention. | Paris
24 July 1971 |

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| Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. | Montreal
23 September 1971 |
| 39 Convention on International Liability for Damage caused by Space Objects. | London, Moscow,
Washington
29 March 1972 |
| 40 Convention on the Prohibition of the Development Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. | London, Moscow,
Washington
10 April 1972 |
| 41 Protocol amending the Single Convention on Narcotic Drugs. | Geneva
25 March 1972 |
| 42 Convention on the International Regulations for Preventing Collisions at Sea. | London
20 October 1972 |
| Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter. | London, Mexico City,
Moscow, Washington
29 December 1972 |
| 44 International Telecommunication Convention. | Malaga
25 October 1973 |
| 45 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. | New York
14 December 1973 |
| 46 International Convention on the Safety of Life at Sea. | London
1 November 1974 |
| 47 Universal Postal Convention. | Lausanne
5 July 1974 |
| 48 Convention on Registration of Objects Launched into Outer Space. | New York
14 January 1975 |
| 49 Convention on the Recognition and Enforcement of Foreign Arbitral Awards. | New York
10 June 1958 |
| 50 International Coffee Agreement 1976 | New York
31 January 1976 |
| 51 Convention relating to the Carriage of Passengers and their Luggage by Sea. | Athens
13 December 1974
(not in force) |
| 52 Amendment to the International Convention on Load Lines 1966. | London
12 November 1975 |
| 53 Agreement on Technical Barriers to Trade. | Geneva
12 April 1979 |
| 54 Universal Postal Convention. | Rio de Janeiro
26 October 1979 |
| 55 Convention on Amelioration of Conditions of Wounded and Sick in Armed Forces. | Geneva
12 August 1949 |
| 56 Convention on Treatment of Prisoners of War. | Geneva
12 August 1949 |

- 57 Agreement on Duty Free Importation of Educational, Scientific and Cultural Materials. Lake Success
22 November 1950
- 58 Protocol on Drugs. Geneva
20 May 1952
- 59 Convention on the Arrest of Seagoing Ships. Brussels
10 May 1952
- 60 Convention on Customs Formalities for the Temporary Importation of Private Motor Vehicles. New York
4 June 1954
- 61 Protocol to Warsaw Convention on International Carriage by Air. The Hague
28 September 1955
- 62 UN Convention on Slavery. Geneva
7 September 1956
- 63 Convention on Status of Stateless Persons. New York
28 September 1954
- 64 Universal Postage Convention. Ottawa
3 October 1957
- 65 Law of the Sea Convention. Geneva
29 April 1958
- 66 Third Party Liability in the Field of Nuclear Energy. Paris
29 July 1960
- 67 Safety of Life at Sea Convention. London
17 June 1960
- 68 Convention on Diplomatic Relations. Vienna
18 April 1961

SOME BILATERAL TREATIES APPLICABLE TO HONG KONG

TITLE	PLACE AND DATE OF SIGNATURE
1. Convention between the United Kingdom and Austria for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters	Vienna 14 July 1961
2. Protocol amending the above Convention	London (6 March 1970 (E. 21.11.77))
3. Convention between the United Kingdom and the Federal Republic of Germany for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters	Bonn 14 July 1960 (E. 8.8.73)
4. Convention between the United Kingdom and Isreal for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters	Tel Aviv 20 October 1970 (E. 20.12.78)
5. Convention between the United Kingdom and Italy for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters	Rome 1 June 1954 (E. 21.5.79)
6. Agreement between the United Kingdom and the Republic of Korea for the Promotion and Protection of Investments	Seoul 4 March 1976
7. Convention between the United Kingdom and Romania on Legal Proceedings in Civil and Commercial Matters	London 15 June 1978
8. Agreement between the European Economic Community and Hong Kong on Trade in Textile Products	Brussels 12 February 1980
9. Agreement between the European Economic Community and Hong Kong on Trade in Textile Products	Brussels 26 March 1976
10. Visa Abolition Agreements: The UK is a party to <u>more than a dozen Visa Abolition Agreements</u> which are also applicable to holders of passports issued by the Governor of Hong Kong.	
11. Extradition Treaties: All such treaties between the UK and Foreign States apply to Hong Kong.	
12. Consular Conventions: All such conventions between the UK and Foreign States apply to Hong Kong.	

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THE FUTURE OF HONG KONG

A SPECIAL STUDY

BY THE FOREIGN & COMMONWEALTH OFFICE

AUGUST 1982

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FUTURE OF HONG KONG

SPECIAL STUDY

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- O. Crown Land Leases in the New Territories
- P. Illustrative Questions and Answers following the Prime Minister's Visit to China



PRIME MINISTER
FIRST LORD OF THE TREASURY

FUTURE OF HONG KONG

SPECIAL BRIEFING

To Be Retained

Do Not Destroy

FUTURE OF HONG KONG

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