

**THE EXTERNAL RELATIONS OF THE HONG KONG SPECIAL  
ADMINISTRATIVE REGION**

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## **1.INTRODUCTION**

The Post-Cold War international system has been characterized by the coexistence and interplay between contradictory centrifugal and centripetal forces both at the political level (where there are manifestations of unipolarity but at the same time the emergence of the People's Republic of China (PRC) as a new global power prepared to challenge in the future the current US monopoly) and at the economic level, where the intensification and acceleration of globalization coexists with the expansion and consolidation of regionalism.

Hong Kong is an increasingly important player in this new international system, where the power of transnational actors and informal networks has been reinforced at the expense of sovereign States. The importance of Hong Kong as an international city and economic centre derives not only from its economic power and remarkable achievements - 8<sup>th</sup> largest trading economy, 4<sup>th</sup> leading source of foreign direct investment (FDI) and 3<sup>rd</sup> most competitive economy - but also from the specific, complex and strategic functions it performs for the regional and global economies as (i) a centre of coordination of globalization operations (ii) a major investor at both the world and regional levels, emerging as the first foreign investor in ASEAN and APEC (iii) the regional headquarters for multinationals and a major financial centre (iv) the capital of Overseas Chinese business networks which coordinate their world operations from HK (v) a crucial trade entrepôt with China managing more than 50% of PRC's exports and a catalyst for the modernization of China's economy<sup>1</sup>.

Since the early 90's there has been an "internationalisation" and "politicisation" of the Hong Kong question - a trend China tried to resist - as a consequence of the proeminence of HK's and China's economies after the end of the Cold War, the row over HK's political reforms initiated in 1992 and the escalation of the US-China trade conflict.

Hong Kong has a high-profile and unique international status, being clearly the most visible and powerful non-sovereign entity in the international system. This paper will analyse how the transference of sovereignty and the new HKSAR's external relations framework may affect this status, i.e. if it is likely to weaken, stabilize or reinforce it, taking into account that external relations are a fundamental dimension of the HKSAR identity and the preservation of international ties a vital condition for its survival, not only to maintain its role as an international economic centre but also to protect its autonomy status vis-à-vis Beijing.

The paper is structured in four parts. The first chapter analyses the fundamental rules and principles of the SAR new framework for external relations. The second chapter includes an assessment of this framework in an attempt to understand what are the main risks and constraints likely to be faced by the HKSAR. The third chapter addresses the substantive priorities of the SAR external relations at the bilateral and multilateral levels taking into account the external actors future strategies towards HK. The final chapter looks at the Macau transition process and the future Macau Special Administrative Region's (MSAR) international status pattern in order to identify the major differences with the HKSAR process.

## **2. THE BASIC FRAMEWORK OF THE HKSAR EXTERNAL RELATIONS**

The new framework of the HKSAR external relations, based on the relevant provisions of the Sino-British Joint Declaration of December 1984 and the Basic Law approved by the National People's Congress in April 1990, is one of the four key factors likely to determine the future pattern of relations with the outside world and HK's position in the international system. The other factors related to the evolution of the PRC foreign policy, the relations Beijing-HK and the policies and strategies of foreign powers towards HK, will be analysed in the next chapters.

The analysis and assessment of this new framework developed since 1984 and formally entered into force on 1 July 1997, requires a previous reference to the features of HK's international status before the handover.

## **2.1 HONG KONG AS A "QUASI-STATE"**

Hong Kong has been clearly recognized for some time as a non-conventional member of the international community, a unique case whose status is difficult to be captured by traditional analysis of international relations and international law. In fact, the international status of Hong Kong has been characterized by a tension between law and reality, between the lack of formal and juridical sovereignty<sup>2</sup> on the one hand, and its "factual sovereignty", based on an increasing economic power and influence as a strategic player in the global economy and on a clear capacity to engage autonomously in international relations.

The extent of this "empirical" sovereignty together with the fact Hong Kong is the most autonomous and powerful non-sovereign government in the international system, was the basis for James Tang<sup>3</sup> to propose the qualification of Hong Kong as a "quasi-state", an unique category for an unique case. While this interesting formula seems to reflect accurately the international status of Hong Kong its practical relevance has still to be demonstrated.

Besides the possession of an international legal personality, i.e. the ability to be subject of international law to exercise rights and bear duties, and the qualification as a "quasi-State", the recent evolution of HK's international status has been characterized by three other aspects. Firstly, there has been a gradual expansion and deepening of that status since the beginning of the transition period in 1985 as Hong Kong joined a considerable number of international organizations including the two priority ones - GATT (1986) and APEC (1992) -and became a party to new international agreements. This was a result both of the implementation of the Joint Declaration and the cooperation between the United Kingdom (UK) and China to promote HK's international participation and status in the context of the transition process.

Secondly, HK's international status is characterized by the dominance of informal relations as HK specialized in cultivating the more informal dimensions of international relations and promoting informal links<sup>4</sup>. In fact Hong Kong became not only the regional headquarters for some 200 Transnational Corporations (TNC) but also the strategic centre for the coordination of the activities of the informal networks of Overseas Chinese business communities, the second major economic force in Asia. The absence of sovereignty seems to have worked to the advantage of HK since it enabled the Territory to have more freedom to act in areas which would have been impossible for a sovereign entity.

Thirdly, the "brokerage" dimension of HK's status, as the colony developed a role as broker in the conflicts between China and other countries, almost an instrument of sublimation of China's

tensions with the outside world. Hong Kong has been traditionally the gateway to countries which did not recognize China as well as the main centre for the development of indirect trade and investment between the PRC and Taiwan. In this respect one of the most significant tasks performed between 1989-94 has been the mediation in the US-China trade conflict, through the diplomatic activity developed by the HK trade office in Washington, in favour of the MFN status renewal to China.

It is against this background that the potential impact of the new framework of HK's external relations shall be assessed.

## **2.2. THE FRAMEWORK OF THE HKSAR EXTERNAL RELATIONS**

The new status of the HKSAR is based on two fundamental principles, the "high degree of autonomy" (JD art 3(2) and sec.I Annex I; BL art 12) and "Hong Kong people running Hong Kong" (JD art.3(4)). These principles are translated in the existence of autonomous executive, legislative and judicial powers which will design and implement policies consistent with the preservation of Hong Kong's current social and economic systems and its life-style.

In the external relations field the main characteristic of the new framework is its qualification as an "exception" (together with defence) to the two structural SAR principles mentioned above. It is clear that foreign affairs and defence, two areas lying at the heart of sovereignty, belong to the "one country" dimension of the "one country, two systems" formula and therefore are subject to a different logic.

This qualification has three basic implications. Firstly, external relations is an area where the high degree of autonomy does not apply meaning that Hong Kong is either submitted to the principle of "no autonomy" or to the principle of "low degree of autonomy". I would argue that the two are applicable. Secondly, external relations are not run by Hong Kong people but by the Central People's Government. Thirdly, the Central Government will manage the SAR external relations in accordance with, and sometimes in subordination, to the principles and objectives of the PRC global foreign policy.

The second component of the HKSAR external relations regime relates to the possibility of applying in the SAR national laws related to foreign affairs issues, which constitutes an exception to the legislative autonomy and to the principle that "national laws are not applicable in the HKSAR"(BL art.18). The list of national laws applicable in the SAR is contained in Annex III of the Basic Law which includes six laws of which three are related to foreign affairs (PRC Declaration on Territorial Waters, Nationality Law, PRC Regulations on Diplomatic Privileges and Immunities). Similarly, the SAR courts have no jurisdiction and cannot intervene in acts related to defence and foreign affairs (BL art.19).

The third component of the new framework involves a complex and heterogeneous status characterized by the coexistence of areas of autonomy and areas of no intervention for the HKSAR. However, a more careful analysis of the relevant provisions reveals the existence of a four-tier structure which goes beyond this simple dichotomy.

a) Firstly, the policy formulation level involving the global definition of long term objectives, guidelines and priorities for HK's external relations as well as supervision. The competence is

accorded to Beijing being the SAR participation clearly indirect through regular consultations between the SAR Government and the Central Government. Issues such as the SAR accession to new international organizations or the extension of international treaties will also be decided at this level.

b) Secondly, at the policy implementation level, there is a sphere of "conditioned autonomy" in specific areas defined *rationae materiae*. This subsystem is structured around paragraphs 3(10), Annex I, section XI of the Joint Declaration and article 151 of the Basic Law. According to paragraph 3(10) of the Joint Declaration "using the name of *Hong Kong, China*, the HKSAR may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, touristic, cultural and sports fields" (art. 151 BL added a new sector, science and technology, which was not foreseen in the JD).

The list of sectors where Hong Kong can conduct on its own external relations is basically concentrated on economic and technical matters. While it is not surprising that political areas have been excluded from the list, it is less obvious why social sectors were also removed, in particular when they are included in the list of sectors in which NGOs "can maintain and develop relations with their counterparts in foreign countries and regions and with concerned international organizations" (BL art. 149). One of the interesting questions to be asked is whether the list contained in article 151 is a "closed" or an "open" one. The use of the expression "including" or "namely" suggests that formally this is an open list to which other appropriate fields can be added. However, in practice the system is less flexible as the decision to qualify a sector as an "appropriate field" is likely to be controlled by the Central Government.

It should be noted that the capacity of the SAR to conduct on its own external relations depends upon an authorization accorded by the Central Government, thus the qualification as a conditioned autonomy (BL art.13). In what concerns the contents, it seems that this authorization has a general nature, it is not given on a case by case basis, and will concern all sectors. It is possible that the authorization act includes some broad guidelines, orientations or criteria on how the competence should be exercised. In addition, the authorization system is not incompatible with the introduction by Beijing of a requirement for approval or ratification *a posteriori* of specific acts considered more structural or sensitive, practised by the SAR Government in areas included in its sphere of autonomy.

c) Thirdly, there is an area of "restrictive autonomy" involving a lower degree of autonomy than the previous level. This refers mainly to civil aviation (BL art.128 to 135), a sector not included in article 151 list given its security implications, and in particular the provisions of article 133 of the Basic Law. The key question relates to the negotiation and renewal of Air Service Agreements which can be carried out by the SAR on the basis of "specific authorizations" from the Central People's Government. Contrary to general authorizations, this clearly implies a case by case approach and a more detailed contents, including the *a priori* definition of specific aspects of the negotiation. Under this system Beijing has a more intense intervention and direct control over the process thus restricting the SAR autonomy.

d) Fourthly, there is a "negative sphere" of no autonomy, involving areas where the HKSAR intervention is forbidden and Beijing can act alone. This includes in principle, all the sectors not

mentioned in article 151 and 133, in particular external relations related to social and political sectors as well as external relations linked with defence. A good example is the process regarding the access of foreign warships to SAR ports which requires "permission of the Central People's Government" (JD sec.VIII, Annex I; BL art.126) already given to american warships after the handover.

In principle the responsibility to conduct external relations at this level is attributed to the PRC Ministry of Foreign Affairs Delegation in Hong Kong (BL art.13) which is also responsible for the supervision of the SAR's actions which fall in its sphere of autonomy. In the areas where the Central Government conducts the SAR foreign affairs, the Region can have an indirect participation and be involved through the participation of SAR representatives in the chinese delegation in diplomatic negotiations directly related with HK (BL art. 150) and conducted at the national level. The violation by the SAR of this Central Government's "reserved area" of competence will lead clearly to a conflict and probably to a decision to annul the acts practised by the SAR.

The fourth component of the external relations framework relates to the regulation of the non-governmental dimension of the SAR external relations, by imposing two fundamental limits to the activities of NGOs: (i)the definition of a positive list of sectors in which SAR organizations can establish relations with foreign counterparts (education, science, culture, sports, labour issues, social welfare etc) which automatically defines an implicit "negative list"(art. 149 BL) (ii) a "prohibition for SAR organizations or associations to establish relations with foreign political organizations or bodies" (art. 23 BL), a potential mechanism to control and restrict HK civil society from contacts with the international community.

It seems clear that the main objective of the Basic Law is - in the context of a policy to prevent HK from being used as a "subversion" platform against China - to avoid the establishment of links between Hong Kong political parties and foreign political parties. However, the formula used is too broad and affects potentially all HKSAR organizations or associations which in principle can only establish relations with non-political foreign organizations, eventually contradicting the rules of article 149. In addition, this mechanism can easily generate an arbitrary instrument to restrict and control exchanges with the outside world given the absence of a legal definition of key concepts such as "subversion" and "political".

### **3. POTENTIAL CHALLENGES FOR HONG KONG INTERNATIONAL STATUS**

This new framework presents clearly opportunities and constraints to the SAR. It is still uncertain whether the new system will deliver in practice a higher or lower level of autonomy in external relations, particularly when compared with the situation prevailing before the handover, and to what extent it constitutes a potential instrument to strengthen HK's international status in the future. The experience of having the new system in operation is obviously limited, less than one year, and so it is still too early to have a clear and definitive assessment of performance, trends and results.

When considering the major practical obstacles to the consolidation of HK's international status and the factors which might lead to tensions and conflicts with Beijing, four main potential problems have to be considered.

The first problem relates to the "deficit of regulation" which has two distinct dimensions: (i) the Basic Law uses vague expressions and concepts which lack an accurate legal definition; (ii) there are omissions as some important aspects are not regulated, in particular in what concerns the relations between HK and Beijing in the management of foreign affairs. Both aspects contribute to generate uncertainty and fuel an over prudent approach which play to the disadvantage of the SAR since the general competence in this field belongs to the Central Government. In fact the boundaries between the areas of intervention of the SAR and Beijing have still to be clarified and many players do not even know the new rules and therefore have no idea how to react when confronted with new situations. A good example is the case of a group of HK businessmen who owned a factory in Indonesia and when caught in a dangerous situation during the riots in Jakarta last April requested the protection of the Chinese Embassy in Jakarta. The Embassy's first reaction was to deny assistance and only after the intervention of the head of the Ministry of Foreign Affairs delegation in HK did the Embassy change its position and acknowledged the responsibilities China has regarding the protection of the lives and property of HK citizens abroad.

The second problem area is related to the role of the PRC Ministry of Foreign Affairs delegation in HK which is not clearly specified. One can foresee that it will have a global supervisory role and intervene directly in the process of accreditation of consuls and the relations with foreign consulates. The consulates in Hong Kong (the majority covering also Macau), which were used to deal directly and almost exclusively with the HK Government in the past, will have to adapt to a new triangular relationship characterized by a more active role of the sovereign power.

It should be noted that the problem goes beyond the status and role of the Ministry of Foreign Affairs Delegation to involve all the Central Government Ministries and Departments Offices in HK which tend to proliferate after the handover. It is not clear what is the division of labour between these different offices and how they articulate their actions, but it is possible that they will compete with each other trying to assert positions and gain influence which could lead to some tension. This is one of the constraining factors which can contribute to limit in practice HK's degree of autonomy, including in the external relations field.

The third problem area concerns the difference of interests between HK and the mainland which might in practice constrain the SAR action. It is possible to identify three different types of situations concerning the articulation between HK and PRC interests: (i) convergency of interests - HK and PRC share the same interests, or the interests are complementary even if they differ with regard to marginal aspects (ii) clear differentiation of interests with no contradiction - HK has specific interests there is no overlap with PRC interests (iii) contradiction of interests. While the two first situations do not raise a significant threat to the SAR position, the emergence of conflicting interests can have a potential negative effect on the SAR sphere of autonomy. In fact it is open to question whether the SAR will be able to adopt in an international organization, for instance APEC where HK is a full member, a position exactly opposite to the PRC position or vote against a PRC proposal or initiative, in particular in relation to a subject that China considers very important or vital to her interests.

The fourth potential risk to HK external relations autonomy relates to the increasing politicisation of the activities of economic and technical international organizations. The assumption behind the Basic Law is that the economic and technical dimension of the international system is perfectly separable from the political dimension and so the SAR should

concentrate its external action in the economic field. The problem is that the boundaries are increasingly less clear and overlapping zones emerge. A good example is trade which became increasingly more politicised with the introduction of labour standards and social dumping issues. In this context the SAR participation in international organizations, even in the areas defined by article 151, might gain more political contents therefore generating tensions with Beijing and eventually a more restrictive approach to the SAR autonomy.

Finally, the increasing visibility of politically sensitive questions such as human rights and the development of relations with the international community is likely to generate a negative reaction and attempts to control international contacts. The SAR is a party to the International Covenants on Civil and Political Rights (ICCPR) and on Economic and Cultural Rights (ICECR) (BL art. 39; JD section XIII Annex I). An important and difficult question, which has also important implications for the protection of human rights in HK, is the periodic reporting system associated with the covenants (art. 40 of ICCPR and art. 6 of ICESCR).

Since China is not yet a party to the ICCPR it is not clear who will be reporting. There is not really an option not to report based on the circumstance that the sovereign power is not a party and the region has no competence for that, since there is an international obligation to do so. In this respect I share Roda Mushkat's view that the most adequate solution is to allow the HKSAR to report directly<sup>5</sup> since this is the most consistent solution with HK's international legal personality. On the other hand, it is justified by the fact the Region is responsible for the protection of rights in the territory and has an autonomous jurisdictional competence. The other alternative solution would be to wait for the accession of China which would then report on the whole country, but this does not provide a solution for short term responsibilities.

The first solution would contribute to enhance the SAR's international status and reinforce its autonomy but it tends to be challenged by the PRC given the sensitivity of the subject. It is possible that a third solution, not mentioned by Mushkat, could be envisaged in the sense that China would exceptionally be allowed as a non-party, yet a UN Member and Member of the Human Rights Commission, to present the report on behalf of the HKSAR, acting solely in the context of the sovereign power responsibilities.

In sum, it is still early to make a global and definitive assessment of the new framework given the short period the system has been operating. So far, the assessment tends to be positive as the PRC has respected HK's autonomy status. The SAR has been able to maintain its visibility and autonomy of relations with the outside world, following the set of high level international visits of Tung Chee-hwa to Southeast Asia, Japan, USA, EU, and there was a note of continuity in HK's representations to multilateral organizations.

In what concerns the long term trends of the HKSAR international status it seems to me that two tendencies, apparently contradictory, are likely to develop: (i) the reduction of HK autonomy in conducting external relations (ii) the stabilization of the current international status rather than its expansion. The reduction in HK autonomy in the foreign affairs field is a consequence of various factors. Firstly, the new SAR status and a more formal and detailed legal framework reduces HK's "room for manoeuvre" and flexibility to further develop or maintain the informal dimensions of its international status. Moreover, during the transition period HK was able to reinforce its autonomy as it took advantage of the unique position of being caught between two sovereign powers which controlled each other, but none of them had a full control over the

process. The final outcome was a natural and gradual reduction of the influence and control exercised by the ceasing sovereign power a trend which will be now reversed.

In the future the HKSAR will be more tied and vulnerable to the evolution of the sovereign power's foreign policy. Instead of promoting, like in the past, informal links between China and countries which were in conflict with or did not recognize the PRC, HK will have to limit or even suppress the activities of such countries' representations in the SAR. In addition, it is necessary to take into account that China has just recovered HK in the context of a highly emotional process of reunification of the motherland and will have a clear motivation to show its sovereignty in the few areas which are left. In compensation, the Taiwan process and the *show case* logic will be clearly a factor of moderation for China's position regarding the HKSAR external relations.

A different but related question is the tendency for the stabilization of HK's international status rather than its expansion. In fact it would be impossible to keep the dynamics of the transition period when HK's international status expanded very rapidly. Both China and the UK were under pressure to cooperate under the terms of the Joint Declaration to develop HK external relations in the context of the Joint Liaison Group (annex II JD) and a clear interest in avoiding being blamed for an unsuccessful outcome.

#### **4. THE PRIORITIES OF THE HKSAR EXTERNAL RELATIONS**

##### **4.1. BILATERAL RELATIONS**

Hong Kong has a high profile status at the level of bilateral relations as more than 90 States have diplomatic representations in the SAR. In terms of its own external representations HK has a smaller but effective network composed of ten Economic and Trade Offices located in Washington, San Francisco, New York, Tokyo, Toronto, Brussels, London, Geneva, Sydney and Singapore covering the most important trade partners and countries with significant HK emigrant communities. This is clearly one of the most important instruments for the promotion of external relations and the HKSAR has the possibility to expand this network through the creation of new offices (BL art.156).

The main priorities for HK are clearly the major economic powers and the Asian NIC's which are also HK's most important trade partners: USA, Japan, the EU and Southeast Asia. It is not a coincidence that the first international visits of Chief Executive Tung Chee-hwa after the handover were exactly to these countries showing clearly where lie the HKSAR's priorities.

The USA became in the last years, in particular after 1993, the most active defendant of HK in the international arena, replacing the UK. This was explained both by the size of the American interests in HK and the escalation of the US-China trade and political tensions further aggravated by the diffusion in Washington of the "China threat" and "China containment" concepts.

The US have substantial interests in HK which is a strategic centre for US economic interests in Asia. HK is the regional headquarters for many US multinationals (around 457 regional offices) and more than 1,100 US businesses are represented in HK (employing more than 250.000 workers) amounting the total investment stocks until 1996 to USD 13.8 billion. This economic presence is complemented by relatively intense political relations clearly illustrated by the number

of high level visits. In 1996 alone, nearly 40 US Government delegations and 5 State delegations visited HK in various areas such as trade, monetary (Federal Reserve), security (FBI) and military fields. Perhaps the most revealing aspect of the high political relevance of HK relates to the fact that nearly 100 members of the US Congress (both from the Senate and House of Representatives) visited HK between April 1996 and March 1997<sup>6</sup>.

The US policy towards HK has been structured and formalized in the early 90's and possesses a legal basis in the HK Policy Act of 1992. This is a separate and autonomous policy which tends to treat HK "as a territory which is fully autonomous from the PRC with respect to economic and trade matters" (sec 103(3)) mirroring and reinforcing the HKSAR "high degree of autonomy".

The relevance of this Policy Act derives not only from the substance but also from its procedural provisions being one of the most important political instruments the reporting mechanism, foreseen in title III section 301, by which the Secretary of State has to present on a regular basis a report to the Speaker of the House of Representatives and to the Chairman of the Senate Committee on Foreign Relations, on the conditions in HK covering a wide range of topics including the "development of democratic institutions in HK". This will probably be one of the most important international monitoring instruments of the post-handover HK evolution. These reports, to be produced until 31 March 2000, will probably remain a source of tension between the US and China but at the same time one of the most effective "soft" instrument to influence Beijing's behaviour.

The relation with the US is likely to remain HK's first priority. The recent visit to the US last September of Chief Executive Tung Chee-hwa showed the importance the US administration attaches to HK as well as its commitment to reinforce HK's autonomy and international profile. The Chief Executive visit was given a high level status including three important meetings with President Clinton, the Secretary of State Madeleine Albright and the Congress, in particular the Senate Foreign Relations Committee.

It is also interesting to note that at the same time the Chief Executive visit was taking place, Emily Lau Wai-hing went to the US to discuss HK human rights problems and to visit Los Angeles, San Francisco and Oregon. This was a clear message that the US will maintain the links with the democratic movement and is willing to listen to different views and talk to different players.

In conclusion, the US is the most important partner, the only one adopting a true global and integrated approach to bilateral relations covering economic, political and social dimensions. Moreover, it is the single external actor capable of raising its voice and have an effective intervention to moderate China's position if things go wrong in the SAR.

For HK the US plays diverse, important and positive roles namely (i) the largest external market (ii) at the global level an ally in the rules-setting process in multilateral fora to face globalization (iii) insurance policy role against the risk of violation of the HKSAR high degree of autonomy by China. However, the SAR is likely to have mixed feelings as an intimate relationship with the US may also bring about potential risks. The links between the US and the Democratic Party and the US pressure on political issues if not carefully handled might generate a negative reaction from Beijing which would tend to reassert control and restrict autonomy and international exposure of

the SAR. In this context the US attitude would be the cause of, not the antidote for the violation of the HKSAR autonomy. On the other hand, there is some concern that in case of escalation of the US-China conflict, Washington could instrumentalise HK and use it as a weapon against Beijing in an attempt to hurt China's interests by hurting HK.

Japan emerges clearly as the second most important partner being clearly the first foreign investor in HK with a total FDI stocks of USD 25 billion in 1996 but only the third trading partner accounting for 10.2% of HK total trade in 1996. However, while Japan is very active in the economic field it has a very low profile and adopts an overcautious position in relation to political issues in HK. This is clearly reflected in the statement of Foreign Minister Yukihiko Ikeda on the reversion of HK issued on 1 July where all references to HK political process are avoided and there is only a reference to the economic role of HK stating that the SAR should "keep playing an important role as Asia's financial, information and traffic centre". It goes on saying that "the government of Japan expects that HK will, after the handover, develop as a centre of the Asia-Pacific economy retaining the confidence of the international community and in particular of international economic circles". Even more explicit was the Japanese Consul-General to HK, Hideaki Ueda, in an interview to the Far Eastern Economic Review where he said "... we don't make sharp comments on every aspect, like human rights activists. Compared to the US our approach is a bit soft"<sup>7</sup>.

In this context it seems clear that Japan's first priority is to ensure HK remains a successful international financial centre. The Japanese government already worried about the increasing tensions with China at both economic and security levels, is eager to avoid adding HK to the list of problems, hence its reluctance to comment or to take a position in relation to the SAR internal political developments. In any case it is possible that some "pressure in private" could be exerted on Beijing in special circumstances, in particular in a situation where a rapid degradation of the business environment and subversion of market rules could seriously affect Japanese economic interests.

From HK's point of view Japan is basically regarded as a major regional economic partner but not as a global partner with a strategy that goes beyond Asia. In this context Japan can play specific roles in relation to the SAR in particular (i) monetary cooperation and a partner for joint actions aimed at the stabilisation of regional financial markets (ii) a provider of technology to support the SAR re-industrialisation process based on high-tech industries and the diversification of HK economy. Given the nature and current stage of sino-japanese relations, it is not likely that Japan will exert public pressure on Beijing if things go wrong in the SAR. Nevertheless, HK may count on a discrete and "face saving" supporting intervention by Tokyo which will be taken seriously by Beijing.

The relations between HK and Southeast Asia are characterized by a dual logic of competition and cooperation. The intensification of relations with Southeast Asia emerged as one of the important developments in recent years, in particular with ASEAN and within it Singapore, Malaysia and Indonesia. This trend is a consequence of the interplay of different factors, namely: the process of regional integration of productive structures as a response to the new challenges of globalization and the necessity to preserve competitiveness; the normalization of diplomatic relations between China and Southeast Asia countries since the early 90s; the increasing interest of those countries in entering the Chinese market through HK.

Asia as a whole became gradually a much more important region for the HK economy since the late 80s both in terms of markets for exports, accounting for nearly 54% of the total exports in 1996 (up from 49% in 1992), and even more as a provider of imports accounting for 76% of the total in 1996. Trade relations with Southeast Asia followed this regional trend. The most important partners are Singapore (5<sup>th</sup> HK trade partner accounting for 4.1% of HK total trade in 1996, ahead of the UK and Germany) and Malaysia (9<sup>th</sup> trade partner together with France, accounting for 1,6% of the total HK trade).

The investment links are even more important as HK has emerged as a leading foreign direct investor in Asia. As mentioned earlier, HK became the leading foreign investor in ASEAN accounting for almost 20% of FDI ahead of the US, Japan or Singapore in 1994-1995. In this period HK was the first foreign investor in Indonesia, the second investor in the Philippines and the third in Thailand (and Taiwan). An important feature of this HK outward investment is that it is dominated by a myriad of small projects based on business networks rather than on large scale projects.

The most important link is associated with the informal network of Overseas Chinese business communities from Southeast Asia and the fact HK is the capital and the centre for coordination of their activities not only in Asia but also for the global economy. Some of the major overseas Chinese business conglomerates such as the Kuok Group from Malaysia, the Lippo Group and Salim Group from Indonesia, the Sophonpanich Group and the Charoen Pokphand Group from Thailand, the Frank Chan Group from the Philippines, have a strong presence in HK and consolidated its conglomerates in the SAR which functions as (i) the first international location and base of contacts with western multinationals; (ii) base for finance; (iii) primary base for investment in China and in other parts of the world. In short, HK is the head of a powerful economic force which will become even more important as globalization advances.

However, it should be noted that economic ties between HK and Southeast Asia are also associated with important, though less visible, political processes which lie at the heart of regional relations between China and its Southeast Asian neighbours. The first process relates to the fact that Southeast Asian Governments and conglomerates regard the relations with HK also from a political perspective. Their recent considerable investment efforts in the SAR have clear political objectives, as a mechanism to boost confidence in HK and to demonstrate support for China<sup>8</sup> and its policies towards the SAR. The objective is for governments to gain political credit and improve relations with China, while businesses expect to gain in return preferential treatment and access to the mainland market.

Secondly, there are seeds of political tension in Southeast Asian countries as its governments and political elites, following the exit of capital to be invested in China and HK, tend to question the loyalty of the economically powerful Chinese business communities and regard them with distrust. This could not only lead to conflict and destabilization of the national economies in Southeast Asia but would also affect negatively the functioning of the Chinese overseas network, hence HK's economy and the FDI flows to the PRC. In this respect HK plays an important role as a stabilization factor since HK became a dominant foreign investor in Southeast Asia and is responsible for an important inflow of capital in those countries which partly compensates the outflow, thus reestablishing a minimum balance and reducing the risk of conflicts.

The European Union and its Member States' interests and presence in HK are in general less important than American or Japanese ones. The EU maintained traditionally a low-profile and a passive attitude, with the exception of the UK, being rarely involved in the row over political reforms. This was a result of the low priority status accorded to Asia, including China and HK, in the context of EU global external relations, and the inhibition effect related to the circumstance the sovereign power in charge of HK was a EU Member (which systematically opposed a common EU approach), thus leading EU partners to be over cautious in order to avoid any interference in other partners' reserved areas.

While lagging behind the US and Japan, the EU economic relations with Hong Kong have increased in recent years. In terms of trade flows, HK became the 10<sup>th</sup> trade partner of the EU. From a HK perspective the EU position has declined as a market for exports accounting for 14,9% of total HK exports in 1996 (down from 15,8% in 1992) but the EU remains the second most important market after the US and ahead of Japan. In what concerns the position of single EU countries the flows are highly concentrated in 3 countries: Germany which accounted for 3,2% of HK total trade in 1996 (7<sup>th</sup> HK trading partner) followed by the United Kingdom (2,7%) and France (1,6%).

The EU position in terms of investment flows is far more weak when compared with the US and Japan as the European accumulated FDI between 1980-1996 is estimated in USD 3,8 billion, that is to say less than 1/3 of the amount invested by the US and Japan. In spite of the small amount invested, the EU has around 180 companies operating in the financial sector (basically banking and insurance), another 100 in the manufacturing sector and nearly 250 EU companies have their regional headquarters in HK. Interesting enough, HK is also a relatively important investor in the EU with a total accumulated stock of 1,3 billion USD being the most important Asian investor after Japan<sup>9</sup>.

The most striking feature of the EU approach is the absence of a strategy or a policy towards Hong Kong in particular at the level of the EU Member States. For most EU countries, with the exception of the UK and partly Germany and France, HK is not an issue in their foreign policy agendas and there is not an autonomous policy designed to deal with the HKSAR. This would be crucial not only to enhance the SAR autonomy in external relations but also to consolidate the overall "high degree of autonomy" status<sup>10</sup>. On the contrary HK tends to be diluted in the relations between each Member State and China.

The only effort which has been developed to build a coherent and common approach towards the HKSAR has been conducted by the European Commission building exactly on the trade policy dimension, the only area where the EU acts together and with a single voice. In fact following the 1995 China strategy, the Commission presented in April 1997 a communication to the Council on the relations with HK which was endorsed by the European Council in June 1997. This communication proposes four main priority areas for the future EU policy towards HK.

Firstly, the monitoring of the evolution of the situation in HK through the production of an annual report covering the areas of commerce, finance, bilateral and multilateral cooperation and human rights. This is clearly inspired in the model of the HK Policy Act Report produced by the US State Department but it is less certain that the contents will cover exactly the same issues. It should be noted that there is no explicit reference in the EU proposal to monitoring the political

situation and changes in the political system which suggests a cautious approach but references to the human rights situation will be included.

Secondly, the visa policy towards HK people. The Commission advocates a more concerted approach and the adoption of a visa-free access to the EU for HK people, stressing that the assessment of Hong Kong should be made on its own merits and that a free access would be in the interests of the EU. This is an important question and it is clear that the restrictive policy adopted by many EU Member States will remain an obstacle to the development of contacts between the EU and HK citizens and runs contrary to the objective of greater internationalisation and exposure of HK, thus giving a wrong political signal.

Thirdly, the development of more intense and closer ties with HK as a major hub in Asia, recognizing its important regional role and the need to use more HK as a platform for European interests in Asia.

Fourthly, the formalization and structuring of the EU-Hong Kong economic relations (trade, investment and cooperation) through a more permanent and prospective framework. This proposal involves the eventual signature of a Trade and Cooperation Agreement between the EU and Hong Kong inspired in the model of the 1993 EU-Macau Agreement. This is certainly an important instrument to reinforce HK's international autonomy and visibility which is also a major goal for the Commission as stated by Sir Leon Britten "The best way to make a reality of the high degree of autonomy promised for Hong Kong is for us all to deal directly with Hong Kong in the wide variety of policy areas for which it has been given responsibility"<sup>11</sup>.

In spite of the tendency to concentrate on the economic sectors and the failure to put more emphasis on cooperation in social areas, namely education in particular at the tertiary level, this seems to be an interesting set of proposals which could give an effective contribution to enhance EU-Hong Kong relations.

However, even if these proposals are implemented their effectiveness might be limited since there is not a guarantee of coherence and coordination with bilateral policies. Moreover, the majority of Member States have no autonomous policy towards HK and tend to attach priority to their relation with Beijing. In general they are not prepared to speak out to defend the autonomy status and human rights if things go in the "wrong" direction as they fear a possible retaliation from China which could jeopardise their economic interests and prospects of accession to the Chinese market. In short, the "soft approach" the EU has adopted in relation to the PRC could well be extended to the HK case.

In spite of these limitations, further aggravated by the recent failure to strengthen CFSP within the EU, it is interesting to note that the EU could, from a HK perspective, play an important and useful role in mediating disputes between China and HK and help overcoming tensions. The logic behind this reasoning relates to the fact the EU has presently a more constructive and positive relation with China than the US, and is regarded as a trustworthy partner given the more flexible attitudes in relation to human rights and WTO accession, for example. In case tensions develop between China and HK, the EU "mediation" could be more easily accepted by Beijing and be more effective than a more radical, emotional and disruptive action likely to be taken by the US. For the EU to be able to play this role it is important that a common and coordinated EU approach develops, diluting an individual and more visible UK action likely to raise old

tensions. It seems that after the handover Britain (and later on Portugal in relation to Macau) might be more open to the idea of "communitarization" of the Hong Kong question which ceases to be basically a British issue to become an European one. Furthermore, the EU role will probably become more relevant in the monetary area as the Euro emerges in the future a strong and stable international currency (probably leading to changes in the SAR monetary policy like the "fixed peg" option with the American dollar) and in the technology area, as the EU is a potential provider of relevant technology. Similarly, the strong EU position in the world trade system could lead the SAR to regard Europe as a privileged ally, in particular in the context of WTO, to promote HK specific interests.

## 4.2. MULTILATERAL RELATIONS

The participation of Hong Kong in multilateral organizations and agreements is a fundamental component of HK's international status. In terms of multilateral organizations it should be noted that the accession to the majority of international organizations in which HK participates occurred after the Joint Declaration came into force clearly showing that the transition process had a very positive impact in boosting HK's international status.

The JLG has approved HK participation in 31 international organizations in 3 different capacities: (i) full and autonomous membership which includes 7 organizations (WTO/GATT, World Customs Organization, International Textiles and Clothing Bureau, Asian Development Bank, World Meteorological Organization, Network of Aquaculture Centres in Asia and the Pacific, World Health Organization (Regional Committee for the Western Pacific); (ii) as part of the sovereign government's delegation in 18 organizations, the majority belonging to the UN system (FAO, ILO, IMF, WB Group, UNCTAD, IAEA) covering basically 6 major areas: economic, financial, intellectual property, telecommunications, postal and soft security<sup>12</sup>; (iii) an associate member to 6 organizations, mostly regional with the exception of the International Maritime Organization, which admit exclusively sovereign states as full member.

In addition, HK currently participates, in various capacities, in 10 other organizations in relation to which JLG agreements are not required. This group includes, among others, 2 very relevant organizations for HK, Asia-Pacific Economic Cooperation Forum (APEC) and the OECD, where HK is an observer on the important Trade Committee and actively involved in the informal dialogue between OECD and the Dynamic Non-Member Economies (DNMEs).

Furthermore, a total of 203 multilateral agreements are applicable to HK as agreed by the Joint Liaison Group. This includes (i) 170 multilateral agreements covering 20 different areas being the most relevant ones Human Rights (15 treaties), Customs (14 treaties), International Labour Conventions (46), Merchant Shipping (22), International Crime (10), Warfare and Disarmament (8), Intellectual Property (5) Political and Diplomatic Areas(8); (ii) 24 treaties that establish the International Organizations in which the SAR participates and are therefore instrumental, and (iii) 9 treaties related to Foreign Affairs and National Defence which started, as a consequence of a PRC decision, to be applicable to the SAR after the handover.

To complete the picture of HK multilateral relations a reference should be made to the fact that, besides international organizations HK participated in 972 non-governmental organizations in 1995 and there were 75 organizations that placed their headquarters in Hong Kong<sup>13</sup>.

In this context the multilateral dimension of the SAR external relations might perform various specific functions: (i) give the SAR visibility, international exposure and reinforce HK's image as a responsible member of the international community; (ii) provide an opportunity to participate and influence the production of multilateral rules being issued which set out fundamental standards of international behaviour; (iii) to moderate and counterbalance the bilateral pressure and potential use of arbitrary measures by the most powerful and influential partners against the HKSAR as the latter is protected by written rules and can seek coalitions with other members to strengthen its bargaining position.

At the multilateral level while it is true that the SAR has an interest in participating in as many organizations as possible, it should be stressed that HK has two clear priorities, the participation in the World Trade Organization (WTO) and the Asia-Pacific Economic Cooperation Forum (APEC), two important links to globalisation and regionalisation processes respectively.

Following the completion of the Uruguay Round the WTO became an increasingly influential organization, qualified by some analysts as the first organization of the new Post-Cold War order generation<sup>14</sup>. Hong Kong is the 8<sup>th</sup> trading nation and the 4<sup>th</sup> largest world investor and is therefore highly interested in participating in the work of the organization which is not only a rules-making but also a rules-enforcing body in those areas.

Hong Kong, whose representation is the responsibility of the Geneva Economic and Trade Office, is generally regarded as a very active and responsible member of WTO. A small but efficient team of six diplomats manages, under the instructions of the HK Government Trade Department, the participation of the SAR which is particularly concentrated in three priority areas.

Firstly, the textiles sector within the Goods Council Activities. HK's major objective is the liberalization of trade in this sector involving the effective implementation of the WTO Agreement on textiles and clothing which will end the MFA Scheme and integrate textiles and clothing products into the WTO rules on the basis of a 10 year transition programme. HK is particularly active in this area being the SAR represented in the Textiles Monitoring Body, the forum created to oversee the integration programme.

Secondly, HK is especially interested in the work of the Services Council and in the negotiations for the liberalization of trade in services, in particular financial services.

Thirdly, there is an interest in more systemic issues, in particular anti-dumping questions, and the functioning of the Dispute Settlement Mechanism. Until now, HK has never been directly involved as a party in any dispute to be settled by WTO mechanisms, but the head of the Geneva Mission chairs the important Banana Panel since 1996, a clear sign of HK's prestige within the organization.

The active participation of HK is also demonstrated by the numerous proposals it has put forward for discussion. In the Singapore Ministerial Meeting last December, HK presented three

important proposals concerning the relationship between trade and investment, trade and competition and transparency of government procurement<sup>15</sup>.

In connection with the work in WTO, the HKSAR participates also in the OECD Trade Committee, an important forum for debate on trade policy, which not only introduces new ideas later on followed up by WTO, but also plays an important complementary role dealing with difficult problems still blocked in WTO. In addition, HK participates in meetings conducted by the Trade Committee and other OECD Committees on trade-related issues such as environment, competition, investment and labour standards.

The WTO is clearly the most important international stage for HK at the multilateral level, given the prominence of the organization in the international system and the fact HK is one of the freest economies in the world, thus an important example of the free trade objectives pursued by WTO. The difficulty HK is likely to face within WTO relates to the fact many influential members are insisting on a "fair trade" logic, somehow different from the "free trade" one advocated by HK, leading to an increasing politicisation of the trade debate. This trend might create some inhibition on the part of SAR, particularly when China joins the organization.

The participation in APEC<sup>16</sup> as a full member since 1992 guarantees an active involvement of the HKSAR in the regionalization process going on in the world economy. HK participates through the Economic and Trade office in Singapore and has taken specific responsibilities in the organization. At present the HKSAR is the Covenor of the Government Procurement Experts Group and the Co-Vice Chair of the Committee on Trade and Investment<sup>17</sup>.

HK is very interested in the APEC process involving its three pillars, trade and investment liberalization, trade and investment facilitation and economic and technical cooperation. This interest is justified not only by the fact the large majority of HK external trade is concentrated in Asia-Pacific (in 1996 around 80% of HK's total external trade was conducted with the other seventeen members of APEC<sup>18</sup>) but also because of the main APEC goal, that is to say, to create, according to the 1994 Bogor Declaration, a free trade area in two stages: 2010 for developed members and 2020 for developing members. In addition, HK was in 1995-96 the first foreign investor in the APEC area which is certainly a very interesting and surprising development.

Since HK has already a very open and liberalized trade system it is interested in obtaining advantages and reciprocity from Asia-Pacific partners as soon as possible. However, the global plan for the liberalization process is a long-term one and therefore does not deliver immediate results. That is why one of the main priorities of HK in APEC is to push for the early voluntary liberalization of specific sectors in advance of the above mentioned deadlines and along the lines of the 1996 Information Technology Agreement. In this process there is, with respect to some sectors, a convergence of interests with the US but probably a divergence with some Asian partners that are not yet prepared to open up their markets.

In what concerns early voluntary liberalization, HK has put forward proposals to eliminate tariffs on toys and nuisance tariffs. Concerning toys, HK proposed to reduce progressively to zero the tariffs on certain toy items starting in 1998 and be completed by 2000 and no later than 2005.

The proposal on nuisance tariffs (those with an applied MFN rate of below 2% which affect negatively the efficient flow of trade while generating considerable administrative procedures and costs in general in excess of the revenue) points to the removal of those tariffs for all sectors in one go, possibly by 1999, thus allowing for a trade facilitation effect particularly interesting for small and medium sized enterprises.

Another interesting area for HK is technical cooperation where the SAR can be simultaneously a recipient, in particular with regard to science and technology, and a provider of technical advice in trade facilitation and efficiency issues to other asian countries.

Finally, there is an interesting question involving the articulation between APEC and WTO. For many specialists the US tends to see APEC as a multilateral mechanism to soften its trade deficits with China and Japan, but above all as an instrument to enhance its leverage and bargaining position in WTO<sup>19</sup>. The HKSAR will certainly adopt a different approach and is likely to value APEC on its own merits and potential regional implications. On the other hand, China is also a member of APEC and HK will be interested in avoiding being caught between the strategies of the two powers for the Asia-Pacific region. Up to now the US interests for rapid liberalization of specific sectors have been shared by HK but it is not likely that the SAR will share in the future the US global instrumental philosophy towards APEC.

## **5. THE EXTERNAL RELATIONS OF THE FUTURE MSAR**

The Macau transition process started in 1987 following the signature of the Joint Declaration and will terminate on 19 December 1999. In general the process was highly influenced and conditioned by the Hong Kong process. Interesting enough, the recent revelations of a chinese official from HK Xinhua, Huang Wenfang, suggested that it could have been the other way round, i.e. Beijing could have applied to Hong Kong the Macau model of a "chinese territory under British Administration" implying that the UK could have remained in Hong Kong to administer it on behalf of China if the UK did not adopt a rigid and legalistic position on the sovereignty question in the beginning of the process<sup>20</sup>.

In terms of the basic framework both the 1987 Sino-Portuguese Joint Declaration (JD) and the 1993 MSAR Basic Law (BL), are basically similar to the Hong Kong documents and incorporate the principles of the "high degree of autonomy" and "Macau people running Macau" derived from "one country, two systems" policy. However, it should be noted that there are some differences when we compare the Sino-British and Sino-Portuguese Joint Declarations with respect to 5 specific questions: (i) the Sino-Portuguese JD refers to a process of "transfer of administration" rather than of the "title of sovereignty" since Macau was already recognized as "a chinese Territory under portuguese Administration" (ii) the absence of provisions which derive from the fact HK is an international financial, economic, shipping and aviation centre (iii) a specific reference to cultural heritage and the MSAR obligation to protect it in Macau (JD art.2) (iv) a specific reference to the Macau inhabitants of portuguese ancestry, who are portuguese nationals, saying that their interests will be protected by law (JD art.2(6)) (v) the inexistence of an explicit reference to military forces being stationed in Macau (as in section XII Annex I of the Sino-British JD).

While there are no fundamental differences at the level of the basic documents, the transition process has been in practice quite different. It is generally believed that the Macau transition has

apparently been smoother and more stable than the Hong Kong process, given the fact the portuguese authorities have pursued a strategy of "appeasement" and harmonious relations with the PRC. After 1992, Lisbon has even pursued a deliberate strategy to make the difference and establish the contrast with the increasingly difficult situation in Hong Kong and the confrontation between London and Beijing, hoping to get a preferential treatment for Macau at the negotiation table.

I would argue that this strategy was not successful. Despite the apparent stability, the Macau transition might paradoxically be less successful than the Hong Kong process because of four main factors: lack of continuity of the civil service which is key both for a successful transition and to preserve the SAR real autonomy; poor economic performance of the Macau economy which has experienced an important slowdown since 1993 possibly aggravated by the impact of the current Asian crisis; underdevelopment of Macau's political system (absence of political parties and a vocal civil society) and its dominance by the pro-Beijing Groups (since 1966 clearly stronger in Macau than in HK)<sup>21</sup>; relative regional isolation of Macau in the context of the Pearl River Delta, a consequence of the Portuguese traditional strategy to cultivate an alliance with Beijing in order to compensate for the weakness and fragility of Macau in the regional context and control the "threats" from other regional players in South China<sup>22</sup>. The problems with the fragile capacity of the Public Administration will be further aggravated by the prospects of a massive return of portuguese expatriates back to Portugal until the end of 1998 which seems to be deliberately and irresponsibly promoted by both Lisbon and Macau authorities which lack a long term view. This exodus, which involves qualified people willing to stay longer and work for the SAR, will not only create additional problems to the Public Administration future institutional capacity but also lead to a drastic and undesirable reduction of the size of the foreign citizens community in Macau.

The Macau transition process did not bring about an "internationalisation" of the Macau question, which remained a strictly bilateral issue between Portugal and China, but set in motion, for the first time, a process to build Macau's international status. This was a result of the pressure created by the joint obligations foreseen in the Joint Declaration, originally thought for Hong Kong but then extended to Macau, to support the expansion of external relations.

The process of building Macau's international status faces a difficult obstacle derived from the circumstance the Territory is a small economy with no specific role neither in the world economy nor in the regional one. So, unlike Hong Kong where the formal international status is the corollary of a substantive status, based on real economic power and its role as an international financial centre, in the case of Macau the formal international status is delinked from a substantive status and therefore is somehow artificial. In this context, the MSAR will need even more than Hong Kong to develop formal external relations and find specific roles.

At the bilateral level Macau gets very little attention from members of the international community and its status lacks autonomy in relation to HK. There is not one foreign consulate autonomously represented in Macau since all consulates are based in, and operate from Hong Kong hardly covering Macau. It is clear that the presence of foreign diplomats in Macau would be an important link to the world and some efforts should be developed to convince foreign countries to open autonomous consulates in the Territory. On the other hand, Macau does not possess a network of external representations like trade offices in major countries, with the exception of Brussels (EU) and an office in Portugal (Missão de Macau), able to promote

Macau's interests and image. This is certainly an essential instrument for external relations which must be developed by the future MSAR.

The most important obstacle is the fact that besides the relation with Portugal, and contrary to Hong Kong, Macau does not have strategic allies either in Asia or outside Asia. The situation was aggravated by the fact Macau authorities, and even more so Lisbon, did not adopt an active approach during the transition to search and nurture ties with preferential partners in the world community. Nevertheless in the last 2 years the problem has been recognized and some efforts were made to strengthen relations with four areas: Portuguese Speaking African countries in particular Mozambique, but also other Southern African countries like South Africa and participation in the activities carried out by CPLP (Community of Portuguese Speaking Countries); Latin America, in particular Brazil; the EU not only with the Commission but also with individual Member States building on the experience of the 1993 EU-Macau Trade and Cooperation Agreement; Southeast Asia, in particular Singapore (the agreement between Singapore Airlines and Air Macau).

The multilateral dimension of Macau's international status is clearly the most developed aspect of the Territory's external relations where the impact of the JLG's work was more visible. The participation in International Organizations is the dominant aspect of Macau's international status, allowing Macau to gain some international visibility and to have access to technical cooperation mechanisms with a low level of conditionality. Presently Macau participates in a total of 44 international organizations. The JLG has already approved the continued participation of Macau in 30 of these organizations covering the areas of tourism, telecommunications, trade, economy, labour and social, shipping, culture and cultural heritage, health policy and public administration<sup>23</sup>. This participation assumes 3 different forms: full member (16 organizations), associate member (10 organizations), part of the sovereign power's delegation (4 organizations). The JLG has already agreed to approve until 1999 the continued participation in two more organizations, the World Meteorological Organisation (WMO) and the International Congress and Conventions Association (ICCA) thus expanding slightly the list.

When comparing the lists of international organizations where Hong Kong and Macau participate we find both a coincidence, in particular in trade and telecommunications, in less than half of the organizations, and clear differences. The most striking differences from the point of view of the specificities of Macau are the following: firstly, Macau's participation is more concentrated in tourism and culture, including cultural heritage, areas which are absent from Hong Kong's list; secondly, Macau has practically no contact with the UN system, with the exception of UNESCO, in particular the financial institutions - IMF, World Bank Group - as Portugal failed to involve Macau more in the Portuguese delegation to key international organisations; thirdly, Macau, unlike Hong Kong, does not participate in two key regional organisations, APEC and the Asian Development Bank.

Finally, several multilateral agreements are applicable in Macau in the areas of civil aviation, postal and telecommunication services, intellectual property rights, labour, drug enforcement, judicial cooperation and human rights. However, there is not yet an official list containing all the multilateral treaties which have been agreed to continue to apply in Macau. One of the most important areas is human rights where the two international Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, will be applied in the MSAR according to the Macau Basic Law. In addition, Macau has recently become a party to other human rights

conventions including the UN Convention on the elimination of racial discrimination (1965), the Convention on the elimination of discrimination against women (1979), the Convention on the Rights of the Child (1989) and the Convention against Torture (1984).

It should be noted that while the formal external relations framework is similar for the two SAR, the initial basis and the level of development of current international status are very different and therefore the implementation of the same framework is likely to produce very different results. For the HKSAR the objective will be to preserve a high-profile and developed international status while for MSAR the main task will be to expand and improve its fragile international status.

## 6. CONCLUSIONS

Hong Kong has a high profile and unique international status, qualified by some as a "quasi State". This status, reinforced in the last decade as a consequence of the transition process and the end of the Cold War, has been characterized by the possession of a real "international legal personality", the predominance of informal ties and the performance of a discrete broker role in the conflicts between China and the outside world.

The future evolution of the HKSAR international status and the pattern of external relations likely to develop will be determined by the interplay of various conditioning factors, in particular (i) the implementation in practice of the new HKSAR external relations framework (ii) the evolution of the PRC foreign policy (iii) the pattern of relations between Beijing and the SAR (iv) the policies and strategies which foreign powers will adopt towards the HKSAR.

The external relations dimension of the HKSAR is an exception to the "high degree of autonomy" and is submitted to the principle of the sovereign power competence, while granting the SAR a limited sphere of autonomy in specific matters. The new institutional framework entered into force after the handover has a complex four-tier structure which articulates global policy formulation and the overall supervision function attributed to the Central Government, with areas of "conditioned autonomy", "restrictive autonomy" and "no autonomy" at the policy implementation level.

The main argument put forward is that this complex framework will tend to reduce the current HKSAR level of autonomy in conducting external relations, because the freedom and flexibility HK used to have to cultivate informal ties will diminish and the supervision and influence exerted by the new sovereign power will intensify, but the precise degree of autonomy the HKSAR will be allowed to exercise in practice is not yet clear.

However, I would argue that this reduction in autonomy does not lead automatically, or necessarily, to a decline or weakening of HK international status in the short and medium term given HK's starting point of a strong and consolidated substantive status and the interest of Beijing in preserving HKSAR international role and use it also to its own advantage.

The most likely scenario for the next few years seems to be one of stabilization, not expansion, of the HKSAR's international status after an exceptional phase of rapid expansion during the transition period whose dynamics was difficult to maintain. The challenge for HK is to see to what extent in this scenario of stabilization it will be possible to promote qualitative

improvements and the deepening of existing international ties, a crucial condition to preserve its identity and role as an international city but also a strategic instrument to protect its global autonomy status vis-à-vis Beijing and to prevent future violations.

The US will remain the key player, the single foreign power which has an autonomous and integrated approach to its relation with HK and is prepared to exert pressure on Beijing if things go wrong in HK. However this relationship presents also clear risks to the SAR which fears to become an instrument caught in the middle of a US-China major conflict. In this context, the HKSAR might have a clear interest in adopting a more active diversification strategy and reinforce its ties with other strategic partners to balance the US dominant position. The EU is a potential candidate, also because of its strong position in the trade system, to play a more active role. This would require an European effort to develop a more autonomous policy towards the HKSAR, to promote greater coordination between bilateral policies and common policies and to be politically prepared to play an "insurance policy" role.

From the brief analysis of the Macau case, it is possible to conclude that while there are basically no differences between the two SARs external relations institutional framework, major differences can be identified in what regards the dynamics of the transition processes and the substance of their international status. It is argued that in spite of a smoother transition, the outcome of the Macau process is likely to be less successful not only because the continuity of the Public Administration is not guaranteed, but also because an underdeveloped civil society and political stagnation prevail in Macau and its international status is extremely fragile. In short, Macau lacks both the internal and the external instruments to protect its future autonomy status vis-à-vis Beijing.

The main problem is that Macau has a formal international status but, unlike HK, lacks a substantive status and an international image more adequate to its interests. Macau has anchored its international status in multilateral organizations but, unlike HK, has not invested in the bilateral dimension. In this respect the MSAR will have much to learn from the HKSAR experience.

The analysis of the linkages and interactions between the HKSAR and the MSAR will clearly emerge as an important topic in the future and raise interesting questions related to the extent to which the two SARs systems, submitted to similar rules, will converge or diverge; the pattern of cooperation and coordination likely to develop between the two SARs, in particular in the field of foreign relations; and last but not least, the kind of relations the SARs will maintain with Taiwan and the concrete implications of the SARs' experiences for the reunification process.

## NOTES:

1. For an analysis of Hong Kong functions see Michael Enright, Edith Scott and David Dodwell "The Hong Kong advantage", Oxford University Press, 1997. In the book the authors point out also the "unique combinations" in Hong Kong i.e. a special balance between Government/business; local/overseas firms; entrepreneurship/management; strategies of commitment/hustle which are regarded as a crucial factor to understand HK success.
2. The elements of juridical sovereignty include basically a territory, a population, a government, capacity of self-regulation and to interact with other States.
3. James T H Tang "Hong Kong's International Status " 1993, The Pacific Review (pg 205)
4. See Michael Yahuda, 1995 "Hong Kong, China's challenge" Routledge, pg 42
5. See Roda Mushkat "One country, two international legal personalities" pg: 128-130.
6. United States-Hong Kong Policy Act Report, 31 March 1997, Bureau of East Asian and Pacific Affairs, US State Department.
7. Far Eastern Economic Review, May 29, 1997, pg: 28.
8. "All aboard - Asians use chequebooks to show their confidence", Far Eastern Economic Review, May 29, 1997 pg 30-32
9. Ting Wai "Europe, China and the Future of Hong Kong" October 1997, paper presented at the Conference on "The EU Member States bilateral policies towards China and the future SARs" (in publication)
10. This was a clear conclusion of the analysis carried out in the context of the IEEI Conference held in Macau (21-23 May 1997) on "The EU Member State's Bilateral Policies Towards China and the Future SAR" where the following bilateral policies were analysed: Germany, France, UK, Italy, Netherlands, Portugal, Spain.

11. Sir Leon Britten introductory speech to the Council on 23 April 1997 (IP/97/335)
12. Information provided by the Office of the Secretary for Constitutional Affairs of the HK Government, 30 May 1997
13. Yearbook of International Organizations 1995/96, vol 2 Union of International Associations Munchen: Saur, 1995, pgs 1685 and 1710
14. Celso Lafer, Brazilian Ambassador to WTO and President of the WTO General Assembly
15. Information provided by the Geneva Economic and Trade Office in the context of an interview conducted by the author
16. Most information of this section was the result of an interview with the HK Economic and Trade Office in Singapore conducted by the author.
17. Besides trade and investment issues HK has also participated in 1996 in Ministerial Meetings concerning other sectors namely human resources development, finance, sustainable development, trade, energy, small and medium enterprises, telecommunications, information industry and regional science and technology cooperation.
18. HK Yearbook 1997, Chapter on Participation in International Organizations, page 104.
19. Kent Calder, "America and the Emerging Pacific Economic Community", March 1997, paper presented to the Macau Conference on Regional Integration Areas: future relations in the XXI century.
20. See *The Economist*, 17-23 May 1997 pg 68-69  
Huang Wenfang argues that China had no plan to recover HK and that the initial idea was to apply to HK a model based on the 1979 arrangement between Portugal and China on Macau. According to him the "Macau blueprint" was not applied because the UK insisted in the validity of the "unequal treaties" and on the legitimacy of the british sovereignty over HK.
21. For an interesting analysis of the political process in Macau during the transition, see Lo Shiu Hing "Political Development in Macau", 1995, Chinese University Press, HK pgs 241-158
22. For the portuguese authorities the dominant perception of the future threats for the MSAR is not political and it does not come from Beijing but tends to be more economic and related to the risk of Macau being absorbed by Zhuhai.
23. Information provided by the Interministerial Commission on Macau, which supports the portuguese delegation to the JLG, in the context of an interview conducted by the author.