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### BOOK REVIEW: HONG KONG AS AN ACTOR IN INTERNATIONAL ECONOMIC LAW: MULTILATERALISM, BILATERALISM, AND UNILATERALISM (JULIEN CHAISSE, BLOOMSBURY PUBLISHING, 2024)

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#### I. INTRODUCTION

This extensive volume by Professor Julien Chaisse offers a thorough examination of Hong Kong's status within international economic law. It also explores the broader role of what might be described as "smaller jurisdictions" in the contexts of international trade, investment, and tax governance. Notably, the book provides a robust theoretical foundation for scholarly discourse, while offering practical insights for investors, legal professionals, and financial experts. It analyses how Hong Kong maintains its competitiveness within the global economy and explores

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the interaction between ideologies and normative structures in the formation of international economic governance.

Hong Kong, once a small fishing village, has transformed into one of the world's most significant international financial centers, playing a pivotal role in international economic law. Its unique geographical location as the gateway to China<sup>1</sup> and its free port policies have optimised the business environment. This book analyses Hong Kong's involvement in international trade, investment, and tax regulation, framing its actions across three levels: unilateral, bilateral, and multilateral. The book provides a critical and thorough resource for understanding Hong Kong's distinct role in the global economy within the context of international economic law (II). Following the reading of this book, three major emerging issues will be examined (III).

## II. KEY ELEMENTS OF HONG KONG'S INTERNATIONAL ECONOMIC LAW

The book begins with an overview chapter setting out the concepts and positioning behind Hong Kong's role as an actor in international economic law. In Part I, the volume examines Hong Kong's *unilateral economic policies* as a free port, which focuses on low taxes, no tariffs, and an open foreign investment environment, establishing Hong Kong as a vital centre for global logistics and capital (A). Part II analyses Hong Kong's bilateral economic relations, emphasizing how this "Pearl of the Orient" has strengthened its status as an international commercial hub through free trade, investment, and bilateral tax agreements (B). Part III looks at how, in terms of multilateral economic relations, Hong Kong, as a separate customs territory and a member of the World Trade Organisation (WTO), actively promotes free trade and market openness, ensuring alignment with global standards (C). Finally, in Part IV, the book further examines Hong Kong's role in international economic dispute resolution mechanisms, focusing on recent developments such as the noteworthy WTO case regarding the *US — Origin Marking Requirement*<sup>2</sup> (D).

### A. Unilateralism in Hong Kong's International Economic Law

The key features of Hong Kong's distinctive contributions to international economic law are its unique status as a Special Administrative Region (SAR) under the "One Country, Two Systems" framework reflecting its colonial legacy and its integration into China.<sup>3</sup> Hong Kong actively promotes free trade and open markets while

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<sup>1</sup> JULIEN CHAISSE, *HONG KONG AS AN ACTOR IN INTERNATIONAL ECONOMIC LAW 2* (Bloomsbury Publishing 2024) [hereinafter Chaisse].

<sup>2</sup> Panel Report, *United States — Origin Marking Requirement*, WTO Doc. WT/DS597/R (adopted Dec. 21, 2022) [hereinafter United States – Origin].

<sup>3</sup> Chaisse, *supra* note 1, at 12.

maintaining its own customs territory, legal system, and a freely convertible Hong Kong dollar linked to the US dollar since 1983.<sup>4</sup>

From the background provided in the volume, we learn of the early stage of Mainland China's reform and opening-up policy.<sup>5</sup> Coastal regions like Shenzhen began to open up to foreign investment, attracting capital to establish factories and creating joint ventures, cooperative enterprises, and wholly foreign-owned enterprises, collectively known as "three types of foreign-invested enterprises." At the time, foreign exchange was centrally managed by the state. It was not until 1994 that the official and swap exchange rates for the renminbi (RMB) were unified, adopting a single floating exchange rate system based on market supply and demand.<sup>6</sup> Foreign exchange income for joint ventures was subject to state regulation.<sup>7</sup> In contrast, Hong Kong had no foreign exchange controls, a characteristic it retained both before and after its return to China.

This distinction is an important factor in explaining Hong Kong's emergence as a critical gateway to mainland China for foreign investment. Additionally, other unique characteristics, such as its territorial tax system—taxing only locally earned income—have made Hong Kong an attractive destination for multinational corporations seeking to minimize tax liabilities.

As the book explains, these characteristics are closely tied to Hong Kong's domestic trade regime, unilateral foreign investment regime, and unilateral tax regime. They underscore how Hong Kong's unique historical and institutional factors shape its approach to international economic governance. The concept of unilateral economic law refers to a jurisdiction's ability to implement independent economic policies without strictly adhering to international trade and investment laws. Unlike many countries, Hong Kong has no comprehensive foreign investment law. Instead, it adopts a piecemeal approach, forming bilateral agreements that allow it to maintain control over its policies. According to the author, Hong Kong's unilateral economic

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<sup>4</sup> *Id.*

<sup>5</sup> See Han Zhenfeng, *The Origin and Development of the Concept of "Reform and Opening-Up" by the Communist Party of China*, GUANGMING DAILY, Apr. 3, 2019 at 11 (On October 10, 1978, Deng Xiaoping explicitly stated during a meeting with foreign guests that China would "implement an open-door policy". Later that year, following the Third Plenary Session of the 11th Central Committee of the Communist Party of China, the strategy of economic reform was introduced, emphasizing domestic reform and opening up to the outside world.).

<sup>6</sup> *Announcement by the People's Bank of China on Further Reforming the Foreign Exchange Management System* (Jan. 1, 1994).

<sup>7</sup> See *Id.* (For example, payments in foreign exchange were allowed within the state's permitted scope, but if the payment exceeded the balance of their foreign exchange account, it required approval to purchase foreign exchange from designated banks).

policies enable it to retain control over its economic development while remaining an attractive hub for foreign investment and trade.<sup>8</sup>

Without a doubt, Hong Kong will remain an attractive destination for foreign investment. However, the author highlights the challenges of balancing economic growth with the need for foreign investment screening. Different States enact diverse laws such as Domestic Investment Law (DIL),<sup>9</sup> to regulate foreign investment through prohibition or screening mechanisms.<sup>10</sup> As a SAR, Hong Kong has a unique foreign investment law regime through The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law).<sup>11</sup> As the author explains, the Basic Law has maintained an openness to trade and foreign investment based on a free-market economy and a liberal investment regime,<sup>12</sup> meaning that Hong Kong does not have an investment screening mechanism for the protection of national interests.

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<sup>8</sup>*Id.* 18.

<sup>9</sup> See Zhōnghuá Rénmín Gònghéguó Wài Shāng Tùzǐ Fǎ (中华人民共和国外商投资法) [Foreign Investment Law of the People's Republic of China] (promulgated by Nat'l Peoples's Cong., March 15, 2019, effective Jan. 1, 2020) 2020, Order of President, P.R.C Laws (China) (In China, under the oversight of the National Development and Reform Commission and the Ministry of Commerce, investors are required to undergo multi-phase reviews to assess national security impacts as stipulated by the Foreign Investment Law); see Publication of the amendment to the Public Notices adding the core business sectors of the Foreign Exchange and Foreign Trade Act to secure stable supply chains, MINISTRY OF FINANCE, Japan (Aug. 16, 2024) (Japan mandates prior notification for investments in sensitive industries, such as nuclear energy and IT, under the Foreign Exchange and Foreign Trade Act, with penalties for non-compliance); see Fact Sheet: Final CFIUS Regulations Implementing FIRRMA, U.S. DEP'T. OF TREASURY (Jan. 13, 2020) (The United States, through the Committee on Foreign Investment in the United States under the Foreign Investment Risk Review Modernization Act of 2018, rigorously evaluates transactions involving sensitive personal data, critical infrastructure, or critical technologies); see, *Lignes directrices relatives au contrôle des investissements étrangers en France* (In France, the Ministry of Economy requires pre-approval for investments in sensitive sectors as outlined in Article L.151-3 of the *Monetary and Financial Code*); see Key information about the EU framework for foreign direct investment screening, ENFORCEMENT AND PROTECTION, EU COMMISSION (At the EU level, the FDI Screening Framework coordinates member states' reviews of investments that may affect national security or public order, with the European Commission providing non-binding recommendations while leaving final decisions to individual member states).

<sup>10</sup> *Id.* 49.

<sup>11</sup> Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (promulgated by the Nat'l People's Cong., Apr. 4, 1990, effective July 1, 1997) [hereinafter Basic Law].

<sup>12</sup>*Id.* 50.

The interesting aspect that arises then in this volume, is how Hong Kong's status as a SAR and its relationship with Mainland China, particularly the applicability of Hong Kong's Basic Law and China's Foreign Investment Law (FIL), influence its foreign investment policies. Does Hong Kong have any restrictions imposed by a foreign investment screening regime at all? This issue is addressed in the following Section III below (see *Hong Kong's Complex relationship with mainland China*).

B. *The impact of the WTO Ruling on the US revocation of Hong Kong's Special Trading Status*

Hong Kong's fragmented approach, establishing bilateral agreements on a case-by-case basis, enables it to retain control over its policies. Reflecting its unique history and institutional structure, these agreements collectively shape Hong Kong's international economic law, the basic principle being to promote trade and investment by reducing barriers.

The book highlights a notable example: the 2010 free trade agreement (FTA) between Hong Kong and New Zealand, which eliminated tariffs on most goods, fostering economic cooperation.<sup>13</sup> The author also explains that bilateral economic law encompasses FTAs, bilateral investment treaties (BITs), and tax treaties, which regulate and promote economic activities between countries. BITs provide investor protections through provisions on fair treatment and dispute resolution, exemplified by the 2003 Hong Kong-Germany BIT. Similarly, tax treaties, such as the 1995 Hong Kong-US treaty, prevent double taxation and encourage cross-border investment.<sup>14</sup>

The book also explores Hong Kong's adaptation of its trade strategy through new FTAs, the expansion of its FTA network, and the adoption of digital trade initiatives.<sup>15</sup> Hong Kong's network of eight FTAs with partners such as China, New Zealand, and ASEAN underscore its efforts to expand global market access and enhance business competitiveness. However, it lacks agreements with key trading partners, including the United States, Taiwan, the United Kingdom, and India, which account for significant trade volumes.<sup>16</sup> While securing trade agreements with key partners like the United States would be ideal, political tensions make this unlikely, largely due to issues surrounding Hong Kong's Special Trading Status.<sup>17</sup>

With this status, Hong Kong benefited from a distinct US tariff regime separate from China, with its designation as an independent customs territory officially recognised

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<sup>13</sup> *Id.* 18.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* 82.

<sup>16</sup> *Id.* 85-86.

<sup>17</sup> See Chaisse, *supra* note 1, at 97 (Hong Kong's Special Trading Status was established under the *US-Hong Kong Policy Act of 1992*, which was enacted into US law on October 5, 1992).

by the US. The Special Trading Status provided stability and continuity for foreign nationals and businesses in Hong Kong after 1997, making it an attractive opportunity for American companies to establish a presence in the territory.<sup>18</sup> Additionally, it enhanced Hong Kong's role as a gateway to Mainland China for foreign companies.

The 2014 Hong Kong protests marked the beginning of a decline in the bilateral relationship with the US, which worsened with the introduction of a bill to amend Hong Kong's Special Trading Status. The situation further deteriorated during the 2019 Hong Kong Extradition Bill protests, ultimately leading to the revocation of Hong Kong's Special Trading Status in 2020 due to perceived threats to national security.<sup>19</sup> This revocation resulted in a change to the origin labelling requirement for Hong Kong-manufactured exports, shifting from 'Made in Hong Kong' to 'Made in China'.<sup>20</sup> As the author notes, the loss of Hong Kong's Special Trading Status with the US was expected to have significant consequences. The 2020 Hong Kong Policy Act Report<sup>21</sup> concluded that the recertification and regranting of Hong Kong's Special Trading Status with the US was unlikely in the future.<sup>22</sup>

This revocation represented a setback in Hong Kong's bilateral relations with profound implications for its relations with the United States. But, striking a more optimistic note, the author states<sup>23</sup>: "Although the US decision to revoke its special status indeed poses a significant challenge, Hong Kong has consistently exhibited resilience in times of adversity and continues to serve as an essential center for trade and commerce".

### C. *Multilateralism in Hong Kong's International Economic Law*

The multilateral economic framework is built upon three key pillars: the WTO, international investment treaties, and international tax laws.<sup>24</sup> Reinforcing the book's main thesis, the author shows how Hong Kong's role in multilateral economic institutions, such as the WTO, the International Centre for Settlement of Investment Disputes (ICSID) and the Organisation for Economic Co-operation and Development (OECD), as well as its approach to multilateralism in the realms of

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<sup>18</sup> *Id.* 99.

<sup>19</sup> *Id.* 150.

<sup>20</sup> *Id.*

<sup>21</sup> Bureau of E. Asian and Pac. Affs., U.S. Dep't of State, Hong Kong Policy Act Report (2020).

<sup>22</sup> CHAISSE, *supra* note 1, 104-105.

<sup>23</sup> *Id.* 4.

<sup>24</sup> *Id.* 145.

trade, investment, and taxation, is shaped by its distinctive historical and institutional context, thereby reinforcing the book's main thesis.<sup>25</sup>

Hong Kong's role in multilateralism is multifaceted, as the author explains. Its active participation in international investment frameworks underscores its commitment to providing a stable environment for investors and reinforcing its role as a global dispute resolution hub. Its accession to the New York Convention and support for investment disputes enhance its status as a centre for investment structuring and align with China's economic interests under the Belt and Road Initiative. Hong Kong's involvement in the Multilateral Investment Guarantee Agency demonstrates its strategic focus on mitigating risks in cross-border investments, while its proactive role in The United Nations Commission on International Trade Law (UNCITRAL), Working Group III highlights its dedication to Investor-State Dispute Settlement reform. Furthermore, its engagement in WTO investment facilitation initiatives, such as the Joint Initiative on Investment Facilitation for Development, reflects its efforts to promote international cooperation and global economic development.<sup>26</sup>

Additionally, as author further comments, the successful implementation of the Global Corporate Minimum Tax depends on widespread adoption, which could trigger a domino effect among nations. Thus, as a major financial hub and a key player in international economic law, Hong Kong's support for the reform could influence other countries to follow suit, while promoting transparency and fairness in global taxation. By actively participating in OECD discussions and adopting the tax framework, Hong Kong thereby contributes to the creation of a more equitable and effective international tax system, ultimately benefiting economies worldwide.<sup>27</sup>

In conclusion, the volume sets out the largely unknown story of how Hong Kong plays a pivotal role in the multilateral economic framework, significantly influencing international trade, investment, and taxation. Its active participation in key global institutions such as the WTO, ICSID, and OECD reflects its commitment to maintaining a stable and transparent environment for investors.

#### *D. Dispute settlement in Hong Kong's International Economic Law*

Hong Kong's active participation in international economic dispute resolution mechanisms, including the WTO Dispute Settlement Mechanism, investor-state dispute settlement, and international tax disputes, again underscores its unique position. While Hong Kong is an international trade and financial centre, its

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<sup>25</sup> *Id.* 19.

<sup>26</sup> *Id.* 181.

<sup>27</sup> *Id.* 197.

involvement in investor-state arbitration cases or WTO dispute settlement proceedings has been relatively limited.

According to the author, Hong Kong has not actively participated as a respondent in investment arbitration disputes under the ICSID Convention. This is primarily due to the absence of Investor-State Dispute Settlement cases against Hong Kong, which can be attributed to the limited number of BITs offering restricted dispute resolution options and its favourable investment climate.<sup>28</sup>

Hong Kong has initiated two complaints under the WTO Dispute Settlement Understanding (DSU). The first case, *Hong Kong vs. Turkey (1996)*<sup>29</sup>, concerned import restrictions on Hong Kong's textile and garment products. The second case, *United States-Origin Marking Requirement*,<sup>30</sup> addressed the loss of the special trade status Hong Kong held with the US until 2020.<sup>31</sup>

The book explains the second case in detail.<sup>32</sup> In December 2022, the WTO Dispute Settlement Panel issued a landmark ruling in the US – Origin Marking Requirement case, favouring Hong Kong. The Panel concluded that the US' requirement for goods from Hong Kong to be labelled as 'China' violated multiple GATT 1994 provisions, including Articles I:1 as well as 2(c), 2(d) of the Agreement on Rules of Origin, and Article 2.1 of the Agreement on Technical Barriers to Trade. The Panel rejected the US's invocation of Article XXI(b) of GATT as a justification, ruling that this article is subject to objective assessment rather than being 'self-judging' and that the US had failed to demonstrate an international emergency to substantiate its measures.<sup>33</sup>

The ruling is a landmark decision with broad implications for national security exemptions in international trade law. It critically examines the 'self-judging' clause, emphasizing the necessity of strict conditions and accountability to prevent its misuse for protectionist or discriminatory purposes. This case reinforces the balance between national security and the principles of non-discrimination and transparency in trade.

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<sup>28</sup> *Id.* 165.

<sup>29</sup> *Turkey—Restriction on Imports of Textile and Clothing Products*, WTO Doc. WT/DS29/9, (Apr. 23, 1996) (Acceptance by Turkey of the Request to Join Consultations by the European Communities under Article 4.11 of the DSU).

<sup>30</sup> Communication from Hong Kong, China, *United States—Origin Marking Requirement*, WTO Doc. WT/DS597/10, (Feb. 2, 2023).

<sup>31</sup> *Id.* 206.

<sup>32</sup> *Id.* 206-220.

<sup>33</sup> *Id.* 207.



In the context of the US-China trade war and strained US-Hong Kong relations, the decision underscores Hong Kong's unique role as a separate WTO member and customs territory, showcasing its commitment to upholding fair trade practices within the multilateral framework. The author highlights the need for careful consideration of national security issues within the framework of the multilateral trade system and emphasizes the importance of upholding the rule of law in international trade.

Despite the significance of this ruling for Hong Kong and the WTO, the US Trade Representative has rejected the Panel's finding, citing flawed interpretations and calling for fundamental WTO reform. The author sees this reaction as underlining the ongoing tensions between the US and the WTO and the broader challenges the organization faces in balancing member interests and enforcing international trade rules.

### III. KEY EMERGING ISSUES

The book not only provides readers with a clearer understanding of the functioning of the Hong Kong government, the foreign investment system, and the tax system but also offers a deeper insight into how these mechanisms operate with bilateral and multilateral frameworks. Additionally, it highlights Hong Kong's resilience in facing global economic and political challenges.

Given the ongoing U.S.-China trade war and current decoupling between the U.S and China,<sup>34</sup> particularly in areas like artificial intelligence, robotics, semiconductors, cloud computing and 5G,<sup>35</sup> Hong Kong's position has become more delicate. Following the revocation of Hong Kong's special status, the impact of the WTO ruling is an important consideration. Along with these challenges, Hong Kong also faces strong competition from other economies in the region, like Singapore. What does the future hold for this Special Administrative Region?

These issues are further explored in the following sections: *Hong Kong's Complex relationship with mainland China (A)*; *The impact of the WTO Ruling on the U.S. Revocation of Hong Kong's Special Trading Status (B)*; and *The Challenges and opportunities with Singapore (C)*.

#### *A. Hong Kong's Complex Relationship with Mainland China*

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<sup>34</sup> Daniel CK Chow, *China's Response to U.S. Calls for Decoupling: The Foreign Investment Law of 2020*, 34(1) WASH. INT'L L. J. 1-26, (2024).

<sup>35</sup> *Id.* 52.

Hong Kong's relationship with Mainland China is complex and delicate. Under the "One Country, Two Systems" framework<sup>36</sup>, Hong Kong and Mainland China maintain a free trade partnership exemplified by the Closer Economic Partnership Arrangement (CEPA). Covering product trade, services trade, investment, and economic cooperation, CEPA provides zero-tariff access for Hong Kong-origin goods, preferential market entry for service suppliers, and reciprocal recognition of professional qualifications<sup>37</sup>.

At the same time, Hong Kong retains a high degree of autonomy but must align with Mainland China's policies in certain areas. Striking this balance is crucial for Hong Kong's effectiveness and credibility in international economic affairs. Amid escalating geopolitical tensions, Hong Kong faces the challenge of carefully managing its relations with Mainland China while preserving its autonomy in economic policymaking.

The complexity of this relationship is evident in several areas. Hong Kong operates independently in foreign investment matters, without a comprehensive foreign investment law, unlike Mainland China. The applicability of Mainland China's 2020 FIL to Hong Kong is explicitly excluded. Article 13 of the FIL stipulates that "*the state may, as needed, establish special economic area or carry out pilot policies and measures on foreign investment in specific areas, so as to promote foreign investment and expanding opening-up.*"<sup>38</sup>

In fact, Hong Kong is a SAR and not a special economic area. According to Article 31 of Chinese Constitution:<sup>39</sup> "*The state may establish special administrative region when necessary. The systems instituted in special administrative regions shall, in light of specific circumstances, be prescribed by laws enacted by the National People's Congress.*" This means that Hong Kong operates under the Basic Law, which grants the SAR high autonomy, particularly in economic and administrative matters<sup>40</sup>. The Basic Law stipulates that, except in foreign affairs and the defense,<sup>41</sup> Hong Kong shall enjoy a high degree of autonomy. Additionally, article 115 of the Basic Law states: "*The Hong Kong Special Administrative Region shall pursue the policy of free trade and safeguard the free movement of goods,*

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<sup>36</sup> *Id.*, at 9.

<sup>37</sup> *Id.*, at 85-86.

<sup>38</sup> *Supra* note 9, Foreign Investment Law of the People's Republic of China.

<sup>39</sup> Basic Law, *supra* note 11, art. 31.

<sup>40</sup> *Id.* art. 12.

<sup>41</sup> *Id.* art. 13 & art.14.

*intangible assets and capital.*<sup>42</sup> Furthermore, Annex III of Basic Law lists national laws to be applied in the Hong Kong,<sup>43</sup> but the FIL is not among them.

In conclusion, Hong Kong is not subject to the FIL. In contrast to Mainland China's negative list model—where listed activities require approval or are prohibited<sup>44</sup>—Hong Kong generally imposes no such thresholds, except in a few sectors where relevant authorities make decisions.

The independence of Hong Kong's role in international economic law is evident not only in its negotiation and signing of bilateral or multilateral agreements but also in its approach to investor-state dispute settlement. Although not a direct signatory to the ICSID Convention, Hong Kong has adhered to its provisions since its 1997 return to China. In the United Nations Commission on International Trade Law Working Group III on investor-state dispute settlement reform, Hong Kong has proposed distinct ideas that differ from Beijing's stance.<sup>45</sup> This underscores Hong Kong's efforts to maintain a distinct stance on investor-state disputes, as well as on investment and trade policies more broadly, despite its status as a SAR of China.

Hong Kong's relationship with Mainland China strikes a delicate balance between integration and autonomy. Agreements like CEPA strengthen economic ties, while Hong Kong's distinct legal and economic systems enable it to maintain independence in key areas. This duality is critical as Hong Kong navigates geopolitical tensions, preserving both its autonomy and its global economic role.

#### B. *The impact of the WTO Ruling on the U.S. Revocation of Hong Kong's Special Trading Status*

As related above, in December 2022, a WTO dispute settlement panel ruled that the U.S. revocation of Hong Kong's special status violated WTO rules, recommending that the U.S. rectify its actions. The crux of the issue lies in the U.S.' statement on

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<sup>42</sup> Basic Law, *supra* note 11, art. 115.

<sup>43</sup> Basic Law, *supra* note 11, Annex III: “1. Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China; 2. Resolution on the National Day of the People's Republic of China; 3. Order on the National Emblem of the People's Republic of China Proclaimed by the Central People's Government; 4. Declaration of the Government of the People's Republic of China on the Territorial Sea; 5. Nationality Law of the People's Republic of China; 6. Regulation of the People's Republic of China Concerning Diplomatic Privileges and Immunities.”

<sup>44</sup> Daniel CK Chow, *China's Response to U.S. Calls for Decoupling: The Foreign Investment Law of 2020*, 34(1) WASH. INT'L L. J. (2024) 1-26.

<sup>45</sup> See UNCITRAL, Report of Working Group III (Investor-State Dispute Settlement Reform) on the Work of Its Forty-Second Session, 50th Sess., U.N. Doc. A/CN.9/WG.III/WP.249 (Dec. 6 2024).

December 21, 2022, asserting that issues of national security cannot be reviewed in WTO dispute settlement and that the WTO has no authority to question a member's ability to address what it deems a security threat.

The U.S. did not file an appeal within the 60-day window following the ruling, indicating that the U.S. seems to ignore the WTO Appellate Body. When a leading democratic country like the U.S., which was a founding member of the WTO, neither appeals nor complies with a WTO ruling, it undermines the organization's effectiveness and the global trade system teeters on the brink of collapse. If a democratic nation, once a key architect of the WTO, fails to respect its rulings, the organization becomes a mere shell. Reform becomes inevitable. In the reform context, this ruling emphasizes that national security exemptions should not be misused as a cover for trade protectionism. The WTO's panel decision carries profound implications for Hong Kong and the global trade system.

In parallel with these fundamental WTO trade issues is the growing scrutiny of foreign investment under the pretext of national security concerns. In this field, the key challenge lies in defining national security in a way that balances protection of legitimate concerns with the need to prevent misuse of this legal concept. The lack of accountability and transparency among the authorities involved often results in an arbitrary exercise of executive power rather than a properly regulated process. Enhancing transparency and predictability<sup>46</sup> is essential for the foreign investment screening framework.

### *C. Challenges and Opportunities in Singapore*

Hong Kong now faces mounting competition from Singapore in the field of trade and investment. Singapore has strengthened its position as a global trade and financial hub through active participation in multilateral and bilateral free trade agreements, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP). These agreements ensure the seamless flow of key exports, such as electronics and petrochemicals,<sup>47</sup> and complement Singapore's prominent role in international economic law.

Like Singapore, Hong Kong is an international financial hub with a robust legal framework supporting capital market stability. Both "cities" actively engage with key global and regional economic institutions, such as the WTO. However, Singapore

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<sup>46</sup> Michelle R. Sanchez-Badin, Manu Misra, Renato Baumann, Ana Maria Morais, T20 Policy Brief, *Investment Screening Mechanisms: Guidelines for Balancing Security with Development*, at 7.

<sup>47</sup> Shihao Zhou and Qu Feng, *Trade Policy Review of Singapore*, 46(12) THE WORLD ECON. 3472, 3472- 3481 (2023).

has an advantage in terms of the number and scope of free trade agreements, while Hong Kong is so far not a member of either the CPTPP or the RCEP. Nevertheless, Hong Kong benefits from its unique relationship with mainland China, positioning itself as a privileged gateway for foreign investment into the vast Chinese market and facilitating Chinese investment in its “Go Out” strategy.

Hong Kong and Singapore are not only competitors in trade and investment but also in the realm of international arbitration. Singapore has established itself as a leader in investment mediation through the Singapore Mediation Convention, while Hong Kong has reinforced its position by supporting the same convention. To remain competitive with Singapore in arbitration and mediation, Hong Kong must continue to assert and expand its role in international economic law.

#### IV. CONCLUSION

Concerns are arising regarding the efficacy of Hong Kong’s legal system, particularly in light of the departure of legal professionals, including foreign judges from countries such as Canada, the UK, and Australia, whose role in the Hong Kong judiciary is a rare feature. The book presents a persuasive counterargument to these concerns. The author suggests that Hong Kong, especially as it continues to integrate with the Greater Bay Area’s evolving economy, will remain influential as a commercial law hub. This context, in fact, calls for further academic research, given that the Greater Bay Area represents a major international innovation zone. Despite difficulties arising from legal and policy developments in China, this regional economic dynamism is expected to drive the continued development of its legal system.

Through its critical and objective examination of Hong Kong’s legal system, spanning nearly a century and covering unilateral, bilateral, and multilateral dimensions, this volume from Professor Chaisse serves as an essential resource for legal practitioners, scholars, and international economic diplomats interested in Hong Kong, China, and the broader Indo-Pacific region, as well as US-China and EU-China relations. It offers a comprehensive critique of Hong Kong’s position within international economic law, positioning itself at the forefront of trade and investment system studies.