

Book Review: Hong Kong as an Actor in International Economic Law

Ying Bi*

Hong Kong as an Actor in International Economic Law: Multilateralism, Bilateralism and Unilateralism published by Julien Chaisse, offers a comprehensive and detailed examination of Hong Kong's evolving role in the global economy, particularly through its interactions with International Economic Law (IEL).¹ Ambitiously and meticulously researched, the book discusses how Hong Kong, as a Special Administrative Region (SAR) of China, continues to play a critical role in international trade, investment, and tax matters. Chaisse methodically analyzes the legal, economic, and institutional frameworks governing Hong Kong's international engagements, while also exploring the broader geopolitical and economic challenges that Hong Kong faces in the current global order. The core of the book revolves around Hong Kong's efforts to engage with IEL on three fronts: unilateral, bilateral, and multilateral.

I. UNILATERAL FOUNDATIONS

Chaisse first delves into how Hong Kong unilaterally maintains its high degree of economic and legal autonomy, highlighting the robust legal frameworks that support its status as a global financial center. These policies, deeply rooted

* Ying Bi, Associate Professor, Guanghua Law School, Zhejiang University. Email: biying@zju.edu.cn.

¹ Julien Chaisse, *Hong Kong as an Actor in International Economic Law: Multilateralism, Bilateralism and Unilateralism*, Hart Publishing, 2024.

in Hong Kong's common law system, align with global standards and reflect a consistent emphasis on maintaining openness, efficiency, and stability. One of the key elements of Hong Kong's unilateral approach is its trade policy, which is built around the principle of free trade. Chaisse provides a detailed examination of how Hong Kong's unilateral trade regime has evolved over time, emphasizing its commitment to maintaining minimal trade barriers and a market-oriented economic model. This approach has been pivotal in sustaining Hong Kong's economic resilience and its role as a major global trading hub. The book also explores how Hong Kong's unique customs territory and autonomous trade policy differentiate it from mainland China, allowing it to engage in international economic activities independently under the "one country, two systems" framework.

Another significant aspect of Hong Kong's unilateral approach is its tax regime, which Chaisse describes as the cornerstone of its economic policy. Hong Kong's low and simple tax structure, characterized by the absence of capital gains tax, inheritance tax, and generally low income tax rates, has been crucial in attracting multinational corporations and Foreign Direct Investment (FDI). Chaisse highlights how this tax policy not only enhances Hong Kong's competitiveness as an international financial center, but also serves as a key driver of its economic growth. He critically analyzes international initiatives, such as the Organization for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project, which aims to address tax avoidance by multinational companies. Chaisse points out the challenges that these international efforts pose for Hong Kong, particularly regarding its ability to continue attracting companies seeking a favorable tax environment without compromising its tax policies to comply with international norms.

Chaisse also discusses Hong Kong's legal and regulatory frameworks, which provide a stable and transparent environment for business operations. The Basic Law, as Hong Kong's constitutional document, serves as the foundation for the region's economic autonomy, enabling it to formulate and implement policies independently of the Chinese mainland. Hong Kong's strong commitment to the rule of law and judicial independence is a central theme in Chaisse's analysis, as he argues that these attributes significantly

enhance investor confidence and contribute to the region's economic stability. Moreover, Chaisse delves into how Hong Kong SAR's government has developed strategic initiatives to maintain its competitiveness. For example, he examines the incentives and exemptions provided under Hong Kong's tax system to encourage growth and innovation, especially within sectors like finance and technology. These measures are designed to reinforce Hong Kong's position as a key financial center and ensure its continued economic vitality amid increasing global competition and evolving international tax norms.

Another focus of this part is Hong Kong's approach to managing foreign investment. Unlike many jurisdictions, Hong Kong does not have a comprehensive foreign investment law. Instead, it relies on its general business-friendly environment, underpinned by strong property rights, contractual freedom, and an independent judiciary, to attract investors. Chaisse explores how this approach, coupled with the territory's participation in international arbitration mechanisms, supports Hong Kong's reputation as a safe and reliable place to invest in. He also discusses the challenges that arise from this lack of a unified foreign investment policy, particularly in terms of addressing national security concerns and maintaining a balance between openness and regulatory oversight. Chaisse's analysis of Hong Kong's unilateral actions also touches upon recent political developments, including the implementation of the National Security Law, and their implications for the region's economic landscape. He acknowledges that while these developments have introduced a layer of complexity to Hong Kong's international standing, the region's foundational policies of economic openness and minimal government intervention continue to underpin its role in global trade and investment.

Overall, Chaisse's exploration of Hong Kong's unilateral economic policies paints a picture of a region that is deeply committed to maintaining its autonomy and competitiveness in the global economic arena. Through a combination of strategic legal frameworks, a favorable tax regime, and minimal trade barriers, Hong Kong has been able to carve out a distinct role for itself that is separate from, yet intertwined with, the Chinese mainland. This part serves as a testament to Hong Kong's resilience and adaptability, highlighting how its unilateral policies contribute significantly to its status as a key actor in

IEL.

II. BILATERAL ENDEAVOURS

Next, Chaisse discusses Hong Kong's bilateral interactions, primarily through its free trade agreements (FTAs), bilateral investment treaties (BITs), and other strategic partnerships. These bilateral engagements form a critical component of Hong Kong's strategy to integrate more deeply into the global economy and diversify its trade relationships. A major cornerstone of Hong Kong's bilateral strategy is the Closer Economic Partnership Arrangement (CEPA) with the Chinese mainland, established in 2003. Chaisse elaborates on the CEPA's four main components — goods trade, services trade, investment, and economic and technical cooperation, each of which facilitates stronger economic ties and underscores Hong Kong's role as a gateway to the Chinese mainland. Goods trade under the CEPA allows goods originating in Hong Kong to enjoy zero tariffs when exported to the mainland, providing a significant boost to manufacturers. For services trade, Hong Kong service suppliers are given preferential access to the mainland market, covering a wide range of industries including finance, legal, and healthcare. The investment agreement within the CEPA not only facilitates investments but also actively promotes and protects them, fostering a favorable investment climate. The economic and technical cooperation component of the CEPA has also expanded to cover emerging sectors, addressing technological advancement and fostering bilateral collaboration in innovation.

In addition to the CEPA, Hong Kong has signed FTAs with several other economies to diversify its economic partnerships. One notable example is the Free Trade Agreement (FTA) between Hong Kong and New Zealand, which came into effect in 2011. This was the first FTA that the Hong Kong SAR signed with a foreign economy outside of China, and it covers a wide range of areas including goods trade, services, and investment. The agreement aims to foster economic integration between the two economies and ensures that Hong Kong maintains preferential treatment for its exports to the New Zealand market.

Chaisse also explores Hong Kong's relations with the Association of Southeast Asian Nations (ASEAN), a region of significant strategic and economic importance. In 2017, Hong Kong signed an FTA and a related investment agreement with the ASEAN, marking a milestone in its bilateral relations. These agreements include investment, economic and technical cooperation, trade in goods and services, and a dispute resolution framework. Chaisse emphasizes the strategic importance of these agreements, not only for facilitating trade but also for positioning Hong Kong as a bridge between China and the Southeast Asia. This engagement with the ASEAN allows Hong Kong to leverage its strategic location to serve as a conduit for trade and investment flows between China and the Southeast Asian economies, which has been particularly valuable given the ASEAN's status as Hong Kong's second-largest trading partner in terms of goods and third-largest in terms of services.

Another significant bilateral agreement discussed by Chaisse was the Closer Economic Partnership Arrangement between Hong Kong and Macao (HK-Macao CEPA), which came into effect in 2017. This agreement provides additional legal certainty for market access and treatment between the two Special Administrative Regions, enhancing economic cooperation beyond what was established under the WTO framework. By creating a more relaxed trade regime, this agreement helps service providers from Hong Kong gain better access to the Macao market, thereby promoting greater regional integration.

Chaisse also highlights Hong Kong's bilateral engagement with Georgia, which resulted in an FTA signed in 2018. This agreement was particularly notable because Georgia, although a relatively small trading partner, provided Hong Kong with access to an emerging market in the Caucasus region. The agreement covers a wide variety of sectors, including investment, trade in goods and services, and dispute resolution. The inclusion of comprehensive chapters on market access and gradual liberalization commitments reflects Hong Kong's efforts to diversify its trade relationships and establish a broader network of economic partners.

Beyond FTAs, Chaisse discusses Hong Kong's extensive network of BITs. These treaties play a crucial role in securing Hong Kong's position as a global financial hub by providing legal certainty and protection for foreign investors.

The BITs also support Hong Kong's role as a gateway for investments in the Chinese mainland and other regions. Hong Kong has signed BITs with a variety of countries, including Bahrain, Bangladesh, and Saudi Arabia, which are in various stages of negotiation. These agreements demonstrate Hong Kong's proactive strategy in expanding its investment footprint into emerging markets in the Gulf and South Asia, regions that are increasingly gaining importance in global economic dynamics.

Overall, Chaisse effectively captures how Hong Kong's bilateral engagements, particularly through FTAs and BITs, serve as vital tools to foster economic growth, protect investments, and enhance its strategic role in the international economic landscape. By engaging with diverse partners and maintaining a wide network of economic agreements, Hong Kong has not only strengthened its economic resilience but also cemented its role as a major international economic actor capable of navigating the complex and shifting tides of global trade.

III. MULTILATERAL ENGAGEMENT

Chaisse also examines the multilateral aspects of Hong Kong's engagement with IEL, focusing on its active participation in the World Trade Organization (WTO) and other international institutions. He provides an in-depth look at Hong Kong's involvement in key WTO disputes, including its challenge to the United States' requirement that Hong Kong products be labeled as "Made in China". This case highlights the complexities introduced by recent geopolitical developments, including the Sino-US trade war, which has added new layers of difficulty to Hong Kong's stance in multilateral trade negotiations. Despite these challenges, Chaisse emphasizes that Hong Kong remains steadfast in its commitment to multilateralism, using platforms like the WTO to safeguard its economic and legal autonomy.

Hong Kong's active participation in the WTO is rooted in its status as a separate customs territory under the "one country, two systems" framework, which allows it to independently engage in international economic organizations under the name "Hong Kong, China". Chaisse outlines Hong Kong's

longstanding commitment to free trade, which is a fundamental principle of its economic policy. As a founding member of the WTO, Hong Kong has continuously contributed to the organization's mission of promoting open and predictable trade. Hong Kong's membership, governed by the Marrakesh Agreement, entails compliance with fundamental WTO principles, including the Most-Favored-Nation (MFN) and National Treatment (NT) principles, which promote equality between foreign and domestic trade participants. These principles ensure that Hong Kong remains a vital player in international trade by supporting a rules-based multilateral trading system.

Chaisse also discusses Hong Kong's involvement in WTO plurilateral agreements, which aim to enhance specific sectors of the global economy without requiring unanimous agreement from all WTO members. These plurilateral agreements provide Hong Kong with an opportunity to further its interests in sectors such as government procurement, despite the often drawn-out process of reaching consensus in multilateral settings. Hong Kong's accession to agreements like the Government Procurement Agreement (GPA) is an example of how the territory utilizes multilateral platforms to gain more favorable access for its businesses, in line with its economic policy objectives of promoting value for money, transparency, and fair competition. These agreements also help mitigate the "free-rider problem", where Hong Kong's imports face customs duties, but its partners benefit from Hong Kong's tariff-free policy.

Hong Kong has actively participated in dispute settlement procedures under the WTO framework. Chaisse details Hong Kong's role in several major WTO disputes, highlighting both of its roles as a complainant and as a third-party observer. Hong Kong has been a complainant in two major disputes: the first was a dispute over quantitative restrictions on textile exports against Turkey in the 1990s, and the second was a more recent dispute over the United States' change of labeling of origin from "Made in Hong Kong" to "Made in China" in response to the revocation of Hong Kong's special trading status. This latter case underscores the political challenges Hong Kong faces in maintaining its separate trade status amidst growing tensions between China and other global powers. In addition to its role in formal disputes, Hong Kong

has acted as a third party in more than twenty disputes involving diverse issues, such as anti-dumping measures and tariffs on information technology products. By engaging as a third party, Hong Kong has aimed to influence broader WTO jurisprudence and protect its interests in areas that could affect its economy indirectly. Notably, Hong Kong has also been involved in disputes related to the United States' implementation of tariffs on steel and aluminum imports based on national security concerns, which demonstrates the territory's vigilance in monitoring developments that could impact its trade relations.

Hong Kong's engagement in multilateral institutions extends beyond the WTO. Chaisse highlights the importance of Hong Kong's role in international investment protection frameworks, such as the International Centre for Settlement of Investment Disputes (ICSID). As a signatory to the ICSID Convention, Hong Kong demonstrates its commitment to creating a stable investment climate by providing a reliable mechanism for investor-state dispute settlement. This engagement helps attract foreign investors, reassuring them of fair treatment and effective legal recourse in disputes. Additionally, Chaisse touches upon Hong Kong's participation in global tax initiatives, such as the BEPS project and the implementation of the Common Reporting Standard (CRS) for the automatic exchange of financial information. These commitments reinforce Hong Kong's reputation as a responsible international financial center that aligns with global standards of transparency and fair taxation.

In summary, Chaisse effectively captures the multifaceted nature of Hong Kong's multilateral engagements. Through its active participation in the WTO and other international frameworks, Hong Kong seeks to navigate the challenges posed by its geopolitical circumstances. By committing to multilateralism, Hong Kong not only safeguards its economic interests but also contributes to the stability and predictability of the global trading system, ensuring that it continues to play an essential role in IEL.

IV. COMMENTS

Julien Chaisse's work is particularly compelling in its ability to deftly navigate the intricate and unique complexities of Hong Kong as an SAR of China

within IEL. He skillfully illustrates how Hong Kong maintains an independent economic identity while simultaneously contributing to China's broader strategic interests. Chaisse convincingly analyzes the unique adaptability of Hong Kong's legal and economic frameworks in the face of global changes — such as tax reforms, trade wars, and regional economic integration — and highlights how Hong Kong's agility in responding to these changes is key to its enduring appeal.

Chaisse's sophisticated analysis underscores that Hong Kong's future success will largely depend on its continued ability to adapt to these pressures while preserving its legal integrity. His insights into specific industries, particularly the financial services sector — including banking, insurance, and securities — reflect a deep understanding of the economic foundations that have long supported Hong Kong. Chaisse also stays ahead of emerging trends, such as the introduction of digital currencies and the expansion of the Greater Bay Area initiative, both of which have the potential to reshape Hong Kong's financial landscape. Furthermore, his discussion of logistics and trade, including how Hong Kong leverages its geographical advantages and infrastructure to remain a global logistics hub, is equally insightful.

In conclusion, *Hong Kong as an Actor in International Economic Law: Multilateralism, Bilateralism and Unilateralism* makes a significant contribution to the understanding of IEL and the role of sub-national entities in the global economy. Chaisse's extensive research and valuable insights make this book an essential resource for understanding Hong Kong's legal and economic framework, especially in the context of an ever-changing geopolitical environment. While the legal aspects of the book may pose a challenge for non-specialists, the importance of its relevance to policymakers, legal professionals, and scholars cannot be neglected. Chaisse provides a vital framework for understanding how Hong Kong continues to maintain its position as a key participant in IEL despite increasing political and economic pressures.

(Edited by Yunhan Wang)