

10th Anniversary of the Handover



**Forewords by
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BASIC LAW

Hong Kong maintains legal safety net



There have not been fundamental changes in the legal system since the handover and Hong Kong is more than ever a logical choice for companies wishing to do business in China. Eric-Jean Thomas of Thomas, Mayer & Associés explains.
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On June 30, 1997, at midnight the British flag was lowered and the Hong Kong Special Administrative Region flag was hoisted. On July 1, 1997, the “one country, two systems” principle came into force.

Today, Hong Kong is the 11th largest trader in the world and the 10th largest exporter of commercial services. It has the world’s busiest container port and the busiest airport for international cargoes. It is also the second largest stock market in Asia and the seventh largest in the world. Its currency reserves are the sixth largest in the world.

The expected economic war between Shanghai and Hong Kong has not taken place and each city has developed its proper field of expertise and their respective economic assets are developing without real confrontation.

British tradition

For a lawyer there have been few fundamental changes in the legal system, which obviously is good news since tradition and conservatism are often synonymous with security in the legal world. Hong Kong laws are grounded in British common law and have remained generally unchanged, except to conform with Hong Kong Basic Law. The judiciary, which has remained strong and independent, is still a solid defense against arbitrariness and legal uncertainty.

In fact, Hong Kong is more than ever the platform to China: a conduit through which flows two-thirds of all foreign investments in the country. For the businessman, investing in China via Hong Kong is the main guarantee that he will have access to the expertise which is required by his venture. At the same time, setting up a Hong Kong limited company to monitor the investments in China permits him to circumscribe the country risk, taking advantage of a perfectly transparent tax environment. There is no tax on profit for companies if their source of income is located outside the SAR and there is no tax on dividends. However, companies have to respect

strict accounting rules which are ultimately controlled by the Inland Revenue. This, in itself, is the guarantee that, despite huge tax advantages and absolute economic freedom, Hong Kong remains a place where the rule of law applies.

Ten years after, it is safer than ever to do business in China through Hong Kong. Before the handover, speculations were that in the short term the People’s Republic of China would not tolerate Hong Kong’s lifestyle and communism would, soon or later, take over. Today, economic and political uncertainty is no more and legal certainty makes Hong Kong a safe place for business.

Win-win agreement

On June 29, 2003, the first free trade agreement ever concluded by China was signed: the mainland and Hong Kong Closer Economic Partnership Agreement (CEPA) which opens huge markets for Hong Kong goods and services in China. It is a win-win agreement bringing new business opportunities to the mainland, Hong Kong and all foreign investors. For Hong Kong-based entrepreneurs, CEPA provides a window of opportunity to gain greater access to the mainland market and for mainland businesses Hong Kong works as a springboard to reach out to the global market and accelerate mainland integration with the world economy.

Trade processing agreements between Hong Kong and mainland companies, especially in Guangdong where the majority of Hong Kong companies have extended their manufacturing base, have been fuelling Hong Kong’s trade performance and such agreements allow for a very flexible and efficient development of processing activities for Hong Kong-based companies.

Ten years after, Hong Kong is the world’s freest economy and its legal system has undoubtedly contributed to this performance in providing the necessary tools to structure and organise Hong Kong’s economic development. 