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QUESTION & ANSWER SESSION ON:

**HONG KONG'S
COMPREHENSIVE DOUBLE TAX
AGREEMENT (CDTA) NETWORK**

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We welcome your comments, please email to fkleung@hku.hk.

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Introduction

Associate Professor Wilson Chow was recently approached by Yimian Wu, who is working on an article for Tax Analysts in the USA, the publishers, inter alia, of *Tax Notes International*. We thought it would be good to share these concise responses to a set of good questions as a TLRP Tax Comment.

Question & Answer Session

1. Why has Hong Kong lagged in signing double tax agreements?

I do not think it fair to compare Hong Kong with UK, Japan and Singapore, for example, given Hong Kong's shorter history in developing its CDTA network – which short history is closely related to Hong Kong's low rate, simple *territorial* tax system. I would say that Hong Kong has achieved quite a lot within the last 20 years or so. Before 1990, very few people thought it necessary for HK to enter into any CDTA because of its source-based taxation. Our trading partners may be more satisfied to trade 'with' Hong Kong without establishing any presence here. Our labour and land costs were (and remain) so high which increases the operational costs for investment and trading 'in' Hong Kong. Numbers of such traders may also find their domestic relief sufficient to address any double taxation problem.

2. In his reply to a LegCo question, the Secretary for Finance Services and the Treasury K C Chan said that “the commencement and the progress of CDTA negotiations depend heavily on the motivation and CDTA policies of both parties.” Can you give some examples or context to elaborate his point?

I can think of two. The U.S. is willing to sign an agreement for exchange of information (TAEoI) but not a CDTA. HK has not entered into any such agreement with Australia. Regarding the case with US, it appears quite clear what it wants is not much related to trade - but notably more related to global financial and tax information to guard against non-compliance or even tax evasion.

3. Does Hong Kong's special relationship with China complicate CDTA (etc) negotiations in any way?

I do not think so. The Peoples Republic of China has established (for Mainland China) one of the largest CDTA networks. I believe that it has by now close to, if not more than, 100 CDTAs. The Basic Law provides for a separate taxing jurisdiction to apply in Hong Kong (now the HKSAR) at least until 2047.

4. Can you explain the extent, if any, to which investment in HK has lagged because of the weakness of its treaty network?

See 1 above. Moreover, I think tax concerns are just one among many reasons which may shape inbound investment and they are not determinative.

5. Can you advise whether Hong Kong is fully incorporating BEPS in negotiating treaties going forward?

I believe so: Hong Kong has pledged to comply with the BEPS action plans and it has been acting on that pledge.