



**Convention on the
Conservation of Migratory
Species of Wild Animals**

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**STATUS OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION:
RELEVANCE FOR CMS**

1. *Verbal Notes* were received by the Depositary of the Convention, from the Chinese Embassy in Germany (dated 2 June 1997) and from the British Embassy in Germany (dated 17 June 1997) and were circulated by the Depositary to all Embassies of Contracting Parties and Signatory States on 29 July 1997 and 23 June 1997, respectively.

2. The *Verbal Note* of the British Embassy in Bonn received by the German Foreign Affairs Office on 19 June 1997, addressed to the Embassies of the Contracting Parties and Signatories, reads as follows:

"Sir,

I am instructed by Her Britannic Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs to refer to the Convention on the Conservation of Migratory Species of Wild Animals done at Bonn on 23 June 1979 (hereinafter referred to as the Convention on the Conservation of Migratory species) which applies to Hong Kong at present.

I am also instructed to state that, in accordance with the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong signed on 19 December 1984, the Government of the United Kingdom will restore Hong Kong to the People's Republic of China with effect from 1 July 1997. The Government of the United Kingdom will continue to have international responsibility for Hong Kong until that date. Therefore, from that date the Government of the United Kingdom will cease to be responsible for the international rights and obligations arising from the application of the Convention on the Conservation of Migratory Species to Hong Kong.

I should be grateful if the contents of this Note could be placed formally on record and brought to the attention of the other Parties to the Convention on the Conservation of Migratory Species.

Please accept, Sir, the assurances of my highest consideration."

3. The *Verbal Note* from the Chinese Ambassador to Germany addressed to the Minister

of Foreign Affairs of Germany stated:

"Your Excellency,

In accordance with the Joint Declaration of the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland on the Question of Hong Kong signed on 19 December 1984 (hereinafter referred to as the "Joint Declaration"), the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997. Hong Kong will, with effect from that date, become a Special Administrative Region of the People's Republic of China and will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government of the People's Republic of China.

It is provided both in Section XI of Annex I to the Joint Declaration, "Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Hong Kong", and Article 153 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which was adopted on 4 April 1990 by the National People's Congress of the People's Republic of China, that international agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region.

In accordance with the above provisions, I am instructed by the Minister of Foreign Affairs of the People's Republic of China to make the following notification:

The Convention on the Conservation of Migratory Species of Wild Animals done at Bonn on 23 June 1979) hereinafter referred to as the "Convention"), which applies to Hong Kong at present, will continue to apply to the Hong Kong Special Administrative Region with effect from 1 July 1997.

Within the above ambit, responsibility for the international rights and obligations of a party to the Convention will be assumed by the Government of the People's Republic of China.

It would be appreciated if the contents of this Note could be placed formally on record and brought to the attention of the other parties to the Convention.

I avail myself of this opportunity to express to Your Excellency the assurances of my highest consideration."

4. On 29 June 1997, the Secretary General of the United Nations received a communication from the Government of China informing him that, in accordance with the Joint Declaration, China would resume the exercise of sovereignty over Hong Kong and that from 1 July 1997, Hong Kong would become a Special Administrative Region of the People's Republic of China. Attached to this communication were two annexes: (i) Annex I which listed treaties (127) to which China was then a Party that would apply with effect from 1 July 1997 to the Hong Kong Special Administrative Region and, (ii) Annex II which listed treaties (87) to which China was not a party and which applied to Hong Kong before 1 July 1997 and which confirmed that these treaties would continue to apply to the Hong Kong Special Administrative Region.

5. The Convention on the Conservation of Migratory Species of Wild Animals was one of the treaties listed in Annex II. However, as in the case of a significant number of treaties included in Annex II, this Convention is not deposited with the Secretary-General of the United Nations. Accordingly, no action was taken by the Secretary-General in relation to this treaty or the others in its category.

6. With regard to the other treaties listed in Annex II and deposited with the Secretary-General, the approach followed by the Depositary was simply to inform the parties to these treaties, by way of depositary notifications, of China's communication without comment. It was decided that unless expressly prohibited in the treaty, the Secretary-General should not pass judgement on whether the application of a treaty, referred to in the Chinese communication, was possible or what the legal consequences were of such an act.

7. With regard to CMS, no reaction from any other Contracting Party has been reported to the Secretariat by the Depositary.

8. Without prejudice to decisions that might be taken by the Conference of the Parties on this matter, the Secretariat requested the Government of the People's Republic of China to advise whether it:

- a. would be prepared to submit proposals to the Conference of the Parties concerning the addition to the Appendices of Convention of species which occur in Hong Kong;
- b. would be prepared to pay contributions towards the administration of the Convention;
- c. would consider the People's Republic of China acceding to the Convention.

9. By letter of 11 August 1999 the Secretariat was informed that its questions had been transferred to the Chinese Government with the additional remark that the response would take a while. At the time of writing (26 October 1999), no further response had been received.

10. It may be noted that the Depositary lists the Hong Kong Special Administrative Region of the People's Republic of China as a Party to the Convention with the date of entry into effect of 1 July 1997.

Action Requested by the Secretariat

The COP is invited to advise the Secretariat on how it should proceed:

1. Decide to include the People's Republic of China, limited to the Special Administrative Region of Hong Kong, in the Secretariat's list of Parties to CMS
2. Follow up the above matters in close consultation with the Depositary and UNEP, in particular to ascertain the appropriate level of contributions payable in respect of Hong Kong.