

Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill

Examples of Overseas Arrangements

Following the discussion at the Bills Committee meeting on 1 March 2007, this paper sets out a couple of overseas bilateral arrangements whereby the travellers in either country are cleared for entry or admission to the other country before departing from the country where the clearance is carried out.

Security Bureau

5 March 2007

Examples of Overseas Arrangements		
	US/Canada Air Preclearance Arrangement¹	UK/France Arrangement on Frontier Controls at Sea Ports²
(a) Main features	This is essentially an arrangement whereby each country carries out entry controls in the other country's designated airports before travellers concerned commencing their inward journey to the above country carrying out entry controls.	This is essentially an arrangement whereby each country carries out entry controls in the other country's designated sea ports before travellers concerned commencing their inward journey to the above country carrying out entry controls.
(b) Jurisdiction	The inspecting country (ie the country carrying out preclearance) is authorized to administer its laws concerning customs, immigration, public health, food inspection, and plant and animal health in the preclearance area of the host country (ie the country where preclearance is carried out) to the extent that they are not considered criminal. However, as the law of the host country continues to apply in the preclearance area, the preclearance has to be carried out in a manner consistent with the laws and constitutions of both countries.	The inspecting country is authorized to apply the laws and regulations concerning immigration controls and the investigation of offences relating to immigration in the frontier control zone of the host country. The host country shall have jurisdiction over an offence of any other kind in the frontier control zone.
(c) Law enforcement powers	The law enforcement powers of the inspecting country are limited. For instance, criminal matters are dealt with by the host country according to its law. While the inspecting	The responsible officers of the inspecting country may arrest and hold for questioning in the frontier control zone those who are being examined for the purposes of immigration control

¹ This arrangement is pursuant to the *Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America* done at Toronto on 18 January 2001.

² This arrangement is pursuant to the *Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning the Implementation of Frontier Controls at the Sea Ports of both Countries on the Channel and North Sea* done at Le Touquet on 4 February 2003.

Examples of Overseas Arrangements

	US/Canada Air Preclearance Arrangement¹	UK/France Arrangement on Frontier Controls at Sea Ports²
	<p>country's preclearance officers are authorized to conduct frisk searches (pat downs) of travellers for preclearance purposes, only the host country have the authority to conduct strip (body) searches and more intrusive searches. Further, the inspecting country has to transfer to the host country any goods which the host country has made known explicitly to the inspecting country that the import, export, possession or handling of it is illegal in the host country's territory.</p>	<p>or those who are reasonably suspected to have committed an offence relating to frontier control. In this regard, the responsible officers of the inspecting country may request the host country for its assistance in investigations.</p>
<p>(d)Legal liabilities of the inspecting country or its officers</p>	<p>A civil action in respect of anything that is, or is purported to be, done or omitted to be done within the scope of his/her duties by a preclearance officer may be brought against the inspecting country to the extent that the inspecting country is not immune under the relevant state immunity legislation of the host country. On the other hand, a preclearance officer shall enjoy immunity from the civil and administrative jurisdiction of the host country with respect to acts performed or omitted to be performed in the course of his/her official duties.</p>	<p>The same regimes of civil and criminal law provided for under the legislation of the host country shall apply to the officers of the inspecting country. However, claims for compensation for loss or injury caused by or to officer of the inspecting country in the exercise of their functions in the host country shall be subject to the law and jurisdiction of the inspecting country as if the circumstances giving rise to the claim had occurred in that country. Further, criminal acts undertaken by officers of the inspecting country in the frontier control zone in the exercise of their functions may not be prosecuted by the authorities of the host country.</p>