



# **Six-monthly Report on Hong Kong July-December 2001**

*Presented to Parliament  
By the Secretary of State for Foreign and Commonwealth Affairs  
By Command of Her Majesty  
March 2002*

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## FOREWORD

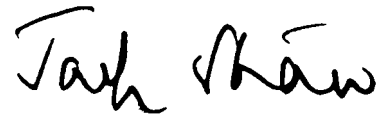
This is the tenth in a series of six-monthly reports on the implementation of the Sino-British Joint Declaration on the Question of Hong Kong. It covers the period from 1 July to 31 December 2001.

Hong Kong faced a testing time during these months. As an international centre for trade and finance, it was affected by the world economic slowdown. And the repercussions of the terrible events of 11 September in the United States were felt in Hong Kong as in so many places.

I welcome the Special Administrative Region Government's firm commitment to join the global fight against terrorism, and the positive part it has played in international efforts to tackle terrorist financing through its Presidency of the OECD's Financial Action Task Force. Hong Kong's skilful Chairmanship of another body, the General Council of the World Trade Organisation, was key in bringing about the successful launch of a new world trade round in Doha in November. It is encouraging to see the SAR playing a constructive role on the international stage, within the framework of the Joint Declaration and the Basic Law.

Overall, our view remains that the concept of "One Country, Two Systems" is an everyday reality in Hong Kong. The rule of law and the independence of the judiciary, which are so vital to Hong Kong's success, are being upheld. Essential rights and freedoms are being protected, and challenges to them fully and freely debated.

We remain strongly committed to Hong Kong, reflecting both our historic responsibilities and a forward-looking relationship with an important partner in the region. We will continue to watch developments there closely.



JACK STRAW  
Secretary of State  
for Foreign and Commonwealth Affairs

## **SIX-MONTHLY REPORT ON THE IMPLEMENTATION OF THE JOINT DECLARATION ON HONG KONG**

### **INTRODUCTION**

1. This series of reports is a reflection of the British Government's continuing interest in Hong Kong, and of our commitment to the faithful implementation of the Sino-British Joint Declaration on Hong Kong. The Joint Declaration, signed in 1984, promised a high degree of autonomy for the Hong Kong Special Administrative Region (SAR) except in foreign and defence affairs, and guaranteed the continuation of Hong Kong's social and economic systems, lifestyle and rights and freedoms. These reports provide an assessment of developments in Hong Kong, focusing in particular on the extent to which the Joint Declaration's promises and guarantees are being realised in practice.

### **TERRORISM**

2. Following the September 11 attacks in the United States, the SAR Government has pledged its full support in the global fight against terrorism and terrorist financing. We welcome this. Prior to September 11, Hong Kong had already enacted legislation implementing United Nations Security Council Resolution (UNSCR) 1267, dealing with financing for the Taliban. On October 12, further legislation was passed implementing UNSCR 1333, which required States to freeze the assets of Usama bin Laden and his associates. The SAR Government is now giving urgent consideration to comprehensive new legislation to enable it to implement UNSCR 1373, which requires States to combat terrorism on a range of fronts.

3. Hong Kong currently holds the Presidency of the OECD anti-money laundering body, the Financial Action Task Force (FATF), and in October convened an extraordinary plenary meeting in Washington at which the FATF agreed to extend its mission to cover terrorist financing. The meeting agreed eight special recommendations on terrorist financing. Members are expected to comply with these by June 2002.

### **HONG KONG SAR GOVERNMENT**

4. The Chief Executive of the SAR Government, Mr C H Tung, whose term of office expires on 30 June 2002, announced in December that he would run for a second five-year term. The election, by an Election Committee of 800 members from various sectors, is due to take place on 24 March 2002. Nominations for candidature are open from 15 to 28 February. Candidates are to be nominated by at least 100 members of the Election Committee. As of 31 December, no other candidate had come forward.

5. Mr Tung visited Beijing on 19 December to present his annual report to the Chinese leadership. He met President Jiang Zemin who, according to official media accounts, stated that the central authorities were satisfied with Mr Tung's performance and would continue to give full support to his work. Mr Jiang also praised Mr Tung's decision to stand for re-election and said that the Central Government wished him to continue to lead the SAR Government. Some in Hong Kong expressed concerns that open endorsement of Mr Tung's candidacy by the Central People's Government would influence the Election Committee or deter others from standing. Vice-Premier Qian Qichen was reported to have denied that the election was controlled, saying that members of the Election Committee were elected and represented the views of the public.

6. Controversy arose in July when Mr Yeung Kwong, who was actively involved in the anti-Government riots in Hong Kong in 1967, received the Grand Bauhinia Medal (the

SAR's highest honour). The SAR Government said that the award was in recognition of Mr Yeung's contribution to the trade union movement.

## **BASIC RIGHTS AND FREEDOMS**

7. Our last six-monthly report (Cm 5197) referred to controversy over the treatment of Falun Gong, a group banned as a cult on the mainland but legally registered and allowed to carry on its activities in Hong Kong within the law. The report noted that the SAR Government, while indicating that it would closely watch Falun Gong's activities, had said that it did not, at present, intend to introduce anti-cult legislation. That position remains unchanged. Falun Gong followers have continued to be allowed to stage protests, although in November officials removed banners from protesters near the Liaison Office of the Central People's Government on the grounds that they had caused obstruction.

8. More widely, the freedom to demonstrate has continued to be respected, with many groups staging peaceful protests. In September, a magistrate acquitted three men who had been charged in connection with demonstrations in May during the Fortune Global Forum, which was attended by President Jiang Zemin. The men had scuffled with police officers who had tried to remove their vehicle. The magistrate said that the Police had had no legal power to tow away the vehicle and that the defendants were entitled to refuse to co-operate.

9. Dr Li Shao-min, a Hong Kong-based academic who was convicted by a mainland court of spying and deported to the United States, was allowed to return to Hong Kong in July. Dr Li resumed his work at the City University of Hong Kong and in October was elected to the University's Senate. The SAR Government's decision to allow Dr Li to return was widely seen as an indicator of "One Country, Two Systems" working in practice.

10. The Hong Kong Journalists Association and the Article 19 Group (the Global Campaign for Freedom of Expression) published their ninth annual report on freedom of expression in Hong Kong in July. The report concluded that people in Hong Kong in large measure enjoyed freedom of expression and that the media continued to report on controversial issues. But it highlighted a number of concerns, particularly in relation to the SAR Government's handling of Falun Gong; and called on the media to take action to deal with what it called a "credibility problem, arising from "ethical" excesses, self-censorship and internal measures to sideline journalists who are especially critical".

11. In July/August, the UN Committee on the Elimination of Racial Discrimination examined reports from China, including Hong Kong. We welcome the fact that Hong Kong's report was prepared by the SAR Government and defended in Geneva by SAR Government officials attending as part of a delegation from the People's Republic of China. The UN Committee's main concern in relation to Hong Kong was the lack of legislation against racial discrimination; it recommended that the situation should be thoroughly reviewed and appropriate legislation adopted. The SAR Government has reiterated that it is reviewing its position on legislation, with a view to determining the way forward in early 2002.

12. In December, the right to education of mainland children in Hong Kong became the subject of heated debate when it was reported that 187 children had been denied schooling. The children were "on recognisance" pending the outcome of right of abode litigation or removal proceedings. The SAR Government said that allowing the children to attend school would encourage others to enter Hong Kong illegally. The Government's position was criticised by legislators and human rights groups, who argued that the children had the right to education under the UN Convention on the Rights of the Child, regardless of their status. The SAR Government subsequently undertook to review, on a case-by-case basis, applications for school admission by the children involved.

## CONSTITUTIONAL DEVELOPMENT

13. Our last six-monthly report referred to the Chief Executive Election Bill, introduced by the SAR Government in March 2001 to provide for the detailed arrangements for the Chief Executive election in March 2002. The Legislative Council passed the Bill in July after intense discussion. There was controversy over a provision specifying that the Central People's Government could remove the Chief Executive: some legislators criticised this as giving unnecessarily wide powers to Beijing and undermining Hong Kong's autonomy. Mr Michael Suen, Secretary for Constitutional Affairs, said that the new law "confers no additional power on the Central People's Government to remove the Chief Executive from office", and that "such a removal power can come only from the Basic Law".

14. Our six-monthly report for January – June 2000 (Cm 4809) noted that the accountability of senior officials had become a major issue of discussion in the wake of a public housing construction scandal, with some observers and politicians calling for the introduction of a Ministerial system of government. Our report for July – December 2000 (Cm 5067) noted that the Chief Executive, in his October 2000 Policy Address, had announced a review of certain issues of governance, including the accountability of senior officials. In his October 2001 Policy Address, Mr Tung proposed a new system of appointing principal officials, applicable to the top three secretaries (the Chief Secretary for Administration, Financial Secretary and Secretary for Justice) and most policy secretaries. Currently, nearly all such officials are civil servants, on permanent terms. Under the new system, they would be drawn from inside or outside the civil service and employed on contract terms, with their term of office not exceeding that of the Chief Executive who nominated them. They would be answerable to the Chief Executive, who would have the authority to recommend their removal. Consideration would be given to appointing them to the Executive Council.

15. The Chief Secretary for Administration, Mr Donald Tsang, said that the new principal officials would form a "political decision-making layer", responsible for policy formulation, while the civil service would remain politically neutral, with responsibility for public administration. He said that the appointment of principal officials to the Executive Council would enable them to take part collectively in "a more conventional Cabinet-style system".

16. Mr Tung has said that implementation of the proposals would be for the Chief Executive in the second term to decide; but that if he were re-elected, he would implement them from 1 July 2002.

17. Reactions to the proposals have been mixed. Some legislators and commentators have welcomed them; others have queried whether politically appointed "Ministers" would be accountable to the public, or only to the Chief Executive, who is not popularly elected. The Bar Association and Ms Margaret Ng, representing the legal constituency in the Legislative Council, expressed concern that the ability of the Secretary for Justice to act independently, particularly as regards prosecution decisions, might be compromised if the post became a political appointment. The SAR Government has said that the new "Ministers" would have to be individually responsible for any serious mistake, with resignation being an option; and that the proposed arrangements would not affect the Secretary for Justice's constitutional duty to act independently in respect of prosecutions.

18. The Basic Law provides for "gradual and orderly" progress after 2007 towards the ultimate aim of election of the Chief Executive and of all the members of the Legislative Council by universal suffrage. In his October 2001 Policy Address, the Chief Executive suggested that the SAR Government would wish to review the experience of elections in 2002 (for Chief Executive) and 2004 (for the Legislative Council) before consulting the public on the post-2007 constitutional structure. It remains our hope that Hong Kong will

move as quickly as possible towards a fully directly elected legislature, and a democratically elected Chief Executive, at a pace in line with the wishes of the community.

## **LEGAL SYSTEM**

19. Previous reports have described the controversy surrounding the right of abode issue, and in particular the SAR Government's decision in 1999 to seek an interpretation from Beijing (the National People's Congress) of right of abode provisions in the Basic Law, following a ruling by the Court of Final Appeal (CFA) in Hong Kong. In July 2001, the CFA ruled on three further right of abode cases. The Court opted to rule on the cases together because they raised a number of common questions, including whether the Court had to refer to the Standing Committee of the National People's Congress (NPCSC) for an interpretation of the relevant Basic Law provisions.

20. The first case, referred to in our last six-monthly report, involved a child born in Hong Kong to visiting mainland parents. The Court of First Instance and Court of Appeal both found that the child had the right of abode. The SAR Government urged the CFA to seek an interpretation from the NPCSC before ruling on the case. The CFA unanimously upheld the ruling of the lower courts. It did not seek an interpretation from the NPCSC. The CFA's judgement stated that where the NPCSC had made an interpretation of the Basic Law, the courts in Hong Kong were bound to follow it; but that the SAR Government had accepted that the NPCSC's 1999 Interpretation was not binding in relation to the current case. The CFA took the view that the provision in question of the Basic Law was within Hong Kong's autonomy; and that, on a common law approach, its meaning was clear and the child had the right of abode.

21. The second case concerned children born in the mainland and adopted there by parents at least one of whom had the right of abode in Hong Kong. The appellants argued that adopted children should have right of abode in the same way as natural children. They won at First Instance but lost at Appeal. The CFA by majority dismissed their appeals. The Court was unanimous that nothing in the 1999 NPCSC Interpretation carried any implication as to the status of adopted children, and that the Basic Law provision in question was within the SAR's autonomy. The majority took the view that the provision could refer only to natural children. One judge dissented, arguing for a reading promoting family unity.

22. The third case concerned whether time spent in prison should count towards the residence period required for non-Chinese nationals to acquire right of abode. The appellant lost at both First Instance and Appeal, and the CFA dismissed the appeal.

23. A spokesman for the Legislative Affairs Commission of the NPCSC expressed concern about the ruling in the first case, saying that it did not fully correspond with the NPCSC's 1999 Interpretation. The SAR Government however made clear, as it had done before the ruling, that it would accept the Court's decision. We welcome this. Many legal experts and commentators took the view that these rulings bolstered the independence of Hong Kong's legal system.

24. As of 31 December, the CFA had still to rule in a right of abode case involving several thousand mainlanders who claim that they are not affected by the 1999 NPCSC Interpretation.

25. The SAR Government is carrying out a comprehensive review of legal education and training in Hong Kong; a report by consultants was published in August. In December, a Working Party established by the Chief Justice published proposals for reform of the civil justice system. The proposals, designed to improve access to civil justice, draw on

developments in other common law jurisdictions, in particular the Woolf reforms in England and Wales. Comments have been invited from the legal profession and the public.

## **INTERNATIONAL INTEREST IN HONG KONG**

26. International interest in developments in Hong Kong continued; assessments remained broadly positive. In July, the European Commission published its third annual report on Hong Kong, covering the year 2000. In August, the US State Department published a report on Hong Kong covering the period from 1 April 2000 to 31 July 2001. The report concluded that Hong Kong “remained a free society that extended basic civil liberties to its citizens every day, defined its identity in terms of being an open international city, and largely continued to make its own decisions in pursuit of its own identity and economic interests”. The report however noted that “there were some issues warranting attention”, in particular the handling of Falun Gong. The Chairman of the UN’s Economic, Social and Cultural Rights Committee visited Hong Kong in July.

## **HONG KONG’S WIDER ROLE**

27. Hong Kong continues to play an active role on the international stage, within the framework laid down in the Joint Declaration and Basic Law. It takes part in some 50 inter-governmental organisations, whether in its own right or as part of the People’s Republic of China. As indicated above, Hong Kong played a constructive role in the international fight against terrorism in its capacity as President of the Financial Action Task Force. Hong Kong also currently holds the Chairmanship of the General Council of the World Trade Organisation (WTO), and was a key player in bringing about a successful conclusion to negotiations in Doha in November to launch a new world trade round.

28. The Chief Executive visited the US in July and attended the APEC Economic Leaders’ meeting in Shanghai in October; the Chief Secretary for Administration also visited the US as well as the UK (see below). High level overseas visitors to Hong Kong included the Presidents of the Philippines and of South Africa, who visited in October and December respectively.

29. Hong Kong remains a popular location for international conferences and meetings. The SAR Government announced in October that it would invest up to \$2 billion in a new conference and exhibition centre at Chek Lap Kok Airport. Major conferences held during the period of this report included the World Services Congress in September and the World Economic Forum’s annual Asia-Pacific Economic Summit in October.

## **ECONOMY**

30. Hong Kong’s highly externalised economy was adversely affected in the second half of 2001 by the global slowdown and the after-effects of September’s terrorist attacks in the US. The SAR Government is now projecting zero growth for the year as a whole. Unemployment has risen and deflation persisted. But the economy is expected to bounce back quickly once recovery in the US gets under way.

31. The Government has warned that there may be a record budget deficit in the 2001/02 financial year. Hong Kong has large fiscal reserves, but there are concerns that recent operating deficits may be structural. The SAR Government is therefore reviewing public finances and the scope for new, broader-based taxes. Reports on both aspects are expected shortly.



32. In his October Policy Address, the Chief Executive announced a number of short-term measures to offset the cyclical downturn. He also focused heavily on education and training, which are seen as key to transforming Hong Kong into a knowledge-based economy.

33. There has been continued debate on how Hong Kong can best position itself to take advantage of the further opening up of the mainland economy following China's accession to the WTO in December. The Chief Executive's Policy Address, like the Budget earlier in the year, placed strong emphasis on economic integration with the mainland. Mr Tung announced an easing of restrictions on visits to Hong Kong by mainland tourists and businesspeople; the introduction of three-year multiple visas for expatriate Hong Kong permanent residents travelling to the mainland; and the establishment of a Hong Kong Economic and Trade Office in Guangzhou. He also highlighted current and future projects to develop infrastructure links between Hong Kong and neighbouring Guangdong Province. The SAR and Central People's Governments have since indicated that they are considering a free-trade arrangement between Hong Kong and the mainland.

34. Following comments by the Financial Secretary, Mr Anthony Leung, there was speculation in October about possible changes to Hong Kong's linked exchange rate regime. However, Mr Leung and the Chief Executive strongly denied that there was any intention to move from the current regime. The Chief Executive of the Hong Kong Monetary Authority, Mr Joseph Yam, gave a speech on 24 October defending the peg. He said that the outcome of de-pegging even with the most benign conditions and the best judged strategy would be "uncertainty and instability"; to de-peg when the economy was weak would be "a catastrophe".

## **BILATERAL RELATIONS**

35. Relations between the United Kingdom and Hong Kong are deep and wide-ranging, with extensive contacts in the fields of culture, education, the professions, business, legal affairs and government. The period of this report saw a stream of high-level visits in both directions. Mr Donald Tsang visited London in November, for the first time in his capacity as Chief Secretary for Administration. He met the Deputy Prime Minister, the Lord Chancellor and the Secretary of State for Trade and Industry. Other senior SAR Government visitors to the United Kingdom included Mrs Regina Ip, Secretary for Security, and Mr Joseph Wong, Secretary for the Civil Service. Dr Denis MacShane, Parliamentary Under-Secretary of State at the Foreign and Commonwealth Office with responsibility for Hong Kong affairs, visited Hong Kong twice, in September and November. The Lord Mayor of London, Sir David Howard, visited in October and addressed a seminar on private/public partnership organised by the British Consulate General. The Lord Chief Justice, Lord Woolf of Barnes, visited in July and spoke on access to justice at a seminar organised by the British Council.

36. During his second visit to Hong Kong in November, Dr MacShane joined the Chief Executive in opening the INTEGER Hong Kong Pavilion, a joint United Kingdom/Hong Kong project designed to demonstrate how intelligent and green building techniques can be adapted to meet conditions in Hong Kong. The Pavilion, located in a prominent position on the north shore of Hong Kong Island and open to the public throughout 2002, is the result of close collaboration between the British and SAR Governments. It also involves public organisations and private companies in a model public/private project. The project is a very visible symbol of practical co-operation between Britain and Hong Kong on interests which matter to both – innovation, sustainability, the environment and education.

37. Another key area of cooperation between Britain and Hong Kong is in English language teaching. The SAR Government is keen to promote the wider use of English as part of its aim to position Hong Kong as Asia's World City. In his October Policy Address,

the Chief Executive announced plans to provide native-speaking English teachers or assistants in all primary schools. A scheme to provide such teachers in secondary schools was implemented in the 1998-99 school year.

38. The British Council plays a vital role in supporting these efforts to improve the learning and teaching of English. The Council's work supports local education reform objectives while simultaneously building a generation of learners able to take advantage of education opportunities in the United Kingdom. The Council teaches English to around 45,000 learners each year. It runs teacher support programmes for the Education Department and organises visits, conferences and workshops.

39. December 2001 saw the launch in Hong Kong of the English Speaking Union (ESU), an international educational charity dedicated to creating global understanding through the English language. The Chief Executive, Mr Tung, joined Lord Watson of Richmond, Chairman of the Commonwealth ESU, and Mr William Miller, Chairman of the US ESU, for the opening ceremony. The launch culminated in a live internet debate between outstanding students in the United Kingdom and Hong Kong. The debate was opened in London by Mrs Margaret Hodge, Minister of State for Lifelong Learning and Higher Education, and in Hong Kong by Mrs Anson Chan, Patron of the ESU of Hong Kong.

40. The United Kingdom and Hong Kong remain major trading partners: Hong Kong is still our second largest export market in Asia. During the period of this report, Trade Partners UK supported seven trade missions to Hong Kong and visits by five business groups to trade fairs in the SAR.

## **BRITISH NATIONALS (OVERSEAS)**

41. The British Government remains committed to providing the highest standard of consular and passport services to the 3.44 million holders of British National (Overseas) (BN(O)) passports. There was a drop in reported cases of BN(O) passport holders in difficulties in third countries during the period of this report. We continued to offer practical assistance where necessary, for example, by helping in the repatriation of a small number of BN(O) passport holders back to Hong Kong. The Passport Section of the British Consulate-General is the largest passport issuing operation outside the United Kingdom. In 2001, a record 168,025 BN(O) passports were issued.

## **VISA-FREE ACCESS FOR HONG KONG SAR AND BRITISH NATIONAL (OVERSEAS) PASSPORT HOLDERS**

42. In our last report, we noted that arrangements for the new EU Common Visa List and Regulation had been implemented in April 2001, giving Hong Kong SAR passport holders visa-free access for short visits to all EU countries. Following the decision to include the SAR passport on the EU visa-exempt list, the European Community and the SAR have negotiated a bilateral agreement on the re-admission of persons. The agreement was initialled in Brussels in November in the presence of Mr Donald Tsang, SAR Chief Secretary, and Mr Antonio Vitorino, European Commissioner for Justice and Home Affairs. Mr Vitorino said that Hong Kong's willingness to conclude the agreement, the first of its type for the European Community, was a positive sign of Hong Kong's free and open society.

43. Since the EU Common Visa List took effect, the SAR passport has secured visa-free access to a number of other countries; as at 31 December, the total number of countries offering such access was 104.

44. As at 31 December, 90 countries offered visa-free access to BN(O) passport holders. We are concerned to secure the maximum travel convenience for BN(O) passport holders world-wide and, as a priority, to ensure that BN(O)s can enjoy the same access within Europe as SAR passport holders. We are working with EU member states who do not currently offer visa-free access to the BN(O) passport to achieve this. We will continue to look for opportunities to promote visa-free travel for both SAR and BN(O) passport holders.

## **CONCLUSION**

45. At the end of 2001, our overall assessment remains that “One Country, Two Systems” is working well in practice. There have been challenges and difficulties. But as events over the past six months have shown, the SAR Government has by and large exercised the high degree of autonomy promised under the Joint Declaration and the Basic Law, including on issues of considerable sensitivity. The judiciary has operated independently. Essential freedoms remain intact. Issues of concern have been openly and sometimes hotly debated in the Legislative Council and in the media. Hong Kong has continued to look out to the world, to attract investment and to play a constructive role in the international community.

46. The continued success of “One Country, Two Systems” will depend on how deeply the values of the Joint Declaration remain entrenched in the culture of the SAR Government and Hong Kong society. We will continue to watch closely, and to support Hong Kong in running its own affairs and upholding its people’s rights and freedoms, within the framework of the Joint Declaration.



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