



Six-monthly Report on Hong Kong July-December 2000

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2001*

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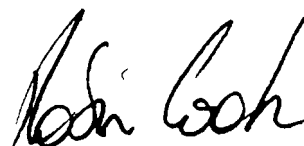
FOREWORD

This is the eighth in the 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 2000.

The Central People's Government in Beijing has committed itself to the principle that Hong Kong will be governed in the spirit of "One Country, Two Systems". That commitment, and the ability of the Hong Kong SAR Government to exercise the high degree of autonomy promised by the Joint Declaration, remain the essential conditions for the preservation of Hong Kong's rights and freedoms and way of life. Overall, we continue to believe that the distinguishing features of Hong Kong's autonomy have been retained since the establishment of the Special Administrative Region in 1997. But the success of "One Country, Two Systems" still requires vigilance, goodwill and a determined commitment to the detailed implementation of the rule of law, freedom of expression and an open society.

The reality of "One Country, Two Systems" since 1997 owes much to the good faith of the Hong Kong SAR Government. I pay particular tribute to the Chief Secretary for Administration, Mrs Anson Chan, who has announced that she will leave office on 30 April this year. As I said in my statement on 12 January, Mrs Chan played a central role in Hong Kong's smooth transition to Chinese sovereignty and in the successful implementation of the principles of the Joint Declaration.

Our interest in Hong Kong is twofold. As a co-signatory to the Joint Declaration, HM Government will continue to watch developments in Hong Kong and to draw attention to any issues of concern. We also attach great importance to the close relationship that exists between the UK and Hong Kong in many areas of activity. The visit to London last October by the Hong Kong Chief Executive, Mr C H Tung, was a demonstration of the strength of that relationship and of our common wish to continue developing new links.



ROBIN COOK
Secretary of State for
Foreign and Commonwealth Affairs

February 2001

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

INTRODUCTION

1. The British Government continues to take a close interest in Hong Kong affairs. We take a particular interest in the extent to which the values of the Sino-British Joint Declaration on the Question of Hong Kong are protected and observed by the Central People's Government (CPG) and the Government of the Hong Kong Special Administrative Region (SAR).

2. We welcome the fact that the Foreign Affairs Committee of the House of Commons included Hong Kong in its recent investigation of the role and policies of the Foreign and Commonwealth Office in relation to China. The Committee published its report on 29 November 2000 (HC 574). The Government's response to the report was published on 1 February 2001 (Cm 5038).

“ONE COUNTRY, TWO SYSTEMS”

3. The central principle underlying both the Sino-British Joint Declaration and the Basic Law of the Hong Kong SAR is that the SAR will be governed in the spirit of “One Country, Two Systems”. The CPG has often said that Hong Kong remains free to handle those matters that are within the scope of its high degree of autonomy; and the SAR Government has continued to exercise that autonomy.

4. The Hong Kong Chief Secretary for Administration, Mrs Anson Chan, visited Beijing in September 2000, and the Chief Executive, Mr C H Tung, paid his annual visit to Beijing in October. Mrs Chan met Vice-Premier Qian Qichen, who was later reported by the official Chinese news agency, Xinhua, as having told Mrs Chan that he hoped that she, together with the whole civil service, would “better support the work of the Chief Executive, to continue to contribute to the prosperity and stability of Hong Kong under the leadership of Mr Tung Chee-hwa”. In October, Mr Tung met a number of Chinese leaders, including President Jiang Zemin. These visits were widely reported in the Hong Kong media.

5. The Chairman of the Chinese People's Political Consultative Conference, Mr Li Ruihan, visited Hong Kong in November. He met the Chief Executive and other senior members of the SAR Government and spoke publicly of the importance of upholding the principle of “One Country, Two Systems”. In December, in a speech in Macau, President Jiang Zemin spoke of the need to defend the Chinese national interest in Macau and by extension, Hong Kong, while indicating the CPG's continuing commitment to “One Country, Two Systems”.

BASIC RIGHTS AND FREEDOMS

6. We have not changed our overall assessment that Hong Kong's essential freedoms remain intact. The Hong Kong people, including Falun Gong and other groups outlawed in mainland China, continue to enjoy the freedom of association and the freedom of worship, and the freedom to hold peaceful and orderly demonstrations is also maintained. People in Hong Kong remain sensitive to any perceived infringement of basic rights and freedoms, as do members of the Legislative Council (LegCo) and the Hong Kong media. There were some new controversies during the period of this report, all of which were fully reported in the Hong Kong media.

7. In August and September, a number of protesters, including students, who had been involved in street demonstrations in April and June were arrested under the provisions of the Public Order Ordinance. The relevant provisions require organisers of demonstrations to give the Police 7 days' advance notice of any proposed march of more than 30 people or of any proposed assembly of more than 50, and allow the courts to impose a maximum penalty of 5 years' imprisonment for those who fail to comply with these requirements. Concerns were expressed that the law was being applied selectively. The Bar Association expressed concern that “notwithstanding many public meetings and public demonstrations which were held in the past without complying with the current law, some university students were apparently singled out for intended persecution”. All the protesters were bailed after their arrest. The SAR Government denied singling out students for

intended persecution, and the Department of Justice subsequently decided not to prosecute any of them. However, the Secretary for Security, Mrs Regina Ip, said on 25 October that the decision not to prosecute any of the protesters did not preclude the possibility of future prosecutions in similar circumstances.

8. The August and September arrests led to calls for the provisions of the Public Order Ordinance governing demonstrations to be liberalised. The SAR Government subsequently invited comments on the provisions of the Public Order Ordinance in a public consultation exercise. The Secretary for Security subsequently announced that the SAR Government had found no convincing grounds for amending the Ordinance; at the same time, the SAR Government pointed out more than 6,000 public rallies had taken place in Hong Kong since the handover in 1997. The Ordinance was the subject of a debate in LegCo on 20 December, in which legislators voted on a motion that the Ordinance be left unchanged. The motion was passed by 36 votes to 21. Criticism of the Ordinance in LegCo and elsewhere focussed on the length of the notification period for notifiable demonstrations and on the maximum penalty for failure to comply with the notification requirements, while the SAR Government argued that the Ordinance was consistent with the Basic Law and the International Covenant on Civil and Political Rights.

9. Another issue concerned allegations made in July by a Hong Kong University academic, Dr Robert Chung, that he was given a message that the Chief Executive, Mr C H Tung, wanted him to stop carrying out opinion polls on his popularity. An independent University inquiry has found that Dr Chung had been given a message calculated to inhibit his academic freedom at the behest of the Vice-Chancellor of the University, Professor Y C Cheng; and that this was the result of a conversation between the Vice-Chancellor and Mr Tung's aide Mr Andrew Lo. The Vice-Chancellor denied that he had acted in any improper way but resigned on 6 September. Academic freedom is guaranteed under the Joint Declaration, and any suggestion that it is being infringed is a cause for concern. However, we welcome the fact that there was an independent inquiry into this incident.

10. The question of the freedom of the press remained a subject of continuing interest and debate in Hong Kong throughout the period of this report. In July, the Hong Kong Journalists' Association and the Article 19 Group (the Global Campaign for Freedom of Expression) published their eighth annual report on freedom of expression in Hong Kong. While concluding that the people of Hong Kong continued in large measure to enjoy the right to freedom of expression and that the Hong Kong press remained relatively free, the report expressed particular concern about remarks made by a Chinese Government official on the reporting of views advocating the independence of Taiwan (on which we commented in our last six-monthly report to Parliament) and about the possible results of legislation under Article 23 of the Basic Law (see below, paragraph 14).

11. In November, Mr Willy Lam was replaced as China Editor of the South China Morning Post and subsequently resigned from the newspaper, alleging that he had come under pressure to tone down or depoliticise his coverage of Chinese affairs. The Editor of the newspaper denied the allegation. A number of groups and individuals, including journalists employed by the South China Morning Post, expressed their unease about Mr Lam's departure.

12. The British Government attaches great importance to the freedom of the media in Hong Kong. The fact that the most significant political issues in Hong Kong continue to be widely discussed in the Hong Kong media is itself a sign of a vibrant press. We welcome the continuing openness of the Hong Kong media, and share the view expressed by Mrs Anson Chan, Hong Kong's Chief Secretary for Administration, on 16 November that the freedom of the media is a litmus test for the principle of "One Country, Two Systems". We also share the view expressed by Donald Tsang, the Financial Secretary, in New York on 15 November that Hong Kong's free and open society, including its free press, is a key to the SAR's economic robustness.

13. A new body, the Hong Kong Press Council, was established in July. On 1 September, it began serving the public as an adjudicator of complaints about press infringement of privacy.

14. Our last six-monthly report referred to the question of legislation against treason, secession, sedition or subversion under Article 23 of the Basic Law. This remains a sensitive issue in Hong Kong, and we will take a close interest in whatever legislative proposals the SAR Government brings forward. The SAR Government has yet to give any indication of the timing or content of such legislation.

15. In September, the United States Administration issued its second annual report on international religious freedom. This included a positive assessment of religious freedom in Hong Kong.

16. Another controversy arose following the news that 120 Christian martyrs who had been killed in China in the 17th to 20th centuries were due to be canonised by Pope John Paul II in Rome on 1 October. The Roman Catholic Church in Hong Kong said that they had been asked by the Liaison Office of the Central People's Government to ensure that their celebration of the canonisation was low-key. Coadjutor Bishop Joseph Zen Ze-kium of Hong Kong publicly expressed his disappointment over the message from the Liaison Office. The canonisations were celebrated, as planned, in a large-scale Mass in Hong Kong on 29 October. Earlier in October, in a written reply to a question in LegCo, Mr Lam Woon-kwong, the Secretary for Home Affairs, reaffirmed that freedom of religion in Hong Kong remained guaranteed by the Basic Law.

CONSTITUTIONAL DEVELOPMENT

17. We reported in the last six-monthly report that the next elections to LegCo were due to take place in September 2000. The elections were held on 10 September under the professional supervision of the Electoral Affairs Commission. The largest party in the previous LegCo, the Democratic Party, won 12 of the 60 seats, one fewer than at the last elections in 1998. The second largest party in the last LegCo, the Democratic Alliance for the Betterment of Hong Kong, won 11 seats, two more than last time, but one of its legislators, Gary Cheng, subsequently resigned his seat (see below, paragraph 19). Nineteen non-affiliated legislators were elected. The turnout rate was 43.6%: lower than at the 1998 elections (53.3%) but higher than the turnout figures in the last two pre-handover elections. The new LegCo elected its principal office-holders and began proceedings on 4 October.

18. After the elections, Mr John Battle MP, Minister of State at the Foreign and Commonwealth Office, issued a statement saying that he hoped the SAR Government would be encouraged to work towards the goal of a LegCo elected entirely on the basis of universal suffrage.

19. A by-election was held on 10 December as a result of the resignation of Gary Cheng, Vice-Chairman of the Democratic Alliance for the Betterment of Hong Kong, as one of the legislators representing Hong Kong Island. Mr Cheng resigned his seat after admitting a conflict of interest between his business and legislative roles. The by-election was won by Ms Audrey Eu, a non-affiliated candidate.

20. The debate on the development of Hong Kong's political system continued throughout the period of this report, in particular on the pace and direction of constitutional change. In his Policy Address in October, the Chief Executive set out his view that a period of gestation was needed; and said that "We have ample time to go through this evolutionary process". He did, however, announce that the SAR Government would look at certain issues of governance in Hong Kong, including the accountability of senior officials, communication between the executive and the legislature and the composition of the Executive Council. We note again that the Basic Law lays down the ultimate goals of a LegCo elected entirely on the basis of universal suffrage and a democratically elected Chief Executive.

21. In December, the SAR Government presented to LegCo a paper outlining preliminary proposals for the election of the Chief Executive in 2002. This stated that the election would take place within the last six months of the current term, which ends on 30 June 2002, and that the electoral body would be the Election Committee which had been constituted to elect six members of the current LegCo. The SAR Government had not previously confirmed explicitly that the Chief Executive in 2002 would be elected by that Committee; and some commentators and members of LegCo had criticised the SAR Government for allowing the uncertainty to continue.

THE LEGAL SYSTEM

22. Our two reports covering 1999 (Cm 4415 and Cm 4594) described the controversy resulting from the right of abode issue. Our last report (Cm 4809) recorded the judgment of the Court of First Instance in June 2000 in another right of abode case. The Hong Kong courts continued

to hear such cases in the period of this report. These included a case in July in which the Court of Appeal upheld a ruling by the Court of First Instance that a child born in Hong Kong to mainland Chinese parents had the right of abode in Hong Kong even if his/her parents did not. The SAR Government, which had asked the Court of Appeal to overturn the ruling of the lower court, has exercised its right of appeal to the Court of Final Appeal, where the case has been scheduled to be heard in March 2001.

23. In November, the Court of Final Appeal delivered its judgment in a highly publicised defamation case. The judgment was criticised by two commentators in the Hong Kong media, one of whom, Mr Ma Lik, a delegate to the National People's Congress, also criticised the presence in the Court of Final Appeal of overseas judges, whom he described as "parachute judges". Mr Ma's criticisms were rejected by, among others, Mrs Elsie Leung, Hong Kong Secretary for Justice, who pointed out that the Basic Law expressly allowed the inclusion of judges from other common law jurisdictions on the bench of the Court of Final Appeal and that the Court of Final Appeal Ordinance requires the inclusion of one such judge, or a non-permanent Hong Kong judge, in appeal cases. Ms Leung added:

"... the fact that judges from other common law jurisdictions can sit on the Court of Final Appeal has received widespread support, both locally and overseas. Moreover, the judges appointed to the Court from such jurisdictions are of the highest international standing. Their appointments have played an important part in establishing the excellent reputation of the Court. They also reflect the confidence placed in Hong Kong's judicial system by other major common law jurisdictions. These have been important factors in preserving confidence in the independence of the judiciary in Hong Kong and in the integrity and wisdom of our judges."

We welcome Ms Leung's comments.

24. Our last report commented on the prospect of an agreement for the rendition of fugitive offenders between Hong Kong and the mainland. Although agreement has yet to be reached and the SAR Government has yet to bring forward any draft legislation on this subject, we continue to take a close interest in the issue.

INTERNATIONAL INTEREST IN HONG KONG

25. The international community's continuing interest in Hong Kong is reflected in the fact that 56 states and five international organisations maintain permanent missions in the SAR. The former include the British Consulate-General; the latter include the Office of the European Commission and two organisations which set up offices in Hong Kong during the second half of 2000. The International Finance Corporation and the International Bank for Reconstruction and Development opened a Joint Regional Office, the first such office in Asia; and the International Monetary Fund established a Sub-Office in Hong Kong.

26. In October, the European Parliament received a report on Hong Kong from its Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy. The Parliament discussed the report and adopted a resolution which, while setting out concerns about a number of issues, expressed the view that:

"... the 'One Country, Two Systems' principle remains reasonably intact and, while requiring constant vigilance, Hong Kong nonetheless remains one of the freest societies in Asia..."

In commenting on the same report, the EU Commissioner for External Affairs, Mr Chris Patten, said:

"The long-term success of 'One Country, Two Systems' was always going to depend on the willingness of Hong Kong people to stand up for their rights and liberties; so far they have shown every sign of being determined to do so."

27. Mr Patten visited Hong Kong on 17-18 October. A delegation of Members of the European Parliament visited Hong Kong in November, at the end of a visit to mainland China.

28. Other senior international visitors to Hong Kong during the period of this report included the Senior Minister of Singapore, the Deputy Prime Minister of Thailand, the Japanese Foreign Minister and the Federal German Interior Minister.

ECONOMY

29. Hong Kong's economic recovery continued in the second half of 2000. The SAR Government again revised its forecast for GDP growth in 2000 upwards, to 10%. Unemployment dropped to 4.6%, although this remains high compared with levels before the Asian financial crisis of 1997-99.

30. The SAR Government and the Hong Kong business community continued to express optimism about the benefits that Hong Kong stands to gain from China's accession to the World Trade Organisation (WTO). Hong Kong is already a member of the WTO in its own right.

31. In October, the Hong Kong Financial Secretary launched the privatisation of 49% of the Mass Transit Railway Corporation. The Financial Secretary said that this would pave the way for other privatisations in the future.

BILATERAL RELATIONS

32. Mr C H Tung, Chief Executive of the SAR Government, visited the UK on 29-31 October. The Prime Minister wrote at the time:

“C H Tung's visit to the United Kingdom is a testimony to the strength of the relationship between this country and the new Hong Kong. We have a friendship rooted in history, but we also have a dynamic relationship which encompasses important commercial links and a wealth of co-operation in many other fields. And as I said when I visited Hong Kong in 1998, Britain's commitment to Hong Kong will never disappear ...”

Mr Tung was accompanied by, among others, the Hong Kong Secretary for Commerce and Industry. The Chief Executive's programme included meetings with the Prime Minister, the Deputy Prime Minister and Mrs Margaret Beckett, the President of the Council and Leader of the House of Commons, and a speech at the annual dinner of the Hong Kong Trade Development Council at which the Lord Chancellor also spoke. At other times during the period of this report, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Financial Services and the Secretary for Transport visited the UK.

33. High-level British visitors to Hong Kong during the second half of 2000 included HRH The Duke of Kent and the Lord Chancellor.

34. The substantial flow of business, professional and personal visitors between the UK and Hong Kong includes welcome numbers of Hong Kong people who come to this country to study. In 2000, more than 8,000 students from the SAR were studying at 143 higher education institutions in the UK. Another 1,000 were studying at further education colleges and 5,000 at schools.

35. The British Council continued to provide a range of educational and cultural services to people in Hong Kong. During 2000, the Council provided English language courses to 45,000 students. It also arranged for the selection of 50 Hong Kong residents for the British Government's Chevening Scholarship scheme, funded by the Foreign and Commonwealth Office, whereby students are given the opportunity to study at post-graduate level in the UK. Events promoted by the British Council in 2000 included the annual British Education Fair, which attracted 20,000 visitors.

36. Hong Kong remains a key trading partner for the UK and a target market for Trade Partners UK (British Trade International). Exports to Hong Kong for January to October 2000 were worth £2.3 billion, 19% more than in the corresponding period in 1999. Imports from Hong Kong to the UK in the first 10 months of 2000 were worth £5.1 billion, 23% more than in January-October 1999.

37. The Hong Kong Chief Executive announced in London on 30 October that the Hong Kong and British governments were collaborating with a number of private sector companies on the Integer Hong Kong project. This involves the construction, on Hong Kong Island, of a pavilion which will demonstrate how living and working environments can be improved by the application of advanced technology and environmentally-sensitive design.

38. We noted in our last report that the SAR Government had announced a widening of the local re-settlement scheme for the 1,400 remaining Vietnamese boat people (VBPs) in Hong Kong. In November, HM Government, having notified Parliament, gave assent to the SAR Government's proposed use of a sum of HK\$11.34 million (approximately £900,000) remaining from a larger sum which HM Government had given to the then Hong Kong Government in 1989/90 for the construction of accommodation for VIPs. The residual funds will be used to decommission the former refugee camps at Pillar Point and High Island.

39. On 25 October, the British Consul-General in Hong Kong, Sir James Hodge, and Ms Sandra Lee, Hong Kong Secretary for Economic Services, signed an Agreement for the avoidance of double taxation on shipping revenues. This was adopted by the Privy Council on 13 December and scheduled to the Double Taxation Relief (Shipping Transport) (Hong Kong) Order 2000. We look forward to the completion of the necessary implementing legislation in Hong Kong.

40. This is the sixth bilateral agreement to have been signed by HM Government and the SAR Government.

BRITISH NATIONALS (OVERSEAS)

41. The Government remains committed to providing a high standard of consular assistance to holders of British National (Overseas) (BN(O)) passports. Cantonese-speaking staff in the British Consulate-General in Hong Kong continue to pay periodic visits to BN(O) passport holders in prison in Thailand to supplement the efforts of our consular staff there.

42. We have noted with concern recent reports about BN(O) passport holders who have experienced difficulties in third countries. In the cases in question, we were either not informed at all that the individuals concerned were in trouble or we were informed too late to offer any practical assistance.

43. The British Consulate-General in Hong Kong devotes substantial resources to providing an efficient consular, visa and passport service. The Passport Section of the British Consulate-General is the largest British passport issuing operation anywhere outside the UK, providing passport services to the approximately 3.5 million British nationals in Hong Kong. In the calendar year 2000, the British Consulate-General issued 116,057 passports. We constantly review our procedures to ensure that this service is maintained and, where possible, improved.

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

44. We are pleased to note that, on 1 December, the Justice and Home Affairs Council of the European Union agreed the new EU Common Visa List and Regulation, under which holders of the Hong Kong SAR passport will be placed on the visa-exempt list. This means that SAR passport holders will be granted visa-free access for short visits to all thirteen Schengen states. The United Kingdom and Ireland already grant such access. The Government pressed hard on Hong Kong's behalf for this outcome. We will continue to seek opportunities to press for visa-free access for both HKSAR and BN(O) passport holders.

45. As at 31 December, 88 countries granted visa-free access to BN(O)s and 73 to HKSAR passport holders.

CONCLUSION

46. We conclude, as we did in our last report, with a positive overall assessment of the implementation of “One Country, Two Systems”. Hong Kong remains a free and open society and a great international city. It continues to look out to the world, and the international community continues to engage with Hong Kong as a place where essential rights and freedoms are respected.

47. The people of Hong Kong are entitled to expect that the principles of the Sino-British Joint Declaration will continue to be upheld and defended. As the Foreign Secretary says in his foreword to this report, the success of “One Country, Two Systems” still requires vigilance, goodwill and a determined commitment to the detailed implementation of the rule of law, freedom of expression and an open society.



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