



**Six-monthly Report on  
Hong Kong  
1 January – 30 June 2011**





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1 January – 30 June 2011**

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
October 2011*

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## FOREWORD

This is the twenty-ninth in a series of reports to Parliament on the implementation of the Sino-British Joint Declaration on the Question of Hong Kong. It covers the period 1 January to 30 June 2011.

The UK Government takes seriously its commitment to Hong Kong under the Sino-British Joint Declaration. This treaty guarantees the autonomy, rights and freedoms that make Hong Kong the successful and prosperous society it is today.

The reporting period was marked by a number of important constitutional developments including the passage by the Legislative Council of Bills which will increase participation in elections in 2012 for Hong Kong's next Chief Executive and to the Legislative Council itself. In my first report to Parliament as Foreign Secretary in September 2010, I welcomed the package of constitutional reforms which are the basis of this new legislation. I congratulate the Hong Kong Special Administrative Region Government and the Legislative Council on this latest milestone and look forward to further substantive progress towards full universal and equal suffrage for the election of the Chief Executive in 2017 and the Legislative Council in 2020.

A further significant development over the reporting period was the decision by Hong Kong's Court of Final Appeal to seek for the first time from the National People's Congress an interpretation of Hong Kong's Basic Law. The rule of law and the independence of the judiciary continue to play an essential role in Hong Kong's prosperity and security. I am pleased to note that judicial links between the UK and Hong Kong remain strong, as evidenced by the appointment during the reporting period of two serving Justices of the Supreme Court of the United Kingdom, as non-permanent judges of Hong Kong's Court of Final Appeal.

More widely, bilateral links between the UK and Hong Kong continue to go from strength to strength. I was delighted to have the opportunity to visit in January and to receive, with the Prime Minister, the Chief Executive of Hong Kong SAR Government in London in September 2011. The depth of our exchanges is a reflection of the continuing importance Hong Kong and the UK hold for each other. That is a very strong reason for our continued commitment to monitoring and reporting on Hong Kong's rights and freedoms. I am delighted that we can, once again, conclude in this report that they continue to be respected.

William Hague  
Foreign Secretary

# SIX-MONTHLY REPORT ON THE IMPLEMENTATION OF THE SINO-BRITISH JOINT DECLARATION ON THE QUESTION OF HONG KONG

## INTRODUCTION

This series of six-monthly reports reflects the British Government's continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the Sino-British Joint Declaration on Hong Kong. In this, the Chinese Government undertook that the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy except in foreign and defence affairs, and that the continuation of Hong Kong's social and economic systems, lifestyles, rights and freedoms would be guaranteed.

In general, we assess that, over this reporting period, the 'One Country, Two Systems' principle of the Joint Declaration has worked well and that the rights and freedoms guaranteed in the Joint Declaration have been respected. The following report considers aspects of Hong Kong's autonomy, rights and freedoms in more detail.

## CONSTITUTIONAL DEVELOPMENTS

### Chief Executive and Legislative Council elections in 2012

In our last report, we recorded in detail the agreement reached between the Legislative Council (LegCo) and the Hong Kong SAR Government on changes to electoral arrangements for 2012.

Under the revised proposals, in 2012, Hong Kong's Chief Executive will be elected by an enlarged Election Committee of 1,200 (up from the previous 800). LegCo will also be enlarged in 2012 from 60 seats to 70. There will be five new members directly elected from each of Hong Kong's geographical constituencies. The other five will be drawn from Hong Kong's District Councils and will sit as 'functional members' (thus maintaining the 50/50 ratio between directly elected and functional constituency seats). However, in a significant departure from previous arrangements for the functional members, the five additional 'functional members', following nomination by elected District Council members, will be elected by the general public.

In March 2011, legislation to give effect to the changes introduced in December 2010 was passed by LegCo. Legislators passed the Government-proposed

amendments to the Chief Executive Election (Amendment) Bill. They also voted in favour of the LegCo (Amendment) Bill.

Secretary for Constitutional and Mainland Affairs Stephen Lam said the constitutional reform package and the amendments proposed by the Government could roll forward the democratic development in Hong Kong and would be conducive to the city's steady transition to universal suffrage.

### District council appointed seats

Under existing constitutional arrangements, 102 out of 534 seats in Hong Kong's District Councils are appointed by the Chief Executive of the Hong Kong Special Administrative Region (HKSAR) Government. When Chief Executive Donald Tsang tabled his proposals for 2012 constitutional reforms to Chief Executive and LegCo elections, he also made a commitment to present proposals to LegCo for the abolition of appointed seats in the District Councils.

On 15 June, in response to a LegCo question from Democratic Party legislator James To, Secretary for Constitutional and Mainland Affairs Stephen Lam said:

"In June last year, when the Chief Executive announced our proposals concerning the 2012 constitutional reforms, he made clear that, after the passage of these reforms, the HKSAR Government would present proposals to the Legislative Council concerning the abolition of the District Council appointment system. We will act accordingly. Our intention is to put forth these proposals as soon as possible before the District Council elections in November this year." He added: "The abolition of the District Council appointment system is an important issue and a development which we are all concerned about. However, there is no direct relationship between the abolition of the District Council appointment system and the ultimate aim of attaining universal suffrage for the selection of the Chief Executive and the formation of the LegCo under Articles 45 and 68 of the Basic Law."

### Legislative Council by-elections

In our report covering the period January to July 2010, we reported the resignation in January 2010 of five LegCo members in what was presented as a "de facto" referendum on the pace of democratic reform in Hong Kong. We noted that the voter turnout of 17.1% in the subsequent by-election represented a record low.

On 17 May 2011, the HKSAR Government introduced proposals for revised arrangements for filling vacancies in LegCo arising from the resignation or

death of a LegCo member in a directly elected seat. The Government described the proposed replacement arrangement as suitable for Hong Kong and consistent with its system of proportional representation.

The system of proportional representation was adopted in 1998 to encourage and sustain the representation of multiple political parties in geographical constituencies in LegCo. The system is based on the largest remainder method and the Hare quota in each of the 5 constituencies. It requires the numbers of votes for each candidate list to be divided by a quota representing the number of votes required for a seat. After a seat has been allocated to each party which has the required number of votes, the largest remainders are then each allocated one additional seat until they are all allocated.

On the detail of the proposals, a Government spokesman from the Constitutional and Mainland Affairs Bureau said:

"A vacancy arising mid-term in the geographical constituencies (GCs) or the newly established District Council (second) functional constituency (DC (second) FC) seats will be filled by reference to the election result of the preceding general election. The first candidate who has not yet been elected in the list with the largest number of remainder votes in the preceding general election will be returned. These constituencies adopt the proportional representation list voting system. The proposed replacement mechanism is consistent with the proportional representation electoral system and reflects the overall will of the electors expressed through the general election.

In the event that the list of the resigned Member still maintains the largest number of remainder votes after discounting the quota of votes required for returning the Member(s), the first candidate who has not been elected on that list will fill the vacancy.

If the candidate concerned has died, or is now disqualified or does not wish to serve, the first unelected candidate on the list with the second largest number of remainder votes will fill the vacancy and so on.

The replacement arrangement does not apply to traditional FCs. A vacancy arising mid-term in the FCs (other than the DC (second) FC) will be filled by a by-election."

The Government spokesman added, "The proposed replacement arrangement will be implemented commencing from the fifth term of the LegCo on 1 October, 2012 after the Legislative Council Ordinance is amended."

The government's proposals sparked widespread public debate in Hong Kong. Executive Council member and Democratic Alliance for the Betterment of Hong Kong (DAB) party Vice-Chairman Lau Kong-wah welcomed the government's proposals which he said could deter legislators from adopting deliberate resignation tactics and wasting public money. By contrast, in a submission to the Legislative Council on 17 June, the Hong Kong Bar Association said the government's proposal to scrap by-elections was incompatible with articles 26 and 68 of the Basic Law, which state that Hong Kong permanent residents should have the right to vote and to stand for election, and that LegCo should be constituted by elections.

The Bar Association also said the proposal would go against the United Nations International Covenant on Civil and Political Rights, which applies to Hong Kong. In its submission, the Association said: "The mechanism does not serve to express the free will of the electors. Rather, it forces the choice of the back-up candidate upon them by operation of law. The electors are deprived, in substance, of their right to vote for the candidate to fill the vacancy. .... Those who wished to seek election when a vacancy arose would also be deprived of their right to stand for election."

In response, a spokesperson for the Constitutional and Mainland Affairs Bureau said the Government had taken legal advice and that the proposal conformed to the Basic Law. Secretary for Constitutional and Mainland Affairs Stephen Lam told legislators that the replacement mechanism could reflect the voters' general will.

Also on 17 June, 63 university academics signed a petition urging the government to drop the proposal. Pan-democrat legislators told the media they were dissatisfied that the Government was trying to push through the proposal in less than a month. A number also expressed unhappiness with the substance of the proposals.

On 18 June, Secretary for Constitutional and Mainland Affairs Stephen Lam said:

“We have observed very closely reactions in the community to our amendment bill regarding the replacement mechanism for vacancies arising in the Legislative Council. We do believe that the legal advice which the Hong Kong Special Administrative Region (HKSAR) Government has sought will stand. There is a strong case for this loophole to be plugged so that serving Legislative Councillors cannot resign at will. We have ensured that our proposals are consistent with Article 68 of the Basic Law in that we will be using the results

of the general election starting from September 2012 to institute a replacement mechanism for Legislative Councillors who resign or in other circumstances where vacancies arise.

Furthermore, this set of proposals is consistent with Article 26 of the Basic Law whereby permanent residents of the HKSAR can vote and can stand for election. Finally, under Annex II of the Basic Law, it is for the HKSAR to enact local legislation to implement provisions whereby we form the Legislative Council and therefore it is for the HKSAR Government to propose a bill and for the legislature to decide on whether or not to support and to enact such a bill.”

“With regard to the opinion of the Bar Association issued yesterday, I would like to emphasize that the HKSAR Government, in proposing the replacement mechanism when vacancies arise in future, we have actually sought legal advice. We are confident that our proposals are consistent with the Basic Law. Article 68 of the Basic Law prescribes that the Legislative Council shall be constituted by elections. In future, we will still be basing our replacement candidate lists on the general election to be held starting from September 2012. Therefore, the requirement that we constitute the Legislative Council through elections will be met. Article 26 of the Basic Law provides that permanent residents of Hong Kong shall have the right to stand for elections and have the right to cast their votes. In future, starting from September 2012, like previously, permanent residents of Hong Kong can cast their votes and stand in elections so Article 26 will be respected. Also, Annex II of the Basic Law provides that it is for the HKSAR Government to propose election bills to the Legislative Council for consideration. That is precisely what we have done now. It is the joint responsibility of the Legislative Council and the Government to respond to the clear community opinion expressed last year – that we need to plug this loophole whereby individual legislators can choose to resign at will to instigate by-elections and to promote the so-called "referendum".”

On 21 June, the Hong Kong Bar Association issued a further press release on the HKSARG’s proposals regarding replacement arrangements in the event of a vacancy of the LegCo saying:

“The Hong Kong Bar Association notes that considerable public and media attention has been generated by its submissions to LegCo in response to the Government’s proposals regarding replacement arrangements in the event of a vacancy.”

“The Bar remains of the view that the Government’s proposals in their present form are contrary to the Basic Law, the Hong Kong Bill of Rights and the International Covenant on Civil and Political Rights. Further, the proposals

represent an unwarranted and unjustified attempt to deprive Hong Kong citizens of their right to vote and their right to stand for election in the event of a vacancy arises in LegCo in the future. The Bar notes that the proposals in their present form would appear to be inconsistent with the Government's standing policy of encouraging members of the public to register in the electoral rolls and exhorting them to exercise their vote.”

Controversy continued throughout late June. On 22 June, 12 pan-democratic lawmakers resigned en masse from the LegCo Bills Committee tasked with examining the by-election proposals. On 29 June, 500 young academics took out a full-page advertisement in Ming Pao newspaper calling on the Government to withdraw the proposal and consult the public. A further group of pro-democrat activists, “Power Voters” took out an advertisement in the Hong Kong Economic Journal, asking the Democratic Party lawmakers to tender resignations in the five Geographical Constituencies to initiate by-elections to oppose the proposed replacement mechanism.

On 28 June, the government announced a revised legislative proposal with the aim of addressing concerns which had emerged from their discussions with the LegCo Bills Committee.

On 29 June, the Hong Kong Bar Association issued another statement on the issue, still questioning the constitutionality of the proposal. The association said the objectionable features of the government's proposal remained and called on the Government to withdraw their proposal and begin a public consultation on the subject. Joining the protests, Law Society of Hong Kong President Junius Ho expressed concern about the haste with which the legislation was being pushed through. He also urged the Government to consult the public on the issue and called on legislators to play their role to check on the Bill.

On 29 June Chief Executive Donald Tsang spoke on the proposal and defended it in public for the first time. He said the community had strong reactions towards the so-called “referendum” last year and expected the Government to take measures to plug the loopholes in the mechanism. He added that the Government had the responsibility to seek effective ways to handle the matter and address public demands. He hoped the public would understand and support the proposal.

In a further newspaper protest, on 30 June, more than 120 professionals and academics issued a joint statement in a full-page advertisement in Ming Pao newspaper. They criticised the proposed replacement mechanism for depriving people's right to vote and urged the public to join a procession on 1 July to express their opposition.

*On 4 July, the government suspended legislative work on the by-election replacement mechanism and launched a two-month public consultation exercise. We will cover the issue in detail in the next six-month report.*

On 30 June, in response to media enquiries, British Consul-General Andrew Seaton said:

**“The UK continues to take a close interest in political and constitutional developments in Hong Kong. We have therefore been following with interest the debate about the government’s proposals for changes to by-election arrangements for directly elected seats in the Legislative Council. This is clearly an issue on which there continues to be a wide range of views in Hong Kong. We hope the government will take this range of opinions fully into account before moving ahead with the proposed changes.”**

**As we noted in our last report, the UK firmly believes that Hong Kong’s stability and prosperity are underpinned by its rights and freedoms and that the best way of guaranteeing these is by Hong Kong moving to a system of full universal suffrage in line with the promised timetable and international standards. We welcome the milestones reached so far and look forward to further substantive progress towards full universal and equal suffrage for the election of the Chief Executive in 2017 and Legislative Council in 2020.**

### **BASIC LAW ARTICLE 23**

Article 23 of Hong Kong’s Basic Law provides that “The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People’s Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.”

In previous reports, we have covered in detail the HKSAR Government’s attempts to introduce national security legislation to meet its obligations under Article 23 of the Basic Law (BL23). Draft legislation was withdrawn in September 2003 following demonstrations on 1 July 2003. As we noted in our last report, at his annual policy address on 13 October 2010, the Hong Kong

Chief Executive Donald Tsang said the government would not attempt to re-introduce the legislation during the remainder of its term.

On 15 June, in response to a reporter's question during his official visit to Macau, Hong Kong and Macao Affairs Office (HKMAO) Director Wang Guangya said:

"Hong Kong should introduce a national security law under Article 23 of the Basic Law. It will be introduced when everyone reaches a consensus." He said he would leave it up to the next administration to decide whether it wanted to take up this duty.

## **ONE COUNTRY, TWO SYSTEMS**

There were a number of high-level exchanges between senior members of the Central People's Government and Hong Kong government and non-government figures over the course of the reporting period.

On 12 January, Vice-President Xi Jinping received a delegation from the Hong Kong Chinese General Chamber of Commerce in Beijing. He told them the Central People's Government would continue to adopt effective measures to support Hong Kong to develop its economy and improve people's livelihoods. The Central People's Government would pro-actively support the Government of the Special Administrative Region in handling the constitutional reform package for 2012 to enable Hong Kong's constitutional development to move forward in accordance with the Basic Law. Noting that the situation of Hong Kong was good in general but the city faced many challenges, Mr Xi said he hoped that delegation members would support the Chief Executive and the HKSARG to govern Hong Kong according to the law, and maintain Hong Kong's social harmony and stability.

On 16 January, Hong Kong and Macao Affairs Office (HKMAO) Director Wang Guangya met 3 pro-government legislators in Shenzhen. This was the first time since the Handover that the HKMAO Director had met a large group of Hong Kong legislators. The Hong Kong media reported that Mr Wang had said that there would be more policies relating to and supportive of Hong Kong in the forthcoming National 12th Five-Year Plan.

On 5 March, the National 12th Five-Year Plan launched at the opening of the annual session of the National People's Congress in Beijing, included for the first time a dedicated chapter on Hong Kong and Macau. The relevant section reiterated previous pledges of support for Hong Kong to boost its status as an international financial, trade and shipping centre and develop its traditional

pillar industries and its leading role in the financial system of the Pearl River Delta. The plan stated that Beijing would encourage Hong Kong to strengthen its role as an offshore hub for renminbi business and an international centre for asset management.

Delivering the State Council's annual work report to the congress, Premier Wen Jiabao said:

"We will make full use of the unique role Hong Kong and Macau play in China's overall development strategy. We will base co-operation between the mainland and Hong Kong and Macau more firmly on a set of mechanisms, and support the deepening of intra-regional co-operation between Guangdong and Hong Kong and Macau for mutual benefit."

Central Government Liaison Office Director Peng Qinghua said the Premier's annual work report and the National 12th Five-Year Plan had further confirmed Hong Kong's role and laid down the city's new targets, which he described as encouraging.

On 5 March, Chief Executive Donald Tsang in his meeting with Guangdong Party Secretary Wang Yang and Guangdong governor Huang Huahua said he was excited with the chapter, which made the direction of Hong Kong's future development more concrete.

On 12 June, Hong Kong and Macao Affairs Office Director, Wang Guangya arrived in Hong Kong for a three-day official visit, the first since he took office in October 2010. His programme included meetings with Chief Executive Donald Tsang, Chief Secretary for the Administration Henry Tang and Bureau Secretaries. Mr Wang also visited the Stock Exchange and the Hong Kong Monetary Authority and met about 150 representatives of various sectors of the community including 40 members of the LegCo.

On 13 June, speaking at a luncheon, Mr Wang urged the city to focus on development. He said the Central People's Government would continue to back the Special Administrative Region. He added that Hong Kong should focus on its infrastructure and long-term development and enhance its co-operation with the Mainland. He also called on Hong Kong people to take into account Hong Kong's long-term interests to reach a consensus over contentious issues and to support the Chief Executive and the SARG's governance.

At a press conference on 14 June, Mr Wang said property and housing was one of the main issues of concern in Hong Kong. Hong Kong people should work with the government to maintain the SAR's competitive edge, amid rapid

development by mainland cities. He also said the central government would continue to give Hong Kong autonomy in its affairs.

During Mr Wang's visit, about 40 members the League of Social Democrats and People Power parties tried but failed to hand petition letters to him calling for universal suffrage and the release of detained Mainland artist Ai Weiwei and jailed Nobel Peace Prize winner Liu Xiaobo.

On 23 June, Chinese Vice President Xi Jinping called on the country's Hong Kong-based political advisors to make greater efforts to promote exchanges and cooperation between the Chinese mainland and Hong Kong. Xi made the remarks during a meeting with a Hong Kong-based delegation of the Chinese People's Political Consultative Conference (CPPCC).

## **POLITICAL PARTIES**

In our last report, we noted a period of change for Hong Kong's political parties. On 8 January the Civic Party elected its new leadership. Lawmaker Alan Leong was elected uncontested as the party's leader, taking over the post from Audrey Eu, while the party secretary general Dr Kenneth Chan was elected party chairman.

On 9 January, legislator Regina Ip inaugurated the New People's Party, pledging to chart a new path for a quality democratic system and economic growth. Ms Ip said she had not discussed the formation of a party with Beijing nor sought its endorsement.

In our last report, we also noted the departure from the Democratic Party (DP) of 28 members. On 15 January another 12 Democratic Party members announced their plans to resign.

On 16 March, the Hong Kong media reported that a group of trade unionists and social democrats, led by former legislator Fernando Cheung had established a new political party provisionally named the Labour Party. The group said they aimed to launch the party formally in late summer. They were not planning to contest the November District Council elections, but were targeting seats in the 2012 LegCo elections.

**As we noted in our last report, we welcome the continuing dynamism and pluralism in Hong Kong politics and their contribution to a lively and inclusive public and civil society agenda.**

## **BASIC RIGHTS AND FREEDOMS**

### **MARCHES AND DEMONSTRATIONS**

Hong Kong people continued to exercise their rights of freedom of speech and association throughout the reporting period, and regular marches and demonstrations continued to be a part of civic life in Hong Kong. Most marches and demonstrations passed off peacefully with only a few resulting in arrests. However, there were concerns in some quarters about the increasingly disruptive tactics of a small minority of protestors.

We report below on some of the larger demonstrations and police and government reactions:

On 1 January, the League of Social Democrats organised a demonstration demanding the release of Nobel Peace Prize laureate Liu Xiaobo and other dissidents jailed on the mainland. The protest ended in peaceful dispersal.

On 1 March, several members of the League of Social Democrats staged a protest to express dissatisfaction with the Government's Budget proposals. Protesters charged at Hong Kong Chief Executive Donald Tsang. A government spokesperson later confirmed one of the protesters "used his body to push the Chief Executive." Hong Kong police arrested a 25-year-old man following the incident, who was subsequently charged with common assault and released on bail.

On 6 March, a larger group took to the street to protest against the government's Budget proposals. Scuffles broke out between activists and police officers, ending with the arrest of 113 protesters who were later released on bail. The pan-democratic parties which organised the protest said more than 10,000 people took part in the march. Police estimated the turnout at 6,300.

On 7 March, in a speech at Peking University in Beijing, Hong Kong Chief Executive Donald Tsang told students that freedom of speech was respected in Hong Kong but added that police needed to maintain order if people obstructed traffic and disrupted order.

On 7 March, Central Government Liaison Office Director Peng Qinghua, in a speech about the 'Role of Hong Kong in the Twelve Five-Year Plan', said the public did not want to see radical acts being used to express people's views. He said he respected Hong Kong residents' rights to express their views through legal means but urged Hong Kong citizens to consider whether their way of expressing them could harm Hong Kong's core values.

During the reporting period, there was a series of demonstrations in support of detained mainland artist Ai Weiwei. On 23 April, protesters led by a coalition of artists (“the Art Citizens”) marched through Kowloon ending with a rally in front of the Cultural Centre. Organisers said 2,000 people took part, however, the police put turnout between 500-900 people. There were no arrests.

On Easter Sunday (24 April), representatives of the League of Social Democrats, the April Fifth Action Group and around 400 members of Falun Gong marched to the Central Government Liaison Office calling for an end to religious persecution in China; and the release of Ai Weiwei. Police maintained order. Again there were no arrests.

On 26 April, about 14 League of Social Democrats members marched to the Central Government Liaison Office to commemorate the People’s Daily Editorial on 26 April 1989 which described the student movement as ‘riots’, and to demand the release of human rights defenders on the mainland. Fifty police and seven police cars guarded the Central Government Liaison Office during the protest. The Hong Kong Journalists’ Association said that it was unacceptable that the police had set up a media area to separate the press from a group of only 14 protestors.

On 15 May, police officers broke up a dance gathering to mark the 7th International Day against Homophobia and Transphobia (Idaho) on grounds that the organizers did not have an entertainment licence. Idaho Chairman Reggie Ho said: "We are simply having a peaceful, meaningful gathering to encourage all gays and lesbians in Hong Kong. The dance had been scheduled to last 30 minutes but was brought to an end after five minutes.

On 4 June, tens of thousands of candle-bearers held a night vigil in Hong Kong’s Victoria Park to mark the anniversary of events around Tiananmen Square in 1989. Police put the number of those taking part at 77,000. The organiser, Hong Kong Alliance in Support of Patriotic Democratic Movements in China, said the figure was more than 150,000. Alliance chairman Lee Cheuk-yan accused the police of trying to stop further participants from entering the park by closing some entrances. 53 people were arrested on charges of assaulting or obstructing police and illegal assembly after the candlelight vigil. All of those detained were released unconditionally by noon on the same day but the police warned they would not rule out future arrests or prosecutions. A spokesman said:

"The Police respect the public's rights to expression, freedom of speech and assembly but they must follow Hong Kong laws and social order when they express themselves."

On 29 May, several political groups organised protests and demonstrations outside the Central Government Liaison Office to petition for the end of suppression of a Jasmine revolution in China and the release Ai Weiwei and other dissidents. Five groups of advocates - including the Hong Kong Alliance in Support of Patriotic Democratic Movements in China, the Hong Kong Journalists' Association and the China Human Rights Lawyers Concern Group - distributed leaflets urging travellers to avoid the mainland because of the suppression of dissidents and activists.

## **FREEDOM OF THE PRESS**

**Article 27 of Hong Kong's Basic Law provides for freedom of the press and publication. Over the reporting period Hong Kong's print, broadcast and digital media carried full and lively coverage of political and economic stories in Hong Kong, mainland China and internationally. In general we assess freedom of press and publication was upheld.**

However, on 27 April, a poll conducted by Hong Kong University's Public Opinion Programme found that of the 1,003 people interviewed between April 11 and 18, 63 per cent thought that the news media exercised caution when criticising the Central Government, compared with 30 per cent who said otherwise. Sixty-two per cent believed the media were able to criticise the Hong Kong Special Administrative Region Government. The number of respondents who were satisfied with the press freedom fell to 68 per cent from 73 per cent recorded in September last year.

Speaking about the survey, Hong Kong Journalists' Association chairman Mak Yin-ting said self-censorship was not a recent issue, but a continuing problem that threatened press credibility and freedom. She added that public awareness of the problem highlighted its seriousness and showed it was time to do something about it.

## **FREEDOM OF MOVEMENT**

On 2 January, exiled Mainland activists Wang Dan and Wu'er Kaixi applied for visas to travel from Taiwan to Hong Kong to enable them to attend the funeral of prominent human rights and democracy campaigner Szeto Wah. On 5 January, the Hong Kong Government informed Wang Dan and Wu'er Kaixi they would not be granted permission to enter.

As we have noted in our previous reports, twelve elected legislators in Hong Kong continue to be prevented from travelling freely to mainland China.

**We hope that the Chinese Government will allow all legislators who wish to travel to do so. The continued inability of legislators to travel to the mainland remains a barrier to open dialogue and mutual understanding.**

## **LEGAL AND JUDICIAL**

### **Article 82 of the Basic Law**

The power of final adjudication of the Hong Kong Special Administrative Region shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal.

On 11 April, Chief Justice Geoffrey Ma welcomed the acceptance by Chief Executive Donald Tsang of recommended appointments of Lord Collins of Mapesbury and Lord Clarke of Stone-cum-Ebony, both serving Justices of the Supreme Court of the United Kingdom, as non-permanent judges on Hong Kong's Court of Final Appeal. The Chief Justice noted that the Administration would seek the endorsement of the LegCo for their appointments.

### **FG HEMISPHERE/ CONGO CASE**

In our last report, we covered the FG Hemisphere Associates sovereign immunity case. We noted that the Court of Final Appeal had rejected an application by the Democratic Republic of Congo to seek an interpretation from the Standing Committee of the National People's Congress (SCNPC) on the case, preferring to consider it themselves.

The central issue in the proceedings was whether the regime of state immunity applicable in Hong Kong today is one of "restrictive" immunity, as was the case prior to Hong Kong's handover on 1 July 1997, or whether it is one of "absolute" immunity in line with the Central People's Government's (CPG) legal framework.

On 21 March, the Court of Final Appeal (CFA) heard the case and on 8 June delivered their provisional judgement that the "one country, two systems" principle did not extend to the doctrine of state immunity, and that the case should be referred to the Standing Committee for the National People's Congress (SCNPC) for an interpretation of Hong Kong's Basic Law.

On the detail, the Court of Final Appeal held by a 3:2 majority that as a matter of legal and constitutional principle, it was not open for Hong Kong to adopt a

different regime of state immunity to that practiced by the Central People's Government. The Court of Final Appeal reasoned that state immunity was, by its very nature, a doctrine concerned with the relations between states and as such was a matter of policy to be determined by the executive.

The Court of Final Appeal considered the Basic Law fully supported the view that the Central People's Government was responsible for determining Hong Kong's policy on state immunity. In particular, Article 13 of the Basic Law expressly reserves the conduct of foreign affairs to the Central People's Government.

The Court of Final Appeal thereafter concluded that certain questions of interpretation should be referred to the Standing Committee of the National People's Congress under Article 158 of the Basic Law. **This was the first time since the Handover that the Court of Final Appeal had taken this step.**

On 8 June, a spokesman for the Department of Justice welcomed the Court of Final Appeal's decision. A Chinese Foreign Ministry spokesman also welcomed the decision and said that Hong Kong could not deviate from state policy and the decision had a meaningful impact on the implementation of "One Country, Two Systems" and the Basic Law.

The Hong Kong Bar Association, said the Court of Final Appeal had acted in accordance with the Basic Law and that there was no question of the judicial autonomy of the courts of the HKSARG being compromised by the decision.

On 9 June, Justice Kemal Bokhary, who dissented from the majority decision with Justice Barry Mortimer wrote "It has been known that the day would come when the court has to give a decision on judicial independence. That day has come." Justice Mortimer wrote: "If the courts failed to apply the law, the rule of law and the integrity of the legal system as a whole would disintegrate."

## **HONG KONG – ECONOMY**

Hong Kong's economy continued to perform strongly in the first half of 2011, growing 7.2 per cent (annualised, year on year) in the first quarter before slowing to 5.1 per cent in the second quarter. While growth in goods exports slowed markedly, services exports held up well, growing almost 8 per cent over a year earlier in the second quarter.

Inflationary pressures remain elevated, with headline consumer price inflation reaching 5.2 per cent in the second quarter. The authorities attributed this to external factors, particularly imported food price inflation, and continued strong

demand for housing. Property prices continued to rise steeply, leading to public debate around affordability. Unemployment remained low, at 3.5 per cent in the second quarter.

On 23 February, the Financial Secretary's Budget statement announced that Hong Kong would end the 2010/11 financial year with a significant surplus of HK\$71.3bn (£6bn), 4.1 per cent of GDP, leaving fiscal reserves at around HK\$600bn at the end of March 2011.

The Budget announced a range of measures designed to reduce the impact of inflation on households (including an electricity subsidy, additional tax breaks and some enhanced welfare benefits). There would also be a HK\$6,000 one-time injection into the Mandatory Provident Fund (MPF) pensions scheme.

On 2 March, the Financial Secretary, John Tsang, announced additional measures after criticism from legislators and the public that the Budget could have done more to help those on low and middle incomes. The HK\$6,000 injection into the MPF was cancelled in favour of a cash payment of the same value to all permanent residents aged 18 and above.

An application for temporary funding to tide the Government over until the Appropriation Bill passed was voted down by the LegCo for the first time in history on 3 March. Some pro-establishment legislators were in Beijing at the time and the Government was left two votes short of the required majority. The lack of support was seen by some in the media as a rejection of the Budget. However, a revised interim funding allocation of \$59.79 billion was passed on 16 March.

On 1 May, the Minimum Wage Ordinance came into effect, with the initial statutory minimum wage rate of HK\$28. The Secretary for Labour and Welfare said that the Implementation of the minimum wage had gone smoothly.

On 10 June the Government announced several measures on the property market, including increased land supply for residential housing and prudential supervisory measures for mortgage lending.

In our last report we covered the introduction of the Competition Bill. The legislation was still under debate by the LegCo during the reporting period with target date for passage May 2012. There has been a vigorous debate in the business community about the merits of the Bill.

The offshore renminbi (RMB) market in Hong Kong continued to grow rapidly in the first half of the year. The Hong Kong Monetary Authority said that RMB

deposits reached 540 billion (£51bn) by the end of May (from 60 billion at the beginning of 2010). Standard Chartered estimate that daily transactions in the offshore RMB exchange market reached over US\$1bn by the end of May. On 29 April the first Initial Public Offering denominated in RMB was issued in Hong Kong by Hui Xian REITS.

## **UK/HONG KONG – BILATERAL**

Bilateral ties between Hong Kong and the UK have continued to go from strength to strength.

Over the reporting period, there were Ministerial visits to Hong Kong by Foreign Secretary William Hague, Trade and Industry Minister Lord Green, Higher Education Minister David Willetts and Foreign Office Minister of State Jeremy Browne. Secretary for Financial Services and the Treasury K C Chan and Undersecretary for Education Kenneth Chen made official visits to the UK. Parliamentary links also continued to develop. Members of the All Party Parliamentary Group on China visited Hong Kong in February, while the LegCo Public Accounts Committee was in the UK in March.

There also continued to be regular working level exchanges between officials on policy issues including global economic developments, social development, climate change, financial service regulation, education policy and law enforcement co-operation.

## **EDUCATION LINKS**

Hong Kong has continued to develop its policy to internationalise and diversify its higher education and in the last six months actively encouraged international providers to set up campuses in Hong Kong.

Two-way student mobility continued to flourish. Hong Kong students studying in UK further education colleges increased by 17 per cent, whilst UCAS applications for the 2011/12 academic year were up 18 per cent by end of June 2011. In total, there were around 17,000 Hong Kong students studying in UK at all levels during the reporting period and 24,000 studying UK higher education programmes taught in Hong Kong.

Links between UK and Hong Kong education sectors were strengthened by the British Council's decision to hold their annual international education conference Going Global in Hong Kong. This was the first time the event had been held outside the UK. It was attended by Hong Kong Chief Executive Donald Tsang, UK Minister of State for Universities and Science David Willetts

MP and Ministers or their representatives from eight other countries. Sir Steve Smith, then President of Universities UK, led a delegation of 16 vice-chancellors and pro-vice-chancellors on a visit to coincide with the conference, paving the way for further collaboration between UK and Hong Kong universities. Following his visit, Mr Willetts agreed to renew the Scholarships for Excellence programme to enable students from England to study on exchange in Hong Kong.

## **BRITISH COUNCIL**

In addition to their work on education links between the UK and Hong Kong, the British Council delivered programmes over the course of the reporting period to support a wide range of arts and science partnerships. In 2010/11:

- 534,806 people visited their website
- 153,414 visited / contacted their customer services centre
- 41,144 students took exams with the British Council
- 24,097 learners were engaged in English learning services
- 269 Arts, Education and Science events took place

## **TRADE AND INVESTMENT**

Bilateral trade between Hong Kong and the UK in goods amounted to almost £5.8bn for the period Jan-June 2011. Hong Kong was the UK's 14th largest export market for goods and the 3rd largest in Asia, after mainland China and India. Exports of goods for Jan-June 2011 amounted to £2.4bn, an increase of 23% compared with 2010.

During the reporting period, UK Trade & Investment (UKTI) supported three Trade Missions to Hong Kong, and UK participation at three international trade fairs in Hong Kong. Hong Kong also continued to be an important market for inward investment into the UK and UKTI's pipeline of projects from Hong Kong continued to be strong.

## **CONCLUSION**

The Foreign Secretary's six-monthly reports to Parliament reflect the UK Government's commitment to the faithful implementation of the Sino-British Joint Declaration on Hong Kong, an international treaty to which the UK is party. We remain fully committed to Hong Kong's continued prosperity and security and we will continue to comment on matters relating to this treaty as and when we judge it appropriate to do so.

At the end of the six month reporting period covered by this report, we are able to conclude that the “One Country, Two Systems” principle enshrined in the Joint Declaration continues to work well and that the rights and freedoms guaranteed in the Joint Declaration have been respected.





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