



Six-monthly Report on Hong Kong January-June 2001

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

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FOREWORD

This is the ninth 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 January to 30 June 2001.

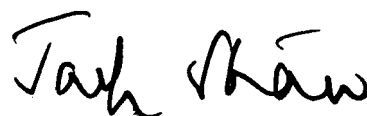
My predecessor as Foreign Secretary presented all the previous reports in this series. I am pleased to present this my first report, and to affirm HM Government's continuing close interest in Hong Kong affairs.

It is now four years since the handover. Our assessment remains broadly positive: "One Country, Two Systems" is working in practice and Hong Kong people continue to enjoy – and vigorously to defend – their fundamental rights and freedoms. In this report, as in previous reports, we highlight issues which have given rise to controversy. One such issue concerned suggestions that the SAR Government might legislate against Falun Gong, a group which is banned in mainland China but legally registered in Hong Kong. I am encouraged by the SAR Government's announcement that it does not at present intend to introduce such legislation.

The essential rights and freedoms promised by the Joint Declaration remain strongly rooted in Hong Kong's political culture. But the success of "One Country, Two Systems" cannot be taken for granted: its success requires full observance of Hong Kong's core values.

Britain and Hong Kong have many common interests as free and open societies governed by the rule of law, and as long-established partners in trade and many other fields. Our close bilateral relationship is based on these shared interests, on the commitment that the United Kingdom undertook with the signature of the Joint Declaration and on an enduring friendship.

Since the last report there have been significant changes among senior members of the SAR Government, with the appointments of Donald Tsang as Chief Secretary and Antony Leung as Financial Secretary. I look forward to working with them and the SAR Government as a whole to develop this relationship further.



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. Four years after the return of Hong Kong to Chinese sovereignty, the British Government continues to take a close interest in Hong Kong affairs. Our interest derives from the Sino-British Joint Declaration, which promised a high degree of autonomy for the Government of the Hong Kong Special Administrative Region (SAR) and enshrined the rights and freedoms of the Hong Kong people, and from our close continuing relationship with Hong Kong.
2. “One Country, Two Systems” is the principle underlying Hong Kong’s constitutional and political position as a Special Administrative Region of the People’s Republic of China, as spelled out in the Joint Declaration. This states that the Hong Kong SAR will have a high degree of autonomy, and that Hong Kong’s social and economic systems and the rights and freedoms of the Hong Kong people will remain unchanged for 50 years. This series of reports to Parliament provides a continuing assessment of the success of these arrangements.
3. Our last six-monthly report (Cm 5067) welcomed the fact that the Foreign Affairs Committee of the House of Commons included Hong Kong in its investigation of the role and policies of the Foreign and Commonwealth Office in relation to China. The Government delivered its main response to the Committee report on 1 February 2001 (Cm 5038) and responded to a number of supplementary questions from the Committee by letter on 14 March. The supplementary response was published on 10 May in the Committee’s Report on the Foreign and Commonwealth Office Annual Report 2001 (HC 428). Another note on Hong Kong from the Foreign and Commonwealth Office to the Committee was published in a special report entitled ‘Work of the Committee during the present Parliament: a progress report’ on 9 January 2001 (HC 78).

HONG KONG SAR GOVERNMENT

4. Mrs Anson Chan announced on 12 January that she would stand down as Chief Secretary for Administration on 30 April. Mrs Chan noted that she had been due to retire in January 2000, but had agreed to stay on until June 2002 because of the economic difficulties facing Hong Kong at the time and because the SAR Government was embarking on Civil Service reform. She said that with Hong Kong now emerging strongly from recession and Civil Service reform largely implemented, and after 38 years as a civil servant (including seven as Chief Secretary), it was time for her to step down. Her decision to leave early attracted considerable comment in the media, both in Hong Kong and internationally. The then Foreign Secretary issued a statement paying tribute to Mrs Chan and to the central role that she played in Hong Kong’s smooth return to Chinese sovereignty and in the successful implementation of the principles of the Sino-British Joint Declaration.
5. Mrs Chan gave her last major speech as Chief Secretary for Administration on 19 April. She spoke of the importance of maintaining the political neutrality of the Civil Service; called for Hong Kong to protect its uniqueness; and said that she believed that a public debate on democratic development in the SAR could not be delayed for too much longer. Mrs Chan also said that her experience as Chief Secretary for Administration had assured her that “on the whole, the Beijing leadership is happy to let the SAR make its own way within its high degree of autonomy”.
6. Mrs Chan was succeeded as Chief Secretary by Mr Donald Tsang, the Financial Secretary. Mr Antony Leung, a member of the Executive Council, was appointed the new Financial Secretary. Mr Leung, a former banker, is the first Financial Secretary to be appointed from outside the Hong Kong Civil Service since the appointment of Sir John Bremridge in 1981.

“ONE COUNTRY, TWO SYSTEMS”

7. The Chinese leadership has continued to stress its adherence to the fundamental principle that Hong Kong should be governed in the spirit of “One Country, Two Systems”, reflecting the principles of the Joint Declaration and the provisions of the Basic Law of the Hong Kong SAR. President Jiang Zemin visited Hong Kong on 8 May, for the first time since 1998. In an opening address at the Fortune Global Forum, President Jiang emphasised that the Central People’s Government (CPG) remained committed to the implementation of “One Country, Two Systems”. He added: “The Chinese Government will never waver or change this policy come what may”.

BASIC RIGHTS AND FREEDOMS

8. We continue to take a close interest in the extent to which the rights and freedoms promised by the Joint Declaration and the Basic Law are upheld in Hong Kong. Our view is that, overall, those rights and freedoms have continued to be respected. But there have been a number of controversies during the period of the report, including the treatment of the Falun Gong group.

9. Falun Gong has been banned in mainland China since 1999. In Hong Kong, it is a legally registered society whose members (estimated to be at most 500 in number) have been free to carry out their activities within the law. On 13-14 January, about 1000 Falun Gong practitioners from around the world held a conference in Hong Kong. They were permitted to use a Government-run venue, City Hall. On 30 January, an official of the CPG Liaison Office in Hong Kong was quoted as saying that it was “absolutely forbidden” for any organisation or individual to turn Hong Kong into a centre for Falun Gong activities. Several local delegates to the Chinese People’s Political Consultative Conference and the National People’s Congress called for Falun Gong to be deregistered.

10. In the Legislative Council (LegCo) on 8 February, Chief Executive C H Tung said that the SAR Government would closely watch the activities of Falun Gong; and that he would not allow anyone to abuse the SAR’s rights and freedoms to make use of Hong Kong as a base for subversion against the CPG. On 19 February, the Director of the CPG’s Bureau of Religious Affairs, Mr Ye Xiaowen, visiting Hong Kong, was reported as saying that no responsible government would turn a blind eye to Falun Gong’s “evil acts”. On 5 March, the Chief Executive visited Beijing and met President Jiang Zemin. Speaking to the press before the meeting, President Jiang said that Falun Gong in Hong Kong was Hong Kong’s affair, and for Mr Tung to handle. In late March, the Hong Kong press reported rumours that the SAR Government was under pressure to legislate against Falun Gong. The Chief Executive denied he was under such pressure.

11. In the days before the Fortune Global Forum (see paragraph 7), the SAR authorities refused entry to Hong Kong to about 100 individuals, most of whom were reported to be Falun Gong followers. Three of those involved were British citizens. The British Consul-General sought clarification from the Secretary for Security, Mrs Regina Ip. In a public statement, Mrs Ip said that it was necessary for the Hong Kong authorities to adopt special security measures to ensure the smooth handling of the Forum and the safety of those attending. She said that no one was refused entry to Hong Kong arbitrarily or on the ground of religious belief, and that those affected would not necessarily be denied entry on other occasions. We acknowledge that Hong Kong’s immigration policy is a matter for the SAR Government. But we take the view that ease of travel to Hong Kong is an essential aspect of Hong Kong’s reputation as a free and open society.

12. During the Forum, Falun Gong were allowed to stage protests and carry out group exercises at some distance from the main venue. These passed off peacefully. The Commissioner of Police, Mr Y P Tsang, has subsequently been reported as saying that the Police would treat Falun Gong like any other group in processing their notifications of planned demonstrations or group practices.

13. In mid-May, there were further press rumours that the SAR Government planned to introduce anti-cult legislation. Religious and human rights groups expressed serious concern about the possibility of such legislation. The Bar Association argued that the SAR Government already had adequate legislation to deal with any undesirable activities. Many commentators took the view that legislation would damage perceptions of Hong Kong's autonomy under the "One Country, Two Systems" principle.

14. On 23 May, the Secretary for Security, appearing before LegCo, ruled out any suggestion that the SAR Government was preparing to legislate against "evil cults" at the present stage. On 14 June, the Chief Executive told LegCo that Falun Gong was undoubtedly an "evil cult"¹. He said that the SAR Government was studying overseas experience in handling cults, but that he did not believe that it was an appropriate time to enact legislation. Mr Tung's labelling of Falun Gong as an "evil cult" attracted considerable controversy. On 21 June, the Chief Secretary, Mr Donald Tsang, said that the SAR Government was not legislating. He stressed the importance of religious freedom in Hong Kong.

15. The British Government takes no position on the merits of Falun Gong. We have been following closely the controversy described in the preceding paragraphs. The fact that Falun Gong has been able to continue to operate freely in Hong Kong is a positive sign that "One Country, Two Systems" is working in practice. We welcome the SAR Government's announcement that it does not at present intend to introduce legislation, particularly since the introduction of legislation would inevitably become the cause of controversy.

16. International scrutiny of the SAR Government's protection of certain rights is provided by the mechanisms of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These have remained in force in Hong Kong since the handover. Hong Kong's first post-handover report under the ICESCR was heard by the UN Committee on Economic, Social and Cultural Rights in Geneva in April. It was defended by a delegation led by Mr W K Lam, Secretary for Home Affairs. In its Concluding Observations on the Hong Kong report, published in May, the Committee commended the actions and policies of the SAR Government in a number of areas. It welcomed, for example, the establishment of a Women's Commission and the effective operation of the Equal Opportunities Commission. However, the Committee made a number of criticisms of the SAR Government. It expressed concern, for example, that the SAR Government had failed to prohibit racial discrimination in the private sector and discrimination on the basis of sexual orientation and age, and had failed to establish a human rights institution or adequate alternative arrangements for the promotion of economic, social and cultural rights. The Committee also expressed the view that "the current arrangements for the election of the Legislative Council include some undemocratic features which impede the full enjoyment of economic, social and cultural rights in the SAR".

17. There has been considerable debate on the issue of racial discrimination. In reply to a question in LegCo on this, the Secretary for Home Affairs said that the SAR Government was seeking views from interested parties on the need for legislation against racial discrimination and the scope of possible legislation, with a view to reaching a conclusion on the way forward in early 2002. Mr Lam said that the SAR Government believed that other kinds of discrimination should

¹ The Chinese term can also be translated simply as "cult".

be addressed through public education. The Chief Executive, in reply to a question in LegCo on 15 June, questioned whether legislation on racial discrimination was the best option, and stressed the importance of education.

18. We welcome the fact that the Hong Kong authorities have continued to allow peaceful and orderly public demonstrations. There were many such demonstrations, by many different groups, during the period of this report. On 4 June, a candlelight vigil was held to commemorate the twelfth anniversary of the Tiananmen crackdown; the organisers estimated that 48,000 people attended. Various groups staged demonstrations during the Fortune Global Forum on 8-10 May, at which President Jiang Zemin delivered the opening address.

19. In previous reports, we have noted the requirement, under Article 23 of the Basic Law, for the SAR Government to enact legislation against treason, secession, sedition or subversion. On 8 February, the Chief Executive said that the SAR Government had always planned on the basis of conducting research on Article 23, undertaking wide public consultation at the appropriate time, and introducing a bill thereafter. We welcome the repeated commitment to undertake wide public consultation on this issue. It will be important for any new legislation to be consistent with the ICCPR and the Basic Law.

20. The freedom of the media is one of Hong Kong's essential liberties, as Mr C H Tung acknowledged in his address to the World Newspaper Congress in Hong Kong on 4 June. Throughout the period of this report, the Hong Kong media continued to report a wide range of political issues and views.

CONSTITUTIONAL DEVELOPMENT

21. The question of the future development of Hong Kong's political system continued to attract interest among legislators and commentators during the period of this report. Before retiring as Chief Secretary for Administration, Mrs Anson Chan said that she believed that a public debate on democratic development in Hong Kong could not be delayed for much longer (see above, paragraph 5). In May, some 40 pro-democracy and human rights groups launched a signature campaign calling for the election of the Hong Kong Chief Executive by means of "one man, one vote". On 13 June, the Secretary for Constitutional Affairs, Mr Michael Suen, told LegCo that, when reviewing the issue of post-2007 constitutional arrangements, including the method of formation of LegCo, the SAR Government would conduct extensive public consultation. It remains our hope that the SAR Government will make early progress towards the realisation of the Basic Law's goals of a fully directly elected LegCo and a democratically elected Chief Executive, at a pace in step with the wishes of the local community.

22. The SAR Government introduced the Chief Executive Election Bill in LegCo on 14 March. The Basic Law contains a number of provisions for the election of the Chief Executive; the Bill makes more detailed provision for the next election, which will result in the appointment of the Chief Executive for a five-year term from 30 June 2002. Among other provisions, the Bill specifies that each candidate must be publicly nominated by at least 100 members of the 800-member electoral body (the Election Committee); that candidates may stand only in an individual capacity and must relinquish any party membership if elected; and that persons holding foreign passports are disqualified from nomination. The Bill also specifies the circumstances in which the CPG can remove the Chief Executive. The SAR Government has announced that the election will be held on 24 March 2002.

23. The SAR Government tabled a number of amendments to the Bill during its examination by LegCo's Bills Committee. These included an amendment to the provision on the removal of the Chief Executive, which some legislators and commentators had strongly criticised on the grounds

that it gave unnecessarily wide powers to the CPG. The Bill was due to be presented for its second and third readings in LegCo on 11 July.

THE LEGAL SYSTEM

24. We have previously described the controversy resulting from the right of abode issue in Hong Kong in 1999. Our last report referred to a case in July 2000 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 though his parents did not. The SAR Government appealed to the Court of Final Appeal (CFA), who heard the case in March 2001. The case was the subject of controversy before the CFA began its hearing because the SAR Government, in its written evidence to the Court, argued that the Court must seek an interpretation of the relevant provisions of the Basic Law from the Standing Committee of the National People's Congress in Beijing. However, the Secretary for Justice, Ms Elsie Leung, said that, whatever the CFA decided, the SAR Government would not itself take the case to Beijing. At the end of the period of this report, the CFA had yet to deliver its judgment in this case, in a case involving adopted children and in a case involving the right of abode claims of several thousand mainlanders.

25. A question in LegCo drew attention to the matter of prisoner transfers between Hong Kong and the mainland. In her reply on 27 June, Mrs Regina Ip, the Secretary for Security, said that the SAR and mainland authorities were still discussing arrangements for Hong Kong and Chinese prisoners to serve sentences in their place of origin, and that it was too soon to say when any implementing legislation would be introduced.

26. In previous reports we have referred to the prospect of an agreement for the rendition of fugitive offenders between Hong Kong and the mainland. Agreement has yet to be reached, and the SAR Government has yet to bring forward any draft legislation on this subject. It remains, nevertheless, an important issue in which we continue to take a close interest.

INTERNATIONAL INTEREST IN HONG KONG

27. Hong Kong remains a popular location for international conferences and events, and the SAR continues to receive high-level visitors from around the world. International conferences held in Hong Kong during the period of this report included the Fortune Global Forum in May and the World Newspaper Congress in June. Senior governmental visitors to Hong Kong in the first half of 2001 included the Prime Ministers of Canada, New Zealand and Thailand and the Foreign Ministers of Australia and Portugal.

28. Representatives of the UN Committee on Economic, Social and Cultural Rights (which monitors observance of the ICESCR) visited Hong Kong in January. Representatives of the UN Committee on Human Rights (which monitors observance of the ICCPR) visited Hong Kong in February.

29. The US State Department published its latest report on human rights practices in Hong Kong in February.

ECONOMY

30. Hong Kong's economy slowed significantly over the first half of 2001 as exports were hit by the global slowdown. The SAR Government has revised its growth forecast for 2001 down to 3%. There has been a small rise in unemployment and deflation has persisted. Interest rates have fallen in line with cuts made by the US Federal Reserve, but the property and stock markets have remained sluggish.

31. There was a small budget deficit for the financial year 2000-01. The SAR Government is carrying out a review of public finances and possible revenue widening measures, and will report at the end of 2001.

32. Mr Donald Tsang's Budget speech in March 2001 placed emphasis on economic integration with the Chinese mainland, including the relaxation of the 'import of talents' scheme to allow more skilled mainlanders to enter Hong Kong to fill gaps in the labour market. In his new role as Chief Secretary, Mr Tsang led a delegation of prominent Hong Kong businessmen to the mainland in May to explore opportunities for Hong Kong companies in the development of China's Western provinces.

33. In May, the SAR Government launched a new Hong Kong brand with a dragon logo accompanied by the words "Asia's world city". Mr Tung said that the SAR Government wanted Hong Kong to play the same role as London plays for Europe and New York plays for North and South America. Mr Antony Leung, the new Financial Secretary, said during a visit to London in June that the logo was intended as a new symbol of Hong Kong as "a progressive, free and stable society".

BILATERAL RELATIONS

34. The close bilateral relationship between the United Kingdom and Hong Kong expresses itself in the thousands of visits and exchanges undertaken each year by government representatives, parliamentarians and legislators, civil servants, businesspeople, lawyers, students and others. British life is enriched by the many Hong Kong people who have settled in this country. Non-governmental bodies play an important role in maintaining and developing UK/Hong Kong relations; these include the Hong Kong Association and the British Chamber of Commerce in Hong Kong.

35. Three members of the British Government visited Hong Kong during the period of this report: Mr Richard Caborn, as Minister for Trade at the Department of Trade and Industry, Mr John Battle, as Minister of State at the Foreign and Commonwealth Office (FCO) responsible for Hong Kong affairs, and Baroness Scotland, as Parliamentary Under-Secretary of State at the FCO. High-level visitors from Hong Kong to Britain in the first half of 2001 included Ms Elsie Leung, the Secretary for Justice, and Mr Antony Leung, the new Financial Secretary, who met Dr. Denis MacShane, the new Parliamentary Under-Secretary of State responsible for Hong Kong and China.

36. The UK and Hong Kong remain major trading partners. Exports to Hong Kong in January to April 2001 were worth £832 million, on a par with January to April 2000. Imports from Hong Kong in the first 4 months of this year were worth £1,814 million, up 5.8% on 2000. In the first half of 2001, Trade Partners UK supported 6 trade missions to Hong Kong and visits by 9 business groups to trade fairs in the SAR. Hong Kong remains the UK's second largest export market in Asia.

37. During his visit to Hong Kong in February, Mr Caborn joined Mr Gordon Siu, Secretary for Planning and Lands in the SAR Government, in the ground-breaking ceremony for the Integer Hong Kong Pavilion. This purpose-build pavilion, which will be a showcase for green and

intelligent building design, is an excellent example of co-operation between the UK and Hong Kong public and private sectors. The pavilion will be opened to the public in the autumn of 2001.

38. We noted in our last report that an agreement for the avoidance of double taxation on shipping revenues was signed by HM Government and the SAR Government on 25 October 2000. The necessary implementing legislation bringing the Agreement into force in both the United Kingdom and Hong Kong has now been completed.

BRITISH NATIONALS (OVERSEAS)

39. We remain fully committed to providing the highest standard of consular, passport and visa services to holders of British National (Overseas) (BN(O)) passports and we regularly remind all our overseas missions of their obligations towards BN(O)s.

40. In our last report, we noted with concern that a number of BN(O) passport holders had experienced difficulties in third countries and that, in the cases in question, we were either not informed at all or were informed too late to offer practical assistance. Baroness Scotland of Asthal (the then Foreign and Commonwealth Office Minister responsible for consular issues) visited Hong Kong on 20-22 May. She took the opportunity publicly to re-state our commitment to BN(O) passport holders, including our commitment to provide consular services to them as needed when they travel in third countries.

41. The Passport Section of the British Consulate-General in Hong Kong remains the largest passport issuing operation outside the UK, providing passport services to approximately 3.5 million British nationals in Hong Kong. The British Consulate-General currently issues some 14,500 passports each month. In recognition of the importance of this operation, the BN(O) passport section was reconfigured and expanded to provide an improved service for its customers. The new offices opened for business on 11 December 2000. In March, the Consulate-General in Hong Kong also became one of our first overseas missions to issue the new-style digitised passport, with its improved security features.

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

42. We are pleased to note that, on 10 April, arrangements for the new EU Common Visa List and Regulation were implemented. Holders of the Hong Kong SAR passport now enjoy visa-free access for short visits to all thirteen Schengen states; the United Kingdom and Ireland already granted such access. With the EU Common Visa List now in force, we have launched a fresh lobbying effort to press those EU member states who do not currently offer visa-free access to BN(O) passport holders to do so. Seven member states (in addition to the UK) already grant such access. We are keen that BN(O) passport holders should enjoy the same visa-free access in Europe as SAR passport holders. We will continue to seek opportunities to maximise the travel opportunities for both SAR and BN(O) passport holders, both in the EU and beyond.

43. As at 30 June, 90 countries granted visa free access to BN(O) passport holders and the same number gave such access to SAR passport holders.

CONCLUSION

44. Our last report concluded with a positive overall assessment of the implementation of “One Country, Two Systems”. Our assessment remains broadly positive. By allowing all law-abiding groups to continue to operate in Hong Kong, the SAR Government has maintained Hong Kong’s reputation as an open and liberal society.

45. Hong Kong's continued success remains dependent on that reputation, and on the SAR Government's continued exercise of the high degree of autonomy promised in the Joint Declaration.



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