



# Six-monthly Report on Hong Kong

## 1 January – 30 June 2008



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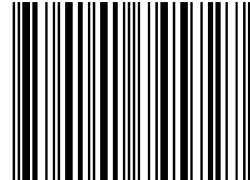
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## **1 January – 30 June 2008**

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
September 2008*

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## FOREWORD

This is the twenty-third 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 from 1 January to 30 June 2008.

Hong Kong was an important part of my first visit as Foreign Secretary to China, in February. This reinforced my impression of Hong Kong as a dynamic, resilient and energetic city, whose people are strongly committed to the rights and freedoms they enjoy.


The issue of constitutional development was high on Hong Kong's agenda at the time of my visit. I hope that, following the next round of public consultation, the Special Administrative Region (SAR) Government will put forward proposals that would represent significant progress in making arrangements for the elections in 2012 more democratic. This will be important in preparing for the introduction of full universal suffrage for the elections of the Chief Executive in 2017 and the Legislative Council in 2020, as envisaged by the National People's Congress Standing Committee. I welcome the SAR Government's determination to achieve this goal.

The response by the Hong Kong people to the tragic earthquake in Sichuan was truly remarkable. And it was most welcome that, shortly after the period covered by this report, the Chinese authorities allowed four Hong Kong legislators previously denied entry to the Mainland to visit Sichuan as part of an all-party Legislative Council delegation. I hope that the Chinese authorities will in future allow all legislators who wish to visit the Mainland to do so, to further develop dialogue and understanding.

Earlier this year, a number of foreign nationals, including two Britons, were denied entry to Hong Kong in the days before the Olympic Torch relay. We expressed our concern at the time that such exclusions risked giving the impression that freedom of expression was being compromised, and that this could damage Hong Kong's international reputation.

As I write, Hong Kong is in the final stages of preparing to host the equestrian events of the 2008 Beijing Olympic and Paralympic Games. These great sporting events will focus the world's attention on developments in China, including Hong Kong. We hope that Hong Kong can showcase itself as a world city.

I will continue to take an interest in Hong Kong and to report to Parliament, in line with the British Government's responsibilities to the people of Hong Kong in the Sino-British Joint Declaration.



David Miliband  
Secretary of State  
For Foreign & Commonwealth Affairs

# SIX-MONTHLY REPORT ON THE IMPLEMENTATION OF THE JOINT DECLARATION ON 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.

## CONSTITUTIONAL ARRANGEMENTS

### **Reaction to the decision issued by the Standing Committee of the National People's Congress**

1. The last Six-monthly Report referred to the decision issued by the Standing Committee of the National People's Congress (NPC) on 29 December 2007 which ruled that the Chief Executive and Legislative Council could be elected by universal suffrage no earlier than 2017 and 2020 respectively.
2. On 9 January, Albert Chan, a Legislative Councillor from the League of Social Democrats, moved a Legislative Council (LegCo) motion condemning the Report on the Public Consultation on the Green Paper on Constitutional Development for giving a distorted account of public aspirations for "dual universal suffrage" (i.e. for universal suffrage to be applied in elections for both the Legislative Council and the Chief Executive). The motion also called for dual universal suffrage to be implemented by 2012. The motion and five subsequent amendments by pan-democratic legislators were supported by a majority of members from geographical constituencies, but were opposed by a majority of those from functional constituencies, and were not therefore carried.
3. A rally took place on 13 January organised by the Civil Human Rights Front and pan-democratic legislators with the theme of "Persisting with dual universal suffrage in 2012, no fake democracy in 2017." Organisers said 22,000 people joined. Police estimated that 6,800 had gathered at the start. Legislative Councillor and former Chief Secretary, Anson Chan, who attended the march said, "We should sit down as soon as possible and discuss how to implement real universal suffrage for the Chief Executive in 2017, and how to implement real universal suffrage for the Legislative Council in 2020." Speaking on Radio Television Hong Kong's (RTHK's) *A Letter to Hong Kong* on the same day, Hong Kong SAR Chief Executive, Donald Tsang, said that following the NPC decision, "For the first time, Hong Kong has a clear timetable for achieving universal suffrage in both the Chief Executive and Legislative Council elections." Mr Tsang went on to say, "Any doubts about the possible timing of universal suffrage have now been dispelled."
4. On 18 January, the Prime Minister, Rt. Hon. Gordon Brown MP, on a visit to China, reported that he had raised the issue of elections in Hong Kong when he met Chinese Premier, Wen Jiabao. He said:

“I welcomed his assurances that they will move to elections for the Chief Executive and for the [Legislative] Council in Hong Kong over the next period of time.”

5. On 24 January, the Presidency of the European Union (EU) issued the following statement on behalf of the EU on universal suffrage in Hong Kong:

“The European Union has consistently supported early progress towards universal suffrage in Hong Kong in accordance with the Basic Law. We consider this to be in the best interests of both Hong Kong and China. We are therefore disappointed that the possibility of universal suffrage for 2012 elections has been ruled out, as the Hong Kong SAR Government has itself recognised in its report that the majority of Hong Kong’s people were in favour of this. At the same time, we note positively Chief Executive Donald Tsang’s statement that a timetable has now been set with a clear prospect of implementation of universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020. The EU calls upon all the parties concerned to agree on constructive proposals for wider suffrage for the 2012 elections which will advance Hong Kong towards the completion of universal suffrage according to international standards, within this timetable.”

6. In response to the EU Statement, a spokesperson for the SAR Government said that the decision by the Standing Committee of the NPC was consistent with the Basic Law, and that it was well received by the community. The spokesperson also said, “The Hong Kong SAR Government is fully committed to the implementation of universal suffrage according to the Basic Law. Now that the universal suffrage timetable has been set, the Hong Kong SAR Government will strive to work towards securing consensus within the community on how to further democratise the two electoral methods for 2012, so as to pave the way for attaining universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020.”
7. On 25 February, Foreign Secretary, David Miliband, during a visit to Hong Kong, said in a press conference:

Our position has been very clear, which is that universal suffrage is the right endgame for democracy in Hong Kong. And we’ve also been clear that the sooner it was achieved the better. That’s why we said that we were disappointed about the 2012 decision. But equally why it was important to put a date of 2017 on full universal suffrage, [with] 2020 as the date floated by the Chief Executive for the legislative elections to be conducted on the basis of universal suffrage as well. [And I think that] What’s important now is that the clear commitments that have been made are seen through in a way that commands confidence and credibility on the part of the people of Hong Kong.”

8. In a speech at the Foreign Correspondents Club on 13 March, British Consul-General, Stephen Bradley, said:

The British Government's position remains the same as before: we want to see democracy in Hong Kong as soon as possible. Now the central government has committed itself as to when it will be acceptable to them, we would be very disappointed indeed if it was not realised in that time frame.

## Democratic development

9. At a meeting of the LegCo Panel for Constitutional Reform on 21 January, Secretary for Constitutional and Mainland Affairs, Stephen Lam, explained that the SAR Government aimed to attain universal suffrage through the following three stages: i) between 2008 and 2012 the focus of discussion would be on how to amend the two electoral methods for 2012; ii) from 2012 to 2017 the focus would be on how to attain universal suffrage for the Chief Executive election in 2017 and how to further democratise the electoral method for LegCo in 2016; and iii) from 2017 to 2020 the focus would be on attaining universal suffrage for LegCo.
10. At the meeting, some legislative councillors including Anson Chan and Cheung Man-kwong argued that the SAR Government should provide LegCo with a "roadmap" to, as well as a timetable for, dual universal suffrage.
11. In a meet-the-media session on 28 February, Stephen Lam said, "The fact of the matter is the electoral arrangements for returning the Chief Executive in 2017 through universal suffrage will not be the responsibility of the third-term Hong Kong SAR Government. It will be for the Chief Executive to be elected in 2012 and the Legislative Council to be formed in 2012 to address questions and the specific arrangements for returning the Chief Executive in 2017 through universal suffrage."
12. On 21 February, Donald Tsang appointed 30 people to join the Task Group on Constitutional Development of the Commission on Strategic Development. Its terms of reference were:  
  
*"To study feasible options for electing the Chief Executive and for forming the Legislative Council in 2012, within the framework set out by the Decision of the Standing Committee of the NPC on 28 December 2007, with a view to laying a solid foundation for attaining universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020."*
13. On 27 March, an SAR Government spokesperson said that the SAR Government hoped the Task Group would complete discussions around the middle of the year, after which "the Government will consolidate options which may be considered for amending the two electoral methods for 2012 in the fourth quarter of this year." They would conduct another round of public consultation "as early as possible." The Task Group concluded its discussions on the two electoral methods for 2012 on 27 June.



## Debate on the future of Functional Constituencies

14. During the reporting period, there was significant discussion on the future of the functional constituencies. On 1 January, local newspapers reported Stephen Lam's comments on an RTHK programme the previous day that "Universal suffrage means all of the 3.3 million registered voters have their chance to cast their ballots." He went on to say, "Either it is one person, one vote to directly elect all 60 seats from geographical constituencies, or there can be one person, two votes, where they can vote both in the geographical and functional constituencies."
15. On 6 January, speaking on RTHK's *A Letter to Hong Kong*, Civic Party Chair, Audrey Eu, said that Li Fei's (Deputy Director of the NPC Standing Committee's Law Committee) suggestion that functional constituencies comply with the International Covenant on Civil and Political Rights (ICCPR) was "in direct contradiction to the opinion of the United Nations Human Rights Committee... twice they have held the functional constituencies to be in contravention." In response, on the same day a spokesperson for the Constitutional and Mainland Affairs Bureau said, "...in 1976 when the ICCPR was applied to Hong Kong, a reservation was made by the United Kingdom Government reserving the right not to apply sub-paragraph (b) of Article 25 to Hong Kong<sup>1</sup>. In accordance with the notification given by the Central People's Government to the UN Secretary-General in 1997 and Article 39 of the Basic Law, this reservation continues to apply to the Hong Kong SAR after its establishment... We are aware of the comments made by the United Nations Human Rights Committee regarding the reservation. While the Government respects the Committee, we do not accept those comments and do not agree that the Committee could determine the status of the reservation."
16. On 15 May, in the Chief Executive's LegCo Question and Answer Session, Donald Tsang said, "Definitely there are some methods of taking the current functional constituencies and expanding them to become the basis, or using different ways to reach fair and equal (election) methods... I want to ask why some interesting things have happened in the current most advanced democratic systems. Why is there a bi-cameral system? Why are there life peers in the UK Parliament? Why are there indirect elections in the United States? The reasons are that they need to cater to the local political, environmental, and social needs."

## Debate on the future nominating committee for the Chief Executive election

17. On 28 February, speaking after a meeting of the Task Group on Constitutional Development, Stephen Lam reported that many members of the Task Group held the view that the Election Committee in 2012 could be transformed into a nominating committee for nominating the Chief Executive candidates in 2017.
18. During the reporting period, a number of pan-democrats voiced their concerns that the future nomination mechanism might exclude candidates representing certain platforms. Speaking on RTHK's *A Letter to Hong Kong* on 3 February, Democratic Party Chairman, Albert Ho, said, "...the direct election of the Chief Executive, even if it is held in 2017, may be subject to a screening process by the nomination committee such that [the] screening process will ensure there will be no real competition between politicians holding alternative platforms and hence no meaningful choice for voters."

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<sup>1</sup> Article 25(b) of the ICCPR states that "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."



## Expansion of the Political Appointment System

19. The Principal Officials Accountability System (POAS) was first introduced by former Chief Executive Tung Chee Hwa in July 2002. Under the POAS, the Chief Secretary, Financial Secretary, Secretary for Justice and heads of all government bureaux would no longer be politically neutral career civil servants but would be political appointees chosen by the Chief Executive. The Political Appointment System is an extension of the POAS and involved the addition of two further layers of political appointees into SAR Government bureaux.
20. On 20 May, Donald Tsang announced the appointment of eight Under Secretaries under the Political Appointment System<sup>2</sup>. The job description of the Under Secretaries is: “To assist directors of bureau in undertaking the full range of political work (including LegCo business) and to deputise for the directors of bureau during the latter’s temporary absence.” On 22 May, Donald Tsang announced the appointment of nine Political Assistants<sup>3</sup>. The job description of the Political Assistants is to “Provide political support and input to the director and deputy directors of bureau and to conduct the necessary political liaison.”
21. In a media session he said, “The appointments mark a key milestone in Hong Kong’s development of its accountability system. The appointees will assist the respective bureau secretaries in implementing the policy blueprint and agenda to better serve the community...I am impressed by their commitment and passion in serving Hong Kong. They will certainly bolster the strength and capacity of our team of political appointees. As the political appointment of Under Secretaries and Political Assistants is a new arrangement, there is bound to be a period of transition. However, I am confident that they will work closely as a team with the bureau secretaries and our highly professional civil servants in serving Hong Kong.”
22. Of the 17 new appointees, three were members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) (Gregory So, Raymond Cheung and Caspar Tsui), and one was a Liberal Party member (Jeremy Young).
23. DAB Chairman, Tam Yiu-chung, welcomed the appointments as a means to help the formation of good policies. But a number of pan-democratic legislators criticised what they saw as a lack of suitability of a number of the appointees to their new jobs and the lack of transparency of the recruitment process. On 21 May, Anson Chan said, “Without a spirit of mutual trust [between senior civil servants and the new appointees], the morale of civil servants would be affected. In short, I believe the new system lacks transparency, muddling roles and duties, and the Chief Executive is concentrating all power in his own hands.”

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<sup>2</sup>The eight Under Secretaries appointed were: Mr Gregory So (Commerce and Economic Development); Mr Raymond Tam (Constitutional and Mainland Affairs); Mr Kenneth Chen (Education); Dr Kitty Poon (Environment); Ms Julia Leung (Financial Services and the Treasury); Professor Gabriel Matthew Leung (Food and Health); Ms Florence Hui (Home Affairs) and Mr Yau Shing-mu (Transport and Housing).

<sup>3</sup>The nine Political Assistants were: Mr Frankie Yip (Political Assistant to the Financial Secretary); Mr Raymond Cheung (Political Assistant to the Secretary for Development); Mr Jeremy Young (Political Assistant to the Secretary for Education); Miss Linda Choy (Political Assistant to the Secretary for the Environment); Ms Katherine Ng (Political Assistant to the Secretary for Financial Services); Mr Paul Chan (Political Assistant to the Secretary for Food and Health); Mr Caspar Tsui (Political Assistant to the Secretary for Home Affairs); Ms Zandra Mok (Political Assistant to the Secretary for Labour and Welfare) and Mr Victor Lo (Political Assistant to the Secretary for Security).

24. Soon after the appointments of the Under Secretaries had been announced, it was revealed that one of the new Under Secretaries, Gregory So, held Canadian citizenship. It was subsequently discovered that four other Under Secretaries and several of the Political Assistants also held foreign citizenship. Following comments from a number of pan-democratic legislators that an Under Secretary holding a foreign passport might constitute “double loyalty”, a spokesperson for the Chief Executive’s Office said that according to the Basic Law, there was no restriction on the nationality of Under Secretaries. However, on 29 May, Gregory So announced that he had submitted papers to the Canadian Consulate-General to renounce his Canadian citizenship. Over the next few days, all the other Under Secretaries holding foreign nationality and one of the Political Assistants, Caspar Tsui, confirmed that they had begun the process of renouncing their foreign citizenships. The three other Political Assistants who held foreign citizenship (Jeremy Young, Katherine Ng and Victor Lo) chose not to renounce these citizenships.
25. On 8 June, Albert Ho, Speaking on RTHK’s *A Letter to Hong Kong* said, “While the Deputy Secretaries all eventually succumbed to public pressure and renounced their foreign nationalities, they have left an impression on the public that they lack political sensitivity and insight to handle delicate political matters. It appears that a political convention requiring Deputy Secretaries to be a Chinese national without foreign right of abode has been developing. The convention demands that political appointees demonstrate their commitment to serve the local community. I must say that this political convention should in no way be understood as a sign that Hong Kong is beginning to close its door to foreign talents. There is a legitimate public expectation that the small circle of top political leaders should be representative of the community whom they serve. They must therefore display their allegiance to the country to which their constituency belongs.”
26. In response to Albert Ho’s comments, the SAR Government issued a statement on the same day in which it said, “Under the Basic Law, the Under Secretaries and Political Assistants are not Principal Officials and do not have to be appointed by the Central People’s Government. They are appointed by the Chief Executive. In accordance with the Basic Law, as public servants, they have to be permanent residents of the HKSAR... The restriction under Article 61 of the Basic Law on not having foreign right of abode only applies to Principal Officials but not Deputy Directors of Bureaux (i.e. Under Secretaries).” Towards the end of June, in response to a question from a South China Morning Post reporter, the British Consulate-General confirmed that **“We do not believe that any of the recent appointments of bureau undersecretaries breached the Joint Declaration.”**
27. On 26 June, Democratic Party Legislative Councillor, Lee Wing-tat, proposed a motion in LegCo “Seeking papers, books, records and documents regarding the salary and fringe benefits of Under Secretaries and Political Assistants.” Before the debate, Donald Tsang, in the first ever appearance of a Chief Executive at a regular LegCo meeting, offered what he termed a personal explanation of the recruitment process. He said, “It is true that from the beginning I felt regretful and disappointed about the continuing political dispute triggered by the expansion of the accountability system. But on second thoughts, the dispute was unavoidable and could not be avoided in the course of constitutional development. Whatever information that could be made public, has now been made public. This dispute should be put to rest.”

## The Legislative Council

28. On 21 January, DAB Legislative Councillor, Lau Kong-wah, expressed concern that expenses incurred by the newspaper “Apple Daily” in promoting Anson Chan’s candidature for last December’s Hong Kong Island by-election had not been counted in Anson Chan’s campaign expenditure. Anson Chan said during the Panel meeting that she had complied with electoral guidelines and had not asked for any favours from media organisations. On 17 March, Stephen Lam reported that this case had been transferred to the Independent Commission Against Corruption (ICAC) for investigation.
29. At a meeting of the Constitutional Affairs Panel on 21 January, Civic Party Legislative Councillor, Ronny Tong, expressed concern that the 13 organisations and persons who were approved to conduct exit polls for last year’s District Council elections were associated with candidates in the election. Professor Robert Chung, the Director of Hong Kong University’s Public Opinion Programme, on a number of occasions during the reporting period called for international standards to be introduced in Hong Kong to govern exit-polling activities. Professor Chung claimed that during recent elections, certain political parties conducted exit polls then used the results to influence election strategies. A number of political parties have expressed concerns on similar lines. From 25 March to 23 April, the Electoral Affairs Commission (EAC) carried out a public consultation on their proposed guidelines on election related activities in respect to the 2008 LegCo election. The proposed guidelines included new measures to control the conduct of exit pollsters, including requiring interviewees to: make clear that their poll is not commissioned by the Government; and identify the name of the organisation or person conducting the poll. The EAC has said that their decision with respect to the issues addressed in the guidelines will be taken in the light of responses received to the consultation exercise. No decisions were announced by the EAC within this reporting period.
30. Twelve elected legislators in Hong Kong continue to be prevented from travelling freely to Mainland China. On 5 March, CPPCC delegate Dr Elizabeth Wang suggested in a small group CPPCC meeting in Beijing that, in view of the Beijing Olympics, the Central People’s Government should allow all legislators to visit the Mainland. Dr Wang said, “It would be good if they [the legislators currently prevented from entering the Mainland] have the opportunity to hold dialogue with state leaders.” Dr Wang’s suggestion was welcomed by a number of pan-democratic legislators. As we have said in previous reports, **the inability of some legislators to travel to the Mainland is a barrier to open dialogue between the three parties - the Chief Executive, the Legislature and the NPC Standing Committee. We hope that the Chinese authorities will allow all legislators who wish to visit the Mainland to do so, to further develop dialogue and understanding.**

## NPC Elections and CPPCC members

31. On the 25 January, 36 local deputies were elected by a 1,231 electoral conference to represent Hong Kong SAR in the National People’s Congress for the next five-year session. 23 of the successful candidates were already serving deputies. The 13 new deputies included President of the Legislative Council, Rita Fan, former ICAC head, Fanny Law, and ExCo members Bernard Chan and Laura Cha. None of the four candidates from the pan-democratic camp were successful. The following day, on 26 January, 126 Hong Kong delegates were appointed by the Chinese Central People’s Government (CPG) as members of the Chinese People’s Political Consultative Conference (CPPCC), also for a five-year term.

## **Central People's Government**

32. On 1 April, Premier Wen Jiabao announced that newly elected State Councillor, Liu Yandong, would be responsible for Hong Kong and Macao affairs. On 9 April, Deputy-Director of the HKMAO, Chen Zuoer, retired. HKMAO Liaison Office Director General, Hua Jian, was named Deputy Director as his replacement.
33. On 27 June, the SAR Government announced that Vice-President Xi Jinping would visit Hong Kong in July in his capacity as Head of Olympic preparations to oversee Hong Kong's Olympic and Paralympic games arrangements. During the visit, in addition to visiting Olympic venues, the SAR Government announced that Vice-President Xi Jinping would also "receive reports from relevant committees." Vice-President Xi is head of the Chinese Communist Party's "Leading Group on Hong Kong and Macao Affairs."

## **LEGAL AND JUDICIAL**

34. On 15 January, the Hong Kong Bar Association (HKBA) issued a circular to its members to inform them that its Chairman, Rimsky Yuen, had been appointed in December as a member of the Guangdong Provincial Committee of the CPPCC. This prompted criticism from some Bar Association members including Audrey Eu who said, "Barristers and the chairman of the Bar Association should be independent. The Chairman has a prestigious status and should speak clearly on major issues of society and should not accept political appointments as individuals." A number of Bar Association members including former Chairman, Ronny Tong, also expressed dissatisfaction at the timing of the announcement which was made two days before Mr Yuen's uncontested re-election as Bar Association Chairman. Mr Tong said, "I am sure that if others had known of this post, we would have nominated an alternative candidate to stand for election, but we have no time now." In a press statement issued by My Yuen on 16 January, he denied there was any conflict of interest between the two roles. Mr Yuen also said, "my position in the CPPCC will not inhibit me from conducting the affairs of, and speaking out on behalf of, the Bar Association in accordance with its traditions, values and objectives."
35. After eight years of discussion and consultation, legislation was published in Hong Kong on 6 June to implement civil justice reforms. The finalised court rules aim to improve the cost-effectiveness of the civil procedure system and to reduce complexity and delays in litigation in Hong Kong. The target date for implementation is 2 April 2009.

## **'ONE COUNTRY TWO SYSTEMS'**

36. On 7 May, DAB legislator Wong Ting-gwong put a motion to LegCo urging the SAR Government to step up its co-operation with the Mainland in implementing the "co-location of immigration and customs facilities" at Kowloon Station and Hong Kong International Airport. During the debate on the motion, Civic Party Legislative Councillor, Margaret Ng, suggested that such plans involving Mainland officials having legal jurisdiction in the Hong Kong SAR might be in breach of Article 18 of the Basic Law. Secretary for Transport and Housing, Eva Cheng, said that a special Government task group would be set up to study the issue to ensure it would not contravene the Basic Law. A number of legislative councillors abstained from voting on an amendment to the motion, and the motion was not passed.

## BASIC RIGHTS AND FREEDOMS

### Freedom of expression

37. On 26 April, Secretary for Security, Ambrose Lee, speaking on an RTHK radio programme said that Hong Kong would not welcome anyone who advocated the splitting of the country and he urged restraint on those considering protesting during the Olympic Torch Relay's passage through Hong Kong. Later that day, Danish sculptor, Jens Galschiot, and his two sons were refused permission to enter Hong Kong. According to a letter from the Hong Kong Director of Immigration, Mr C P Yu, to Mr Galschiot on 16 June, this was on the grounds that their "presence in Hong Kong was not considered to be conducive to the public good". The Galschiots were planning to visit Hong Kong in order to participate in the 1 May demonstrations and to attend the 2 May Olympic Torch Relay to protest at human rights violations in China.
38. Over the following few days, a number of other foreign campaigners were prevented from entering Hong Kong by the Hong Kong immigration authorities. These included two British nationals on 29 April.
39. On 29 April, the Danish Consul-General, the French Consul-General (representing the Presidency of the European Union), and the European Commission's representative in Hong Kong, Thomas Roe, met Ambrose Lee to discuss the Immigration Department's decision to refuse the Galschiots entry to Hong Kong. On 2 May, British Consul-General, Andrew Seaton, met Mr Lee to seek clarification on the circumstances surrounding the decision to deny entry to the two British nationals. The Consul-General was supported by representatives from the French Consulate-General, representing the Presidency of the European Union, and the European Commission. **We expressed our concern at the time that such exclusions risked giving the impression that freedom of expression was being compromised and that this could damage Hong Kong's international reputation.**
40. Regarding possible protests during the Olympic Torch Relay's passage through Hong Kong, Secretary for Security, Ambrose Lee, reportedly said to journalists on 29 April, "I appeal to those who wish to stage any protest or demonstration, that they should exercise restraint, and not to provoke the sentiment of the spectators. We do not want any breach of the peace, or the police will have to exercise their authority to maintain law and order."
41. On 2 May, thousands of Hong Kong people lined the route of the Olympic Torch Relay to cheer its passage through Hong Kong. There were some reports of police forcibly removing placards from protesters, and a Hong Kong University student who unfurled a Tibetan flag was removed by police, who said they had done so for her own protection.

### Race Discrimination Bill

42. The Government carried out a public consultation on the proposed Race Discrimination Bill in 2004, and it was introduced to the LegCo for a First Reading Debate in December 2006. Some legislative councillors, non-governmental organisations, and other groups within Hong Kong have raised a number of issues with the original Bill. These issues included: its perceived limited applicability to Government actions; the definition of indirect discrimination in the Bill; and the omission of provisions on discrimination on the basis of nationality and residency status and on indirect discrimination on the basis of language.



43. On 9 January, a group including pan-democratic legislators, members of the Constitutional and Mainland Affairs Bureau's Committee on the Promotion of Racial Harmony and members of non-governmental organisations issued a joint statement criticising the proposed Race Discrimination Bill for containing "four loopholes."
44. On 10 January, a number of local newspapers reported that the Chairman of the United Nations Committee for the Elimination of Racial Discrimination (CERD), Regis de Gouttes, had written to the Permanent Representative of the Permanent Mission of China to the UN last year informing China that the proposed Hong Kong Race Discrimination Bill did not appear to conform to the Committee's recommendations.
45. On 24 February, the SAR Government issued a statement re-iterating its commitment to combating racial discrimination and saying that the Government was considering amending the Bill to make clear that, when enacted, it would apply to Government. The statement said, "The Government will work closely with the Bills Committee of the Legislative Council with a view to resuming second reading of the Bill within the current Legislative Council session," and that the CPG would soon submit its 10th and 13th periodic reports on the implementation of the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) which would cover the Race Discrimination Bill.
46. On 3 March, the Chair of the LegCo Race Discrimination Bill Committee, Margaret Ng, led a delegation, organised by Human Rights Monitor, to Geneva to present their concerns on the Bill to CERD.
47. On 7 March, the Chair of CERD wrote a second letter to the Permanent Representative of the Permanent Mission of China to the UN in which it mentioned a number of issues and asked for the CPG to submit its reports by 1 July 2008.
48. On 12 June, the Hong Kong Bar Association (HKBA) made a submission to the Bills Committee in which it said that "Although the Administration has indicated that it would propose committee stage amendments to clauses 3 and 4, the HKBA considers that the Bill remains unsatisfactory on a number of important aspects."

### **Freedom of speech**

49. On 8 January, Eastern Magistrate, Mr Douglas Yau, dismissed a case against the convenor of Citizens' Radio, Tsang Kin-shing, and five other defendants brought by the Office of the Telecommunications Authority (OFTA). In 2007, the Broadcasting Authority rejected Citizens' Radio's application for a broadcasting licence and the six defendants had subsequently been charged with illegal broadcasting using illegal devices. Mr Yau ruled that as the decision to grant a licence lay solely with the Chief Executive under the recommendation of the Broadcasting Authority, half of whose members were appointed by the Chief Executive, the current licensing regime and the charges based upon a failure to comply with it were unconstitutional. He subsequently dismissed all the charges against the defendants. However, Mr Douglas Yau agreed to the prosecution's request to suspend the ruling pending the outcome of an appeal. On the same day, the SAR Government issued a press release in which it said that "As a result of the Magistrate's decision to suspend his ruling and pending the outcome of the appeal, unlicensed broadcasting remains a criminal offence and anyone engaged in such activities...is liable to criminal prosecution."

50. On 10 January, Court of First Instance Judge, Mr Justice Barnabus Fung, agreed to a Government request to issue a temporary injunction preventing Citizens' Radio from going back on the air. Mr Justice Fung said, "The magistrate's suspension order was not to suppress freedom of expression but to safeguard public safety. I agree that there is a need for such an injunction to retain the necessary control over unlicensed radio communications which can intervene with the telecommunications channels used in emergency and aviation services." However, on the evening of 10 January, Citizens' Radio broadcasted a one hour talk show with the theme of encouraging people to join an upcoming march in support of universal suffrage.
51. On 21 January, High Court Judge, Mr Justice Michael Hartmann, dismissed a Government application for an extension to the 10 January injunction on the grounds that: there was insufficient evidence to suggest that the channel had interfered with the emergency services or led to copycat behaviour; "there was no evidence of any great urgency exercised in the past to close down the broadcasts;" and the SAR Government lacked evidence to show that Citizens' Radio had triggered any complaints from the public. However, regarding the injunction, Mr Justice Hartmann said, "Unless the integrity of our judicial system is honoured, this court will be unable to afford the very protection that the defendants themselves have sought from it."
52. On 23 May, six legislative councillors and five activists from Citizens' Radio attended a hearing in the Eastern Court regarding the Citizens' Radio broadcast on 10 January. The case was adjourned to 15 October, pending the result of the SAR Government's appeal against Mr Yau's judgement on 8 January. This appeal will be heard in the Hong Kong Court of Appeal on 10 September.

## **Media**

53. In an interview with Radio Singapore International on 7 April, Anson Chan said that "Ten years after the return of Hong Kong to Chinese sovereignty, self-censorship continues to be on the rise and to manifest itself in a variety of forms...Hong Kong also suffers from involuntary as well as voluntary self-censorship. Journals that have a reputation for being too critical of the Hong Kong and/or Central Governments find it hard, if not impossible to attract advertising revenue."
54. On 8 May, Court of First Instance Judge, Mr Justice Michael Hartmann, ruling on a judicial review of the Broadcasting Authority's decision that a television programme called Gay Lover broadcast in July 2006 had been "partial and biased towards homosexuality" and was "unsuitable for broadcast within the family viewing hours" ordered the Authority to overturn its decision. In his ruling, Mr Justice Hartmann said that the Broadcasting Authority's finding had resulted from a misunderstanding of its own code of practice. He said that this had resulted in "an impermissible restriction on the freedom of speech, a restriction founded materially on a discriminatory factor; namely, that homosexuality, as a form of sexual orientation, may be offensive to certain viewers." Mr Joseph Cho who had been interviewed on the programme and who had sought the judicial review, welcomed Mr Justice Hartmann's decision. He said, "I think it paves the way for homosexual people to fight for their rights as the judge has sent a very clear and strong message: discrimination against homosexuality is unlawful and unconstitutional, which has a binding power over the government. I think we can make good use of it to urge the government to enact anti-discrimination laws as soon as possible."



## Release of Ching Cheong

55. On 5 February, Mr Ching Cheong, a Hong Kong-based correspondent for Singapore's The Straits Times was released on parole from prison on the Mainland. Mr Ching was approximately half way through a five-year sentence on charges of spying for Taiwan. On the day of his release, Mr Ching issued an open letter thanking Donald Tsang and officials from the Security Bureau for their concern and efforts. On the same day, Donald Tsang said, "For Mr Ching Cheong, I hope him well. I'm very happy he came home. I hope his family and he will be very happy together celebrating the Lunar New Year. I wish Mr Ching and his family good health and happiness". In an interview on RTHK's Newswrap on 21 February, Mr Ching, a Hong Kong citizen and British National (Overseas) passport holder, denied that he had ever been in possession of state secrets and stressed that he considered himself to be a patriot. He also noted the concern that the British and American Governments had expressed to the Mainland authorities regarding his case.
- 56. We raised our concerns about Mr Ching's case with the Chinese authorities on a number of occasions following his arrest in 2005, including through a formal demarche in March 2006. We join all those in Hong Kong who campaigned tirelessly for Mr Ching in welcoming his release.**

## Marches and Demonstrations

57. On 1 May, several thousand people joined a series of public meetings and processions, the largest of which were organised by the Federation of Trade Unions (FTU), and the Confederation of Trade Unions (CTU). The organising secretary of the CTU, Walker Fung, said, "This year our main theme is about raising salaries to keep up with an 8.3 per cent inflation rate, legislation for a minimum wage, standardised work hours and collective bargaining." Several hundred foreign domestic workers took part in the events, including a rally in Victoria Park organised by the Coalition for Migrants' Rights in which they called for an end to "underpayment and excessive agency fees." In response to the rallies of 1 May, a spokesperson from the Labour and Welfare Bureau said, "The Government is highly concerned about workers' rights and strives to create a harmonious labour relationship. In view of the ever-changing social environment and needs, we shall, taking into account the needs of both employers and employees, review our labour policies from time to time to respond to developments on the social and economic front."
58. On 1 June, the annual march to commemorate the events of 4 June 1989 took place. Police estimated that 600 people took part, and the organisers put the figure at around 1,000. The Chairman of the Hong Kong Alliance in Support of Patriotic Democratic Movements in China, Szeto Wah, led a three-minute silence before the march to remember the victims of the Sichuan earthquake.
59. The organisers of this year's annual 4 June candlelight vigil decided to turn it into a remembrance of both the events of 4 June 1989, and the Sichuan earthquake. The police estimated that 15,700 attended the vigil, whereas the organisers put the figure at 48,000. In a prayer session before the vigil, Cardinal Joseph Zen said, "Despite the hopelessness, Premier Wen has shown the face of a loving parent in the rescue efforts. Perhaps it is also the hope of Premier Wen to rectify the June 4 verdict and vindicate the Tiananmen martyrs."

## Religious Freedom

60. On 30 January, Pope Benedict XVI appointed John Tong Hon as coadjutor bishop of the Hong Kong Catholic diocese giving him the right to succeed Cardinal Joseph Zen Ze-kai when he steps down. Following his appointment, Bishop Tong praised Cardinal Zen's leadership of the diocese and said that he would be happy to continue working under him.

## ECONOMY, TRADE AND THE ENVIRONMENT

61. Hong Kong's economy continued to prosper over the reporting period, despite concerns about economic prospects in the US and elsewhere. Government figures showed Gross Domestic Product (GDP) growth of 7.1% year-on-year in the first quarter 2008. This growth has been supported by strong external demand for goods and services from the EU and Mainland China. This has contributed to the lowest rate of unemployment in a decade.
62. Rising inflation however has prompted growing concern over the period, with May's headline inflation standing at 5.7%, reflecting globally high prices for fuel and food (food prices have increased 18.2% year-on-year during the period) as well as strong domestic demand and low unemployment. The SAR Government has maintained its Consumer Price Index (CPI) inflation forecast for the year of 4.5%.
63. In April, following price increases of imported rice to Hong Kong, in particular from Thailand, the Chinese Ministry of Commerce announced measures to ensure steady grain supplies to Hong Kong and warned of penalties for those who divert their grain shipments to other markets via Hong Kong. Measures included exempting grain imports into Hong Kong from duties. According to the announcement, wheat, corn, rice and flour made from these grains could only be sold in Hong Kong and any violators would risk having their export licenses suspended. Export licenses would only be issued to Mainland suppliers who had signed agreements with designated Hong Kong counterparts.
64. Increases in food prices have led some analysts to question the Hong Kong dollar's continued peg to the US dollar. The Hong Kong Monetary Authority (HKMA) responded by reiterating its commitment to the 25-year-old system. Joseph Yam, Chief Executive of HKMA, commented that "currency weakness contributes to domestic inflation to a greater degree in Hong Kong, with its highly externally oriented economy which imports almost all its daily necessities, than in the less externally oriented economies." However, he went on to say that "Our research found that unit labour cost is a more important determinant of inflation in Hong Kong than import prices...In other words, even for a very externally oriented economy like Hong Kong, domestic factors still dominate inflation dynamics in the medium run."
65. The stock market experienced high volatility during the reporting period. The Hang Seng Index fell by 17.8% in the first quarter, hitting its lowest point of the reporting period at 21,084 on 17 March. The US subprime crisis and market worries about further tightening of China's monetary policy remain major market concerns in Hong Kong. Initial Public Offerings (IPOs) by companies on Hong Kong's stock market suffered with only seven IPO listings in the first quarter, down from fifteen in the same period in 2007.

66. Financial integration between Hong Kong and the Mainland has continued over the reporting period, but at a slower pace. Chinese financial institutions and companies have continued to use Hong Kong as their access point into international financial markets. As of May 2008, over 440 mainland enterprises had listed on Hong Kong's stock exchange, accounting for over one-third of the total listings, and representing almost 60% of total market capitalisation. However, falls in the Hong Kong stock exchange have led to losses for some Chinese investors. The Mainland's Qualified Domestic Institutional Investors (QDII) scheme, which allows Chinese investors access to overseas markets through certain financial institutions, has suffered in Hong Kong in the reporting period, with losses ranging from approximately 15 to 40 percent. Hong Kong's prospects for broader economic integration were boosted by the SAR Government's agreement to build a bridge between Hong Kong, Macau and Zhuhai and to construct the Guangzhou-Shenzhen-Hong Kong Express Rail Link.
67. During his first Budget Speech, delivered on 27 February, John Tsang announced a record fiscal surplus of HK\$116 billion (7.2% GDP) due to strong growth in 2007. Revenues came from stamp duty (as a result of record year on the stock exchange and high property prices); land sales; salaries and profits tax. With growth expected to be slower in 2008/9, the SAR Government pursued an expansionary budget with increased spending on one-off tax breaks, increased investment on infrastructure and a commitment to expanding new industries (such as a major fine wine hub, with the abolition of duties on wine and beer). The concessionary measures were also aimed at reducing inflationary pressure in the short-term.
68. On 6 May, the SAR Government launched public consultation on Hong Kong's proposed competition law. Under the proposals, the SAR Government would establish an independent competition commission to investigate anti-competitive conduct, determine infringements and impose remedies. The proposed law focuses on businesses engaging in four anti-competitive practices: price-fixing; bid-rigging; carving up markets; and fixing sales. The Secretary for Commerce and Economic Development, Frederick Ma, said the law would be effective in curbing anti-competition behaviour, as the commission will have sufficient statutory power to examine the companies in violation of such behaviour. The SAR Government hopes to introduce the Bill to LegCo in the 2008-09 legislative session with an aim to pass the Bill before 2012.

## **The Environment**

69. The Environment Bureau, under Edward Yau, introduced a number of measures during the reporting period aimed at tackling environmental issues. In April the SAR Government launched the Cleaner Production Partnership Programme. Under this, the SAR Government is providing funding support to Hong Kong-owned factories in the Pearl River Delta (PRD) region to help them reduce emissions and enhance energy efficiency. Through cleaner production, it is hoped that participating enterprises will be able to upgrade their environmental performance and reduce production costs.
70. In addition, following consultation with the Mainland's National Development and Reform Commission (NDRC), the SAR Government announced in June 2008 that Hong Kong could carry out Clean Development Mechanism (CDM) projects. The aim of the projects is to help reduce Hong Kong's emissions of greenhouse gases. Following the announcement, when certain Hong Kong companies reduce their emissions, they will be able to generate "Certified Emissions Reduction"(CER) credits, which they can sell on the global markets. Until now,

whilst China has been a leading supplier of CERs, Hong Kong was unable to participate in the scheme. CDM was established under the Kyoto Protocol, in part to incentivise developing countries to reduce their emissions.

71. The Hong Kong stock exchange (HKEx) announced in January 2008 that it might expand into emissions related products: “HKEx will seek to partner with an overseas exchange to build a trading /clearing platform for trading in carbon (e.g. GHG allowances and credits) and/or other emissions-related products in Hong Kong.”

## **UK-HONG KONG BILATERAL RELATIONS**

### **Visits**

72. Deputy Governor of the Bank of England, Sir John Gieve, visited Hong Kong from 29 to 30 January.
73. The Foreign Secretary, the Rt Hon David Miliband MP, visited Hong Kong on 25 February as part of a five-day visit to China. During his visit he: addressed the British Chamber of Commerce; met Donald Tsang; visited the British Council; and discussed constitutional development with a group of legislative councillors from all sides of the political spectrum.
74. Secretary of State for Business, Enterprise and Regulatory Reform, Rt. Hon. John Hutton MP, visited Hong Kong from 5 to 7 June. During his visit he met with Government contacts, local business leaders and key members of the British business community.
75. Hong Kong Secretary for Development, Mrs Carrie Lam, paid an official visit to the UK from 11 to 14 May to discuss heritage conservation and urban regeneration work.
76. Hong Kong Financial Secretary, John Tsang, visited the UK from 1 to 3 June. During his stay, he met the Chief Executive Officer of the London Stock Exchange, the Lord Mayor of City of London, the Chancellor of Exchequer and the Economic Secretary to the Treasury.

### **Education**

77. The British Government’s Chevening Scholarship Scheme has operated in Hong Kong since 1996. Since then, 480 people have benefited from the Scholarships. This year, 16 Scholars have been selected. The generosity of Dr Li Ka-Shing (Chairman of Cheung Kong Holdings and Hutchison Whampoa Ltd), and that of Cambridge University, match funded by the Foreign & Commonwealth Office, has made this number of scholarships possible.
78. Hong Kong remains an important centre of activity for the British Council. The Council’s Teaching Centre in Hong Kong provides courses to over 48,000 students a year, complemented by an extensive community-based programme of English which involves many thousands more. It is the Council’s largest English language teaching operation in the world. The British Council launched its year-long 60th anniversary celebrations on 12 January. This honoured the many relationships the British Council has built over its 60 years in Hong Kong, and looked ahead to a future of strong partnerships between Hong Kong and the UK.

## **Trade and inward investment**

79. Bilateral trade between the UK and Hong Kong has grown significantly year-on-year. UK exports to Hong Kong between January and May 2008 were valued at over £1.5 billion, an increase of 58.1% compared with the same period in 2007. Hong Kong is the UK's fourth largest export market in the Asia Pacific region, after mainland China, Japan and India. UK imports of goods from Hong Kong between January and May were valued at over £2.7 billion, an increase of 10.6%.
80. Over the course of the reporting period, UK Trade & Investment (UKTI) has supported nine Trade Missions to Hong Kong and five British Groups at international trade fairs in Hong Kong. UKTI also works to support around 180 Hong Kong investors in the UK and to promote the UK to new potential investors. UKTI assisted three new successful investments into the UK during the reporting period.

## **British Nationals (Overseas)**

81. There are nearly 3.5 million British Nationals (Overseas) (BN(O)), the vast majority of whom live in Hong Kong. We remain fully committed to providing the highest standard of consular and passport services to British National (Overseas) passport holders. We offer an identical level of consular service to BN(O) passport holders in third countries to that which we offer to all British Nationals.

## **CONCLUSION**

82. 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 a party. We are fully committed to Hong Kong's continual prosperity and stability and we will continue to comment on matters relating to this treaty as and when we judge it appropriate to do so. As part of this we will continue to issue reports to Parliament.
83. At the end of the six-month reporting period covered by this report we conclude that the 'One Country, Two Systems' principle of the Joint Declaration continues generally to work and that the rights and freedoms guaranteed in the Joint Declaration have been respected.

