



Six-monthly Report on Hong Kong
1 January – 30 June 2010



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*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 2010*

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FOREWORD

This is the twenty-seventh 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 2010.

As Foreign Secretary in the new British Government, I would like to take the opportunity of my first six-monthly report to Parliament to stress that Britain's commitment to Hong Kong is as strong as ever. As a signatory of the Sino-British Joint Declaration and as a country with such close ties to Hong Kong in economic, trade, education, cultural and many other fields, it is important to the UK that Hong Kong remains stable and prosperous. I look forward to continuing to deepen and develop our relationship with Hong Kong.

I firmly believe 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. June 2010 marked an important milestone with the passage of the Hong Kong Government's proposals for changes to electoral arrangements in 2012. I join my Ministerial colleague Jeremy Browne in warmly welcoming the Legislative Council's recent passage of the Hong Kong Government's proposals for changes to electoral arrangements in 2012. I hope that the spirit of co-operation between many of the key parties involved in Hong Kong's constitutional reform debate continues to allow for further substantive progress to be made towards full universal and equal suffrage for the election of the Chief Executive in 2017 and Legislative Council in 2020. Along with many of my counterparts in the international community, I will continue to watch with interest the next steps in Hong Kong's constitutional reform.

During the period covered in this report, Hong Kong's economy has continued to rebound rapidly from last year's downturn. As a major trading partner with Hong Kong and the recipient of around 80% of Hong Kong's investment in Europe, this was good news for the UK economy as we work to ensure full recovery and long-term growth. I hope that these links between our economies will continue to grow.

During my visit to China in July, I stressed the importance of China to the UK and described China and the UK as partners in growth. Hong Kong is an important part of this - with the additional element of the close connection that exists between the UK and Hong Kong. Hong Kong matters to the UK and we want to see it continue to succeed.

William Hague
Secretary of State
For Foreign & Commonwealth Affairs

EXECUTIVE SUMMARY

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 [para.1].

The issue of electoral reform dominated the political debate in the Jan-June 2010 reporting period.

In April, the Hong Kong SAR Government released its proposals for changes to the **2012 electoral arrangements**. In the lead-up to an eventual deal on the package, a split developed between Hong Kong's pan-democratic parties over tactics to secure faster progress towards genuine universal suffrage. Legislators from the Civic Party and League of Social Democrats (LSD) resigned in order to force by-elections, which they framed as a "referendum" on the pace of democratic development. [paras. 3-11].

Meanwhile, lines of dialogue were opening between some pan-democratic legislators and officials from mainland China. The process included the first formal meeting between Hong Kong democrats and mainland officials since before the Tiananmen events in 1989. The pan-democrats pressed for concessions in the 2012 elections on the controversial functional constituency seats. **On 28 May, FCO Minister of State Jeremy Browne issued a statement in which he welcomed the process of dialogue and expressed the hope "that continued discussions between all parties would lead to an agreement on the way forward"**. [paras. 12-17].

On 7 June, the SAR Government announced they would table their existing electoral proposals to the Legislative Council (LegCo). This prompted a pledge by pan-democratic legislators from all sides to veto the package unless it included a commitment to abolish functional constituencies. Following further talks between the Government and moderate democrats, the Chief Executive announced on 21 June that the SAR Government would include in their package provision for five new proposed functional constituency seats to be popularly elected. [paras. 18-21].

On 24 June, the LegCo passed the SAR Government's proposals for the 2012 Chief Executive election and the following day those for the 2012 LegCo elections. Legislators from the Civic Party and LSD voted against both proposals. **Jeremy Browne issued a further statement welcoming passage of the proposals and expressing the hope "that Hong Kong could now move forward with a renewed spirit of co-operation towards full universal suffrage as promised for 2017 and 2020"**. EU High Representative Baroness Ashton and the US Government also issued statements. [paras. 19-25].

Chief Executive Donald Tsang rejected comments that the role of the Central Government in the electoral arrangements represented an erosion of the principle of '**One Country, Two Systems**'. He said, "Any constitutional reform in Hong Kong will require the consent of at least three parties involved – the Central Government, the Hong Kong Legislature and the views of the Hong Kong people...It is necessary

for the three parties to work together. It is a triumph of the ‘One Country, Two Systems’ arrangement”. [paras. 26-27].

On Hong Kong’s **wider rights and freedoms**, twelve elected members of the Legislative Council continued to be prevented from travelling freely to mainland China [para. 28]; a New York based theatre group cancelled performances in Hong Kong following what they described as “last minute denial” of visas to staff reported to have connections to Falun Gong [para. 31]; and in the run-up to the 4 June Tiananmen anniversary, there was controversy surrounding the Government’s decision to confiscate and later return a replica of the Goddess of Democracy statue. [para. 32]. Organisers estimated around 150,000 people attended a candlelight vigil to commemorate the 21st anniversary. A number of other demonstrations took place. There were a handful of associated arrests. [paras. 28-41].

On **legal and judicial affairs**, we congratulated Mr Justice Ma on his appointment as Chief Justice of the Court of Final Appeal. Also during the reporting period, two particularly interesting cases were heard which considered the concepts of sovereign immunity and Crown immunity. [paras. 42-47].

On the **economy**, the SAR Government announced that Hong Kong’s GDP had grown by 8.2% in the first quarter of 2010 on a year earlier. [paras. 48-51]

UK-Hong Kong bilateral relations remained in excellent shape. Bilateral trade in goods and services amounted to almost £14bn in 2009. Education links remained strong. [paras. 55-57]. On 21 June, the first comprehensive Double Taxation Agreement between the UK and Hong Kong was signed. [paras. 52-59].

At the end of the six-monthly reporting period covered by this report, we conclude that 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.

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

INTRODUCTION

1. 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.
2. 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 DEVELOPMENT

3. This period was marked by the lead up to and the eventual passage by the Legislative Council (LegCo)¹ of the Hong Kong SAR Government's proposals on changes to electoral arrangements for 2012. The context for these proposals was the National People's Congress Standing Committee statement of 2007 allowing for the introduction of full universal suffrage for the election of the Chief Executive of the SAR Government in 2017 and of the Legislative Council in 2020.
4. The position of the functional constituencies² and their implications for the goal of universal suffrage remained a central element in this debate, with pan-democratic legislators and others continuing to express concerns that they might be retained in some form beyond 2020. In its submissions of 2 February on the public consultation, the Law Society of Hong Kong said, "...the retention of functional constituencies is inconsistent with the ultimate goal of universal suffrage". On 12 March, in a response to a US State Department Report, an SAR Government spokesperson said, "We recognise that the existing electoral method for returning the LegCo functional constituency seats has yet to comply with the principles of universal suffrage...any universal suffrage model for the LegCo in 2020 should comply with the Basic Law and the principles of universal and equal suffrage".

¹ The Legislative Council is Hong Kong's parliament.

² Half of the Legislative Council's 60 seats are currently returned from functional constituencies representing specific professional sectors and interest groups with electorates of varying sizes from under 150 (e.g. Finance) to tens of thousands of voters (e.g. Education).

5. The SAR Government's public consultation on the changes for 2012 closed on 19 February. On 14 April, the SAR Government formally released its proposals. For the election of the Chief Executive, these included increasing the size of the Election Committee³ from 800 to 1200 members and maintaining the nomination threshold at one-eighth of the total membership of the committee. For the election of the LegCo, the Government proposed increasing the number of LegCo seats from 60 to 70, with five new seats returned by geographical constituencies and five (plus the one existing District Council functional constituency seat) returned through election by elected District Council members. These proposals were closely based on the "directions which may be considered" set out by the SAR Government in its earlier consultation document (and maintained the required 50:50 ratio of geographical and functional seats in the LegCo).
6. Many pan-democratic legislators had called for the SAR Government to provide a "roadmap" to full universal suffrage in 2017 in advance of the LegCo vote on arrangements for 2012. In a statement that some commentators saw as being connected to this request, Chief Secretary Henry Tang told the LegCo that "the Hong Kong SAR Government makes it clear that the universal suffrage timetable stipulated in the NPCSC (Standing Committee of the National People's Congress)⁴ decision of 2007 is solemn and bears constitutional and legal effect".
7. On the same day, Deputy Secretary General of the NPCSC Qiao Xiaoyang, issued a statement in which he said, "I understand there is a view within the Hong Kong community, hoping that I can on the basis of the Standing Committee decision... further clarify that not only "may" Hong Kong implement universal suffrage, but also "must" implement universal suffrage. In this regard, I wish to point out that in 2007, the Standing Committee made clear the universal suffrage timetable for the Chief Executive and LegCo by way of a 'decision'. Its authority and legal effect is beyond doubt".
8. Legislators from all of the pan-democratic political parties expressed disappointment at the Government's proposals and indicated that they would not vote in favour of them as they stood.
9. However, during the reporting period, a split developed amongst the pan-democratic parties over which tactics should be used to encourage progress towards a system of "genuine" universal suffrage.
10. On 11 January, the Civic Party and League of Social Democrats (LSD) announced that two members of the LegCo from the Civic Party and all three LSD legislators would resign on 27 January to force by-elections in each of Hong

³ The role of the Election Committee is to elect the Chief Executive of the Hong Kong SAR. The Election Committee was established by Annex 1 of the Basic Law (see www.basiclaw.gov.hk/en/basiclawtext/annex_1.html). The four sectors consist of individuals from the business sector, "the professions", groups working in Hong Kong society and political representatives.

⁴ Article 158 of Hong Kong's Basic Law states that the Standing Committee of the National People's Congress has the power to interpret the Basic Law.

Kong's five geographic constituencies. They argued that the ensuing by-elections would constitute a "referendum" on the pace of democratic development and increase pressure on the SAR Government to present more progressive proposals for electoral reform for the 2012 elections.

11. On 14 January, Chief Executive Donald Tsang in a LegCo Q&A session said, "The Basic Law has not prescribed any referendum mechanism for the Hong Kong SAR. Therefore, any so-called referendum in Hong Kong has no legal basis...and is not recognised by the SAR Government". The Chinese State Council's Hong Kong and Macao Affairs Office (HKMAO) issued a statement the following day, broadcasted on mainland television in which it called the "so-called referendum" plan a "violation" of and a "blatant challenge to the Basic Law". In response, Civic Party Chair Audrey Eu said, "Whatever is not prohibited by law is perfectly legal".
12. The Hong Kong SAR Government, while making clear its views that the by-elections would not constitute a referendum, organised them for 16 May in accordance with normal procedures. Hong Kong's pro-establishment parties decided not to participate in the by-elections. Among the pan-democrats, the Democratic Party and the Association for Democracy and People's Livelihood (ADPL) also chose not to participate, focusing instead on engaging the SAR Government in dialogue about its package for the 2012 elections.
13. In the event, all five Civic Party and LSD legislators were returned comfortably, having faced minimal opposition. But the turnout of 17.1% (579,000 voters) represented a record low. Secretary for Constitutional and Mainland Affairs Stephen Lam said, "these by-elections could have been avoided... mainstream public opinion did not support this exercise". Supporters of the by-elections argued that they still represented a success. Civic Party Chair Audrey Eu said, "It is the biggest mobilisation since the July 1 demonstration in 2003, when 500,000 took to the streets. Each of the 500,000-plus votes counts and the Government must respond to public demands for democracy".
14. Meanwhile, during the period running up to the by-elections, new lines of dialogue were opening between "moderate" pan-democrats and mainland officials. On 24 January, a coalition of pro-democracy legislators, academics and commentators not involved in the by-election exercise set up the Alliance for Universal Suffrage. This group met senior members of the SAR Government on a number of occasions and presented its own proposals to the SAR Government on 30 March for changes to electoral arrangements for 2012⁵.
15. At the Alliance's request, they met Mr Li Gang, the Deputy Director of the Central Government Liaison Office (CGLO)⁶ on 24 May to prepare for a meeting

⁵ <http://www.universalsuffrage.hk/?p=25&lang=en#more-25>

⁶ The CGLO is an organ of the Central People's Government. Its responsibilities include: liaising with the Commissioner's Office of China's Foreign Ministry in Hong Kong SAR, and the People's Liberation Army

on 26 May to discuss constitutional reform. The session was followed on the same day with an unprecedented meeting between Li Gang and the Democratic Party leadership. This was the first formal meeting of its kind between Hong Kong democrats and mainland officials since before the Tiananmen events of 1989. Li Gang also met party leaders from the ADPL on 28 May. According to media reports, amongst the requests that the Democratic Party and ADPL put forward in their meetings with Li Gang were commitments from the Central Government that all functional constituency seats would be abolished by 2020.

16. In their meetings with Li Gang, both the Democratic Party and the Alliance suggested that in 2012 the proposed District Council functional constituency seats could be popularly elected (as opposed to being elected by District Councillors, as proposed by the SAR Government). After a meeting with the Alliance on 26 May, Li Gang appeared to reject this suggestion. He said, “According to the legislative intent of the Basic Law, functional constituency lawmakers should be elected by voters who belong to specific professions, industries or organisations. If the electorate is expanded to the whole society, this will not be in line with the legislative intent of the Basic Law. Beside, it will easily trigger doubts over whether the proposal is in line with the NPC’s decision”. This issue subsequently became a central feature in the debate on the reform package.
17. On 28 May, Minister of State at the British Foreign and Commonwealth Office Mr Jeremy Browne MP, issued a statement regarding constitutional reform in Hong Kong:

“Hong Kong’s stability and prosperity are underpinned by its rights and freedoms. The British Government believe these can best be guaranteed by Hong Kong moving to a system of full universal suffrage. We note the National People’s Congress Standing Committee’s decision of 2007 provided a timetable for the introduction of universal suffrage in the Chief Executive election in 2017 and the LegCo election in 2020.

We continue to support the Hong Kong SAR Government’s efforts to make progress towards full universal suffrage. We understand that many people in Hong Kong may be disappointed that the government’s proposals for the 2012 elections do not go further towards this ultimate aim. But these proposals present an important opportunity to develop Hong Kong’s constitutional system and to achieve some real progress towards full universal suffrage for 2017 and 2020. We welcome recent dialogue. We hope that continued discussions between all parties will lead to an agreement on the way forward.

stationed in Hong Kong; promoting exchange and co-operation between Hong Kong and the mainland; and handling affairs related to Taiwan.

Together with the international community the British Government will continue to take a close interest in political developments in Hong Kong. It will be important that arrangements for 2017 and 2020 will meet international standards of universal suffrage”.

18. On 7 June, the SAR Government announced that it would table its original proposals to the LegCo on 23 June. It launched a campaign urging public support. During this period, Chief Executive Donald Tsang took part in a live televised debate with the Chair of the Civic Party, Audrey Eu. All 23 pan-democratic legislators responded to the Government’s proposals by signing a declaration pledging to veto the Government’s proposals unless a commitment was added to abolish functional constituencies. In comments to media in Beijing, Qiao Xiaoyang (NPCSC) on the same day said, “The core content of universal suffrage is to protect the equal right of election of all individuals”.

“As can be seen from history, the emphasis of the concept of universal suffrage is that no distinctions are permitted between individuals in terms of the right of election on the grounds of property, sex or race”.

“Within the international community, it is a fact that different countries have adopted different electoral systems to realise the universal and equal right of election in the light of their own situations”.

"I consider that, not only should the two future universal suffrage methods realize universality and equality of election, but we should also take into account compliance with the legal status of the HKSAR, accommodation with the executive-led political system of the HKSAR, meeting the interests of different sectors of society and facilitating the development of the capitalist economy”.

"As to functional constituencies, we need to make an objective assessment, as they have been in existence since the electoral system was introduced in Hong Kong”. Qiao also pointed to what he called "very diverse views" within the community.

19. Qiao Xiaoyang also further indicated that the SAR Government’s proposals for the new District Council functional constituency seats to be elected from amongst elected District Councillors should not be changed.
20. However, on 16 June, a local newspaper reported that Chief Secretary Henry Tang had asked the Chairman of the Democratic Party Albert Ho for an assurance that all nine Democratic Party legislators would vote in favour of the 2012 proposals if they were modified to allow for the new District Council functional constituency seats to be popularly elected. In the following days media comments on the reform package focused on this aspect of the proposals.

21. On 21 June, Chief Executive Donald Tsang announced that the SAR Government, with the support of the mainland authorities, had proposed to the Executive Council that the recommendation that the five new functional constituency seats should be popularly elected would be included in the SAR Government's proposals to the LegCo; and that the Executive Council had given its approval in principle. He said, "Under this proposal, every voter will have two votes in the 2012 LegCo elections, one for geographical constituencies, and the other for functional constituencies. We believe this proposal will make our election more democratic and will pave the way for universal suffrage".
22. On 24 June, the LegCo passed the SAR Government's proposals for changes to the methods of electing the Chief Executive in 2012 by 46 votes to 13. The following day, the LegCo passed the Government's proposed changes to the LegCo election methods by 46 votes to 12. In both votes, all but one of the nine Democratic Party legislators, other independent legislators and pro-establishment legislators voted in favour of the proposals. Legislators from the Civic Party and LSD voted against the proposals.
23. Following the passage of the proposals, Foreign and Commonwealth Office Minister Jeremy Browne issued a further statement:

"I warmly welcome the Legislative Council's passage of the Government's proposals for Hong Kong's electoral arrangements in 2012. Hong Kong's Government and legislators have displayed the pragmatism for which Hong Kong is renowned, and progress has been secured. I hope that Hong Kong can now move forward with a renewed spirit of co-operation towards full universal suffrage as promised for 2017 and 2020. The Legislative Council elections in 2016 will present an important opportunity to roll democracy further forward in preparation for 2020. The British Government and the international community will continue to take a close interest".
24. On 25 June, the spokesman for the High Representative of the Union for Foreign Affairs and Security Policy/Vice President of the European Commission Baroness Ashton also issued a statement welcoming the proposals: "The European Union continues to strongly support early and substantial progress towards the goal of genuine universal suffrage in accordance with the Basic Law of Hong Kong and international standards. This is the best guarantee of stability and prosperity for the Hong Kong people".
25. On 30 June, the US Government issued its own statement: "Consistent and long-standing US policy has been to support Hong Kong's autonomy and democratic development under the Basic Law. The United States therefore welcomes last week's passage by Hong Kong's Legislative Council of the constitutional reform package. We view this as a significant step forward in Hong Kong's democratic development. A dialogue among all the relevant parties led to approval of the reforms. We welcome this dialogue and hope it will continue, with the goal of crafting a broad consensus on implementing elections by full universal suffrage of the Chief Executive in 2017 and the entire Legislative Council in 2020".

‘ONE COUNTRY, TWO SYSTEMS’

26. In the run up to the vote on electoral arrangements for 2012, some commentators and legislators questioned whether the extent of the Central Government’s involvement in the discussions constituted a violation or erosion of the principle of ‘One Country, Two Systems’. In response to a related media question on 25 June, Chief Executive Donald Tsang said, “Any constitutional reform in Hong Kong will require the consent of at least three parties involved – the Central Government, the Hong Kong legislature with a two-thirds majority, and the views of Hong Kong people as reflected in my consent to the reform that we’re going to take. So, in a matter like this, it is necessary for three parties to work together...It is a triumph of the ‘One Country, Two Systems’ arrangement”. Also on 25 June, Li Gang denied that the Central Government Liaison Office was acting as a second governing team in Hong Kong.
27. On 13 January, Democratic Party legislator Fred Li proposed a motion in the LegCo to demand “that the Central Government should immediately release Liu Xiaobo and other dissidents”. The SAR Government issued a response to the motion in which it said “the Hong Kong SAR should also respect that the mainland has its own legal and judicial systems. Based on the principles of mutual respect and non-interference, it would not be appropriate for the Hong Kong SAR Government to comment on the decision made under the judicial system of the mainland”. A number of legislators from the pro-establishment parties expressed concern in the debate on the motion that the LegCo would be in violation of the principle of ‘One Country Two Systems’ if it passed the motion. All pro-establishment legislators ultimately voted against the motion and it was not passed.

THE LEGISLATIVE COUNCIL

28. Despite the resumption of contacts noted above between the Central Government and certain pro-democracy politicians, twelve elected legislators in Hong Kong continue to be prevented from travelling freely to mainland China.

We hope that the environment of greater trust and openness between the Central Government and some prominent pan-democratic legislators will continue to develop and that such developments will contribute to a more open and direct dialogue between the Legislature and mainland authorities. We hope that the Chinese Government will allow all legislators who wish to travel to the mainland to do so to further develop dialogue and understanding. The continued inability of some legislators to travel to the mainland remains a barrier to open dialogue.

BASIC RIGHTS AND FREEDOMS

29. In our previous report, covering the period 1 July-31 December 2009, we covered the case of Zhou Yongjun, a former mainland dissident who had been living in the US. We noted the allegations by Zhou's partner Zhang Yuewei that Zhou had been sent back to the mainland by the Hong Kong authorities and that he had been in detention in the mainland since then. On 20 January, local media reported that Zhou had been sentenced to nine years' imprisonment by a Sichuan court for financial fraud committed in Hong Kong in 2008. Following news of his sentence, several local commentators expressed concern at the sentence and the fact that the case was heard in a mainland and not a Hong Kong court.
30. On 3 February, in response to questions from legislators regarding how the Hong Kong authorities had dealt with Zhou Yongjun, Secretary for Security Ambrose Lee said that while he would not discuss individual cases, "There is no question of interventions from other authorities or political considerations". Later in the session, Lee said that the allegation that the Hong Kong authorities repatriated Zhou to mainland China when aware of his genuine identity was "completely inconsistent with the fact".
31. On 24 January, New York-based Shen Yun Performing Arts issued a statement on its website in which it said that it was cancelling a number of performances in Hong Kong following the "last minute denial" of entry visas for several production staff. The statement said that the reason given by the authorities for refusing the visa applications was that these jobs could be filled locally. The performances were to include the story of the Falun Gong and local media reported that the group had been invited to Hong Kong by groups connected to Falun Gong. The statement went on to say, "We regret that the Hong Kong people are denied their right to see Shen Yun Performing Arts and understand that this incident constitutes a violation of Hong Kong people's freedom".
32. Several events relating to the run up to the June 4 (Tiananmen) commemorations triggered controversy. These included the Hong Kong authorities' decision to confiscate (and later return) a replica of the Goddess of Democracy statue and other exhibits from Times Square on 29 and 30 May and the arrest of several campaigners during scuffles that followed. Some campaigners alleged that the reaction from the Hong Kong authorities represented an unprecedented political crackdown on the Alliance in Support of Patriotic Democratic Movements in China. On 31 May, the SAR Government issued a statement in which it explained that a Places of Public Entertainment License was required to display the exhibits and that the organisers of the display had not applied for such a license. On 2 June, the Hong Kong Bar Association issued a press release in which it urged "that any use of the Places of Public Entertainment Ordinance Cap 172...should not undermine the Government's stated continued efforts to give effect to its commitment to promote freedom of expression". On 2 June, a spokesman from the British Consulate-General said, "Hong Kong's stability and

prosperity depend on the maintenance of its rights and freedoms, as enshrined in the Joint Declaration”.

33. On 2 June, the sculptor of the Goddess of Democracy statue, Chen Weiming, was denied entry to Hong Kong. Chen, a New Zealand citizen, issued a statement which Democratic Party legislator James To read out in the LegCo on 2 June in which he said, “Hong Kong is following the order of the Central Government. The confiscation of my statue was due to the sensitivity of history that happened 21 years ago”. Local media on 3 June reported Secretary for Security Ambrose Lee as saying, “The Immigration Department works in accordance with established policies and laws of Hong Kong. It has to take into account the interests of Hong Kong when deciding who can come and who cannot come”.
34. As we have said in previous reports, **we have expressed our concern that such exclusions risk giving the impression that freedom of expression is being compromised in Hong Kong, and that this could damage Hong Kong’s international reputation.**

FREEDOM OF THE PRESS

35. Article 27 of Hong Kong’s Basic Law provides for the freedom of the press and of publication. In general, we assess that those freedoms were upheld during the reporting period.
36. On 11 March, Chairman of Shenzhen-listed Rongfen Holding Group Wang Zheng announced that he had bought a majority stake in Asia Television Limited (ATV), one of two terrestrial television broadcasters in Hong Kong. Democratic Party legislator Lee Wing-tat expressed concern that the independence of ATV could be compromised by the new arrangement and he called on the SAR Government to closely monitor whether ATV conformed to licensing conditions after the share transaction.
37. In our last report, we noted the conclusions of the review of Radio Television Hong Kong’s (RTHK’s) status. On 12 March, in a response to a US State Department human rights report, an SAR Government spokesperson said, “A free press, with rights and freedoms protected by the Basic Law and the Hong Kong Bill of Rights Ordinance, is the most effective safeguard against self-censorship. Ultimately those working in the field must protect the integrity of their profession. The Government attaches great importance to the editorial independence of RTHK. This will be enshrined in the Charter to be signed by the Chief Secretary for the Administration. The Board of Advisers to be set up will tender advice to RTHK but the ultimate editorial responsibility for RTHK rests with the Director of Broadcasting, just as it does at present. The Board will have no executive power and will not have oversight of the budget of RTHK”.

MARCHES AND DEMONSTRATIONS

38. Marches and demonstrations continued to be a routine element of Hong Kong civic life through the course of the reporting period. For the most part, they were policed sensitively and passed off peacefully.
39. The organisers of Hong Kong's June 4 candlelight vigil to commemorate the 21st anniversary of Tiananmen estimated that around 150,000 people attended (police estimated 113,000). On 19 June, a rally and march took place in support of the SAR Government's proposals on changes to electoral arrangements for 2012. Organisers estimated 120,000 people were present at the rally (police estimated 70,000).
40. However, during the reporting period, some activists and legislators expressed concern at the decisions by the Hong Kong Police to charge activists in connection with protests outside the Central Government Liaison Office. On 1 January, the Power for Democracy group organised a march to voice opposition to the SAR Government's political reform proposals and to push for "genuine" universal suffrage. A small group of activists broke through the police cordon outside the Liaison Office and scuffles broke out in which at least two police officers and one protestor were injured. The organiser of the march, Richard Tsoi, later expressed disappointment at the actions of this group. Several activists were later arrested and charged in connection with this protest.
41. On 11 March, Hong Kong Police charged six activists with unlawful assembly relating to a protest at the Chinese Government Liaison Office on 25 December 2009. The group had been protesting at the sentencing in the mainland of Chinese dissident Liu Xiaobo. On 18 March, the six activists all pleaded not guilty to charges of political assembly. The following day, several hundred activists marched to the SAR Government offices in Central to protest against what they alleged was political persecution of the Hong Kong Alliance. In a statement, Hong Kong Police said, "All the arrest and prosecution actions are based on the facts and evidence collected but not on an individual's political demand and background".

LEGAL AND JUDICIAL

42. In our last report, we noted Chief Justice of the Court of Final Appeal Andrew Li's announcement on 2 September 2009 that he would take early retirement from 1 September 2010. On 8 April, Chief Executive Donald Tsang accepted the recommendation of the Judicial Officers Recommendation Commission (JORC) to appoint Mr Justice Geoffrey Ma as the new Chief Justice with effect from 1 September 2010.
43. On accepting the JORC's recommendation, Donald Tsang said, "An independent Judiciary has been and will remain a cornerstone of Hong Kong's stability and

prosperity...I am confident that Mr Justice Ma will discharge his duties as head of Judiciary with distinction”. **We agree with these comments and congratulate Mr Justice Ma on his appointment as Chief Justice of the Court of Final Appeal.**

44. During this reporting period, two particularly interesting cases were heard in Hong Kong’s courts, which considered the concepts of sovereign and Crown immunity.
45. On 23 April, Hong Kong’s Court of First Instance (CFI) gave judgement in the case of *Intraline Resources SDN BHD vs The Owners of the Ship or Vessel “Hua Tian Long”*⁷ in which the CFI held that the English common law doctrine of Crown immunity had transferred to the Chinese Central People’s Government of the People’s Republic of China (PRC) at the time of the handover. The Defendants, the owners of the Hua Tian Long, had applied for a stay and/or a dismissal of the case on the grounds that they enjoyed sovereign⁸ and/or Crown immunity⁹ as an entity of the Central People’s Government of the PRC. The CFI held that the concept of sovereign immunity did not apply to matters that involve the PRC and Hong Kong given that the two are not separate states. However, the CFI held that the Defendant was entitled to claim Crown immunity as “the Hong Kong SAR, being a local administrative region directly under the CPG, has no power to make any law binding on the CPG”. Therefore, the Defendant was entitled to assert Crown immunity.¹⁰
46. In a separate case that considered the concept of sovereign immunity, on 10 February, the Hong Kong Court of Appeal considered a 2008 judgement by the Court of First Instance regarding an application by *FG Hemisphere Associates* to enforce two arbitral awards made against the Democratic Republic of the Congo (DRC)¹¹. During the case, Secretary for Justice Wong Yan Lung argued that the doctrine of “absolute” sovereign immunity should continue to apply in Hong Kong as the restrictive doctrine had never attained the status of customary international law and could not have properly been adopted as part of Hong Kong common law. Letters were submitted into proceedings from the Office of the Commissioner of the Ministry of Foreign Affairs of the PRC in Hong Kong that stated that the PRC adhered to the concept of absolute sovereign immunity. Notwithstanding these interventions, the Court of Appeal held that the doctrine of

⁷http://legalref.judiciary.gov.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=70707&QS=%24%28Intraline%7Cresources%29&TP=JU

⁸ Sovereign immunity is based on the concept that “equals have no authority over one another” and in practical terms provides that “no state can intervene in the affairs of another state by claiming jurisdiction over that state”.

⁹ Crown immunity provides that the Crown is not bound by statute unless expressly named or by necessary implication.

¹⁰ This was something of a hollow victory for the Defendant however as the CFI also held that it had waived its right to claim Crown immunity through its conduct.

¹¹http://legalref.judiciary.gov.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=69730&QS=%24%28FG%7CHemisphere%29&TP=JU

restrictive (as opposed to absolute) sovereign immunity was part of international law and had been incorporated into the common law of Hong Kong on the handover.

47. However, on 5 May, the Court of Appeal considered the 10 February ruling and granted leave to appeal for determination of a number of questions including whether Hong Kong's Basic Law allows for its courts to determine whether a foreign state is entitled to immunity and whether the restrictive doctrine of immunity should apply in Hong Kong's courts. The appeal is expected to be heard in the Court of Final Appeal in 2011.

ECONOMY

48. Following the financial crisis in 2008-9, Hong Kong's Gross Domestic Product (GDP) contracted by 2.7% in 2009. However, on May 14, the SAR Government announced that Hong Kong's GDP had grown by 8.2% in the first quarter of 2010, on a year earlier. Hong Kong's consumer price inflation remained moderate at 2.8% in June. Unemployment averaged 4.6% between April and June 2010. The SAR Government has forecast GDP growth of between four and five percent for 2010.
49. On 23 February, the Financial Secretary John Tsang announced the 2010/11 Budget. Mr Tsang said that he was "cautiously optimistic" about Hong Kong's economic prospects for 2010 as the global economy had not yet "regained its rigour". Mr Tsang announced a new set of one-off stimulus measures including a 75% reduction in the salaries tax payments (the tax rate stayed the same at 16.5%), up to a ceiling of HK\$6000, which would benefit all 1.4 million tax payers. The SAR Government predicts a consolidated deficit of HK\$25.2 billion and a small fiscal deficit each year until 2014/5.
50. On 6 January, the LegCo passed a Bill amending the Inland Revenue Ordinance to enable Hong Kong to adopt the latest international standards on Exchange of Information regulation. Hong Kong subsequently concluded Double Taxation Agreement with a number of countries, including the UK (see para. 54).
51. On 7 April, Chief Executive Donald Tsang and the Governor of Guangdong Province, Mr Huang Huahua signed the Framework Agreement on Hong Kong/Guangdong Co-operation at a ceremony in the Great Hall of the People in Beijing, witnessed by the State Vice-President, Mr Xi Jinping. The Framework Agreement sets out areas for closer cooperation between Hong Kong and Guangdong.

UK-HONG KONG BILATERAL RELATIONS

Visits

52. Sir Liam Donaldson, Chief Medical Officer for England visited Hong Kong and mainland China in March. While in Hong Kong, Sir Liam met Dr York Chow and other medical experts at Hong Kong's Department of Health and at the University of Hong Kong.
53. Hong Kong Secretary for Food and Health Dr York Chow visited the UK in May. During his visit, Dr Chow met several leading UK medical experts.
54. Professor K.C. Chan, Hong Kong Secretary for Financial Services and the Treasury visited the UK in late June. During his visit, Professor Chan and David Gauke MP, Exchequer Secretary to the Treasury, signed the first comprehensive Double Taxation Agreement between the UK and Hong Kong.

Education

55. Demand for UK education continued to increase, with student visa applications up 4% to 6,213 for the academic year starting in 2009. Over 17,000 Hong Kong students are studying in UK schools, colleges and universities.
56. Hong Kong is now implementing its new senior secondary curriculum, replacing the Hong Kong Certificate of Secondary Education and Hong Kong A-levels with the three-year Hong Kong Diploma of Secondary Education programme. The first UK universities have agreed to recognise the new HKDSE for direct admission to undergraduate programmes, including Oxford, Manchester, Warwick and Kent, which should ensure continued student mobility between Hong Kong and the UK. This follows two missions to the UK for senior SAR Government officials to meet UK Government and academic leaders.
57. Hong Kong remains an important centre of activity for the British Council. The Teaching Centre in Hong Kong is the largest in the British Council's worldwide network with over 48,000 registrations a year, complemented by an extensive teacher training programme delivered on behalf of the Education Bureau to support English teachers delivering the local primary and secondary curriculum.

Trade and Inward Investment

58. Bilateral trade between Hong Kong and the UK in goods and services amounted to almost £13.4bn in 2009. In 2009, Hong Kong was the UK's 14th largest export market for goods and the second biggest in Asia, after mainland China. Exports of goods for 2009 amounted to £3.5 bn. In comparison to the same period in 2009, UK exports of goods for the period January-June 2010 rose by 12%. Hong Kong is the major entrepot for China: 10% of UK exports of goods to the

mainland pass through Hong Kong. The UK is the second largest European exporter to Hong Kong (after Germany).

59. During the reporting period, UK Trade & Investment (UKTI) supported five Trade Missions to Hong Kong and UK participation at three international trade fairs in Hong Kong. UKTI also assisted two confirmed new successful investments into the UK (with two further investment projects pending confirmation of success).

CONCLUSION

60. 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 continuing 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.
61. 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 has worked well and that the rights and freedoms guaranteed in the Joint Declaration have been respected.



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