



# Six-monthly Report on Hong Kong July–December 1999

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
February 2000*



## FOREWORD

This is the sixth in the series of six-monthly reports on the implementation of the Sino-British Joint Declaration on the Question of Hong Kong. It covers the period from 1 July to 31 December 1999.

These six-monthly reports are an expression of the Government's continuing interest in the development of Hong Kong since its return to China in 1997. We are actively engaged in expanding and deepening our relations with the Government of the People's Republic of China. In the period of this report, the major event in UK-China relations was the visit to the United Kingdom in October by President Jiang Zemin. This first ever State Visit to Britain by a Chinese President symbolised our new relationship with China, including Hong Kong. At the same time, we are continuing to build a new relationship with Hong Kong, drawing on the depth and breadth of ties between us.

At the end of December, the Sino-British Joint Liaison Group (JLG) ended its work after its forty-seventh plenary meeting. The JLG performed two important functions over the fourteen and a half years of its existence. It was the main body for the detailed planning of the transfer of sovereignty in the twelve years before the handover of Hong Kong; and, in the period from the handover to the end of 1999, it was a forum in which Britain and China could continue to discuss the implementation of the Joint Declaration. I pay tribute to all those in the British and Hong Kong Governments who devoted themselves to running the JLG and to discharging its business.

As John Battle, Minister of State responsible for Hong Kong affairs, made clear during his recent visits to China, Hong Kong and Macau, the end of the JLG does not signify the end of Britain's interest in Hong Kong. We will be watching developments in Hong Kong closely, and retain the right, as a co-signatory of the Joint Declaration, to comment on how the values of the Joint Declaration are protected and observed by the Chinese Government and by the Government of the Hong Kong Special Administrative Region (SAR). We will continue to report to Parliament on the implementation of the Joint Declaration.

While we have some concerns about certain developments in Hong Kong during the period of this report, we continue to believe that the Governments of China and the Hong Kong SAR remain committed to safeguarding Hong Kong's fundamental systems and way of life. Overall, the experience of Hong Kong since 1997 augurs well for the future governance of the SAR.



ROBIN COOK  
Secretary of State for  
Foreign and Commonwealth Affairs

February 2000

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

### **THE LEGAL SYSTEM**

1. Our last report (Cm 4415) set out the detailed background to the controversy following the judgment of the Court of Final Appeal (CFA) on the right of abode, and culminating in the interpretation of the Basic Law provisions on right of abode by the Standing Committee of the National People's Congress (NPC) on 26 June 1999.

2. We have continued to follow developments closely. In a case involving 17 mainland overstayers who had applied for right of abode in Hong Kong, the CFA on 3 December found for the SAR Government in upholding the removal orders issued by the Hong Kong Director of Immigration against the individuals. In the same judgment, the CFA affirmed the power of the NPC to interpret all parts of the Basic Law and said that the interpretation delivered in June was valid and binding. Small scale protests by the overstayers and their supporters took place following the ruling.

3. We continue to attach the greatest importance to the principles of independent judicial power and final adjudication, which are integral to Hong Kong's high degree of autonomy, as guaranteed by the Joint Declaration. We note the SAR Government's assurances of its full commitment to maintaining the rule of law in Hong Kong. We believe that the procedure by which the SAR Government sought the interpretation should remain exceptional. We would not want to see confidence in the rule of law undermined by its repetition.

4. In our last report, we mentioned a ruling by the Court of Appeal in March 1999 that the parts of the National and Regional Flags Ordinances which created the offence of desecration of flags were unconstitutional. In its judgment issued on 15 December, the CFA overturned the Court of Appeal's ruling and declared that the respective provisions of the Flags Ordinances were consistent with Article 27 of the Basic Law and Article 19 of the International Covenant on Civil and Political Rights (both of which uphold the freedom of expression). The SAR Government welcomed the ruling and emphasised that freedom of expression was alive in Hong Kong, quoting the following passage from Bokhary P J's judgment: "Beneath the national and regional flags and emblems, all persons in Hong Kong are – and can be confident that they will remain – equally free under our law to express their views on all matters whether political or non-political: saying what they like, how they like". The British Government recognises that this is a difficult constitutional issue and fully respects the judgment of the CFA.

5. These developments, and the lively debate that has surrounded them, have continued to play a central role in the implementation of "One Country, Two Systems". We understand the potential complexities, and the need for the relationship between the Hong Kong and mainland systems to settle down. But as this evolves, it is important that it does so in accordance with the spirit and letter of the Joint Declaration and in a way that reinforces Hong Kong's high degree of autonomy, maintains the Common Law tradition, and ensures that the rule of law remains firmly rooted in Hong Kong. These are the yardsticks by which the international community will measure the success of "One Country, Two Systems". When he visited Hong Kong in November, Foreign Office Minister John Battle described the rule of law as the "keystone" of Hong Kong's success. And he noted that in Hong Kong, clean government, a fair Police Force and a fearless Independent Commission Against Corruption all play an important role in maintaining the rule of law.

### **CONSTITUTIONAL DEVELOPMENT**

6. Constitutional development during this period was dominated by reform at the municipal and local government level. In our last report, we noted the SAR Government's decision to establish 18 District Councils, to replace the old system of two Municipal Councils – the Urban and Regional Councils – and 18 District Boards. The first elections to the new 519-member District Councils took place on 28 November, with a turn-out of 35.8 per cent. 722 candidates competed for 314 seats under a "first past the post" system, 76 candidates having been elected unopposed beforehand. On 30 December, the SAR Government announced 100 of the 102 new appointees to the District Councils. Concerns have continued to be expressed in the Hong Kong community about the introduction of a high proportion of appointed seats on the District Councils. The District Councils came into being on 1 January 2000, with a four-year term.

7. The Municipal Services (Reorganisation) Bill to abolish the Municipal Councils passed through the Legislative Council on 2 December on its third reading, amid some controversy. The two Municipal Councils ceased to exist on 1 January 2000. Their responsibilities passed to the newly-created Environment and Food Hygiene Bureau, Home Affairs Bureau and other government departments.

8. In his October Policy Address, the Chief Executive reaffirmed his commitment to the progressive development of Hong Kong's democratic institutions in accordance with the Basic Law. Looking ahead to the Legislative Council elections to be held in September 2000, and beyond, we would hope that the SAR Government will work towards the early realisation of the goal of universal suffrage, at a pace in step with the wishes of the community.

#### **BASIC RIGHTS AND FREEDOMS**

9. The British Government continues to follow human rights developments in Hong Kong with close attention. Our overall assessment is a positive one, although we continue to take note of issues of concern.

10. In September, legislator Margaret Ng was refused entry to the mainland to attend a legal seminar. Concerns were expressed in Hong Kong over the decision, both by the legal community and more widely. The Chief Executive reiterated his commitment to safeguarding the rights and freedoms set out in the Basic Law, but said that he believed that the decision had been made in accordance with mainland laws. We recognise that the mainland authorities have the right to determine their own immigration policy. However, it is disappointing that an elected SAR office-holder was not allowed to attend a conference aimed at promoting mutual understanding of legal issues. We remain concerned that this could give the impression that the free expression of views on issues internal to the SAR could lead to difficulties with mainland authorities and thus send out negative signals about the implementation of "One Country, Two Systems". We have raised this case with the SAR Government and the Chinese Government, including the Sino-British Joint Liaison Group.

11. The freedom to demonstrate remains an important issue, and we welcome the fact that public demonstrations have continued to take place in a peaceful and orderly manner. We note that Falungong practitioners have been permitted to hold demonstrations in Hong Kong in accordance with the law, even though the organisation has been declared illegal on the mainland. This is clearly in accordance with "One Country, Two Systems".

12. One of Hong Kong's major strengths is its diverse and open media. We continue to attach the greatest importance to the freedom of the media and welcome the fact that controversial issues continue to be discussed and debated in Hong Kong. We have noted the debate about the setting up of a Press Council in Hong Kong, and we welcome comments by the Chief Executive that the SAR Government will not move to set up such a Council against public opinion. Since our last report, we have noted renewed concerns about the editorial independence of Radio Television Hong Kong (RTHK), following the departure of the Director of Broadcasting. We have noted the commitment of the new Director to maintain the editorial independence of the RTHK.

13. The UN Human Rights Committee heard the first post-handover report on Hong Kong under the International Covenant on Civil and Political Rights in Geneva at the beginning of November. This was a significant event, as it was the first time that Hong Kong's record had been examined by the UN since the handover. We understand that the report was drafted entirely by the SAR Government, without subsequent amendment by the Chinese Government, and we welcome the fact that SAR Government officials conducted the main business of defending the report at the hearing. We also welcome the participation of Hong Kong non-governmental organisations, who gave an informal briefing to the Human Rights Committee (HRC) before the hearing. The HRC praised Hong Kong for the quality of its report and the role of non-governmental organisations in its preparation. The Committee raised a number of concerns, including the NPC's powers of interpretation of the Basic Law; democratic government, particularly in relation to municipal reforms; and restrictions on freedom of expression and association. We have taken note of the HRC's detailed comments. Overall this process has demonstrated the vibrancy and autonomy of the debate in Hong Kong. We look forward to the same active discussion when the hearing on the International Covenant on Economic, Social and Cultural Rights report takes place in Geneva in due course.

14. In previous reports, we have noted the requirement, under Article 23 of the Basic Law, for the SAR Government to enact legislation against treason, secession, sedition or subversion against the Central Government. It is an issue which we continue to watch and, as previously stated, we welcome SAR Government assurances that an extensive public consultation exercise will be conducted on any draft legislation.

## **BILATERAL RELATIONS**

15. We have continued to nurture our links with the SAR Government on a wide range of subjects, including economic policy as well as co-operation between law enforcement agencies, the environment, civil service reform, cultural affairs and IT co-operation.

16. The regular flow of high-level visits in both directions has helped to develop the bilateral relationship. The Lord Chancellor paid his third visit to Hong Kong in September 1999. John Battle, the Minister of State at the Foreign and Commonwealth Office responsible for Hong Kong affairs, visited twice, first in November following a visit to the mainland, and then in December after attending the Macau handover. Other visitors included Richard Caborn, the Minister for Trade, and Henry McLeish, Minister in the Scottish Executive. Donald Tsang, the SAR Government's Financial Secretary, visited the UK in November for the annual Hong Kong Trade and Development Council dinner, and Raymond Ch'ien, a Member of the Executive Council, visited as part of our exchange on IT issues.

17. Hong Kong remains an important centre of activity for the British Council. During 1999, the Council's office in Hong Kong provided English language courses to 40,000 students. It also arranged the selection of 46 Hong Kong residents for the British Government's Chevening Scholarship scheme, whereby students are given the opportunity to study at post-graduate level in the UK. Events promoted by the British Council during the period of this report included a British Law Month, a British Film Week and a visit by the Royal Shakespeare Company.

18. The British Government has maintained its support for the SAR Government's efforts to achieve visa-free access for SAR passport holders who travel abroad. SAR passport holders continue to have visa-free access to the United Kingdom. A total of 68 countries and territories now offer visa-free access to SAR passport holders, while 86 offer this privilege to BN (O) passport holders.

## **BRITISH NATIONAL (OVERSEAS) PASSPORT**

19. The British Government has consular responsibility for over 3.5 million passport holders in Hong Kong, including holders of British National (Overseas) (BN(O)) passports. We regularly offer such assistance to BN(O) passport holders in third countries. The British Government has the duty to protect the rights of Hong Kong based British passport holders, and this includes the duty to assist any BN(O) passport holders who request consular assistance outside the People's Republic of China.

20. In November, we registered concerns about the denial of consular access to a BN(O) passport holder, Wu Man, who was arrested in Bangkok on 14 June 1999 and subsequently removed to mainland China to face serious criminal charges. The matter was also on the agenda of the last Plenary meeting of the Joint Liaison Group on 7-8 December. The Vienna Convention on Consular Relations requires that access to his/her Embassy or Consulate be accorded on request to a national arrested in a third country. In the case of Wu Man, the British Embassy was not contacted. The Thai authorities have accepted that they should have notified the British Embassy in Bangkok and have undertaken to introduce measures to prevent a recurrence of such an incident.

21. We have no formal locus to intervene with the Chinese authorities on behalf of Wu Man, who has dual Chinese-British nationality and is now in the country of his other nationality. However, given that he is a British national, we have asked the Chinese authorities to note our continuing interest in his case and to inform us of the nature of the charges against him and when he is expected to stand trial.

## **ECONOMY**

22. The Hong Kong economy showed signs of recovery in the second half of 1999, driven mainly by increased export activity in China and also wider regional recovery. Domestic demand and investment growth remained weak.

23. The stock market recovery, which peaked in December, provided evidence of an improvement in both foreign and domestic confidence. Tourist arrivals grew, providing a much needed boost to the tourist sector. Property prices stabilised at a lower level than pre-crisis, providing a boost to competitiveness but also adversely affecting government revenue.

24. Hong Kong maintained its position as one of the world's most open economies with regard to external trade and investment. The SAR Government's progress on deregulation and opening of the non-tradeable sector of the economy will be an important factor in unlocking new growth potential. Land, labour and domestic capital markets are key areas for the SAR Government's policies.

25. Economic integration with mainland China continued to gain momentum. Hong Kong's financial and service expertise alongside mainland China's production capacity and competitiveness provided the basis for economic co-operation and closer integration. It was announced in December that the Bank of China would move its foreign exchange operations to Hong Kong. Economic growth in Hong Kong will be further enhanced by China's accession to the World Trade Organisation. Some 64% of Hong Kong's trade, including re-exports, is with mainland China.

26. Hong Kong remains an important partner for British business. It is the UK's twelfth largest export market in the world and the second largest in the Far East after Japan; and almost 40% of the UK's exports to China pass through Hong Kong. The UK remains a strong market for Hong Kong exporters.

27. Hong Kong is a priority market for British Trade International, who, during the second half of 1999, supported visits by six British groups to trade fairs in Hong Kong and seven trade missions to the market.

#### **HONG KONG'S WIDER ROLE**

28. The Governments of China and the Hong Kong SAR continue to conduct their relations on the principle of "One Country, Two Systems", with the SAR exercising a high degree of autonomy. At the same time, the SAR Government has rightly recognised the advantages of increasing co-operation with the mainland authorities, especially those in the adjacent Guangdong Province, in areas such as transport infrastructure and environment improvement. Enhanced transport links with the mainland and joint action to protect the environment will help to underpin Hong Kong's continued success and to promote sustainable development in Guangdong.

29. Hong Kong's Chief Executive said in his Policy Address to the Legislative Council on 6 October, as he has said on previous occasions, that he believed Hong Kong should not only be a major Chinese city but could become the most cosmopolitan city in Asia. He cited Hong Kong's existing advantages: "We have the thriving Mainland next to us. We are a melting pot for Chinese and Western cultures. We are a highly liberal and open society. Our institutions are well established." No informed observer would doubt that these are important features of Hong Kong's whole position in China and the world. We believe, in particular, that Hong Kong's success as a city with an international status and persona depends directly on the SAR's continued autonomy and on the preservation of Hong Kong's freedoms.

#### **SINO-BRITISH JOINT LIAISON GROUP**

30. In accordance with the 1984 Sino-British Joint Declaration on the Question of Hong Kong, the Sino-British Joint Liaison Group (JLG) finished its work on 31 December 1999. During the period of this report, the JLG met in full session in Beijing on 21-22 September and in Hong Kong on 7-8 December, the second of these meetings being the last in a series of forty-seven plenary meetings which had begun in 1985.

31. In the period up to 30 June 1997, the JLG was the channel through which representatives of the Chinese and British Governments could discuss the whole range of detailed issues that needed to be decided in order to facilitate a smooth and successful transfer of sovereignty. After the handover, the JLG assumed a new role as a forum in which the two sides could exchange views and information about the implementation of the Joint Declaration. The JLG discharged its pre- and post-handover roles in a spirit of co-operation and partnership and with positive results in its many areas of deliberation. After the handover, the UK's interest in Hong Kong as a co-signatory of the Joint Declaration, and the UK's wish to remain a committed friend of Hong Kong, continued to be demonstrated through the JLG.

32. As the Foreign and Commonwealth Secretary says in his foreword to this report, the end of the JLG does not mark the end of Britain's interest in Hong Kong. The British Government, through the British Consulate-General in Hong Kong and the Embassy in Beijing, will continue to take a close interest in developments in or affecting Hong Kong, and will continue to report to Parliament on the implementation of the Joint Declaration. The UK will remain a committed friend of Hong Kong.

## **CONCLUSION**

33. Our overall assessment of the implementation of "One Country, Two Systems" remains positive, and we note the continued statements by the Chinese Government and the SAR Government of their commitment to this goal. We have noted a number of areas of concern in this report. It is welcome that these subjects were debated in the Hong Kong media, the Legislative Council, and elsewhere in Hong Kong.

34. If Hong Kong is to continue to prosper and flourish, and to maintain its unique position as an international financial and business centre, it must preserve its distinctive way of life. It must protect those intangible values and principles for which it has been traditionally known and respected: the rule of law; the independence of the judiciary; transparent, accountable and incorruptible government; a level playing field for business; respect for individual rights and freedoms; and vigorously outspoken media. Overall, the experience of Hong Kong since 1997 augurs well for the future governance of the SAR.

35. Although the work of the Sino-British Joint Liaison Group was concluded at the end of 1999, the British Government, as a co-signatory of the Joint Declaration, retains a moral and political commitment to the people of Hong Kong. The United Kingdom and Hong Kong are continuing to build a new relationship based on respect for the values of the Joint Declaration, a recognition of common interests and long-standing links of friendship.









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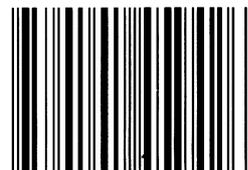
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