

## One Country, Two Systems

*Overall, our view remains that the concept of 'One Country, Two Systems' is an everyday reality in Hong Kong. The rule of law and the independence of the judiciary, which are so vital to Hong Kong's success, are being upheld. Essential rights and freedoms are being protected, and challenges to them fully and freely debated. – UK Secretary of State for Foreign and Commonwealth Affairs Mr Jack Straw, Six-monthly Report on Hong Kong, July-December 2001, presented to the British Parliament, March 2002*

*Most Western analysts conclude today that the 'One Country, Two Systems' has permitted Hong Kong to maintain its unique character. Long-term success depends on preserving the quality and integrity of Hong Kong's outstanding cadre of civil servants, the rule of law and an independent judiciary... – US Speaker's Task Force on the Hong Kong Transition, Ninth Report, January 30, 2002*

Hong Kong's stability and continued development as an international city since reunification in July 1997 have depended upon the successful implementation of the principle of 'One Country, Two Systems'. This framework ensures that Hong Kong retains its distinct identity and strengths as an international business, financial, shipping and aviation centre.

The 'four pillars' of Hong Kong's success remain as relevant and important today as they did five, 10 or 15 years ago. These are: the common law system upheld by an independent judiciary; the free and unfettered flow of information; a level playing field for business; and, a clean, respected civil service.

The Basic Law, Hong Kong's constitutional document, has provided the constitutional basis upon which the Hong Kong Special Administrative Region has continued to



protect its capitalist system, as well as the way of life, the rights and freedoms of its residents. These include: equality before the law, private ownership of property, freedom of assembly, freedom of movement, freedom of religious belief, freedom of academic research and freedom to join trade unions.

The courts continue to administer justice independently, while Hong Kong's own police, immigration, customs and excise and anti-corruption officers have remained responsible for maintaining law and order in the SAR.

Hong Kong continues to maintain its previous economic system. It has maintained its renowned, business-friendly, low-tax system and its own currency, which has been linked to the US Dollar at a rate of US\$1 to HK\$7.80 since October 1983.

Mainland leaders have scrupulously adhered to a 'hands off' approach, allowing Hong Kong people to administer their own affairs (except defence and foreign affairs) with the promised high degree of autonomy. As always, Hong Kong people have been quick to speak up if they have perceived that their rights and freedoms, or the systems underpinning Hong Kong society, are in any way being compromised or undermined. Hong Kong people have taken very seriously their role in shaping the SAR and the society in which they live. This has resulted in greater demands from the public and the legislature for an open, accountable and more efficient government.

Hong Kong has continued to play an important role in international affairs.

It remains an active member, in its own right using the name 'Hong Kong, China', of the World Trade Organisation, the World Customs Organisation, the Asia-Pacific Economic Co-operation (APEC) forum and the Asian Development Bank and as an associate member of the Economic and Social Commission for Asia and the Pacific (ESCAP) of the United Nations.

Hong Kong's presidency of the Financial Action Task Force (FATF) on Money Laundering in 2001-02 allowed the SAR to take a leading role in the international fight against terrorist financing in the wake of the September 11 terrorists attacks in the United States. At an Extraordinary Plenary Meeting, chaired by Hong Kong in Washington D.C. in late October 2001, the FATF's remit was expanded beyond money laundering to focus expertise on a world-wide effort to combat terrorist financing. A wide range of special recommendations adopted at the meeting will deny terrorists and their supporters access to the international financial system.

Representatives of the HKSAR Government have also continued to participate, as members of delegations of the People's Republic of China, in international organisations and conferences limited to states, such as the International Monetary Fund, the World Intellectual Property Organisation, the International Civil Aviation Organisation and the International Telecommunications Union.

There are more than 130 binding bilateral agreements between the HKSAR and over 50 countries throughout the world. Areas covered in these agreements include air services, visa abolition, investment promotion and protection, surrender of fugitive offenders, mutual legal assistance in criminal matters, transfer of sentenced persons, customs co-operation, co-operation on information technology and avoidance of double taxation.

Hong Kong has also entered into non-binding arrangements with other foreign states, regions and international organisations. These arrangements are often in the form of a memorandum of understanding and cover a spectrum of topics from co-operation in information and communication technology, environmental protection to cultural exchanges.

More than 200 multi-lateral treaties apply to the Hong Kong SAR (of which more than 80 do not apply to the Mainland). They cover many areas such as international crimes, private international law, customs, marine pollution, science and technology, civil aviation, merchant shipping, intellectual property, health, investment, trade and industry, postal services, labour issues, human rights, transport and telecommunications.

Hong Kong is home to a large consular corps and several important international organisations. At the end of March 2002, there



were 55 consulates general in Hong Kong, 46 honorary consuls and six semi-officials missions. The United Nations High Commissioner for Refugees, the European Union, the Bank for International Settlements, the International Monetary Fund and the International Finance Corporation/World Bank all maintain a presence in Hong Kong.

## Political development

### Legislative Council elections

Two lively and hotly-contested Legislative Council (LegCo) elections have been held since 1997 – in May 1998 and September 2000. All 60 LegCo members were returned by elections.

The 1998 elections on May 24 attracted a record 166 candidates representing all political persuasions and a record voter turnout of 1.49 million people, or 53.3% of all registered voters.

The 2000 elections on September 10 attracted 155 candidates and a voter turnout of 1.33 million, or 43.6% of all registered voters.

Issues dominating both elections mainly concerned the economy, housing, unemployment, the environment and how to maintain Hong Kong's competitiveness.

The electoral process was open and fair and supervised by an Electoral Affairs Commission headed by a High Court Judge.

The 1998 LegCo included 10 members returned by an 800-member Election Committee representing various sectors and strata of society; 20 returned by geographical constituencies through direct elections and 30 returned by functional constituencies representing various sectors of the community that are substantial and important to the ongoing development of Hong Kong.

The 2000 LegCo was formed by six members returned by the Election Committee, 24 returned by geographical constituencies through direct elections and 30 returned by functional constituencies.

The next elections in 2004 will comprise 30 members returned by geographical constituencies through direct elections and 30 returned by functional constituencies.



After 2007, the Basic Law provides for a mechanism to amend the method of forming the LegCo. Hong Kong people may decide how best to achieve the ultimate aim of electing all LegCo members by universal suffrage as stipulated in the Basic Law.

### The Chief Executive election

The term of office for the Chief Executive is five years, with no more than two consecutive terms allowed under the Basic Law.

Hong Kong's first Chief Executive, Mr Tung Chee Hwa, has been returned to serve a second five-year term from July 1, 2002.

Mr Tung was the only candidate nominated for the position during a two-week nomination period that ended on February 28, 2002. Mr Tung was nominated by 714 Election Committee members.

As there was only one validly nominated candidate, the Returning Officer Mr Justice Pang Kin-kee declared on February 28 that

Mr Tung was elected uncontested under the Chief Executive Election Ordinance.

The Electoral Affairs Commission chairman, Mr Justice Woo Kwok-hing, said: “Our Commission has fulfilled our duties in accordance with the law. All the electoral arrangements and procedures have complied with the Basic Law of the Hong Kong Special Administrative Region, the Chief Executive Election Ordinance and other related statutory provisions. The election result is lawful and valid.”

The HKSAR Government reported the election result to the Central People’s Government because under the Basic Law the Chief Executive is appointed by the Central People’s Government.

On March 4, 2002, Mr Tung was formally appointed by the Central People’s Government to serve as the second term Chief Executive.

Following his reappointment, Mr Tung thanked the Central People’s Government for their confidence in him and expressed his gratitude to members of the Election Committee and to the people of Hong Kong for their support.

Mr Tung said: “In the next five years, I will stand by and work with the people of Hong Kong. I have heard your voices and I know your concerns. I will put into action my undertaking to the community.”

The Chief Executive said he would apply himself fully to ensure that government policies moved with the times. He said Hong Kong would be able to take advantage of the rapid development of the Mainland, which would contribute to the restructuring of Hong Kong’s economy and help increase employment opportunities.

### Accountability system

Five years after 1997, ‘One Country, Two Systems’ is firmly in place and ‘Hong Kong

people running Hong Kong’ is part of everyday life.

With the election of the Chief Executive by an electoral college, a fully-elected legislature and an aggressive, critical media, government operations and policies have been subjected to increasing public scrutiny and pressure.

In his Policy Address in October 2001, the Chief Executive Mr Tung Chee Hwa outlined the government’s initial thinking on ways to improve the system of accountability for senior officials.

Detailed plans to take effect from July 1, 2002 were subsequently unveiled by Mr Tung on April 17, 2002.

The new system is designed to more clearly define the roles, powers and responsibilities of top government officials. It would also build on the civil service’s existing strengths such as permanency, professionalism, neutrality, efficiency and freedom from corruption.

Under the present government structure, civil servants play a critical role in the governing team. Policies are formulated by Directors of Bureaux (often referred to as Policy Secretaries) and endorsed by the Executive Council (ExCo). Legislation and public expenditure relating to such policy initiatives needs to be scrutinized and passed by LegCo before being implemented by various bureaux and departments.

During this process, Directors of Bureaux have inevitably taken on a political role, which does not gel with the traditional role of the civil service.

Civil servants are generally employed on permanent terms. The question is how to improve accountability while at the same time recognise the importance of an impartial, permanent civil service?

The new system of accountability announced by Mr Tung aims to solve this conundrum.

Under the new system, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice and Directors of Bureaux will no longer be civil servants but will be appointed on contract terms. They will be accountable to the Chief Executive for the success or failure of matters falling within their portfolios.

Significantly, they will all be appointed to the Executive Council to play a direct role in the process of deciding on government policies as well as collectively allocating the resources within the government as a whole. Because of this, government's work will become more streamlined and efficient. This will also provide a better co-ordination in the formulation and implementation of policies.

These new Principal Officials will assist the Chief Executive in developing and shaping policies, overseeing the implementation of policies, monitoring the delivery of services by executive departments and explaining developments within their portfolios to gain public support.

They will respond to LegCo questions, introduce bills and take part in LegCo motion debates. They will attend meetings of LegCo Panels, subcommittees and committees to participate in discussions on important policies.

The new accountability system is consistent with the Basic Law under which Principal Officials are nominated by the Chief Executive for appointment by the Central People's Government.

At the policy bureau level they will be supported by Permanent Secretaries, very experienced senior civil servants, in analysing and defending policies, steering executive departments and managing human and financial resources.

Below the policy bureau level, various departments will remain responsible for implementing policies and delivering public services.

With a clearer definition of roles, these Principal Officials will operate at the political level while civil servants will be loyal to the government of the day and maintain political neutrality.

The merits of the new system are that the Principal Officials' roles and responsibilities are better defined and that they will need to be more accountable to enlist the support of the legislature and the public.

The new system responds to increasing public calls for a higher degree of accountability for principal officials, while maintaining the structure, role and ethos of the civil service. The civil service system will remain intact and there will continue to be a permanent, stable, meritocratic, professional and politically neutral civil service.

The new group of Principal Officials will proactively gauge public opinion and strengthen communication with the public to gain a better understanding of community needs and to devise policies fulfilling these needs.

They will work more closely with the legislature, proactively seek the views of LegCo members and strengthen communication with the LegCo to ensure a better working relationship between the Executive and Legislature.

The new Principal Officials will be able to focus more attention on public demands and needs, and will be able to operate free from the restrictions imposed on civil servants.