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**REPORT FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT**

**Third Annual Report by the European Commission on the Hong Kong Special
Administrative Region**

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HONG KONG: Annual Report 2000

1. INTRODUCTION

The European Union continues to attach great importance to its relations with the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China. The European Union has therefore watched closely, with genuine and friendly interest, the evolution of the HKSAR in general and the implementation of the "One Country, Two Systems" principle in particular.

The new millennium coincides with the tenth anniversary of the approval of the HKSAR's Basic Law by the People's Republic of China. The effective and full implementation of the Basic Law will provide the cornerstone for Hong Kong's lasting social peace, economic development and democratisation.

As in the Commission's two previous annual reports¹, this report aims to assess the state of development of the Hong Kong SAR and its relations with the European Union.

2. IMPLEMENTATION OF THE "ONE COUNTRY, TWO SYSTEMS" PRINCIPLE.

Both the Central Chinese Government and the HKSAR Government continued to emphasise the importance they attach to full adherence to the principle of "One Country, Two Systems."

President Jiang Zemin reiterated the Central Chinese Government's adherence to the principle, in his annual address to the National People's Congress in Beijing. However, remarks made by officials of the Central People's Government Liaison Office in Hong Kong gave rise to three controversies during the year. The first two cases were related to Taiwan issues while the third was linked to China-Vatican relations.

The first incident occurred in April when a deputy director of the Liaison Office, Mr Wang Fengchao, said that "the media should not treat speeches and views which advocate Taiwan's independence as normal news items, nor should they report them as normal cases of reporting the views of different parties. The Hong Kong media has the responsibility to uphold the integrity and sovereignty of the country." This statement triggered widespread concerns and criticism from both the media and Government in Hong Kong. Acting Chief Executive Mrs Anson Chan issued a statement reaffirming that press freedom was "guaranteed by the Basic Law as are the freedoms of speech and publication. This means that the Hong Kong media is free to comment and report on all matters of current interest. They do so in accordance with the law of Hong Kong."

At the end of May, an official of the Liaison Office, He Zhiming, remarking on HK-Taiwan trade, said that some Taiwanese "industrial leading business figures have, on the one hand, openly supported Taiwanese independence on the island and, on the other, obtained advantages from their economic activities on the mainland. That is absolutely not permitted. I believe all of you, on listening to these remarks, will know how to choose when seeking Taiwan trading partners." These remarks caused considerable concern, inside and outside

¹ COM (98)796 final and COM (00) 294 final

Hong Kong. The Chief Executive, Mr Tung Chee-hwa immediately contacted the director of the Liaison Office, Mr Jiang Enzhu, and obtained assurances from him that the Office would continue to operate according to the Basic Law and would not interfere with commercial activities in Hong Kong. The Chief Secretary for Administration, Mrs Anson Chan, also stressed that the SAR Government had consistently separated trade and business matters from political considerations.

After the announcement by the Vatican of the canonisation of 87 Chinese martyrs and 33 foreign missionaries on 1st October (Chinese national day), Bishop Joseph Zen Ze-Kiun revealed that the Liaison Office had told the Hong Kong Catholic Diocese on 18 September to keep its canonisation celebrations low key. This demarche provoked some concerns in respect of freedom of religion. Secretary for Home Affairs, Mr Lam Woon-kwong, reacted by stating, "it is clear that freedom of religion is protected under the Basic Law."

In the context of the "One Country, Two Systems" principle, and contrary to the continuing use of the death penalty in China, it is worth noting that no capital punishment has been carried out in Hong Kong since the sixties and that the death penalty was officially abolished in 1993.

3. INSTITUTIONAL DEVELOPMENT, ACCOUNTABILITY AND DEMOCRACY.

- Institutional developments

The debate on institutional development in Hong Kong has been gaining momentum since the beginning of the year. This has focused on the timetable for the introduction of universal suffrage for the election of all members of the Legislative Council (LegCo) and the Chief Executive, and on relations between the executive and LegCo, with a view to enhancing accountability and entrenching democracy.

LegCo played an active role throughout the year by adopting several motions promoting democracy and accountability in the SAR Government. On 12 January, it passed a motion on political reform calling for the Government to hold a public consultation on the relationship between the legislature and the executive and the democratic election of the Legislative Council members and the Chief Executive by universal suffrage.

On 14 June, LegCo passed a motion on the "Development of the HKSAR's political system" urging the government to consider its "Report on the Development of the Political System of the HKSAR." The report studied the constitutional system of several countries and made a number of recommendations including, inter alia, carrying out a review of the role, appointment, rules of collective responsibility and confidentiality of the Executive Council Members and their relations with bureau secretaries. The report also recommended the introduction of an appointment system for principal officials on political contracts, by the second term of the Chief Executive, and a system for the sanction or removal of principal officials.

In a speech delivered on 5 July, the Chief Executive stated that Hong Kong "needs a more accountable ministerial system". The Chief Executive also noted this in his policy address on 11 October, saying "the previous Legislative Council and the community have expressed the view that, as senior officials are involved in policy making and play a leading role in public affairs, they should be held accountable for the outcome of their policies". He agreed that "the SAR government should respond seriously to LegCo's concerns, undertake a thorough review,

and make the system of accountability more complete for principal officials and secretaries, and directors of bureau rank level".

The Chief Executive also announced that the Government would examine ways of strengthening the existing mechanism of communication with LegCo, so that executive authorities fully understood LegCo's views and opinions and would be in a better position to ensure that policies formulated and bills submitted to LegCo would command its support.

- **Legislative elections.**

The second LegCo elections since the hand-over, took place on 10 September 2000. In accordance with the Basic Law, the number of members directly elected in geographical constituencies increased from 20 to 24, while the number elected by election committee decreased from ten to six. The remaining 30 seats are elected through functional constituencies.

The elections were conducted in a fair and free manner. The turnout rate decreased in comparison to the 1998 legislative elections but remained higher than in 1991 and 1995. The Democratic Party lost one seat while the Democratic Alliance for the Betterment of Hong Kong (DAB) won one more seat than in 1998. Four-fifths (48 out of 60) of the newly elected members were already members of the previous Legislative Council, indicating continuing stability.

A by-election in the geographical constituency of Hong Kong was held on 10 December, after the resignation from LegCo of DAB legislator Mr Gary Cheng, because of a conflict of interests involving a business arrangement. Ms Audrey Eu (Independent) won the by-election.

4. DEVELOPMENTS IN THE LEGAL FIELD.

- **International relations.**

Hong Kong continues to negotiate and conclude international agreements in those fields provided for under the Basic Law. For example, it is an active member of the WTO and has signed a Customs Co-operation Agreement with the European Community. Hong Kong has also signed agreements with Canada, Switzerland and the Federal Republic of Germany on the readmission to Hong Kong of Hong Kong citizens who enter those countries illegally. In May 2000, a US Federal Court of Appeal confirmed the validity of the agreement between the Hong Kong and the US Government on the surrender of fugitive offenders, and agreed that the fugitive offender in question should be returned to Hong Kong.

- **Rendition arrangements between Hong Kong and Mainland China.**

The Hong Kong SAR Government is preparing arrangements for the rendition of offenders between the mainland and the SAR. The Government has submitted a progress report to LegCo.

- **The right of abode.**

Following the interpretation of the Basic Law by the National People's Congress Standing Committee in June 1999 (see reference to right of abode issue in Commission's 1999 report COM(2000)294 final on web-site: http://europa.eu.int/comm/external_relations/hong_kong/doc/index.htm), restrictions were placed on the qualifications for right of abode in the SAR.

In a judgement reached on 11 December 2000, the Court of Appeal confirmed that 5,196 claimants were refused the right of abode in the SAR. Those claimants already in Hong Kong will have to return to the mainland and apply for residency in Hong Kong through the normal procedure. The Hong Kong Government will not implement forced repatriation. However, enforcement might be carried out should any appeal to the Court of Appeal result in a negative decision for those seeking the right of abode.

- **Article 23 of the Basic Law.**

According to Article 23 of the Basic Law, "the Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition or subversion against the Central People's Government..." The Hong Kong SAR Government has promised to proceed with a public consultation. The SAR Government has, thus far, proceeded cautiously on this sensitive issue and the Government departments concerned (Secretary for Justice and the Security Bureau) are in the process of drafting the required consultation paper.

5. DEVELOPMENTS IN THE FIELD OF BASIC RIGHTS AND FREEDOMS.

Hong Kong citizens remain vigilant in the defence of their basic rights and freedoms and this caused much debate and deliberation during the year. These debates, disputes and deliberations took place publicly, both in LegCo and in the media, and were sometimes accompanied by public demonstrations.

- **Press Freedom.**

The Hong Kong press varies greatly in quality, but remains pluralistic and diversified. Fierce competition means that some of the media place great emphasis on sensational reporting. Last year, proposals made by the Law Reform Commission to establish a Government-appointed Press Council were rejected. The Chief Secretary reiterated in November her preference for self-regulation by the media.

In July, some 13 newspapers and news groups decided to create an independent Press Council made up of major Chinese and English media representatives. Members of the Council include the Federation of Journalists, the Newspaper Executive Association and the Newspaper Society, which represents proprietors. The Hong Kong Journalists Association and some newspapers, such as the 'Oriental Daily News' the 'Apple Daily', the 'Sun' and the 'Hong Kong Economic Journal' refused to join the Council.

Following a reorganisation at the South China Morning Post and the subsequent resignation in November of its respected China Editor, Willy Lam, the issue of self-censorship by the media resurfaced in public debate. Some radio and TV stations opposed a Broadcasting Authority proposal to impose a mandatory requirement for programme hosts to declare their political and business interests. They suggested that individual hosts should be allowed to exercise self-regulation and to follow an internal code of practice instead.

Overall, the lively debates and discussions reflect the fact that, thus far, the HKSAR media remains open, diverse and free.

- **Public Order Ordinance**

The HKSAR Government has continued to allow public demonstrations on a range of economic, political and social issues. Nevertheless, the rights of demonstration regulated by

the 1997 Public Order Ordinance were also a subject of public controversy and debate. The debate was triggered by the arrest of several students who demonstrated in April and June in violation of the requirement to give prior notification to the police. In apparent recognition of public feeling on the issue, the Secretary for Justice decided not to prosecute the students.

Several further demonstrations were organised in violation of the provisions of the Public Order Ordinance at which LegCo members of the Democratic Party participated. The main subjects of the dispute were related to the principle and length of the notification requirements; the authority entitled to raise objections (an independent committee or the judiciary, and not the police), and the penalty for failure to give prior notice to the police.

In response to public concerns, LegCo debated a Government inspired motion on upholding the Public Order Ordinance, in November. However, this was deferred until December because of pressure from Democratic Party legislators and the public to allow more time for discussion. On 21 December, after more than eight hours of debate, LegCo adopted the motion, thereby upholding the Public Order Ordinance.

- **Academic Freedom – Pollster Chung affair.**

During the summer, at a time when the HKSAR Chief Executive Tung Che-hwa's popularity was at a low ebb, the maintenance of Hong Kong's academic freedom became a major topic of public debate. Dr Robert Chung, the Director of a public opinion programme at Hong Kong University claimed that the Chief Executive had sent a clear message to him "via a special channel" that his polls - which showed a steady decline in the Chief Executive's approval ratings - were not welcome. Chung conducted regular surveys on the Chief Executive's popularity and the performance of the SAR government. Chung later disclosed that the "special channel" was the university Vice-Chancellor Cheng Yiu-chung and Pro-Vice-Chancellor Wong Siu-lun. It also emerged that the Chief Executive's senior special assistant Andrew Lo Cheung-on had called on Vice-Chancellor Cheng earlier, in January 1999, to express doubts about Professor Chung's polls and his dual role as pollster and commentator.

The incident raised local fears over possible attempts by the Government and Hong Kong University to interfere with academic freedom in Hong Kong. The University's Council set up an independent panel to look into the matter. Its report, released on 1 September after 11 days of hearings, concluded that both the Vice-Chancellor and the Pro-Vice-Chancellor had "acted to inhibit Dr Chung's academic freedom".

The release of the report led to persistent calls for the Chief Executive to remove Andrew Lo to save the government's credibility. Bowing to immense pressure from both the university staff and the public, Vice-Chancellor Cheng and Pro-Vice-Chancellor Wong tendered their resignations on 6 September, a move that some believed was to prevent the University Council from voting on the panel's report. The two however maintained that they were not confessing any guilt but were only attempting to save the University from further embarrassment.

Chairman of the Democratic Party Martin Lee put forward a motion calling for a LegCo independent committee to investigate the affair further, particularly the role of the Chief Executive and his special assistant Lo. However, the motion was defeated by 35 votes to 19. The Chief Secretary urged legislators to put the matter to rest and pledged that the Government would zealously protect academic freedom.

- **Visits to Mainland China by democratic politicians.**

The Central Government in Beijing seems to have relaxed its attitude to allow some democratic politicians to visit Mainland China, but only under strict conditions. As a result of demarches made by the Chief Executive, a member of the Hong Kong Alliance in Support of the Patriotic and Democratic Movement in China, Mr Lau Chin-shek, was twice allowed to visit his mother in Guangzhou, on humanitarian grounds.

A Democratic Party legislator, Mr Sin Chung-kai, entered Shenzhen at the end of May and attended a seminar organised by the Hong Kong–China Relations Strategic Development Research Fund.

6. THE ECONOMY

Hong Kong began emerging from recession in the second part of 1999 and by early 2000 it had largely recovered from the effects of the 1997 Asian financial crisis. By the end of 2000 the economy had rebounded strongly: GDP growth for the year was 10.5%. Although described as broad-based, the recovery was fuelled mainly by export-led growth and an impressive increase of 8.8% in investment. Private consumption growth was more limited at 5.4%. Unemployment dropped from 6.3% to 5% over the year. There was concern that the gap between the rich and the poor was widening as the recovery took hold. Contrary to expectations, there was a fiscal surplus, which reached HK\$10 billion, in fiscal year 1999–2000, because of additional revenue from stamp duties, profits tax and salaries tax, and land premium partly offset by lower than anticipated earnings on the investment with the Exchange Fund. The fiscal reserves at the end of fiscal year 1999-2000 stood at HK\$444.3 billion.

Hong Kong used the Asian financial crisis to implement some much-needed reforms in the financial sector, by demutualising and merging the securities exchanges and clearing houses.

Hong Kong observed China's WTO accession negotiations closely, and a number of reports commenting on the impact that it would have on Hong Kong's economic and business sectors were issued. There was unanimous support for China's accession. Most commentators considered this would have a positive effect on Hong Kong, but the opening up of the Chinese market would provide both formidable challenges and excellent opportunities for Hong Kong.

The previous Commission report noted that Hong Kong's market economy continued to operate very much in the same manner as it did before the hand-over. This continues to be the case one year later as the HKSAR Government maintains its respect for free market principles.

The absence of overall competition legislation, which was also noted in the European Parliament's report on Hong Kong, has been the subject of considerable controversy throughout the year. The HKSAR Government continues to believe that blanket legislation to combat restrictive competition practices is unnecessary. The Democratic Party and a number of consumer and business interests consider that blanket legislation would provide transparency, benefit consumers and improve the business environment by providing a level playing field for all.

Hong Kong introduced a Mandatory Provident Fund (MPF) pension scheme this year, for the first time, reflecting the fact that the population pyramid was changing. The implementation of the MPF showed that Hong Kong citizens increasingly consider Hong Kong as their

permanent home, no longer as a temporary refuge and are beginning to demand services that were not previously considered necessary. However, the MPF's introduction required extensive legislative efforts by the Government and much preparatory work by the financial services industry. It has been argued that the MPF might depress domestic demand, as individual households will have to seek savings elsewhere to pay for MPF contributions.

7. THE HONG KONG SAR AS AN INTERNATIONAL TRADE PARTNER.

In accordance with the Basic Law, the HKSAR conducts its own trade policy for which it has full competence as a separate customs territory. Hong Kong is an independent member of the WTO and of a number of other international organisations.

Hong Kong is a particularly active member of the WTO where the EU and Hong Kong share a number of common goals and objectives, and maintain close and regular contact. Hong Kong is also a vigorous member of APEC, where it has always called for progress towards trade liberalisation.

In 2000, for the first time in its history as a separate customs territory, Hong Kong announced that it would hold exploratory talks with New Zealand concerning the possible establishment of a Free Trade Agreement between the two territories. After the APEC summit in Brunei, Hong Kong announced that it would in future be more flexible about regional or bilateral agreements. This marked a very important change in Hong Kong's trade policy, which had previously maintained as one of its main tenets that free trade areas and regional trade agreements could detract from multilateral progress.

Hong Kong is also an active member of the World Customs Organisation.

8. EUROPEAN UNION – HONG KONG RELATIONS.

- Exchange of visits.

Bilateral EU-Hong Kong relations intensified thanks to several high-level visit exchanges.

The Chief Secretary Mrs Anson Chan visited the Commission in June. She was received by President Prodi, and also met Commissioners Patten and Vitorino.

Commissioner Solbes visited Hong Kong in July. He met the Chief Executive, Financial Secretary Donald Tsang and representatives of the Hong Kong Bankers' Association.

Commissioner Chris Patten paid a working visit to Hong Kong in October. He met Chief Executive Mr Tung Chee-hwa, Chief Secretary Mrs Anson Chan, Financial Secretary Donald Tsang and Secretary for Commerce and Industry Mr Chau Tak-hay. He also met the leaders of the main political parties.

Mrs Lily Yam, Secretary for the Environment, visited the European Commission in September.

A LegCo delegation led by Mr Edward Ho visited the European Parliament in Strasbourg in February. The delegation met Commissioner Patten and Mr Per Gahrton, Chairman of the European Parliament's China delegation, who paid a return visit to Hong Kong in early November. The Chief Executive Tung Chee-hwa and Mrs Rita Fan, Chairwoman of the

Legislative Council, and some other members of LegCo, received the European Parliament's China delegation in Hong Kong.

- **Visa free access to the EU.**

The European Commission submitted a proposal in January 2000 to the Council of Ministers in favour of visa-free access to the EU for Hong Kong SAR passport holders.

The EU took the political decision last December to approve the principle of granting Hong Kong SAR passport holders visa-free access² to the territories of 13 Member States. The HKSAR Government welcomed this decision. Once agreed by the Parliament and the Council, visa-free access will facilitate the exchange of visits between Hong Kong and the EU considerably.

- **Customs Co-operation**

Customs co-operation between the European Community and the HKSAR continued in 2000 under the 1999 Agreement on co-operation and mutual administrative assistance in customs matters. The EC and Hong Kong had a good opportunity to review co-operation at the annual Joint Customs Co-operation Committee meeting, held in Hong Kong on 21 November. The parties updated each other about their initiatives taken to improve customs techniques and procedures and their efforts to enforce Intellectual Property Rights. The parties also discussed co-operation in international fora such as the World Customs Organisation, the WTO and the G7. Particular attention was paid to the ratification procedure for the revised Kyoto Convention. The other main area of the Customs Co-operation Agreement is dedicated to mutual administrative assistance. In the fight against fraud, this aspect of international co-operation becomes increasingly important. During the period of review a number of requests for information have been referred to the Hong Kong customs authorities for investigation. The next meeting of the Joint Customs Co-operation Committee will be held in Brussels.

- **Intellectual Property Rights**

The European Commission has continued to monitor developments in this area with great interest. In addition to discussions at the Joint Customs Co-operation Committee, Commission officials visited Hong Kong and held discussions with the Intellectual Property Department representatives. The moves of the HKSAR Government - in increasing the number of officials responsible for IPR protection, setting up a Special Task Force and introducing new legislation - have resulted in a much-improved IPR situation in the SAR.

The Commission considers that the IPR problems have not been completely resolved, however, and urges the Hong Kong authorities to continue to be vigilant in this area and to keep policing the situation in a very intensive manner. Nevertheless, the Commission does recognise the significant progress that has been made and applauds the efforts undertaken to date.

- **EU presence and interest in Hong Kong**

² In early 2001, the Council of Ministers approved a European Commission proposal for a Regulation granting, inter alia, Hong Kong SAR passport holders visa-free access to the territories of 13 Member States. The Regulation entered into force on 10 April 2001.

Hong Kong is one of the most important cities for EU interests in Asia. About 42,606 EU citizens from all the Member States were estimated to be residents in Hong Kong at the end of 2000. In 2000, 240 EU companies were using Hong Kong as their regional headquarters, while 561 had regional offices in the city.

In terms of foreign investment, the EU was the second largest source of external investment in Hong Kong in 1998. The cumulative value of realised direct investment from the EU in that year amounted to €53.3 billion, accounting for 14% of the total.

The EU presence in Hong Kong covers a wide variety of sectors and a number of activities ranging from financial services, trading and manufacturing to communications and construction. In the insurance sector, EU companies ranked first in the number of overseas insurers operating in Hong Kong. Forty-one banks licensed in Hong Kong were incorporated in the EU as of the end of 2000. In 1999, EU companies were awarded contracts totalling €205 million in the public works sector. The EU also has a very important role in shipping and in air transport.

The EU was Hong Kong's third largest supplier of goods in 2000, after China and Japan, and was the third biggest market for Hong Kong's exports, after China and the United States.

- **Culture**

The EU has continued its active presence in Hong Kong in the fields of culture and education. A number of European Cultural institutions are present in Hong Kong. The EU Working Group for Culture brings together these institutions with the Consulate-Generals and the HK European Commission Office to organise or contribute to the organisation of a number of events in Hong Kong with a European focus, such as the European Intercultural Week and the European Film Festival.

9. CONCLUSION.

The year 2000 was rich in debate and controversy both on the implementation of the "One Country, Two Systems" principle and on the safeguarding of some collective and individual rights, which are guaranteed by the Basic Law. These are the foundation for safeguarding Hong Kong's future and prosperity. The Commission welcomes the fact that the debates, disputes and deliberations were at times accompanied by public manifestations and protests, from various sectors of interest and opinion. This demonstrates a healthy regard for freedom and democracy, although it also reveals the need for continuing vigilance.

Some unwelcome remarks by Hong Kong based mainland officials, pertaining to Hong Kong's liberty to act autonomously, triggered concerns both in Hong Kong and in the international community. The swift reaction of the Hong Kong SAR Government contributed to the safeguarding of Hong Kong's autonomy. However, the controversy concerning the presence of the Falun Gong movement in Hong Kong poses a new challenge to the Hong Kong authorities to continue to ensure that the rights and freedoms under the Joint Declaration - including freedom of assembly, freedom of expression and freedom of religion - are maintained and respected under the law. This issue will no doubt warrant close attention in the months ahead.

Thanks to the work of LegCo and pressure from public opinion, the principle of accountability of senior officials of the SAR Government is widely recognised by all sectors of public opinion and is acknowledged by the SAR.

The fair and free LegCo elections also showed the maturity of Hong Kong citizens and politicians in the exercise of their basic political rights. This constitutes a further sign of the readiness of Hong Kong people to run Hong Kong in accordance with the “One Country, Two Systems” principle.

The lively debates and discussions on the exercise of basic rights constitute the best proof that Hong Kong remains a free society. There were a large number of demonstrations and protests during the year, which mostly took place in a peaceful manner and, in general, in conformity with the laws and regulations. The Hong Kong police continued to handle these demonstrations professionally and according to the law.

The European Commission welcomes the impressive recovery of Hong Kong's economy so soon after the serious Asian financial crisis. The economic recovery will no doubt help Hong Kong to face the new challenges and opportunities that will be created by China's accession to the WTO. The European Commission is confident that the capacity and ingenuity of Hong Kong people will allow them to adapt their economy once more to meet the challenges of the welcome and full integration of China into the world economy.