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REPORT

on the First and Second Annual Reports by the European Commission on the
Special Administrative Region of Hong Kong
(COM(1998) 796 – C4-0100/1999 and COM(2000) 294 - C5-0500/2000 –
1999/2009(COS))

Committee on Foreign Affairs, Human Rights, Common Security and Defence
Policy

Rapporteur: John Cushnahan

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PROCEDURAL PAGE

By letter of 8 January 1999, the Commission forwarded to Parliament its First Annual Report on the Special Administrative Region of Hong Kong (COM(1998) 796 - 1999/2009(COS)) and by letter of 18 May 2000, the Commission forwarded to Parliament its Second Annual Report (COM(2000) 294 - 1999/2009(COS)).

At the sitting of 25 February 1999 the President of Parliament announced that she had referred the First Annual Report to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (C4-0100/1999).

At the sitting of 23 October 2000, the President of Parliament will announce that she has referred the Second Annual Report to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (C5-0500/2000).

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed John Cushnahan rapporteur at its meeting of 23 September 1999.

The committee considered the the Commission report and the draft report at its meetings of 11 July and 10 October 2000.

At the latter meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne, William Francis Newton Dunn and Catherine Lalumière, vice-chairmen; Danielle Auroi (for Per Gahrton), Alexandros Baltas, Bastiaan Belder, Andre Brie, Maria Carrilho (for Rosa M. Díez González), Gunilla Carlsson, Gérard Caudron (for Sami Naïr), Daniel Marc Cohn-Bendit, Ozan Ceyhun (for Elisabeth Schroedter pursuant to Rule 153(2)), Andrew Nicholas Duff (for Francesco Rutelli), Pernille Frahm (for Luigi Vinci), Michael Gahler, Jas Gawronski, Vitalino Gemelli (for The Lord Bethell), Alfred Gomolka, Klaus Hänsch, Magdalene Hoff, Giorgos Katiforis (for Jannis Sakellariou), Efstratios Korakas, Rodi Kratsa (for John Walls Cushnahan), Alain Lamassoure, Cecilia Malmström (for Paavo Väyrynen), Pedro Marset Campos, Linda McAvan, Emilio Menéndez del Valle, Philippe Morillon, Pasqualina Napoletano, Raimon Obiols i Germa, Arie M. Oostlander, José Pacheco Pereira, Jacques F. Poos, Luís Queiró, Mechtild Rothe (for Jan Marinus Wiersma), Lennart Sacrédeus (for José Ignacio Salafranca Sánchez-Neyra), Tokia Saïfi (for Jacques Santer), Jürgen Schröder, Ioannis Souladakís, Francesco Enrico Speroni, Ursula Stenzel, Hannes Swoboda, Freddy Thielemans, Gary Titley, Johan Van Hecke, Geoffrey Van Orden, Matti Wuori, Christos Zacharakis.

The opinion of the Committee on Industry, External Trade, Research and Energy is attached.

The report was tabled on 13 October 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the First and Second Annual Reports by the European Commission on the Special Administrative Region of Hong Kong (COM(1998) 796 – C4-0100/1999 and COM(2000) 294 – C5-0500/2000 – 1999/2009(COS))

The European Parliament,

- having regard to the First Annual Report by the European Commission on the Special Administrative Region of Hong Kong (COM (1998) 796 - C4-0100/1999¹),
 - having regard to the recently published Second Annual Report by the European Commission on the Special Administrative Region of Hong Kong (COM (2000) 294 - C5-0500/2000²),
 - having regard to the Communication of the Commission to the Council on the European Union and Hong Kong: Beyond 1997 (COM (1997) 171 - C4-0214/1997³),
 - having regard to its resolution of 8 October 1998 on the Communication from the Commission to the Council on the European Union and Hong Kong: Beyond 1997⁴,
 - having regard to its resolution of 12 June 1997 on the Communication from the Commission on a long-term policy for China-Europe relations⁵,
 - having regard to its resolution of 9 February 1999 on the Communication from the Commission - Building a Comprehensive Partnership with China⁶,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0284/2000),
- A. whereas sovereignty over Hong Kong was transferred from the United Kingdom to the People's Republic of China on 1 July 1997,
- B. whereas the Sino-British Joint Declaration of 1984 and the Basic Law of 1990 guaranteed that after this transfer of sovereignty, the previous economic system and way of life would remain unchanged for 50 years,
- C. whereas developments have on the whole been consistent with the 'one country, two systems' policy; notes however that there are a number of concerns which need to be

¹ Not yet published in OJ C

² Not yet published in OJ C

³ Not yet published in OJ C

⁴ OJ C 328, 26.10.1998, p. 139

⁵ OJ C 200, 30.06.1997, p. 158

⁶ OJ C 150, 28.05.1999, p. 16

addressed,

- D. whereas the economy of the Hong Kong Special Administrative Region has, despite recent economic downturns in much of Asia, shown itself to be remarkably resilient, and whereas the prospects for future growth continue to be very good,
1. Is of the view that the one 'country, two systems' principle remains reasonably intact and, while requiring constant vigilance, Hong Kong nonetheless remains one of the freest societies in Asia;
 2. Welcomes the developing relationship between the European Parliament and the Hong Kong Special Administrative Region (HKSAR) Legislative Council, and looks forward to continued and enhanced contacts between the two institutions;

Rule of Law

3. Notes that that under the commitments given in the Joint Declaration, the autonomy of Hong Kong was guaranteed in all areas apart from defence and foreign affairs, and that Hong Kong's laws and its 'common law' legal system would remain in place;
4. Considering that the rule of law is the cornerstone of the 'one country, two systems' policy, expresses its concern about the implications of three controversial legal cases for the integrity of the rule of law and, ultimately, for the autonomy of Hong Kong; however, welcomes the commitment given by the Chief Secretary to the Committee on Foreign Affairs, Defence Policy and Common Security that the HKSAR government would defend the rule of law and the independence of the judiciary;
5. Regrets the decision of the HKSAR government to seek an interpretation of the Basic Law from the Standing Committee of the National People's Congress (NPCSC) and, believing that this has set a worrying precedent which appears to enable the NPCSC to issue interpretations of the Basic Law whenever the local courts make decisions of which either the SAR or mainland officials disapprove, stresses that there should not be a reoccurrence;
6. Is equally concerned about the implications for the right of jurisdiction of the Hong Kong courts of the Cheung Tze-Keung ("Big Spender") and Li Yuhai cases, and calls for a formal agreement on the mutual rendition of criminal suspects between the mainland and Hong Kong to be put in place at the earliest opportunity; acknowledges the fact that, while establishing such an agreement may be difficult, due to the two very different legal systems operating, both sides must work towards this goal as a matter of urgency;

Institutional Reform

7. Calls for the introduction of universal suffrage, at the latest for the 2008 Legislative Council elections, and by 2012 for the election of the Chief Executive, while stressing that the introduction of universal suffrage will need to be accompanied by a reform of the political system;
8. Regrets the abolition of the Municipal Councils on 1 January 2000 as these were the only two elected bodies, apart from the executive branch of the central government, to possess policy-making power; points out that it might have been preferable for the decision on

abolition to have been considered as part of an overall reform of the political system;

Human Rights

9. Supports the establishment of a statutory Human Rights Commission to investigate complaints of human rights abuses and to provide advice in respect of proactive policy formulation;
10. Believes that the early introduction of a Racial Discrimination Ordinance would help deal with the frequent complaints of racial discrimination of migrant workers employed in the private sector;
11. Is critical of the fact that certain individuals, among them members of the Legislative Council, have been denied access to mainland China;

Press Censorship

12. While acknowledging that the HKSAR government is committed to defending press freedom including the continuing editorial autonomy of Radio Television Hong Kong (RTHK), deplores the attempt by the Central People's Government officials to interfere with the freedom of the press by encouraging self-censorship; and stresses the need for continuing vigilance regarding press freedom;

The Economy

13. Notes the severe impact of the Asian financial crisis on Hong Kong and the efforts of the SAR government to restore Hong Kong economy and business confidence, which has already led to economy recovery;
14. Praises Hong Kong's excellent economic performance and is pleased to note that, despite the financial crisis in Asia, Hong Kong's economy has registered a remarkable 14% growth rate in real terms in the first three months of this year, compared with the same period the previous year, and that this year's annual growth is expected to be between 6% and 8%;
15. Is nevertheless concerned by the state of working conditions in the Hong Kong SAR (lower wages, redundancies, more overtime working, 25% of which is unpaid), particularly for migrant workers. Against this background, the EP deplores the worsening situation as regards access to social security. In the context of the recent reform, the EP calls on the SAR Government to follow the recommendations of the November 1999 ILO conference and encourages the SAR to respect freedom of association and the right to collective bargaining;
16. Acknowledges the criticism expressed in certain quarters that a number of business tycoons have an undue and dominant influence in certain sectors of Hong Kong's economy;
17. Draws attention to the fact that E.U. businesses operating in Hong Kong are entitled to expect the same fair competition laws and practices available to Hong Kong firms competing in the E.U. marketplace;
18. Condemns the intervention of an official from the Chinese Liaison Office, who threatened Hong Kong companies that trade with Taiwanese firms which the PRC deemed to be pro-

independence; and believing that this is in breach of the Basic Law, therefore welcomes the strong criticism of the intervention expressed by both the Chief Executive and Chief Secretary of the HKSAR administration;

19. Recognizes that the construction of a Disney Theme Park will widen the economic base of Hong Kong, offering employment possibilities, in particular to unskilled labour; stresses, however, the importance of complying with good environmental practice;
20. Welcomes the fact that Hong Kong businesses do not feel threatened by the imminent accession of China to the WTO, as they believe both will benefit because Hong Kong is the mainland's number one trading partner and direct investor;
21. Calls upon the Commission to pursue close cooperation with Hong Kong in the framework of the WTO, notably in the light of the imminent accession of China to the WTO, and to examine whether the bilateral agreements between the SAR government and the EU require modification;
22. Appreciates the efforts of the Commission to support Hong Kong in international bodies, but insists on the necessity to strengthen the links between Hong Kong and EU especially in the perspectives of the general strategy for Asia as expressed by the Commission;
23. Stresses the importance of Hong Kong in the process of economic reform and development of China as a whole and insists on the importance of a closer co-operation between the EU and Hong Kong in the field of finance, trade and foreign direct investment;
24. Welcomes the efforts Hong Kong has made to improve the protection of Intellectual Property Rights, but asks the Commission to examine in depth the problems to which our industry is exposed, regarding piracy and counterfeiting;
25. Asks the Commission to examine the possibilities for Hong Kong to participate in a broad range of Science and Technology programmes, as a result of the EU/China Science and Technology Agreement, while complying with the rules on biotechnologies laid down in the EU;
26. Calls on the Commission to reassure itself and the European Parliament of the situation in Hong Kong in respect of trade union and civic rights and the incidence of child labour;

Environment

27. In the light of the fact that the environment has continued to deteriorate in recent years, aggravated by, among other factors, increased industrial development on the mainland side, welcomes the Chief Executive's designation of the environment as a priority in his 1999 Policy Address, and the efforts being made in this domain by the HKSAR Government; considers that there are numerous possibilities for E.U.- Hong Kong co-operation in this area;

Visa-free Access

28. Regrets that the recommendation made by the European Parliament in its 1998 Report on Hong Kong that all E.U. Member States grant visa-free entry to holders of HKSAR

passport holders has yet to be implemented, and calls for the speedy adoption of the Council Regulations proposed by the EU Commission on 26th January 2000;

Staffing of the E.U. Delegation in Hong Kong

29. Is of the view that, with particular reference to the concerns expressed above, the European Commission needs to be able to monitor the situation; therefore highlights the need for the staffing and other resources in the E.U. Delegation's office in Hong Kong to be increased as had been promised previously;
30. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the Government of the People's Republic of China and the Government of the Hong Kong Special Administrative Region.

EXPLANATORY STATEMENT

1. Introduction

In April 1997 the European Commission published its policy approach to Hong Kong in its Communication entitled "The European Union and Hong Kong: Beyond 1997".

The European Parliament's Committee on Foreign Affairs Security and Defence Policy decided to produce a report in response to the Commission document and appointed me as rapporteur. The report was formally adopted by the European Parliament in October 1998. Since then the European Commission has produced two Annual Reports on developments in Hong Kong. The second Annual Report was approved at the meeting of the Commission which took place on May 18th 2000.

This report is a response to the Commission Reports and the issues are essentially the same as those that formed the basis for my initial report.

2. Rule of law

Before the return of Hong Kong in July 1997 to rule by the People's Republic of China, the latter made comprehensive commitments in an international agreement known as the Joint Declaration. The autonomy of Hong Kong was guaranteed in all areas apart from defence and foreign affairs. Under the Joint Declaration Hong Kong's laws and its "common law" legal system would remain in place. The independence of its courts and their right to exercise the power of final adjudication were assured.

The Joint Declaration was posited on the notion of "one country, two systems" and in doing this, accepted the Hong Kong system which is based on the rule of law.

The rule of law, therefore, is the cornerstone of the "one country, two systems" policy. No society can be considered to be truly free and democratic unless the rule of law operates unhindered within its borders. It requires that all laws apply equally to all citizens, that they are enforced impartially and that they are justifiable in open courts, accessible to all.

The separation of the powers of government is required under the implementation of the rule of law. The judiciary, the legislature and the executive must be independent of one another, so that each is a check on the others, thereby ensuring that none abuses its power.

Three recent cases raise serious concerns as to whether or not these principles have been observed. Any breach of them raises fundamental questions about the integrity of the rule of law and ultimately the autonomy of Hong Kong itself. These relate to the controversies regarding the "right of abode", and two mainland trials involving the Big Spender and Li Yuhui.

a. Right of Abode Case

On January 29th 1999 Hong Kong's highest court, the Court of Final appeal (CFA) struck down parts of the immigration law which had been passed in July 1997 by the government of the Hong Kong Special Administrative Region (SAR) ruling that this law violated the Basic Law (Hong Kong's mini-constitution) which grants the right of abode in Hong Kong to any Chinese national with at least one parent who already has permanent residency rights in the SAR. The

SAR government, who were concerned that such a wide definition would result in a major influx of immigrants, had attempted to restrict eligibility for right of abode to children born after their parents had gained permanent residency rights in the SAR and to children of married parents.

The CFA ruling was welcomed by many in Hong Kong as a landmark for the Hong Kong Judiciary because it liberally interpreted a clause of the Basic Law. The reaction in mainland China was in major contrast. Four mainland legal experts who were former Basic Law drafters and members of the former Preparatory Committee issued a very hard-line statement. They claimed that the ruling overrode the power of the National People's Congress (NPC) and contradicted the Basic Law. "No organisation or department can challenge or deny NPC legislation and decisions," said Xiao Weiyun, a professor at Beijing University who was one of the mainland experts. Another expert, Xu Chongde, claimed that the CFA had put itself above the NPC and had overly expanded its powers. These statements were released by the state via Xinhua News Agency.

This was followed in early February by an unprecedented challenge to the Hong Kong Judiciary when Zhao Qizheng, head of the State Council Information Office, claimed that the court decision was "a mistake and against the Basic Law."

On April 28th the SAR Secretary for Security, Regina Ip, claimed that research indicated that 692,000 people were entitled to immediate right of abode in Hong Kong. She further claimed that once this group had lived in Hong Kong for 7 years, gaining permanent residency, additional 983,000 children could then claim the right to abode. The government argued that such immigration would increase Hong Kong's population by 25 percent within a period of ten years. However, it should also be noted that these figures were strongly disputed by others who claimed that the real figure was much lower.

In May the SAR government decided to seek an "interpretation" on the right of abode clauses in the Basic Law from the Standing Committee of the National People's Congress (NPCSC). Although opinion polls confirmed that the majority of public opinion supported the actions of the government, some critics argue that this decision was in breach of the Basic Law. On June 26th the NPCSC issued the interpretation which negated the January ruling made by the Court of Final Appeal.

The CFA then needed to decide whether this interpretation was binding on the courts of Hong Kong. In December the CFA sided with the government, ruling that the June interpretation was "valid and binding" on Hong Kong. The judges said that the interpretation could be applied retrospectively, hence the restrictions on the eligibility of right of abode had legal validity from July 1st 1997. Eligibility for right of abode in Hong Kong was once again restricted to those people born after one of their parents had become a permanent resident of Hong Kong. The restrictions on immigration, which the court had previously struck down, other than the provision which discriminated against children born out of wedlock, were now lawful.

The tone of the December judgement was quite different from that adopted by the CFA judges in their first right of abode ruling. In January 1999 the CFA argued that under the Basic Law the CFA had the right – indeed, the duty to rule on the constitutionality of laws affecting the SAR, even if those laws were passed by the NPC. In December this stance that the provisions of the Basic Law were, in effect, above the NPC, was abandoned. The latest ruling was therefore criticised by some legal experts in Hong Kong as overemphasising the powers of the NPC vis-

à-vis the courts in Hong Kong.

This case is so significant because crucial legal issues, such as the rule of law and Hong Kong's constitutional arrangements were involved. The ruling sets a worrying precedent which appears to enable the NPCSC to issue interpretations of the Basic Law whenever the local courts make decisions of which either the SAR or mainland officials disapprove.

By effectively sanctioning China's power of veto over Hong Kong's court decisions, the ruling brings into question the SAR's legal autonomy under the "one country, two systems". If similar cases were to reoccur this would have serious consequences for the integrity of the Basic Law and the rule of law.

b. The Big Spender case and the Li Yuhai case

Two other important cases have raised similarly controversial issues, the most basic of which concerns the exercise of jurisdiction.

The trial and execution of Mr Cheung Tze-keung, known as the "Big Spender", has far-reaching implications for the rule of law in Hong Kong. Mr Cheung was a notorious Hong Kong gangster who was tried, sentenced and executed in mainland China, on charges related to kidnappings carried out in Hong Kong. Chinese authorities claimed that they had the right to try Cheung because part of the crime was committed in China: Mr Cheung and his accomplices were convicted of explosives trafficking and plotting these kidnappings on the mainland. However, the Hong Kong authorities stated that because there had been no formal complaints by those kidnapped, the authorities did not have enough evidence to bring Mr Cheung and his accomplices to trial in the SAR.

The Hong Kong government has been criticised for its failure to defend its legal jurisdiction. Cheung's trial ran counter to the Joint Declaration which states that Hong Kong's courts are independent and are supposed to exercise the power of final adjudication. Contrary to Hong Kong's traditions of the rule of law and transparency of judicial proceedings, this trial was closed to the public, press and even to Cheung's Hong Kong lawyer. Furthermore, not all the charges were made public although a leaked document revealed that one Hong Kong defendant was on trial for acts that had no connection at all with the mainland.

A similar case is that of Li Yuhai, a mainland resident, who stood trial in the mainland for fatally poisoning five women during a confidence trick in the Telford Gardens apartment complex in Hong Kong. This case had even less connection with the mainland than the "Big Spender", as it could not be argued that the planning of the offence took place on the mainland.

These cases raise hugely important questions as to what extent people who have committed offences in Hong Kong should be tried in China, especially taking into account that capital punishment is in operation on the mainland, whereas it is not in Hong Kong.

Another problem is the possibility that what might be an offence in China, might not be an offence in Hong Kong.

These two cases illustrate the problems that have been caused by the lack of a formal agreement on the mutual rendition of criminal suspects between Hong Kong and the mainland. The signing of such an agreement has now become more of a priority for the SAR government. However,

with the two legal systems so very different, establishing an agreement may be difficult, and is likely to take some time.

3. Institutional reform

a. Universal suffrage

Hong Kong's three main political parties have called for the introduction of full universal suffrage for the Legislative Council election by 2008. The Democratic Party of Hong Kong (DPHK) wants it introduced earlier than this date whereas the Democratic Alliance for the Betterment of Hong Kong (DAB) and the Liberal Party believe that there is a need for the gradual introduction of universal suffrage. However, the government has been reluctant to change the current arrangements even though the Basic Law would not need to be amended for full democracy to be introduced after 2007. Although the law specifies the arrangements for the first three Legco elections it does not set out arrangements for the 2008 poll. The arrangements for this election are to be decided upon by Legco and the chief executive with any changes simply being reported to the N.P.C. "for the record."

Introducing direct elections for the post of chief executive would be more problematical. There is no cross-party support for the use of universal suffrage for the election of the chief executive. Both the DAB and the DPHK would support this method being introduced in 2012 (arrangements have already been laid down for the 2007 election) whereas the Liberal Party is more cautious. Additionally, changes to the process of electing the chief executive have to be approved by the NPC.

b. Development of HKSAR's Political System

The introduction of universal suffrage should also be accompanied by reform of the SAR's political institutions. The executive has no party base in the legislature, making the two elements completely separate. Furthermore the political parties in the Legco lack real power and are not held accountable for their political pronouncements. As a consequence senior government officials spend an inordinate amount of time lobbying Legco to ensure the passage of legislation. This results in unnecessary frustration for both sides.

Consideration should be given to changing the respective roles of the Executive and the legislature to ensure an operational interrelationship. Other matters to be examined could include the appointment of principal officials, should they be political appointees or civil servants and how they are held accountable by the legislature.

c. Abolition of Municipal Councils

The Urban Council (covering the main urban areas) and the Regional Council (the equivalent body in the New Territories) were abolished on January 1, 2000. Prior to 1997 these two institutions were the only two bodies apart from the executive branch of the central government which possessed policy-making power. The Urban Council was Hong Kong's oldest elected body with a history of limited franchise elections dating back to 1952. The only local governance left lies with the district councils which merely have the power to "advise" the government.

The government justified its decision to abolish the councils on grounds of inefficiency and

lack of credibility following mismanagement of a number of public health scares. Its critics on the other hand claimed that it curbed democracy by further centralising power in Hong Kong. It may have been better had this decision been considered as part of an overall reform of the political system outlined above.

4. Human rights

In compliance with the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Chinese government has submitted reports on Hong Kong to the UN. It has also submitted a report under the UN Convention against Torture and Cruel, Inhumane or Degrading Treatment or Punishment.

The UN Human Rights Committee in its Concluding Observations expresses a number of serious concerns which the SAR government should address.

a. Human Rights Commission

The High Commissioner for Human Rights, Ms Mary Robinson, among others has called for the establishment of a Statutory Human Rights Commission to investigate complaints of human rights abuse.

Despite the excellent work of the Equal Opportunities Commission, some gaps do exist. Although a section within the Department of Justice vets legislation from a “rights” perspective there is no institution or focal point that provides a transparent assessment or comments on what is desirable. The establishment of a human rights commission could provide advice in respect of proactive policy formulation.

Additionally, where action on the issue of rights are being taken against government, the support of an institution is essential. In two rural election cases, which were being appealed for the second time, at least one plaintiff had been denied legal aid and therefore had to use private funds to fight the government and other appellants.

b. Racial Discrimination Ordinance

There are over 200,000 migrant workers and domestic helpers in the private sector in Hong Kong. There is also a constant influx of arrivals from China. Although there are frequent complaints on the grounds of racial discrimination, the Equal Opportunities Commission has no jurisdiction in this area. Legislators are also prevented from moving such a bill under the Basic Law without the consent of the Chief Executive.

The HKSAR government should remedy this situation by introducing a Racial Discrimination Ordinance to tackle problems in the private sector.

c. Access to Mainland China

On a number of occasions certain individuals have been denied access to mainland China. This has included members of the Legislative Council, which seems very strange indeed. Legislators normally have privileged access especially within their own country. The HKSAR government has already been making representations on this issue.

5. Press censorship

Although both the Joint Declaration and the Basic Law guarantee the explicit protection of rights and freedoms there have been several attempts within the last twelve months to interfere with the freedoms of the press.

a. Ms Cheung Man-Yee

Ms Cheung Man-Yee was director of Radio Television Hong Kong (RTHK) which is a publicly funded broadcast agency with an established tradition of editorial autonomy. During her 13 years in this role she was regarded as a strong defender of press freedom.

RTHK has constantly been criticised by Beijing officials. In August 1999 Tsang Hin-Chi, a member of the NPC Standing Committee, criticised Ms Cheung Man-Yee for broadcasting a programme in which Taiwan's representative in Hong Kong, Mr Chen An-Kuo, defended President Lee Teng-hui's advocacy of "state to state" relations between the island and mainland China. Tsang said that such views should not have been carried by RTHK. He said, "As a government-funded station, it ought to have self-control. Otherwise discussion of the drafting of Article 23 will have to start sooner" (Article 23 provides for the enactment of laws by the SAR on treason, sedition and subversion).

Shortly afterwards Ms Cheung Man-Yee was abruptly transferred from her post as Director of RTHK to a Trade Office post in Japan.

Some have argued that this was a coincidence. Others take a very different view particularly as Ms Cheung Man-Yee was travelling in Northern Ireland when the announcement was made.

b. Mr Wang Fenchao

Mr Wang Fenchao is a representative of the Liaison Office of the Central People's Government (formerly known as Xinhua).

On the 12th of April he told a journalists' meeting that they should not publicise opinions supporting independence for Taiwan, as it is the media's duty to "defend the sovereignty and integrity of the country," and that such implementation of self-censorship on this subject had "nothing to do with press freedom."

Such incidents point to the tensions underlying the "one country, two systems" approach and the need for continuing vigilance regarding press freedom.

6. Economic situation

The Hong Kong economy has weathered recent storms including the Asian financial crisis. Growth for the first quarter of this year has been in the region of fourteen per cent and the annual figure is predicted to be between six and eight percent.

Throughout 1999 and early 2000 GDP growth increased. Although gross fixed investment has continued to contract, private consumption growth, on the other hand, has strengthened. This has been assisted by falling consumer prices and accompanying increases in share prices. There has also been increased growth in imports and exports of foods and services.

Although the employment situation is improving in some sectors, the trend has not been as promising in the construction and manufacturing industries. Expenditure on major infrastructure and public works projects accompanied by an increase in private sector construction is expected to ease the situation in the construction industry during 2000. The construction of a Disneyland Theme Park on Lantau Island, which is expected to open in 2005, will positively impact on the employment situation both during construction and afterwards. It is felt that increasing Hong Kong's tourism potential will provide many job opportunities, especially for unskilled labour. However, it is feared that employment in manufacturing will continue to fall as a consequence of continued long term decline associated with the relocation of manufacturing companies to cheaper labour locations, especially mainland China.

Pessimistic forecasts that there would be a HK\$ 36.5 billion budget deficit for the year ending March 31st 2000 have proven to be ill-founded. The actual deficit was HK\$ 1.6 billion, but this owed more to the HK\$ 118 billion stock market intervention of August 1998 than improvement in the fundamentals of the local economy. Conscious of this, the Financial Secretary Sir Donald Tsang has taken a cautious approach. Forecasting a budget deficit of HK\$ 6.2 billion for the forthcoming year he proposes to reduce the civil service by 10,000 over three years, restrict public spending growth by 2.5% and has decided (at this stage anyway) not to introduce new taxes.

It has also been predicted that China's entry into the WTO will benefit Hong Kong because it is the mainland's number one trading partner and direct investor, according to a recent Hong Kong Trade Development Council report. The report argued that China's entry into the WTO will strengthen the Hong Kong Special Administrative Region's (HKSAR) role as a trading hub and financial services center. It concluded that the HKSAR's infrastructure, legal system and established trading networks mean that many foreign companies still prefer to access the Chinese mainland via Hong Kong. As a consequence these companies stand to see a rise in their China business once WTO entry is achieved.

While the overall economic outlook is a positive one, there are however a number of developments which give cause for concern.

a. Need for fair competition laws

The influence of the Li Ka-shing family on Hong Kong business life has been the subject of criticism from a number of sources within Hong Kong itself.

It has been alleged that this family's business operations account for somewhere between one quarter to one third of stock market capitalisation and include such sectors as telephones, mobile telephones, electricity, supermarkets and property.

Earlier this year local newspapers voiced concern at the increasing dominance of the Li family after Mr Li's son Richard Li Tzar-kai assumed control of Cable and Wireless HKT, the largest telecom operator in the area.

This followed in the wake of two other incidents. The awarding of the Cyberport project to Richard Li without the matter being subjected to a public tendering process attracted considerable controversy as did the fact that many exemptions were granted when Mr Li senior's Tom.com was being floated in the Growth Enterprise Market.

If there is any substance to these allegations they have significant implications for EU businesses who either trade with or locate their Asian headquarters in Hong Kong.

As the existence of fair competition laws and practices ensures a level playing pitch for Hong Kong firms when they compete in the EU marketplace, European Union businesses are entitled to reciprocation when they operate in Hong Kong.

b. Breach of free trade

Hong Kong's ability to operate a free trade policy was brought into question following an intervention from mainland official Mr He Zhiming of the Chinese Liaison Office (formerly Xinhua). Speaking to a group of pro-Beijing businessmen on May 31st he accused some Taiwanese businessmen of supporting Independence while at the same time making money by trading with the mainland. According to Mr He, "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". He warned that business people should prepare to face the consequences if they do not heed his remarks.

Mr He's comments attracted immediate criticism from Chief Executive Mr Tung Chee-hwa and his deputy Mrs Anson Chan.

This was a most worrying and sinister development coming so soon after the earlier attempt to impose censorship on the Press by Mr Wang Fenchao. It raises serious questions regarding a possible breach of Basic Law provisions that state that the SAR will pursue a policy of free trade. It is also inappropriate behaviour for a country which is seeking membership of the WTO.

7. Environment

There has been a noticeable deterioration in the quality of the environment in Hong Kong. However, in his policy address in the autumn of 1999, Chief Executive Tung Chee-hwa promised that Hong Kong would spend HK\$32.7 billion during the current decade on pollution controls to make it "a green model for Asia".

Pursuant to that promise, action has already been taken to cut emissions from thousands of diesel powered vehicles and adding control devices to buses and trucks. Action has also been promised to clean up the harbour.

While the SAR government initiative is to be welcomed, still more needs to be done especially with regard to the regional pollution problem. Additionally, the construction of the Disneyland Theme Park must not cause environmental damage, and attention also needs to be paid to the quality of drinking water. With regard to the latter, Hong Kong purchases 83 percent of its drinking water from the Dongjiang River and has been doing so since 1960.

Although Guangdong adopted regulations ensuring higher quality standards for Class II water, the contract with Hong Kong does not guarantee that Hong Kong will benefit from that higher standard. There is a non-binding agreement to provide the Class II standard water by 2003.

The EU has made many environmental mistakes, but we have attempted to learn from them. Our experience in this field is one area which could provide the basis for strengthening EU - Hong Kong co-operation in tackling common environmental problems.

8. Visa-free access

In the 1998 Report on Hong Kong, the European Parliament called on all EU member states to grant Visa-free entry to holders of HKSAR passports. Regrettably, progress has been painfully slow on this matter.

On 26th January 2000, the Commission adopted a proposal for a Council Regulation exempting, among others, HKSAR passport holders from requiring visas. It is important that the procedure for the adoption of the proposed draft Regulation now proceed quickly.

9. Conclusions

Three years on, the fundamentals of the “one country, two systems” arrangement remain reasonably intact and are progressing. However, a number of concerns have been expressed in this report and the European Commission must continue to monitor the situation with particular reference to the “rule of law” and the actions of the Liaison Office of the Chinese People’s Government.

The production of an Annual Report by the Commission has a significant contribution to make to this monitoring process and it is important that staffing and other resources in the Commission’s Hong Kong office are increased to enable it to fulfil this task.

5 October 2000

OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the First and Second Annual Reports by the European Commission on the Special Administrative Region of Hong Kong
(COM(1998) 796 – C4-0100/1999 and COM(2000) 294 – C5-0500/2000 – 1999/2009(COS))

Draftsman: Willy C.E.H. De Clercq

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Willy C.E.H. De Clercq draftsman at its meeting of 12 July 2000.

It considered the draft opinion at its meetings of 18 September and 3 October 2000.

At the last meeting it adopted the conclusions below unanimously.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Renato Brunetta and Peter Michael Mombaur, vice-chairmen Willy C.E.H. De Clercq, draftsman; Gordon J. Adam (for Harlem Désir), Maria del Pilar Ayuso González (for Concepció Ferrer), Ward Beysen (for Nicholas Clegg), Guido Bodrato, Yves Butel, Massimo Carraro, Gérard Caudron, Dorette Corbey (for Mechtild Rothe), Claude J.-M.J. Desama, Colette Flesch, Christos Folias, Glyn Ford, Per Gahrton (for Nuala Ahern), Neena Gill (for François Zimeray), Lisbeth Grönfeldt Bergman (for W.G. van Velzen), Philippe A.R. Herzog, Hans Karlsson, Wolfgang Kreissl-Dörfler, Bernd Lange (for Erika Mann), Caroline Lucas, Marjo Tuulevi Matikainen-Kallström, Eryl Margaret McNally, Elizabeth Montfort, Reino Kalervo Paasilinna, Yves Piétrasanta, Elly Plooi-j-van Gorsel, John Purvis, Godelieve Quisthoudt-Rowohl, Alexander Radwan (for Umberto Scapagnini) Daniela Raschhofer, Imelda Mary Read, Christian Foldberg Røvsing, Konrad K. Schwaiger, Esko Olavi Seppänen, Helle Thorning-Schmidt (for Myrsini Zorba), Astrid Thors, Claude Turmes (for Nelly Maes), Jaime Valdivielso de Cué, Elena Valenciano Martínez-Orozco, Alejo Vidal-Quadras Roca, Anders Wijkman.

SHORT JUSTIFICATION

I. International importance of Hong Kong and European involvement with it in 1997

Hong Kong was the world's eighth most important trading entity and had the largest container port in the world. It was one of the most important stock movement and banking centres in the world. It was one of the EU's ten most important trading partners. Germany had the largest proportion of exports to Hong Kong (21,7 %), Great Britain counted for (20,4 %) and Italy for (17,4 %). Out of 2068 companies having headquarters or offices in Hong Kong, 537 had EU-based parent companies.

These activities included trading, manufacturing, financial services, communications and constructions.

II. Evolution of Hong Kong since 1997

1. Economy

The transition was smooth enough but Hong Kong was deeply affected by the financial crisis in South-East Asia.

2. Impact of the financial crisis

It had an immediate effect on stock prices, with speculative attacks on Hong Kong's currency which the government decided to peg to the dollar. The weakening of the yen and the economic slowdown in China threw Hong Kong into recession, with falling output, falling property prices, a shortage of credit, rising business closures and record unemployment. Domestic exports also suffered (falling by 5,4 % in the first six months of 1998).

3. Hong Kong's reaction to the crisis

The SAR Government introduced a series of measures designed to curb speculation on the currency and stock markets, arguing that Hong Kong required emergency action to restore financial stability because it is extremely dependent on trade. It also took measures including a freeze on the sale of public land to shore up property prices, tax exemption on interest earning in Hong Kong in order to encourage repatriation of funds, and a scheme to help SMEs obtain loans.

4. Return of business confidence?

The economic downturn was severe. But the first signs of recovery are evident. Economic indicators showed positive trends during 1999: the trade deficit narrowed, re-exports increased, stock market prices recovered and unemployment stabilised. As a result, trade between the EU and HK increased: the EU was Hong Kong (HK)'s third supplier of goods in the first eleven months of 1999, after China and Japan, and was HK's third biggest market for its domestic exports, after the United States and China. Re-exports of EU origin goods through HK to China increased by some 2500 times, from HK\$ 18 million in 1978 (the year China announced its modernisation programme) to HK\$ 44,5 billion in 1999.

5. New relationship between the SAR and China

The interdependence between Hong Kong and China is very important. Visible trade between Hong Kong and the mainland has grown on average 28 % a year since 1978. Hong

Kong is also the main source of foreign direct investment in China. Hong Kong's future depends in a large part upon the progress of economic reform in China. Hong Kong and China, more and more, see each other as sources of mutual support.

III. Present situation of Hong Kong concerning international relations

1. Hong Kong retains a wide degree of autonomy in relation with its trading partners. It participates actively in several multilateral bodies and especially the WTO. It has set up a council of international advisers to help it revitalise its economy and assist its role on the international stage.

2. Bilateral agreements

The SAR government has concluded many bilateral agreements since July 3rd 1997 concerning e.g. air services, mutual legal assistance and the transfer of sentenced persons, visa abolition, and the promotion and protection of investments. 1999 saw an important milestone in expanding co-operation between HK and the EU with the signature and entry into force of the Customs Co-operation Agreement between the EC and HK. The Agreement underlines the close economic ties between HK and the EU, and will facilitate exchange of information and co-ordination between customs authorities to ensure the effective application of their respective customs legislations. The Agreement provides for mutual administrative assistance and for exchange of information and expertise.

The protection of Intellectual Property Rights (IPR) in HK continues to be a matter of concern for the EU. This concern is shared by the industry and other third countries, notably the United States. HK has made considerable efforts recently to improve the situation: enforcement has been stepped up and an increased number of officers have been assigned to combat copyright piracy and manufacturing and selling of counterfeit products. These efforts are extremely welcome and the EU and HK will continue to co-operate within the framework of the Customs Co-operation Agreement.

3. Multilateral trade

The Commission vigorously supports the SAR in international bodies. As for the WTO, the EU and HK share a number of common goals and objectives and have a close working relationship. The SAR pleads for a further trade liberalisation, encouraging Asian neighbours to open their financial services markets through the WTO agreement. This is greatly appreciated by the EU, especially in the view of a next round of trade liberalisation.

4. Promoting trade liberalisation in China

HK would be one of the major beneficiaries if China accedes to the WTO - a sure event after the EU-China agreement on the terms and conditions of Chinese accession - and this, in turn, would benefit China.

5. Research

Under the EC's Framework programme for research and technological development, HK receives financial support from the EC for its participation in the EC's dedicated S&T programme of Research for Development. HK is involved in 2 joint research projects on agriculture development issues with the financial support of the EC. In addition, HK is eligible to participate on a non-financed basis in a broad range of S&T programmes, as a

result of the EU/China S&T Agreement, however, so far HK is not active in these programmes.

CONCLUSIONS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, to incorporate the following points in its draft resolution:

Economic and Trade Relations between Hong Kong and the EU

1. notes the severe impact of the Asian financial crisis on Hong Kong and the efforts of the SAR government to restore Hong Kong economy and business confidence, which has already led to economy recovery,
2. is nevertheless concerned by the state of working conditions in the Hong Kong SAR (lower wages, redundancies, more overtime working, 25% of which is unpaid), particularly for migrant workers. Against this background, the EP deplors the worsening situation as regards access to social security. In the context of the recent reform, the EP calls on the SAR Government to follow the recommendations of the November 1999 ILO conference and encourages the SAR to respect freedom of association and the right to collective bargaining,
3. appreciates the efforts of the Commission to support Hong Kong in international bodies, but insists on the necessity to strengthen the links between Hong Kong and EU especially in the perspectives of the general strategy for Asia as expressed by the Commission,
4. stresses the importance of Hong Kong in the process of economic reform and development of China as a whole and insists on the importance of a closer co-operation between the EU and Hong Kong in the field of finance, trade and foreign direct investment,
5. welcomes the efforts Hong Kong has made to improve the protection of Intellectual Property Rights, but asks the Commission to examine in depth the problems to which our industry is exposed, regarding piracy and counterfeiting,
6. calls upon the Commission to pursue close cooperation with Hong Kong in the framework of the WTO, notably in the light of the imminent accession of the China to the WTO, and to examine whether the bilateral agreements between the SAR government and the EU require modification,
7. asks the Commission to examine the possibilities for Hong Kong to participate in a broad range of Science and Technology programmes, as a result of the EU/China Science and Technology Agreement, while complying with the rules on biotechnologies laid down in the EU,
8. calls on the Commission to reassure itself and the European Parliament of the situation in Hong Kong in respect of trade union and civic rights and the incidence of child labour,