

U.S. INTERESTS AND POLICIES TOWARD HONG KONG

Date: April 24, 1997

The following analysis is Testimony for the East Asian and Pacific Affairs Subcommittee, United States Senate Committee on Foreign Relations, Hearing on U.S. Policy Toward Hong Kong, April 24, 1997. While the testimony was given by William H. Overholt in his personal capacity, we reprint it here because some customers may find it useful.

Mr. Chairman, it is a great honor to testify before this distinguished committee.

I am here in my personal capacity, not representing any company or organization, and my statement has not been approved by my employer.

Let me start with a few main points.

Our country has huge interests in Hong Kong—business interests, human rights and democracy interests, military interests, and a connection to our overall relationship with China. Not least, there are 37,000 Americans like myself who live in Hong Kong.

Hong Kong has become the capital of the capital of American banking in Asia, of American manufacturing management in Asia, and of American commerce in Asia. These interests have not been threatened in any way by the transition. Polls show foreign business confidence at the highest levels in the history of the polls. Nonetheless there are important longer-term concerns about the rule of law, the level playing field, and free flow of information.

Human rights and democracy interests are the most salient ones for this hearing. The stated long-run objectives of the Chinese and our own stated objectives are not substantially different, although they are differently motivated. But both the British and the Chinese have handled the political transition in an insensitive way that raises serious concerns. Congressional scrutiny is particularly appropriate and helpful here. Such scrutiny needs to acknowledge that local political confidence has been improving over the year preceding the transition.

Our country has limited but real military interests in Hong Kong, and I would emphasize these considerably more than our officials have done. Asia's greatest port provides us with military convenience, cost reductions, contacts, and confidence building that we will sorely miss if we lose them.

Our Hong Kong policy affects a vital interest in the overall relationship with China. Whether our children and grandchildren will live at peace or at war will be more affected by the Chinese-American relationship than by any other aspect of world politics. We need to vigorously promote our interests. We must maintain the strength to defend successfully any interests that may be threatened. We also need the balance and wisdom to avoid sliding into an unnecessary cold war. We are in fact sliding into such a gratuitous cold war, and we must carefully consider whether anything we do hastens that slide unnecessarily. Moreover, China's relationship with Hong Kong has promoted liberalization, political as well as economic, in vast expanses of Chinese life, and anyone who cares about freedom should take note of that.

From a Hong Kong perspective, the transition is going extremely well. Despite some bumps, foreign business confidence is at the highest level in the history of the polls, local political confidence has risen sharply as key issues have been clarified, economic growth is up, property prices have risen faster than anywhere else in the world, immigration is up, and emigration is down. Everyone has anxieties and concerns, and we Americans resident in Hong Kong invite Congressional vigilance regarding those concerns, but we also urge skepticism toward the somewhat hysterical portrayal of the Hong Kong situation by some of our leading newspapers.

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U.S. Economic Interests in Hong Kong

Hong Kong is quite simply the capital of American business in Asia. Although Hong Kong is a British colony there are 37,000 Americans in Hong Kong and far fewer British. Using Hong Kong as a base, we have in the last few years created a renaissance of American investment, trade, manufacturing, and services in Asia—just after the world and many of our own pundits had declared us dead and defeated by the Japanese. In this period exports have become by far the biggest source of high quality new U.S. jobs, and Asia is our biggest and fastest growing export market.

The statistics about our relationship with Hong Kong from the excellent Hong Kong-U.S. Policy Act Report simply validate this observation. The \$13.8 billion of investments we have made in Hong Kong are today worth far more than that. The \$14 billion of merchandise exports to Hong Kong probably supported, if the usual statistical relationships hold, about 280,000 U.S. jobs. The American expatriate community in Hong Kong constitutes one of greatest concentrations of sophisticated American talent anywhere in the world. Symbolically, the American Chamber of Commerce in Hong Kong is the largest in the world outside the U.S. itself. 437 American companies make Hong Kong their regional headquarters. Most of our leading international banks, international law firms and international accounting firms organize their Asian operations outside Japan from Hong Kong.

American companies would almost unanimously agree that Hong Kong's attractiveness depends, inter alia, on the following considerations:

- Hong Kong's free economy is the most important attraction for business.
- The free economy rests on the foundation of the rule of law, in this case British Common Law, and on its equal application to all parties.
- Today's Hong Kong economy is an information economy that requires the free flow of information. More than 80% of Hong Kong's economy is service industries, and many of these industries are primarily processors of information. Fund management and regional brokerage, to name just two, rely on a free flow of political as well as purely economic information, and many locate in Hong Kong because they cannot get a free flow of political information conveniently elsewhere in the region. Significant restrictions on the free flow of political opinion would immediately lead to relocation of some of Hong Kong's most important businesses.
- As a service society, Hong Kong depends on the presence of a critical mass of the world's most sophisticated executives, who simply will not live in such numbers in an unfree environment. To an extent that was not true a generation ago, Hong Kong's position as Asia's

freest society is an essential element in its continued business success.

Having said this, American business in Hong Kong is not threatened by the transition. Except at the margins, these elements do not appear to be at immediate risk. Confidence as measured by polls sponsored by the American Chamber of Commerce is at the highest level in the history of the polls. 95 percent say they are either confident or very confident of the future in Hong Kong. Before I testified last year to the House Banking Committee, I called the heads of the major American banks in Hong Kong and asked what changes they were making in their business plans due to the transition. The answer was unanimous: None. The most important indicator of American business confidence in Hong Kong is of course not polls but what the companies do with their money. Here the evidence is particularly unambiguous. The number of American businesses in Hong Kong increased by 287 last year, and the overwhelming majority of American companies reported that they were expanding their Hong Kong operations.

This high level of confidence has not, however, eliminated important concerns. American businesses in Hong Kong are concerned about the rule of law, about continuation of a level playing field, about the free flow of information, and about the risk of increased corruption. They do not see immediate evidence that Beijing intends to damage Hong Kong in any of these dimensions, and if they did, confidence levels would decline precipitously. But their experience of doing business in China stimulates worries about these things, not for June 30, 1997, but for five years hence. In China they see a lot of corruption, a lot of decisions that are based more on connections than law, a good many politically determined business decisions, and very serious constraints on the free flow of information. They are concerned about whether Hong Kong can insulate itself over a long period of time from such problems.

These concerns are occasionally heightened by particular incidents. In one case, a Hong Kong news publication issued a particularly vivid attack on China's prime minister and the principal owner of the publication subsequently experienced massive difficulties with the Giordano clothing outlets in China of which he was also the principal owner. While this concerned a Hong Kong company, not a U.S. company, such incidents make executives nervous.

Such incidents have been very rare and have not directly involved American companies, but they raise important caution flags.

I will say more about these worries below, since these business concerns overlap with our more salient human rights concerns. Let me skip ahead to draw the policy conclusions from this brief review.

The American business community would welcome Congressional articulation of its concerns. But the way those concerns are articulated is important. We must be firm in pointing out how important the rule of

law, equal treatment, a free press, and in general a free society are to Hong Kong's business success. At the same time, we need sobriety and balance in the way we articulate those concerns, or we will defeat ourselves. And what we need is eternal vigilance rather than a crisis response connected with the June 30 transition. There is no crisis. Barring the mishandling of a demonstration, the business climate is going to be the same on July 5 as on June 25. The rules are going to be the same, and they are going to be implemented in pretty much the same way.

In short, please articulate business concerns, but acknowledge that things are going well. The best risk analysts in the world have looked at the Hong Kong situation. Business and banking interests are well positioned to take care of themselves. The interests are large, but they are not at risk, so Congress can focus on the other interests, primarily human rights and the overall relationship with China.

Political Interests

An adequate discussion of the policy issues surrounding our human rights and geopolitical interests requires an extended historical excursion. Prior to that, however, it is important to reaffirm that Hong Kong people have long been accustomed to the principal Western freedoms. While the British governed without democracy, and with harsh laws, they governed with a light hand and promoted the basic freedoms of speech, association, religion, the press, and others, and such freedoms are deeply prized in Hong Kong.

While Britain provided Hong Kong little experience of democracy, every poll shows that local Hong Kong people prize democracy and want more of it. Moreover, Hong Kong is a relatively mature society. Incomes are much higher than those in Britain, and educational levels are also high. There is a vigorous, outspoken civil society, and there is a vigorous press which keeps people well informed about issues. In short, Hong Kong society is fully prepared for democratic progress and actively seeks it. Unlike in other Asian countries there is no substantial support in Hong Kong opinion, for instance, that Asian values are different and value democracy less than in the West.

The one caveat to this is that a roughly equal majority of Hong Kong opinion is willing to accept gradual progress, so long as they can be confident that progress will occur, and polls show that people oppose gratuitous confrontations with China as much as they support democracy. In other words, they will fight for democracy, but they don't want to fight unnecessary fights. Some local politicians who are quite popular with the Western press have lost favor in Hong Kong because they are seen as picking gratuitous fights.

Chinese Interests in Hong Kong

If we are going to promote human rights and democracy in Hong Kong, we have to understand where China is coming from. China has three main kinds of interests in Hong Kong: sovereignty, economic, and political. Like the U.S., its military interests in Hong Kong are marginal, but in a more hostile world environment Asia's greatest port could become far more important.

Sovereignty is China's overriding interest. The seizure of Hong Kong by the British a century and a half ago, in response to China's efforts to curtail British drug running, was one of the most humiliating events in Chinese history. If Manuel Noriega had responded to President Bush's anti-drug efforts by somehow seizing New York City and imposing an alien system for a century and a half, we would feel the same way. For many educated Chinese, the humiliations of the Opium War are as important as if they had happened yesterday. At the end of the colonial era, many Chinese leaders were tempted to handle British colonialism the way every other decolonized country did. India just marched the army into Goa. Indonesia just marched the army into East Timor. Mao

Zedong was inclined to do the same in Hong Kong. Had it taken the same nationalistic approach as other third world countries, China's decolonizing task would have been easy. Since the 1970s, all it had to do in order get Hong Kong back was to turn off the water. But other voices, led by Zhou Enlai, successfully argued for a more pragmatic and peaceful approach. The pragmatic and peaceful approach has been sustained through all the turmoil of post-1949 China and represents one of the most stable elements in Chinese policy. The current policy of "One Country, Two Systems" is in many ways just an updating of that original decision made in 1949.

Given the magnitude of the historical insult China felt over capitulation to the British drug lords, the decision to settle completely peacefully with Britain and the decision to keep most British institutions intact required extraordinary emotional and political restraint. It is important for us to realize that such restraint required Chinese leaders to do a lot of explaining to their supporters. The explanation they gave was that the new agreement, unlike the old "unequal treaties" imposed by British gunboats, was based on negotiations among equals, that China had consented to every aspect of the agreement and therefore Chinese humiliation had been assuaged even though China was endorsing the continuation of most British institutions. If you want to understand the vehemence of Chinese statements and actions in the 1990s, you must understand this point above all else. To understand is not to subscribe, but it is vitally important to understand.

Economic interests were the key to China's more peaceful approach. Hong Kong is China's window on the world, and the peaceful, pragmatic approach has paid dividends that its inventors could not have imagined. To take just one number, as of today China has received about US\$100 billion of direct investments from and through this one city of Hong Kong since 1979.¹ For comparison, that approaches three times what Brazil received from the entire world in the half century after World War II. This is just one of many numbers one could cite in validating the economic importance of Hong Kong to China. All the Chinese leaders are familiar with such numbers, all believe that the role of Hong Kong must be maintained, and all believe that the way to maintain Hong Kong's vitality is to maintain its current economic and social system with minimal change.

China's political interests. China's interest in Hong Kong's politics is driven primarily by its economics and hence by the policy of making as little change as possible. China agreed to retain the British legal system and to retain a wide array of freedoms, because it believed, along with conservative Western businessmen and liberal Western thinkers, and in the wake of very sophisticated British efforts to educate Chinese leaders about the connections between economic success and Western social practices, that those were essential to Hong Kong's continued economic success.

¹ As of the end of 1996, the number was \$93.7 billion.

Since the British played such an essential role in Hong Kong's politics, their departure necessitated bigger changes in political management than in legal and social practices. Hong Kong under the British had no democracy; there were no elected members of the legislature prior to the agreement to return sovereignty to China and indeed until very recently. Both the Chinese and the British agreed on a gradual introduction of elections, but with power still highly concentrated in what both called an "executive-led" government. Both agreed, despite controversies over important details, that the eventual goal, to be fulfilled sometime in the early 21st century, was to be full Western-style election of the legislature. As in its domestic economic reforms, China's strategy has been to make changes gradually, over a long period of time, so as not to create instability.

China's policy of "One Country, Two Systems," implies that China will refrain from destabilizing Hong Kong, and Hong Kong must reciprocate. In practice, Hong Kong has exerted an enormous influence on China, much more so than the other way around. Hundreds of millions of people in China live differently because of the influence of Hong Kong. Urban lifestyles in Guangdong Province north of Hong Kong generally are closer to those of Hong Kong than to those of Beijing. People watch Hong Kong television, which frequently contradicts official Beijing lines. People in China proper phone in their horse bets to the Hong Kong Jockey Club. People dress, move around, and talk freely like Hong Kong people. In southern China these influences amount to a social revolution. Many of these changes have created serious concern in Beijing, which also sees Hong Kong influence as a source of corruption and prostitution and troublesome thoughts, but the changes have been gradual, non-threatening, and associated with enormous economic advantages, so Beijing has, sometimes grudgingly, accepted them. It is probably even correct to credit the Hong Kong example for Beijing's decision to make gradual implementation of the rule of law in China itself a key goal of the current five year plan. China will not, however, accept any organized effort based in Hong Kong to alter the Chinese regime.

The outcome of China's analysis of its own interest was a policy best described as "It ain't broke, so don't fix it." Their principal quarrel with the British has not been that they want to change Hong Kong but that they see London as trying to fix Hong Kong, both economically and politically, when they don't think it needs fixing.

The principal exceptions to this policy of resistance to major change were two: the change of sovereignty from Britain to China, and the heightened (but gradual) practice of democratic elections as opposed to what had been the British practice. This created sufficient overlap with Britain's concern to preserve Hong Kong's freedoms, and its newly acquired interest in limited democratization of Hong Kong, to make possible the Joint Declaration of 1984.

The Joint Declaration was a remarkable tribute to the professionalism and good will of both the British and the Chinese. Subsequent behavior has made clear that both sides entered into the agreement in good faith. Subsequent behavior has also dissipated some of that good faith.

The Roots of Present Controversies

The Joint Declaration was a very conservative document. The British wanted to “preserve” Hong Kong’s freedoms and did not envisage turning Hong Kong into a full-fledged Western democracy. The Chinese wanted to “preserve” Hong Kong’s economic dynamism and were skeptical about any far-reaching change. Subsequently, the agreement has been plagued by several sources of controversy.

- Certain terms in the agreement were not well-defined, in particular the nature of elections, the exact content of the British obligation to consult China on decisions affecting the post-1997 future, and the exact scope of Hong Kong’s “high degree of autonomy.”
- Early controversies over the exact nature and timing of elections led China to warn Britain in the 1980s that, although China was very anxious to have a legislative “through train,” if Britain unilaterally altered the methods of election without seeking Chinese consent, then China would install a provisional legislature and later hold elections according to its interpretation of the agreement. Among others, the foreign policy advisor to the Prime Minister at that time, Sir Percy Craddock, has acknowledged that these warnings were received and understood.
- Beijing’s brutality around Tiananmen Square on June 4, 1989, fundamentally changed the British and Western view of China and created a much more confrontational ambiance for Hong Kong issues.
- Unilateral British commitment to a Hong Kong port and airport project costing some \$24 billion—all to be repaid after the British had departed—without properly consulting China was one response to Tiananmen Square. The British argued that the project was necessary to restore confidence after Tiananmen Square. This huge expenditure would have been unnecessary if Britain had accepted Chinese offers to extend Hong Kong’s territory into China for the purpose of a cheaper airport, and the decision initially infuriated China.
- In the Joint Declaration the two sides committed (Article 3, section 4) that “The laws currently in force in Hong Kong will remain basically unchanged.” Separately the British gave the Chinese (and many others) the strongest assurances that Hong Kong’s laws were entirely consistent with the International Covenant on Civil and Political Rights. However, after Tiananmen Square the British adopted precisely the opposite view, namely that the British colonial laws which they had committed to leave basically unchanged were in fact “draconian” and required revision to make them consistent with the International Covenant. The second British view was much closer to the truth, but their embarrassment could only be unwound through the kind of delicate diplomacy that created the Joint Declaration in the first place. Such diplomacy never occurred. The

outcome was unilateral British passage of a Bill of Rights and other legislation. British intentions were good, and those intentions were supported by the bulk of educated Hong Kong opinion. But China saw British reversals and unilateralism as a treacherous breach of its sovereignty. They also saw, not without reason, a direct breach of the agreement in the Joint Declaration that Hong Kong laws would remain basically the same.

- In 1992 Britain replaced its Governor, who was a professional diplomat, with one who was a politician—a politician who knew little about China other than Tiananmen Square and who held his professional diplomat predecessors in contempt as people who had allegedly betrayed democratic values by kowtowing to the Chinese. In October 1992, in his first major policy address, he announced a new method of holding elections which was more democratic in the sense of broader constituencies but was completely inconsistent with Britain’s voluminous and definitive previous definitions of the nature and purpose of these functional constituencies. The principal applause line of the speech was a very emphatic statement that he had not consulted China. To the Western press, this made him a hero of democracy. To the British diplomats, this was a catastrophic breach of their understandings with China, and virtually every one of Patten’s predecessors, every senior British Foreign and Colonial Service official who had participated in negotiating the Joint Declaration, and the Foreign Secretary and the foreign policy advisor to the Prime Minister of that time, denounced what he had done, either publicly or privately, as a breach of faith. To the Chinese this removed the last fig leaf that the British were dealing with them honorably, that the result of their efforts was an equal treaty, and that the humiliation of the Opium War had been assuaged.
- In response, as the British had been warned that it would, Beijing imposed a provisional legislature for about a year, promising to hold elections of the kind originally agreed before July of 1988. In doing so it had significant sympathy in Hong Kong, but it dissipated such sympathy by choosing to install an exceptionally narrow and unrepresentative provisional legislature.
- The new Chief Executive and provisional legislature also prepared to repeal key laws passed unilaterally by the British, thereby reasserting Chinese sovereignty. The goal was to reassert sovereignty, not to abolish fundamental rights. But the initial announcements seriously damaged their image by ignoring Hong Kong human rights fears that the old British laws, now termed “draconian,” would be reinstated. Chief Executive Tung later said that the old laws would not be reinstated but would be replaced by moderate versions similar to those in effect in the U.S., Britain, Canada and Australia.
- Governor Patten adopted extreme positions regarding these laws. For instance he asserted that any ban on foreign political

contributions would breach the International Covenant on Civil and Political Rights, and took similarly extreme positions on other key issues. He was backed by many American newspapers which were crusading on other pages of the same editions against alleged acceptance of foreign political contributions by our President and some Members of Congress.

Thus the brutality of Tiananmen Square, combined with British unilateralism, created a destructive British-Chinese relationship which has inhibited cooperation along almost any dimension.

Without in any way diminishing the responsibility of Beijing for Tiananmen Square, for the highly unrepresentative provisional legislature, or for the insensitive initial assertions of their sovereignty on legal issues, I want to draw from the British experience a fundamental lesson for American diplomacy.

When the British diplomats negotiated the Joint Declaration, they were able to give China what it wanted, sovereignty, and to get more of what they wanted, namely the preservation of Hong Kong's freedoms and the gradual introduction of electoral democracy, than anyone at the time imagined possible. It is difficult to remind ourselves how impossible their task seemed then. China was a much more ideological place then, the British-Chinese political gulf was much wider than now, the experience of negotiating with each other was very sparse, and the issues were much bigger. They succeeded by making their primary goal, freedom and gradual democratization, consistent with China's main goal, sovereignty.

Our presidents since Richard Nixon have done the same in negotiations over Taiwan. They have made our goals, namely protection of Taiwan's prosperity, freedom, autonomy, and gradual democratization, compatible with China's goal, sovereignty. The result, except for a brief moment in 1995-96 when Beijing felt its sovereignty was being questioned for the first time since 1972, has been steady improvement of Taiwan's peaceful and democratic development.

What Governor Patten did was the opposite. He forced Beijing to choose between sovereignty and democracy. Not only did he force this choice upon them, but also, at the time he forced it, he did so with taunts, sarcasm, contempt, and further efforts to dilute their sovereignty by mobilizing international support for his tactics. All this was very emotionally satisfying three years after Tiananmen Square, and it won him great publicity and international applause. But historians will say that it grievously harmed Hong Kong's democratization.

The fundamental choice we have in promoting freedom and democracy in Hong Kong is the same. We can take a noisy, threatening, emotionally gratifying approach, or we can take firm (I emphasize, firm) steps to promote our values in ways that do not threaten Chinese sovereignty. This requires emotionally unsatisfying restraint, but it works. If you

read the Joint Declaration and ask what the British diplomats won, the basic answer is everything but sovereignty. That's a lot.

I will say more later about what this means for the details of U.S. policy.

Hong Kong Today

Having chronicled the diplomatic misadventures, let me say something that will seem completely paradoxical. The transition is going well.

It is easy to document how well it is going. Please forgive some repetition of earlier comments. Local political confidence has risen sharply over the past year. Foreign business confidence is at the highest levels in the history of the polls. The economy is growing faster than last year, between 5 and 6 percent. Retail sales, an indicator of confidence, have been growing at a 15 percent rate in the most recently released (January) figure. Inflation is declining. Unemployment has declined to 2.4 percent. Property prices have risen spectacularly. The currency is strong—in the face of my excessively pessimistic prediction to the House Banking Committee a year ago that there would be a run by this time. Emigration out of Hong Kong is at a long-time low, and immigration into Hong Kong is at a long-time high. Most of these statistics are economic, because most available statistics are about the economy, but the available political statistics say the same thing as the economic ones: This is not a place that is scared or even upset. Many of your colleagues and staffers have visited Hong Kong recently, and they can testify that they visited a dynamic, confident city—one with real concerns but not one with even a touch of panic.

How is this possible? Part of the answer is that our press simply has not portrayed the realities of Hong Kong. For many years we were told, by almost all our major newspapers, that Hong Kong was dying due to fatal hemorrhages: a brain drain, capital flight, and massive evacuation of corporate headquarters. The opposite was true: Hong Kong was experiencing a huge brain gain, so large that it moved ahead of New York and London as the world's most sophisticated packager of services, and so massive in numbers that it pushed local housing prices almost beyond the budgets of senior American executives. Hong Kong was experiencing such large net capital inflows that it experience serious inflation and a strong currency. And this was the period when Hong Kong accumulated so many regional headquarters that it consolidated its role as the business capital of Asia outside Japan. Most leading American newspapers finally stopped publishing erroneous stories of the "brain drain" variety toward the end of 1992, although *Fortune* Magazine continued until 1995 and even reported that Hong Kong wasn't dying, it was already dead. Many have recently revived this style of reporting, however.

Let me show you a couple charts of the death of Hong Kong during the period when the American press said it was dying. The first shows per capita incomes in Britain and Hong Kong at the beginning of the period

and now. At the beginning, in 1983, British incomes were over 70 percent higher than those of Hong Kong people. Now Hong Kong people are richer than the British by about 26 percent.²

Likewise, while it was dying Hong Kong went from being the 20th largest trading power in the world all the way up to number ten (eight today), and during the period when the press consistently reported that multinational corporations were fleeing Hong Kong, the number of American expatriates there, which is the best proxy for Hong Kong's role as a multinational headquarters, more than tripled from 11,000 to 37,000.

Per Capita Income While Hong Kong Was Dying



Source: IFS, HK Government, Bankers Trust

² Adjusted for purchasing power, the superiority of Hong Kong incomes would be much greater. In 1997 Hong Kong's purchasing power-adjusted per capita income is barely less than that of the U.S. Hong Kong \$27,200 vs U.S. \$27,500

The "Bad" Years 1979-1991

	1979	1991
GDP	\$21.6 Billion	\$81.6 Billion
Total Exports	\$15.3 Billion	\$98.6 Billion
Re-Exports	\$4 Billion	\$68.8 Billion
Trade Rank	20th in world	10th in world
Foreign Companies	1261	2828
U.S. Expats	10880 (1980)	24600
Cargo	1.3 Million TEU	6.1 Million TEU

Source: HK Census & Statistics Department

The Reform Period 1979-1996

	1979	1991
GDP	\$21.6 Billion	\$154.2 Billion
Total Exports	\$15.3 Billion	\$180.4 Billion
Re-Exports	\$4 Billion	\$153.0 Billion
Trade Rank	20th in world	8th in world
Foreign Companies	1261	4606
U.S. Expats	10880 (1980)	37000
Cargo	1.3 Million TEU	13.3 Million TEU

Source: HK Census & Statistics Department, U.S. Consulate

With a very few important exceptions, recent press coverage focused on human rights has been of the same quality. The general impression conveyed by major U.S. newspapers was that China had forcibly repealed all human rights guarantees. I have not seen a single report which mentioned that the Chinese had unilaterally provided the human rights guarantees in the Basic Law that are appended to my paper today. Efforts by Hong Kong's new Chief Executive to formulate laws regulating demonstrations and foreign political contributions were almost without exception characterized by such phrases as "turning the screws on human rights in Hong Kong" even though the stated purpose was to mirror U.S. restrictions on foreign political contributions and the leading British Commonwealth democracies' regulations on demonstrations. Governor Patten's arguments that any restrictions at all would infringe the International Covenant on Civil and Political Rights were mouthed uncritically. In short, there was no effort to make reporting on Hong Kong complete, balanced, or even consistent with reporting of U.S. issues in the same newspapers on the same days.

So, what is happening from the viewpoint of Hong Kong people? The first thing is that a wide variety of Hong Kong people and organizations have simply bypassed the British-Chinese disputes.

Hong Kong Takes Charge

The core of the Hong Kong response to the transition has come from the Hong Kong Civil Service led by Chief Secretary Anson Chan. Mrs. Chan is the heroine of Hong Kong today, and has been regarded as the real governor of Hong Kong for the past two years. In the public opinion polls, she towers above everyone else, including her current boss, Governor Christopher Patten, her future boss, Chief Executive Tung Chee-Hwa, and chief political gadfly Martin Lee. To convey some idea of her stature, when the race for Chief Executive began, her level of popular support was over 60 percent and Martin Lee's was 10 percent. It is important to understand why she has this stature.

- She is more outspoken about freedom than Mr. Tung, and devoted her first major speech after being assured of reappointment to freedom of the press.
- She is tough enough to say things to Beijing leaders that they don't want to hear.
- She respects Beijing and doesn't pick gratuitous fights, unlike Governor Patten and Martin Lee.

Under her leadership the work of government, and of transition, has gone forward decisively.

Other officials have performed similarly effective service. Joseph Yam, head of the Hong Kong Monetary Authority (effectively the Hong Kong central bank), has brought Hong Kong regulatory standards and currency management up to world class standards, while nailing down Hong Kong's financial autonomy through a superb relationship with his counterparts in People's Bank of China (China's central bank). The result is that a large array of the world's most sophisticated bankers simply see no significant problems or controversies attached to the June 30, 1997, transition.³

Just as significant have been the initiatives of the Hong Kong Chinese business community. As with the civil service, there have been many major contributions by the business community, but let me single out Vincent Lo, who chairs the Business and Professionals Federation (BPF) and may be the most far-sighted of Hong Kong's businessmen/Hong Kong strategic planners. One example of initiatives led by him concerns the Court of Final Appeal for Hong Kong. Other than the legislative election reforms, the Court of Final Appeal constituted the most difficult and sensitive transition political issue.

³ For a full report on this, see my testimony to the U.S. House of Representatives, Committee on Banking and Financial Services: "Hong Kong's Financial Stability Through 1997," March 20, 1996.

Under the British, the ultimate judicial appeal was to the Privy Council in London. After June 30, 1997, there will be a new Court of Final Appeal, a rough analogue of the U.S. Supreme Court. The Joint Declaration provides that foreign judges “may” serve on the Court of Final Appeal. The British wanted to ensure the presence of at least one foreign judge, and China wanted as few as possible, so they tentatively agreed that exactly one of the five justices would be a foreigner. Martin Lee wanted a minimum of three and succeeded in torpedoing the deal through legislative disapproval. Since there was no way a Chinese government obsessed with sovereignty could ever accept a colonial court dominated by a foreign majority, the British could not decide how to move forward and let the matter drop for a dangerously long time. Meanwhile Governor Patten’s “reform” of the legislative elections convinced Beijing that the British would “sabotage” the court agreement in the same way and that, because they understood such Western institutions better, they would win even if they were clearly breaking the agreement. China therefore announced that it would implement exactly the British-style court that had been agreed, but that it would structure the court after June 30, 1997, in order to avoid British sabotage.

In this context, Vincent Lo led an April 1995 BPF delegation to Beijing to argue the Chinese leaders out of their position. As it happened, the delegation asked me to make the presentation to Prime Minister Li Peng. I told the Prime Minister that we understood his concerns about the British, but that leaving the court to be structured after the transition would harm Hong Kong. We were just nervous businessmen, I said, doing deals now (April 1995) that would last beyond 1997. If we weren’t sure about the rules of the game, if we didn’t know how disputes would be adjudicated, then we just couldn’t do those deals and Hong Kong might be seriously harmed in 1996.

The Prime Minister became quite agitated. He said that China would honor its promises. The situation would be properly handled. Our job, he said with considerable firmness, was to build ports and roads and telecommunications, and his job was to worry about courts.

We persisted. Along with Raymond Chien, a leading businessman, and others, we explained the vital importance to Hong Kong of the rule of law. We went over and over this in different ways. To the Prime Minister this was a somewhat alien, and possibly somewhat threatening, concept, and the discussion was rather emphatic on both sides. We left without resolution and pressed the matter at a series of less consequential meetings. As the BPF visit ended, the American Chamber of Commerce sent a delegation to press the same point for two days.

Two days after the meeting with the prime Minister, *China Daily* carried a long article on our visit under a headline calling for early resolution of the dispute over the Court of Final Appeal. Beijing had shifted its position exactly as we asked and the deal with the British was quickly struck.

There is widespread agreement, including among the British, that the structure agreed is quite satisfactory.⁴

This is just one example of the way progress on vital issues has been made. Pragmatic individuals and groups, who manifestly have Hong Kong's best interests at heart and are respectful of Chinese concerns, have found that the top Chinese leaders are accessible and willing to listen even on painfully sensitive issues. This is how Hong Kong has moved forward. If you wonder why Hong Kong has become more confident as the transition approaches, and if you wonder why people with direct access to the Chinese leaders are more confident than those who prefer to shout angry slogans, this example may be useful.

Aside from individuals, Hong Kong society has shown itself willing and able to mobilize and debate and move on important issues. The debate today in Hong Kong over banning foreign political contributions is noteworthy for the way public opinion has remolded a vital political issue. For the vitality of interest group debate we have to thank Governor Patten.

The Decisions Shaping Hong Kong's Future

Hong Kong life is being shaped by a series of rapid developments that have so far inspired confidence but also raise anxieties.

The biggest issue was, what kind of Chief Executive would Beijing back? Now we know. Tung Chee Hwa is a conservative capitalist businessman, known for honesty, a former member of British Governor Patten's cabinet, a long-time associate of the Washington's conservative Heritage Foundation, and a 17-year veteran of the American Chamber of Commerce. He is more conservative than Hong Kong's center of gravity, but very much a symbol of stability and continuity.

The second biggest issue was the integrity of the civil service, the heart of Hong Kong's efficient, honest government. Beijing committed itself years ago to letting every civil servant stay on. And more recently Mr. Tung committed himself to keep in place every department head who was a Hong Kong citizen—which meant all but two. This included the outspoken Finance Secretary, Donald Tsang, who had bitterly denounced Mr. Tung's handling of the Bill of Rights controversy.

⁴ One residual criticism concerns the circumscribing of the Court's jurisdiction over "acts of state." It is often incorrectly stated that this creates an unlimited area for Chinese interference or that the Chinese have employed a much broader interpretation of acts of state than Western laws normally do. In the Chinese text of the Basic Law, China retains jurisdiction over "issues of fact relating to acts of state such as national defense, foreign diplomacy, etc." While there is some ambiguity in the term "acts of state," the use of this term is not unusual in such documents and it refers in British Common Law to acts that are specifically defined as the prerogatives of the sovereign. There is a long legal tradition as to what the term covers. The original Chinese text actually circumscribes these specifically defined central government prerogatives more than the English text, which uses the much broader term "foreign affairs."

Most importantly, he reappointed, with clear support from Beijing, Hong Kong's most popular leader, Chief Secretary (head of the civil service) Anson Chan, as the government's second most powerful figure. The result of this decision was that Hong Kong people ended up with their top two choices, Anson Chan and Tung Chee Hwa, in the top two jobs, albeit in reverse order.

To locals, these decisions spell continuity and competent, honest government. This is the source of the high level of confidence. Most Hong Kong people find the provisional legislature extremely unrepresentative but are willing to look forward hopefully to the first real legislature a year from now. The key test will be whether Martin Lee and his Democrat Party have full opportunity to participate—subject to the subversion laws noted below.

Hong Kong people's remaining concerns focus on several areas:

Rule of law. The rule of law is the foundation of Hong Kong's economic success and political freedom. The departing British express fears that judges will become vulnerable to political pressure and civil liberties will be eroded. The Chinese promise that the British legal system will remain. The 1995 resolution of controversies regarding the structure of the Court of Appeal was the first step in relieving uncertainty. Second, the new Secretary of Justice, Elsie Leung, distinguished herself by campaigning for very mild or liberal new laws rather than reinstatement of the old draconian British laws. Hong Kong's future judges are to be chosen, as past ones were, by a committee of sitting judges, distinguished lawyers, and distinguished citizens. Chief Executive Tung reappointed all but two of the existing committee, including Gladys Li, the most outspokenly anti-Chinese leader of the bar. (The two replacements concerned business leaders, as opposed to the legal professionals, and were of little consequence.)

Civil liberties. The new Hong Kong government will sweep aside certain unilateral changes the British made in Hong Kong laws on the argument that they constitute breaches of the Joint Declaration's promise that Hong Kong's laws will remain "basically the same" as in 1984. Governor Patten has persuaded the Western press that China's real intent is to remove guarantees of basic civil liberties. But all basic liberties are included in Articles 26-41 of Hong Kong's constitution, the Basic Law which was written by China, and the International Covenant on Civil and Political Rights is incorporated in Article 37. I have appended the text of Chinese guarantees as an appendix to this testimony. Beijing had full control over the writing of these guarantees, which are far-reaching and carefully drafted. Most of the guarantees of rights are accompanied by language that says they must be implemented "according to law," to ensure that policemen and other officials clearly understand that the interpretation of these rights has to be done by law, not by personal interpretation. And Article 37, incorporating the International Covenants in full into Hong Kong's constitutional document, is designed to ensure that all implementing legislation for the guarantees has to be consistent with those Covenants.

The key controversies concern the removal of one clause from the British Bill of Rights, and the rules regulating demonstrations and ties to foreign political organizations. The clause removed from the Bill of Rights was intended to force interpretation of all Hong Kong laws in accordance with the International Covenant on Civil and Political Rights and to remove laws inconsistent with the Covenant. However, since the Covenants are already incorporated into the constitutional document, that clause of the Bill of Rights appears redundant; once again, the Chinese are making a point about sovereignty.

Chief Executive Tung says the rule on getting police permission for a demonstration will be similar to those of Australia, Canada and Britain, and the rule on societies will be similar to U.S. laws that foreigners cannot finance local political campaigns. Watch whether Amnesty International can be barred, along with political parties, from receiving donations. The key in many cases will be implementation rather than the detailed language of the law. Watch whether the first demonstration offensive to China is banned. As we speak, there is a very healthy debate going on about these subjects in Hong Kong. Members of Congress should read the details of the debate rather than listen to Patten's assertion that even a tightly written ban on campaign contributions like our own would be a violation of the International Covenant on Civil and Political Rights. Even less should Congress heed our newspapers' vacuous characterization of the debate over campaign contributions as "turning the screws on human rights" and other phrases that mask the substance of the debate.

Subversion. The essence of one country, two systems is that neither system is supposed to subvert the other. An effective anti-subversion law is in Hong Kong's interest. (If Hong Kong starts subverting China, then China will certainly start subverting Hong Kong, and clearly China will win.) Governor Patten has been trying to revise the subversion law so that nothing would be subversion except violence. However, suppose that China sent a billion dollars and a million dissidents to Hong Kong to upset the Hong Kong system while eschewing violence. Even Patten would recognize such actions as subversion. Patten's own legislature refused to pass his preemptive law. China will write a tougher law, and Congress should ignore disingenuous British denunciations so long as the law only restricts acts that cross the border into China proper. If it is written in a vague way that can be interpreted as restricting a wide variety of behavior confined to Hong Kong itself, then Congress should express strong concerns.

Freedom of speech. China is replacing a British law banning defamation of the royal family with a ban on defamation of top Chinese leaders, and it is prohibiting the press from advocating independence for Hong Kong or Taiwan. These restrictions are troubling but livable. A much more serious problem could derive from a senior official's comments that freedom of the press should not include freedom to print lies; such views represent a fundamental misunderstanding of what freedom of the press means, and many people in Hong Kong are concerned that officials might one day arrogate a broad power to decide which

statements are lies. If press restrictions proliferate, or if broad bans on “lies” emerge, or if Hong Kong journalists are prosecuted on national security grounds for anti-Chinese opinions, or if businesses are punished for their executives’ political opinions, then Congress should speak out. This is the area of greatest concern for both human rights activists and American business. Congress should not, however, presume in advance that freedom of the press is about to disappear.

Law and Order. Politicians Martin Lee and Emily Lau will almost certainly promote disruptive demonstrations during the June 30/July 1 transition. They will have little difficulty creating a demonstration that looks much bigger on camera than it really is. If they are handled firmly but fairly by Hong Kong police alone, all will be well. If they are handled very roughly or if mainland forces are involved in suppressing them, Hong Kong morale will crack. The decision has already been made in both Beijing and Hong Kong that mainland forces will have no involvement. This will nonetheless be a crucial moment.

Financial Integrity. China has promised financial autonomy: Chinese banks will be treated as foreign banks in Hong Kong, the Chinese currency will not become legal tender in Hong Kong, Hong Kong’s huge reserves will not be touched by China, Hong Kong’s financial regulation will remain autonomous, and China will continue to promote fiscal conservatism and oppose the welfare state. None of the smart money doubts these promises, but any alteration would certainly upset markets. On more subtle issues, watch the tenure of Joseph Yam, respected head of the Hong Kong Monetary Authority, who has presided over the maturation of Hong Kong’s financial regulation to that of a fully developed country. Early resignation by either Joseph Yam or Anson Chan would indicate serious problems.

Monopolies. Hong Kong has a reputation as a laissez-faire economy. In fact, British commercial power is founded on a series of monopolies and cartels in airlines, telecommunications, banking, utilities, legal services, medical services, and many others. When colonialism goes, the British monopolies should go too. Beijing’s primary targets are the airline monopoly and the telecommunications monopoly. On these subjects, Beijing’s voice has so far been in line with the U.S Trade Representative and the WTO.⁵ The important thing is that the British

⁵ A mischievous *New York Times* article timed for exactly one year before the transition convinced many Americans that China was “nationalizing” the Hong Kong economy. Cf. Edward A Gargan, “A Year from Chinese Rule, Dread Grows in Hong Kong,” July 1, 1996, page 1. The only evidence cited was the termination of the British monopolies and the natural movement of a Chinese airline into business in Hong Kong, ultimately in alliance with Hong Kong’s Cathay Pacific; the assertion derived most of its force from an invented quotation attributed to Miron Mushkat, a Lehman Brothers economist, who said no such thing. This tendentious, inaccurate article is quite typical of *New York Times* coverage of Hong Kong. A related article (“In Hong Kong, Last Looks at the Empire,” *News of The Week In Review*, June 30, 1996, page 3), attempts to fan anti-Chinese sentiment with a photo essay that features large pictures and statements that the return to Chinese rule means that girlie bars will be closed because of Chinese prudery and that rickshaw drivers will lose their jobs because of the imposition of Chinese practices. Such assertions are so blatantly false that nobody familiar with Hong Kong could possibly believe them.

monopolies disappear, rather than giving way to Chinese counterparts. So far, the omens are auspicious, but Congress will wish to monitor Chinese practice.

Corruption/Connections. Numerous giant Chinese firms would undoubtedly like to use political muscle to get special advantages in Hong Kong, and numerous Hong Kong firms will appeal to Beijing muscle in order to get that desperately needed contract. New Chief Executive Tung says he is eagerly looking for the first big case so that he can use it to teach an indelible lesson. The trends will only be clear after five years or so.

We must watch, too, for Beijing politicians trying to be helpful. For instance, the first time the Hong Kong stock market crashes, it's important that Beijing not helpfully intervene to support it. But as in Washington the desire to be helpful sometimes proves irresistible. And local businessmen will, as in Washington, seek political support. Two years ago, when the Hong Kong property market was less prosperous today, Hong Kong businessmen made intense requests for support from Beijing. Zhu Rongji told them firmly that this was a normal market cycle and therefore not his problem. Hopefully that attitude will continue, but much time will have to pass before we are sure that the urge to intervene isn't going to revive.

As you can see, there are numerous and important uncertainties. The good news is that the uncertainties which have been resolved already have been resolved in a highly positive manner. The bad news is that many more uncertainties remain. Americans in Hong Kong will appreciate clear statements of our values and careful monitoring of developments not just this year but for many years.

It is equally clear that we will lose our credibility if we adopt a hostile or threatening approach to Hong Kong issues when most Hong Kong people think things are going remarkably well.

Military Interests

Hong Kong is Asia's greatest port. We have always had access there, which we have used mainly for convenience and for rest and recreation. Sixty-five ship visits per year to Hong Kong are not of great inherent military significance to us, but after the loss of Subic Naval Base in the Philippines, the convenience of Hong Kong is more valuable than before. In an era of budget pressures, every saving and every convenience is helpful to our ability to maintain a forward presence in Asia. It is difficult to overstate the importance to peace that we maintain our military presence in Asia, whether it is to mitigate the risks of Korean conflict today, to keep the sea lanes open, or to ameliorate the risk of Sino-Japanese conflict in the more distant future, so even though Hong Kong is just a convenience we should take it seriously.

There are also much more important indirect benefits. Our military to military contacts with China are invaluable. Everything we can do with them which works smoothly improves the chances for peace in the future. Just imagine a time in the future when relations might be much more hostile than they are now. In such a situation, I can imagine our diplomats spending years trying to construct confidence-building measures, of which one of the most valuable could well be regular contact through port visits to Hong Kong. Instead of spending years re-negotiating such access in the future, we would be wise to make great efforts to keep our "confidence building measures" active now.

To amplify the importance of this, our military leaders have proven to be the apostles of peace with China. Their professionalism has led them to a more balanced view of China than any other sector of American society. They are not afraid of China today. They take a calculated rather than excited or ideological view of China's progress. While they know that their job is to remain strong and keep their powder dry, they have the greatest interest in avoiding gratuitous conflict in the future. Partly as a result, our recent Secretaries of Defense, and our admirals and generals serving in Asia, have been our most effective advocates, our smoothest diplomats, and the Americans who have the best relations with their Chinese counterparts. Anyone who cares about peace will promote more of our military relationships with China.

Some will find that statement peculiar. Nobody should. The American military has basically been used to defend peace, not to promote war, and it has largely succeeded in that task throughout the post-World War II period. And my personal experience is that in our country the people most concerned about the risk of stumbling into unneeded conflict are the officers who would have to do the shooting.

How do we promote our interest in continued military access to Hong Kong? We have to start with the fact that in a little over two months Hong Kong will be Chinese territory and part of every agreement about Hong Kong is the understanding the China will exercise full authority

over foreign policy and national security for Hong Kong. Hong Kong's autonomy has never extended to foreign policy and national security. The decision over our military access is a Beijing decision, not a Hong Kong decision.

Beijing's instinct has been to quietly continue the access. It has no particular reason to curtail access, and it wants to send a message to the world of Hong Kong's continuity. But if the overall Sino-American relationship deteriorates too much, access will be at risk. More importantly, and I want to emphasize this point, if we demand or threaten rather than request access, we are virtually certain to lose it. The Hong Kong transition is about sovereignty, and China is willing to be flexible about anything other than sovereignty, but it will abandon all other interests if it perceives a threat to its sovereignty. There is no more sensitive sovereignty issue than military access. For that matter, if China demanded Chinese military access to the Port of New York, which is a diminutive counterpart of Hong Kong, and made threats if it did not receive it, we would automatically deny that access. China will respond the same way.

So I urge you to leave this one to the Pentagon to negotiate. Then we will have every prospect that, even after 1997, there will be more American sailors than Chinese soldiers in the bars of Wanchai.

Hong Kong and the Overall Relationship with China

We are slipping inexorably into a new Cold War with China even though we have no intent to threaten China's vital interests, and they have no intent to threaten ours.

We look at their egregious excesses in the Taiwan Strait during 1995-'96 and see a militaristic, aggressive power. They thought they were just getting our attention, but they have imprinted a dangerous image on the minds of much of our population. Even though none of our generals and admirals thought they wanted to attack Taiwan, or even that they could successfully invade Taiwan if they wanted to, the image left in the minds of journalists, politicians and ordinary Americans tends to define China as a big danger.

Conversely, The Chinese add up our efforts, including initiatives toward Taiwan, Tibet, and Hong Kong; threats to remove MFN; and campaigns to keep them out of prestigious roles like hosting the Olympics, and they conclude that we are an aggressive superpower determined to dismantle China and keep them down at any cost. We thought we were just trying to express our values and, frustrated at the lack of results, think we should try some more new ideas. But, in sharp contrast to the strong pro-American feelings before 1993, the average Chinese, and particularly the young educated Chinese, now sees us a clear and present danger to China.

They will have to do their part to change their image.

On our side, we have to do a lot of difficult business with China. On nuclear proliferation, missile technology control, intellectual property, territorial waters, and many other issues, we must take tough stands. As if the issues were not tough enough, the Chinese negotiating style is very confrontational and we will often have to confront them. These are important issues for us and for the world, and we have no choice but to stand tough. But we can do this and also avoid contributing to a new cold war if we are sensitive to Chinese sovereignty concerns. In Hong Kong, this means fighting if necessary for specific civil liberties rather than delivering broad ultimatums in support of British slogans. In Taiwan, it means defending Taiwan's freedom, prosperity, autonomy and democracy but not raising Taiwan's diplomatic status. In Tibet, it means vigorous efforts to ameliorate awful abuses but not quixotic support of Tibetan independence. If we follow these principles on the hot sovereignty issues, we can have some very tough conversations on the focused issues without risking cold war.

General Guidelines on Our Policy Toward Hong Kong

When physicians are trained to treat patients, the principles they must uphold start with: First, do no harm. That is a good principle for any policy. In that respect, we should bear in mind that a threat to withdraw Most Favored Nation status from China is a gun directed mainly at Hong Kong, and only a distant, weakened ricochet would hit Beijing. If you want to help Hong Kong, don't shoot it. And if you want Hong Kong people to appreciate your help, don't threaten to shoot them.

We can best promote freedom and democratization in Hong Kong if we focus directly on our interests and avoid head-on confrontations over Chinese sovereignty issues. What does this mean in practice?

- We should judge democratization by the character of the election Beijing holds in 1998 rather than wasting our energy denouncing the Provisional Legislature. It's the permanent legislature that determines whether Hong Kong really moves toward democracy. By the way, I offer no assurances or firm forecasts as to how the permanent legislature will be formed; all I can do is to identify the right issue.
- We should judge human rights policies on their merits. Inflated newspaper-style denunciations of Beijing's "turning the screws on human rights" are unhelpful in the absence of specific abuses. The issue is, for instance, whether the ban on foreign funding of political organizations is narrow, like ours, or whether it would also effectively ban Amnesty International. If it does the latter, we should deliver a broadside.
- When anti-subversion legislation is under discussion, we must remember that "One Country, Two Systems" is life and death to Hong Kong. Anyone who really cares about Hong Kong's autonomy and freedom must recognize that the boundaries between the two systems have to be respected—in both directions. Local politicians have every moral right to be anti-Beijing revolutionaries if they wish, but they cannot simultaneously claim to be protecting Hong Kong's autonomy and freedom. The criterion for denouncing anti-subversion legislation is whether it can be used to suppress free political activity or free speech (including anti-China speech) inside Hong Kong. It cannot be fairly criticized for restricting cross-border revolutionary organization, propaganda, or funding. Politicians will have to choose whether to be Hong Kong leaders or Chinese revolutionaries.

The dignity of the U.S. administration and the U.S. Congress must be preserved by ensuring that we only address important issues. For instance, when a church group is mistakenly told by a middle level official to get a license for a convention in Hong Kong, and when that error is

quickly reversed by the official's superiors, we should not be including the incident in legislation. We wouldn't want other governments holding us accountable for everything middle level officials say.

Beyond that, we have to give other nations some wiggle room. Hong Kong may need a somewhat tougher law on demonstrations than the U.S., or it may not. We should be concerned about big issues and completely unreasonable rules, not about small deviations.

Similarly, we should remember that our democratic institutions took many years to flower fully, and that we and the British find a role, an invaluable one, for institutions like the U.S. Senate and the British House of Lords which are not perfect models of representativeness. If Hong Kong were to move steadily over two decades toward a legislature that is highly representative but has a sub-house of members elected for their expertise for many of those years, that's a good outcome, not a bad one.

To say these things is not to suggest that we should back off from any of our major principles. It is to ensure that when the big issues do arise, we will have unity at home and credibility abroad. The important goal of policy is to fight the ones that count—and win.

Finally, in Hong Kong the real issues are longer-term ones that require vigilance. Whether corruption is going to infiltrate Hong Kong is a five to ten year issue. How important kinds of relationships with the mainland will evolve cannot be determined until after 1997, because this period when all the top leaders are working so hard to make everything work smoothly is unique.

I hope that Congress will articulate American values and express its concerns about Hong Kong, but also that it will recognize good will and celebrate success.

Appendix: Citizen Rights Provisions of the Basic Law⁶

Article 25

All Hong Kong residents shall be equal before the law.

Article 26

Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.

Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

Article 28

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.

Article 29

The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited.

Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offenses.

Article 31

Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization.

Article 32

Hong Kong residents shall have freedom of conscience.

⁶ The Basic Law is Hong Kong's constitutional document for the period from June 30, 1997, to June 30, 2047. It was written by Beijing, but with widespread consultation that included prominent American lawyers, and promulgated in 1990.

Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public.

Article 33

Hong Kong residents shall have freedom of choice of occupation.

Article 34

Hong Kong residents shall have freedom to engage in academic research literary and artistic creation, and other cultural activities.

Article 35

Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies. Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

Article 36

Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law.

Article 37

The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Article 38

Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Article 40

The lawful traditional rights and interests of the indigenous inhabitants of the “New Territories” shall be protected by the Hong Kong Special Administrative Region.

Article 41

Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter.

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