

HONG KONG'S ROLE IN U.S.-CHINA POLICY

by Martin L. Lasater

On December 19, 1984, British Prime Minister Margaret Thatcher and Chinese Premier Zhao Ziyang signed in Beijing an historic joint declaration returning the Crown Colony of Hong Kong to Chinese sovereignty on July 1, 1997. The draft text of the agreement on the future of Hong Kong had been initialed by representatives of both governments in September after two years of intense negotiations.

The agreement covers Hong Kong Island, ceded in perpetuity to London by the Chinese Government in the 1842 Treaty of Nanking; the southern part of Kowloon peninsula and Stonecutters Island, ceded in perpetuity in the 1860 Convention of Peking; and the New Territories, leased to Britain for 99 years in the Convention of 1898. It was the expiration date of the lease for the New Territories, which comprise 92 percent of the total land of the colony, that prompted London to enter into negotiations with the People's Republic of China on Hong Kong's future.

Britain first raised the question of the expiration of the land leases in March 1979, but serious discussion did not begin until 1982. In January of that year Sir Humphrey Atkins, Lord Privy Seal, visited Beijing and was given an outline of Chinese concerns. In September Prime Minister Thatcher and Deng Xiaoping held a pointed discussion in Beijing, in which the PRC leader bluntly said that China would regain sovereignty over Hong Kong in 1997 and Mrs. Thatcher emphasized the importance of Honk Kong's links to Britain if that city were to maintain its prosperity. The two leaders issued a joint statement on September 24, which said:

Today the leaders of both countries held far-reaching talks in a friendly atmosphere on the future of Hong Kong. Both leaders made clear their respective positions on this subject.

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They agreed to enter talks through diplomatic channels following the visit with the common aim of maintaining the stability and prosperity of Hong Kong.¹

Talks over the future of Hong Kong began immediately. Although the negotiations were complex and at times bitter, there were essentially two stages. In the first stage, roughly September 1982 to June 1983, the PRC made known and London eventually accepted the fundamental principle of Chinese sovereignty over Hong Kong in 1997. Once that had been established, the second more detailed phase of the negotiations got underway. In this stage, which lasted until September 1984, the British and the Chinese first wrestled with the issue of a British administrative role after 1997--an idea that London finally relinquished in September 1983. Then came an exhaustive but relatively harmonious period of negotiations in which the British educated the Chinese on the complexities of ruling Hong Kong and the conditions necessary for its continued prosperity. In this final stage of negotiations, the PRC demonstrated a great deal of pragmatism.

The period from January to September 1984 was a difficult one for Hong Kong, which had been denied a role in the negotiations by the Chinese. Riots, the crash of the stock market, the relocation of key Hong Kong businessmen, runs on banks and various enterprises, insulting treatment given to members of Hong Kong's Executive Council by both Great Britain and China, and the unilateral setting by the Chinese of a September 1984 deadline for an agreement--all contributed to Hong Kong's anxiety. Nonetheless, the negotiations went forward smoothly as the last issues were worked out between the British and Chinese.

The Hong Kong Agreement reflects both the vagueness of principle, which the Chinese initially preferred, and the considerable administrative detail, which the British were able to insert after a great deal of effort on their part. The Agreement itself consists of a Joint Declaration and three Annexes. Each part has equal status, the whole making up a formal international agreement legally binding in all its parts. An international agreement of this kind is the highest form of commitment between two sovereign states.

1. A concise, official statement of the history of the London-Beijing agreement on the future of Hong Kong can be found in "A Draft Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Future of Hong Kong" (London: Her Majesty's Government, September 26, 1984). For a much richer history, see Frank Ching, Hong Kong and China (New York: China Council of the Asia Society, 1985).

In the Joint Declaration, the two governments restore the right of sovereignty over Hong Kong to China on July 1, 1997; set forth the basic policies of the PRC regarding Hong Kong (a point that will be elaborated upon momentarily); agree that London will remain responsible for the administration of Hong Kong until June 30, 1997; and establish a Sino-British Joint Liaison Group to ensure a smooth transition of government in 1997.

Annex I contains an elaboration of Chinese policies for the Hong Kong Special Administrative Region (SAR) after 1997. The concept of the SAR is contained in Article 31 of the PRC Constitution, which provides:

The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of the specific conditions.

As explained by Peng Zhen in 1982, this provision was specifically designed for Taiwan, Hong Kong,¹ and Macau.³ The fact that Hong Kong is a SAR with "a high degree of autonomy" is also significant, because it places Hong Kong in a special administrative relationship with the central government of China. This type of unique arrangement is what constitutes the "one country, two systems" concept, elaborated in October 1984 by Deng Xiaoping in Liaowang. Deng said: "The main system in China must be socialism....The socialist system practised by one billion people on the mainland will not be changed, but a capitalist system will be allowed to exist in certain regions, such as Hong Kong and Taiwan."⁴

The highly important Annex I details how Hong Kong will work after the resumption of Chinese sovereignty and describes the extent of its autonomy. The subjects dealt with include: constitutional arrangements and government structure; the laws; judicial system; public service; financial system; economic system and external economic relations; monetary system; shipping; civil aviation; culture and education; external relations; defense, security, and public order; rights and freedoms; and right of abode, travel documents, and immigration.

2. "The Constitution of the People's Republic of China," in People's Republic of China Year Book, 1985 (Beijing: Xinhua Publishing House, November 1985), p. 12.

3. Xhongquo Xinwen She, November 28, 1982, in FBIS-China, November 30, 1982, p. K19.

4. Deng's remarks can be found in Appendix II of Li Jiaquan, "Formula for China's Reunification," Beijing Review, February 3, 1986, pp. 25-26.

Annex II sets out the provisions for the establishment of the Sino-British Joint Liaison Group. Annex III deals with land leases and arranges for the establishment of a joint Land Commission. The Exchange of Memoranda deals with citizenship and passport status of persons who are now British Dependent Territories citizens.

Although the recovery of sovereignty over Hong Kong is itself a significant historical step for China, the "one country, two systems" formula applied to Hong Kong as a special administrative region with a high degree of autonomy is designed with two additional purposes: first, to maintain the prosperity and stability of Hong Kong; and second, to serve as a model for the reunification of the mainland and Taiwan. As such, it is important to note the range of promises made by Beijing to the people of Hong Kong. These include:

- o A high degree of autonomy, except in foreign and defense affairs, which will be the responsibility of Beijing.
- o An executive, legislative, and independent judicial power with the current laws remaining "basically unchanged."
- o An executive appointed by Beijing on the basis of local elections or consultations, and "accountable to the legislature."
- o A legislature constituted by elections, which "may on its own authority enact laws in accordance with the provisions of the Basic Law and legal procedures, and report them to the Standing Committee of the National's People's Congress for the record."
- o "The laws of the Hong Kong Special Administrative Region shall be the Basic Law, and the laws previously in force in Hong Kong and laws enacted by the Hong Kong Special Administrative Region legislature."
- o Laws previously in force in Hong Kong "shall be maintained, save for any that contravene the Basic Law and subject to any amendment by the Hong Kong Special Administrative Region legislature."
- o Judicial power in Hong Kong "shall be vested in the courts of the Hong Kong Special Administrative Region. The courts shall exercise judicial power independently and free from any interference....The power of final judgement...shall be vested in the court of final appeals in the Hong Kong Special Administrative Region."
- o "The Hong Kong Special Administrative Region shall maintain the capitalist economic and trade systems previously practised in Hong Kong....The Hong Kong Special Administrative Region shall retain the status of a free port and continue a free trade

policy, including the free movement of goods and capital. The Hong Kong Special Administrative Region may on its own maintain and develop economic and trade relations with all states and regions."

- o "The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. "Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law....Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law."
- o Hong Kong will remain a separate customs territory. It will remain an international financial center, "and its markets for foreign exchange, gold, securities and futures will continue. There will be free flow of capital. The Hong Kong dollar will continue to circulate and remain freely convertible."
- o The SAR will have independent finances and Beijing will not levy taxes on Hong Kong.
- o "Mutually beneficial economic relations" may be established with the United Kingdom "and other countries, whose economic interests in Hong Kong will be given due regard."
- o Under the name "Hong Kong, China," the SAR "may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organizations."
- o Hong Kong may issue its own travel documents and maintain its own public security forces.
- o "Apart from displaying the national flag and national emblem of the People's Republic of China," Hong Kong "may use a regional flag and emblem of its own."
- o "The Hong Kong Special Administrative Region shall maintain the educational system previously practised in Hong Kong."

The PRC promised in the Agreement that the above policies would be enshrined in a "Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China." The Basic Law will stipulate that after 1997 "the socialist system and socialist policies shall not be practised in the Hong Kong Special Administrative Region and that Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years."

An evaluation of the effect of the Hong Kong settlement on U.S.-PRC-ROC relations requires some sense of the wide range of reactions to the Agreement. British officials believe that China would have assumed sovereignty in 1997 with or without an agreement. The fact that the PRC was unwilling to extend the lease on the New Territories made the British position on Hong Kong Island, Kowloon, and Stonecutters Island untenable. Given that situation, the British feel the agreement they reached is in the interests of the people of Hong Kong. Officially, London said:

Her Majesty's Government believe that the agreement is a good one. They strongly commend it to the people of Hong Kong and to Parliament...Her Majesty's Government are confident that the agreement provides the necessary assurances about Hong Kong's future to allow the territory to continue to flourish, and to maintain its unique role in the world as a major trading and financial centre.⁵

British officials involved in negotiating with the Chinese concluded that the PRC really intends for Hong Kong to be autonomous after 1997, but subject to the PRC Constitution and the Basic Law. The National People's Congress, of course, is the final arbiter of what that Law will mean.

For their part, the Chinese continue to be suspicious of anything that appears to challenge their sovereignty over Hong Kong. Gradually, however, this concern has become more of a bargaining ploy than an issue of substance. Beijing has let it be known that during the transition it wants to be consulted frequently and early on major issues, especially political developments. Chinese State Councilor Ji Pengfei told a delegation from Hong Kong on December 20, 1985: "Though minor changes can be made, there should be no major changes in Hong Kong during the transition period. Major changes can be made only after consultations."⁶

Ji, who is also director of the Hong Kong and Macau Affairs Office under the State Council, told the group that the Chinese government had not formed a fixed idea as to what political system should be practised in Hong Kong after 1997. He said: "It is necessary to proceed from Hong Kong's actual conditions and consider carefully how to apply the principle of 'one country, two systems.' After we listen to the opinions of the Hong Kong people from various quarters,

5. "A Draft Agreement..on the Future of Hong Kong," p. 8.

6. "Ji Pengfei on Hong Kong's Basic Law," Beijing Review, January 13, 1986, p. 5.

we will consider this issue and decide what system will be practised in Hong Kong."

Ji's remarks in December 1985 came at the end of a heated controversy between London and Beijing over whether some members of Hong Kong's Legislative Council could be directly elected. Since October 1985, the Legislative Council has comprised the Governor, three ex-officio members, seven nominated official members, twenty-two appointed members, and, for the first time, twenty-four elected members. Of the elected members, twelve are from an electoral college with twelve constituencies and twelve are from nine functional constituencies. Beijing's top representative in Hong Kong, Xinhua news agency director Xu Jiatusun, condemned the British move to establish representative government and warned of "unfortunate" consequences for the colony.⁸ Xu's remarks caused the local stock market's Hang Seng index to fall dramatically, panicked many people, and provoked cries of protest from local citizens about PRC interference.

The strong PRC reaction against representative government derived partly from a desire to avoid confrontational politics, which direct elections might bring. China fears that direct elections would lead to the creation of political parties in Hong Kong, which in turn would make it necessary for the Communist Party to become public and openly compete for office instead of working in the background.

At present, one of the most delicate issues being discussed in London, Beijing, and Hong Kong is how to ensure that the PRC's Basic Law, which is being drafted by Ji's Basic Law Drafting Committee, converges with the actual political situation in Hong Kong in 1997. A great deal of public pressure for direct elections to the Legislative Council has arisen. In response the Hong Kong government issued a White Paper in November 1984, stepping up the evolution of the Legislative Council from an appointed to an elected body. Next May the government will release yet another study on political reform in Hong Kong.

The people of Hong Kong have vacillated from panic to stoic acceptance in their response to the Hong Kong Agreement. Generally, most of them distrust the communists and are skeptical of Hong Kong's chances to continue as it is today. Yet, the consensus is that, for the time being at least, people should stay and make as much money as possible. Most business cycles are being planned for about five years between initial investments and profitable returns. Those able to do so are preparing safe havens elsewhere in case of need.

7. Ibid., p. 6.

8. Asian Wall Street Journal, December 2, 1985, p. 1.

Beyond this level of consensus, however, there are widely differing points of view. One example is the dispute over the role of the Legislative Council. Many of the rich taipans, even those who fled the communist mainland in 1949, prefer a strong executive and appointed legislature after 1997. This is seen as the best way to ensure stability and profits in the future. Many intellectuals, on the other hand, want a strong legislature with competing parties to ensure that people's rights don't get abused by the central government in Beijing.

Another case in point is the controversy over the proposed nuclear power plant in Daya Bay in Shenzhen. The issue reflects the bitter divisions over what the public's role in policy decisions should be after 1997. Outspoken Legislative Council member Martin Lee, who is also a Hong Kong member of the Basic Law Drafting Committee appointed by Beijing, has led a populist drive against the power plant. Over one million Hong Kong residents have signed a petition against the plant's construction and several independent polls have shown that 70 percent of those asked were opposed to Daya Bay. Lee is ridiculed in some circles as a troublemaker, but the issue has become a test case to see how much attention Beijing will pay to Hong Kong public opinion. Thus far, the PRC has shown no intention of halting its construction plans.⁹

The Hong Kong settlement presented a major challenge to the Republic of China government. Taipei claims to represent all of China, yet it had no role at all in the negotiations. But the ROC does support the renunciation of all unequal treaties signed by China in the 19th century and supports the recovery of Hong Kong to Chinese (not PRC) sovereignty. A complicating factor is the importance of Hong Kong as Taiwan's third largest trading partner after the U.S. and Japan. The ROC has established special study groups to work out policy regarding trade with Hong Kong after 1997. Taipei does not permit direct trade with the mainland, although roughly \$1.5 billion in indirect trade passes through Hong Kong each year.

On September 26, 1984, ROC Premier Yu Kuo-hua declared that his country would not recognize the agreement between London and Beijing, but that the ROC would assist the people of Hong Kong by:

- o exposing Beijing's conspiratorial activities in Hong Kong;
- o promoting world support of freedom and prosperity in Hong Kong and helping the people there express their desire for freedom and democracy and opposition to communism;

9. See Far Eastern Economic Review, September 4, 1986, pp. 16-17.

- o assisting those who want to remain in Hong Kong and struggle for freedom;
- o supporting those who want to participate in elections in Hong Kong;
- o helping those from Hong Kong who wish to settle in Taiwan;
- o easing entry and exit permits for Hong Kong residents visiting Taiwan;
- o assisting those who want to invest in Taiwan or who wish to trade with or deposit their money in Taiwan;
- o assisting those who wish to send their children to study in Taiwan.¹⁰

Some ROC scholars have even seen the Hong Kong settlement as an opportunity for Taipei to move politically against the communist mainland. In a paper presented before the Fifteenth Sino-American Conference on Mainland China held in Taipei June 8-14, 1986, Professor Peter Kien-hong Yu of National Sun Yat-sen University said:

The ROC...should wait for the day that Hong Kong officially becomes part of China. In the meantime, it should try to secure what it has now in that British colony, while at the same time, expand its influence and try to gain a majority in the Hong Kong Legislative Council and Urban and Regional Councils. By controlling the Hong Kong electoral bodies, the ROC, theoretically speaking, would be able to exert direct influence and neutralize the PRC in as many as eighteen different scenarios.

Without question, the Hong Kong settlement provides the ROC with both challenges and opportunities that would not otherwise exist. Exactly how Taipei will attempt to use the situation to its advantage is one of the most intriguing questions in Chinese studies at this time. One pattern that has already emerged is the unofficial message that Taipei can't really consider reunification until it sees how the Hong Kong settlement works out after 1997. The May 1986 talks between representatives of the ROC's China Airlines (CAL) and the Civil Aviation Administration of China over the return of a CAL Boeing 747 freighter and two of its crew members may mean that Hong Kong will become more of a symbolic meeting place between Taipei and Beijing in the future.

10. Chung-yang jih-pao, September 27, 1984, p. 1. See also Shaw Yu-ming, "An ROC View of the Hong Kong Issue," Issues and Studies, June 1986, pp. 13-30. The entire issue was devoted to the Hong Kong problem.

The U.S. position on the CAL talks was "no comment," a stance praised in Taipei and understood in Beijing. Similarly, on the principle that it was solely an issue between the United Kingdom and the PRC, the U.S. government did not play a role in the Hong Kong settlement. But the U.S. clearly indicated its interest in a peaceful and satisfactory resolution of the issue in such a way as (1) to preserve Hong Kong's unique status as a financial and trading center (Hong Kong is the tenth largest trading partner of the U.S.) and (2) to preserve the way of life of the people of Hong Kong. The U.S. also hinted that the manner in which Hong Kong's future would be handled could greatly influence the future prospects for reunification with Taiwan. The U.S. further indicated that it would support Hong Kong's separate participation in the GATT (General Agreement on Tariff and Trade) and other multilateral organizations.¹¹

The official U.S. position on the Hong Kong Agreement was given on September 26, 1984, in a State Department press conference:

The U.S. Government welcomes the successful conclusion of two years of negotiations between the United Kingdom and the People's Republic of China over the future of Hong Kong. The United States has a strong interest in the continued stability and prosperity of Hong Kong and believes the agreement will provide a solid foundation for Hong Kong's enduring future progress. In this regard, we have noted statements by both sides indicating that Hong Kong's way of life will be guaranteed for 50 years from 1997 and that systems existing in Hong Kong will continue in the special administrative region. We expect the American business communities, both in the United States and Hong Kong, will see in this agreement good reason for sustained confidence in the future of Hong Kong as an attractive and thriving commercial center. The United States will provide any assistance it can, in close cooperation with the United Kingdom and the People's Republic of China, to maintain Hong Kong's appropriate participation in international bodies.¹²

Since that statement many high-ranking U.S. officials have visited Hong Kong and expressed their confidence in Hong Kong's future.

11. For an excellent discussion of the U.S. position see Hungdah Chiu, "The Hong Kong Agreement and American Foreign Policy," Issues and Studies, June 1986, pp. 76-91.

12. "U.K. and China Reach Agreement on Hong Kong," Department of State Bulletin, November 1984, p. 56.

By examining the Hong Kong Agreement and the various reactions to it, several observations can be made regarding the impact of the Hong Kong settlement on the U.S.-PRC-ROC triangular relationship, particularly as it relates to the reunification issue.

First, the agreement was one of practical necessity for London, for there was no way Great Britain could have extended its lease on the New Territories. The very survival of Hong Kong depended on PRC acquiescence. By contrast, there is no practical necessity for Taiwan to reunify with the mainland at any time in the foreseeable future. As long as Taiwan has an adequate deterrence and maintains its will to survive as an independent entity, the PRC cannot force Taiwan into negotiations. Nor, arguably, can the United States. Taipei enjoys a privileged position in which it can either accept or reject Beijing's formulas for reunification. Questions of ideology aside, the ROC can evaluate PRC offers from the point of view of the attractiveness of the proposals. Thus far, Taipei has not seen much from Beijing that the ROC does not already have.

Second, it appears as if the PRC wants Hong Kong to continue pretty much the way it is now. This is because of Hong Kong's great contribution to China's modernization in terms of foreign exchange earnings, the introduction of technology and investments, and managerial skills. Also, a successful Hong Kong settlement would add enormously to the international prestige of Beijing and demonstrate that the PRC indeed may have peaceful, noninterventionist intentions toward Taiwan. Although the PRC probably wants Hong Kong to remain prosperous because China benefits directly thereby, that incentive is not obvious in the case of Taiwan. Taiwan does not earn foreign exchange for the PRC, nor is it a source of investment or managerial talent. Nonetheless, it is true that the resolution of the Taiwan issue would contribute to the prestige and perceived national power of Beijing.

Third, there was very little the U.S. could do to influence the outcome of the Hong Kong settlement. The only practical U.S. policy was to encourage London and Beijing in their negotiations and to support the Agreement once it became apparent that it was the best possible under the circumstances. However, the U.S. could play a major role in Taiwan's reunification. Official U.S. policy is noninvolvement, except to express an interest in the peaceful resolution of the issue. But the fact that the U.S. is critically important to Taiwan's prosperity and security and fundamental to China's modernization makes being evenhanded difficult for the United States. The tightrope the U.S. walks in arms sales to both the ROC and PRC is a case in point.

Fourth, expectations about the future of Hong Kong are heavily laden with subjective factors. Opinions as to the trustworthiness of the communists, theoretical concerns about having two economic systems operating in one country, the durability of Deng Xiaoping's reforms on the mainland, and the ability of even well-meaning Chinese government

officials to keep from meddling in Hong Kong's freewheeling style predetermine to a great extent whether one believes the future of Hong Kong will be bright or bleak.

Similarly, conclusions about the possibility of a just settlement between Beijing and Taipei and whether the U.S. can play a constructive role in reunification are heavily influenced by subjective considerations. Complicating factors are the highly personalized style of leadership both on the mainland and in Taiwan, the intense sixty-year rivalry between the Kuomintang and the communists, and the failure of U.S. efforts to play a mediator's role between the two parties in 1945 to 1950.

Fifth, in the negotiations the PRC was very firm on principles, but relatively pragmatic on details. However, since the agreement was signed, Beijing has been increasingly active in Hong Kong affairs both economically and politically. In the case of Taiwan, Beijing says that it is firm on the principle of national unification but flexible on the means to achieve that objective. The fact that the PRC finds it difficult to remain out of Hong Kong affairs, however, is a troubling reminder that the communists may indeed interfere in Taiwan affairs--despite Beijing's assurances to the contrary. The experience of Tibet is not reassuring in this regard.

And sixth, the Hong Kong settlement has added to the pressure on Taipei. The ROC must decide how to relate to Hong Kong after 1997 and how to respond to the "one country, two systems" formula as a possible model for its own future relationship with the mainland. If nothing else, the settlement has reminded Taipei and the rest of the world that the historical question of China's reunification is a dynamic one; not an issue cast forever in concrete.

The Hong Kong Agreement also is a sword that cuts both ways. If the settlement pressures Taipei on reunification, it puts Beijing on the spot to prove its words by deeds. And it is far more difficult for the PRC to ensure that Hong Kong remains prosperous than for the ROC to resist reunification proposals. The possibility still exists that Taiwan could become independent, but the circumstances under which that could occur are becoming increasingly limited because of diminishing international support. Beijing, however, must continuously remind itself that the failure of Hong Kong might well be one of those circumstances.

My conclusion is that the Hong Kong settlement does not provide a workable model for Taiwan's reunification with the mainland. Without question, this is an historic period in China's modernization, and unification will have to be addressed as part of that process. Thus, if not a model for Taiwan's reunification, the Hong Kong settlement is at least an important "test case" for PRC sincerity. The failure of the Hong Kong model would reduce enormously the prospects for Taiwan's peaceful reunification.

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