

CHAPTER SIX

AUSTRALIAN INTERESTS

Economic

6.1 Australia's interests in Hong Kong are guided by the stake, real and potential, that Australian business has in Hong Kong's economy and the access it provides to the markets of the Southern China crescent. In addition to its strategic location, Hong Kong has traditionally boasted numerous other attractions. These include a trade regime which imposes virtually no barriers to imports or exports and few restrictions on foreign ownership and the movement of capital, low taxation, a common law system, clean and efficient administration and a transparent and reliable regulatory framework governing commerce and trade. Additionally, Hong Kong has highly developed infrastructure, communications and financial and business services sectors, resultant business knowledge and expertise, and a skilled and educated labour force, which are all of substantial value to Australian business interests in the region.

Offshore Activity

6.2 Australian business has long had a high profile in Hong Kong, first established in the 1960s through the presence of companies such as Australian Pioneer Concrete and Maunsell Consultants, then continued in the early 1970s by Leighton Contractors¹ and a number of other firms. These companies were followed by the major banks, Commonwealth, Westpac (formerly Wales Bank) and ANZ, and financial institutions such as National Mutual and QBE Insurance in the mid eighties.

6.3 At present around 350 Australian owned or controlled companies are based in Hong Kong, representing one of the largest agglomerations of Australian companies offshore² and a further 1,000 companies are estimated to maintain regional offices in the territory. The Australian Chamber of Commerce in Hong Kong (AustCham), founded in 1987, is the second largest such chamber in the territory and Australia's largest business association overseas, with some 1,200 or more members.³ Other major firms with bases in Hong Kong include BHP, Pioneer, Datacraft, Telstra, Price Waterhouse and Qantas. The operations of Australian firms are diverse, and include: banking; accounting and business consultancy services; construction; engineering; real estate, legal and professional services, as well as retail and wholesale import/export.

6.4 It is estimated that Australian firms employ around 10,000 people, many of them expatriates and Australian permanent residents with resident return visas. Australians are also continuing to provide a valuable resource to multinationals and local companies in Hong Kong, particularly in areas such as corporate management, accountancy, engineering, banking, financial consultancy, legal services and health care. According to the former

1 Croucher, Submission, pp. S600-601.

2 Austrade, Transcript, 13 November 1996, p. 36.

3 *ibid.*

Secretary General of the AustCham, 'in the longer term it can be expected that the Australian community will become a predominant non-Chinese influence in Hong Kong'.⁴

Trade

6.5 Australia-Hong Kong trade continues to strengthen as the transfer to Chinese sovereignty approaches. Total two way trade amounted to A\$4.0 billion in 1995-96, an 11 per cent increase on 1994-95 (A\$3.6 billion). In 1995, Hong Kong was Australia's tenth-largest trading partner, accounting for 2.6 per cent of Australia's total trade, while Australia was Hong Kong's fourteenth-largest (1.1 per cent of Hong Kong's total trade).⁵ There is evidence of increasing diversification in the trade baskets of each partner, although unprocessed or low processed primary products continue to dominate Australia's export bill to Hong Kong.

6.6 DFAT points out that, while Hong Kong represents Australia's eighth largest export market, the economic transformation that has taken place in the territory has resulted in significant changes to the structure of that market.⁶ The range and composition of Australian merchandise exports to Hong Kong reflect this change, particularly the increasing emphasis on high value added production, re-exports and tertiary services. It is estimated that between 22 and 26 per cent of Australia's merchandise export are now re-exported to China, a figure which has grown steadily from 14 per cent in 1991.⁷

6.7 In 1995, unprocessed primary products (which includes seafood, wool and animal hair, coal and copper) accounted for some A\$627 million (21.8 per cent of total exports), a rise of 20.7 per cent on 1994 figures. Processed primary products (including dairy products, meat and other foodstuffs), contributed A\$262.6 million (9.1 per cent of total exports) to Australia's export earnings, an increase of around 10 per cent on the previous year. In comparison, elaborately transformed manufactures or ETM's (which includes photographic supplies, plastics and computer and office machinery parts) accounted for A\$1227.9 million in 1995 (44.5 per cent of total exports), representing a substantial increase of 33.8 per cent on 1994 figures.⁸

6.8 Merchandise imports sourced from Hong Kong rose by 20.5 per cent to A\$1.01 billion in 1995, reflecting improvements in the exchange rate and continued high consumer demand. Elaborately transformed manufactures accounted for the bulk of this trade, comprising nearly 90 per cent of total imports. Computers (A\$179 million), computer part and office machinery (A\$100 million) and cathode valves and tubes (A\$122 million)⁹ were the largest items of trade, although printed matter and textile related products were also significant.

4 Croucher, Submission, p. S600-601.

5 DFAT, Parliamentary Background Brief, *Hong Kong*, 11 September 1996, p. 1.

6 DFAT, Transcript, 13 November 1996, p. 3.

7 Austrade, Transcript, 13 November 1996, p. 35.

8 Exhibit 7(h), DFAT, op. cit., p. 30.

9 DFAT, Parliamentary Background Brief, *Hong Kong*, op. cit., p. 1.

Services Growth

6.9 Although figures on services trade are either somewhat dated or unavailable, anecdotal evidence would suggest that expanding service exports will increasingly underpin Australia-Hong Kong trade growth. According to DFAT estimates, Hong Kong was Australia's sixth largest market for services in 1994-95 (latest figures available), with exports valued at around A\$904 million while Hong Kong service exports to Australia were valued at around A\$944 million in 1994-95.¹⁰ Subsequent growth is likely to have taken place, with Austrade estimating that Australian service exports to Hong Kong may now be worth closer to A\$1 billion.¹¹ Australian firms have established significant market share across a range of service sub-sectors, particularly education and tourism, but also insurance, consultancy, legal and finance and banking. Together, Australia's level of service exports have continued to grow, averaging around 12 per cent per annum to June 1995.

6.10 Education has established a significant share of Australia's service trade with Hong Kong over the past ten years, generating an estimated A\$275 million in export revenue in 1996.¹² According to DEETYA, Hong Kong remains Australia's largest education market in terms of financial return; however, it has been surpassed by the Republic of Korea as Australia's largest source of full fee-paying overseas students.¹³ In 1996, it was estimated that 12,143 Hong Kong students were enrolled in Australian secondary, tertiary and TAFE institutions and English language programs. These included students located in Australia and those studying offshore through twinning arrangements with Hong Kong universities affiliated to Australian institutions and distant learning programs.¹⁴

6.11 Tourism similarly continues to be an area of strong growth, with Hong Kong providing Australia its ninth largest source of visitors. In 1995, tourist arrivals from Hong Kong totalled approximately 167,000, a 13.1 per cent increase on 1994 figures. Tourism related services, such as hotel and hospitality, have tended to enjoy more modest flow-on from growth in this market, compared to other Asian markets, as a 'large number of Hong Kong visitors travel to Australia for business and family reasons rather than for holiday purposes'.¹⁵ Conversely, Australia is Hong Kong's sixth largest source of visitors, with approximately 280,000 tourist arrivals recorded in 1995.

Investment

6.12 The level of cumulative capital flows between Australia and Hong Kong emphasises the relative importance of investment to direct bilateral trade in Australia-Hong Kong economic relations. While Australian investment in Hong Kong stood at A\$3.22 billion in 1995 (a decrease of around 5.6 per cent on 1994 levels), Hong Kong cumulative investment in Australia was estimated at A\$14.5 billion (a marginal increase of 0.2 per cent on the previous year), together around four times the total bilateral trade in 1995 (A\$3.9 billion).

10 Pryde, Submission, p. S256.

11 Austrade, Transcript, 13 November 1996, p. 35.

12 DEETYA, Transcript, 17 February 1997, p. 253.

13 DEETYA, Submission, p. S639.

14 JSCFADT, *The Implications of Australia's Service Exports to Indonesia and Hong Kong*, December 1996, p. 87.

15 Pryde, Submission, p. S256.

6.13 Hong Kong remains the sixth largest destination for Australian overseas investment, with major commitments in a number of sectors, including manufacturing, insurance, banking, business services, telecommunications, building materials and construction, and industrial processing. It is difficult to comment with any precision on the relative share and sectoral distribution of Australian investment in the Hong Kong economy as the territory maintains no official statistics on capital flows. However according to DFAT, Australia was estimated to have the tenth largest foreign presence in Hong Kong's manufacturing sector in 1994, with cumulative investments worth around HK\$627 million. Anecdotal evidence suggests that Australian investment in Hong Kong is becoming more services-oriented, particularly in relation to market opportunities opening up in Southern China.

6.14 According to most recent figures, Hong Kong was the fourth largest source of foreign investment in Australia in 1995. Around 90 per cent of this was in portfolio and other investment and 10 per cent was direct investment. Major Hong Kong investors include Jardine Pacific (food services, car dealing, property, insurance), Polytek Engineering (engineering), Morning Star (hotels), Hutchison Whampoa (telecommunications), New World Development (hotels), Swires (aircraft services) and Gold Peak (clipsal electrical switches).¹⁶ Mainland enterprises with subsidiaries in Hong Kong have shown a strong interest in investing in Australia. Additionally, a number of mainland enterprises operating out of Hong Kong have sought listings on the Australian Stock Exchange.

Growth Opportunity

6.15 Given that Australia's bilateral trade strategy for Hong Kong places emphasis on expanding exports and market share in goods and services in the territory and capitalising on the opportunities it presents as an entrepot to China's markets, there is strong interest in ensuring that the transfer of sovereignty does open the door further to investment opportunities for Australian companies, particularly in infrastructure developments and telecommunications in the South China region. The continuing reform and liberalisation of trade in the Shenzhen SEZ bordering the New Territories, should also facilitate access to Chinese markets for Australian firms.¹⁷

6.16 Targeted growth sectors for Australia in Hong Kong are building and construction; unprocessed and processed foodstuffs; hides, skins and leather; mineral processing; marine and rail transport; telecommunications and information technology; consumer products and services (including education); offshore banking; and professional services (including legal and medical).¹⁸

16 Exhibit No. 7(g), DFAT *Country Economic Brief: Hong Kong*, November 1995, p. 30.

17 Austrade, Transcript, 13 November 1996, p. 34.

18 Hong Kong Human Rights Commission, Submission, p. S27.

Business Attitudes

6.17 Austrade, AustCham, and major representatives of Australian firms dealing in Hong Kong all profess considerable optimism in the business outlook for Hong Kong post-July 1997. According to the former Secretary General of AustCham, a survey conducted by that organisation in 1994 found that the vast majority (82 per cent) of the Australian business community polled in Hong Kong, intended to remain in Hong Kong post-transition. A similar survey conducted by the American Chamber of Commerce in 1995 found that over 90 per cent of respondents were confident that they would be active in Hong Kong after the year 2000.¹⁹

6.18 Despite the apparent confidence, the overseas business community have acknowledged certain concerns over the transfer to Chinese rule; for example, relating to the longer term prospects of a meaningful rule of law, the politicization of Hong Kong's government administration, and a potential rise in corruption and illegal business practices. Mr Peter Forsythe from Austrade suggested that among many Australian businesses, there was 'almost a sense of inevitability that some aspects...will happen'.²⁰ Such pragmatism, it was also suggested, may be evident in the tendency of many major companies in Hong Kong to 'hedge bets' over recent years, either through re-location or re-organisation of operations.²¹ Nevertheless, many businessmen in Hong Kong expressed a robust commitment to commercial values over human rights, a view on which there is considerable convergence by the Australian business community.

Education

6.19 The relationship between Australia and Hong Kong within the field of education has a history going back 40 years; however, Austrade promoted a concerted effort towards the export of educational services over the last 10 years. The results have been impressive. Hong Kong is Australia's largest²² and most valuable source of international students. The majority are full fee paying students²³ and the Hong Kong market is dominated by the tertiary education sector. In 1996, of the 140,000 students studying in Australia, 12,400 or approximately 10 per cent, come from Hong Kong. The value to Australia in export earnings is estimated to be A\$275 million. The value to the Australian economy in terms of the expenditure of overseas students in Australia has been estimated by the Australian Bureau of Statistics at A\$2.1 billion in 1996-96.²⁴

6.20 In recent years it has also been an expanding market showing a growth between 1990 and 1995 of 117 per cent.²⁵ These impressive growth figures, however, mask what has been a declining and fluctuating market over the last few years. In 1992-93 student visa grants declined to a low of 2,880 but increased in the two following years with 3,305 visa

19 Croucher, Submission, p. S605.

20 Austrade, Transcript, 13 November 1996, p. 42.

21 Transcript, 31 January 1997, In Camera Evidence, p. 6.

22 DEETYA did note at the public hearing in February 1997 that Hong Kong ranked first until 1996 but that South Korea had surpassed them last year in numbers of students although not in value of services. Transcript, 17 February 1997, p. 252.

23 The statistic quoted at page 87 of the 1996 report of the JSCFADT, *The Implications of Australia's Service Exports to Indonesia and Hong Kong*, was 88.7 per cent.

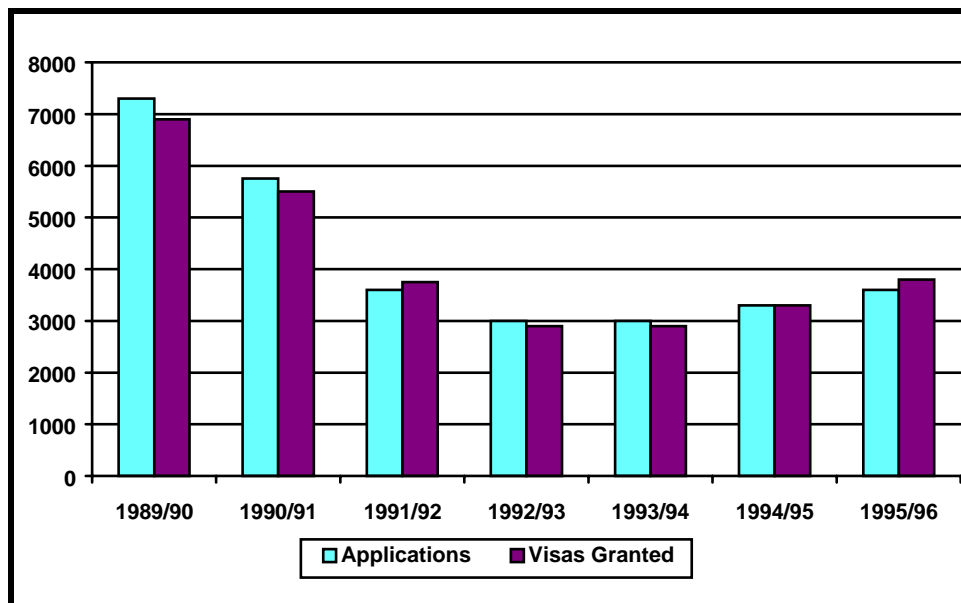
24 DEETYA, Submission, p. S638.

25 JSCFADT, 1996, op. cit., p. 88.

grants in 1994-95. Applications showed the same trend: a decline from 3,013 in 1992-93 to 2,997 in 1993-94 but an increase in 1994-95 to 3,312. This year there is an expected further increase to 3,798.²⁶

6.21 Hong Kong has expanded its own tertiary education sector taking away some of the demand for overseas places; there is continuing competition from other suppliers, the United States, the United Kingdom and Europe and new competition from regional countries such as Malaysia and Singapore; and demand has fluctuated with changes to the local economy and changes in the level of confidence within the Hong Kong population vis a vis the transfer of sovereignty.²⁷

Table 6.1 Students: Hong Kong: 1989-90 to 1995-96



Source: DIMA, Submission, p. S581.

6.22 In relation to Hong Kong, there are four major Australian institutions which take students from Hong Kong - the University of New South Wales (UNSW), Monash University, Royal Melbourne's Institute of Technology (RMIT) and Curtin University of Technology.²⁸ The Australian International Education Foundation (AIEF) promotes Australian education services overseas and liaises with educational institutions in Australia. There are 200 Australian institutions which contribute to the Foundation. The Department of Employment Education Training and Youth Affairs (DEETYA) said that Australian universities had 600 formal institutional linkages offshore, most of them operational so the possibilities for expansion in the sector were considerable.

26 DIMA, Submission, p. S580.

27 DEETYA, Submission, p. S639.

28 JSCFADT, 1996, op. cit., p. 89.

Table 6.2 **Number of Hong Kong Students by Sector 1991-1995**

p. S802

Table 6.3 **Fields of Study in 1995**

p. S802

6.23 In addition, there are a variety of distant education services provided by Australian institutions in Hong Kong. DEETYA quoted the figure of 1,721 students in Hong Kong undertaking tertiary correspondence courses in 1995.²⁹ A much greater 'informal' education sector existed for which the Department as yet had no figures. Professional bodies, such as accountants and engineers, provided continuing education and training in Hong Kong and a substantial number of Australians provided training services to companies in Hong Kong as training consultants.³⁰

6.24 Education as a service export to Hong Kong is particularly valuable; education as a cultural exchange provides longer term contacts of potentially greater significance. DEETYA characterised the education and training links as 'one of the strongest manifestations of the relationship between Australia and Hong Kong'.³¹ The maintenance of the education linkages, therefore, are a matter of considerable interest to Australia.

6.25 With the transfer of sovereignty there is no expectation of great change to these arrangements. The principle of 'one country, two systems' and the Basic Law assure the Hong Kong Special Administrative Region of continuing autonomy and jurisdiction over education and over migration controls through the issue of the HKSAR passport. DEETYA told the Committee that they expected a smooth transfer.³² The Department did not expect that the growing use of Mandarin as opposed to English in Hong Kong would lessen the demand for English based education because English would continue to be the language of business in Asia.³³

6.26 With the integration of Hong Kong and China, of perhaps greater significance over the longer term, is potential for extending the educational services trade into China itself. It is an area with an unfortunate history, characterised by failed programs and a record of overstay on the part of Chinese students. Mr Rowling from DEETYA told the Committee that 'the numbers of students from the PRC declined fairly dramatically after 1991 and have been trending down since that period'.³⁴ However, the growth in prosperity in Southern China meant that there was a growing interest from these provinces for access to private fee paying places in educational institutions abroad. Currently there are 130,000 Chinese students studying abroad.³⁵ There is also a move towards joint venture arrangements with China whereby students undertake education in China to Australian institution curricula.³⁶

6.27 In the immediate future, however, the maintenance of open access to Australia for students from Hong Kong is the issue of prime concern. One of the consequences of past failures in this field has been the different requirements Australia has in place for students from Hong Kong and the PRC. It is this difference that has raised concerns about the transfer of sovereignty and its impact on Australian educational services to Hong Kong. Students from Hong Kong face no particular visa requirements. However, since 1992, students from the PRC seeking entry to Year 12 or undergraduate places at a tertiary institution must pass a stringent English language test, Test of English as a Foreign Language (TOEFL), achieving a

29 DEETYA, Transcript, 17 February 1997, p. 251.

30 *ibid.*, p. 253.

31 DEETYA, Submission, p. S639.

32 DEETYA, Transcript, 17 February 1996, p. 252.

33 *ibid.*, p. 253.

34 *ibid.*, p. 254.

35 DEETYA, Submission, p. S640.

36 DEETYA, Transcript, 17 February 1996, p. 255.

score of 570. As well, they face standard bona fide tests of financial assessments and relatives in Australia.³⁷

6.28 Given the value of the Hong Kong educational market to Australia, Australia is concerned that the more open arrangements for Hong Kong remain and that the integrity of the HKSAR passport is maintained.

6.29 The Committee recommends that:

- 23. in the light of the importance of the education and training market in Hong Kong to Australia, the Australian Government urge the Government of the HKSAR to maintain its current visa arrangements for students from Hong Kong wishing to study in Australia.**

Migration

6.30 A further implication for Australia of the reversion of Hong Kong sovereignty to the People's Republic of China on 1 July 1997 is the issue of migration, and in particular, the possible effects of the handover on the stability and composition of migration flows to Australia. The attractions offered by Australia, which include a stable political environment, good economic opportunities and high living standards, traditionally have made the country a major destination for Hong Kong emigrants, behind Canada and the United States, and ahead of New Zealand. It is expected that Hong Kong residents will increasingly view countries such as Australia as an attractive alternative should political problems and uncertainties in the territory materialise post-1 July 1997.

Migration Potential

6.31 The number of people who are eligible to leave Hong Kong and exercise right of abode in other countries after July 1997 is considerable. Of the resident population, it is estimated that between 300,000 and 500,000 have valid travel documents; however, this figure does not reflect accurately the number that may have right of entry and stay in a foreign country.³⁸ According to press estimates, based largely on public opinion studies, as much as 20 per cent of the territory's population could depart permanently on short or no notice.³⁹

6.32 Although this estimate is clearly an outer limit, it does suggest an underlying uncertainty, both in the size of the potential migrant pool and the attitudes of Hong Kong residents towards life under Chinese rule. Dr Michael De Golyer of the Hong Kong Transition Project, made the point that the standard Hong Kong Government figures on migration outflows, which indicate, on average, around 50,000 departures each year since 1990, do not take into account those who have returned and who are now holding passports which allow them, and often their families, immediate exit. This means that the public figures for those leaving Hong Kong understates severely the potential number of people who could leave at any time. According to De Golyer, a US Consulate official reported that around 40 per cent of all US immigration visas issued in Hong Kong since 1990 have yet to

37 DEETYA, Submission, p. S639.

38 DIMA, Submission, p. S572.

39 Exhibit No. 4, 'Passports Proliferate as HK Residents Ponder 1997', in *The Australian*, 7 May 1996.

be exercised; Singapore also has a delayed exit visa scheme, with most of the 25,000 issued yet to exercise them. The Hong Kong Government itself estimates that about 12 per cent of all emigrants from Hong Kong since 1982 have returned having obtained right of abode abroad.⁴⁰

6.33 This element of uncertainty in Hong Kong relates directly to public perception and confidence in the prospects for the territory of continued political stability and economic prosperity after the handover. According to De Golyer's studies since 1993, consistently 6 per cent of those surveyed have stated their intention to leave before 1997.⁴¹ Earlier social indicator surveys by the Hong Kong Government reported that 16 per cent said they had plans to emigrate, while a later telephone survey conducted by a private market research firm through 1991 found 30 to 40 per cent of its sample group hoped to emigrate.⁴² Such survey findings suggest that estimates of the potential migrant pool may depend on how emigrants are being defined, ranging from those who simply express a desire to leave, to those who are actively pursuing migration as an option, to those who are in the process of obtaining right of abode in a third country.

Migration Flows to Australia

6.34 Although there has been a steady increase in permanent and temporary people flows from Hong Kong to Australia in recent years, these are not inconsistent with global and regional trends, nor are they inconsistent with global trends in the Australian Government's Migration Program.⁴³

6.35 In 1995-96 there were 12,384 applications by Hong Kong residents to migrate to Australia, of which 5,880 secured permanent visas, an increase of 1,200 in the number of applications and an increase of around 900 in the number of visa grants on 1994-95. An additional 8,504 temporary visas and 3,798 student visas were granted during 1995-96.⁴⁴ The increased numbers of applications and visa grants are, in part, attributable to the transition of sovereignty of Hong Kong to the People's Republic of China, but also due to increases in the size of Australia's Migration Program and adjustments to migration requirements.

6.36 According to the Department of Immigration and Multicultural Affairs (DIMA), the potential source of official inflow from Hong Kong consists of three groups: 1) Australian citizens in Hong Kong; 2) Australian Permanent Residents with valid resident return visas; and 3) Hong Kong residents holding valid unused migrant or temporary entry visas.

6.37 With regard to the first category, there are at present at least 30,000 Australian citizens in Hong Kong all of whom, obviously, enjoy automatic entry to and right of stay in Australia. An estimate of the numbers in the second category, Australian Permanent Residents in Hong Kong, is more difficult to establish, but is likely to be in the thousands rather than the hundreds. Since July 1993, the Australian Government has issued 2,163 resident return visas with a 5 year validity to Hong Kong residents, the majority of whom are assumed to have remained in Hong Kong. In addition, 14,300 permanent migration visas

40 Exhibit No. 8(b), De Golyer, M E, *China's Rise or Demise: The International Implications of China's Possible Future*, unpublished; p. 23.

41 *ibid.*

42 Australian Chinese Community Association of NSW, Submission, p. S614.

43 DIMA, Submission, p. S568.

44 *ibid.*, p. S577.

have been issued over the same period to people resident in Hong Kong, many of whom would remain or have returned to Hong Kong to take advantage of relatively strong economic and employment conditions. Given these figures, and estimates of the emigre returnee rate, DIMA states that it is reasonable to expect that there are a minimum of 6,000 people currently residing in Hong Kong with access to permanent residency in Australia.

6.38 To date, there is little evidence to suggest that the imminent transfer is precipitating or will precipitate a surge in the movement of people from Hong Kong to Australia. DIMA indicates that the steady increase in permanent and temporary people flows are anticipated to continue, and can be managed within the existing framework of [Australia's] entry policies. However, it also acknowledges that people flows from Hong Kong have, in the past, been affected by political problems and uncertainties in the People's Republic of China, such as those arising at the time of the 1967 Cultural Revolution and the Tiananmen Square massacre in 1989.⁴⁵ Certainly a sudden surge in inflow to Australia, although slight in terms of the overall numbers of Hong Kong residents eligible to take up residency in third countries, may have an impact on permanent entry policies in the short to medium term.

Migrant Characteristics

6.39 It is also important briefly to consider the social and economic implications for Australia of continued Hong Kong re-settlement in Australia. In doing so, it is assumed that the people flows from Hong Kong will continue largely to reflect the social, demographic and labour market characteristics of those Hong Kong-born already settled in Australia.

6.40 At present there are approximately 88,000 Hong Kong-born Australian citizens and permanent residents in Australia, compared to 28,293 in 1986. This relatively steady increase in the Hong Kong-born population (spiking in 1991-92) reflects the flux of settler arrivals over that period.

6.41 In general, the Hong Kong-born population can be characterised as relatively young, possessing high levels of job skills, education qualifications and English language competence. It is highly urbanised, located predominantly in the major cities, and relatively integrated into the mainstream community.

6.42 The Hong Kong-born tend to be employed in skilled and semi-skilled occupations, with particular concentration in professional occupations, specialised trades, managerial and administrative positions. Many have particular entrepreneurial or trade promotion experience, some bringing with them potential capital for investment in Australia.⁴⁶ The 1991 Census statistics indicates that Hong Kong-born employment has been concentrated in service industries, such as recreational, property and business and wholesale/retail.

6.43 An important factor underlying both social integration and labour market participation of Hong Kong-born population and new settler arrivals has been the so-called 'astronaut phenomenon'. In some cases, family units of Hong Kong-born migrate to Australia, whereupon, following settlement, the prime breadwinner or 'astronaut' returns to

45 DIMA, Transcript, 13 November 1996, pp. 74-75.

46 Australian Chinese Community Association of NSW, Submission, p. S615.

Hong Kong to maintain business or occupation.⁴⁷ Although there are no estimates on the proportion of Hong Kong-born families settled in Australia that have established 'astronaut' arrangements, it has been suggested that this factor may partly explain the lower labour market participation rate of Hong Kong-born in Australia (56.5 per cent compared to an Australian average of 63.0 per cent in 1991),⁴⁸ the part time work participation levels of Hong Kong-born women, and more generally, the differing needs of many Hong Kong migrants attempting to settle in Australia.⁴⁹

Security Issues

6.44 Security covers a wide range of matters: defence relationships, strategic issues, policing and the control of international crime. The Royal Australian Navy visits Hong Kong approximately six times a year. Future visits are a matter for negotiations.⁵⁰ Strategic questions emerging from the transfer of sovereignty as they might affect Australia have not been dealt with in the course of the inquiry.⁵¹

6.45 Security matters which were considered related to the need for continuity in the liaison and productive relationships between the Hong Kong police and the Australian Federal Police. Longstanding, strong and direct operational relationships have existed on a range of matters - drug trafficking, organised crime, illegal immigration, financially based crimes. All require international cooperation. A continuation of the direct liaison between the Hong Kong police force and the Australian Federal Police is desirable for the most effective outcomes. There is a significant degree of organised crime in Hong Kong. In August 1996 the Acting Superintendent of Hong Kong's Triad Bureau, Stephen Tarrant, estimated that five to 10 per cent of the Territory's population were Triad members, and, while there was no evidence that there would be a mass exodus at the transfer of sovereignty, a Hong Kong businessman refused entry into Australia on the grounds of Triad membership has already taken his case to court.⁵² This is perceived to be a test case for a number of other people likewise refused entry.

6.46 Articles 13 and 14 of the Basic Law appear to leave policing within the scope of the HKSAR authorities. However, whether that will continue to apply to international liaison on policing or whether this will be considered to be within the foreign affairs ambit is not entirely clear. There was no expectation that there would be any significant change. It was clear, however, that the turnover of personnel brought about by last minute localisation was somewhat disruptive. A new Mutual Assistance Agreement in Criminal Proceedings is currently being negotiated and should take effect on 1 July.⁵³ The Joint Liaison Group has decided that a number of multilateral treaties applying to law enforcement will be applied to the HKSAR. They relate to narcotics and a variety of international crimes ranging from obscene publications, to hostage taking and hijacking.⁵⁴

47 Austrade, Transcript, 13 November 1996, p. 40.

48 DIMA, Submission, p. S585.

49 Australian Chinese Community Association of NSW, Submission, p. S615.

50 Pryde, Submission, p. S248.

51 The Department of Defence did not put a submission to the Committee.

52 Pryde, Submission, p. S249.

53 *ibid.*, p. S242.

54 A full list of agreed international treaties is supplied in Annex VII to the Department of Foreign Affairs and Trade Submission, pp. S528 - S543.

6.47 Australia has negotiated a new extradition agreement, the Surrender of Fugitives and Accused Persons Agreement, with the government of the HKSAR which will come into effect on 1 July 1997. This is substantially the same as the present agreement, but it does include the provision that there will be no transfer of persons to a third country and no person shall be extradited if the offence committed is a capital offence.⁵⁵

Consular

6.48 Future consular arrangements have been agreed between the Australian Government and the Chinese authorities apropos of Article 157 of the Basic Law. The arrangements are in accordance with the Vienna Convention on Consular Relations. The Department of Foreign Affairs and Trade reported on the existing limitations and likely changes to consular services.

6.49 The extent and nature of consular services provided to Australian citizens can be seen from the following table:

Table 6.4 Recent Consular Workload in Hong Kong

	1994	1995
General Welfare	94	100
Hospitalisations	23	17
Medical evacuations	12	3
Deaths	16	11
Repatriations	0	0
Whereabouts	16	27
Legal (Notarial)	4,008	3,795
Arrests: Drug related	0	4
Other	15	21

Source: DFAT, Submission, p. S393

6.50 Australian consular officials are limited to the witnessing and certification of certain documents, the provision of assistance in the time of accident, serious illness or death, visits to Australians in prisons and liaison with next of kin. They cannot 'obtain special treatment for Australians in their dealings with local authorities, get people out of jail or provide funds for legal, medical or other costs'.⁵⁶

6.51 While the new agreement will be substantially the same in its provisions in relation to the services available to Australian citizens in Hong Kong, uncertainty has arisen because of the Chinese non-recognition of dual nationality. China has stated that persons of Chinese descent who return to Hong Kong after 1 July will be considered to be Chinese nationals unless they make a formal declaration of their foreign nationality. In these circumstances they will have no right to Australian consular protection even if they have gained Australian residency and travel on an Australian passport.⁵⁷

55 Pryde, Submission, p. S242.

56 DFAT, Submission, p. S392.

57 *ibid.*

Political Implications

6.52 The transfer of Hong Kong will provide a challenge to Australian diplomacy into the next century. What has been a rather mono-dimensional, quiet and pragmatic relationship, dominated by economic interests is likely to become more complicated. Beyond the past considerations of practical, business concerns - levels of trade and investment and related consular interests - there have already developed uncertainties about future political stability and issues related to migration and strategic concerns. The introduction of political uncertainty in Hong Kong brings with it a test of Australia's commitment to and capacity to support and promote one of its core values - democratic processes and human rights.

6.53 Australia has prided itself on its liberal democratic tradition; it is a defining characteristic of Australia and a bipartisan value within Australian politics. The Australian Prime Minister, Hon J W Howard, MP, when he became Prime Minister in March 1996 spoke about the things that bind Australians. It was a speech largely about the 'miracle of democracy' and the tolerant acceptance of a change in government. He pledged his government to the defence of 'the interests and the values and the principles of this country, both domestically and internationally'.⁵⁸ Hong Kong may be a measure of the credibility and the first real test of this policy. The Department of Foreign Affairs and Trade described the commitment in its submission to the Committee:

The Australian Government attaches the highest importance to the dignity and freedom of individuals. Our human rights policy is based on the principles that their promotion and protection serves Australia's broader national economic and security interests and that human rights are both universal and indivisible, as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the other international human rights instruments.⁵⁹

6.54 In discussions with people in Hong Kong, it was clear as the talks progressed that even the most bullish and optimistic individuals felt some unease about the transition to Chinese sovereignty. One comment made to the Committee on its visit was that 'we are walking a tightrope'. In a resigned tone, they noted China's power and the inevitability of the transfer as factors that had to be accommodated. They explained their attitude in terms of the need to appease China's sensitivities to outside criticism which was perceived as an attack on national pride. Many people reiterated, perhaps too often, the irrationality of China doing anything to harm the economy of Hong Kong or they denied any connection between economic prosperity and political freedom. However, a number of witnesses to the inquiry put the proposition that, faced with a choice between what is economically desirable and what is politically necessary, they [the Chinese] will choose what is politically necessary.⁶⁰ Yet among even the most publicly pro-China groups there was evidence of the foreign passport safety net.⁶¹ One witness suggested that 'the ultimate measure of whether or not a place is a

58 The Hon John Howard, MP, Victory Speech, 1996 Federal Election, The Wentworth Hotel, Sydney.

59 DFAT, Submission, p. S375.

60 Transcript, 31 January 1997, In-camera evidence, p. 11.

61 Almost 20 per cent of the members of the Provisional Legislature hold foreign passports.

good place to be is to look at the guards on the border and see in which direction they are facing'.⁶²

6.55 It is clear from a number of submissions that many people in Hong Kong, in the face of political uncertainty and with the prospect of threats to their liberty, may call upon Australia to live up to its rhetoric in defence of continuing freedom in Hong Kong. This might involve a range of responses:

- continued monitoring of the implementation of the Joint Declaration and the Basic Law as the framework for the transfer of sovereignty in Hong Kong;
- clear, unequivocal and consistent statements or actions within appropriate international fora in support of the guarantees given by both China and the UK to the continuation of Hong Kong's lifestyle and autonomy for another 50 years;
- diplomatic pressure on and representations to the Governments of Hong Kong SAR and the People's Republic of China for the maintenance of democratic structures and human rights in Hong Kong; and, if necessary,
- offers of protection or asylum to those who may find themselves the subject of political persecution.

6.56 To monitor the future autonomy of Hong Kong, Governor Patten's benchmarks provide a guide to the success of 'one country, two systems':

- Is Hong Kong's Civil Service still professional and meritocratic? Are its key positions still filled by individuals who command the confidence of their colleagues and the community and owe their appointments only to their own abilities?
- Is the SAR Government writing its own budget on the basis of its own policies, or is it under pressure to respond to objectives dictated by Peking?
- Is the Hong Kong Monetary Authority managing Hong Kong's Exchange Fund without outside interference?
- Is Hong Kong behaving in a truly autonomous way in international economic organisations?
- Is the Hong Kong legislature passing laws in response to the aspirations of the Hong Kong community and the policies of the SAR Government, or is it legislating under pressure from Peking?
- Are Hong Kong's courts continuing to operate without interference?
- Is the Independent Commission Against Corruption continuing to act vigorously against all forms of corruption including cases in which China's interests may be involved?

62 Transcript, 31 January 1997, In-camera evidence, p. 11.

- Is Hong Kong continuing to maintain its own network of international law enforcement liaison relationships?
- Is the integrity of the Hong Kong/Guangdong border being maintained, including the separate border controls operated by the Hong Kong Immigration Department?
- Is the Hong Kong press still free, with uninhibited coverage of China and of issues on which China has strong views?
- Are new constraints being imposed on freedom of assembly? Are the annual commemorations and vigils of recent years still being allowed?
- Are foreign journalists and media organisations in Hong Kong still free to operate without controls?
- Is anybody being persecuted or harassed for peaceful expression of political, social or religious views?
- Are Hong Kong legislators, at successive stages of the transition, fairly and openly elected and truly representative of the community?
- Are democratic politicians continuing to play an active role in Hong Kong politics or are they being marginalised by external pressure?
- Is the Chief Executive exercising genuine autonomy in the areas provided for in the Joint Declaration and the Basic Law?

6.57 In recognition of the treaty, it is important that the Government of Australia continue to deal with the authorities in the HKSAR as a separate entity in all areas designated by the Joint Declaration and the Basic Law as under the jurisdiction of the regional government. Australia's political and economic interests will be best served by the consistency with which Australia asserts its expectation that China will honour its solemn undertakings regarding the ongoing autonomy of Hong Kong. Hong Kong will not and cannot be an exclusively internal matter for China. It is the subject of treaty obligations for which both China and Britain have responsibility until 2047. After the signing of the Joint Declaration, a number of countries were asked by the two sovereign powers, Britain and China, to endorse the treaty and, subsequently, a number, including Australia, agreed to do so. This, in effect, made those countries guarantors of the Joint Declaration; therefore, they cannot walk away from serious breaches such as the creation of the Provisional Legislature. Furthermore, both the United States Congress, as a result of the 1992 *US Hong Kong Act* (Sec 301) and the European Union by resolution of the European Parliament in April 1997, have resolved to monitor the transition of Hong Kong by way, *inter alia*, of annual reports to their respective legislative bodies.

6.58 The Committee recommends that:

- 24. on an annual basis, for at least the next five years, the Australian Government provide a report to the Parliament, having in mind the terms of the Joint Declaration and the Basic Law, on the political, economic and human rights developments in the HKSAR.**

- 25. the Australian Government encourage the Government of the United Kingdom and the Government of the People's Republic of China to observe their treaty obligations in respect of Hong Kong under the Joint Declaration for the stipulated period of 50 years.**

Conclusion

6.59 If the promotion and protection of human rights is not only a core value but linked with security, stability and economic prosperity, then it is vital that the Australian Government continue to give these values equal weight with trade issues and strategic issues in any ministerial or official contacts with China. However, the Committee does not advocate a conditional or punitive linkage between trade and human rights matters. It is ironic that China itself has displayed a tendency to do this, to link trade and human rights issues, despite an admonition to the West not to do so, readily threatening to reduce economic opportunities to countries critical of China's human rights record.

6.60 The Committee believes that, while economic prosperity and political liberty are linked, they should not necessarily be made conditional, either by Australia or by China. However, any positive engagement with China must include engagement on Australia's interest in the continuing political development of democratic structures in Hong Kong and in the development, at least in the short term, of the tolerance of democracy in China. Human rights are universal and indivisible; they are open to international scrutiny by way of the international agreements signed up to by members of the United Nations. These are international obligations as important as any treaty agreement in any sphere of international relations.

6.61 The Committee notes that the Australian Government has proposed and the Chinese Government has agreed to bilateral discussions on human rights. This is a welcome decision. However, the Committee believes that bilateral discussions should in no way preclude the right and obligation of multilateral forums such as the UN Human Rights Commission to monitor and, where necessary, pass resolutions on the fulfillment of member countries with regard to their observance of human rights as defined and ratified in the UN human rights treaties. Such international accountability is a vital part of the UN human rights mechanisms.

6.62 Hong Kong highlights the need for Australia to promote the international adherence to bilateral and multilateral agreements, whether economic or political or on human rights.

6.63 The Committee recommends that:

- 26. the Australian Government encourage the Government of the People's Republic of China to ratify the two major human rights covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.**

6.64 Finally, it is essential to recognise that China is the new sovereign power and that Hong Kong will be affected and its fate governed by the changing political and economic landscape of China. Australia's interests in Hong Kong, therefore, will be influenced by developments in China and our relationship with China. China's record on human rights needs to be faced as an impediment to confidence in Hong Kong. However, while history

might suggest that the Chinese may be more driven by the political imperative, there is no doubt that many of the senior political leadership in China do recognise the importance of Hong Kong's autonomy post-1997 and publicly avowed their determination to make Hong Kong a success.⁶³ The principle of 'one country, two systems' was an innovative decision of the Chinese leadership. It recognises a wealth of practical and philosophical questions which need to be accommodated for the successful transfer of sovereignty. Recent decisions in relation to Hong Kong have undermined confidence in that principle and what it offered Hong Kong. The Committee hopes that China will reassess its position and reaffirm Deng Xiaoping's vision for Hong Kong. Furthermore, it is hoped that Hong Kong's economy will continue to strengthen for the benefit of the people of Hong Kong and China, an objective of importance to Australia and the region.

Ian Sinclair, MP
Chairman

63 *ibid.*, p. 6 and 12.