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U.S.-Hong Kong relations: Prospects for a unique partnership

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U.S.-HONG KONG RELATIONS

Center for Strategic and International Studies
Washington, D.C.



U.S. – Hong Kong Relations: Prospects for a Unique Partnership

Authors Bates Gill James Tang

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U.S. – Hong Kong Relations: Prospects for a Unique Partnership

Bates Gill and James Tang*

A turbulent ten years

Hong Kong has survived turbulent economic, social and political changes in the past ten years since the former crown colony's reversion to Chinese sovereignty. Following setbacks in the wake of the Asian financial crisis and the avian flu outbreak in 1997, the outbreak of severe acute respiratory syndrome (SARS) in 2003, and several massive political demonstrations in recent years, Hong Kong's economy has had a robust and steady rebound. Hong Kong has maintained its position as a leading business and financial hub in the Asia-Pacific region and for the world. It has continued to play a pivotal role in China's economic development with increasing economic and even social integration between the two. On the whole Hong Kong has remained politically stable, and retains its title as one of the freest and most open economies in the world.

On the other hand, while Hong Kong's longstanding rule of law system is still widely respected, the people's aspiration for more democracy has not been fully met and concerns about press freedom and civil rights have been raised by critics. Many observers have also argued that the governance of the Special Administrative Region (SAR) will come under increasing stress without further democratization. The pace and scope of Hong Kong's political reforms remain unresolved and the future of democratization in Hong Kong is still largely undetermined.

Given these developments, it is clear America has multiple interests in Hong Kong. Senior American officials maintain that many of the qualities that turned Hong Kong into a favorite destination for international business – a strong rule of law tradition, free flow of information, respect for intellectual property rights – are also attributes that the United States would like to see strengthened in the rest of China. As a leading port and a top financial center, Hong Kong has also supported American efforts against global terrorism through the tightening of port security and its leadership role in international anti-money laundering efforts. In addition, continued progress in Hong Kong's democratic development is widely viewed as consistent with U.S. interests in more politically open and like-minded societies around the world. In late 2005, then-Deputy Secretary of State Robert Zoellick – stopping over in Hong Kong on his way to Beijing – rightly noted his appreciation for the "special role that [Hong Kong] has to play as part of China."

However, in spite of these interests, Washington's attention toward Hong Kong has been uneven. Key political figures, from the former chairperson of the Democratic Party Martin Lee and Christine Loh of Civic Exchange, a highly influential think tank, to senior officials including the Chief Executive Donald Tsang and the Secretary for Justice Wong Yan-lung, have all visited Washington in the recent past attempting to seek wider American support and understanding regarding the process of democratization and other developments in Hong Kong.

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Nonetheless, the March 2007 election for the leader of Hong Kong, the Chief Executive, drew only limited attention in Washington. There was little news when Donald Tsang, the incumbent and Beijing's preferred candidate, won a large majority within the 800-member Election Committee, which consisted of mainly Beijing loyalists tasked to select the new head of the Hong Kong government. Notwithstanding the absence of direct elections by the people of Hong Kong, it was the first election for the post contested by a pan-democratic camp candidate and was seen by many in Hong Kong as an important step forward. As such, the muted response in Washington was rather surprising.

Some of this is understandable. In light of the major foreign policy challenges – such as with North Korea, Iraq, Sudan, Iran and other hotspots, as well as the complexity in U.S.-China relations – facing the end of the Bush Administration's second-term, it may not be realistic to expect high-level attention to Hong Kong in Washington. And the next administration may likewise believe it cannot afford to pay all that much attention to developments in Hong Kong. Those of the "no news is good news" school may prefer it that way.

Yet, as Hong Kong stands at a political crossroads, and given its role in China's economic development, Washington's interest in Hong Kong should be encouraged, renewed, and sustained. Moreover, American attention should be broadened to recognize Hong Kong's strategic importance to U.S. interests including as a key player in countering terrorism and playing a special role in China's harmonious transformation at home and smooth integration abroad.

Democratization in Hong Kong: Inching Forward?

The Chief Executive of Hong Kong is now elected directly by an 800-member Election Committee returned by indirect election with limited franchise. Only half of the 60-member Legislative Council is elected directly through universal suffrage, with the remaining 30 "functional" constituency seats elected through a complicated system of indirect elections. The Basic Law – Hong Kong's mini-constitution – stipulates that both the Chief Executive and all members of the Legislative Council will ultimately be elected by universal suffrage without spelling out either a timetable or electoral system. The previous leader of Hong Kong, Tung Chee-hwa, was elected after defeating other pro-Beijing contenders for the post in 1997 and was returned unopposed in 2002. The 1998, 2000 and 2004 Legislative Council elections were widely contested and conducted openly and fairly with the number of directly elected seats increasing from 24 to 30 as stipulated by the Basic Law.

Following the reversion of Hong Kong in 1997, concerns about democratization took a back seat to the city's economic challenges, particularly the Asian financial crisis in 1997 and the subsequent economic downturn. However, in mid-2003, even as the economy began to show signs of recovery, questions about Hong Kong's political development rose to the fore when the Hong Kong government decided to push ahead in introducing national security laws in accordance with Article 23 in the Basic Law.*

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^{*} Article 23 reads, in part: "The SAR shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."

The government's Article 23 proposal was criticized by the legal profession, civil liberty groups, and the broader public as poorly crafted and not based on adequate consultation with the people of Hong Kong. Many feared that passing the legislation would place additional and unnecessary restrictions on individual liberties, religious freedom, and freedom of speech. More broadly, people in Hong Kong also took up their concerns with Article 23 as a means to express their broader dissatisfaction with then-Chief Executive, Tung Chee-hwa, who was often seen by the pan-democratic camp as too willing to sacrifice Hong Kong's special status under pressure from China and reluctant to push for faster democratization against Beijing's wishes. Hundreds of thousands of peaceful protestors took to the streets in July 2003 and again a year later in a remarkable outpouring of newfound political consciousness and unease.

These developments seemed to generate only lukewarm interest in Washington. In the weeks just prior to the July 2003 demonstrations, the White House released a brief statement expressing its reservations with Tung's proposed legislation, but offered little else in support of democratic developments in Hong Kong. The U.S.-Hong Kong Policy Act of 1992 – which maintains that Washington will continue to promote economic prosperity and political autonomy in Hong Kong after reversion – was not invoked or cited in support of greater democratization in Hong Kong.

With widespread public discontent about the SAR government, Tung lost Beijing's confidence in his ability to govern and stepped down in April 2005. He was replaced rather dramatically by Donald Tsang, who was then the number two person in the Hong Kong government and the most senior career civil servant who also served the former British colonial government.

Hong Kong's Unique Governance Model

The Basic Law – Hong Kong's mini-constitution – guarantees a high degree of autonomy to the Hong Kong Special Administrative Region for fifty years and enshrines the "one country, two systems" idea. The Basic Law came out of the 1984 Sino-British Joint Declaration, negotiated between the United Kingdom and China. The Basic Law claims that Hong Kong is "an inalienable part" of the People's Republic of China, but gives Hong Kong a high degree of autonomy and legislative and judicial rights not shared by mainland Chinese. These include the right of Hong Kong courts to have the final say over legal matters in the territory, the island's right to continue having a capitalist economic system, and the rights of Hong Kong residents to free speech, free assembly, and protection from unlawful detention. Private property rights, limited voting rights, and human rights for citizens are also protected in the Basic Law, among other "fundamental rights and freedoms." Under the Basic Law, except defense and foreign affairs, the Hong Kong government has control over other external issues including trade and cultural matters.

Adapted from: "Hong Kong Pushes Beijing Back as Democracy Demands Continue," http://www.cfr.org/publication.html?breadcrumb=default&id=9374

Proposed reforms

Shortly after assuming the Chief Executive post, Tsang visited Washington to explain the latest proposed package of electoral reforms for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. The proposal foresaw doubling the size of the Election Committee for the Chief Executive, and increasing the number of Legislative Council seats from

60 to 70 while maintaining the proportion of directly elected seats at half. These proposals still fell short of demands from the pan-democratic camp for greater democracy in Hong Kong.

On the other side of the spectrum, Beijing found the proposals too far-reaching. The Standing Committee of the National People's Congress (NPC) in Beijing made it clear that the selection of the Chief Executive in 2007 and the Legislative Council members in 2008 would not result from direct, universal suffrage elections by the people of Hong Kong, and has ruled out for the time being a timetable for achieving universal suffrage or for increasing the ratio of directly-elected to indirectly members of the Legislative Council. Moreover, when Chinese President Hu Jintao met with Donald Tsang during the fall 2005 Asia Pacific Economic Cooperation (APEC) meeting in Busan, South Korea, he warned Tsang that no compromises would be made on issues of direct elections or universal suffrage for the elections in 2007 and 2008.

Following that discussion, China's official news agency, Xinhua, quoted Hu as pledging "support for the Hong Kong government to develop a democratic system in a gradual manner and according to the law" and that "in accordance with the Basic Law and the framework set by the National People's Congress Standing Committee, and taking into account the overall interests of Hong Kong's stability and prosperity, Hong Kong people can engage in a rational discussion and reach a consensus over Hong Kong's political system and push for its development in a gradual and steady manner."

As Hu's remarks point out, it is important to understand the thin line the SAR walks in seeking to expand democratization in Hong Kong. During his 2005 visit to the United States, Tsang conceded that while he may personally support universal suffrage for Hong Kong, he must operate within the special political circumstances of Hong Kong and its relationship with the mainland. On the one hand, he pointed out that as a former civil servant during British colonial rule and a devout Catholic, he was perhaps the "unlikeliest Communist-condoned leader in Hong Kong." On the other hand, he has vowed to adhere to Beijing's pace for gradual democratization in Hong Kong, and will not seek to push Hong Kong to the brink of political turmoil or radical change. He wished to assure Washington that Hong Kong still enjoys a great deal of autonomy, but must also demonstrate his loyalty to Beijing.

Washington now seems to better appreciate the nuances of political development in Hong Kong. During Tsang's visit, the State Department spokesperson Sean McCormack expressed

Washington's "strong support for universal suffrage in Hong Kong." He commented that direct elections could have been achieved for the next round of Chief Executive and Legislative Council elections in 2007 and 2008. Acknowledging the political pressure Hong Kong faces from Beijing, McCormack added, "The goal of universal suffrage should be achieved soon, as soon as possible. The people of Hong Kong should determine the pace and scope of political reform."

In December 2005, without the support of the pan-democratic camp, the government's proposed constitutional and electoral reform package failed to gain the necessary two-thirds

U.S. Position on Hong Kong's Democratization

The U.S. State Department has repeatedly called for Hong Kong to achieve universal suffrage as soon as possible. The U.S.-Hong Kong Policy Act Report of 2005 stated that Beijing's April 2004 decision on electoral reform and universal suffrage "severely tested Hong Kong's political autonomy.' The decision taken by the National People's Congress appeared to "preempt local debate on electoral reform and to rule out universal suffrage in the 2007 Chief Executive and 2008 Legislative Council (LegCo) elections."

majority in the Legislative Council and was rejected, leaving the larger question of universal suffrage for the people of Hong Kong, as guaranteed in the Basic Law, unresolved.

Recent Large-Scale Demonstrations for Democracy in Hong Kong

- July 1, 2003: 500,000 people turn out on the anniversary of Hong Kong's reversion to express opposition to Tung Chee-hwa and the proposed Article 23, and to demand greater democratic
- January 1, 2004: 100,000 people protest on New Year's Day.
- June 4, 2004: 80,000 people observe a candlelight vigil on the anniversary of the 1989 Tiananmen Square incident.
- July 1, 2004: 500,000 people come out on the anniversary of Hong Kong's reversion to protest China's decision to delay universal suffrage.
- July 1, 2005: 15,000 people demonstrate on the eighth anniversary of reversion.
- December 4, 2005: as many as 250,000 people were mobilized to demand a timetable for full
- July 1, 2006: Estimates of 58,000 people took to the streets to demand labor rights and universal suffrage.

Adapted from: "Hong Kong Pushes Beijing Back as Democracy Demands Continue,"

http://www.cfr.org/publication.html?breadcrumb=default&id=9374.

Note: estimates of participants in these demonstrations are contested and not exact. See for example, http://www.zonaeuropa.com/20040702 1.htm and http://www.zonaeuropa.com/20050702 4.htm.

A contested election, but remaining concerns

Against that background, Hong Kong's first election for Chief Executive contested by a candidate from the pan-democratic camp took place on March 25, 2007. Alan Leong, a Hong Kong legislator and a leading member of the pro-democracy Civic Party, managed to receive enough support for nomination by the Election Committee and ran against Donald Tsang. The election even included two televised debates between the Tsang and Leong – an unprecedented event in Hong Kong which drew over two million viewers. As expected, Tsang – who was Beijing's preferred candidate – won an overwhelming victory, gaining 649 of the 772 valid votes cast by the Election Committee, or about 84 percent of the vote. Tsang will serve as Chief Executive until 2012.

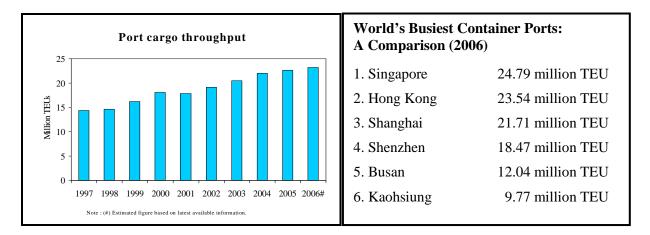
There remain a number of concerns in other areas of Hong Kong's record of civil and political rights. In July 2005, the Hong Kong Journalists' Association released a report that found increasing interference from Beijing in Hong Kong's domestic affairs had a negative impact on the territory's freedom of speech. In its 2006 Annual Worldwide Press Freedom Index, Reporters Without Borders downgraded Hong Kong from 39th in the previous year to 58th place in its rankings. In September 2006, the United Nations Committee on the Elimination of Discrimination Against Women raised concerns about Hong Kong's performance in several important areas, including the low prosecution rate in domestic violence against women, discriminatory government housing policies, and the consistent sub-par level of women's representation in politics since 1997, especially in Hong Kong's functional constituencies.

In the run-up to the election for Chief Executive and shortly after his formal reappointment, Donald Tsang pledged that he would "resolve completely" the question of universal suffrage election for the Chief Executive and the legislature during his second term. In April 2007, Premier Wen Jiabao identified several key priorities for the second Tsang Administration, which included "developing the economy, improving people's lives, gradually pushing forward democracy, and maintaining Hong Kong's prosperity and social stability and social harmony." The Hong Kong government is expected to issue a Green Paper for public consultation in mid-2007 which will lay out the options for constitutional reform, including the question of universal suffrage, and how to move forward. As Stephen Lam, Hong Kong's Secretary for Constitutional Affairs, noted in May 2007, "The question now is not whether to implement universal suffrage according to the Basic Law. The question is how and when."

However, critics in the pan-democratic camp are skeptical, and the debate about democratic reforms continues. As such, Hong Kong political developments have entered a very complex phase. The next Legislative Council election will be held in September 2008. Former Chief Secretary Anson Chan, a respected political figure in Hong Kong, has publicly supported the pan-democratic camp's call for the introduction of universal suffrage as soon as possible. They will no doubt call for faster democratization, but with a more popular Chief Executive and a stronger economy, their ability to mobilize widespread public protests is questionable. In short, ten years after the reversion of Hong Kong to China, democratization questions remain heated and critical. Looking ahead, the government and people of Hong Kong will face a number of critical junctures on the road toward greater democratization, developments which deserve closer observation on the part of the United States and the international community.

Broader U.S. Interests in Hong Kong

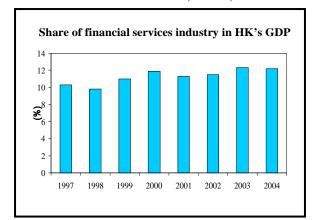
While attention to democratization in the SAR is surely important, Washington should also not lose sight of broader interests the United States has in Hong Kong. To begin – and a matter that is often overlooked – Hong Kong plays a critically important role in China's economic development as a source and conduit of investment into the mainland, including through, but not limited to, the Hong Kong stock market, which has moved up three places to become the world's sixth largest in terms of capitalization. Hong Kong also plays a positive role in China's development through deepening social, cultural, and educational interactions and exchanges between Hong Kong and mainland institutions in both official and unofficial levels.



Hong Kong has also been an active supporter of Washington's counterterrorism efforts. The Hong Kong government apprehended two individuals in 2002 who were attempting to transfer funds to purchase Stinger missiles for al-Qaeda. Hong Kong was in September 2002 among the first to join the Container Security Initiative (CSI) – an initiative aimed at the

prevention of shipments of weapons of mass destruction and illegal materials into U.S. ports. The State Department further noted that in June 2004, tips provided through the CSI network resulted in the seizure of three containers of counterfeit merchandise going from China to the United States that were worth nearly \$1.3 million – one of the largest counterfeit goods seizures ever in Hong Kong. As of December 2006, both sides have been working on further refinement and implementation of Washington's Secure Freight Initiative, an upgrade to the "Megaports" initiative, which involves the deployment of a combination of existing technology, proven nuclear detection devices, and real-time alert system at Hong Kong's port.

As the principal financial hub in Asia, Hong Kong has played an important role in tracking and intercepting funding for terrorist networks internationally. The Legislative Council passed legislation to comply with applicable United Nations anti-terror policies such as Security Council Resolutions 1267, 1333, and 1373. In addition, the Hong Kong Monetary Authority



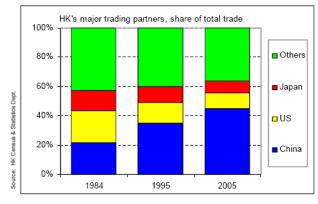
In addition, the Hong Kong Monetary Authority recently established an Industry Working Group on Anti-Money Laundering, which included key representatives from over twenty institutions. The State Department noted that the group further convened three sub-groups to address terrorist financing, transaction monitoring systems, and private banking issues.

Hong Kong's impressive economic recovery and performance since 1997 has been largely attributed to its ability to adapt and transform into a liberal, open gateway city to

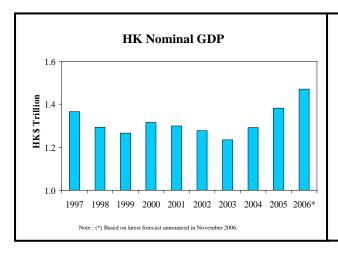
China, capitalizing on the mainland's rapid growth. Within the past 10 years, both Hong Kong's trade with mainland China and the stock of FDI from Hong Kong in the mainland more than doubled. The number of visitors also increased almost six times from 2.4 million to almost 14 by the end of 2006. Despite setbacks, Hong Kong's GDP growth averaged 5 percent between 1989 and 2006. It has deepening closer economic ties with the Pearl Delta River and concluded the "Closer Economic Partnership Arrangement between Hong Kong and the Chinese Mainland" (CEPA) which became effective in January 2004. CEPA is consistent with World Trade Organization rules and gives Hong Kong incorporated companies preferential access to mainland Chinese markets. The elimination of tariffs against all Hong Kong-origin goods as well as preferential treatment in 27 service sectors, lower trade barriers, and improved cross-border trade infrastructure have enabled Hong Kong to remain competitive in the Asia-Pacific region.

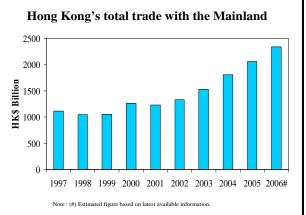
These economic developments benefit the United States and are consistent with U.S. interests. According to the U.S. State Department, there are some 1,100 American firms,

including 889 regional operations (295 regional headquarters and nearly 594 regional offices), and about 54,000 U.S. citizens resident in Hong Kong. In 2006, U.S. Government statistics indicated that exports to Hong Kong nearly reached \$18 billion while U.S. direct investment at the end of 2005 in Hong Kong totaled nearly \$38 billion, making the U.S. one of the city's largest investors, along with China, the Netherlands, Japan, and Taiwan. U.S. companies have a generally



favorable view of Hong Kong's friendly business environment, which includes an impartial legal system, skilled workforce, low taxation, and sound infrastructure. The American Chamber of Commerce further cited that nearly all of its respondents to a survey in December 2006 had a "good" or "satisfactory" outlook for Hong Kong's economy in 2007.



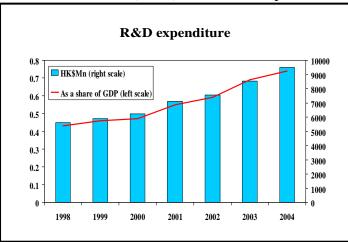


An important economic development in bilateral relations is the strengthening of Hong Kong's protection for intellectual property rights. Washington has worked closely with Hong Kong to introduce effective legislation and policy to clamp down on illicit production of copyrighted materials. The U.S. Trade Representative cites Hong Kong as a model for IPR protection and urges other countries in the region to follow suit. Moreover, Hong Kong is widely recognized as one of the freest economies in Asia. Even after the handover, Hong Kong's pro-market economic and trade systems continue, with free movement of goods and capital, its status as a free port and separate customs territory, and its own customs boundary.

Both Hong Kong and the United States cooperate closely to assure that Hong Kong's economic freedoms do not allow for third parties – including mainland China – to gain illegal access to dual use and other sensitive or proscribed technologies. U.S. Department of Commerce representatives and Hong Kong authorities continue to carry out pre-license checks and post-shipment verifications on companies in Hong Kong as part of the dual-use licensing, vetting, and post-issuance process. Furthermore, both sides have also agreed to enhance the flow of information on licensing and enforcement under the Agreed Minutes of Discussion on U.S.-Hong Kong Strategic Commodities Trade Controls of 1997, addressing many of the goals identified in the transshipment country export control initiative (TECI) of the U.S. Department of

Commerce.

On the downside, Hong Kong's continued economic success has led to greater environmental concerns. According to the American Chamber of Commerce, a June 2006 poll of 140 business executives found that nearly four out of five business leaders knew someone who was planning on leaving or has left Hong Kong as a result of worsening air pollution and poor quality of the environment. The survey further



cited that 95 percent of respondents were "worried" about the potential long-term effects on their health and their family's health.

In November 2006, Civic Exchange, a public policy think-tank, warned that much of Hong Kong as well as the greater Pearl River Delta could be hit by more severe and frequent floods if the Hong Kong government fails to address the dangers of climate change and global warming. The report warned that a potential rise in sea level by a foot in the next few decades could generate tides nearly 12 feet higher than current levels, which could seriously affect much of the reclaimed, marshy land in Hong Kong. Hong Kong has an obvious interest in promoting solutions to address the challenges of climate change, and is specially situated to work closely with the United States in that pursuit in Hong Kong, in China, and beyond.

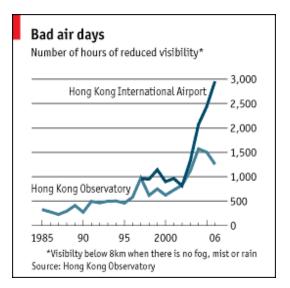


Chart obtained from: "The Big Wheeze," *The Economist*, March 29, 2007, accessed at http://www.economist.com/world/asia/displaystory.c fm?story id=8931753.

Looking ahead

Since Hong Kong reverted to Chinese sovereignty ten years ago, this unique city has weathered turbulent times, defied predictions, and worked to redesign itself within the political and economic realities it faces. A dynamic Hong Kong today suggests much change lies ahead in the next ten years as its evolution continues.

The United States has a clear interest in how that future unfolds. Hong Kong and the United States share an interest in upholding democratic values, safeguarding fundamental principles of human rights, strengthening the rule of law, and bolstering fair and open markets, all of which are vital for continued economic prosperity and stable political development, not only in Hong Kong but around the world. As a special part of China, Hong Kong is well-positioned to play a leading role in the positive economic, social, and political development of the mainland. Moreover, Hong Kong, the United States and China all share an interest to see Hong Kong remain prosperous and stable, and continue its unique role as a world city, a vibrant hub for economic, financial, cultural, intellectual, and political exchange which contributes to the future stability and prosperity in the region.

In looking forward to the next ten years, U.S.-Hong Kong relations call for far more nuanced, multifaceted, informed, and sustained attention by the United States to realize these important and jointly shared interests.

http://www.cpu.gov.hk/english/documents/csd/csd_press100507sca.pdf.

¹ "Take it or leave it, Hu tells SAR over reform," *The Standard*, November 19, 2005, accessed at: http://www.thestandard.com.hk/news detail.asp?we cat=4&art id=5997&sid=5550048&con type=1&d str=20051119.

² See "SCA speaks after Commission on Strategic Development workshop," May 10, 2007, accessed at:

³ Data in the graphs and charts throughout the monograph on Hong Kong's economic performance have been obtained from the Hong Kong Economic and Trade Office and the Baihua Foundation Research Centre.



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