



**Government Response to the House of Commons
Foreign Affairs Committee Report:**

**The UK's relations with Hong Kong: 30 years after
the Joint Declaration**

Presented to Parliament by the Secretary of State for Foreign and
Commonwealth Affairs by Command of Her Majesty

March 2015



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COMMAND PAPER: RESPONSE TO FAC REPORT ON THE UK'S RELATIONS WITH HONG KONG: 30 YEARS AFTER THE JOINT DECLARATION

The Government welcomes the Foreign Affairs Committee's report on the UK's relations with Hong Kong: 30 years after the Joint Declaration, published on 6 March 2015.

This Command Paper sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

Conclusions and recommendations

China's ban on the Committee's visit

1. While we welcome the Minister of State's assurances that the Chinese and Hong Kong authorities are aware that the UK Government disapproves of their decision to deny us entry to Hong Kong, we remain profoundly disappointed with the FCO's response to this unprecedented act. Recent actions by the Chinese and Hong Kong governments toward UK MPs have been wholly contrary to the spirit of the Joint Declaration, and fuel concern about Hong Kong's direction of travel. The Chinese government's behaviour towards the UK on this issue also raises wider concerns about the state of UK-China relations and has naturally had an impact on how we have conducted this inquiry. (Paragraph 7)

As we made clear at the time, the refusal to allow the Committee to visit Hong Kong was wholly unjustified and counter-productive and contrary to the spirit of the Joint Declaration. We also made our position clear to the Chinese and Hong Kong Governments at the time. The Prime Minister's Official Spokesperson said on 1 December 2014 that the Prime Minister believed the decision was mistaken and only served to amplify concerns about the situation in Hong Kong, rather than diminish them. The Committee has seen a list of the extensive number of representations that the Government made including at the highest levels (letter to The Rt. Hon. Sir Richard Ottaway MP from The Rt. Hon. Hugo Swire MP, Foreign and Commonwealth Office Minister of State, of 17 December 2014). The Chinese and Hong Kong Governments are in no doubt about the UK's view on this matter.

The Government's consistent approach to UK-China relations has been to promote co-operation and understanding, including to discuss issues where we disagree. So the position of the Chinese and Hong Kong Governments on this issue did not match our expectations about the relationship.

The Government recognises and supports Parliament's entirely legitimate interest in the implementation of the Joint Declaration, and its history of cooperation with, and visits to, Hong Kong. It is an essential part of the Committee's remit to visit other countries to scrutinise the work of the FCO, and the Government will continue to support those visits fully.

British nationals (overseas)

2. We recommend that the Government state, in its response to this report, whether its policy is to support the expansion of visa-free travel worldwide for BN(O) passport holders resident in Hong Kong. If this is the case, the Government should set out what progress has been made in achieving this goal since 2006. (Paragraph 20)

The FCO remains fully committed to providing the highest standard of consular and passport services to BN(O) passport holders outside of China, Hong Kong and Macao.

The UK lobbied the European Union to pass a resolution in 2006 allowing BN(O) passport holders to visit the Schengen area for 90 days in a 180 day period without a visa. This took effect from January 2007. The Government is not seeking further expansion of visa-free travel worldwide for BN(O) passport holders resident in Hong Kong.

Economic and trade relations

3. We welcome reports that economic ties between the UK and Hong Kong remain strong and that UK firms continue to operate in Hong Kong easily and successfully. The UK Government should ensure that its strategy on improving UK-Chinese economic and trade relations continues to recognise the special role of Hong Kong as a partner for the UK. The FCO should also continue to be active and vigilant in monitoring reports of political pressure being applied to UK companies in Hong Kong, and raise any resulting concerns with the Hong Kong government. (Paragraph 28)

The Government welcomes the recommendation that in the context of UK-China economic and trade relations we should continue to recognise the special role of Hong Kong as a partner for the UK. The Government assures the Committee that deepening the successful cooperation between London and Hong Kong on the internationalisation of the RMB, and the opportunities for UK professional service companies in Hong Kong constitute a key element of this strategy.

Hong Kong will continue to play a key role in opening up China's capital account, facilitating outward investment and developing China's services sector, particularly through growing economic integration with the Greater Pearl River Delta region. These are all areas where British businesses stand to benefit. The Government agrees that economic and business ties between the UK and Hong Kong remain very strong, with the hundreds of UK firms operating there facing few, if any, obstacles. The Government shares the Committee's view that freedom from political pressure is one of Hong Kong's greatest strengths as a place to do business and that it must be preserved. We will continue to monitor whether political pressure is being applied to UK companies in Hong Kong, and to raise any resulting concerns.

The work of the British Council

4. We consider that the British Council has an important role to play in maintaining strong social ties between the UK and Hong Kong, and we welcome its work in language teaching, educational exchange and creative engagement with Hong Kong's artistic and cultural life. (Paragraph 30)

The Government thanks the Committee for its recognition that the British Council has an important role to play in maintaining strong social ties between the UK and Hong. We will continue to work with the British Council in this area. For example, the British Consulate General collaborates with the British Council at the annual Education UK exhibitions by sharing the latest information about Tier 4 student visa applications. Such work continues to maintain strong student interest to study in the UK through the offering of quality education and easy to access application procedures.

The UK's ongoing obligations under the Joint Declaration

5. The FCO has repeatedly said that the UK has both a moral responsibility and a legal right to monitor China's fulfilment of its obligations to Hong Kong under the Joint Declaration. We agree. The FCO should continue making this clear to the Chinese and Hong Kong authorities at every level. The Minister of State told us that President Xi will conduct a state visit to the UK in 2015. The Prime Minister should use that opportunity to emphasise both publicly and privately to President Xi that the UK is committed to this position, and takes seriously its monitoring of the implementation of the Joint Declaration. (Paragraph 34)

The Joint Declaration remains as valid today as it was when it was signed, and the UK's commitment to it is as strong as ever. It is a legally-binding Treaty, registered with the UN and, as a co-signatory, we have an ongoing locus to monitor its implementation. The Joint Declaration sets out China's obligations to maintain Hong Kong's high degree of autonomy and to guarantee the lifestyle, rights and freedoms of the Hong Kong people for at least 50 years following the handover. It is an essential element of Hong Kong's unique constitutional framework and underpins its economic success.

The Prime Minister reiterated the UK's rights and responsibilities under the Joint Declaration during Premier Li's visit to the UK in June 2014. He also did so with President Xi at the G20 summit in November 2014. We will continue to make this point in our senior bilateral contacts, including in high level visits and exchanges.

The Foreign Secretary will continue to report regularly to Parliament on the implementation of the Joint Declaration.

The FCO's six-monthly reports on Hong Kong

6. We consider that the six-monthly reports offer comprehensive if somewhat bland narratives of events, but they fall some way short of indicating the UK's position on developments in Hong Kong. We recommend that the reports be restructured to include less ambiguous conclusions, supported by more in-depth analysis of the political, social and economic implications of the events they describe. We also recommend that the Foreign Secretary express more clearly the UK's views on developments during the relevant reporting period, in his foreword to each report. (Paragraph 42)

The Government notes the Committee's views on the content and structure of the six-monthly reports on Hong Kong. The FCO also noted wider views submitted as evidence throughout the inquiry when compiling its most recent report covering the period July-December 2014 and published on 26 February 2015.

The six-monthly reports are intended to provide Parliament with an objective, factual account of major developments, which are often the subject of significant controversy. We consider that the six-monthly reports fulfil this objective and the Government does not accept that the conclusions in the reports are ambiguous. The position set out in the six-monthly reports, including in the foreword, is clear and consistent, and distinct from the factual account of developments. However, we keep the structure and content of the six-monthly report under continuous review. The Government will take the Committee's comments into account as part of that process.

The Chinese State Council White Paper

7. We judge that the White Paper did not breach the letter of the Joint Declaration, but neither was it wholly consistent with the spirit of the treaty. The alarm that the White Paper engendered should not be brushed aside. There is widespread concern in Hong Kong that Beijing is tightening its grip on Hong Kong's autonomy in ways both overt and subtle, and we consider that the White Paper constitutes further indication of that trend. This should have been more clearly acknowledged by the FCO in its statements on the White Paper and in the six-monthly reports. (Paragraph 49)

We noted publicly at the time, through the six-monthly report published in July 2014, that the White Paper had raised concerns. However, it remains the Government's assessment that the White Paper did not undermine Hong Kong's high degree of autonomy. The White Paper reiterates China's commitment in the Joint Declaration that the Hong Kong Special Administrative Region should exercise a high degree of autonomy. We also noted the assurances by both the Chinese and Hong Kong authorities that the paper does not mark a change in policy.

As made clear in our most recent six-monthly report, we believe it is vital to Hong Kong's continuing stability and prosperity that confidence in 'One Country, Two Systems' is safeguarded, and that Hong Kong continues to enjoy, and is seen to enjoy, the full measure of autonomy, rights and freedoms guaranteed by the Joint Declaration. We will continue to monitor this very closely.

The SCNPC decision on 2017 Chief Executive elections

8. We agree with the FCO that the specific details of constitutional reform are for the governments of China and Hong Kong to decide together with the people of Hong Kong, but the UK can and should take a position on the overall pace and degree of democratic reform. We consider that the FCO has stopped some way short of expressing a clear view. Compared with previous selection methods for the Chief Executive, allowing every eligible Hong Kong citizen to cast a vote is an important step forward. We acknowledge that the precise meaning of the term “universal suffrage” is a matter for interpretation, and Article 45 of the Basic Law clearly states that the nominating committee must play a role in selecting candidates for election to the position of Chief Executive. But the people of Hong Kong cannot have confidence in a nominating committee with such a limited and unrepresentative composition, especially when candidates must secure the support of over half its members. We do not consider that the terms of the 31 August SCNPC decision offer “genuine choice” in any meaningful sense of the phrase, nor do we consider the decision consistent with the principle that Hong Kong should enjoy a high degree of autonomy. If the FCO is content with the SCNPC decision, it should make its views plain and avoid misleading language. (Paragraph 57)

We do not agree that the Government’s position on constitutional reform is unclear. The Government agrees with the Committee that, compared with previous selection methods for the Chief Executive, allowing every eligible Hong Kong citizen to cast a vote is an important step forward. The Government’s position remains that Hong Kong’s stability and prosperity is best guaranteed by a transition to universal suffrage.

We have said clearly that the parameters of the National People’s Congress Standing Committee (NPCSC) Decision are more restrictive than many anticipated. However, they do potentially still leave scope for a competitive election that offers the people of Hong Kong a genuine choice between a range of candidates with differing political backgrounds and differing policy approaches.

Ultimately, the degree of choice will depend in practice on the detailed arrangements proposed by the Hong Kong Special Administrative Region Government and, if these are adopted, on the way in which the Nominating Committee exercises its responsibilities. We continue to take the view that there is room for a consensus to emerge that will deliver a meaningful advance for democracy in Hong Kong. The specific details of constitutional reform are for the Governments of China and Hong Kong to decide together with the people of Hong Kong.

The Government welcomes the restatement by the Hong Kong Special Administrative Region Government on 26 February and 6 March that it is committed to implementing universal suffrage for the Chief Executive election in 2017.

Student protests and Occupy Central

9. The FCO and UK Government had to strike a careful tone in responding to the recent protest movement in Hong Kong, taking into account the potential unintended effects their statements might have had on a volatile situation. On the whole we consider the FCO's response to have been appropriate and well-balanced, and we especially welcome their support for the right of Hong Kong people to demonstrate peacefully. At the same time, we acknowledge that many of the demonstrators were disappointed by what they perceived as equivocal language and a lack of support from the UK. (Paragraph 63)

During the large scale protests in 2014, the Government consistently supported the right of the Hong Kong people to demonstrate peacefully, in accordance with the law. We welcome the Committee's assessment that our response was appropriate and well-balanced. We will continue to support free expression and political debate in line with the rights and freedoms guaranteed in the Joint Declaration. We recognise the important role of civil society, academic institutions and independent media in this context.

Prospects for electoral reform in 2017 and thereafter

10. We were surprised that the Minister of State said the UK was bringing different sides of Hong Kong's constitutional debate together in the Consulate-General. If this is the case, in its response to this report the FCO should list the groups or individuals who attended these discussions and explain why it considers this to be an advisable role for the UK to play. We broadly agree with the Minister of State's view that even gradual progress toward more democratic electoral arrangements is preferable to the status quo. Should the current electoral proposals stand, we recommend that the FCO press the authorities in Hong Kong and Beijing to lay out specific proposals and a timetable for further democratic reform after 2017 and 2020. (Paragraph 67)

We have been clear that the detailed arrangements for constitutional reform are for the people of Hong Kong, and the Governments of Hong Kong and China to determine, in line with the Basic Law.

However, as the Committee would expect, British officials in Hong Kong regularly meet representatives of government, legislators, academics and representatives from civil society from across the political spectrum to discuss constitutional developments. Equally, it is commonplace for Government Ministers visiting overseas missions to meet a range of political figures, including on Government premises. Like the Committee, the Government wants to see more democratic electoral arrangements succeed, and so we use these contacts, as well as our public statements, to encourage progress on constitutional reform.

It would not be appropriate to list all groups and individuals with whom we have contact as this would compromise our ability to have private and frank discussions. During the coming months, we will continue to follow usual diplomatic practice and meet with legislators, Hong Kong and Chinese authorities and key figures on all sides of the constitutional reform debate.

The overall pace and degree of constitutional reform are a matter for the Hong Kong Special Administrative Region, and set in accordance with the Basic Law and subsequent decisions of the NPCSC. These make clear that following the election of the Chief Executive by universal suffrage, the election of the Legislative Council may be by universal suffrage. The UK Government will continue to raise the issue of democratic reform with the Hong Kong and Chinese authorities and to make clear our position that Hong Kong's interests are best protected by a transition to universal suffrage for the Chief Executive election in 2017, the Legislative Council in 2020 and beyond.

Freedom of assembly

11. Freedom of assembly is a fundamental right guaranteed in the Joint Declaration. Although we recognise that the Occupy campaign brought considerable disruption to Hong Kong, the largely peaceful and orderly character of the protests should be commended. We were concerned by reports of police using excessive force, particularly when clearing the protest sites. The FCO should encourage the Hong Kong authorities to investigate and prosecute incidents of alleged police brutality in accordance with the law, and should closely monitor and report on these investigations in the six-monthly reports. It is also important that those who exercised their right to peaceful protest are not subsequently punished or put under undue pressure by the police and authorities. We call on the FCO to be vigilant in monitoring the future treatment of the protest leaders, to raise any concerns that may arise with the Hong Kong government, and to include details of any conversations with the Hong Kong government on this issue in the six-monthly reports. (Paragraph 75)

It is essential that fundamental rights and freedoms continue to be respected, as guaranteed by the Joint Declaration. The Government welcomes the statement by the Hong Kong Special Administrative Region Government on 26 February that "freedoms and right of processions and peaceful assembly are enshrined in the Basic Law and the Hong Kong Bill of Rights Ordinance."

The Government has urged the Hong Kong authorities to investigate complaints against the police, in accordance with the law. Whilst this is a matter for the investigating authorities, we will continue to monitor and report on the rule of law and basic rights and freedoms in the six-monthly reports.

Freedom of the press

12. We recommend that the FCO continue to raise the issue of press freedom privately with the Hong Kong authorities and the Chinese government, making clear that the UK takes press freedom seriously as a right guaranteed by the Joint Declaration. We also recommend that the FCO express its concerns more robustly in the six-monthly reports and in public statements, to support journalists in Hong Kong who may face censorship, losing their jobs and even violent attacks for attempting to exercise their rights under the Basic Law, and to ensure a climate of impunity does not evolve. (Paragraph 82)

We share the Committee's concern about reports of threats to press freedom, including self-censorship. As we set out most recently in the last six-monthly report, a free press is essential to the functioning of a free society and a crucial pillar upholding Hong Kong's high degree of autonomy. We will continue to work closely with civil society and international partners, to monitor, promote and defend these freedoms. The Government believes we have been robust and persistent both publicly and privately in affirming support for these fundamental freedoms, which are guaranteed by the Joint Declaration.

The Government welcomes the statements by the Hong Kong Special Administrative Region Government on 26 February and 6 March that "freedom of expression and freedom of the press are guaranteed by the Basic Law and the Hong Kong Bill of Rights Ordinance. The HKSARG supports the principle of editorial autonomy for journalistic work, and will not interfere with the internal operations of media organisations."

Perceptions of the erosion of Hong Kong's autonomy

13. The belief that China is eroding Hong Kong's autonomy is strongly held by many people in Hong Kong, reflecting an intertwined combination of legal and political developments and questions of changing identity, language and culture. These complex issues are key to understanding the context of developments in Hong Kong, and the FCO's reporting should reflect these nuances of public opinion more accurately as part of its overall assessment of the functioning of "one country, two systems" in the six-monthly reports. (Paragraph 87)

The Government agrees that 'One Country, Two Systems' has been most acutely put to the test during recent and ongoing debates over political and constitutional reform. Despite these strains, it remains the Government's position that overall 'One Country, Two Systems' has continued to function well.

We agree that it is important to understand the range of complex issues which provide the context for developments in Hong Kong. The FCO gathers a wide range of opinion across Hong Kong society and the political spectrum and endeavour to take this into account in our reporting, including perceptions of erosion of the high degree of autonomy. To this end we believe that the six-monthly reports do accurately reflect the nuances of public opinion.

Hong Kong's political and economic future

14. The demand for greater democracy in Hong Kong is more than an abstract concern: it reflects the understandable desire of Hong Kong's people to have an accountable government that responds to their needs and interests. The status quo is not sustainable in the long term, and if the current constitutional stalemate continues it could soon threaten the open business climate and stability that underpins Hong Kong's enviable prosperity and growth. In our view, this tension can only be resolved by meaningful progress toward democracy, guided by a transparent process in line with the Basic Law, in which both the Hong Kong people and the Chinese government can have confidence. (Paragraph 89)

The Government shares the Committee's view on the need for meaningful progress toward democracy, guided by a transparent process in line with the Basic Law, in which both the Hong Kong people and the Chinese Government can have confidence. The legitimacy of Hong Kong's Chief Executive will be greatly enhanced if the promise of universal suffrage is fulfilled. It would also contribute to improved governance, stability and prosperity and help ensure continued confidence in 'One Country, Two Systems'.

The UK Government's handling of UK-Hong Kong relations

15. We are concerned that the FCO's lack of clarity in expressing its views on political and constitutional developments in Hong Kong may be damaging the UK's reputation there. We welcome, however, the FCO's emphasis on building a genuine partnership between the UK and China. A strong relationship should enable the UK and China to exchange views on Hong Kong's political and constitutional development openly and in a spirit of cooperation, even where they may disagree. A democratic, stable and prosperous Hong Kong is good for the people of Hong Kong SAR, good for China, and good for the UK. Britain has an enduring moral responsibility to see that Hong Kong achieves this goal and to ensure that the principles, legal obligations and spirit of the Joint Declaration remain as respected today as they were in 1984 and 1997. (Paragraph 92)

The Government agrees that a democratic, stable and prosperous Hong Kong is a shared interest between China and the UK, and good for the people of Hong Kong. We have consistently made this clear in our bilateral contacts with the Chinese and Hong Kong authorities. The UK has a strong and wide-ranging relationship with China and Hong Kong will continue to feature on our bilateral agenda, including at the highest levels.

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