



BRIEFING PAPER

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Hong Kong: The Joint Declaration

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The UK Government's response to the recent protests in Hong Kong (which began June 2019) has drawn attention to the 1984 Sino-British Joint Declaration. The Declaration paved the way for the handover of Hong Kong from the UK to China in 1997. The principle 'One country, Two systems' underpins the Declaration although the term is not explicitly used in it. The Joint Declaration states that the Hong Kong Special Administrative Region (SAR) will be directly under the authority of the People's Republic of China but will enjoy a "high degree of autonomy" and its social and economic systems and lifestyle will remain unchanged for fifty years.

This briefing paper explores what the Declaration is and UK and Chinese Government positions. It also looks at concerns among some MPs that China is not adhering to the spirit of the Declaration and preserving Hong Kong's autonomy and freedoms.

Background: How did the Declaration come about?

British rule over Hong Kong dates to the 19th century, when Hong Kong island was ceded to Great Britain by China under the Treaty of Nanking after the first Opium War in 1842. The Kowloon peninsula was added by the Convention of Peking after the second Opium War in 1860. Great Britain then obtained the New Territories in 1898 on a 99-year lease.

Preparations for Hong Kong's return to China began in the 1980s. On 19 December 1984 the UK Government and the Government of the People's Republic of China signed *The Sino-British Joint Declaration on the Question of Hong Kong* (Cmnd 9543). On 1 July 1997 the UK transferred sovereignty over Hong Kong to the People's Republic of China (PRC). Hong Kong is now a Special Administrative Region of the PRC.¹

¹ Background reading on events leading up to the handover is available in Library Research Paper [Hong Kong: the final stages](#), RP96-104, 13 November 1996. A more recent Lords Library paper provides a very short history: [Hong Kong Handover: 20 year anniversary 1 July 2017](#) (LLN-2017-0037)

‘One country, two systems’: what does the Joint Declaration say?

Main points:

- The Declaration establishes a Hong Kong Special Administrative Region (SAR) which will be “directly under the authority” of the Central People's Government of the People's Republic of China.
- The SAR “will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government”. The SAR set out how the laws currently in force would remain basically unchanged, with the SAR vested with “executive, legislative and independent judicial power, including that of final adjudication”.
- The Declaration declares the current social and economic systems will remain unchanged for 50 years following the handover (to 2047), as would its existing rights, freedoms and lifestyle. This explicitly includes rights and freedoms of the person, of speech, of the press, of assembly, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief.
- The Government will be composed of “local inhabitants” with the Chief Executive appointed by the Central People’s Government “on the basis of the results of elections or consultations to be held locally”.
- The SAR will retain the status of a free port and a separate customs territory. The Declaration protects private property and foreign investment and states the SAR will “retain the status of an international financial centre” with independent finances. The SAR may develop and conclude agreements with states, regions and relevant international organisations and issue travel documents for entry into and exit from Hong Kong.
- The Government of the SAR is responsible for maintaining public order.

The Declaration includes an annex which expands on the above points. The provisions of the Joint Declaration are enshrined in Hong Kong’s [Basic Law](#). The text of the Declaration is attached to the end of this briefing paper.

Is the declaration legally binding?

The agreement entered into force on 27 May 1985 and was registered at the [United Nations](#) by the Chinese and British Governments on 12 June 1985.

The UK Government is clear that “the Joint Declaration is a legally binding treaty, registered with the [United Nations](#), which continues to remain in force. It remains as valid today as it did when it was signed over thirty years ago”.²

The Foreign Secretary reaffirmed this on the 22nd anniversary of the handover when he declared the UK’s commitment to the Declaration as “unwavering”.³

The UK Government also says the UK “has an obligation and a right to monitor its implementation closely, and we are strongly committed to doing so”.⁴

² “[China and the rules-based international system](#)”, Foreign Affairs Committee, 4 April 2019 HC 612 2017-19, [written evidence CIR0018](#)

³ “[Anniversary of the Hong Kong handover: Foreign Secretary statement](#)”, FCO, 30 June 2017

⁴ [PQ 267231](#), 28 June 2019

China challenges the status of the Joint Declaration

Chinese officials have, in recent years, challenged the status of the Joint Declaration.

The Foreign Affairs Committee noted comments by Chinese Foreign Ministry officials in 2017 suggesting the arrangements under the Joint Declaration are “now history” and described it as “ridiculous for the UK to pose itself as a supervisor... on Hong Kong affairs”.⁵

This view was repeated more recently following UK Government concerns about the police response to protests in June-July 2019. Foreign Ministry spokesman Geng Shuang said Hong Kong’s affairs “are purely China’s internal affairs” and “we deplore and resolutely oppose certain countries’ flagrant interference in them”.⁶ The Chinese Ambassador to the UK, Liu Xiaoming, accused the UK of “interfering” in China’s affairs in Hong Kong and suggested the UK Government “should seriously reflect on the consequences of its words and deeds”.⁷

Sir Alan Duncan, Foreign Minister for Europe and the Americas, addressed these statements when responding to an urgent question on Hong Kong on 2 July:

We reject the Chinese Government’s assertion that the joint declaration is an “historic document”, by which they mean that it is no longer valid, and that our rights and obligations under that treaty have ended. Our clear view is that the Sino-British joint declaration of 1984 obliges the Chinese Government to uphold Hong Kong’s high degree of autonomy, and its rights and freedoms, and we call on the Chinese Government to do so.⁸

Foreign Secretary Jeremy Hunt has described the situation in Hong Kong as “very, very serious”. In early July he said the Government recognises Hong Kong is part of China but that he expects China to honour the agreement it has with the UK:

We are a country that has championed democracy, the rule of law, civil rights across the world for much of our history. We see the situation as very worrying. And we’re just asking very simply for that agreement that we have with China, from 1984 to be honoured.⁹

Breaching the Declaration

The treaty contains no enforcement or dispute provisions. The Vienna Convention on the Law of Treaties, to which both the UK and China are States Parties, provides only for the suspension of the operation of a treaty in the event that it is breached.

The UK Government has assessed there has been one “serious breach” of the Joint Declaration. This was in 2015 and related to the involuntary removal of British citizen and Hong Kong bookseller Lee Po from Hong Kong to mainland China. This was reported in the FCO’s six monthly report for the period [July to December 2015](#).

When asked by Caroline Lucas about the compatibility of the proposed extradition law with the Joint Declaration, Foreign Office Minister Dr Andrew Murrison said:

We do not assess that the extradition proposals themselves breach the Sino-British Joint Declaration, as the Treaty did not explicitly deal with extradition arrangements.

⁵ “China and the Rules-Based International System”, Foreign Affairs Committee, HC 612 2017-19, 4 April 2019, para 79-80

⁶ [Foreign Ministry spokesman press conference](#), Chinese Foreign Ministry, 2 July 2019

⁷ [“Hands off Hong Kong’ China’s Ambassador tells the UK”](#), Sky News, 3 July 2019

⁸ [HC Deb 2 July 2019 c1063](#) Sir Alan Duncan was sitting in for the Minister for Asia-Pacific, Mark Field, who is currently suspended as a Minister.

⁹ [“Jeremy Hunt refuses to rule out sanctions against China”](#), the Guardian, 4 July 2019

If at some stage in the future we were to take the view that China had breached its obligations under the Joint Declaration, this would, under international law, be a bilateral matter between us and China and we would pursue it accordingly.¹⁰

Six monthly reports to Parliament on Hong Kong

Since July 1997 the Foreign Secretary has reported to Parliament at six-monthly intervals on the implementation of the Sino-British Joint Declaration on the Question of Hong Kong. This requirement is not specified in the Joint Declaration. However the Foreign Affairs Committee stated in its [report on China](#) in 2000 that the Government's decision to produce six-monthly reports on Hong Kong was taken in response to Parliament's interest in the issue.¹¹

The reports are collated on the Foreign Office website: [Six monthly reports on Hong Kong](#).

'One country, one system?': Concerns about Hong Kong's autonomy

The protests against the extradition bill in June and July 2019 reflect fears that Hong Kong's autonomy and freedoms are at risk. The wider context is concerns about China's direction of travel. Whilst not the subject of this briefing paper, the Foreign Affairs Committee published a report on ['China and the Rules-Based International System'](#) (HC 612) in April 2019.

UK Government view

The UK Government has catalogued its concerns about the robustness of the 'one country, two systems' framework in its [six monthly reports on Kong Kong](#). In 2017 the FCO reported "Hong Kong's high degree of autonomy is under increasing pressure."¹² This view was repeated in its most recent report, covering the second half of 2018, when the Foreign Secretary expressed concern that "Hong Kong's high degree of autonomy is being reduced".¹³

Foreign Affairs committee report

The Foreign Affairs Committee discussed Hong Kong in its 2019 report on China and, in more depth, in a 2015 report on the Joint Declaration. In 2015 the Committee observed "the belief that China is eroding Hong Kong's autonomy is strongly held by many people in Hong Kong" and reported a feeling that "'one country' is increasingly infringing on 'two systems'".

In 2019 the Committee warned Hong Kong is moving towards a "One Country, One and a Half Systems", before concluding "the Chinese government's approach to Hong Kong is moving closer to "One Country, One System" than it is to maintaining its treaty commitments under the Joint Declaration".¹⁴

MPs' concerns

Several MPs have raised their concerns about Hong Kong's autonomy during debates on the extradition bill protests (see [urgent question](#) and [adjournment debate](#) on 10 June; an [oral statement](#) on 13 June and [urgent question](#) on 2 July). Catherine West MP suggested "the amendments to the extradition law would significantly compromise the firewall that separates the sharply different systems." [Helen Goodman](#) MP suggested the proposed law threatens the

¹⁰ [PQ266293](#), 26 June 2019

¹¹ Foreign Affairs Committee, *China*, 29 November 2000, HC 574-I 1999-2000, para 142

¹² ["Six-monthly report on Hong Kong: July to December 2017"](#), Foreign and Commonwealth Office, 15 March 2018

¹³ ["Six monthly report on Hong Kong: July to December 2018"](#), Foreign and Commonwealth Office, 27 March 2019

¹⁴ ["China and the rules-based international system"](#), Foreign Affairs Committee, 4 April 2019 HC 612 2017-19, para

judicial independence of Hong Kong. Alistair Carmichael MP said China was riding “roughshod” over the Joint Declaration. Emily Thornberry MP, the [shadow Foreign Secretary](#), discussed the “steady erosion over recent years of compliance with the joint UK-Sino declaration.” She criticised the Government for its ‘craven’ approach to China (referring to [comments](#) made by the last Governor of Hong Kong, Lord Patten of Barnes, in 2017).

Commentary

[Hong Kong Watch](#) is a UK-based charity that “monitors threats to Hong Kong’s basic freedoms, the rule of law and autonomy”. They produce regular analysis of events in Hong Kong, for example a [report](#) published in May 2019 on fears of business leaders, lawyers and pro-democracy leaders about the extradition law proposals.

Media coverage of the extradition law protests have discussed the wider context. The [BBC](#), for example, says rights groups have accused China of meddling in Hong Kong, that artists and writers feel under pressure to self-censor, and that there have been moves to restrict media reporting (the Financial Times Asia Editor was [refused entry](#) to Hong Kong after he hosted an event that featured an independent activist). Richard Lloyd Parry, The Times’s Asia editor, says “Hong Kong people face a one-party dictatorship, encroaching on the liberties supposedly guaranteed under the Sino-British “one country, two systems” agreement”.¹⁵ Hilton Yip, a Taiwan-based journalist, wrote “Hong Kong has seen the steady erosion of its political and media liberties in the last few years, while facing the possibility of being absorbed into the mainland through the Greater Bay Area” and warned the extradition bill, if passed “will signal the virtual end of Hong Kong” as a distinct city under One country, Two systems.¹⁶

The extradition law protests

On [Sunday 9 June](#) protestors took to the streets of Hong Kong to oppose a draft amendment to Hong Kong’s extradition laws. This law would allow the extradition of individuals from Hong Kong to mainland China. Critics fear the law would enable the Chinese government to pursue political opponents. 68 NGOs, including Amnesty International, Human Rights Watch and Hong Kong Human Rights Monitor, warned:

the proposed changes will put at risk anyone in the territory of Hong Kong who has carried out work related to the Mainland, including human rights defenders, journalists, NGO workers and social workers, even if the person was outside the Mainland when the ostensible crime was committed.¹⁷

The UK and Canada had already issued a [joint statement](#) about concerns for their citizens in light of the proposed law on 30 May 2019.

The violence on [12 June](#), with police using tear gas and rubber bullets to disperse protestors, brought international condemnation. The Foreign Secretary on 25 June urged the Hong Kong Government to establish a “robust, independent investigation into the violent scenes”.¹⁸ The Commons Library produced a [short briefing](#) on the Government and Parliament’s reaction to developments in Hong Kong on 14 June 2019.

On [15 June](#) Carrie Lam, Hong Kong’s Chief Executive, announced she would suspend progress of the Bill. However, demonstrations continued as [protestors](#) called for the bill to be scrapped entirely and not just suspended, for the release of detained activists and an investigation of

¹⁵ [“Bravery of Hong Kong shames the West”](#), The Times, 3 July 2019

¹⁶ [“The end of Hong Kong is almost here”](#), Foreign Policy, 18 May 2019

¹⁷ [“Open letter regarding proposed changes to Hong Kong’s extradition law”](#), Human Rights Watch, 6 June 2019

¹⁸ [HC Deb 25 June 2019 c551](#)

police violence. A few days later the Justice Secretary [ruled out](#) an enquiry into allegations of police brutality. An estimated 2 million people turned out in a major protest on [16 June](#).

On [2 July](#) protestors broke into the Parliamentary building, the LegCo, and draped a colonial-era Hong Kong flag on the podium. The Prime Minister, Theresa May, said she was shocked at the use of violence in the Legislative Council and noted the vast majority of those marching were peaceful and lawful. Theresa May added “it is vital that Hong Kong’s high degree of autonomy and the rights and freedoms set down in the Sino-British joint declaration are respected”.¹⁹

Export licenses and sanctions?

On 25 June the Foreign Secretary announced the UK will not issue any further export licenses for crowd control equipment to Hong Kong “unless we are satisfied that concerns raised about human rights and fundamental freedoms have been thoroughly addressed”.²⁰ The Government has since said there are no extant export licences for crowd control equipment.²¹ Jeremy Hunt refused to rule out [imposing sanctions](#) on China or expelling diplomats in an interview with the Today programme on 4 July 2019.

¹⁹ [HC Deb 3 July 2019 c1196](#)

²⁰ [HC Deb 25 June 2019 c551](#)

²¹ [PQ 26969](#), 26 June 2019

Annex: Text of the declaration

The [Sino-British Joint Declaration on the Question of Hong Kong](#) (Cmnd 9543) was signed on 19 December 1984. The agreement entered into force on 27 May 1985 and was registered at the [United Nations](#) by the Chinese and British Governments on 12 June 1985.

The full title is the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong.

The Declaration consists of several documents:

- a. Annex I, in which the Government of the People's Republic of China establishes its basic policies towards Hong Kong;
- b. Annex II, which sets out the terms of reference and the working arrangements for the Sino-British Joint Liaison Group (JLG) which operated until January 1, 2000;
- c. Annex III, which provides for the protection of land rights and for land leases granted by the Hong Kong Government before 1 July 1997. It also establishes the Land Commission, which operated until June 30, 1997; and
- d. an exchange of memoranda associated with the Joint Declaration on the status of British Dependent Territories Citizens.²²

The Command Paper is available on [Parliamentary Papers](#). A more easy to read version of all the above documents can be found on the [Hong Kong SAR website](#).

Text of the Declaration

Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China have reviewed with satisfaction the friendly relations existing between the two Governments and peoples in recent years and agreed that a proper negotiated settlement of the question of Hong Kong, which is left over from the past, is conducive to the maintenance of the prosperity and stability of Hong Kong and to the further strengthening and development of the relations between the two countries on a new basis. To this end, they have, after talks between the delegations of the two Governments, agreed to declare as follows:

1. The Government of the People's Republic of China declares that to recover the Hong Kong area (including Hong Kong Island, Kowloon and the New Territories, hereinafter referred to as Hong Kong) is the common aspiration of the entire Chinese people, and that it has decided to resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997.
2. The Government of the United Kingdom declares that it will restore Hong Kong to the People's Republic of China with effect from 1 July 1997.
3. The Government of the People's Republic of China declares that the basic policies of the People's Republic of China regarding Hong Kong are as follows:
 - (1) Upholding national unity and territorial integrity and taking account of the history of Hong Kong and its realities, the People's Republic of China has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the People's

²² ["Joint Declaration"](#), the Government of the Hong Kong Special Administration Region, accessed 5 July 2019

Republic of China, a Hong Kong Special Administrative Region upon resuming the exercise of sovereignty over Hong Kong.

(2) The Hong Kong Special Administrative Region will be directly under the authority of the Central People's Government of the People's Republic of China. The Hong Kong Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government.

(3) The Hong Kong Special Administrative Region will be vested with executive, legislative and independent judicial power, including that of final adjudication. The laws currently in force in Hong Kong will remain basically unchanged.

(4) The Government of the Hong Kong Special Administrative Region will be composed of local inhabitants. The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally. Principal officials will be nominated by the chief executive of the Hong Kong Special Administrative Region for appointment by the Central People's Government. Chinese and foreign nationals previously working in the public and police services in the government departments of Hong Kong may remain in employment. British and other foreign nationals may also be employed to serve as advisers or hold certain public posts in government departments of the Hong Kong Special Administrative Region.

(5) The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region. Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law.

(6) The Hong Kong Special Administrative Region will retain the status of a free port and a separate customs territory.

(7) The Hong Kong Special Administrative Region will retain the status of an international financial centre, and its markets for foreign exchange, gold, securities and futures will continue. There will be free flow of capital. The Hong Kong dollar will continue to circulate and remain freely convertible.

(8) The Hong Kong Special Administrative Region will have independent finances. The Central People's Government will not levy taxes on the Hong Kong Special Administrative Region.

(9) The Hong Kong Special Administrative Region may establish mutually beneficial economic relations with the United Kingdom and other countries, whose economic interests in Hong Kong will be given due regard.

(10) Using the name of 'Hong Kong, China', the Hong Kong Special Administrative Region may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organisations.

The Government of the Hong Kong Special Administrative Region may on its own issue travel documents for entry into and exit from Hong Kong.

(11) The maintenance of public order in the Hong Kong Special Administrative Region will be the responsibility of the Government of the Hong Kong Special Administrative Region.

(12) The above-stated basic policies of the People's Republic of China regarding Hong Kong and the elaboration of them in Annex I to this Joint Declaration will be stipulated, in a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years.

4. The Government of the United Kingdom and the Government of the People's Republic of China declare that, during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability; and that the Government of the People's Republic of China will give its cooperation in this connection.

5. The Government of the United Kingdom and the Government of the People's Republic of China declare that, in order to ensure a smooth transfer of government in 1997, and with a view to the effective implementation of this Joint Declaration, a Sino-British Joint Liaison Group will be set up when this Joint Declaration enters into force; and that it will be established and will function in accordance with the provisions of Annex II to this Joint Declaration.

6. The Government of the United Kingdom and the Government of the People's Republic of China declare that land leases in Hong Kong and other related matters will be dealt with in accordance with the provisions of Annex III to this Joint Declaration.

7. The Government of the United Kingdom and the Government of the People's Republic of China agree to implement the preceding declarations and the Annexes to this Joint Declaration.

8. This Joint Declaration is subject to ratification and shall enter into force on the date of the exchange of instruments of ratification, which shall take place in Beijing before 30 June 1985. This Joint Declaration and its Annexes shall be equally binding.

Done in duplicate at Beijing on 19 December 1984 in the English and Chinese languages, both texts being equally authentic.

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