



**THE SIX-MONTHLY REPORT ON HONG KONG**  
**1 JULY TO 31 DECEMBER 2014**

Deposited in Parliament by the Secretary of State for Foreign and  
Commonwealth Affairs

February 2015

## FOREWORD

This is the 36th in a series of reports to Parliament since July 1997 on the implementation of the Sino-British Joint Declaration on the Question of Hong Kong. It covers the period from 1 July to 31 December 2014, which included the 30th anniversary of the signing of the Joint Declaration.

I have followed events in Hong Kong very closely. The second half of 2014 was one of the most tumultuous periods in Hong Kong's recent history. It included two important steps on the road to constitutional reform: the Chief Executive's report to the National People's Congress Standing Committee (NPCSC); and the NPCSC's decision setting parameters for reform. It also included an unprecedented period of mass protests, lasting 79 days, and a heated public debate about the future of Hong Kong.

During the reporting period, some have questioned the relevance of the Joint Declaration. Let me be unequivocal, as we have been, consistently, at all levels of Government: the Joint Declaration remains as valid today as it was when it was signed in good faith by Margaret Thatcher and Zhao Ziyang, 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 a clear right to monitor and comment on its implementation, and we will continue to do so. 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.

The large-scale protests during the reporting period brought the attention of the world onto Hong Kong and onto the rights and freedoms of its people. The overwhelmingly peaceful approach of protesters was welcome. For the most part the response of the police and authorities was restrained and upheld the right to peaceful protest and freedom of expression. Those instances where this was alleged to have fallen short have been subject to investigation. There was close scrutiny of the integrity of the rule of law but it remained robust. There was vociferous political and media debate about the views of the protesters and of wider society, which demonstrated a healthy degree of freedom of expression, although I have been concerned by reports of pressure and intimidation against journalists. We will continue to watch this closely.

The protests themselves reflected a range of concerns, but centred on the issue of constitutional reform. As the Government has consistently said, the detailed arrangements are for the people of Hong Kong and the governments of Hong Kong and the People's Republic of China to determine, in line with the Basic Law. I continue to believe that the best way to preserve Hong Kong's strengths is through a transition to universal suffrage, which delivers a genuine choice for the people of Hong Kong. This would enhance the legitimacy of the Hong Kong Chief Executive, contribute to improved governance and help ensure continued confidence in 'One Country, Two Systems'.

At the time of writing, the next consultation phase has begun. The parameters set out in the NPCSC decision in August were clearly more restrictive than many anticipated; but I do believe that there remains space within them for a meaningful step forward for democracy. I hope that the Hong Kong SAR Government and legislators can work together to achieve a

consensus that is acceptable to the people of Hong Kong, so paving the way for approval of electoral reforms in 2015. Not only would that lead to greater democracy for the election of the Chief Executive in 2017, but it is also necessary if further reforms are to take place to allow the Legislative Council to be elected by universal suffrage in 2020.

During this reporting period, Britain's relations with Hong Kong have come under close scrutiny, in particular over the launch of the Foreign Affairs Committee (FAC) inquiry into the UK's relations with Hong Kong. The UK Parliament has an entirely legitimate interest in the implementation of the Joint Declaration, and a history of cooperation with, and visits to, Hong Kong. The decision to refuse the FAC entry to Hong Kong in December was wholly unjustified and counter-productive, and was not in keeping with the spirit of the Joint Declaration. I raised our concerns at very senior levels, as did other Ministers.

Thirty years ago, when signing the Joint Declaration, the UK and China expressed their confidence in the future of Hong Kong as a part of China with a high degree of autonomy, guaranteed rights and freedoms and a capitalist system. Today Hong Kong remains one of the world's most open and international cities, a top financial centre and a major trading hub. The high degree of autonomy which Hong Kong enjoys under 'One Country, Two Systems' has been put to the test over this reporting period, but overall it continues to serve Hong Kong well. Indeed, the scrutiny and debate wherever this autonomy is perceived to be under threat is itself perhaps the greatest testament to the power and resilience of Deng Xiaoping's unique idea thirty years on, as well as being a vital safeguard of it.

**Rt. Hon Philip Hammond MP**  
**Foreign Secretary**

## INTRODUCTION

This series of Six Monthly Reports reflects the British Government's continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino-British Joint Declaration on Hong Kong. In this Declaration, the Chinese Government undertook that the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy, except in foreign and defence affairs, and that the continuation of Hong Kong's social and economic systems, lifestyles, rights and freedoms would be guaranteed.

## CONSTITUTIONAL DEVELOPMENTS

The issue of constitutional reform remained central to developments during the reporting period. Key developments included the launch of the formal process for amending the method for selecting the Chief Executive; and an unprecedented 79-day period of mass protests following the 31 August decision on electoral reform by the National People's Congress Standing Committee (NPCSC).

As previously reported, in December 2013 the Hong Kong SAR Government launched a public consultation on the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council (LegCo) in 2016. This paved the way for the start of the formal 'five-step' process for amending the method for selecting the Chief Executive and for forming the LegCo set out in the Basic Law and the 2004 NPCSC Decision.

### Five-step process

**First step:** the Chief Executive to make a report to the NPCSC, so as to invite the NPCSC to decide whether it is necessary to amend the method of selection/formation.

**Second step:** the NPCSC to make a determination on whether any amendment to the method of selection/formation may be made.

**Third step:** if the NPCSC determines that amendments to the method of selection/formation may be made, the Hong Kong SAR Government to introduce to the LegCo a resolution on the amendments to the method for selecting the Chief Executive/method for forming the LegCo, to be passed by a two-thirds majority of all LegCo members.

**Fourth step:** the Chief Executive to consent to the resolution as passed by the LegCo.

**Fifth step:** the Chief Executive to lodge the relevant bill to the NPCSC for approval or for the record.

On 15 July 2014, the Hong Kong SAR Government formally launched the five-step process. Chief Secretary and Head of the Constitutional Reform Task Force Carrie Lam presented to the Legislative Council a report summarising almost 130,000 responses to the Hong Kong SAR Government public consultation on constitutional reform (which ran for five months from December 2013 to May 2014).

At the same time, Chief Executive (CE) Leung Chun-ying (CY Leung) submitted a report to the NPCSC, inviting it to determine whether there was a need to amend the methods for selecting the Chief Executive in 2017 and for forming the LegCo in 2016. In his report, the Chief Executive concluded that there was a need to amend the method for selecting the next Chief Executive in 2017 in order to attain the aim of universal suffrage; but that there was no need to change the methods for forming the LegCo in 2016.

The Chief Executive's report concluded that the consultation showed that:

- i. the Hong Kong community "is generally eager to see implementation of universal suffrage for the CE election in 2017", and "generally agrees that the discussion should be made on the basis of the Basic Law and the relevant Interpretation and Decisions of the NPCSC";
- ii. the Hong Kong community "generally agrees that the Chief Executive should be a person who 'loves the country and Hong Kong'";
- iii. the "mainstream opinion" is that under the Basic Law the power to nominate candidates is vested in the Nominating Committee (NC) only;
- iv. there are "relatively more views" that the Nominating Committee should retain four sectors (in line with the current Electoral Committee), "quite a number of views" that it should be the same size as the Electoral Committee and "considerable views" that the number of seats could be increased.
- v. there are "different views" on how the Nominating Committee should nominate in accordance with democratic procedures; and
- vi. there are "relatively more views" that there should be two rounds of voting.

A number of commentators criticised both reports for failing to quantify the views submitted. Ivan Choy, Senior Lecturer at the Chinese University of Hong Kong, said the term "mainstream views" could be subjective. Professor Ma Ngok, also of the Chinese University of Hong Kong, described the language in the reports as unscientific.

Others argued that the report did not capture the full range of views because it did not sufficiently reflect support for "civic nomination". There was specific criticism that the report had omitted to mention an unofficial poll held by the Occupy Central campaign on 20 June, in which organisers said almost 800,000 people participated.

Speaking in London on 14 October, Secretary for Justice Rimsky Yuen rejected these criticisms, noting that the Hong Kong SAR Government had "tried to be as objective and comprehensive as possible" in compiling the report, not least by including all the written submissions received and the opinion polls conducted during the consultation period. Thus, Yuen said, there "cannot be any suggestion of misrepresentation or failure to reflect the views of the public".

## **NPCSC Decision**

On 31 August, the NPCSC published a Decision on electoral reform for the LegCo election in 2016 and the Chief Executive election in 2017. This marked the second of the five steps toward constitutional reform. The NPCSC Decision provided that:

- “Starting from 2017, the selection of the Chief Executive of the Hong Kong Special Administrative Region may be implemented by the method of universal suffrage”; and
- “The existing formation method and voting procedures for the Legislative Council as prescribed in Annex II to the Hong Kong Basic Law will not be amended.”

The Decision set the following parameters for the electoral method to be used in 2017:

- i. The size, composition and formation method of the Nominating Committee is to be based on that of the existing Election Committee.
- ii. The Nominating Committee will nominate two or three candidates for the office of Chief Executive.
- iii. Each candidate must have the endorsement of more than half of all the members of the Nominating Committee.

The NPCSC Decision set a more restrictive framework for reform than many had anticipated. There followed an increasing polarisation of the constitutional reform debate in Hong Kong.

On 1 September, NPCSC Deputy Secretary General and Chairman of the Basic Law Committee Li Fei said the NPCSC believed that “implementing universal suffrage for the selection of the Chief Executive of the Hong Kong Special Administrative Region represents a historic progress in Hong Kong’s democratic development and a significant change in the political structure of the Hong Kong Special Administrative Region”. Chief Executive CY Leung echoed this sentiment, describing the Decision as an “historic milestone”.

Many in the pro-establishment camp welcomed the Decision, arguing that it represented progress compared to the current system. Jeffrey Lam, Executive Council member and Vice Chair of the Business and Professionals Alliance, said it would enable balanced participation and gradual progress. Others, including Henry Tang, a member of the Standing Committee of the Chinese People’s Political Consultative Conference (CPPCC), and NPCSC member Rita Fan called on pan-democrats to accept the Decision. LegCo President Jasper Tsang said: “The NPC’s decision is definitely a big step forward, and definitely not a step backward ... More importantly, taking this step forward means the door stays open.” This sentiment was echoed by Financial Secretary John Tsang, who called for compromise to secure a win-win solution. He wrote that “compared to the prevailing system, it is certain that the universal suffrage proposal is a big advancement, not a chicken rib”.

The Decision was strongly criticised by pan-democrats, who argued that it made genuine choice impossible. The Convenor of the Alliance for True Democracy, Professor Joseph Cheng, said the Decision precluded a meaningful contest and a real choice for Hong Kong

people in the 2017 election. Pan-democrat legislators said that they would veto any reform bill within the Decision's parameters. They argued that the 50 per cent nomination threshold meant that only candidates considered acceptable by Beijing would be nominated by the Nominating Committee.

This view was supported by a number of Hong Kong academics and civil society representatives. Hong Kong 2020, a think tank headed by former Chief Secretary Anson Chan, said the Decision left "no room for negotiation in the next public consultation".

On 4 September, in response to the 31 August NPCSC Decision, HM Government said in a statement:

**Foreign and Commonwealth Office spokesperson, 4 September**

"We welcome the confirmation that China's objective is for the election of Hong Kong's Chief Executive through universal suffrage.

The UK's position has always been that the detail of the constitutional package is for the Governments of Hong Kong and China and the people of Hong Kong to decide in line with the Basic Law.

While we recognise that there is no perfect model, the important thing is that the people of Hong Kong have a genuine choice and a real stake in the outcome. We recognise that the detailed terms that the National People's Congress has set for the 2017 election will disappoint those who are arguing for a more open nomination process.

We hope that the next period of consultation will produce arrangements which allow a meaningful advance for democracy in Hong Kong, and we encourage all parties to engage constructively in discussion to that end."

Speaking in London on 14 October, Secretary for Justice Rimsky Yuen noted that "the future selection system is not just an election system, but a system with elements of both election and appointment. This is because ... Article 45 of the Basic Law provides that any CE-elect shall be appointed by the CPG [Central People's Government]. This power of appointment, as has been stressed many times, is a substantive power since the CPG may exercise its constitutional power (if not also duty) to decline to make an appointment when the circumstances so warrant."

**We continue to take the view that there is scope within the Decision for a consensus that will deliver a meaningful advance for democracy in Hong Kong, consistent with the Basic Law and the long-standing wishes of the Hong Kong people. We urge all parties to engage in meaningful dialogue to this end.**

**Protests and civil society activity**

**Class Boycott**

On 22 September, an estimated 13,000 students, teachers and members of the public attended a rally on the campus of the Chinese University of Hong Kong. This marked the beginning of a week-long class boycott in protest at the NPCSC Decision. Alex Chow, Secretary General of the Hong Kong Federation of Students (HKFS) set out three demands:

the public should be allowed to nominate candidates for Chief Executive in 2017; functional constituencies in the Legislative Council should be abolished; and the Central People's Government should retract its decision on political reform.

On 23 September, Chow threatened to escalate the protests if the Chief Executive refused to speak directly to students within 48 hours. Following the expiration of the deadline, approximately 4,000 people marched from Tamar Park to Government House, with several hundred camping overnight.

On the evening of 26 September, several hundred gained entry to a forecourt in front of the Central Government Offices building. Police arrested approximately 80 people. While most were released without charge soon afterwards, HKFS leaders Alex Chow and Lester Shum were held for over 30 hours and Scholarism Convenor Joshua Wong was detained by police for over 40 hours, before being released on the instruction of a High Court judge.

### **Occupy Central**

In previous reports we have referred to the Occupy Central movement, which, since 2013, had threatened to instigate civil disobedience action if the Hong Kong SAR Government proposal for electoral reform did not meet international standards.

In the early hours of 28 September, Associate Professor at Hong Kong University Benny Tai, a co-founder of the Occupy Central movement, announced the launch of the civil disobedience campaign. The campaign's demands were the resignation of Chief Executive CY Leung and withdrawal of the 31 August NPCSC Decision. By dawn, thousands had gathered in Admiralty on roads surrounding the LegCo and Central Government Office buildings. No permission was granted for these protests, which were described by the Hong Kong SAR Government as illegal acts.

Protest numbers grew throughout the course of 28 September, with satellite protest sites springing up in Causeway Bay and in Mong Kok. That evening, after having warned protesters that greater force would be deployed if they failed to disperse, police used tear gas and batons in a failed effort to clear the streets in Admiralty. In total, 87 canisters of tear gas were fired as police and protesters engaged in running scuffles into the early hours of 29 September. Police did not release an official estimate of the number of protesters, but unofficial estimates suggested that as many as 100,000 were present at peak times.

#### **Foreign and Commonwealth Office spokesperson, 29 September**

"The British Government is concerned about the situation in Hong Kong and is monitoring events carefully.

It is Britain's longstanding position, as a co-signatory of the Sino-British Joint Declaration, that Hong Kong's prosperity and security are underpinned by its fundamental rights and freedoms, including the right to demonstrate. It is important for Hong Kong to preserve these rights and for Hong Kong people to exercise them within the law.

These freedoms are best guaranteed by the transition to universal suffrage. We hope that the upcoming consultation period will produce arrangements which allow a meaningful advance for democracy in Hong Kong, and we encourage all parties to engage constructively in discussion to that end."

On 30 September, Chief Executive CY Leung said the continuation of illegal acts would not make the Central People's Government alter its Decision on Hong Kong's political reform. He appealed to organisers to call off the protests, which were affecting people's daily lives and safety, as well as the economy and image of Hong Kong.

On the same day, a spokesperson for the Chinese Foreign Ministry said: "The central government firmly opposes all illegal acts that undermine the rule of law and sabotage social stability, fully believes and strongly supports Hong Kong SAR Government's handling of the case in accordance with law so as to safeguard the social stability of Hong Kong."

**Foreign and Commonwealth Office spokesperson, 2 October**

"The United Kingdom remains concerned about the situation in Hong Kong. We welcome the offer by the Government of the Hong Kong Special Administrative Region to open talks with student leaders to discuss constitutional development. We hope that all parties will engage constructively in dialogue.

As the British Government has made clear, it is important that Hong Kong citizens' fundamental rights and freedoms, including of assembly and demonstration, are respected, as guaranteed by the Sino-British Joint Declaration. We welcome the statement that the Hong Kong police will exercise maximum tolerance. It is also important that demonstrators continue to express their views peacefully in accordance with the law."

Protests continued in the three main sites throughout October and November, although numbers at each of the sites fell to the low hundreds.

### **Dialogue with protest leaders**

On 16 October, Chief Executive CY Leung announced that the Hong Kong SAR Government would hold a dialogue with representatives of the Hong Kong Federation of Students, (HKFS) with the objective of seeking consensus on how to implement a one-man-one-vote process for the election of the Chief Executive in 2017. The dialogue, moderated by Lingnan University President Cheng Kwok-hon, was broadcast live on TV on 21 October. Speaking for the Hong Kong SAR Government, Chief Secretary Carrie Lam concluded by underlining four key points:

- i. There was still ample room under the 31 August Decision to work out a nomination procedure and election method for 2017. This would be the goal for the second round of public consultation.
- ii. The framework for 2017 was not final.
- iii. Students should help to set up a platform to gauge views on the long-term constitutional development beyond 2017.
- iv. The government was considering how to make a report to Central Government to reflect people's views.

Speaking after the debate, HKFS representative Alex Chow described the talks as "vague" and noted that the government had not offered any concrete proposals in response to the HKFS's demands for political reform by 2017. No further talks were held.

On 15 November, a number of HKFS members, including Secretary General Alex Chow, were prevented from travelling to Beijing, where they had hoped to meet leaders from the Central People's Government (CPG), including Premier Li Keqiang, to express their demands for genuine universal suffrage. Chow described the trip, scheduled to take place at the same time as the Asia-Pacific Economic Cooperation summit in Beijing, as a "political protest" after the Chief Executive's report failed to represent the views of Hong Kongers accurately to the NPCSC. The students were informed at Hong Kong airport that their travel documents ('home return permits') had been invalidated by the Chinese Government. Chief Secretary Carrie Lam described the trip as unnecessary and said the Chief Executive's report had already noted "different opinions" regarding the methods for selecting the Chief Executive in 2017.

### **Clearance of protest sites**

On 20 October, the High Court granted injunctions to clear some protest areas. These had been sought by private individuals, as well as a group of transport companies and the owners of Citic Tower. On 10 November, the High Court extended its decision to grant injunctions, and clarified the fact that bailiffs were able to call on police assistance if protesters impeded efforts to clear the protest areas.

In a largely peaceful operation on the morning of 25 November, bailiffs and police executed the court injunction to clear barricades from the Mong Kok protest area. Violent skirmishes broke out between protesters and police on the night of 25 November, lasting until the early hours of 26 November. Police made 116 arrests on charges including assaulting police, contempt of court and obstruction. Police used CS spray (including from a high-pressure hose mounted on a platform) and baton charges in an effort to disperse the crowds. By 26 November, the Mong Kok protest site had been cleared and major roads reopened.

On 11 December, 75 days after the launch of the civil disobedience campaign by Occupy Central, the main Admiralty protest site was cleared by bailiffs and police. The operation was conducted peacefully, though police arrested 247 protesters who refused to leave the area. Those detained included publisher Jimmy Lai, the HKFS leadership, former Democratic Party Leader Martin Lee and a number of pan-democratic legislators. All were released either on bail or unconditionally within 24 hours of arrest.

On 15 December, the final major protest site, in Causeway Bay, was cleared in a largely peaceful police operation. Following the clearance, Chief Executive CY Leung announced that all road sections that were illegally occupied during the Occupy Central protests had been fully reopened and all public transport had resumed normal services.

HKFS leaders said the clearances marked only the end of the first wave of protests, and more would follow. They called on people to participate in a "non-cooperation" movement, by delaying payment of public housing rent or paying tax bills in small amounts.

### **Law enforcement**

The police's use of tear gas on 28 September attracted considerable criticism. The Hong Kong Bar Association described it as "excessive and disproportionate force". Police defended the decision, saying: "The use of tear gas by the police is to disperse crowds and not to hurt anyone, and is in line with international standards." There were no further

occasions on which tear gas was used during the protests, and police adopted a policy of “maximum restraint”.

On 15 October, footage was broadcast on TV that appeared to show seven plain-clothed police officers beating a handcuffed protester. Police launched an inquiry hours after the pictures were aired. On 26 November, the Hong Kong Police announced that they had arrested seven officers on suspicion of assault and of causing actual bodily harm. All seven have been released on bail and are suspended from duty.

On 15 December, following the clearance of protest sites, the Police Commissioner said that police had remained “tolerant and restrained” throughout the protests, adding that there had been nine occasions of note when police had used “the minimum level of force when confronted with violent behaviours and chaotic situations”.

The Commissioner noted that a total of 955 persons had been arrested and subsequently released for committing various offences. He added that the police would endeavour to complete the investigations as soon as possible. This would include arresting other offenders, such as protest instigators.

The Commissioner also noted that the Complaints against Police Office (CAPO) had received 106 reportable complaints, all of which would be investigated by it in accordance with established procedures and observed by the Independent Police Complaints Council.

In mid-December, several human rights groups were reported to have set up a database to collect visual or written accounts of police violence, as an alternative to evidence collected by the force’s internal complaints mechanism, which they said lacked credibility.

**Following the use of tear gas on 28 September, HM Government carried out a review of licences for the export of tear gas to the government of Hong Kong. After carefully reviewing the single current licence, we decided not to revoke it, on the basis that it did not contravene international criteria. HM Government’s view is that the Hong Kong Police’s use of tear gas was an unwelcome but uncharacteristic response at an early stage of the protests, and was not indicative of a wider pattern of behaviour. Following that incident, the Hong Kong Police generally approached the protests carefully and proportionately. There were other isolated incidents of concern but we welcome the Hong Kong authorities’ commitment to investigate all complaints received.**

### **The reform process – next steps**

On 29 September, hours after the Occupy Central civil disobedience campaign was launched, Chief Secretary Carrie Lam told media that the second-stage public consultation on constitutional reform originally planned for the following week would be postponed. Speaking on 22 December, Chief Executive CY Leung said the Hong Kong SAR Government would soon start the second phase of the public consultation on political reform. Leung said the NPCSC Decision on constitutional development in August had set out a framework for this round of consultation, and urged people to be rational and pragmatic in voicing their opinions. He added that he, the Central People’s Government and the Hong

Kong SAR Government had “the determination to win the people’s support and implement universal suffrage in 2017”. The Hong Kong SAR Government also confirmed that it would submit a Public Sentiments Report, first announced during talks with the HKFS in October, to the Hong Kong and Macao Affairs Office of the Central People’s Government.

**The UK Government believes that the best way to preserve Hong Kong’s strengths is through a transition to universal suffrage which meets the long-held aspiration of the people of Hong Kong, within the parameters of the Basic Law and the relevant NPCSC decisions. We hope that all sides will engage constructively in the constitutional reform process to allow a meaningful advance for democracy in Hong Kong, including by paving the way to further reform of the Legislative Council in 2020.**

## LEGAL AND JUDICIARY

### **White Paper: *The Practice of the ‘One Country, Two Systems’ Policy in the Hong Kong Special Administrative Region.***

In our last report, we stated that the apparent categorisation of the judiciary as part of the machinery of government in the Chinese State Council White Paper entitled *The Practice of the ‘One Country, Two Systems’ Policy in the Hong Kong Special Administrative Region* had raised concern about judicial independence. This debate continued during the reporting period.

On 16 August, in his first public comment on the White Paper, Chief Justice Geoffrey Ma said that the White Paper on Hong Kong would not have any effect on Hong Kong’s judicial independence and rule of law: the judiciary would act only on the basis of the law and would not be swayed by any other factor. Ma said that the public could assess whether SAR’s courts remained independent on the basis of four factors: the views of the legal profession on the topic; court transparency; rulings in controversial cases and those involving the government; and whether judgments complied, objectively, with legal principles.

On 19 August, then President of the Hong Kong Law Society Ambrose Lam tendered his resignation following a vote of no confidence by the Society’s members. The vote was called following Lam’s statement on 16 June, in which he described the White Paper *The Practice of the ‘One Country, Two Systems’ Policy in the Hong Kong Special Administrative Region* as a “positive” document. He was replaced by Mr. Stephen Hung, with immediate effect.

Speaking on 26 August, Lord Neuberger, President of the UK Supreme Court and Non-Permanent Judge of the Hong Kong Court of Final Appeal, said that he did not view the State Council White Paper as a threat to judicial independence in Hong Kong:

“Judicial independence is not inconsistent with judicial patriotism. The way in which judges demonstrate their patriotism is by an irrevocable and undiluted commitment to the rule of law, which involves resolving disputes independently, fearlessly, honestly, fairly, and in accordance with the law, and as efficiently and openly as their capabilities and circumstances permit. However, it is just as important that judges are seen to be resolving disputes independently, fearlessly, honestly, fairly and in accordance with the law, and as efficiently and openly as possible.”

On 19 December, former Chief Secretary Rafael Hui and property tycoon Thomas Kwok were found guilty on charges of corruption. Receiving a seven and a half year jail term, Hui became the most senior public official in Hong Kong's history to be convicted of taking bribes. Speaking ahead of sentencing, Judge Andrew Macrae said: "It is vitally important in these times the Hong Kong government and business community remain and are seen to remain corruption free, particularly when the mainland is taking obvious and positive steps to eradicate the cancer of corruption in their own jurisdiction."

### **Civil disobedience**

During the reporting period, the rule of law in Hong Kong was under scrutiny in the context of the extended campaign of civil disobedience.

On 8 October, the Hong Kong Bar Association (HKBA) said in a statement: "it is essential for participants to respect the rights and freedoms of other people who do not necessarily agree with their views and not to cause excessive damage or inconvenience. They should also be ready to accept the criminal consequence of their conduct."

Following widespread disregard of civil injunctions against protesters, the HKBA published a statement on 28 October that noted "with dismay recent calls for open defiance of injunctions granted by the Court in relation to the occupation of certain areas of Mong Kok and Admiralty". The statement continued "when deliberate defiance of a court order is committed en masse as a combined effort, a direct affront to the Rule of Law will inevitably result. For the same reason, open calls to the public to disobey a court order applicable to them would undoubtedly constitute an erosion of the Rule of Law."

On 10 November, in extending the High Court decision to grant injunctions, Mr Justice Thomas Au Hing-cheung said he had made his decision because of the risk of the rule of law and due administration of justice being "seriously challenged and undermined".

Speaking as a guest at the ceremony inaugurating the think tank Our Hong Kong Foundation on 11 November, former Attorney General for England and Wales Lord Goldsmith, QC said: "The fact that people break the law ... does not mean that a [territory] is not subject to the rule of law. What matters in those circumstances is how the law-breaking is dealt with." Goldsmith added that court action leading to the release from police custody of Joshua Wong demonstrated the independence of the Hong Kong judiciary.

**The rule of law and confidence in Hong Kong's world-class legal and judicial system are essential foundations for Hong Kong's past and continued success. We believe that the rule of law in Hong Kong has stood up well to the challenges in the reporting period. However, we shall continue to monitor this very closely.**

## **GOVERNANCE**

### **Legislative Council**

Relations between the administration and legislature were strained throughout the reporting period, as the debate on constitutional reform intensified. In the first part of the reporting

period, a small number of legislators disrupted LegCo proceedings in a continuation of the filibustering campaign we noted in previous reports.

On 3 July, Wong Yuk-man threw a glass and a sheaf of papers at the Chief Executive in a LegCo meeting. Wong was subsequently arrested (and released on bail) on suspicion of common assault. The following day, 4 July, five pan-democratic legislators were expelled from a Finance Committee meeting after they surrounded the Committee Chairman Ng Leung-sing and demanded his resignation. This followed action earlier in the week by Wong Yuk-man, who had submitted over 14,000 separate motions to challenge Ng.

On 8 July, LegCo's Committee on Rules and Procedures failed to reach consensus on how to stop filibustering. Committee Chairman Tam Yiu-chung said it was "regrettable" that no decision was reached, as "grey areas within LegCo's rules of procedure would continue to be exploited". On the same day, at the annual press conference to review the work of LegCo's House Committee, LegCo member Andrew Leung described the relationship between the executive and legislature as "at its lowest point ever".

In protest at the 31 August NPCSC decision, pan-democratic legislators announced a concerted campaign of non-cooperation. They subsequently clarified that they would continue to engage on legislation directly related to livelihood issues.

As part of the campaign, pan-democrat legislators contested and secured the Chairs of the Public Works and Establishment committees, which are subgroups of the Finance Committee responsible for scrutinising significant Hong Kong SAR Government expenditure proposals. To date the campaign has also seen pan-democrats table motions to adjourn committee meetings, delay decisions on individual funding items and simply not turn up to meetings (meaning the required quorum could not be reached).

As a result, a number of major public works projects were delayed. Writing in his blog on 24 November, Secretary for Development Paul Chan warned that the tactics could have a wide impact, including on the construction sector, which accounts for approximately 7 per cent of Hong Kong's GDP. Chan noted that in the previous legislative year, legislators had approved 13 capital works projects worth just HK\$3.6 billion, compared to 39 worth HK\$90 billion the year before that.

### **Political parties**

On 4 November, the Hong Kong University Public Opinion Programme published the results of a poll showing that the Hong Kong Federation of Students had become Hong Kong's most popular and best-known political group. According to the poll, the popularity of all Hong Kong's other political groups, including all major political parties, had dropped and a number recorded their lowest ever poll ratings.

### **The role of the Legislative Council in constitutional reform**

In our last report, we noted that members of LegCo had been invited to a meeting with the Chinese Government in Shanghai. This dialogue continued in the current reporting period, with Chief Secretary Carrie Lam hosting a series of meetings between pan-democrat legislators and Central Government Liaison Office Director Zhang Xiaoming. After the first meeting on 15 August, Lam said that, though it was not realistic to expect one meeting to

result in a consensus, the meeting had been held in a candid, open manner that allowed both sides to express their principled positions on issues relating to constitutional development. This sentiment was echoed by a number of the participants, including Democratic Party Chair Emily Lau, who said the meeting had provided a useful exchange, while noting that her party would support Occupy Central if Beijing failed to offer “genuine universal suffrage”.

On 20 August, 26 of the 27 pan-democrat legislators said they would veto any reform proposal for the 2017 Chief Executive election that did not meet international standards for universal suffrage, or that imposed unreasonable restrictions.

The following day, 48 legislators, including 14 pan-democratic legislators and others involved in the political reform process, attended a seminar hosted by Chairman of the Basic Law Committee Li Fei in Shenzhen. After the meeting, the pan-democrats had a closed-door session with Mr Li. Civic Party Leader Alan Leong described the talks as a “healthy starting point”, adding that pan-democrats would propose setting up a communication mechanism for regular meetings in the future.

Following the publication of the 31 August NPCSC Decision, on 17 October pan-democrats announced their intention of blocking the reform proposal and, as reported above, of launching a campaign of non-cooperation in protest at the Decision. This reflects the increasing polarisation of opinion within Hong Kong.

On 10 December, Chief Executive CY Leung urged pan-democratic lawmakers to set aside their personal interest and party line, and to vote for the proposal, which would allow universal suffrage in the 2017 Chief Executive election.

#### **Hong Kong Basic Law: Article 45**

The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

**Reaching consensus on constitutional reform will require all parties to engage in constructive dialogue within the parameters set out by the NPCSC Decision. The Legislative Council has a central role to play in re-establishing and steering a constructive dialogue aimed at producing consensus and paving the way to further reform. We hope that all sides engage fully in the next stage of the consultation process, in order to maximise the chances of meaningful progress.**

## **‘ONE COUNTRY, TWO SYSTEMS’**

Under ‘One Country, Two Systems’, Hong Kong enjoys a high degree of autonomy over its affairs, with the exception of foreign and defence matters.

On 7 August, in a speech about the White Paper, the Director of the Central Government Liaison Office Zhang Xiaoming said that the ‘One Country, Two Systems’ principle and the Central People’s Government Hong Kong policy had not changed and would remain unchanged. He added that the claim that the White Paper marked a policy change was founded on an inaccurate understanding of the ‘One Country, Two Systems’ model.

On 22 September, at a meeting with representatives of Hong Kong’s business sector, President Xi Jinping reiterated the message that Beijing’s policies towards Hong Kong had not changed and would not change: “We shall firmly adhere to the ‘One Country, Two Systems’ [principle] and the Basic Law. [We shall] firmly push ahead with Hong Kong’s democratic development, and maintain Hong Kong’s prosperity and stability.”

He restated his commitment to ‘One Country, Two Systems’ in Macao on 19 December, when he said:

“To continue to advance the cause of ‘one country, two systems’, we must stay committed to the fundamental purpose of ‘one country, two systems’, jointly safeguard national sovereignty, security and development interests, and maintain long-term prosperity and stability of Hong Kong and Macao. We must continue to govern Hong Kong and Macao and uphold the practice of ‘one country, two systems’ according to law. We must both adhere to the one-China principle and respect the differences of the two systems, both uphold the power of the Central Government and ensure a high degree of autonomy in the SARs, both give play to the role of the mainland as the staunch supporter of Hong Kong and Macao and increase their competitiveness. At no time should we focus only on one side to the neglect of the other. This is the only way leading to sound and steady progress. Otherwise, a misguided approach from the beginning, just like putting one’s left foot into the right shoe, would lead us to nowhere.”

After the Occupy Central protests, representatives of the Hong Kong SAR Government, mainland officials and academics referred to the need to improve Hong Kong people’s understanding of ‘One Country, Two Systems’ and the Basic Law. On 14 December, Secretary for Justice Rimsky Yuen said that more communication on the Basic Law was needed to forge community consensus. Yuen added that “many people hold diverse views on the mini-constitution, some of them even run contrary to the original intent of the law”.

On 15 December, Zhang Rongshun, Vice-Chairman of the Legislative Affairs Commission of the National People’s Congress Standing Committee, said: “There is a need to have a re-enlightenment about the ‘one country, two systems’ principle and national identity.” Some have interpreted this statement as marking a change in the Central People’s Government policy on Hong Kong. On 23 December, founding Chairman of the Democratic Party Martin Lee said: “Beijing’s message now is that the central government has changed its basic policies on Hong Kong in relation to the high degree of autonomy.”

During the reporting period, there were a number of events which, some commentators noted, had caused concern about interference in 'One Country, Two Systems'.

After the 17 August 'anti-Occupy Central' rally organised by the Alliance for Peace and Democracy (APD), media reports claimed that participants had joined the march after being promised free food and payment. There were also reports that many of the protestors were transported in from the Chinese mainland specifically for this protest. Organisers said they would investigate claims that a subsidiary of the General Association of Hong Kong Heyuan Societies had paid participants to attend the march, but did not undertake to investigate other claims.

In December, some commentators noted that the Hong Kong SAR Government had changed the sentence "Hong Kong people ruling Hong Kong" to "Hong Kong people administering Hong Kong" in the English-language version of the Hong Kong SAR Government factsheet about the Basic Law. Responding to a question asked in LegCo by Claudia Mo on 7 January 2015, the Secretary for Constitutional and Mainland Affairs, Raymond Tam, said "the update of the 'Hong Kong Fact Sheets – The Basic Law' is purely based on editorial refinement considerations. It is not intended to and will definitely not affect the provisions and the underlying principles of the Basic Law. The revisions will definitely not affect the PRC's [People's Republic of China's] authorisation of the HKSAR to implement the principles of 'one country, two systems', 'Hong Kong people administering Hong Kong' and a high degree of autonomy in accordance with the Basic Law."

In the same month, a report by the Reuters news agency claimed that pan-democratic legislator James To was followed by Chinese Government intelligence services in August. The report claimed that other lawmakers, political activists, academics and Catholic priests said they had been monitored or followed in recent months.

On 25–26 December, the Chief Executive visited Beijing to deliver his annual report on the work of his administration to President Xi Jinping. In public statements following the meetings, President Xi said that constitutional reform in Hong Kong had to be conducive to the livelihood of the citizens of Hong Kong; to social prosperity and stability; and to safeguarding national sovereignty, security and developmental interests. This was viewed by some commentators as marking a departure from the four major principles of constitutional development under the Basic Law set out in the Hong Kong SAR Government's first consultation document: Meeting the Interest of Different Sectors of the Society; Facilitating the Development of the Capitalist Economy; Gradual and Orderly Progress; Appropriate to the Actual Situation in the Hong Kong SAR.

On 19 December, it was announced that Maria Tam would be the new Chair of the Independent Commission against Corruption's (ICAC) Operations Review Committee – the body responsible for overseeing all investigations conducted by the ICAC. Tam is a Deputy of the NPC, as well as a member of the Basic Law Committee. Some commentators raised concerns at the appointment. The Democratic Party's James To noted that Tam's strong political opinions might lead the public to question the Committee's independence and impartiality.

On 24 October, James Tien, leader of the pro-establishment Liberal Party and long-time critic of CY Leung, called on the Chief Executive to consider tendering his resignation. On 27

October, the Chinese People's Political Consultative Conference (CPPCC) expelled Tien for "seriously violating" its charter and March resolution, which required delegates to support the Chief Executive governing Hong Kong. Speaking on 29 October, Tien said: "It was my mistake that I forgot about my identity as a CPPCC member [when I asked CY Leung to step down] ... I respect and accept the decision of the CPPCC." Tien added that he would be able to speak more freely when he was neither a member of the CPPCC nor leader of a political party.

**It is vital to Hong Kong's continuing stability and prosperity that confidence in 'One Country, Two Systems' is fully 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 developments closely and be ready to speak out on matters of concern.**

## **BASIC RIGHTS AND FREEDOMS**

### **Marches and demonstrations**

Aside from the protests already covered in this report, during the reporting period there were a number of marches and rallies on a variety of issues, including:

- On 1 July the annual demonstration marking the anniversary of the 1997 handover took place. Organisers claimed that 510,000 people took part, equalling the 2003 record. However, police estimates put peak numbers at 92,000, while Hong Kong University polls estimated turnout at 150–170,000, in line with numbers for recent years. One poll suggested that a majority of participants cited "genuine universal suffrage" and dissatisfaction with the White Paper as reasons for joining the march. Following the march, some protesters staged sit-ins. Police reported 511 arrests on charges of illegal assembly and obstructing police. Most of those arrested were released with a warning, while 25 of the group, including three legislators, were released on bail.
- On 17 August, the Alliance for Peace and Democracy (APD) staged an 'anti-Occupy Central' rally. This was the culmination of the group's month-long petition, during which APD organisers claimed to have gathered 1.5 million signatures. Organisers estimated that around 250,000 took part in the march. Police estimated that 111,000 took part, while Hong Kong University put the figure at between 79,000 and 88,000.
- There were a number of smaller pro-democracy marches, including a march from Causeway Bay to Central on 14 September, and a march from Central to the Central Government Liaison Office on 9 November.
- On 8 November, the Hong Kong Gay Pride rally took place, with 4,000 participants marching from Victoria Park to Central.

## Freedom of the press and freedom of expression

As we noted in our last report, the UK takes concerns about press freedom seriously. It is one of the fundamental freedoms protected by the Joint Declaration and enshrined in the Basic Law.

On 6 July, the Hong Kong Journalists Association (HKJA) released its 2014 annual report 'Press Freedom under Siege'. The report described the year under review as "the darkest for press freedom for several decades". It called on the Hong Kong SAR Government to fully respect the independence of the media by taking all possible measures to prevent violence against journalists; to reconsider its decision to deny a free-to-air TV licence to Hong Kong Television Network; to make a decision on TV and radio licence renewal that encourages media diversity; to enact freedom of information and archives legislation as a matter of urgency; and to review its policy on law reform to ensure that freedom of expression concerns are fully taken into account. The HKJA also called on media owners' senior executives to respect the right of journalists to carry out their duties without pressure, and to expose details of advertising boycotts.

On 26 July, the pro-democracy news website and blog House News announced its closure, citing "fear, political pressure and low revenue". In the two years since it was established, House News had become one of the biggest news sites in Hong Kong, with approximately 300,000 unique readers a day. Despite this, its founders believed that their critical stance toward the Hong Kong SAR Government and the CPG meant that companies chose not to (or felt unable to) advertise on the site. In a letter posted on the website on the day of its closure, co-founder Tony Tsoi referred to the wave of "white terror" and the "abnormal social and market atmosphere". He said that "not only are Hong Kong's core values distorted, so too is the market".

On 2 September, Edward Chin, a prominent backer of Occupy Central, had his regular column in the *Hong Kong Economic Journal (HKEJ)* cancelled. Chin told media that he had been told to "write less about politics". On 3 September, it was reported that the founder of the *HKEJ*, Lam Shan-muk had sold his remaining stake in the paper to an offshore trust company owned by Richard Li, Chairman of telecoms firm PCCW. Li already owned a 50 per cent stake in *HKEJ* after a HK\$250 million deal in 2006. In a written reply to questions from the *South China Morning Post*, Li said "the editorial policy has always rested with the editor". He added "as far as I am concerned, I see no changes".

For several nights starting on 12 October, anti-Occupy protesters gathered outside the offices of the openly pro-Occupy *Apple Daily* newspaper. This followed a cyber attack on the paper's website on the same day. Protesters told media that they were angry at the favourable coverage *Apple Daily* had given to the Occupy protests. The group managed to delay deliveries of the paper by up to six hours.

On 1 November, the press freedom group Journalism Educators for Press Freedom issued a statement voicing concern about the decision by television station TVB to move Assistant News Editor Ho Wing-hong from frontline duty to a position as Chief Researcher. Ho was responsible for airing the footage that appeared to show seven Hong Kong Police officers beating handcuffed protester Ken Tsang near Tamar Park. On 15 October, 27 members of TVB's news department published an open letter that disagreed with TVB's management of

the report: they were concerned that the voiceover accompanying the footage had been altered to be less critical.

On 25 November, a member of Now TV's news crew covering the police efforts to clear the Mong Kok protest site was arrested on charges of assaulting police. In a statement late on 25 November, Now TV described the arrest of their clearly identified crew member as "frustrating and regrettable". On 26 November, the Hong Kong Journalists Association issued a statement demanding his immediate release and called the incident "an outright violation of the media's right to report". Police responded in a statement on 26 November in which they "again remind journalists covering the operation, in particular when they are in between Police cordon and radical protesters, to take care of their personal safety to avoid unnecessary injuries".

**During the reporting period, the media, whether Hong Kong based or international, has played a vital role in both monitoring events and providing a forum for their discussion. We welcome the statements from the Hong Kong SAR Government that they respect and value press freedom, but remain very concerned at the growing number of reports of threats to that freedom, including self-censorship. Freedom of expression is at the heart of 'One Country, Two Systems' and is guaranteed in the Joint Declaration. We will continue to monitor events closely.**

### **Freedom of expression in the political sphere**

On 28 August, the Independent Commission against Corruption (ICAC) raided the home of Next Media Group Chairman Jimmy Lai, a prominent supporter of, and donor to, pan-democratic parties. ICAC officials also visited the home of Labour Party leader Lee Cheuk-yan, removing details of Lee's bank accounts. Lee told media that ICAC had informed him they were investigating links between donations that Lee and other legislators had received from Lai and a speech that Lee had given in the LegCo in January, in which he said Standard Chartered Bank had removed its adverts from some media under instruction from the Chief Executive.

The timing of the raids, just three days before the NPCSC Decision on constitutional reform was due to be published, provoked widespread criticism, including from pan-democrat lawmaker Claudia Mo, who said that the raids were part of a smear campaign directed at the pan-democrats as the debate on reform reached a critical juncture.

Speaking to media on 9 October, Lai said he had been the victim of three cyber attacks since July, which had resulted in the anonymous leaking of thousands of his emails. During this period, intense media speculation, primarily in the Chinese-language press, included suggestions that Jimmy Lai had received significant financial backing from the US and that he had provided funding to the Occupy movement. One newspaper, *Oriental Daily*, even ran a full-page obituary, claiming Lai had died. Lai denied all accusations of impropriety. On 12 December, Jimmy Lai resigned as Chairman of Next Media Group, saying that he wished to spend more time with his family and further pursue his personal interests.

**Since it was established in 1974, the ICAC's independence has been a critical factor in Hong Kong's fight against corruption. Clearly any evidence to the contrary would be extremely concerning. We will pay close attention to this issue in the forthcoming and subsequent reporting periods. Equally, as we noted in the last Six Monthly Report, it is also important that there should be transparency about the financing of political parties.**

## **EQUALITY**

### **Equal Opportunities Commission review**

On 8 July, the Equal Opportunities Commission (EOC) launched a three-month public consultation on review of the Discrimination Law. The review aimed to ensure that Hong Kong's domestic legislation continued to be effective in protecting equality rights, as guaranteed under the Basic Law and relevant international covenants. The consultation sought public views on how the four anti-discrimination ordinances – covering sex, family status, disability and race – should be reviewed, and whether they should be combined. During the public consultation, the EOC held public sessions and met over 140 stakeholder group representatives, including ethnic minority communities, rehabilitation organisations, women's groups, employees' and employers' groups, other concern groups and public organisations. The EOC reported that it had received over 100,000 written submissions and that it plans to submit a detailed report, with recommendations, to the Hong Kong SAR Government by the second half of 2015.

### **UN Committee on the Elimination of Discrimination against Women report**

In its meeting of 23 October 2014, the United Nations Committee on the Elimination of Discrimination against Women made a number of recommendations, for example that Hong Kong should take actions, including to:

- strengthen the mandate of the Women's Commission;
- intensify efforts to address the root causes of trafficking in women and girls, adopt comprehensive anti-trafficking legislation, and intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking;
- implement concrete measures on women in political and public life, to expedite the representation of women in politics; conduct a study on the impact that the electoral system of functional constituencies has on the equal participation of women in political life;
- improve access to education, particularly for those women and girls with disabilities;
- allocate adequate resources to ensure the effective combating of all forms of violence against women;
- strengthen the mechanisms to protect foreign women domestic workers from discrimination and abuse by employers, recruitment and placement agencies; and
- intensify efforts to combat discrimination against lesbian, transsexual and transgender women.

On 14 November, the Hong Kong SAR Government responded by setting out its position on the recommendations, noting: “In its Concluding Observations, the [UN] Committee has commented and made recommendations on a number of areas, which the Hong Kong SAR Government will conscientiously consider and positively respond to as far as practicable, duly taking into account the local circumstances.”

### **Lesbian, gay, bisexual and transgender symposium**

The first ever international symposium to discuss lesbian, gay, bisexual and transgender (LGBT) rights in Hong Kong took place on 29 August. More than 200 participants from academia, the legal profession, private and public sectors, religious groups, NGOs and concern groups attended the symposium. The event was organised by the Equal Opportunities Commission, the EU Office to Hong Kong and Macao, and the Gender Research Centre of the Hong Kong Institute of Asia-Pacific Studies at the Chinese University of Hong Kong, and was supported by the British Consulate-General Hong Kong and the British Council.

In his concluding remarks, EOC Chairman Dr York Chow said: “Irrespective of one’s personal views, the right to non-discrimination in public is an irrefutable right of all humans ... elsewhere around the world, we have already seen progress on this front, with many countries taking proactive steps to ensure the human rights of all and legislating against discrimination on the ground of sexual orientation, gender identity and intersex status. I hope these valuable lessons can help shape Hong Kong’s own path and help us anticipate our journey.”

### **Same-sex marriage**

During the reporting period, the Hong Kong SAR Government maintained its objection to the solemnisation of same-sex marriage in the British Consulate-General. Under the terms of the UK Marriage (Same Sex Couples) Act, which came into force in March 2014, if same-sex marriages are to take place at a British consulate, the host government must have no objection to such marriages. The Consulate-General will continue to advocate change on this issue.

## **UK-HONG KONG BILATERAL RELATIONS**

During the reporting period, a number of high-level visits took place:

The Hong Kong SAR Financial Secretary, Justice Secretary, Secretary for Financial Services & the Treasury, as well as the Secretary for Transport & Housing all visited the UK.

Baroness D’Souza, Speaker of the House of Lords visited Hong Kong.

There were also numerous exchanges of senior officials and experts on range of policy issues, including constitutional reform, LGBT rights and trade.

We have maintained a regular dialogue with the Chinese government regarding developments in Hong Kong, including through high level meetings between: the Prime Minister and both President Xi and Vice Premier Ma Kai; the Foreign Secretary and both Foreign Minister Wang Yi and Vice Premier Ma Kai; Foreign and Commonwealth Office Minister, Rt. Hon Hugo Swire MP and both Vice Minister of the International Liaison

Department of the Communist Party, Guo Yezhou, and the Chinese Ambassador to the United Kingdom.

## **FOREIGN AFFAIRS COMMITTEE INQUIRY INTO UK RELATIONS WITH HONG KONG**

On 22 July, the UK Foreign Affairs Select Committee (FAC) launched an inquiry entitled 'The UK's relations with Hong Kong: 30 Years after the Joint Declaration'.

The Committee's terms of reference are as follows:

“As co-signatory of the Joint Declaration, the UK retains an enduring commitment to Hong Kong following the transfer of sovereignty in 1997. This inquiry will consider how the FCO monitors the implementation of the Joint Declaration, as well as the broad range of the UK's relations with Hong Kong, including economic and cultural ties.”

The Chinese government strongly opposed the inquiry, calling it “foreign interference”.

As part of this inquiry, the FAC planned to visit Hong Kong in mid-December. This was in line with previous practice: for example, the FAC visited Hong Kong in 1998, 2000 and 2006 as part of separate inquiries. However, on 28 November the Deputy Head of Mission at the Chinese Embassy in London informed the FAC that the Committee would be prevented from visiting Hong Kong.

HM Government made clear to China the independence of Parliament from government and stressed that the role of the FAC was to scrutinise UK government policy, not China's internal affairs. We also expressed our strong objection, on repeated occasions, to the decision not to allow the Committee to visit Hong Kong.

On 2 December, an emergency debate on China's ban on the FAC visit was held in the House of Commons. This was only the fifth occasion an emergency debate has been held in this Parliament, and the first since March 2013. As the Committee noted in its 'mini report' (published 10 December):

“Those who took part [in the debate] were unanimous in expressing concern about the ban, which was described as ‘an extremely serious occurrence’ and an insult to the House of Commons.”

Speaking for the Government, Foreign and Commonwealth Office Minister of State Rt. Hon Hugo Swire MP noted that:

“The decision to refuse the members of the Foreign Affairs Committee ... entry into Hong Kong as part of their inquiry is wholly unjustified, counter-productive and ... unprecedented. It is not consistent with the positive trend in UK-China relations over the past year. It does not reflect that the UK and China have considerable shared interests in respect of Hong Kong. Nor is it in the spirit of the Sino-British Joint Declaration, which now remains central to Hong Kong's rights and freedoms.”

Following the decision not to travel to Hong Kong, the FAC held a series of video conferences with HM Consul General, and a range of individuals from Hong Kong's academic, business and political communities.

**It is perfectly reasonable for the Foreign Affairs Committee to want to visit Hong Kong, as it scrutinises the UK Government's policy and holds us to account. The decision to prevent the FAC from entering Hong Kong was wholly unjustified, counter-productive and contrary to the spirit of the Joint Declaration. We have repeatedly made this clear, both publicly and privately. HM Government hopes that visits of all types by Ministers, officials, parliamentarians, business people and students will continue actively in 2015 – in both directions.**

## **BILATERAL TRADE**

In 2013, bilateral trade in goods and services totalled £16.637 billion – up 2.7 per cent on the previous year. Of this, UK exports in goods and services to Hong Kong were £7.875 billion (5.4 per cent change year on year) and UK imports of goods and services were £8.762 billion (0.4 per cent change year on year) (source: Office for National Statistics).

For the period January–November 2014, UK exports of goods to Hong Kong were £5.9 billion – up 14.6 per cent compared with the same period last year, with a 2.2 per cent share of total exports. UK imports from Hong Kong were £6.9 billion, a 1.7 per cent increase year on year, with a 1.8 per cent share of the total. There was a 5.2 per cent increase in exports of goods to China passing through Hong Kong. Hong Kong remains a major entrepôt: in 2013, an estimated 11.2 per cent of the total two-way trade between the UK and mainland China (some £4.7 billion) was routed through Hong Kong.

As of December 2014, UK Trade & Investment (UKTI) Hong Kong has supported UK companies in winning approximately £450 million of contracts, a figure we expect to rise to £1 billion by the end of the financial year. Hong Kong remains a very welcoming market for UK companies to do business (over 560 UK companies have offices there), and we are working with the Hong Kong SAR Government to ensure that the few barriers to trade and investment are removed. UK companies are currently engaged in all the major infrastructure programmes in Hong Kong, and we are working to grow this footprint. UK investment in Hong Kong (conservatively valued at £33 billion) makes up about 35 per cent of total UK investment in Asia.

The UK remains the number one destination for outward direct investment from Hong Kong. Hong Kong also has an important role in the outbound investment from China, particularly in financial services. UKTI Hong Kong works closely with colleagues in China and UK intermediaries in order to secure this foreign direct investment. As announced by the Chancellor in September, one such investment is Harvest Fund Management's new UK office. This is the first Chinese asset management company to set up in Europe.

## **EDUCATIONAL LINKS**

The UK continued to attract strong interest from the outbound student market from Hong Kong, especially for the schools market (in which Hong Kong is the top sending region to the

UK). Around 70 institutions participated in the British Council's annual two-day August education exhibition, which over 6,700 visitors attended. A further 40 UK institutions took part in an earlier one-day Education UK schools and colleges exhibition, which was attended by around 1,000 visitors.

In September, 18 scholars from 12 UK institutions went to Hong Kong under the Scholarships for Excellence programme, launched in 2006 by the Department for Business, Innovation and Skills to encourage more UK students to undertake periods of study in Hong Kong.

In November, the British Council convened an inaugural Inter-University Social Enterprise Taskforce at the University of Hong Kong. The taskforce consists of a team of academics and researchers from the eight Hong Kong universities and an international advisory board, with members from the UK, the USA, Germany and India. It will facilitate collaboration in the field of social enterprise education in Hong Kong and promote research opportunities with overseas universities.

In addition, the British Council delivered programmes in English-language learning and examination services, and participated in a range of arts, education and science partnerships. From July to December 2014:

- 53,401 people visited/contacted the customer services centre;
- 29,328 exam papers were conducted (as of 4 December);
- 10,903 learners were engaged in English learning services;
- 87 arts, education and science events took place; and
- 651,430 people visited the British Council Hong Kong website.

## **ECONOMY AND FINANCE**

### **Economy**

Hong Kong's economy regained its momentum to grow at 2.7 per cent in the third quarter of 2014. The improvement was driven by stronger goods and services exports and private consumption. Despite this, the Hong Kong SAR Government forecast 2014 full year growth of 2.2 per cent due to the uneven global recovery, a slowdown in China, pending interest rate rises and uncertainties created by the Occupy movement. Nonetheless, the fundamentals remained robust – inflation at 3.4 per cent in October, general wage increases at 4 per cent in June and unemployment low at 3.3 per cent in October.

Total goods exports grew 1.3 per cent in the third quarter year on year (yoy). Exports to mainland China (which make up over 50 per cent of Hong Kong's exports) continue to be the principal driver. Services exports improved during the third quarter, growing 2 per cent (yoy), after a 2 per cent decline in the second quarter. This was due to strong inbound tourism in quarter three and growth in trade, financial and business services with markets in Asia.

Domestic demand also rose moderately in the third quarter. Private consumption expenditure strengthened, to grow 3.2 per cent (yoy) after two quarters of slowdown. Retail sales rallied in September, rising by 4.8 per cent, after successive drops each month from April to July. A significant part of this renewed demand was strong sales of new smartphones.

Hong Kong's property market began to reheat in the third quarter. In the first nine months of 2014, residential property prices rose by 6 per cent and trading volumes increased by 25 per cent, meaning that September prices exceeded the 1997 peak by 54 per cent.

Nonetheless, immediate risks to the economy from the property sector remained low: macroprudential measures kept loan-to-value ratios and mortgage delinquency rates in check, and the Hong Kong SAR Government surpassed targets to increase supply.

In November, the Hong Kong SAR Government's Commission on Poverty reported that the overall poverty rate had dropped from 15.2 per cent of inhabitants in 2012 to 14.5 per cent in 2013, the lowest level for five years. The Hong Kong SAR Government attributed the improvement to policy interventions to alleviate poverty among the elderly.

### **Impact of Occupy protests**

Occupy Central dampened tourism growth and had an impact on some individual retailers. The drop in Hong Kong's Purchasing Managers Index to 47.7 in October suggests that the protests may also have affected wider business sentiment. However, early estimates of the impact on 2014 GDP growth suggest that the impact has been limited to between 0.1 per cent and 0.4 per cent. Key indicators of confidence – such as the Hang Seng Index, the Hong Kong dollar, capital flight and credit ratings agencies' reports – all held up.

The Hong Kong Monetary Authority affirmed that financial services (accounting for 15 per cent of GDP) continued as normal throughout Occupy; the same was true of the trade and logistics sectors (accounting for 26 per cent of GDP). Individual retailers with outlets near the protest sites reported losses, but early statistics suggest that the third quarter's recovery in retail spend continued overall. Furthermore, despite early concerns about the impact of restrictions on group travel from mainland China, Occupy's impact on tourist numbers appears to have been lower than first feared: tourist growth remained strong, at 13 per cent growth (yoy) in October.

### **Financial services**

The Shanghai Hong Kong Stock Connect (SHKSC) pilot was launched on 17 November. SHKSC enables overseas investors to invest in the mainland's A-share market through Hong Kong, and mainland investors to invest in Hong Kong. After a first-day rush northbound (from Hong Kong to China) demand has been subdued, with less than 20 per cent of daily quotas being filled (quotas are 10.5 billion renminbi (RMB) southbound, RMB 13 billion northbound).

Despite slack early demand, most parties remain optimistic. Financial Secretary John Tsang said he was confident that the scheme will be successful in the long term. Market participants agree that more investor education work is required to grow investors' confidence in the scheme.

The Hong Kong Monetary Authority made several policy announcements in November to support offshore RMB liquidity. This included abolishing the RMB 20,000 conversion limit on Hong Kong residents' RMB deposits, to make it more convenient for Hong Kong residents to participate in RMB financial transactions.

## **RMB market**

According to Standard Chartered's Renminbi Growth Index, Hong Kong's share of the global market declined from 66 per cent in April 2014 to 62 per cent in October 2014, as other offshore centres grew. However, as the global RMB market continued to grow by 70 per cent year on year, 2014 saw robust growth across all areas of RMB activity in Hong Kong. For example, daily turnover in RMB traded in Hong Kong's Real Time Gross Settlement system grew by RMB 800 billion in October, up 100 per cent from a year earlier. Despite a smaller share of the global market, Hong Kong retained its position as the top offshore RMB hub.

## **Taxation**

On 15 September, the Hong Kong SAR Government committed to join the Organisation for Economic Co-operation and Development (OECD) Common Reporting Standard for Automatic Exchange of Financial Account Information in Tax Matters. It has committed to implementing the standard by the end of 2018. In the reporting period, it has opened a public consultation prior to introducing new legislation to allow implementation of the standard.

## **Asset recovery**

Hong Kong has continued its engagement in global asset recovery work. In October, the Hong Kong SARG published a *Guide to Asset Recovery in the Hong Kong Special Administrative Region*. Hong Kong officials attended the Third Arab Forum on Asset Recovery in Geneva on 1–3 November.

## **Competition law**

On 9 October, Hong Kong's Competition Commission published draft guidelines for the enforcement of the 2012 Competition Ordinance. The Commission plans to finalise these guidelines and therefore bring the Competition Ordinance into force in 2015.

## **Intellectual property protection**

The Hong Kong SAR Government introduced a Copyright (Amendment) Bill in the Legislative Council on 18 June. The Bill introduces provisions for the protection of digital copyright and is comparable to legislation in other advanced economies.

## **International and regional trade**

The Hong Kong SAR Government continues to be an active member of the World Trade Organization (WTO). In November, the WTO concluded its Trade Policy Review of Hong Kong. The Chairperson of the review concluded that "*Hong Kong, China* was applauded for being one of the most liberal and market-friendly economies, characterized by a sound legal system and transparent regulatory settings".

Hong Kong is participating in plurilateral negotiations on the Trade in Services Agreement and the Environmental Goods Agreement. On 11 July, the Hong Kong SAR Government announced that it had concluded the first round of negotiations on a Free Trade Agreement (FTA) with the Association of Southeast Asian Nations (ASEAN). Hong Kong's FTA with Chile entered into force on 9 October, supplementing existing FTAs with New Zealand and the European Free Trade Area member states.

## CONCLUSION

The Foreign Secretary's Six Monthly Reports to Parliament reflect the importance that the Government attaches to the continued full and faithful implementation of the Sino-British Joint Declaration on Hong Kong.

During this reporting period, 'One Country, Two Systems' has been put to perhaps the most serious test since the handover in 1997. Overall it has continued to function well. The Government will continue to press for the rights and freedoms enshrined in the Basic Law and Joint Declaration to be respected. There are some areas of concern which are of fundamental importance to Hong Kong's continued stability and prosperity, and which we will monitor closely.

Press freedom continues to be the most prominent of these. We have noted that during the reporting period, the media played a crucial role in monitoring developments in the constitutional reform process and in providing a forum for their discussion. We welcome confirmation that the Hong Kong SAR Government remains committed to protecting the freedom of the press. We hope it will also continue to make every effort to ensure that the environment in which the media operate is conducive to full and frank reporting, free of self-censorship.

The issue of constitutional reform remained central to developments during the reporting period. It is an issue to which the British Government continues to attach great importance. The Joint Declaration does not provide for the implementation of universal suffrage, but it guarantees Hong Kong's high degree of autonomy and the Hong Kong people's basic rights and freedoms. The British Government's long-standing position is that these freedoms are best protected by a transition to universal suffrage.

Continued constitutional development, in line with the Basic Law and the relevant interpretations and decisions of the NPCSC, will help to improve Hong Kong's system of governance and maintain confidence in 'One Country, Two Systems'. We therefore welcome the continued commitment of the Hong Kong SAR Government and the CPG to implement universal suffrage, in line with the Basic Law, the relevant NPC decisions and the long-standing wish of the Hong Kong people. Such a step would strengthen Hong Kong not weaken it. We look to the Hong Kong SAR Government and legislators to work together to achieve the necessary political agreement to allow this to happen.

The 30th anniversary of the signing of the Joint Declaration was marked on 19 December 2014. During the reporting period, the Declaration's fundamental importance, continuing validity, and the UK's role in overseeing implementation of its commitments formed the subject of much discussion. The British Government's position is clear: the Joint Declaration is a valid and legally binding treaty, registered with the United Nations. It guarantees Hong Kong's high degree of autonomy and Hong Kong people's basic rights and freedoms. The UK has an ongoing, legitimate interest in its implementation and will continue to monitor developments, including through future Six Monthly Reports.

## LIST OF ABBREVIATIONS

<b>APD</b>	Alliance for Peace and Democracy
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CAPO</b>	Complaints against Police Office
<b>CE</b>	Chief Executive
<b>CPG</b>	Central People's Government
<b>CPPCC</b>	Chinese People's Political Consultative Conference
<b>EOC</b>	Equal Opportunities Commission
<b>FAC</b>	Foreign Affairs Committee
<b>FTA</b>	Free Trade Agreement
<b>HKBA</b>	Hong Kong Bar Association
<b>HKFS</b>	Hong Kong Federation of Students
<b>HKJA</b>	Hong Kong Journalists Association
<b>HKSAR</b>	Hong Kong Special Administrative Region
<b>LegCo</b>	Legislative Council
<b>LGBT</b>	lesbian, gay, bisexual and transgender
<b>NC</b>	Nominating Committee
<b>NPC</b>	National People's Congress
<b>NPCSC</b>	National People's Congress Standing Committee
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>RMB</b>	Renminbi
<b>SAR</b>	Special Administrative Region
<b>SHKSC</b>	Shanghai Hong Kong Stock Connect
<b>UKTI</b>	UK Trade & Investment
<b>WTO</b>	World Trade Organization
<b>yoy</b>	year on year