

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which do not involve travel to, from, or through other parts of the People's Republic of China.

(8) The United States should make every effort to ensure that the negotiations described in paragraph (7) lead to procompetitive air service agreements.

(Pub. L. 102-383, title I, §104, Oct. 5, 1992, 106 Stat. 1451.)

§ 5715. Cultural and educational exchanges

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) Hong Kong should be accorded separate status as a full partner under the Fulbright Academic Exchange Program (apart from the United Kingdom before July 1, 1997, and apart from the People's Republic of China thereafter), with the continuation or establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to visit the United States on nonimmigrant visas for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong Kong, the Librarian of Congress, acting through the Congressional Research Service, should seek to expand educational and informational ties with the Council.

(Pub. L. 102-383, title I, §105, Oct. 5, 1992, 106 Stat. 1452.)

SUBCHAPTER II—STATUS OF HONG KONG IN UNITED STATES LAW

§ 5721. Continued application of United States law

(a) In general

Notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States shall continue to apply with respect to Hong Kong, on and after July 1, 1997, in the same manner as the laws of the United States were applied with respect to Hong Kong before such date unless otherwise expressly provided by law or by Executive order under section 5722 of this title.

(b) International agreements

For all purposes, including actions in any court in the United States, the Congress approves the continuation in force on and after July 1, 1997, of all treaties and other international agreements, including multilateral conventions, entered into before November 27, 2019, between the United States and Hong Kong, or entered into before November 27, 2019, between the United States and the United Kingdom and applied to Hong Kong, unless or until terminated in accordance with law. If in carrying out this subchapter, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 5731 of this title.

(Pub. L. 102-383, title II, §201, Oct. 5, 1992, 106 Stat. 1452; Pub. L. 116-76, §4(a)(1), Nov. 27, 2019, 133 Stat. 1163.)

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-76 substituted “November 27, 2019” for “such date” in two places.

§ 5722. Presidential order

(a) Presidential determination

On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of section 5721(a) of this title to such law or provision of law.

(b) Factor for consideration

In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) Publication in Federal Register

Any Executive order issued under subsection (a) shall be published in the Federal Register

and shall specify the law or provision of law affected by the order.

(d) Termination of suspension

An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register.

(Pub. L. 102-383, title II, §202, Oct. 5, 1992, 106 Stat. 1453.)

§ 5723. Rules and regulations

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this chapter.

(Pub. L. 102-383, title II, §203, Oct. 5, 1992, 106 Stat. 1453.)

§ 5724. Consultation with Congress

In carrying out this subchapter, the President shall consult appropriately with the Congress.

(Pub. L. 102-383, title II, §204, Oct. 5, 1992, 106 Stat. 1453.)

§ 5725. Secretary of State report regarding the autonomy of Hong Kong

(a) Certification

(1) In general

Except as provided in subsection (b), the Secretary of State, on at least an annual basis, and in conjunction with the report required under section 5731 of this title, shall issue a certification to Congress that—

(A) indicates whether Hong Kong continues to warrant treatment under United States law in the same manner as United States laws were applied to Hong Kong before July 1, 1997;

(B) addresses—

- (i) commercial agreements;
- (ii) law enforcement cooperation, including extradition requests;
- (iii) sanctions enforcement;
- (iv) export controls, and any other agreements and forms of exchange involving dual use, critical, or other sensitive technologies;
- (v) any formal treaties or agreements between the United States and Hong Kong;
- (vi) other areas of bilateral cooperation that the Secretary determines to be relevant; and
- (vii) decision-making within the Government of Hong Kong, including executive, legislative, and judicial structures, including—

- (I) freedom of assembly;
- (II) freedom of speech;
- (III) freedom of expression; and
- (IV) freedom of the press, including the Internet and social media;

(viii) universal suffrage, including the ultimate aim of the selection of the Chief

Executive and all members of the Legislative Council by universal suffrage;

- (ix) judicial independence;
- (x) police and security functions;
- (xi) education;
- (xii) laws or regulations regarding treason, secession, sedition, subversion against the Central People's Government of the People's Republic of China, or theft of state secrets;
- (xiii) laws or regulations regarding foreign political organizations or bodies;
- (xiv) laws or regulations regarding political organizations; and
- (xv) other rights enumerated in the Universal Declaration of Human Rights, done at Paris December 10, 1948, and the International Covenant on Civil and Political Rights, done at New York December 19, 1966; and

(C) includes—

(i) an assessment of the degree of any erosions to Hong Kong's autonomy in each category listed in subparagraph (B) resulting from actions by the Government of the People's Republic of China that are inconsistent with its commitments under the Basic Law or the Joint Declaration;

(ii) an evaluation of the specific impacts to any areas of cooperation between the United States and Hong Kong resulting from erosions of autonomy in Hong Kong or failures of the Government of Hong Kong to fulfill obligations to the United States under international agreements within the categories listed in subparagraph (B); and

(iii) a list of any specific actions taken by the United States Government in response to any erosion of autonomy or failures to fulfill obligations to the United States under international agreements identified in this certification and the report required under section 5731 of this title.

(2) Factor for consideration

In making each certification under paragraph (1), the Secretary of State should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(3) Additional certifications

The certification under section (1) shall be issued annually, but the Secretary may issue additional certifications at any time if the Secretary determines it is warranted by circumstances in Hong Kong.

(b) Waiver authority

(1) In general

The Secretary of State may waive the application of subsection (a) if—

(A) the Secretary determines that such a waiver is in the national security interests of the United States; and

(B) on or before the date on which the waiver takes effect, the Secretary notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Af-