

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.)

**Editorial Notes**

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-

fairs of the House of Representatives of the intent to waive such subsection;

**(2) Partial waiver**

Except for the list of actions described in subsection (a)(1)(C)(iii), the Secretary of State may waive relevant parts of the application of subsection (a) if the President issues an Executive order under section 5722 of this title that suspends the application of any particular United States law to Hong Kong.

(Pub. L. 102-383, title II, §205, as added Pub. L. 116-76, §4(a)(2), Nov. 27, 2019, 133 Stat. 1163.)

**§ 5726. Treatment of Hong Kong applicants for visas to study or work in the United States**

**(a) Visa eligibility for certain Hong Kong students**

Notwithstanding any other provision of law, applications for visas to enter, study, or work in the United States, which are submitted by otherwise qualified applicants who resided in Hong Kong in 2014 and later, may not be denied primarily on the basis of the applicant's subjection to politically-motivated arrest, detention, or other adverse government action.

**(b) Implementation**

The Secretary of State shall take such steps as may be necessary to ensure that consular officers are aware of the policy described in subsection (a) and receive appropriate training and support to ensure that the policy is carried out so that affected individuals do not face discrimination or unnecessary delay in the processing of their visa applications, including—

- (1) providing specialized training for all consular officers posted to the United States Embassy in Beijing or to any United States consulate in the People's Republic of China, the Hong Kong Special Administrative Region, or the Macau Special Administrative Region;
- (2) instructing the United States Consulate in Hong Kong to maintain an active list of individuals who are known to have been formally charged, detained, or convicted by the Government of Hong Kong Special Administrative Region or by the Government of the People's Republic of China, or intermediaries of such governments, based on politically-motivated considerations related to their exercise of rights enumerated in the Universal Declaration of Human Rights, done at Paris December 10, 1948, or the International Covenant on Civil and Political Rights, done at New York December 19, 1966, to facilitate the cross-checking of visa applications for Hong Kong residents; and
- (3) updating any relevant United States Government websites with information on the policy described in subsection (a).

**(c) Cooperation with like-minded countries**

The Secretary of State shall contact appropriate representatives of other democratic countries, particularly those who receive a large number of applicants for student and employment visas from Hong Kong—

- (1) to inform them of the United States policy regarding arrests for participation in non-violent protests in Hong Kong; and