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§ 5701. Findings and declarations

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:

(A) The People's Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People's Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.

(B) The Hong Kong Special Administrative Region of the People's Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.

(C) There is provision for implementation of a "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force.

(E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People's Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today's regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United

States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

(Pub. L. 102-383, § 2, Oct. 5, 1992, 106 Stat. 1448.)

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116-76, § 1(a), Nov. 27, 2019, 133 Stat. 1161, provided that: "This Act [enacting sections 5725 and 5726 of this title, amending section 5721 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Hong Kong Human Rights and Democracy Act of 2019'."

SHORT TITLE

Pub. L. 102-383, § 1, Oct. 5, 1992, 106 Stat. 1448, provided that: "This Act [enacting this chapter] may be cited as the 'United States-Hong Kong Policy Act of 1992'."

HONG KONG AUTONOMY

Pub. L. 116-149, July 14, 2020, 134 Stat. 663, as amended by Pub. L. 116-283, div. A, title XII, § 1252(b), Jan. 1, 2021, 134 Stat. 3954, provided that:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Hong Kong Autonomy Act'.

"(b) TABLE OF CONTENTS.—[Omitted.]

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ALIEN; NATIONAL; NATIONAL OF THE UNITED STATES.—The terms 'alien', 'national', and 'national of the United States' have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES AND LEADERSHIP.—The term 'appropriate congressional committees and leadership' means—

"(A) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, and the majority leader and the minority leader of the Senate; and

"(B) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Speaker and the minority leader of the House of Representatives.

"(3) BASIC LAW.—The term 'Basic Law' means the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

"(4) CHINA.—The term 'China' means the People's Republic of China.

"(5) ENTITY.—The term 'entity' means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any other form of business collaboration.

"(6) FINANCIAL INSTITUTION.—The term 'financial institution' means a financial institution specified in section 5312(a)(2) of title 31, United States Code.

"(7) HONG KONG.—The term 'Hong Kong' means the Hong Kong Special Administrative Region of the People's Republic of China.

"(8) JOINT DECLARATION.—The term 'Joint Declaration' means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984.

“(9) KNOWINGLY.—The term ‘knowingly’, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge of the conduct, the circumstance, or the result.

“(10) PERSON.—Except as otherwise specifically provided, the term ‘person’ means an individual or entity.

“(11) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) any citizen or national of the United States;

“(B) any alien lawfully admitted for permanent residence in the United States;

“(C) any entity organized under the laws of the United States or any jurisdiction within the United States (including a foreign branch of such an entity); or

“(D) any person located in the United States.

“SEC. 3. FINDINGS.

“Congress makes the following findings:

“(1) The Joint Declaration and the Basic Law clarify certain obligations and promises that the Government of China has made with respect to the future of Hong Kong.

“(2) The obligations of the Government of China under the Joint Declaration were codified in a legally-binding treaty, signed by the Government of the United Kingdom of Great Britain and Northern Ireland and registered with the United Nations.

“(3) The obligations of the Government of China under the Basic Law originate from the Joint Declaration, were passed into the domestic law of China by the National People’s Congress, and are widely considered by citizens of Hong Kong as part of the de facto legal constitution of Hong Kong.

“(4) Foremost among the obligations of the Government of China to Hong Kong is the promise that, pursuant to Paragraph 3b of the Joint Declaration, ‘the Hong Kong Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People’s Government’.

“(5) The obligation specified in Paragraph 3b of the Joint Declaration is referenced, reinforced, and extrapolated on in several portions of the Basic Law, including Articles 2, 12, 13, 14, and 22.

“(6) Article 22 of the Basic Law establishes that ‘No department of the Central People’s Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.’

“(7) The Joint Declaration and the Basic Law make clear that additional obligations shall be undertaken by China to ensure the ‘high degree of autonomy’ of Hong Kong.

“(8) Paragraph 3c of the Joint Declaration states, as reinforced by Articles 2, 16, 17, 18, 19, and 22 of the Basic Law, that Hong Kong ‘will be vested with executive, legislative and independent judicial power, including that of final adjudication’.

“(9) On multiple occasions, the Government of China has undertaken actions that have contravened the letter or intent of the obligation described in paragraph (8) of this section, including the following:

“(A) In 1999, the Standing Committee of the National People’s Congress overruled a decision by the Hong Kong Court of Final Appeal on the right of abode.

“(B) On multiple occasions, the Government of Hong Kong, at the advice of the Government of China, is suspected to have not allowed persons entry into Hong Kong allegedly because of their support for democracy and human rights in Hong Kong and China.

“(C) The Liaison Office of China in Hong Kong has, despite restrictions on interference in the affairs of Hong Kong as detailed in Article 22 of the Basic Law—

“(i) openly expressed support for candidates in Hong Kong for Chief Executive and Legislative Council;

“(ii) expressed views on various policies for the Government of Hong Kong and other internal matters relating to Hong Kong; and

“(iii) on April 17, 2020, asserted that both the Liaison Office of China in Hong Kong and the Hong Kong and Macau Affairs Office of the State Council ‘have the right to exercise supervision * * * on affairs regarding Hong Kong and the mainland, in order to ensure correct implementation of the Basic Law’.

“(D) The National People’s Congress has passed laws requiring Hong Kong to pass laws banning disrespectful treatment of the national flag and national anthem of China.

“(E) The State Council of China released a white paper on June 10, 2014, that stressed the ‘comprehensive jurisdiction’ of the Government of China over Hong Kong and indicated that Hong Kong must be governed by ‘patriots’.

“(F) The Government of China has directed operatives to kidnap and bring to the mainland, or is otherwise responsible for the kidnapping of, residents of Hong Kong, including businessman Xiao Jianhua and bookseller Gui Minhai.

“(G) The Government of Hong Kong, acting with the support of the Government of China, introduced an extradition bill that would have permitted the Government of China to request and enforce extradition requests for any individual present in Hong Kong, regardless of the legality of the request or the degree to which it compromised the judicial independence of Hong Kong.

“(H) The spokesman for the Standing Committee of the National People’s Congress said, ‘Whether Hong Kong’s laws are consistent with the Basic Law can only be judged and decided by the National People’s Congress Standing Committee. No other authority has the right to make judgments and decisions.’

“(10) Paragraph 3e of the Joint Declaration states, as reinforced by Article 5 of the Basic Law, that the ‘current social and economic systems in Hong Kong will remain unchanged, as so will the life-style.’

“(11) On multiple occasions, the Government of China has undertaken actions that have contravened the letter or intent of the obligation described in paragraph (10) of this section, including the following:

“(A) In 2002, the Government of China pressured the Government of Hong Kong to introduce ‘patriotic’ curriculum in primary and secondary schools.

“(B) The governments of China and Hong Kong proposed the prohibition of discussion of Hong Kong independence and self-determination in primary and secondary schools, which infringes on freedom of speech.

“(C) The Government of Hong Kong mandated that Mandarin, and not the native language of Cantonese, be the language of instruction in Hong Kong schools.

“(D) The governments of China and Hong Kong agreed to a daily quota of mainland immigrants to Hong Kong, which is widely believed by citizens of Hong Kong to be part of an effort to ‘mainlandize’ Hong Kong.

“(12) Paragraph 3e of the Joint Declaration states, as reinforced by Articles 4, 26, 27, 28, 29, 30, 31, 32[,] 33, 34, and 39 of the Basic Law, that the ‘rights and freedoms, including those of person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law’ in Hong Kong.

“(13) On multiple occasions, the Government of China has undertaken actions that have contravened the letter or intent of the obligation described in paragraph (12) of this section, including the following:

“(A) On February 26, 2003, the Government of Hong Kong introduced a national security bill that would have placed restrictions on freedom of speech and other protected rights.

“(B) The Liaison Office of China in Hong Kong has pressured businesses in Hong Kong not to advertise in newspapers and magazines critical of the governments of China and Hong Kong.

“(C) The Hong Kong Police Force selectively blocked demonstrations and protests expressing opposition to the governments of China and Hong Kong or the policies of those governments.

“(D) The Government of Hong Kong refused to renew [a] work visa for a foreign journalist, allegedly for hosting a speaker from the banned Hong Kong National Party.

“(E) The Justice Department of Hong Kong selectively prosecuted cases against leaders of the Umbrella Movement, while failing to prosecute police officers accused of using excessive force during the protests in 2014.

“(F) On April 18, 2020, the Hong Kong Police Force arrested 14 high-profile democracy activists and campaigners for their role in organizing a protest march that took place on August 18, 2019, in which almost 2,000,000 people rallied against a proposed extradition bill.

“(14) Articles 45 and 68 of the Basic Law assert that the selection of Chief Executive and all members of the Legislative Council of Hong Kong should be by ‘universal suffrage.’

“(15) On multiple occasions, the Government of China has undertaken actions that have contravened the letter or intent of the obligation described in paragraph (14) of this section, including the following:

“(A) In 2004, the National People’s Congress created new, antidemocratic procedures restricting the adoption of universal suffrage for the election of the Chief Executive of Hong Kong.

“(B) The decision by the National People’s Congress on December 29, 2007, which ruled out universal suffrage in 2012 elections and set restrictions on when and if universal suffrage will be implemented.

“(C) The decision by the National People’s Congress on August 31, 2014, which placed limits on the nomination process for the Chief Executive of Hong Kong as a condition for adoption of universal suffrage.

“(D) On November 7, 2016, the National People’s Congress interpreted Article 104 of the Basic Law in such a way to disqualify 6 elected members of the Legislative Council.

“(E) In 2018, the Government of Hong Kong banned the Hong Kong National Party and blocked the candidacy of pro-democracy candidates.

“(16) The ways in which the Government of China, at times with the support of a subservient Government of Hong Kong, has acted in contravention of its obligations under the Joint Declaration and the Basic Law, as set forth in this section, are deeply concerning to the people of Hong Kong, the United States, and members of the international community who support the autonomy of Hong Kong.

“SEC. 4. SENSE OF CONGRESS REGARDING HONG KONG.

“It is the sense of Congress that—

“(1) the United States continues to uphold the principles and policy established in the United States-Hong Kong Policy Act of 1992 [Pub. L. 102-383] (22 U.S.C. 5701 et seq.) and the Hong Kong Human Rights and Democracy Act of 2019 (Public Law 116-76; 22 U.S.C. 5701 note), which remain consistent with China’s obligations under the Joint Declaration and certain promulgated objectives under the Basic Law, including that—

“(A) as set forth in section 101(1) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C.

5711(1)), ‘The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong’s confidence and prosperity, Hong Kong’s role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.’; and

“(B) as set forth in section 2(5) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5701(5)), ‘Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.’;

“(2) although the United States recognizes that, under the Joint Declaration, the Government of China ‘resumed the exercise of sovereignty over Hong Kong with effect on 1 July 1997’, the United States supports the autonomy of Hong Kong in furtherance of the United States-Hong Kong Policy Act of 1992 and the Hong Kong Human Rights and Democracy Act of 2019 and advances the desire of the people of Hong Kong to continue the ‘one country, two systems’ regime, in addition to other obligations promulgated by China under the Joint Declaration and the Basic Law;

“(3) in order to support the benefits and protections that Hong Kong has been afforded by the Government of China under the Joint Declaration and the Basic Law, the United States should establish a clear and unambiguous set of penalties with respect to foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, to be involved in the contravention of the obligations of China under the Joint Declaration and the Basic Law and the financial institutions transacting with those foreign persons;

“(4) the Secretary of State should provide an unclassified assessment of the reason for imposition of certain economic penalties on entities, so as to permit a clear path for the removal of economic penalties if the sanctioned behavior is reversed and verified by the Secretary of State;

“(5) relevant Federal agencies should establish a multilateral sanctions regime with respect to foreign persons involved in the contravention of the obligations of China under the Joint Declaration and the Basic Law; and

“(6) in addition to the penalties on foreign persons, and financial institutions transacting with those foreign persons, for the contravention of the obligations of China under the Joint Declaration and the Basic Law, the United States should take steps, in a time of crisis, to assist permanent residents of Hong Kong who are persecuted or fear persecution as a result of the contravention by China of its obligations under the Joint Declaration and the Basic Law to become eligible to obtain lawful entry into the United States.

“SEC. 5. IDENTIFICATION OF FOREIGN PERSONS INVOLVED IN THE EROSION OF THE OBLIGATIONS OF CHINA UNDER THE JOINT DECLARATION OR THE BASIC LAW AND FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT SIGNIFICANT TRANSACTIONS WITH THOSE PERSONS.

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [July 14, 2020], if the Secretary of State, in consultation with the Secretary of the Treasury, determines that a foreign person is materially contributing to, has materially contributed to, or attempts to materially contribute to the failure of the Government of China to meet its obligations under the Joint Declaration or the Basic Law, the Secretary of State shall submit to the appropriate congressional committees and leadership a report that includes—

“(1) an identification of the foreign person; and

“(2) a clear explanation for why the foreign person was identified and a description of the activity that resulted in the identification.

“(b) IDENTIFYING FOREIGN FINANCIAL INSTITUTIONS.—Not earlier than 30 days and not later than 60 days after the Secretary of State submits to the appropriate congressional committees and leadership the report under subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall submit to the appropriate congressional committees and leadership a report that identifies any foreign financial institution that knowingly conducts a significant transaction with a foreign person identified in the report under subsection (a).

“(c) EXCLUSION OF CERTAIN INFORMATION.—

“(1) INTELLIGENCE.—The Secretary of State shall not disclose the identity of a person in a report submitted under subsection (a) or (b), or an update under subsection (e), if the Director of National Intelligence determines that such disclosure could compromise an intelligence operation, activity, source, or method of the United States.

“(2) LAW ENFORCEMENT.—The Secretary of State shall not disclose the identity of a person in a report submitted under subsection (a) or (b), or an update under subsection (e), if the Attorney General, in coordination, as appropriate, with the Director of the Federal Bureau of Investigation, the head of any other appropriate Federal law enforcement agency, and the Secretary of the Treasury, determines that such disclosure could reasonably be expected—

“(A) to compromise the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis;

“(B) to jeopardize the integrity or success of an ongoing criminal investigation or prosecution;

“(C) to endanger the life or physical safety of any person; or

“(D) to cause substantial harm to physical property.

“(3) NOTIFICATION REQUIRED.—If the Director of National Intelligence makes a determination under paragraph (1) or the Attorney General makes a determination under paragraph (2), the Director or the Attorney General, as the case may be, shall notify the appropriate congressional committees and leadership of the determination and the reasons for the determination.

“(d) EXCLUSION OR REMOVAL OF FOREIGN PERSONS AND FOREIGN FINANCIAL INSTITUTIONS.—

“(1) FOREIGN PERSONS.—The President may exclude a foreign person from the report under subsection (a), or an update under subsection (e), or remove a foreign person from the report or update prior to the imposition of sanctions under section 6(a) if the material contribution (as described in subsection (g)) that merited inclusion in that report or update—

“(A) does not have a significant and lasting negative effect that contravenes the obligations of China under the Joint Declaration and the Basic Law;

“(B) is not likely to be repeated in the future; and

“(C) has been reversed or otherwise mitigated through positive countermeasures taken by that foreign person.

“(2) FOREIGN FINANCIAL INSTITUTIONS.—The President may exclude a foreign financial institution from the report under subsection (b), or an update under subsection (e), or remove a foreign financial institution from the report or update prior to the imposition of sanctions under section 7(a) if the significant transaction or significant transactions of the foreign financial institution that merited inclusion in that report or update—

“(A) does not have a significant and lasting negative effect that contravenes the obligations of China under the Joint Declaration and the Basic Law;

“(B) is not likely to be repeated in the future; and

“(C) has been reversed or otherwise mitigated through positive countermeasures taken by that foreign financial institution.

“(3) NOTIFICATION REQUIRED.—If the President makes a determination under paragraph (1) or (2) to exclude or remove a foreign person or foreign financial institution from a report under subsection (a) or (b), as the case may be, the President shall notify the appropriate congressional committees and leadership of the determination and the reasons for the determination.

“(e) UPDATE OF REPORTS.—

“(1) IN GENERAL.—Each report submitted under subsections (a) and (b) shall be updated in an ongoing manner and, to the extent practicable, updated reports shall be resubmitted with the annual report under section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731).

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to terminate the requirement to update the reports under subsections (a) and (b) upon the termination of the requirement to submit the annual report under section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731).

“(f) FORM OF REPORTS.—

“(1) IN GENERAL.—Each report under subsection (a) or (b) (including updates under subsection (e)) shall be submitted in unclassified form and made available to the public.

“(2) CLASSIFIED ANNEX.—The explanations and descriptions included in the report under subsection (a)(2) (including updates under subsection (e)) may be expanded on in a classified annex.

“(g) MATERIAL CONTRIBUTIONS RELATED TO OBLIGATIONS OF CHINA DESCRIBED.—For purposes of this section, a foreign person materially contributes to the failure of the Government of China to meet its obligations under the Joint Declaration or the Basic Law if the person—

“(1) took action that resulted in the inability of the people of Hong Kong—

“(A) to enjoy freedom of assembly, speech, press, or independent rule of law; or

“(B) to participate in democratic outcomes; or

“(2) otherwise took action that reduces the high degree of autonomy of Hong Kong.

“SEC. 6. SANCTIONS WITH RESPECT TO FOREIGN PERSONS THAT CONTRAVENE THE OBLIGATIONS OF CHINA UNDER THE JOINT DECLARATION OR THE BASIC LAW.

“(a) IMPOSITION OF SANCTIONS.—

“(1) IN GENERAL.—On and after the date on which a foreign person is included in the report under section 5(a) or an update to that report under section 5(e), the President may impose sanctions described in subsection (b) with respect to that foreign person.

“(2) MANDATORY SANCTIONS.—Not later than one year after the date on which a foreign person is included in the report under section 5(a) or an update to that report under section 5(e), the President shall impose sanctions described in subsection (b) with respect to that foreign person.

“(b) SANCTIONS DESCRIBED.—The sanctions described in this subsection with respect to a foreign person are the following:

“(1) PROPERTY TRANSACTIONS.—The President may, pursuant to such regulations as the President may prescribe, prohibit any person from—

“(A) acquiring, holding, withholding, using, transferring, withdrawing, transporting, or exporting any property that is subject to the jurisdiction of the United States and with respect to which the foreign person has any interest;

“(B) dealing in or exercising any right, power, or privilege with respect to such property; or

“(C) conducting any transaction involving such property.

“(2) EXCLUSION FROM THE UNITED STATES AND REVOCATION OF VISA OR OTHER DOCUMENTATION.—In the case of a foreign person who is an individual, the President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to

exclude from the United States, the foreign person, subject to regulatory exceptions to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

“SEC. 7. SANCTIONS WITH RESPECT TO FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT SIGNIFICANT TRANSACTIONS WITH FOREIGN PERSONS THAT CONTRAVENE THE OBLIGATIONS OF CHINA UNDER THE JOINT DECLARATION OR THE BASIC LAW.

“(a) IMPOSITION OF SANCTIONS.—

“(1) INITIAL SANCTIONS.—Not later than one year after the date on which a foreign financial institution is included in the report under section 5(b) or an update to that report under section 5(e), the President shall impose not fewer than 5 of the sanctions described in subsection (b) with respect to that foreign financial institution.

“(2) EXPANDED SANCTIONS.—Not later than two years after the date on which a foreign financial institution is included in the report under section 5(b) or an update to that report under section 5(e), the President shall impose each of the sanctions described in subsection (b).

“(b) SANCTIONS DESCRIBED.—The sanctions described in this subsection with respect to a foreign financial institution are the following:

“(1) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making loans or providing credits to the foreign financial institution.

“(2) PROHIBITION ON DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the foreign financial institution as a primary dealer in United States Government debt instruments.

“(3) PROHIBITION ON SERVICE AS A REPOSITORY OF GOVERNMENT FUNDS.—The foreign financial institution may not serve as agent of the United States Government or serve as repository for United States Government funds.

“(4) FOREIGN EXCHANGE.—The President may, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and involve the foreign financial institution.

“(5) BANKING TRANSACTIONS.—The President may, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve the foreign financial institution.

“(6) PROPERTY TRANSACTIONS.—The President may, pursuant to such regulations as the President may prescribe, prohibit any person from—

“(A) acquiring, holding, withholding, using, transferring, withdrawing, transporting, importing, or exporting any property that is subject to the jurisdiction of the United States and with respect to which the foreign financial institution has any interest;

“(B) dealing in or exercising any right, power, or privilege with respect to such property; or

“(C) conducting any transaction involving such property.

“(7) RESTRICTION ON EXPORTS, REEXPORTS, AND TRANSFERS.—The President, in consultation with the Secretary of Commerce, may restrict or prohibit exports, reexports, and transfers (in-country) by any person (as defined in section 4801(8) of title 50, United

States Code) of commodities, software, and technology subject to the jurisdiction of the United States directly or indirectly to the foreign financial institution.

“(8) BAN ON INVESTMENT IN EQUITY OR DEBT.—The President may, pursuant to such regulations or guidelines as the President may prescribe, prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of the foreign financial institution.

“(9) EXCLUSION OF CORPORATE OFFICERS.—The President may direct the Secretary of State, in consultation with the Secretary of the Treasury and the Secretary of Homeland Security, to exclude from the United States any alien that is determined to be a corporate officer or principal of, or a shareholder with a controlling interest in, the foreign financial institution, subject to regulatory exceptions to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

“(10) SANCTIONS ON PRINCIPAL EXECUTIVE OFFICERS.—The President may impose on the principal executive officer or officers of the foreign financial institution, or on individuals performing similar functions and with similar authorities as such officer or officers, any of the sanctions described in paragraphs (1) through (8) that are applicable.

“(c) TIMING OF SANCTIONS.—The President may impose sanctions required under subsection (a) with respect to a financial institution included in the report under section 5(b) or an update to that report under section 5(e) beginning on the day on which the financial institution is included in that report or update.

“SEC. 8. WAIVER, TERMINATION, EXCEPTIONS, AND CONGRESSIONAL REVIEW PROCESS.

“(a) NATIONAL SECURITY WAIVER.—Unless a disapproval resolution is enacted under subsection (e), the President may waive the application of sanctions under section 6 or 7 with respect to a foreign person or foreign financial institution if the President—

“(1) determines that the waiver is in the national security interest of the United States; and

“(2) submits to the appropriate congressional committees and leadership a report on the determination and the reasons for the determination.

“(b) TERMINATION OF SANCTIONS AND REMOVAL FROM REPORT.—Unless a disapproval resolution is enacted under subsection (e), the President may terminate the application of sanctions under section 6 or 7 with respect to a foreign person or foreign financial institution and remove the foreign person from the report required under section 5(a) or the foreign financial institution from the report required under section 5(b), as the case may be, if the Secretary of State, in consultation with the Secretary of the Treasury, determines that the actions taken by the foreign person or foreign financial institution that led to the imposition of sanctions—

“(1) do not have a significant and lasting negative effect that contravenes the obligations of China under the Joint Declaration and the Basic Law;

“(2) are not likely to be repeated in the future; and

“(3) have been reversed or otherwise mitigated through positive countermeasures taken by that foreign person or foreign financial institution.

“(c) TERMINATION OF ACT.—

“(1) REPORT.—

“(A) IN GENERAL.—Not later than July 1, 2046, the President, in consultation with the Secretary of State, the Secretary of the Treasury, and the heads of such other Federal agencies as the President considers appropriate, shall submit to Congress a report evaluating the implementation of this Act and sanctions imposed pursuant to this Act.

“(B) ELEMENTS.—The President shall include in the report submitted under subparagraph (A) an as-

assessment of whether this Act and the sanctions imposed pursuant to this Act should be terminated.

“(2) TERMINATION.—This Act and the sanctions imposed pursuant to this Act shall remain in effect unless a termination resolution is enacted under subsection (e) after July 1, 2047.

“(d) EXCEPTION RELATING TO IMPORTATION OF GOODS.—

“(1) IN GENERAL.—The authorities and requirements to impose sanctions under sections 6 and 7 shall not include the authority or requirement to impose sanctions on the importation of goods.

“(2) GOOD DEFINED.—In this subsection, the term ‘good’ means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

“(e) CONGRESSIONAL REVIEW.—

“(1) RESOLUTIONS.—

“(A) DISAPPROVAL RESOLUTION.—In this section, the term ‘disapproval resolution’ means only a joint resolution of either House of Congress—

“(i) the title of which is as follows: ‘A joint resolution disapproving the waiver or termination of sanctions with respect to a foreign person that contravenes the obligations of China with respect to Hong Kong or a foreign financial institution that conducts a significant transaction with that person.’; and

“(ii) the sole matter after the resolving clause of which is the following: ‘Congress disapproves of the action under section 8 of the Hong Kong Autonomy Act relating to the application of sanctions imposed with respect to a foreign person that contravenes the obligations of China with respect to Hong Kong, or a foreign financial institution that conducts a significant transaction with that person, on _____ relating to _____’, with the first blank space being filled with the appropriate date and the second blank space being filled with a short description of the proposed action.

“(B) TERMINATION RESOLUTION.—In this section, the term ‘termination resolution’ means only a joint resolution of either House of Congress—

“(i) the title of which is as follows: ‘A joint resolution terminating sanctions with respect to foreign persons that contravene the obligations of China with respect to Hong Kong and foreign financial institutions that conduct significant transactions with those persons.’; and

“(ii) the sole matter after the resolving clause of which is the following: ‘The Hong Kong Autonomy Act and any sanctions imposed pursuant to that Act shall terminate on _____’, with the blank space being filled with the termination date.

“(C) COVERED RESOLUTION.—In this subsection, the term ‘covered resolution’ means a disapproval resolution or a termination resolution.

“(2) INTRODUCTION.—A covered resolution may be introduced—

“(A) in the House of Representatives, by the majority leader or the minority leader; and

“(B) in the Senate, by the majority leader (or the majority leader’s designee) or the minority leader (or the minority leader’s designee).

“(3) FLOOR CONSIDERATION IN HOUSE OF REPRESENTATIVES.—If a committee of the House of Representatives to which a covered resolution has been referred has not reported the resolution within 10 legislative days after the date of referral, that committee shall be discharged from further consideration of the resolution.

“(4) CONSIDERATION IN THE SENATE.—

“(A) COMMITTEE REFERRAL.—

“(i) DISAPPROVAL RESOLUTION.—A disapproval resolution introduced in the Senate shall be—

“(I) referred to the Committee on Banking, Housing, and Urban Affairs if the resolution relates to an action that is not intended to significantly alter United States foreign policy with regard to China; and

“(II) referred to the Committee on Foreign Relations if the resolution relates to an action that is intended to significantly alter United States foreign policy with regard to China.

“(ii) TERMINATION RESOLUTION.—A termination resolution introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations.

“(B) REPORTING AND DISCHARGE.—If a committee to which a covered resolution was referred has not reported the resolution within 10 legislative days after the date of referral of the resolution, that committee shall be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar.

“(C) PROCEEDING TO CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time after the Committee on Banking, Housing, and Urban Affairs or the Committee on Foreign Relations, as the case may be, reports a covered resolution to the Senate or has been discharged from consideration of such a resolution (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

“(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a covered resolution shall be decided without debate.

“(E) CONSIDERATION OF VETO MESSAGES.—Debate in the Senate of any veto message with respect to a covered resolution, including all debatable motions and appeals in connection with the resolution, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

“(5) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

“(A) TREATMENT OF SENATE RESOLUTION IN HOUSE.—In the House of Representatives, the following procedures shall apply to a covered resolution received from the Senate (unless the House has already passed a resolution relating to the same proposed action):

“(i) The resolution shall be referred to the appropriate committees.

“(ii) If a committee to which a resolution has been referred has not reported the resolution within 10 legislative days after the date of referral, that committee shall be discharged from further consideration of the resolution.

“(iii) Beginning on the third legislative day after each committee to which a resolution has been referred reports the resolution to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

“(iv) The resolution shall be considered as read. All points of order against the resolution and against its consideration are waived. The previous question shall be considered as ordered on the resolution to final passage without intervening motion except 2 hours of debate equally divided and controlled by the offeror of the mo-

tion to proceed (or a designee) and an opponent. A motion to reconsider the vote on passage of the resolution shall not be in order.

“(B) TREATMENT OF HOUSE RESOLUTION IN SENATE.—

“(i) RECEIVED BEFORE PASSAGE OF SENATE RESOLUTION.—If, before the passage by the Senate of a covered resolution, the Senate receives an identical resolution from the House of Representatives, the following procedures shall apply:

“(I) That resolution shall not be referred to a committee.

“(II) With respect to that resolution—

“(aa) the procedure in the Senate shall be the same as if no resolution had been received from the House of Representatives; but

“(bb) the vote on passage shall be on the resolution from the House of Representatives.

“(ii) RECEIVED AFTER PASSAGE OF SENATE RESOLUTION.—If, following passage of a covered resolution in the Senate, the Senate receives an identical resolution from the House of Representatives, that resolution shall be placed on the appropriate Senate calendar.

“(iii) NO SENATE COMPANION.—If a covered resolution is received from the House of Representatives, and no companion resolution has been introduced in the Senate, the Senate procedures under this subsection shall apply to the resolution from the House of Representatives.

“(C) APPLICATION TO REVENUE MEASURES.—The provisions of this paragraph shall not apply in the House of Representatives to a covered resolution that is a revenue measure.

“(6) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

“(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

“(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“SEC. 9. IMPLEMENTATION; PENALTIES.

“(a) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to the extent necessary to carry out this Act.

“(b) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of section 6 or 7 or any regulation, license, or order issued to carry out that section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

“SEC. 10. RULE OF CONSTRUCTION.

“Nothing in this Act shall be construed as an authorization of military force against China.”

[Pub. L. 116-283, div. A, title XII, §1252(b)(2), Jan. 1, 2021, 134 Stat. 3954, which directed amendment of section 7(b)(7) of Pub. L. 116-149, set out above, by inserting “by any person (as defined in section 4801(8) of title 50, United States Code)” after “(in country)”, was executed by making the insertion after “(in-country)”, to reflect the probable intent of Congress.]

HONG KONG HUMAN RIGHTS AND DEMOCRACY

Pub. L. 116-76, §§ 2, 3, 5-8, Nov. 27, 2019, 133 Stat. 1161, 1162, 1166-1170, provided that:

“SEC. 2. DEFINITIONS.

“In this Act [see Short Title of 2019 Amendment note above]:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Foreign Relations of the Senate;

“(B) the Committee on Armed Services of the Senate;

“(C) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(E) the Committee on the Judiciary of the Senate;

“(F) the Committee on Foreign Affairs of the House of Representatives;

“(G) the Committee on Armed Services of the House of Representatives;

“(H) the Committee on Financial Services of the House of Representatives;

“(I) the Committee on Homeland Security of the House of Representatives; and

“(J) the Committee on the Judiciary of the House of Representatives.

“(2) SOCIAL CREDIT SYSTEM.—The term ‘social credit system’ means a system proposed by the Government of the People’s Republic of China and scheduled for implementation by 2020, which would—

“(A) use existing financial credit systems, public records, online activity, and other tools of surveillance to aggregate data on every Chinese citizen and business; and

“(B) use such data to monitor, shape, and rate certain financial, social, religious, or political behaviors.

“(3) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a United States citizen;

“(B) a lawfully admitted permanent resident of the United States; or

“(C) an entity organized under the laws of—

“(i) the United States; or

“(ii) any jurisdiction within the United States, including a foreign branch of such an entity.

“SEC. 3. STATEMENT OF POLICY.

“It is the policy of the United States—

“(1) to reaffirm the principles and objectives set forth in the United States-Hong Kong Policy Act of 1992 (Public Law 102-383) [22 U.S.C. 5701 et seq.], namely that—

“(A) the United States has ‘a strong interest in the continued vitality, prosperity, and stability of Hong Kong’;

“(B) ‘[s]upport for democratization is a fundamental principle of United States foreign policy’ and therefore ‘naturally applies to United States policy toward Hong Kong’;

“(C) ‘the human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong [and] serve as a basis for Hong Kong’s continued economic prosperity’; and

“(D) Hong Kong must remain sufficiently autonomous from the People’s Republic of China 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’;

“(2) to support the high degree of autonomy and fundamental rights and freedoms of the people of Hong Kong, as enumerated by—

“(A) the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong, done at Beijing December 19, 1984 (referred to in this Act as the ‘Joint Declaration’);

“(B) the International Covenant on Civil and Political Rights, done at New York December 19, 1966; and

“(C) the Universal Declaration of Human Rights, done at Paris December 10, 1948;

“(3) to support the democratic aspirations of the people of Hong Kong, including the ‘ultimate aim’ of the selection of the Chief Executive and all members of the Legislative Council by universal suffrage, as articulated in the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (referred to in this Act as the ‘Basic Law’);

“(4) to urge the Government of the People’s Republic of China to uphold its commitments to Hong Kong, including allowing the people of Hong Kong to govern Hong Kong with a high degree of autonomy and without undue interference, and ensuring that Hong Kong voters freely enjoy the right to elect the Chief Executive and all members of the Hong Kong Legislative Council by universal suffrage;

“(5) to support the establishment of a genuine democratic option to freely and fairly nominate and elect the Chief Executive of Hong Kong, and the establishment by 2020 of open and direct democratic elections for all members of the Hong Kong Legislative Council;

“(6) to support the robust exercise by residents of Hong Kong of the rights to free speech, the press, and other fundamental freedoms, as provided by the Basic Law, the Joint Declaration, and the International Covenant on Civil and Political Rights;

“(7) to support freedom from arbitrary or unlawful arrest, detention, or imprisonment for all Hong Kong residents, as provided by the Basic Law, the Joint Declaration, and the International Covenant on Civil and Political Rights;

“(8) to draw international attention to any violations by the Government of the People’s Republic of China of the fundamental rights of the people of Hong Kong, as provided by the International Covenant on Civil and Political Rights, and any encroachment upon the autonomy guaranteed to Hong Kong by the Basic Law and the Joint Declaration;

“(9) to protect United States citizens and long-term permanent residents living in Hong Kong, as well as people visiting and transiting through Hong Kong;

“(10) to maintain the economic and cultural ties that provide significant benefits to both the United States and Hong Kong; and

“(11) to coordinate with allies, including the United Kingdom, Australia, Canada, Japan, and the Republic of Korea, to promote democracy and human rights in Hong Kong.

“SEC. 5. ANNUAL REPORT ON VIOLATIONS OF UNITED STATES EXPORT CONTROL LAWS AND UNITED NATIONS SANCTIONS OCCURRING IN HONG KONG.

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Nov. 27, 2019], and annually thereafter until the date that is 7 years after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit a report to the committees specified in subsection (b) that includes—

“(1) an assessment of the nature and extent of violations of United States export control and sanctions laws occurring in Hong Kong;

“(2) to the extent possible, the identification of—

“(A) any items that were reexported from Hong Kong in violation of the laws referred to in paragraph (1);

“(B) the countries and persons to which the items referred to in subparagraph (A) were reexported; and

“(C) how such items were used;

“(3) an assessment of whether sensitive dual-use items subject to the export control laws of the United States are being—

“(A) transhipped through Hong Kong; and

“(B) used to develop—

“(i) the Sharp Eyes, Skynet, Integrated Joint Operations Platform, or other systems of mass surveillance and predictive policing; or

“(ii) the ‘social credit system’ of the People’s Republic of China;

“(4) an assessment of the efforts by the Government of the People’s Republic of China to use the status of Hong Kong as a separate customs territory to import items into the People’s Republic of China from Hong Kong in violation of the export control laws of the United States, whether as part of the Greater Bay Area plan, through the assignment by Beijing of Hong Kong as a national technology and innovation center, or through other programs that may exploit Hong Kong as a conduit for controlled sensitive technology;

“(5) an assessment of whether the Government of Hong Kong has adequately enforced sanctions imposed by the United Nations;

“(6) a description of the types of goods and services transhipped or reexported through Hong Kong in violation of such sanctions to—

“(A) North Korea or Iran; or

“(B) other countries, regimes, or persons subject to such sanctions for engaging in activities—

“(i) relating to international terrorism, international narcotics trafficking, or the proliferation of weapons of mass destruction; or

“(ii) that otherwise present a threat to the national security, foreign policy, or economy of the United States; and

“(7) an assessment of whether shortcomings in the enforcement of export controls or sanctions by the Government of Hong Kong necessitates the assignment of additional Department of the Treasury, Department of Commerce, or Department of State personnel to the United States Consulate in Hong Kong.

“(b) COMMITTEES SPECIFIED.—The committees specified in this subsection are—

“(1) the Committee on Foreign Relations of the Senate;

“(2) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(3) the Committee on Commerce, Science, and Transportation of the Senate;

“(4) the Committee on Foreign Affairs of the House of Representatives; and

“(5) the Committee on Energy and Commerce of the House of Representatives.

“(c) FORM OF REPORT.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

“SEC. 6. PROTECTING UNITED STATES CITIZENS AND OTHERS FROM RENDITION TO THE PEOPLE’S REPUBLIC OF CHINA.

“(a) POLICY STATEMENTS.—It is the policy of the United States—

“(1) to safeguard United States citizens from extradition, rendition, or abduction to the People’s Republic of China from Hong Kong for trial, detention, or any other purpose;

“(2) to safeguard United States businesses in Hong Kong from economic coercion and intellectual property theft;

“(3) pursuant to section 103(7) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(7)), to encourage United States businesses ‘to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law’; and

“(4) pursuant to section 201(b) of such Act (22 U.S.C. 5721(b)), to evaluate, not less frequently than annually and as circumstances dictate whether the Government of Hong Kong is ‘legally competent to carry out its obligations’ under treaties and international agreements established between the United States and Hong Kong.

“(b) RESPONSE TO THREAT OF RENDITION.—Not later than 30 days after the President determines that legislation proposed or enacted by the Government of Hong Kong would put United States citizens at risk of extradition or rendition to the People’s Republic of China or to other countries that lack protections for the rights

of defendants, the President shall submit a report to the appropriate congressional committees that—

“(1) contains a strategy for protecting United States citizens and businesses in Hong Kong;

“(2) assesses the potential risks of the legislation to United States citizens residing in, traveling to, or transiting through Hong Kong; and

“(3) determines whether—

“(A) additional resources are needed for American Citizen Services at the United States Consulate in Hong Kong; and

“(B) the Government of Hong Kong is ‘legally competent’ to administer the United States-Hong Kong Agreement for the Surrender of Fugitive Offenders, done at Hong Kong December 20, 1996, or other relevant law enforcement agreements between the United States and Hong Kong.

“SEC. 7. SANCTIONS RELATING TO UNDERMINING FUNDAMENTAL FREEDOMS AND AUTONOMY IN HONG KONG.

“(a) IDENTIFICATION OF PERSONS RESPONSIBLE FOR UNDERMINING FUNDAMENTAL FREEDOMS AND AUTONOMY IN HONG KONG.—

“(1) IN GENERAL.—The President shall submit a report to the appropriate congressional committees, in accordance with paragraph (2), that identifies each foreign person that the President determines is responsible for—

“(A) the extrajudicial rendition, arbitrary detention, or torture of any person in Hong Kong; or

“(B) other gross violations of internationally recognized human rights in Hong Kong.

“(2) TIMING OF REPORTS.—The President shall submit to the appropriate congressional committees—

“(A) the report required under paragraph (1)—

“(i) not later than 180 days after the date of the enactment of this Act [Nov. 27, 2019]; and

“(ii) not less frequently than annually thereafter in conjunction with the publication of the report required under section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731); and

“(B) an update to the report not later than 15 days after any new action is taken under subsection (b) based on the discovery of new information described in paragraph (1).

“(3) CONSIDERATION OF CERTAIN INFORMATION.—In preparing the report required under paragraph (1), the President shall consider—

“(A) information provided jointly by the chairperson and ranking member of each of the appropriate congressional committees; and

“(B) information obtained by other countries or reputable nongovernmental organizations that monitor violations of human rights abuses.

“(4) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

“(b) IMPOSITION OF SANCTIONS.—The President shall impose the sanctions described in subsection (c) with respect to each foreign person identified in the report required under subsection (a)(1).

“(c) SANCTIONS DESCRIBED.—The sanctions described in this subsection are the following:

“(1) ASSET BLOCKING.—The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of a foreign person identified in the report required under subsection (a)(1) if such property and interests in property are in the United States, come within the United States, or come within the possession or control of a United States person.

“(2) INELIGIBILITY FOR VISAS, ADMISSION, OR PAROLE.—

“(A) VISAS, ADMISSION, OR PAROLE.—An alien described in subsection (a)(1) is—

“(i) inadmissible to the United States;

“(ii) ineligible to receive a visa or other documentation to enter the United States; and

“(iii) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

“(B) CURRENT VISAS REVOKED.—

“(i) IN GENERAL.—An alien described in subsection (a)(1) is subject to revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

“(ii) IMMEDIATE EFFECT.—A revocation under clause (i) shall—

“(I) take effect immediately; and

“(II) automatically cancel any other valid visa or entry documentation that is in the alien’s possession.

“(3) PENALTIES.—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a foreign person that violates, attempts to violate, conspires to violate, or causes a violation of paragraph (1) to the same extent that such penalties apply to a person that commits an unlawful act described in subsection (a) of such section 206.

“(d) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

“(e) WAIVER.—The President may waive the application of sanctions under this section with respect to a person identified in the report required under subsection (a)(1) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.

“(f) EXCEPTIONS.—

“(1) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—Sanctions under this section shall not apply to any activity subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

“(2) EXCEPTION TO COMPLY WITH INTERNATIONAL OBLIGATIONS AND FOR LAW ENFORCEMENT ACTIVITIES.—Sanctions under subsection (c)(2) shall not apply with respect to an alien if admitting or paroling the alien into the United States is necessary—

“(A) to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations; or

“(B) to carry out or assist law enforcement activity in the United States.

“(3) EXCEPTION RELATING TO IMPORTATION OF GOODS.—

“(A) IN GENERAL.—The authorities and requirements to impose sanctions authorized under this section shall not include the authority or a requirement to impose sanctions on the importation of goods.

“(B) GOOD DEFINED.—In this paragraph, the term ‘good’ means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

“(g) TERMINATION OF SANCTIONS.—The President may terminate the application of sanctions under this section with respect to a person if the President determines and reports to the appropriate congressional committees not less than 15 days before the termination takes effect that—

“(1) information exists that the person did not engage in the activity for which sanctions were imposed;

“(2) the person has been prosecuted appropriately for the activity for which sanctions were imposed;

“(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage in an activity described in subsection (a)(1) in the future; or

“(4) the termination of the sanctions is in the national security interests of the United States.

“(h) SUNSET.—This section, and any sanctions imposed under this section, shall terminate on the date that is 5 years after the date of the enactment of this Act [Nov. 27, 2019].

“(i) DEFINITIONS.—In this section:

“(1) ADMISSION; ADMITTED; ALIEN.—The terms ‘admission’, ‘admitted’, and ‘alien’ have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

“(2) FOREIGN PERSON.—The term ‘foreign person’ means a person that is not a United States person.

“SEC. 8. SANCTIONS REPORTS.

“(a) IN GENERAL.—In accordance with section 7, the President shall submit, to the appropriate congressional committees, a report that includes—

“(1) a list of each foreign person with respect to which the President imposed sanctions during the year preceding the submission of the report;

“(2) a description of the type of sanctions imposed with respect to each such person;

“(3) the number of foreign persons with respect to which the President terminated sanctions under section 7 during that year;

“(4) the dates on which such sanctions were imposed or terminated, as applicable;

“(5) the reasons for imposing or terminating such sanctions; and

“(6) a description of the efforts of the President to encourage the governments of other countries to impose sanctions that are similar to the sanctions authorized under section 7.

“(b) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The President shall publish the report required under subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.”

Executive Documents

EX. ORD. NO. 13936. THE PRESIDENT'S EXECUTIVE ORDER ON HONG KONG NORMALIZATION

Ex. Ord. No. 13936, July 14, 2020, 85 F.R. 43413, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the United States-Hong Kong Policy Act of 1992 (Public Law 102-393 [102-383]) [22 U.S.C. 5701 et seq.], the Hong Kong Human Rights and Democracy Act of 2019 (Public Law 116-76) [see Short Title of 2019 Amendment note set out above], the Hong Kong Autonomy Act of 2020, signed into law July 14, 2020 [set out as a note above], the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.) (NEA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, determine, pursuant to section 202 of the United States-Hong Kong Policy Act of 1992 [22 U.S.C. 5722], that the Special Administrative Region of Hong Kong (Hong Kong) is no longer sufficiently autonomous to justify differential treatment in relation to the People's Republic of China (PRC or China) under the particular United States laws and provisions thereof set out in this order. In late May 2020, the National

People's Congress of China announced its intention to unilaterally and arbitrarily impose national security legislation on Hong Kong. This announcement was merely China's latest salvo in a series of actions that have increasingly denied autonomy and freedoms that China promised to the people of Hong Kong under the 1984 Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong (Joint Declaration). As a result, on May 27, 2020, the Secretary of State announced that the PRC had fundamentally undermined Hong Kong's autonomy and certified and reported to the Congress, pursuant to sections 205 and 301 of the United States-Hong Kong Policy Act of 1992 [22 U.S.C. 5725 and 5731], as amended, respectively, that Hong Kong no longer warrants treatment under United States law in the same manner as United States laws were applied to Hong Kong before July 1, 1997. On May 29, 2020, I directed the heads of executive departments and agencies (agencies) to begin the process of eliminating policy exemptions under United States law that give Hong Kong differential treatment in relation to China.

China has since followed through on its threat to impose national security legislation on Hong Kong. Under this law, the people of Hong Kong may face life in prison for what China considers to be acts of secession or subversion of state power—which may include acts like last year's widespread anti-government protests. The right to trial by jury may be suspended. Proceedings may be conducted in secret. China has given itself broad power to initiate and control the prosecutions of the people of Hong Kong through the new Office for Safeguarding National Security. At the same time, the law allows foreigners to be expelled if China merely suspects them of violating the law, potentially making it harder for journalists, human rights organizations, and other outside groups to hold the PRC accountable for its treatment of the people of Hong Kong.

I therefore determine that the situation with respect to Hong Kong, including recent actions taken by the PRC to fundamentally undermine Hong Kong's autonomy, constitutes an unusual and extraordinary threat, which has its source in substantial part outside the United States, to the national security, foreign policy, and economy of the United States. I hereby declare a national emergency with respect to that threat.

In light of the foregoing, I hereby determine and order:

SECTION 1. It shall be the policy of the United States to suspend or eliminate different and preferential treatment for Hong Kong to the extent permitted by law and in the national security, foreign policy, and economic interest of the United States.

SEC. 2. Pursuant to section 202 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5722), I hereby suspend the application of section 201(a) of the United States-Hong Kong Policy Act of 1992, as amended (22 U.S.C. 5721(a)), to the following statutes:

(a) section 103 of the Immigration Act of 1990 [Pub. L. 101-649] (8 U.S.C. 1152 note);

(b) sections 203(c), 212(1), and 221(c) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1153(c), 1182(1), and 1201(c), respectively);

(c) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(d) section 721(m) of the Defense Production Act of 1950, as amended (50 U.S.C. 4565(m));

(e) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); and

(f) section 1304 of title 19, United States Code.

SEC. 3. Within 15 days of the date of this order [July 14, 2020], the heads of agencies shall commence all appropriate actions to further the purposes of this order, consistent with applicable law, including, to:

(a) amend any regulations implementing those provisions specified in section 2 of this order, and, consistent with applicable law and executive orders, under IEEPA, which provide different treatment for Hong Kong as compared to China;

(b) amend the regulation at 8 CFR 212.4(i) to eliminate the preference for Hong Kong passport holders as compared to PRC passport holders;

(c) revoke license exceptions for exports to Hong Kong, reexports to Hong Kong, and transfers (in-country) within Hong Kong of items subject to the Export Administration Regulations, 15 CFR Parts 730–774, that provide differential treatment compared to those license exceptions applicable to exports to China, reexports to China, and transfers (in-country) within China;

(d) consistent with section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) [22 U.S.C. 2151 note], terminate the export licensing suspensions under section 902(a)(3) of such Act insofar as such suspensions apply to exports of defense articles to Hong Kong persons who are physically located outside of Hong Kong and the PRC and who were authorized to receive defense articles prior to the date of this order;

(e) give notice of intent to suspend the Agreement Between the Government of the United States of America and the Government of Hong Kong for the Surrender of Fugitive Offenders (TIAS 98–121);

(f) give notice of intent to terminate the Agreement Between the Government of the United States of America and the Government of Hong Kong for the Transfer of Sentenced Persons (TIAS 99–418);

(g) take steps to end the provision of training to members of the Hong Kong Police Force or other Hong Kong security services at the Department of State's International Law Enforcement Academies;

(h) suspend continued cooperation undertaken consistent with the now-expired Protocol Between the U.S. Geological Survey of the Department of the Interior of the United States of America and Institute of Space and Earth Information Science of the Chinese University of Hong Kong Concerning Scientific and Technical Cooperation in Earth Sciences (TIAS 09–1109);

(i) take steps to terminate the Fulbright exchange program with regard to China and Hong Kong with respect to future exchanges for participants traveling both from and to China or Hong Kong;

(j) give notice of intent to terminate the agreement for the reciprocal exemption with respect to taxes on income from the international operation of ships effected by the Exchange of Notes Between the Government of the United States of America and the Government of Hong Kong (TIAS 11892);

(k) reallocate admissions within the refugee ceiling set by the annual Presidential Determination to residents of Hong Kong based on humanitarian concerns, to the extent feasible and consistent with applicable law; and

(l) propose for my consideration any further actions deemed necessary and prudent to end special conditions and preferential treatment for Hong Kong.

SEC. 4. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) Any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, or the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to be or have been involved, directly or indirectly, in the coercing, arresting, detaining, or imprisoning of individuals under the authority of, or to be or have been responsible for or involved in developing, adopting, or implementing, the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Administrative Region;

(ii) to be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following:

(A) actions or policies that undermine democratic processes or institutions in Hong Kong;

(B) actions or policies that threaten the peace, security, stability, or autonomy of Hong Kong;

(C) censorship or other activities with respect to Hong Kong that prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Hong Kong, or that limit access to free and independent print, online or broadcast media; or

(D) the extrajudicial rendition, arbitrary detention, or torture of any person in Hong Kong or other gross violations of internationally recognized human rights or serious human rights abuse in Hong Kong;

(iii) to be or have been a leader or official of:

(A) an entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (a)(i), (a)(ii)(A), (a)(ii)(B), or (a)(ii)(C) of this section; or

(B) an entity whose property and interests in property are blocked pursuant to this order.

(iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this section;

(v) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this section; or

(vi) to be a member of the board of directors or a senior executive officer of any person whose property and interests in property are blocked pursuant to this section.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

SEC. 5. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 4 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 4 of this order.

SEC. 6. The prohibitions in section 4(a) of this order include:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 4(a) of this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

SEC. 7. The unrestricted immigrant and non-immigrant entry into the United States of aliens determined to meet one or more of the criteria in section 4(a) of this order, as well as immediate family members of such aliens, or aliens determined by the Secretary of State to be employed by, or acting as an agent of, such aliens, would be detrimental to the interest of the United States, and the entry of such persons into the United States, as immigrants and nonimmigrants, is hereby suspended. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions) [8 U.S.C. 1182 note]. The Secretary of State shall have the responsibility of implementing this section pursuant to such conditions and procedures as the Secretary has established or may establish pursuant to Proclamation 8693.

SEC. 8. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

SEC. 9. Nothing in this order shall prohibit transactions for the conduct of the official business of the

Federal Government by employees, grantees, or contractors thereof.

SEC. 10. For the purposes of this order:

(a) the term “person” means an individual or entity;
 (b) the term “entity” means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization, including an international organization;

(c) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States; and

(d) The term “immediate family member” means spouses and children of any age.

SEC. 11. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to section 4 of this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 4 of this order.

SEC. 12. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA as may be necessary to implement this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All departments and agencies of the United States shall take all appropriate measures within their authority to implement this order.

SEC. 13. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

SEC. 14. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 15. If, based on consideration of the terms, obligations, and expectations expressed in the Joint Declaration, I determine that changes in China’s actions ensure that Hong Kong is sufficiently autonomous to justify differential treatment in relation to the PRC under United States law, I will reconsider the determinations made and actions taken and directed under this order.

DONALD J. TRUMP.

Continuation of the national emergency with respect to Hong Kong declared by Ex. Ord. No. 13936 was contained in the following:

Notice of President of the United States, dated July 7, 2021, 86 F.R. 36479.

§ 5702. Definitions

For purposes of this chapter—

(1) the term “Hong Kong” means, prior to July 1, 1997, the British Dependent Territory

of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People’s Republic of China;

(2) the term “Joint Declaration” means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term “laws of the United States” means provisions of law enacted by the Congress.

(Pub. L. 102-383, §3, Oct. 5, 1992, 106 Stat. 1449.)

SUBCHAPTER I—POLICY

§ 5711. Bilateral ties between United States and Hong Kong

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong’s confidence and prosperity, Hong Kong’s role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association. The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.

(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.

(6) The resumption by the People’s Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(Pub. L. 102-383, title I, §101, Oct. 5, 1992, 106 Stat. 1449.)