

THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

Position Paper

Hong Kong's Strategic Trade Controls

The Issue

U.S. export control policies are designed to ensure effective controls on militarily sensitive technology needed to maintain national security, while strengthening America's high-tech competitiveness. Controls on the export of sensitive dual-use technology are administered and enforced by the U.S. Department of Commerce, Bureau of Export Administration. As guaranteed under the Basic Law, the Hong Kong Special Administrative Region (SAR) remains a separate customs territory and maintains an autonomous export control regime.

Position

The US should maintain Hong Kong's current export control status as long as the SAR strictly adheres to the current system of strategic trade controls. The Hong Kong government should continue vigorous enforcement of strategic trade controls, extend fullest co-operation to US agencies, and address any legitimate concerns that may arise.

Rationale

The HKSAR Government maintains the highest international standards of export controls on strategic trade commodities. Hong Kong's "Strategic Trade Control" system is built on four pillars: a comprehensive legal framework, an efficient licensing system, an effective enforcement system, and international co-operation. The control system mirrors all of the international non-proliferation regimes and conventions.

Hong Kong imposes stringent licensing controls on both imports and exports of dual-use technology and other strategic items. The system is backed by a comprehensive legal framework and vigorous enforcement action, and is regarded as exemplary by international trading partners, including the United States. This extensive system of controls enables authorities to monitor the movement of strategic commodities including transit items, into and out of the SAR.

Under the Joint Declaration and Basic Law Hong Kong remains a separate trading entity and customs territory. The SAR maintains an autonomous import and export control system, as well as a separate physical customs border manned by Hong Kong enforcement agencies. All vehicles and goods crossing the border are subject to checks by Hong Kong Customs officers. SAR Customs authorities are vested with general powers of inspection, search and seizure. The SAR government also allows US officials to conduct unannounced pre-license and post-shipment verification checks.

Hong Kong authorities have an excellent record for successfully seizing diverted goods and prosecuting offenders. Actions taken by Hong Kong Customs to investigate and enforce

violations of strategic trade licensing regulations have been well documented. These cases demonstrate the effectiveness and impartiality of the Hong Kong control system, and confirm the close co-operation between Hong Kong and US Customs officials.

Any move to end or change Hong Kong's current status would severely jeopardise the SAR's autonomy. Hong Kong has a strong self-interest in maintaining the effectiveness of its strategic trade control regime. Continued access to high-tech products is essential to the SAR's economic and industrial development. The SAR government is fully committed to continuing the highest international standards of controls on strategic trade commodities.

AmCham recognizes the importance of export licensing regulations as a necessary precaution for safeguarding US national security. However, maintaining the American competitive advantage in the field of high technology is also an essential component of national security. A change in Hong Kong's status would significantly undermine exports of US technology by imposing unreasonable delays and increasing costs, thus placing American companies at a disadvantage to international competitors who are not subject to the same controls. US agencies responsible for export controls should continue to work closely with the SAR authorities to ensure full compliance with export license requirements.