



The American Chamber of Commerce in Hong Kong

Support for objectives of the Hong Kong Human Rights and Democracy Act, but with reservations on key provisions with unintended consequences

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AmCham supports the motivations and objectives of the proposed Hong Kong Human Rights and Democracy Act pending before the US Congress, to reinforce both the values of freedom and openness upon which Hong Kong's success has depended and the fundamental principles of the "One Country, Two Systems" model enshrined in Hong Kong's Basic Law.

AmCham also strongly supports the maintenance of a positive and constructive relationship between the United States and Hong Kong, and encourages policymakers to consider the proposed legislation with that objective in mind.

Despite continuing controversies and challenges, Hong Kong remains a shining beacon in Asia of open society values that it shares with America. American business in Hong Kong, and the international business community in Hong Kong generally, play a positive role in preserving and strengthening those values. We believe that these basic realities, as well as due recognition of both the commitments by and the sovereignty of the People's Republic of China under "One Country, Two Systems", should be the foundations of American policy toward Hong Kong.

The Hong Kong Policy Act of 1992 was built on such a constructive and forward-looking vision, and has stood the test of time.

AmCham vigorously opposed the extradition bill put forward by the Hong Kong Government earlier this year, and we welcomed its withdrawal. We have frequently expressed our view to the Hong Kong Government that anything that diminishes the reality or the perception of Hong Kong's high degree of autonomy under "One Country, Two Systems" will damage Hong Kong's role as an international business center and undermine its special place in the world.

Some amendments to the Hong Kong Policy Act to reflect developing concerns about Hong Kong's autonomy and to supplement the principles of accountability embodied in the Act could be beneficial as a renewed expression of America's fundamental interests in Hong Kong.

However, **AmCham has reservations about certain provisions of the pending US legislation that we fear could have unintended, counter-productive consequences, including on American business and its ability to continue exercising a strong positive influence in favor of Hong Kong's traditional core values**. In particular, we have concerns about the sections addressing export controls and sanctions:

- The enforcement of US export controls is by definition an international endeavor. Hong Kong albeit important, is only one jurisdiction among many significant transshipment and end destinations of US products and technology. Efforts to enforce US export control laws that focus on cooperation between US and Hong Kong authorities has been and can continue to be effective. This effective cooperation can be harmed by imposing a Hong Kong specific reporting requirement, which could also be interpreted as indirectly imposing new Hong Kong-specific export control requirements. It can chill

cooperation and open dialogue between the US and Hong Kong, reduce the effective enforcement of US export controls and reduce Hong Kong's attractiveness for American and international business. The export control reporting mechanism risks a lose-lose for the US.

- Economic sanctions and visa bans are a more controversial tool of US foreign policy, and their use with respect to Hong Kong could harm Hong Kong's reputation as an international financial center with rule of law and a place where American businesses can openly compete on a level playing field. Imposition of broad and mandatory economic sanctions that could limit Hong Kong's legal enforcement of criminal law or could limit its agency within the "One Country, Two Systems" model could damage Hong Kong's autonomy and its rule of law. A less autonomous Hong Kong and weakened trust in its legal system is bad for Hong Kong residents and bad for Hong Kong and American businesses. The US should invest in Hong Kong's autonomy and rule of law as opposed to taking steps that threaten to undermine it.

We are conveying our concerns and suggestions in more detail through appropriate channels to the US administration and Congress. In the meantime, **we hope that parties to the debate will not lose sight of Hong Kong's unique circumstances and its extraordinary, continuing achievements as a bastion of free expression, free flow of information, free markets, individual liberty, rule of law and judicial independence**. Positive engagement with such a robust exemplar of open society values in the heart of Asia is good for American business and good for America. US policy toward Hong Kong, including any revisions to the Hong Kong Policy Act, should be driven first and foremost by a spirit of cooperation, nourishment, and support for this singular and irreplaceable place.