

116TH CONGRESS
2D SESSION

S. 3798

AN ACT

To impose sanctions with respect to foreign persons involved
in the erosion of certain obligations of China with respect
to Hong Kong, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Hong Kong Autonomy Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

Sec. 4. Sense of Congress regarding Hong Kong.

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.

Sec. 6. Sanctions with respect to foreign persons that contravene the obligations of China under the Joint Declaration or the Basic Law.

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.

Sec. 8. Waiver, termination, exceptions, and congressional review process.

Sec. 9. Implementation; penalties.

Sec. 10. Rule of construction.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ALIEN; NATIONAL; NATIONAL OF THE
9 UNITED STATES.—The terms “alien”, “national”,
10 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).

13 (2) APPROPRIATE CONGRESSIONAL COMMITTEES AND LEADERSHIP.—The term “appropriate congressional committees and leadership” means—

16 (A) the Committee on Armed Services, the
17 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

1 specified in section 5312(a)(2) of title 31, United
2 States Code.

3 (7) HONG KONG.—The term “Hong Kong”
4 means the Hong Kong Special Administrative Re-
5 gion of the People’s Republic of China.

6 (8) JOINT DECLARATION.—The term “Joint
7 Declaration” means the Joint Declaration of the
8 Government of the United Kingdom of Great Britain
9 and Northern Ireland and the Government of the
10 People’s Republic of China on the Question of Hong
11 Kong, done at Beijing on December 19, 1984.

12 (9) KNOWINGLY.—The term “knowingly”, with
13 respect to conduct, a circumstance, or a result,
14 means that a person has actual knowledge of the
15 conduct, the circumstance, or the result.

16 (10) PERSON.—The term “person” means an
17 individual or entity.

18 (11) UNITED STATES PERSON.—The term
19 “United States person” means—

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

22 (B) any alien lawfully admitted for perma-
23 nent residence in the United States;

24 (C) any entity organized under the laws of
25 the United States or any jurisdiction within the

1 United States (including a foreign branch of
2 such an entity); or

3 (D) any person located in the United
4 States.

5 **SEC. 3. FINDINGS.**

6 Congress makes the following findings:

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

11 (2) The obligations of the Government of China
12 under the Joint Declaration were codified in a le-
13 gally-binding treaty, signed by the Government of
14 the United Kingdom of Great Britain and Northern
15 Ireland and registered with the United Nations.

16 (3) The obligations of the Government of China
17 under the Basic Law originate from the Joint Dec-
18 laration, were passed into the domestic law of China
19 by the National People's Congress, and are widely
20 considered by citizens of Hong Kong as part of the
21 de facto legal constitution of Hong Kong.

22 (4) Foremost among the obligations of the Gov-
23 ernment of China to Hong Kong is the promise that,
24 pursuant to Paragraph 3b of the Joint Declaration,
25 “the Hong Kong Special Administrative Region will

1 enjoy a high degree of autonomy, except in foreign
2 and defence affairs which are the responsibilities of
3 the Central People's Government”.

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

8 (6) Article 22 of the Basic Law establishes that
9 “No department of the Central People's Government
10 and no province, autonomous region, or municipality
11 directly under the Central Government may interfere
12 in the affairs which the Hong Kong Special Admin-
13 istrative Region administers on its own in accord-
14 ance with this Law.”.

15 (7) The Joint Declaration and the Basic Law
16 make clear that additional obligations shall be un-
17 dertaken by China to ensure the “high degree of au-
18 tonomy” of Hong Kong.

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

24 (9) On multiple occasions, the Government of
25 China has undertaken actions that have contravened

1 the letter or intent of the obligation described in
 2 paragraph (8) of this section, including the fol-
 3 lowing:

4 (A) In 1999, the Standing Committee of
 5 the National People's Congress overruled a de-
 6 cision by the Hong Kong Court of Final Appeal
 7 on the right of abode.

8 (B) On multiple occasions, the Government
 9 of Hong Kong, at the advice of the Government
 10 of China, is suspected to have not allowed per-
 11 sons entry into Hong Kong allegedly because of
 12 their support for democracy and human rights
 13 in Hong Kong and China.

14 (C) The Liaison Office of China in Hong
 15 Kong has, despite restrictions on interference in
 16 the affairs of Hong Kong as detailed in Article
 17 22 of the Basic Law—

18 (i) openly expressed support for can-
 19 didates in Hong Kong for Chief Executive
 20 and Legislative Council;

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

1 (iii) on April 17, 2020, asserted that
 2 both the Liaison Office of China in Hong
 3 Kong and the Hong Kong and Macau Af-
 4 fairs Office of the State Council “have the
 5 right to exercise supervision . . . on affairs
 6 regarding Hong Kong and the mainland,
 7 in order to ensure correct implementation
 8 of the Basic Law”.

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

13 (E) The State Council of China released a
 14 white paper on June 10, 2014, that stressed
 15 the “comprehensive jurisdiction” of the Govern-
 16 ment of China over Hong Kong and indicated
 17 that Hong Kong must be governed by “patri-
 18 ots”.

19 (F) The Government of China has directed
 20 operatives to kidnap and bring to the mainland,
 21 or is otherwise responsible for the kidnapping
 22 of, residents of Hong Kong, including business-
 23 man Xiao Jianhua and bookseller Gui Minhui.

24 (G) The Government of Hong Kong, acting
 25 with the support of the Government of China,

1 introduced an extradition bill that would have
 2 permitted the Government of China to request
 3 and enforce extradition requests for any indi-
 4 vidual present in Hong Kong, regardless of the
 5 legality of the request or the degree to which it
 6 compromised the judicial independence of Hong
 7 Kong.

8 (H) The spokesman for the Standing Com-
 9 mittee of the National People's Congress said,
 10 "Whether Hong Kong's laws are consistent
 11 with the Basic Law can only be judged and de-
 12 cided by the National People's Congress Stand-
 13 ing Committee. No other authority has the
 14 right to make judgments and decisions."

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

20 (11) On multiple occasions, the Government of
 21 China has undertaken actions that have contravened
 22 the letter or intent of the obligation described in
 23 paragraph (10) of this section, including the fol-
 24 lowing:

1 (A) In 2002, the Government of China
 2 pressured the Government of Hong Kong to in-
 3 troduce “patriotic” curriculum in primary and
 4 secondary schools.

5 (B) The governments of China and Hong
 6 Kong proposed the prohibition of discussion of
 7 Hong Kong independence and self-determina-
 8 tion in primary and secondary schools, which
 9 infringes on freedom of speech.

10 (C) The Government of Hong Kong man-
 11 dated that Mandarin, and not the native lan-
 12 guage of Cantonese, be the language of instruc-
 13 tion in Hong Kong schools.

14 (D) The governments of China and Hong
 15 Kong agreed to a daily quota of mainland im-
 16 migrants to Hong Kong, which is widely be-
 17 lieved by citizens of Hong Kong to be part of
 18 an effort to “mainlandize” Hong Kong.

19 (12) Paragraph 3e of the Joint Declaration
 20 states, as reinforced by Articles 4, 26, 27, 28, 29,
 21 30, 31, 32 33, 34, and 39 of the Basic Law, that
 22 the “rights and freedoms, including those of person,
 23 of speech, of the press, of assembly, of association,
 24 of travel, of movement, of correspondence, of strike,
 25 of choice of occupation, of academic research and of

1 religious belief will be ensured by law” in Hong
2 Kong.

3 (13) On multiple occasions, the Government of
4 China has undertaken actions that have contravened
5 the letter or intent of the obligation described in
6 paragraph (12) of this section, including the fol-
7 lowing:

8 (A) On February 26, 2003, the Govern-
9 ment of Hong Kong introduced a national secu-
10 rity bill that would have placed restrictions on
11 freedom of speech and other protected rights.

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

17 (C) The Hong Kong Police Force selec-
18 tively blocked demonstrations and protests ex-
19 pressing opposition to the governments of China
20 and Hong Kong or the policies of those govern-
21 ments.

22 (D) The Government of Hong Kong re-
23 fused to renew work visa for a foreign jour-
24 nalist, allegedly for hosting a speaker from the
25 banned Hong Kong National Party.

1 (E) The Justice Department of Hong
2 Kong selectively prosecuted cases against lead-
3 ers of the Umbrella Movement, while failing to
4 prosecute police officers accused of using exces-
5 sive force during the protests in 2014.

6 (F) On April 18, 2020, the Hong Kong
7 Police Force arrested 14 high-profile democracy
8 activists and campaigners for their role in orga-
9 nizing a protest march that took place on Au-
10 gust 18, 2019, in which almost 2,000,000 peo-
11 ple rallied against a proposed extradition bill.

12 (14) Articles 45 and 68 of the Basic Law assert
13 that the selection of Chief Executive and all mem-
14 bers of the Legislative Council of Hong Kong should
15 be by “universal suffrage.”.

16 (15) On multiple occasions, the Government of
17 China has undertaken actions that have contravened
18 the letter or intent of the obligation described in
19 paragraph (14) of this section, including the fol-
20 lowing:

21 (A) In 2004, the National People’s Con-
22 gress created new, antidemocratic procedures
23 restricting the adoption of universal suffrage
24 for the election of the Chief Executive of Hong
25 Kong.

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

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

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

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

19 (16) The ways in which the Government of
20 China, at times with the support of a subservient
21 Government of Hong Kong, has acted in contraven-
22 tion of its obligations under the Joint Declaration
23 and the Basic Law, as set forth in this section, are
24 deeply concerning to the people of Hong Kong, the
25 United States, and members of the international

1 community who support the autonomy of Hong
2 Kong.

3 **SEC. 4. SENSE OF CONGRESS REGARDING HONG KONG.**

4 It is the sense of Congress that—

5 (1) the United States continues to uphold the
6 principles and policy established in the United
7 States-Hong Kong Policy Act of 1992 (22 U.S.C.
8 5701 et seq.) and the Hong Kong Human Rights
9 and Democracy Act of 2019 (Public Law 116–76;
10 22 U.S.C. 5701 note), which remain consistent with
11 China’s obligations under the Joint Declaration and
12 certain promulgated objectives under the Basic Law,
13 including that—

14 (A) as set forth in section 101(1) of the
15 United States-Hong Kong Policy Act of 1992
16 (22 U.S.C. 5711(1)), “The United States
17 should play an active role, before, on, and after
18 July 1, 1997, in maintaining Hong Kong’s con-
19 fidence and prosperity, Hong Kong’s role as an
20 international financial center, and the mutually
21 beneficial ties between the people of the United
22 States and the people of Hong Kong.”; and

23 (B) as set forth in section 2(5) of the
24 United States-Hong Kong Policy Act of 1992
25 (22 U.S.C. 5701(5)), “Support for democratiza-

1 tion is a fundamental principle of United States
2 foreign policy. As such, it naturally applies to
3 United States policy toward Hong Kong. This
4 will remain equally true after June 30, 1997.”;

5 (2) although the United States recognizes that,
6 under the Joint Declaration, the Government of
7 China “resumed the exercise of sovereignty over
8 Hong Kong with effect on 1 July 1997”, the United
9 States supports the autonomy of Hong Kong in fur-
10 therance of the United States-Hong Kong Policy Act
11 of 1992 and the Hong Kong Human Rights and De-
12 mocracy Act of 2019 and advances the desire of the
13 people of Hong Kong to continue the “one country,
14 two systems” regime, in addition to other obligations
15 promulgated by China under the Joint Declaration
16 and the Basic Law;

17 (3) in order to support the benefits and protec-
18 tions that Hong Kong has been afforded by the Gov-
19 ernment of China under the Joint Declaration and
20 the Basic Law, the United States should establish a
21 clear and unambiguous set of penalties with respect
22 to foreign persons determined by the Secretary of
23 State, in consultation with the Secretary of the
24 Treasury, to be involved in the contravention of the
25 obligations of China under the Joint Declaration and

1 the Basic Law and the financial institutions
2 transacting with those foreign persons;

3 (4) the Secretary of State should provide an un-
4 classified assessment of the reason for imposition of
5 certain economic penalties on entities, so as to per-
6 mit a clear path for the removal of economic pen-
7 alties if the sanctioned behavior is reversed and
8 verified by the Secretary of State;

9 (5) relevant Federal agencies should establish a
10 multilateral sanctions regime with respect to foreign
11 persons involved in the contravention of the obliga-
12 tions of China under the Joint Declaration and the
13 Basic Law; and

14 (6) in addition to the penalties on foreign per-
15 sons, and financial institutions transacting with
16 those foreign persons, for the contravention of the
17 obligations of China under the Joint Declaration and
18 the Basic Law, the United States should take steps,
19 in a time of crisis, to assist permanent residents of
20 Hong Kong who are persecuted or fear persecution
21 as a result of the contravention by China of its obli-
22 gations under the Joint Declaration and the Basic
23 Law to become eligible to obtain lawful entry into
24 the United States.

1 **SEC. 5. IDENTIFICATION OF FOREIGN PERSONS INVOLVED**
 2 **IN THE EROSION OF THE OBLIGATIONS OF**
 3 **CHINA UNDER THE JOINT DECLARATION OR**
 4 **THE BASIC LAW AND FOREIGN FINANCIAL IN-**
 5 **STITUTIONS THAT CONDUCT SIGNIFICANT**
 6 **TRANSACTIONS WITH THOSE PERSONS.**

7 (a) IN GENERAL.—Not later than 90 days after the
 8 date of the enactment of this Act, if the Secretary of
 9 State, in consultation with the Secretary of the Treasury,
 10 determines that a foreign person is materially contributing
 11 to, has materially contributed to, or attempts to materially
 12 contribute to the failure of the Government of China to
 13 meet its obligations under the Joint Declaration or the
 14 Basic Law, the Secretary of State shall submit to the ap-
 15 propriate congressional committees and leadership a re-
 16 port that includes—

- 17 (1) an identification of the foreign person; and
 18 (2) a clear explanation for why the foreign per-
 19 son was identified and a description of the activity
 20 that resulted in the identification.

21 (b) IDENTIFYING FOREIGN FINANCIAL INSTITU-
 22 TIONS.—Not earlier than 30 days and not later than 60
 23 days after the Secretary of State submits to the appro-
 24 priate congressional committees and leadership the report
 25 under subsection (a), the Secretary of the Treasury, in
 26 consultation with the Secretary of State, shall submit to

1 the appropriate congressional committees and leadership
2 a report that identifies any foreign financial institution
3 that knowingly conducts a significant transaction with a
4 foreign person identified in the report under subsection
5 (a).

6 (c) EXCLUSION OF CERTAIN INFORMATION.—

7 (1) INTELLIGENCE.—The Secretary of State
8 shall not disclose the identity of a person in a report
9 submitted under subsection (a) or (b), or an update
10 under subsection (e), if the Director of National In-
11 telligence determines that such disclosure could com-
12 promise an intelligence operation, activity, source, or
13 method of the United States.

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

23 (A) to compromise the identity of a con-
24 fidential source, including a State, local, or for-
25 eign agency or authority or any private institu-

1 tion that furnished information on a confiden-
2 tial basis;

3 (B) to jeopardize the integrity or success
4 of an ongoing criminal investigation or prosecu-
5 tion;

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

8 (D) to cause substantial harm to physical
9 property.

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

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

20 (1) FOREIGN PERSONS.—The President may
21 exclude a foreign person from the report under sub-
22 section (a), or an update under subsection (e), or re-
23 move a foreign person from the report or update
24 prior to the imposition of sanctions under section
25 6(a) if the material contribution (as described in

1 subsection (g)) that merited inclusion in that report
2 or update—

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

7 (B) is not likely to be repeated in the fu-
8 ture; and

9 (C) has been reversed or otherwise miti-
10 gated through positive countermeasures taken
11 by that foreign person.

12 (2) FOREIGN FINANCIAL INSTITUTIONS.—The
13 President may exclude a foreign financial institution
14 from the report under subsection (b), or an update
15 under subsection (e), or remove a foreign financial
16 institution from the report or update prior to the
17 imposition of sanctions under section 7(a) if the sig-
18 nificant transaction or significant transactions of the
19 foreign financial institution that merited inclusion in
20 that report or update—

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

1 (B) is not likely to be repeated in the fu-
2 ture; and

3 (C) has been reversed or otherwise miti-
4 gated through positive countermeasures taken
5 by that foreign financial institution.

6 (3) NOTIFICATION REQUIRED.—If the Presi-
7 dent makes a determination under paragraph (1) or
8 (2) to exclude or remove a foreign person or foreign
9 financial institution from a report under subsection
10 (a) or (b), as the case may be, the President shall
11 notify the appropriate congressional committees and
12 leadership of the determination and the reasons for
13 the determination.

14 (e) UPDATE OF REPORTS.—

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

21 (2) RULE OF CONSTRUCTION.—Nothing in this
22 subsection shall be construed to terminate the re-
23 quirement to update the reports under subsections
24 (a) and (b) upon the termination of the requirement
25 to submit the annual report under section 301 of the

1 United States-Hong Kong Policy Act of 1992 (22
2 U.S.C. 5731).

3 (f) FORM OF REPORTS.—

4 (1) IN GENERAL.—Each report under sub-
5 section (a) or (b) (including updates under sub-
6 section (e)) shall be submitted in unclassified form
7 and made available to the public.

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

12 (g) MATERIAL CONTRIBUTIONS RELATED TO OBLI-
13 GATIONS OF CHINA DESCRIBED.—For purposes of this
14 section, a foreign person materially contributes to the fail-
15 ure of the Government of China to meet its obligations
16 under the Joint Declaration or the Basic Law if the per-
17 son—

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

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

22 (B) to participate in democratic outcomes;
23 or

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

1 **SEC. 6. SANCTIONS WITH RESPECT TO FOREIGN PERSONS**
 2 **THAT CONTRAVENE THE OBLIGATIONS OF**
 3 **CHINA UNDER THE JOINT DECLARATION OR**
 4 **THE BASIC LAW.**

5 (a) IMPOSITION OF SANCTIONS.—

6 (1) IN GENERAL.—On and after the date on
 7 which a foreign person is included in the report
 8 under section 5(a) or an update to that report under
 9 section 5(e), the President may impose sanctions de-
 10 scribed in subsection (b) with respect to that foreign
 11 person.

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

18 (b) SANCTIONS DESCRIBED.—The sanctions de-
 19 scribed in this subsection with respect to a foreign person
 20 are the following:

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

24 (A) acquiring, holding, withholding, using,
 25 transferring, withdrawing, transporting, or ex-
 26 porting any property that is subject to the ju-

1 jurisdiction of the United States and with respect
2 to which the foreign person has any interest;

3 (B) dealing in or exercising any right,
4 power, or privilege with respect to such prop-
5 erty; or

6 (C) conducting any transaction involving
7 such property.

8 (2) EXCLUSION FROM THE UNITED STATES
9 AND REVOCATION OF VISA OR OTHER DOCUMENTA-
10 TION.—In the case of a foreign person who is an in-
11 dividual, the President may direct the Secretary of
12 State to deny a visa to, and the Secretary of Home-
13 land Security to exclude from the United States, the
14 foreign person, subject to regulatory exceptions to
15 permit the United States to comply with the Agree-
16 ment regarding the Headquarters of the United Na-
17 tions, signed at Lake Success June 26, 1947, and
18 entered into force November 21, 1947, between the
19 United Nations and the United States, or other ap-
20 plicable international obligations.

1 **SEC. 7. SANCTIONS WITH RESPECT TO FOREIGN FINANCIAL**
 2 **INSTITUTIONS THAT CONDUCT SIGNIFICANT**
 3 **TRANSACTIONS WITH FOREIGN PERSONS**
 4 **THAT CONTRAVENE THE OBLIGATIONS OF**
 5 **CHINA UNDER THE JOINT DECLARATION OR**
 6 **THE BASIC LAW.**

7 (a) IMPOSITION OF SANCTIONS.—

8 (1) INITIAL SANCTIONS.—Not later than one
 9 year after the date on which a foreign financial in-
 10 stitution is included in the report under section 5(b)
 11 or an update to that report under section 5(e), the
 12 President shall impose not fewer than 5 of the sanc-
 13 tions described in subsection (b) with respect to that
 14 foreign financial institution.

15 (2) EXPANDED SANCTIONS.—Not later than
 16 two years after the date on which a foreign financial
 17 institution is included in the report under section
 18 5(b) or an update to that report under section 5(e),
 19 the President shall impose each of the sanctions de-
 20 scribed in subsection (b).

21 (b) SANCTIONS DESCRIBED.—The sanctions de-
 22 scribed in this subsection with respect to a foreign finan-
 23 cial institution are the following:

24 (1) LOANS FROM UNITED STATES FINANCIAL
 25 INSTITUTIONS.—The United States Government
 26 may prohibit any United States financial institution

1 from making loans or providing credits to the for-
2 eign financial institution.

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

10 (3) PROHIBITION ON SERVICE AS A REPOSI-
11 TORY OF GOVERNMENT FUNDS.—The foreign finan-
12 cial institution may not serve as agent of the United
13 States Government or serve as repository for United
14 States Government funds.

15 (4) FOREIGN EXCHANGE.—The President may,
16 pursuant to such regulations as the President may
17 prescribe, prohibit any transactions in foreign ex-
18 change that are subject to the jurisdiction of the
19 United States and involve the foreign financial insti-
20 tution.

21 (5) BANKING TRANSACTIONS.—The President
22 may, pursuant to such regulations as the President
23 may prescribe, prohibit any transfers of credit or
24 payments between financial institutions or by,
25 through, or to any financial institution, to the extent

1 that such transfers or payments are subject to the
2 jurisdiction of the United States and involve the for-
3 eign financial institution.

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

7 (A) acquiring, holding, withholding, using,
8 transferring, withdrawing, transporting, import-
9 ing, or exporting any property that is subject to
10 the jurisdiction of the United States and with
11 respect to which the foreign financial institution
12 has any interest;

13 (B) dealing in or exercising any right,
14 power, or privilege with respect to such prop-
15 erty; or

16 (C) conducting any transaction involving
17 such property.

18 (7) RESTRICTION ON EXPORTS, REEXPORTS,
19 AND TRANSFERS.—The President, in consultation
20 with the Secretary of Commerce, may restrict or
21 prohibit exports, reexports, and transfers (in-coun-
22 try) of commodities, software, and technology sub-
23 ject to the jurisdiction of the United States directly
24 or indirectly to the foreign financial institution.

1 (8) BAN ON INVESTMENT IN EQUITY OR
2 DEBT.—The President may, pursuant to such regu-
3 lations or guidelines as the President may prescribe,
4 prohibit any United States person from investing in
5 or purchasing significant amounts of equity or debt
6 instruments of the foreign financial institution.

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

21 (10) SANCTIONS ON PRINCIPAL EXECUTIVE OF-
22 FICERS.—The President may impose on the prin-
23 cipal executive officer or officers of the foreign fi-
24 nancial institution, or on individuals performing
25 similar functions and with similar authorities as

1 such officer or officers, any of the sanctions de-
 2 scribed in paragraphs (1) through (8) that are appli-
 3 cable.

4 (c) **TIMING OF SANCTIONS.**—The President may im-
 5 pose sanctions required under subsection (a) with respect
 6 to a financial institution included in the report under sec-
 7 tion 5(b) or an update to that report under section 5(e)
 8 beginning on the day on which the financial institution
 9 is included in that report or update.

10 **SEC. 8. WAIVER, TERMINATION, EXCEPTIONS, AND CON-**
 11 **GRESSIONAL REVIEW PROCESS.**

12 (a) **NATIONAL SECURITY WAIVER.**—Unless a dis-
 13 approval resolution is enacted under subsection (e), the
 14 President may waive the application of sanctions under
 15 section 6 or 7 with respect to a foreign person or foreign
 16 financial institution if the President—

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

19 (2) submits to the appropriate congressional
 20 committees and leadership a report on the deter-
 21 mination and the reasons for the determination.

22 (b) **TERMINATION OF SANCTIONS AND REMOVAL**
 23 **FROM REPORT.**—Unless a disapproval resolution is en-
 24 acted under subsection (e), the President may terminate
 25 the application of sanctions under section 6 or 7 with re-

1 spect to a foreign person or foreign financial institution
 2 and remove the foreign person from the report required
 3 under section 5(a) or the foreign financial institution from
 4 the report required under section 5(b), as the case may
 5 be, if the Secretary of State, in consultation with the Sec-
 6 retary of the Treasury, determines that the actions taken
 7 by the foreign person or foreign financial institution that
 8 led to the imposition of sanctions—

9 (1) do not have a significant and lasting nega-
 10 tive effect that contravenes the obligations of China
 11 under the Joint Declaration and the Basic Law;

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

14 (3) have been reversed or otherwise mitigated
 15 through positive countermeasures taken by that for-
 16 eign person or foreign financial institution.

17 (c) TERMINATION OF ACT.—

18 (1) REPORT.—

19 (A) IN GENERAL.—Not later than July 1,
 20 2046, the President, in consultation with the
 21 Secretary of State, the Secretary of the Treas-
 22 ury, and the heads of such other Federal agen-
 23 cies as the President considers appropriate,
 24 shall submit to Congress a report evaluating the

1 implementation of this Act and sanctions im-
2 posed pursuant to this Act.

3 (B) ELEMENTS.—The President shall in-
4 clude in the report submitted under subpara-
5 graph (A) an assessment of whether this Act
6 and the sanctions imposed pursuant to this Act
7 should be terminated.

8 (2) TERMINATION.—This Act and the sanctions
9 imposed pursuant to this Act shall remain in effect
10 unless a termination resolution is enacted under sub-
11 section (e) after July 1, 2047.

12 (d) EXCEPTION RELATING TO IMPORTATION OF
13 GOODS.—

14 (1) IN GENERAL.—The authorities and require-
15 ments to impose sanctions under sections 6 and 7
16 shall not include the authority or requirement to im-
17 pose sanctions on the importation of goods.

18 (2) GOOD DEFINED.—In this subsection, the
19 term “good” means any article, natural or manmade
20 substance, material, supply, or manufactured prod-
21 uct, including inspection and test equipment, and ex-
22 cluding technical data.

23 (e) CONGRESSIONAL REVIEW.—

24 (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

1 and the second blank space being filled
2 with a short description of the proposed
3 action.

4 (B) TERMINATION RESOLUTION.—In this
5 section, the term “termination resolution”
6 means only a joint resolution of either House of
7 Congress—

8 (i) the title of which is as follows: “A
9 joint resolution terminating sanctions with
10 respect to foreign persons that contravene
11 the obligations of China with respect to
12 Hong Kong and foreign financial institu-
13 tions that conduct significant transactions
14 with those persons.”; and

15 (ii) the sole matter after the resolving
16 clause of which is the following: “The
17 Hong Kong Autonomy Act and any sanc-
18 tions imposed pursuant to that Act shall
19 terminate on _____.”, with the blank
20 space being filled with the termination
21 date.

22 (C) COVERED RESOLUTION.—In this sub-
23 section, the term “covered resolution” means a
24 disapproval resolution or a termination resolu-
25 tion.

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

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

5 (B) in the Senate, by the majority leader
6 (or the majority leader's designee) or the mi-
7 nority leader (or the minority leader's des-
8 ignee).

9 (3) FLOOR CONSIDERATION IN HOUSE OF REP-
10 RESENTATIVES.—If a committee of the House of
11 Representatives to which a covered resolution has
12 been referred has not reported the resolution within
13 10 calendar days after the date of referral, that
14 committee shall be discharged from further consider-
15 ation of the resolution.

16 (4) CONSIDERATION IN THE SENATE.—

17 (A) COMMITTEE REFERRAL.—

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

21 (I) referred to the Committee on
22 Banking, Housing, and Urban Affairs
23 if the resolution relates to an action
24 that is not intended to significantly

1 alter United States foreign policy with
2 regard to China; and

3 (II) referred to the Committee on
4 Foreign Relations if the resolution re-
5 lates to an action that is intended to
6 significantly alter United States for-
7 eign policy with regard to China.

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

13 (B) REPORTING AND DISCHARGE.—If a
14 committee to which a covered resolution was re-
15 ferred has not reported the resolution within 10
16 calendar days after the date of referral of the
17 resolution, that committee shall be discharged
18 from further consideration of the resolution and
19 the resolution shall be placed on the appro-
20 priate calendar.

21 (C) PROCEEDING TO CONSIDERATION.—
22 Notwithstanding Rule XXII of the Standing
23 Rules of the Senate, it is in order at any time
24 after the Committee on Banking, Housing, and
25 Urban Affairs or the Committee on Foreign Re-

1 lations, as the case may be, reports a covered
 2 resolution to the Senate or has been discharged
 3 from consideration of such a resolution (even
 4 though a previous motion to the same effect has
 5 been disagreed to) to move to proceed to the
 6 consideration of the resolution, and all points of
 7 order against the resolution (and against con-
 8 sideration of the resolution) are waived. The
 9 motion to proceed is not debatable. The motion
 10 is not subject to a motion to postpone. A mo-
 11 tion to reconsider the vote by which the motion
 12 is agreed to or disagreed to shall not be in
 13 order.

14 (D) RULINGS OF THE CHAIR ON PROCE-
 15 DURE.—Appeals from the decisions of the Chair
 16 relating to the application of the rules of the
 17 Senate, as the case may be, to the procedure re-
 18 lating to a covered resolution shall be decided
 19 without debate.

20 (E) CONSIDERATION OF VETO MES-
 21 SAGES.—Debate in the Senate of any veto mes-
 22 sage with respect to a covered resolution, in-
 23 cluding all debatable motions and appeals in
 24 connection with the resolution, shall be limited
 25 to 10 hours, to be equally divided between, and

1 controlled by, the majority leader and the mi-
 2 nority leader or their designees.

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

5 (A) TREATMENT OF SENATE RESOLUTION
 6 IN HOUSE.—In the House of Representatives,
 7 the following procedures shall apply to a cov-
 8 ered resolution received from the Senate (unless
 9 the House has already passed a resolution relat-
 10 ing to the same proposed action):

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

13 (ii) If a committee to which a resolu-
 14 tion has been referred has not reported the
 15 resolution within 2 calendar days after the
 16 date of referral, that committee shall be
 17 discharged from further consideration of
 18 the resolution.

19 (iii) Beginning on the third legislative
 20 day after each committee to which a reso-
 21 lution has been referred reports the resolu-
 22 tion to the House or has been discharged
 23 from further consideration thereof, it shall
 24 be in order to move to proceed to consider
 25 the resolution in the House. All points of

1 order against the motion are waived. Such
 2 a motion shall not be in order after the
 3 House has disposed of a motion to proceed
 4 on the resolution. The previous question
 5 shall be considered as ordered on the mo-
 6 tion to its adoption without intervening
 7 motion. The motion shall not be debatable.
 8 A motion to reconsider the vote by which
 9 the motion is disposed of shall not be in
 10 order.

11 (iv) The resolution shall be considered
 12 as read. All points of order against the res-
 13 olution and against its consideration are
 14 waived. The previous question shall be con-
 15 sidered as ordered on the resolution to
 16 final passage without intervening motion
 17 except 2 hours of debate equally divided
 18 and controlled by the sponsor of the reso-
 19 lution (or a designee) and an opponent. A
 20 motion to reconsider the vote on passage of
 21 the resolution shall not be in order.

22 (B) TREATMENT OF HOUSE RESOLUTION

23 IN SENATE.—

24 (i) RECEIVED BEFORE PASSAGE OF
 25 SENATE RESOLUTION.—If, before the pas-

1 sage by the Senate of a covered resolution,
 2 the Senate receives an identical resolution
 3 from the House of Representatives, the fol-
 4 lowing procedures shall apply:

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

7 (II) With respect to that resolu-
 8 tion—

9 (aa) the procedure in the
 10 Senate shall be the same as if no
 11 resolution had been received from
 12 the House of Representatives;
 13 but

14 (bb) the vote on passage
 15 shall be on the resolution from
 16 the House of Representatives.

17 (ii) RECEIVED AFTER PASSAGE OF
 18 SENATE RESOLUTION.—If, following pas-
 19 sage of a covered resolution in the Senate,
 20 the Senate receives an identical resolution
 21 from the House of Representatives, that
 22 resolution shall be placed on the appro-
 23 priate Senate calendar.

24 (iii) NO SENATE COMPANION.—If a
 25 covered resolution is received from the

1 House of Representatives, and no com-
 2 panion resolution has been introduced in
 3 the Senate, the Senate procedures under
 4 this subsection shall apply to the resolution
 5 from the House of Representatives.

6 (C) APPLICATION TO REVENUE MEAS-
 7 URES.—The provisions of this paragraph shall
 8 not apply in the House of Representatives to a
 9 covered resolution that is a revenue measure.

10 (6) RULES OF HOUSE OF REPRESENTATIVES
 11 AND SENATE.—This subsection is enacted by Con-
 12 gress—

13 (A) as an exercise of the rulemaking power
 14 of the Senate and the House of Representa-
 15 tives, respectively, and as such is deemed a part
 16 of the rules of each House, respectively, and su-
 17 persedes other rules only to the extent that it
 18 is inconsistent with such rules; and

19 (B) with full recognition of the constitu-
 20 tional right of either House to change the rules
 21 (so far as relating to the procedure of that
 22 House) at any time, in the same manner, and
 23 to the same extent as in the case of any other
 24 rule of that House.

1 **SEC. 9. IMPLEMENTATION; PENALTIES.**

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

7 (b) PENALTIES.—A person that violates, attempts to
8 violate, conspires to violate, or causes a violation of section
9 6 or 7 or any regulation, license, or order issued to carry
10 out that section shall be subject to the penalties set forth
11 in subsections (b) and (c) of section 206 of the Inter-
12 national Emergency Economic Powers Act (50 U.S.C.
13 1705) to the same extent as a person that commits an
14 unlawful act described in subsection (a) of that section.

15 **SEC. 10. RULE OF CONSTRUCTION.**

16 Nothing in this Act shall be construed as an author-
17 ization of military force against China.

Passed the Senate June 25, 2020.

Attest:

Secretary.

116TH CONGRESS
2D SESSION

S. 3798

AN ACT

To impose sanctions with respect to foreign persons involved in the erosion of certain obligations of China with respect to Hong Kong, and for other purposes.