

(Pub. L. 102-383, title II, §203, Oct. 5, 1992, 106 Stat. 1453.)

§ 5724. Consultation with Congress

In carrying out this subchapter, the President shall consult appropriately with the Congress.

(Pub. L. 102-383, title II, §204, Oct. 5, 1992, 106 Stat. 1453.)

§ 5725. Secretary of State report regarding the autonomy of Hong Kong

(a) Certification

(1) In general

Except as provided in subsection (b), the Secretary of State, on at least an annual basis, and in conjunction with the report required under section 5731 of this title, shall issue a certification to Congress that—

(A) indicates whether Hong Kong continues to warrant treatment under United States law in the same manner as United States laws were applied to Hong Kong before July 1, 1997;

(B) addresses—

- (i) commercial agreements;
- (ii) law enforcement cooperation, including extradition requests;
- (iii) sanctions enforcement;
- (iv) export controls, and any other agreements and forms of exchange involving dual use, critical, or other sensitive technologies;
- (v) any formal treaties or agreements between the United States and Hong Kong;
- (vi) other areas of bilateral cooperation that the Secretary determines to be relevant; and
- (vii) decision-making within the Government of Hong Kong, including executive, legislative, and judicial structures, including—

- (I) freedom of assembly;
- (II) freedom of speech;
- (III) freedom of expression; and
- (IV) freedom of the press, including the Internet and social media;

(viii) universal suffrage, including the ultimate aim of the selection of the Chief Executive and all members of the Legislative Council by universal suffrage;

- (ix) judicial independence;
- (x) police and security functions;
- (xi) education;
- (xii) laws or regulations regarding treason, secession, sedition, subversion against the Central People's Government of the People's Republic of China, or theft of state secrets;

(xiii) laws or regulations regarding foreign political organizations or bodies;

(xiv) laws or regulations regarding political organizations; and

(xv) other rights enumerated in the Universal Declaration of Human Rights, done at Paris December 10, 1948, and the International Covenant on Civil and Political Rights, done at New York December 19, 1966; and

(C) includes—

(i) an assessment of the degree of any erosions to Hong Kong's autonomy in each category listed in subparagraph (B) resulting from actions by the Government of the People's Republic of China that are inconsistent with its commitments under the Basic Law or the Joint Declaration;

(ii) an evaluation of the specific impacts to any areas of cooperation between the United States and Hong Kong resulting from erosions of autonomy in Hong Kong or failures of the Government of Hong Kong to fulfill obligations to the United States under international agreements within the categories listed in subparagraph (B); and

(iii) a list of any specific actions taken by the United States Government in response to any erosion of autonomy or failures to fulfill obligations to the United States under international agreements identified in this certification and the report required under section 5731 of this title.

(2) Factor for consideration

In making each certification under paragraph (1), the Secretary of State should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(3) Additional certifications

The certification under section (1) shall be issued annually, but the Secretary may issue additional certifications at any time if the Secretary determines it is warranted by circumstances in Hong Kong.

(b) Waiver authority

(1) In general

The Secretary of State may waive the application of subsection (a) if—

(A) the Secretary determines that such a waiver is in the national security interests of the United States; and

(B) on or before the date on which the waiver takes effect, the Secretary notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of the intent to waive such subsection;

(2) Partial waiver

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

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

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

(a) Visa eligibility for certain Hong Kong students

Notwithstanding any other provision of law, applications for visas to enter, study, or work in the United States, which are submitted by oth-

erwise qualified applicants who resided in Hong Kong in 2014 and later, may not be denied primarily on the basis of the applicant's subjection to politically-motivated arrest, detention, or other adverse government action.

(b) Implementation

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

(1) providing specialized training for all consular officers posted to the United States Embassy in Beijing or to any United States consulate in the People's Republic of China, the Hong Kong Special Administrative Region, or the Macau Special Administrative Region;

(2) instructing the United States Consulate in Hong Kong to maintain an active list of individuals who are known to have been formally charged, detained, or convicted by the Government of Hong Kong Special Administrative Region or by the Government of the People's Republic of China, or intermediaries of such governments, based on politically-motivated considerations related to their exercise of rights enumerated in the Universal Declaration of Human Rights, done at Paris December 10, 1948, or the International Covenant on Civil and Political Rights, done at New York December 19, 1966, to facilitate the cross-checking of visa applications for Hong Kong residents; and

(3) updating any relevant United States Government websites with information on the policy described in subsection (a).

(c) Cooperation with like-minded countries

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

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

(2) to encourage them to take similar steps to ensure the rights of nonviolent protesters are protected from discrimination due to the actions of the Government of Hong Kong and of the Government of the People's Republic of China.

(Pub. L. 102-383, title II, §206, as added Pub. L. 116-76, §4(b), Nov. 27, 2019, 133 Stat. 1165.)

SUBCHAPTER III—REPORTING PROVISIONS

§ 5731. Reporting requirement

(a) In general

Not later than March 31, 2019, and annually thereafter through 2024, the Secretary of State shall submit to the appropriate congressional committees a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since October 5, 1992, or (in the case of subsequent reports) the period since the most

recent report pursuant to this section and shall describe—

(1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;

(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;

(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;

(4) the laws of the United States with respect to which the application of section 5721(a) of this title has been suspended pursuant to section 5722(a) of this title or with respect to which such a suspension has been terminated pursuant to section 5722(d) of this title, and the reasons for the suspension or termination, as the case may be;

(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 5721(b) of this title, and the reasons for each such determination;

(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;

(7) the development of democratic institutions in Hong Kong; and

(8) the nature and extent of Hong Kong's participation in multilateral forums.

(b) Form

The report required by subsection (a) shall be submitted in unclassified form and shall be published on a publicly available website of the Department of State.

(c) Appropriate congressional committees

In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Relations and the Committee on Armed Services of the Senate; and

(2) the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives.

(Pub. L. 102-383, title III, §301, Oct. 5, 1992, 106 Stat. 1453; Pub. L. 104-107, title V, §576(a), Feb. 12, 1996, 110 Stat. 750; Pub. L. 107-115, title V, §586(a), Jan. 10, 2002, 115 Stat. 2173; Pub. L. 115-232, div. A, title XII, §1256, Aug. 13, 2018, 132 Stat. 2056.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 designated existing provisions as subsec. (a), inserted heading, in introductory provisions substituted “Not later than March 31, 2019, and annually thereafter through 2024,” for “Not later than March 31, 1993, March 31, 1995, March 31, 1996, March 31, 1997, March 31, 1998, March 31, 1999, March 31, 2000, March 31, 2001, March 31, 2002, March 31, 2003, March 31, 2004, March 31, 2005, and March 31, 2006” and “submit to the appropriate congressional committees” for “transmit to the Speaker of the House of Representatives and