



United States Department of State

Washington, D.C. 20520

October 13, 2020

CONGRESSIONAL REPORT TRANSMITTAL LETTER

Please find enclosed the following report from the Department of State.

Department Report Number: 004028

Report Title: Identification of Foreign Persons Involved in the Erosion of the Obligations of China under the Joint Declaration or the Basic Law

Legislation: Section 5(a) of the Hong Kong Autonomy Act (P.L. 116-149)

Recipients:

Speaker of the House of Representatives
The Majority Leader of the Senate
The Minority Leader of the House of Representatives
The Minority Leader of the Senate
House Foreign Affairs Committee
Senate Foreign Relations Committee
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on the Judiciary
Senate Committee on the Judiciary
House Permanent Select Committee on Intelligence
Senate Select Committee on Intelligence
House Committee on Financial Services
Senate Committee on Banking, Housing, and Urban Affairs
House Committee on Homeland Security
Senate Committee on Homeland Security and Governmental Affairs

Sincerely,

Jessica L. Moore
Senior Bureau Official
Bureau of Legislative Affairs

Enclosure:

As stated.

**Identification of Foreign Persons
Involved in the Erosion of the Obligations of China
Under the Joint Declaration or the Basic Law**

Pursuant to Section 5(a) of the Hong Kong Autonomy Act (“HKAA” or “Act”) (P. L. 116-149), not later than 90 days after the date of the enactment of the HKAA, 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 People’s Republic of China (PRC) to meet its obligations under the Sino – British Joint Declaration (“Joint Declaration”) or Hong Kong’s 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.

The Act sets out specific consequences for the foreign persons listed in this report. Pursuant to Section 6 of the Act, not later than one year from the date of this report, the President shall impose certain blocking sanctions on the listed persons and subject them to visa restrictions and exclusion from the United States. Furthermore, pursuant to Section 5(b) of the Act, not earlier than 30 days and not later than 60 days following the submission of this report, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit a report to Congress that identifies any foreign financial institutions (FFI) that knowingly conduct a significant transaction with the foreign persons listed in this report. Pursuant to Section 7(a) of the Act, within one year of their inclusion in the Secretary of the Treasury’s report, the Act mandates that the President impose five out of 10 of the sanctions set out in Section 7(b) on any FFI identified pursuant to Section 5(b). [These include (1) restrictions on loans from U.S. financial institutions; (2) prohibitions on designation as a primary dealer; (3) prohibitions on service as a repository of government funds; (4) restrictions on foreign exchange; (5) prohibitions on banking transactions; (6) prohibitions on property transactions; (7) restrictions on exports, re-exports, and transfers; (8) bans on investments in equity or debt; (9) exclusions of corporate officers; and (10) sanctions of principal executive officers.] Not later than two years after an FFI has been included in the Secretary of the Treasury’s report, the President is required to impose all of the sanctions set out in Section 7(b) of the Act.

USG Actions in Response to PRC Efforts to Undermine the Autonomy of Hong Kong

In developing this report, the Department of State (“Department”) has taken into consideration a number of recent actions by the PRC that have undermined the autonomy of Hong Kong and materially contributed to the PRC’s failure to meet its obligations under the Joint Declaration and Basic Law, as this is defined in section 5(g) of the Act. Specifically, under section 205 of the United-States Hong Kong Policy Act of 1992 (“HKPA”), on May 27, as added by section 4(a)(2) of the Hong Kong Human Rights and Democracy Act of 2019, the Secretary of State determined that Hong Kong no longer warrants treatment under U.S. law in the same manner as U.S. laws were applied to Hong Kong before July 1, 1997. The Department of State took this step in response to several actions by the PRC. These include the PRC National People’s Congress’ decision to unilaterally and arbitrarily impose national security legislation on Hong Kong, as well as a statement made on April 17 by the Central Government Liaison Office (CGLO) of the People’s Republic of China in Hong Kong claiming that CGLO and the central government’s

Hong Kong and Macau Affairs Office in Beijing are not bound by a provision of the Basic Law that states that “no department of the Central People’s Government . . . may interfere in the affairs” of Hong Kong. The May 22 announcement by the PRC of a proposal at the National People’s Congress to unilaterally and arbitrarily impose national security legislation on Hong Kong and its subsequent promulgation on June 30 contradict the spirit and practice of the Sino-British Joint Declaration, the Basic Law, and the One Country, Two Systems framework. The Joint Declaration stipulates that “the maintenance of public order in the Hong Kong Special Administrative Region will be the responsibility of the Hong Kong Special Administrative Region,” and that “rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike . . . will be ensured by law in the Hong Kong Special Administrative Region.” Similarly, the Basic Law stipulates that “the Hong Kong Special Administrative Region shall enact laws on its own (emphasis added) to prohibit any act of treason, secession, subversion against the Central People’s Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.” Beijing’s National Security Law violates the aforementioned provisions on multiple procedural and substantive grounds.

On July 14, the President issued Executive Order (E.O.) 13936 on Hong Kong Normalization. In E.O. 13936, the President determined, pursuant to section 202 of the HKPA, that Hong Kong was no longer sufficiently autonomous to justify differential treatment in relation to the PRC under particular U.S. laws and provisions. The President further determined 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. The President declared a national emergency with respect to that threat and made a number of determinations and orders listed in E.O. 13936, including authorizing economic sanctions against foreign persons for activities including involvement in developing, adopting, or implementing the National Security Law or engaging in actions or policies that threaten the peace, security, stability, or autonomy of Hong Kong.

The State Department notes recent concerning developments in Hong Kong, including the arrest of opposition lawmakers, the editing of textbooks to remove references to civil disobedience and separation of powers in Hong Kong, and arrest warrants issued for statements made supporting democracy in Hong Kong. The Hong Kong Police Force arrested hundreds of peaceful protestors and deployed pepper-spray projectiles on September 6, 2020 as Hong Kong residents expressed opposition to the delay of Legislative Council elections. The Hong Kong Government has denied visas to those who could be considered critical of the administration, including Hong Kong Free Press editor Aaron McNicholas... The Hong Kong Government uses arrests on spurious charges to limit international travel, and Chinese state-owned media have suggested that Hong Kong residents who meet with foreign diplomats could be subject to “collusion” charges under the National Security Law.

The actions described above demonstrate that the PRC, through the implementation of the National Security Law by the Hong Kong Government, is actively seeking to undermine Hong

Kong's autonomy and failing to meet its obligations under the Joint Declaration and Basic Law, as defined in Section 5(g) of the Act. The Department has consistently and publicly expressed its concern about these developments, especially those related to the PRC's imposition of the National Security Law, which has fundamentally undermined Hong Kong's autonomy and freedoms. The Department has also spoken out against the Hong Kong Government's disqualification of electoral candidates and postponement of Legislative Council elections. Similarly, the Department has condemned the arrest of democracy advocates.

Foreign Persons Materially Contributing to the Failure of the PRC to Meet its Obligations Under the Joint Declaration and Basic Law

Under Section 5(g) of the Act, a foreign person materially contributes to the failure of the Government of China to meet its obligations under the Joint Declaration or 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." The Secretary of State, in consultation with the Secretary of the Treasury, has considered foreign persons from the perspective of such actions.

Pursuant to Section 5(a) of the Act, the Secretary of State, in consultation with the Secretary of the Treasury, has determined that the 10 foreign persons listed below are materially contributing to, have materially contributed to, or attempt to materially contribute to the failure of the PRC to meet its obligations under the Joint Declaration or the Basic Law, as described in section 5(g) of the Act. As also required under section 5(a), the list below 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. The Department of the Treasury has already imposed asset-blocking sanctions on each of the foreign persons listed in this report on August 7, 2020, when it designated those persons pursuant to E.O. 13936.¹

Xia Baolong: Xia Baolong is the head of the Hong Kong and Macao Affairs Office, which is one of Beijing's primary vehicles for implementing its Hong Kong strategy. Xia Baolong oversees the Office's promotion of the principles and policies of the central government concerning Hong Kong, including the National Security Law. Under Xia's leadership, the Office has taken a number of actions to interfere in Hong Kong's autonomy, including issuing statements asserting its authority to supervise Hong Kong's internal affairs in contradiction to the Basic Law and the Sino-British Joint Declaration.

Zhang Xiaoming: Zhang Xiaoming is the Deputy Director of the Hong Kong and Macao Affairs Office. As Deputy Director, Zhang is in charge of the Office's daily operations and helps

¹ Although Stephen Lo, the previous commissioner of the Hong Kong Police Force, is not listed in this report as a foreign person materially contributing to the failure of the PRC to meet its obligations under the Joint Declaration or Basic Law, he is designated pursuant to E.O. 13936 for being the leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalize the exercise of freedom of expression or assembly in Hong Kong. Pursuant to that designation, Lo has been added to the U.S. Department of the Treasury's Office of Foreign Assets Control's List of Specially Designated Nationals and Blocked Persons. As a result of the designation, Lo's assets are blocked, and U.S. persons are generally prohibited from dealing with him.

oversee its promotion of the principles and policies of the central government concerning Hong Kong, including the National Security Law. During Zhang's tenure, the Office has taken a number of actions to interfere in Hong Kong's autonomy, including issuing statements asserting its authority to supervise Hong Kong's internal affairs in contradiction to the Basic Law and the Sino-British Joint Declaration.

Luo Huining: Luo Huining is the director of the Central Government Liaison Office, which is the Chinese government's most important office in Hong Kong. Under Luo's leadership, the Office has taken a number of actions to undermine Hong Kong's autonomy, including issuing statements asserting its authority to supervise Hong Kong's internal affairs in contradiction to the Basic Law and the Sino-British Joint Declaration. Luo is also the National Security Advisor to the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (HKSAR). The Committee was established under the National Security Law with the primary responsibility for safeguarding national security in Hong Kong; it is under the supervision of and accountable to the Central Government.

Carrie Lam: Carrie Lam is the Chief Executive of Hong Kong. Lam signed the National Security Law into effect in June 2020. As the Chief Executive, she is also the Chair of the Committee for Safeguarding National Security of the HKSAR and oversees the work of the Committee. Lam has invoked emergency powers to restrict the rights and freedoms of Hong Kong residents, including postponing the September 2020 Legislative Council elections for one year.

Teresa Cheng: Teresa Cheng is the Secretary for Justice and a principal legal advisor to Chief Executive Carrie Lam. She is leading the Department of Justice's work to implement the National Security Law, including establishing a dedicated unit to handle prosecutions under the Law and filing charges against protestors and opposition politicians.

Erick Tsang: Erick Tsang is the Secretary for Constitutional and Mainland Affairs and head of the Constitutional and Mainland Affairs Bureau, which is responsible for overseeing the full and faithful implementation of the Basic Law. The National Security Law has been included in an annex to the Basic Law of the HKSAR. Through his supervision of the Bureau, Tsang has promoted implementation of the National Security Law

Zheng Yanxiong: Zheng Yanxiong, a member of the Standing Committee of the Communist Party of China Guangdong Provincial Committee, is the head of the Office for Safeguarding National Security of the Central Government in Hong Kong. The Office was created under the National Security Law and is responsible for overseeing law-enforcement mechanisms and coordinating the central government's ultimate responsibilities over security matters in the city.

Eric Chan: Eric Chan is the Secretary-General of the Committee for Safeguarding National Security of the HKSAR. As Secretary-General, he heads the secretariat established under the Committee. At the Committee's first meeting, it created relevant implementation rules for law enforcement agencies to carry out the measures stipulated under Article 43 of the National Security Law, outlining measures law enforcement authorities may take.

John Lee: John Lee is Secretary for Security and the head of the Security Bureau, which includes the Hong Kong Police Force. As Secretary for Security, John Lee is responsible for security-related policies in Hong Kong, including the maintenance of law and order. Under his oversight, the Hong Kong Police have set up a dedicated unit to enforce the National Security Law, which has arrested protestors and activists.

Chris Tang: Chris Tang is the Commissioner of Police in Hong Kong. Under his leadership, the Hong Kong Police Force has invoked the National Security Law to arrest pro-democracy activists, including 10 who were arrested within 24 hours of the Law taking effect. Tang is also a member of the Committee for Safeguarding National Security of the HKSAR.