

HKSAR Government strongly reprimands unilateral decision by the US on suspension or termination of bilateral agreements

The Hong Kong Special Administrative Region (HKSAR) Government issued a severe reprimand today (August 20) against the United States (US) administration for its unilateral decision to suspend or terminate three bilateral agreements with the HKSAR.

As part of the so-called "ongoing implementation measures" following the US President's Executive Order issued on July 14, the US Department of State announced yesterday the suspension or termination of three bilateral agreements signed between the HKSAR Government and US Government, namely the Agreement on the Surrender of Fugitive Offenders (SFO), the Transfer of Sentenced Persons (TSP) Agreement and the Agreement concerning Tax Exemptions from the Income Derived from the International Operation of Ship.

"Contrary to what was alleged in the US President's Executive Order, these agreements are not US' preferential treatment for Hong Kong. They are bilateral agreements negotiated in good faith to benefit the peoples and businesses of both sides in areas of law and order, shipping and tax treatment. The US' unilateral decision reflects its disrespect for bilateralism and multilateralism under the current administration and should be condemned by the international community," a spokesman for the HKSAR Government said.

"The HKSAR Government strongly objects to and deplores the US' action, which is widely seen as a move to create troubles in China-US relationship, using Hong Kong as a pawn."

Earlier this month, the US also imposed the so-called "sanctions" against 11 officials of the Central People's Government and the HKSAR Government, as well as disallowed Hong Kong products to be marked as originated from "Hong Kong". The HKSAR Government has expressed strong opposition to US' actions via press statements of [August 8](#) and [August 11](#).

On the suspension of SFO Agreement, the spokesman pointed out that the HKSAR Government, with the authorisation and assistance of the Central People's Government, has all along conducted close and effective law enforcement co-operation with the US under the legal framework of the Agreement based on the principle of mutual assistance and reciprocity. Since the entry into force of the SFO Agreement between the HKSAR and the US in 1998, the number of fugitive offenders successfully surrendered to the US upon request with assistance rendered by the HKSAR Government amounted to a total of 69, which is much higher than the total number of 23 fugitive

offenders surrendered to the HKSAR from the US. It is expected that suspension of the SFO agreement will have greater impact on the US' enforcement operation.

"Since the crimes committed by fugitive offenders are mostly of a serious nature such as fraud, drug trafficking, murder/manslaughter, rape/sexual offence, money laundering, corruption, theft, etc., suspension of the SFO Agreement will only allow such criminals to evade legal sanctions and thus failing to uphold justice for the victims. As such, the US will need to be answerable to the rule of law, to the American people and to the international community at large," the spokesman said.

The spokesman stressed that the HKSAR has established a comprehensive co-operation regime for the surrender of fugitives. The HKSAR Government will continue to uphold the principle of mutual assistance and reciprocity, and carry out law enforcement co-operation with other members of the international community in accordance with the law.

As regards the TSP Agreement, it allows sentenced persons to return to their places of origin to serve their sentence, where there are no language or cultural barriers and where friends and relatives can pay more regular visits, and is conducive to their rehabilitation. The US' decision to terminate the Hong Kong-US TSP Agreement eliminates the possibility of such transfers and defies values of humanitarianism.

The spokesman pointed to the fact that the HKSAR Government has not approved any application for transfer of sentenced persons from Hong Kong to the US since 2012.

"This is because we have grounds to question the US' system for continued enforcement of sentences. Our concern has arisen from a case involving a drug convict, who was sentenced to 24 years' imprisonment in Hong Kong in 2009. After serving three years and four months in Hong Kong, he was subsequently transferred to the US under the TSP Agreement in December 2011 to serve out the remainder of the sentence. However, the United States Parole Commission substantially reduced the sentence from 24 years to five years (by 80 per cent), leading to the discharge of the sentenced person in November 2012, less than a year after transfer (with roughly 20 per cent of the original sentence served in total). We doubt whether full justice has been done in upholding law and order," the spokesman added.

On the Agreement concerning Tax Exemptions from the Income Derived from the International Operation of Ship, it provides for mutual tax exemption on income derived by residents/companies of the other side from international shipping operation business on a reciprocal basis.

"Should the Agreement between Hong Kong and the US be terminated, for the US companies, they would need to pay taxes to both the US and Hong Kong governments, whereas Hong Kong companies will be required to pay tax to the US government only, as their shipping income are exempted from tax liability in Hong Kong by virtue of section 23B of the Inland Revenue Ordinance.

"The termination of the Agreement increases the operating costs of the shipping companies concerned, in particular the US companies as they will be subject to double taxation. It would hamper the development of the shipping sector between Hong Kong and US, and is to nobody's interest," the spokesman said.

Referring to the earlier US measure on Hong Kong products exported to the US, the spokesman said that the HKSAR Government will take action at the World Trade Organization (WTO) against US' measures which violate WTO rules.

"US' new rule on origin marking of Hong Kong products disregards Hong Kong's status as a separate WTO member and violates WTO rules," the spokesman said.

"Hong Kong will take action against the US under the WTO dispute settlement mechanism to defend our separate customs territory status and protect our interest. Specifically, as our permanent representative at the WTO, the Geneva Economic and Trade Office will follow up the case in accordance with the WTO processes," the spokesman said.

The spokesman pointed out that the HKSAR is an inalienable part of the People's Republic of China and a local administrative region which enjoys a high degree of autonomy under "One Country, Two Systems" and comes directly under the Central People's Government. The Basic Law confers special status to Hong Kong under "One Country, Two Systems".

"Article 116 of the Basic Law provides that the HKSAR is a separate customs territory; Article 151 provides that Hong Kong may on its own, using the name 'Hong Kong, China', maintain and develop relations and conclude and implement agreements with foreign states and regions in a range of appropriate fields.

"We urge the US administration to immediately stop interfering in HKSAR's internal affairs, and retract its baseless allegations against The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) enacted by the Standing Committee of the National People's Congress and applied in the HKSAR in accordance with the Basic Law. We need to solemnly point out that implementation of the National Security Law preserves the principle of 'One Country, Two Systems' and restores the much needed stability in the HKSAR especially after the social chaos and violence that had taken place in Hong Kong in the latter half of last year," the spokesman said.