

LCQ6: Hong Kong Human Rights and Democracy Act

Following is a question by the Hon Christopher Cheung and a reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (November 20):

Question:

Earlier on, the House of Representatives of the United States (US) Congress passed the Hong Kong Human Rights and Democracy Act (the Act). The Act, if passed by the Senate and signed by the President, will become a law. Some members of the business sector are worried that the Act, once implemented, will inevitably affect the exchanges between Hong Kong and the US, make the US Government review the special treatment granted to Hong Kong, and destabilise Hong Kong's external trade relations and its status as an international financial centre. In this connection, will the Government inform this Council:

(1) of the latest assessment of the adverse impacts of the implementation of the Act on aspects such as Hong Kong's external trade relations, investment and listing of foreign-funded enterprises in Hong Kong, and importation of high technology products and know-how;

(2) whether it will step up efforts to lobby the political and business sectors of the US and explain to them the real situation of Hong Kong, so as to avoid the US authorities mistakenly making decisions that are unfavourable to Hong Kong; and

(3) of the contingency plans in place to reduce the impact on Hong Kong's economy to be brought about by the Act upon implementation?

Reply:

President,

Thank you for the question raised by the Hon Christopher Cheung.

Under "one country, two systems", the Basic Law confers on Hong Kong a unique status. Article 116 of the Basic Law stipulates that the Hong Kong Special Administrative Region (HKSAR) is a separate customs territory and Article 151 provides that Hong Kong may, using the name "Hong Kong, China", participate in international organisations such as the World Trade Organization (WTO) and the Asia-Pacific Economic Cooperation as a separate member.

Therefore, Hong Kong's unique status is not granted unilaterally by any other country, but is conferred by the Basic Law. Hong Kong's unique status is well recognised and respected by the international community. Our economic and trade status is on par with other WTO members, and we are making use of

this capacity in the international economic and trade arena to establish mutually beneficial relations with our trading partners around the world.

In respect to Hong Kong's return to the Motherland, the United States (US) enacted in 1992 the US-Hong Kong Policy Act (the Policy Act) which set out its policy and principled positions towards Hong Kong. The relevant law is a policy act of the US itself but not an international or bilateral agreement. Over the years, the US has been conducting economic and trade exchanges with Hong Kong in accordance with the Policy Act, has been respecting Hong Kong as a separate customs territory, and has on this basis established mutually beneficial bilateral economic and trade relations with Hong Kong. The US is Hong Kong's second largest merchandise trading partner in the world, while Hong Kong is the US' tenth largest export market. According to the US' statistics, for the past ten years, the US has been enjoying the largest trade surplus with Hong Kong among its many global trading partners, valued at US\$33.8 billion in 2018 alone. In 2017, the US was the seventh major source of inward direct investment into Hong Kong and the ninth major destination of outward direct investment from Hong Kong. Moreover, there are 1 344 US companies in Hong Kong, of which 278 are regional headquarters. Separately, around 85 000 US citizens live in Hong Kong. The close and reciprocal bilateral relation between the two places is obvious.

Therefore, passage of the Hong Kong Human Rights and Democracy Act (the Hong Kong Act) by the US Congress unilaterally is unnecessary and will certainly damage the mutually beneficial relationship, including the US' interests. The uncertainty so caused will inevitably affect the confidence of international investors and companies in Hong Kong. As for the actual impact on Hong Kong, it will depend on the specific measures and changes adopted by the US Administration after the Hong Kong Act is signed into law by the US President. The HKSAR Government will closely monitor development on the matter.

As a matter of fact, safeguarding human rights and freedoms is a constitutional duty of the HKSAR Government. Article 4 of the Basic Law stipulates that the HKSAR shall safeguard the rights and freedoms of the residents of the HKSAR and of other persons in the Region in accordance with law. Human rights and freedoms in Hong Kong are fully protected by the Hong Kong Bill of Rights Ordinance and other legislation, in addition to the Basic Law. Provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong remain in force. The position of the HKSAR Government is very clear: we oppose foreign legislatures interfering in any form in the internal affairs of the HKSAR.

As for explanatory work, the HKSAR Government has been explaining to countries around the world the successful implementation of "one country, two systems" since our return to the Motherland, and promoting Hong Kong's unique status under the Basic Law and "one country, two systems" as well as our own various advantages. Such work is done through exchanges of information, reciprocal official visits, participation in international conferences, and the regular liaison of the overseas Economic and Trade Offices (ETOs). The Financial Secretary visited the US in October 2019, while I visited the US

three times in September 2018, June and September 2019 respectively, during which we met with US government officials, Congressmen, think tanks as well as the business community there, and explained clearly Hong Kong's unique status and advantages. In respect of the Hong Kong Act, we have been explaining the situation in Hong Kong to relevant persons and organisations and actively clarifying misunderstandings, stressing that the changing of US policies towards Hong Kong is unwarranted and will bring negative impact on the exchanges of people and businesses between the two places. The Chief Executive, myself and officers of the ETOs have written many times to various interlocutors in the US to explain clearly and in detail the HKSAR Government's position.

The ETOs in Washington DC, New York and San Francisco have all along maintained regular contact with various sectors in the US, and they through meetings and other means have explained the actual and latest situation in Hong Kong. Among these, in the case of the ETO in Washington DC, the ETO has met over 200 political and business leaders in this year so far, including federal government officials responsible for Hong Kong affairs in the White House, Department of State, Department of Commerce and the US Trade Representative, as well as members and staffers of Congress.

Looking ahead, the HKSAR Government will continue to strengthen external connections on the above aspects.

Thank you, President.