

Roll Call

Pompeo ups the ante with China, using Hong Kong's trade status as a Trump card

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Secretary of State Mike Pompeo on Wednesday formally notified Congress that Hong Kong was no longer politically autonomous from mainland China, kick-starting a process that could lead to the revocation of some or all of the special trade and legal privileges afforded to the former British colony that have made it one of the world's most important financial centers.

The notification by Pompeo, required by multiple U.S. laws, came a week after the Chinese government announced its intent to draft and impose a law that would drastically curtail civil liberties in Hong Kong.

“After careful study of developments over the reporting period, I certified to Congress today that Hong Kong does not continue to warrant treatment under United States laws in the same manner as U.S. laws were applied to Hong Kong before July 1997,” the secretary said in a statement, referring to the period when Hong Kong was still a British colony. “No reasonable person can assert today that Hong Kong maintains a high degree of autonomy from China, given facts on the ground.”

The National People's Congress — the Chinese Communist Party's rubber-stamp legislature — is expected on Thursday to approve in principle the drafting of a sweeping anti-sedition law for Hong Kong, the specific details of which are not yet known.

The security law, which is expected to criminalize “foreign interference” in Hong Kong and outlaw many dissident activities, is supposed to be passed by the end of this summer and implemented before local elections in Hong Kong in September, according to Bonnie S. Glaser, director of the China Power Project at the Center for Strategic and International Studies.

“Hong Kong's role as an international financial hub is likely to be called into question,” Glaser said during a Cato Institute webcast. “We may see a mass exodus of capital, business and expats. ... The future for Hong Kong looks rather bleak to me.”

Under the terms of the 1992 U.S.-Hong Kong Policy Act, Washington committed to treating Hong Kong as separate from the rest of China in a variety of economic and political matters so long as the island city remained “sufficiently autonomous” from the mainland.

The certification by Pompeo does not automatically lead to the revocation of Hong Kong's special privileges. Rather, it initiates an administration process that could lead to the suspension of those privileges under U.S. law via one or more executive orders. Loss of those privileges

could mean the Trump administration's steep tariffs on goods from mainland China are applied to Hong Kong, and that it becomes more difficult for Hong Kong residents to obtain U.S. visas.

The administration has flexibility in deciding whether to end some or all of Hong Kong's legal and trade privileges.

Those privileges can be resumed if the "president determines that Hong Kong has regained sufficient autonomy," according to the 1992 measure, which does not provide a timeline for when revocation of privileges should take place after a certification has been made.

Lawmakers cheer, experts worry

Reaction to Pompeo's declaration varied on Wednesday with Republican lawmakers and democracy activists cheering the move while several experts on East Asia expressed concern the Trump administration had jumped the gun.

"We strongly welcome and agree with Secretary Pompeo's assessment that Hong Kong is no longer autonomous from China and that China has broken its promises of high degree of autonomy and freedoms under 'one country, two systems' to the people of Hong Kong, the U.S. and the world," Samuel Chu, managing director of the Washington-based Hong Kong Democracy Council, said in a statement.

Chu urged President Donald Trump to immediately issue an executive order declaring Hong Kong a national emergency under the International Emergency Economic Powers Act, which would pave the way for sweeping unilateral sanctions on individuals and entities subverting Hong Kong's autonomy.

Republican Sen. Josh Hawley of Missouri, one of the Senate's biggest anti-China hawks, posted on Twitter that the Hong Kong certification "should trigger revision of Hong Kong special trade laws & treatment by U.S. — and we should not stop there. China's own trade status with U.S. should be on the table."

And Sen. Lindsey Graham said Foggy Bottom's finding that Hong Kong is no longer autonomous increased the urgency for Congress to consider a bipartisan Hong Kong sanctions bill.

"It is imperative the Senate act on bipartisan legislation sanctioning China for the destruction of Hong Kong's democracy and freedom," the South Carolina Republican said in a Twitter post. "We must move quickly and decisively."

Last week, Republican Sen. Patrick J. Toomey of Pennsylvania and Democratic Sen. Chris Van Hollen of Maryland filed legislation that would begin a process that could eventually impose mandatory sanctions on Chinese banks if they conduct transactions with individuals subverting Hong Kong's autonomy and decline to cease their contacts with those individuals. The bill is before the Banking Committee.

But Glaser told the Cato webcast on U.S.-China relations that she feared Pompeo had acted too quickly in issuing his certification before China had released its anti-sedition law.

"If there is potential to influence how China is going to implement the law, now is the time to do that over the next few months," she said. "It sounds to me that the United States has gone in with a nuclear weapon in removing Hong Kong's special status."

Michael Swaine, a senior associate in the Carnegie Endowment for International Peace's Asia Program, told the webcast he thought Pompeo's certification would end up pushing the Chinese Communist Party toward enacting its planned anti-sedition law while reducing the prospects for quiet diplomacy to have found a less extreme solution.

"It feels good to make this gesture but I don't think it is going to do much on the good side," Swaine said. "It could have very significant negative implications for Hong Kong itself."