

HONG KONG/CHINA: National security law is not the "end of Hong Kong"

- The Chinese central government's plan for a new national security law in Hong Kong reflects impatience with the lack of legal tools available to suppress the protest movement.
- Beijing is seeking to reassure foreign business that the law will affect only a "tiny minority" of radical activists, not-law-abiding investors and companies.
- The US may respond by revoking Hong Kong's special status under US law and sanctioning Chinese officials and banks.

China's National People's Congress (NPC) will pass a resolution that empowers Beijing to impose a law against separatism, subversion, terrorism, and foreign interference in Hong Kong without the participation of Hong Kong's elected legislature. Even as Beijing has deployed a [strategy of attrition](#) that has achieved some degree of success against the protest movement, top leaders lost patience with the ongoing [political stalemate](#) and the persistence of [violent protests](#).

At the annual plenum meeting of top Communist Party leaders in October, the [party declared](#) its intention to pursue new legal and enforcement mechanisms to "uphold national security" in Hong Kong. Based on its vague language, however, it was unclear how Beijing or its allies in Hong Kong would enact such mechanisms. The answer came on 21 May, when the NPC announced that it would pass a resolution authorizing the NPC Standing Committee (NPCSC) to draft a national security law that will be added to Hong Kong's mini-constitution, the Basic Law.

Legislative process

The Basic Law's Article 23 requires Hong Kong's Legislative Council to pass a national security law, but this task has remained incomplete since the handover in 1997. Hong Kong's Legislative Council (LegCo) considered national security legislation in 2003 but abandoned the effort after large street protests. The NPC's decision to impose the law directly, rather than rely on the LegCo, reflects not only the failed 2003 effort but also more recent evidence that the LegCo is paralyzed. Despite pro-Beijing parties' majority control, they [failed to push through](#) last year's proposed extradition bill after it sparked a new wave of protests.

The exact timeline for enacting the new law is unclear, but the most likely date for final passage is late August. Once the NPC passes its resolution in the next week, the NPCSC will begin formally drafting legislation, though state media has reported that drafting is already 70-80% finished. The NPCSC, which meets every two months, could formally review a completed draft at its next meeting in late June, then give final approval in late August. Once the bill is approved, a separate step of formally adding it to Annex 3 of the Basic Law is required. That could occur at the same NPCSC meeting in August or a subsequent one.

Legal experts have raised various objections to Beijing's plan. They note that Article 23 appears to reserve for the LegCo the authority to enact national security legislation. The central government has responded that Article 23 grants the LegCo only the obligation – but not exclusive authority – to enact such legislation. On this view, national security is an inherent right of "national legislative power" belonging to Beijing, while Article 23 merely shares that right with the LegCo. Whatever the merits, legal objections are unlikely to pose a practical obstacle to Beijing's plan.

Impact on foreign business

With the bill not yet drafted, it is too early to assess the full impact. The law will certainly erode Hong Kong's political autonomy and empower the Hong Kong government to [crack down more harshly](#) on the protest movement – at least its most radical elements. The impact on foreign investors and multinational companies is less clear, but there are reasons to think it will be modest.

The senior Communist Party official in charge of Hong Kong affairs, Vice Premier and Politburo Standing Committee Member Han Zheng, said that the law would only affect three groups: pro-independence activists, violent radicals, and protestors seeking to destroy Hong Kong's economy. Han also reiterated the central government's commitment to the principles of "one country, two systems" and "Hong Kong people administering Hong Kong" with a high degree of autonomy.

Beijing is aware of the risk of scaring away foreign business. Prior to the official announcement, China's foreign ministry held late-night phone calls with foreign embassies in Beijing to emphasize that the law only targets a "tiny minority" separatism and terrorism. The foreign ministry also said that the law "does not affect the legitimate rights and interests of foreign investors." Hong Kong's free press and independent judiciary will likely remain intact – at least for speech that does not advocate independence and for court cases that are not politically sensitive.

As previously discussed, Beijing still [values Hong Kong's role](#) as a conduit for investment to and from the mainland. Meanwhile, Hong Kong [maintains major advantages](#) over potential alternative business and financial hubs in the region such as Singapore and Shanghai.

Foreign response

The legislation is certain to elicit a response from the US, but the severity of that response is not yet clear. The Hong Kong Human Rights and Democracy Act, [passed last fall](#), empowers US President Donald Trump to eliminate the distinction between Hong Kong and mainland China for trade, tax, and other commercial purposes if the State Department determines that Hong Kong no longer enjoys sufficient autonomy. Earlier this month the department delayed issuing its annual certification of Hong Kong's autonomy. National Security Advisor Robert O'Brien warned on 24 May that State would likely be unable to re-certify if China proceeds with the national security law.

A bipartisan group of senators has also sponsored new legislation, the Hong Kong Autonomy Act, that would sanction Chinese officials and institutions who enforce the new law. The bill would also sanction Chinese banks that conduct "significant transactions" with the sanctioned persons and institutions. A full text is not yet available, but a maximalist version of this provision could theoretically cut off major Chinese banks entirely from the US financial system. Such a radical step would likely face political resistance in the US, however, despite rising anti-China sentiment.

Beyond these specific measures, the new Hong Kong legislation will further boost anti-China sentiment in the US and other liberal democracies. We will provide further analysis of the US and global responses in future notes.

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