



## **FACT SHEET: Maximizing U.S. Sanctions Tools to Address Deteriorations in Freedom in Hong Kong**

### **The Issue**

Conditions inside Hong Kong have continued to deteriorate since the implementation of the National Security Law in June 2020. Since then, officials and entities in the Chinese Communist Party and in Hong Kong aided and abetted the undermining of liberty in the city-state. Given the direct connection between individual action and deteriorations in freedom of speech, the press, assembly, and religious freedom among other concerning trends, there is a need to take concrete action to hold both accountable. The U.S. government already has tools at its disposal to do just that, but it needs to do a better job with implementation.

### **What sanctions tools does the U.S. have at its disposal?**

There are three sets of sanctions authorities directly applicable to addressing deteriorations in freedom and human rights in Hong Kong: 1) The Hong Kong Human Rights and Democracy Act of 2019 (HKHRDA), 2) The Hong Kong Autonomy Act of 2020 (HKIA), and 3) The Global Magnitsky Human Rights Accountability Act of 2016. All three acts enable the U.S. government to target individuals for their human rights violations. The HKHRDA and HKIA are more Hong Kong-specific. And the HKIA specifically enables the U.S. government to target foreign financial institutions complicit in undermining freedom in Hong Kong. In addition to the use of targeted financial measures, the U.S. has other sanctions authorities to address terrorism and money laundering; some of the money laundering tools, particularly Section 311 of the USA Patriot Act, may also be applicable to Hong Kong. Section 311 authorities allow the U.S. government to label an institution, set of transaction, or entire jurisdiction as a Primary Money Laundering Concern. Finally, in addition to financial sanctions, the U.S. also has the ability to institute visa bans against individuals; it can do so under Section 7031(c) authorities.

## **Who has the authority to ensure sanctions implementation and enforcement?**

The U.S. President can direct the U.S. Department of State and/or the U.S. Department of the Treasury to institute sanctions against individuals in Hong Kong. State exercises authority over visa bans, while the Treasury Department typically, though not exclusively, oversees financial sanctions. Congress serves in an oversight function, both because they often legislate sanctions authorities, including mandatory reporting requirements from the executive branch to Congress on sanctions implementation and enforcement.

## **How can the U.S. maximize the use of its sanction's tools?**

The U.S. should take at least four steps to improve its sanctions efforts to address concerning conditions inside of Hong Kong:

1. **Identify timely and pointed tranches of sanctions to prioritize for State and Treasury.** Priority tranches could include: 1) undermining the rule of law in Hong Kong, 2) violations of press freedom, 3) political prisoners, 4) threats to religious freedom, 4) restrictions on access to the internet, among other subjects, and time these sanctions could be timed with key anniversaries, trials, meetings between U.S. and Chinese counterparts, and key geopolitical events like the UN General Assembly, for example.
2. **Target financial institutions for sanctioning under the Hong Kong Autonomy Act.** These sanctions tools have not been used to their fullest extent and are uniquely tailored to address challenges in Hong Kong; the U.S. government should make better use of these authorities.
3. **Partner with allies like the United Kingdom, the European Union, Canada, Japan, Australia, and others to issue multilateral sanctions.** Multilateral sanctions not only have strong financial consequences for individuals and entities in Hong Kong, but also send a message of solidarity as the world seeks to oppose China's undermining of freedom in Hong Kong. Among the first targets should be Hong Kong's current Chief Executive, John Lee, who is already unilaterally sanctioned by the U.S. government.
4. **Investigate whether institutions, accounts, or sets of transactions in Hong Kong qualify as Primary Money Laundering Concerns.** It is difficult (arguably impossible) to contend that Hong Kong as a jurisdiction qualifies as a PMLC; a broad sweeping designation should be avoided at this time, but a discrete designation may well be merited.