
BEYOND BORDERS: HKETOs, ARTICLE 23, AND THE CCP'S AGENDA ABROAD

EXECUTIVE SUMMARY

Hong Kong Economic and Trade Offices act as official representatives of Hong Kong abroad, and have maintained the same privileges and immunities since their establishment, despite drastic changes in Hong Kong's political environment and its rapidly decreasing autonomy today.

This briefing examines the background of the Hong Kong Economic and Trade Offices, relevant data, their mandate, and then addresses the impact of Article 23 legislation on HKETOs. Finally, it collates the responses since Hong Kong Watch's 2022 briefing on the same topic and provides recommendations.

Following the implementation of the Safeguarding National Security Ordinance under Article 23 of the Basic Law, Hong Kong Economic and Trade Offices have assumed responsibility for promoting closer ties between Hong Kong and the Mainland, offering tacit support for Beijing's undermining of Hong Kong's political autonomy, independent judiciary, and rule of law. Essentially, Hong Kong Economic and Trade Offices are serving as supplemental embassies for Beijing, as they possess many of the same privileges and immunities and represent a government that functions as a *de facto* puppet of the central authorities in Beijing.

BACKGROUND

This paper follows Hong Kong Watch’s 2022 publication *PRC Embassies in Disguise: Hong Kong Economic and Trade Offices are Another Overseas Arm of the CCP*, which found that multiple Hong Kong Economic and Trade Offices (HKETOs) – namely in Brussels, London, Berlin, Toronto, Sydney, New York, San Francisco, and Washington DC – have similar privileges and immunities to diplomatic embassies and consulates, even where the host country also has a People's Republic of China (PRC) embassy and consulates.

The paper recommended that all countries that host HKETOs should review the status, privileges, and immunities of their respective HKETO, and international lawmakers should propose that maintaining the status of HKETOs depends on Beijing not exercising more control over the Hong Kong Special Administrative Region (HKSAR).¹

It also recommended that the international closure and ending of cooperation with Confucius Institutes could serve as a model for the future of HKETOs and to review the special treatment of the HKSAR, including in bilateral treaties, and in its representations to the European Union, World Trade Organization, and International Monetary Fund.

HKETOs were originally established as Hong Kong Government Offices used by British Hong Kong for representation abroad. The offices gradually transitioned to HKETOs starting in 1982 ahead of the expected 1997 handover. The responsibilities of the HKETOs included reviewing commercial and economic developments, coordinating activities abroad, and “disseminating information about Hong Kong and establishing personal contacts with individuals and organisations with a view to improving Hong Kong’s image.”²

Many of these responsibilities are carried on today, albeit with a new agenda that is directed by the Government of the People’s Republic of China and the Chinese Communist Party (CCP).

This report covers the HKETOs’ diplomatic privileges and immunities, their mandates, how they will be impacted by the new Article 23 legislation, and finally gives recommendations to governments.

¹ PRC Embassies in Disguise: Hong Kong Economic and Trade Offices are Another Overseas Arm of the CCP, Hong Kong Watch, 13 October 2022, <https://www.hongkongwatch.org/all-posts/2022/10/13/new-hong-kong-watch-policy-paper-calls-for-host-countries-to-review-the-status-and-rebrand-hong-kong-economic-and-trade-offices>

² Hong Kong Legislative Council Official Report of Proceedings, 11 November 1982, https://www.legco.gov.hk/yr82-83/english/lc_sitg/hansard/h821111.pdf and archived at https://web.archive.org/web/20240314121821/https://www.legco.gov.hk/yr82-83/english/lc_sitg/hansard/h821111.pdf

There are currently 14 HKETOs in the following regions worldwide:³

<u>Asia-Pacific</u>	<u>Europe</u>	<u>North America</u>	<u>Middle East</u>
<ul style="list-style-type: none"> ● Bangkok ● Jakarta ● Singapore ● Sydney ● Tokyo 	<ul style="list-style-type: none"> ● Berlin ● Brussels ● Geneva ● London 	<ul style="list-style-type: none"> ● New York ● San Francisco ● Toronto ● Washington DC 	<ul style="list-style-type: none"> ● Dubai

There is also a HKETO in Vancouver, which is not an official HKETO but registered as an outpost of the HKETO in Toronto.⁴ Each office represents Hong Kong to a state or a number of states and some international organisations. There are also HKETOs in Mainland China which liaise between Hong Kong and specific provinces, which will not be addressed in this briefing.

In the Hong Kong Government’s budget for 2024 to 2025, they estimated HK\$601.5million (US\$76.90 million) for running the Hong Kong Economic and Trade Offices. In addition, the Government budgeted HK\$142.7 million (US\$18.24 million) to maintain 205 non-directorate posts. This is on top of 23 directorate posts in the same time period.⁵

From 2021 to 2022, the Hong Kong Government had a budget of HK\$594.5million (US\$75.73 million) for running HKETOs, with HK\$133.1million (US\$17.02 million) budgeted for the posts.⁶

Between 2021 to 2022 and 2024 to 2025, the total number of non-directorate and directorate posts remained the same.

³ Economic and Trade Offices, Commerce and Economic Development Bureau, undated, <https://www.cedb.gov.hk/en/trade-and-investment/economic-and-trade-offices.html> and archived at <https://web.archive.org/web/20240314022333/https://www.cedb.gov.hk/en/trade-and-investment/economic-and-trade-offices.html>

⁴ Home, Hong Kong Economic and Trade Office (Toronto), undated, <https://www.hketotoronto.gov.hk/> and archived at <https://web.archive.org/web/20240314033808/https://www.hketotoronto.gov.hk/>

⁵ Head 96 — Government Secretariat: Overseas Economic and Trade Offices (2024-2025), Hong Kong Government, undated, <https://www.budget.gov.hk/2024/eng/pdf/head096.pdf> and archived at <https://web.archive.org/web/20240314024444/https://www.budget.gov.hk/2024/eng/pdf/head096.pdf>

⁶ Head 96 — Government Secretariat: Overseas Economic and Trade Offices (2021-2022), Hong Kong Government, undated, <https://www.budget.gov.hk/2021/eng/pdf/head096.pdf> and archived at <https://web.archive.org/web/20240314024553/https://www.budget.gov.hk/2021/eng/pdf/head096.pdf>

THE DATA

HKETO	Diplomatic Status
Bangkok	Not regarded either as an Embassy or a Consulate and not granted either diplomatic or consular status. ⁷
Berlin	Possesses full legal personality, inviolable premises, archives, and documents. Officers enjoy full immunity (except in civil proceedings) and tax exemptions. ⁸
Brussels	Inviolability of premises, official correspondence, archives, and documents as well as the exemption of premises and representatives from taxation. ⁹ Serves as representative to the European Union. ¹⁰
Dubai	No privileges or immunities. ¹¹
Geneva	No privileges or immunities. Serves as representative to the World Trade Organization and the Trade Committee of the Organization for Economic Co-operation and Development. ¹²
Jakarta	No privileges or immunities.
London	Premises and archives have the same inviolability as consular premises and archives. The premises and the residence of the head of the Office have the same exemptions as consular premises and the residence of the career head of a consular post. Officers have immunity from suit and legal process (except civil proceedings). Specific tax exemptions. ¹³ Serves as representative to the International Maritime Organization. ¹⁴

⁷ Embassy of the People's Republic of China in the Kingdom of Thailand No. TCE/PU 446, https://www.senate.go.th/document/mSubject/Ext84/84069_0001.PDF

⁸ Ordinance on the Grant of Privileges and Immunities to the Economic and Trade Office of the Hong Kong Special Administrative Region of the People's Republic of China in Berlin of 24 February 2009, <https://www.hketoberlin.gov.hk/download/BLETO-Ordinance.pdf>

⁹ LCQ14: Privileges and immunities granted to Hong Kong ETOs, <https://www.info.gov.hk/gia/general/201011/24/P201011240194.htm>

¹⁰ The Hong Kong Economic and Trade Office in Brussels, https://www.hongkong-eu.org/pg.php?id_menu=74

¹¹ No signed agreement, see Bilateral Relationship, <https://www.mofaic.gov.ac/en/Missions/Hong-Kong/UAE-Relationships/Bilateral-Relationship>

¹² About Us, <https://www.hketogeneva.gov.hk/en/home/index.html>

¹³ Hong Kong Economic and Trade Office Act 1996, <https://www.legislation.gov.uk/ukpga/1996/63/section/2>

¹⁴ Our Responsibilities, Hong Kong Economic and Trade Office (London), <https://www.hketolondon.gov.hk/responsibilities.php>

New York	Same privileges and immunities as public international organizations: ¹⁵ inviolable property and archives, officers have immunity, and tax exemptions. ¹⁶
San Francisco	Same privileges and immunities as public international organizations: ¹⁷ inviolable property and archives, officers have immunity, and tax exemptions. ¹⁸
Singapore	No privileges or immunities.
Sydney	It is a “designated overseas mission” with limited privileges and immunities that are similar to consular missions. The official premises, property, documents, and archives are inviolable and official premises are exempt from taxation. ¹⁹
Tokyo	No privileges or immunities. ²⁰
Toronto	Same privileges and immunities accorded to consular posts, including for officers. ²¹
Washington, DC	Same privileges and immunities as public international organizations: ²² inviolable property and archives, officers have immunity, and tax exemptions. ²³

¹⁵ PUBLIC LAW 105–22—JUNE 27, 1997,

<https://www.govinfo.gov/content/pkg/PLAW-105publ22/pdf/PLAW-105publ22.pdf>

¹⁶ 22 USC CHAPTER 7, SUBCHAPTER XVIII: PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS, <https://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>

¹⁷ PUBLIC LAW 105–22—JUNE 27, 1997

¹⁸ 22 USC CHAPTER 7, SUBCHAPTER XVIII: PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS

¹⁹ Hong Kong Economic and Trade Office (Privileges and Immunities) Regulations 1996 No. 334

<https://www.legislation.gov.au/Details/F1997B01641/Explanatory%20Statement/Text>

²⁰ No signed agreement, see Agreement between Japan and Hong Kong, https://www.mofa.go.jp/a_o/c_m2/hk/data.html

²¹ Hong Kong Economic and Trade Office Privileges and Immunities Order,

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-96-207/page-1.html>

²² PUBLIC LAW 105–22—JUNE 27, 1997

²³ 22 USC CHAPTER 7, SUBCHAPTER XVIII: PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS

MANDATE

According to the Hong Kong Government's budget for 2024 to 2025, HKETOs have three global programs: commercial relations, public relations, and investment promotions.

Commercial Relations Program

The first pillar, the commercial relations program, aims to “represent and promote Hong Kong's trading and commercial interests outside Hong Kong” through all 14 HKETOs, specifically to:

“...identify, develop and cultivate contacts with host governments, represent Hong Kong at international trade organisations, and maintain liaison with other governments and organisations in order to further Hong Kong's trade and economic interests. They monitor and report on developments which are likely to affect such interests, discuss with their host and other governments specific trade and economic issues, support senior officers' overseas visits, and promote the business opportunities arising from the Mainland and Hong Kong Closer Economic Partnership Arrangement, Hong Kong's participation in the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Greater Bay Area development.”

In 2024, the Hong Kong Government's global aim is for HKETOs to hold 3,540 meetings on trade-related matters; participate in 1,280 visits to host governments and trade organisations; organise 380 seminars, exhibitions and workshops and to participate in an additional 1,174; give 470 public speeches and 550 media interviews and issue 2,645 circulars, newsletters, and press releases through the commercial relations program.²⁴

Although these numbers are high, they are only marginally higher than the actual achieved numbers reported in 2022 and 2023.

The commercial relations program maintains a budget of HK\$285.1 million (US\$36.45 million), marking a 44.9% increase from the Government's 2023 to 2024 budget.²⁵

Public Relations Program

The second pillar, the public relations program, aims “to promote Hong Kong as a trusted trading partner and a premier location for doing business.”

The HKETOs are mandated to:

²⁴ Head 96 — Government Secretariat: Overseas Economic and Trade Offices (2024-2025), Hong Kong Government

²⁵ Ibid.

“...monitor and report on reactions to events in Hong Kong. They update overseas interlocutors on developments in Hong Kong, organise publicity and public relations activities for Hong Kong in the host countries or regions under their purview, liaise with Hong Kong enterprises and people, and provide a comprehensive information and enquiry service about Hong Kong.”

In 2024, the global target of the Hong Kong Government is for HKETOs to have 1,420 calls with senior government officials and organisations; organise 920 public relations functions and events and to participate in an additional 1,570; issue 2,725 newsletters, pamphlets, and press releases; assist 1,710 visitors; give 530 speeches and 550 media interviews; and handle 13,450 inquiries through the public relations program.

It is noteworthy that in 2023, 2,851 visitors were assisted through the public relations program, in contrast to 1,570 in 2022 and a projected 1,710 in 2024. This is attributed to “demands for assistance from London ETO specifically regarding applications for Certificates of No Criminal Conviction.”²⁶

Hong Kongers in the UK may have applied for Certificates of No Criminal Conviction, a proof of no criminal record, if they were required to provide this in response to an employment offer or to a UK Government authority request. For example, this document is normally required if a person is applying for jobs in the education, healthcare, and adult social care sectors.²⁷ This document is not required for immigration to the UK but it does reflect that a large number of Hong Kongers who have emigrated from Hong Kong to the UK are working locally.

For 2024-2024 specifically, under the clause Matters Requiring Special Attention, HKETOs are mandated to “continue to step up publicity and public relations efforts and launch promotional campaigns to enhance Hong Kong’s international image, and strengthen collaboration with other Hong Kong overseas agencies in developing strategies for city branding and publicity.”²⁸

The total budget for the public relations program is HK\$214.0 million (US\$27.35 million), reflecting a 45.3% increase since the Government’s 2023 to 2024 budget.

²⁶ Ibid.

²⁷ UK Department for Levelling Up, Housing & Communities, For information: Certificates of No Criminal Conviction (CNCCs), November 2022, https://assets.publishing.service.gov.uk/media/636cd69f8fa8f535852cace2/Letter_on_Certificates_of_No_Criminal_Conviction_-_English.pdf and also archived at https://web.archive.org/web/20240327014123/https://assets.publishing.service.gov.uk/media/636cd69f8fa8f535852cace2/Letter_on_Certificates_of_No_Criminal_Conviction_-_English.pdf

²⁸ Head 96 — Government Secretariat: Overseas Economic and Trade Offices (2024-2025), Hong Kong Government

Investment Promotion Program

The third and final pillar of the HKETOs mandate is investment promotion, which is mandated to:

“...attract foreign direct investment to Hong Kong and to promote Hong Kong’s many advantages as a regional hub and the preferred business location in Asia... In close collaboration with Invest Hong Kong, the overseas ETOs promote the attractiveness of Hong Kong as an international financial and business centre and provide assistance and support to overseas companies to establish or expand operations in Hong Kong”

The investment promotion program is predicted to generate 280 new projects and complete 140 projects in 2024, which is similar to the 278 new projects started and 124 projects completed in 2023. This is in addition to the two other programs under which HKETOs already have projects.

In addition, under Matters Requiring Special Attention in 2024-2025, “the overseas ETOs (except the Geneva and Washington ETOs) and their Dedicated Teams for Attracting Businesses and Talents will work closely with Invest Hong Kong and the Office for Attracting Strategic Enterprises to step up their efforts in attracting overseas companies, especially strategic enterprises, to set up and expand their operations in Hong Kong and access opportunities in the Mainland and elsewhere in Asia.”²⁹

Examples

In 2024, HKETO activities included coordinating the visit of Secretary for Financial Services & the Treasury Christopher Hui to the US, within weeks of the new Article 23 legislation passing in the HKSAR. This looks like a whitewashing of the human rights situation in the HKSAR and propaganda for the business community and beyond, to promote the HKSAR as an international business hub despite the drastic changes in the last years.

The New York and Chicago HKETOs both hosted activities, “to promote Hong Kong’s financial and professional services. Mr Hui will meet both academics and leaders of financial and business institutions in the US.” Hui met with the Hong Kong community in New York, the Hong Kong Business Association of the Midwest and the Hong Kong Trade Development Council.³⁰

²⁹ Ibid.

³⁰ new.gov.hk, Christopher Hui to visit US, April 8, 2024, https://sc.news.gov.hk/TuniS/www.news.gov.hk/eng/2024/04/20240408/20240408_102248_083.html?type=ticker and also archived at https://web.archive.org/web/20240410062825/https://sc.news.gov.hk/TuniS/www.news.gov.hk/eng/2024/04/20240408/20240408_102248_083.html?type=ticker

HKETOs around the world regularly host cultural and business events and collaborate with local groups, who may not be aware of the drastic changes that the HKSAR has undergone and may be vulnerable to believing the HKETO's propaganda.

Analysis

The Hong Kong Government is drastically increasing their spending and efforts to promote Hong Kong's interests, which are more and more aligned with the PRC, via its 14 HKETOs around the world.

The Hong Kong Government has increased their budgets by over 40% in the commercial relations and public relations programs for HKETOs. In practice, this means that the Government is increasing their efforts to promote the HKSAR as an international business hub in accordance with their policy vision.

This includes - and is outlined explicitly in the budget - the promotion of the HKSAR in relation to the PRC's core projects such as Hong Kong's participation in the Belt and Road Initiative and the development of the Guangdong-Hong Kong-Macao Greater Bay Area.

Of course, in promoting the HKSAR in this way, the HKETOs seek to erase memories of the 2019 protest movement and frame the HKSAR and the PRC governments in a positive light, claiming that the HKSAR is 'back to normal' without mention of the new security laws, political prisoners, or other signs of deterioration in the human rights landscape in Hong Kong.

The promotion of these ideas furthers the PRC's agenda that the commercial and political interests of the HKSAR and the PRC are synonymous', so HKETOs are pushing international businesses to endorse this by luring them with attractive HKSAR-PRC projects and schemes which highlight and tighten these connections. The HKETOs are therefore explicitly promoting the PRC's narratives and agendas in relation to the HKSAR.

Since HKETOs have different names than PRC embassies, they can target different groups and promote their agenda in subtler ways. Nevertheless, HKETOs are managed by the Hong Kong SAR and therefore, under Beijing, and thus the CCP's control. Engagement with HKETOs should be seen as indirect engagement with the CCP, and groups who work with them should be made fully aware of this before making a decision as to whether or not, and how, to continue such engagement.

HKETOs are gently pushing the CCP's interests as they have a less explicit name, and frequently engage in cultural rather than explicitly political events. This is similar to Confucius Institutes, who have for many years been promoting the CCP's narratives of

Chinese history, cultures, and values, under the guise of Chinese language and cultural institutions.

HKETOs' agendas, statements and events explicitly promote the CCP's narrative. For example, in 2019, they published statements objecting to the protests in the Hong Kong SAR.³¹ This echoed the Hong Kong SAR's official position on the events, which was directed by the CCP in Beijing.

HKETOs have also been behind a worldwide propaganda advertising campaign promoting the 25th anniversary of the handover of Hong Kong.³² Many of these promotional advertisements have been removed after complaints made by Hong Kongers abroad who pointed out that the advertisements were CCP propaganda.³³

Hong Kongers do not use HKETOs for consular services, which are conducted at PRC embassies, except in rare cases such as when in need of the Certificates of No Criminal Conviction. Therefore, the purpose of HKETOs is not to support Hong Kongers abroad. Instead, they are focused on promoting the PRC's agendas and narratives, and have the budget, staff, and diplomatic privileges to do so.

Hong Kongers are increasingly concerned that HKETOs may be used for transnational repression against them, raising fears that Hong Kongers may not be able to exercise all of their lawful rights and freedoms even once they have relocated to another country. Hong Kongers have previously faced threats and attacks by PRC embassies and consulates, particularly since Beijing imposed the National Security Law in Hong Kong in 2020.

This included previous attacks and harassment against Hong Kongers at protests, including the incident at the Chinese consulate in Manchester in 2022, where a Hong Konger who was peacefully protesting outside the consulate was dragged into the grounds by security and was pulled out by other Hong Kongers. Hong Kongers will only face increasing extraterritorial threats following the enactment of the Safeguarding National Security Bill in Hong Kong on 23 March 2024.

³¹ See, for example, Press Releases Archives, HKETO (Tokyo), July 2019, <https://www.hketotyo.gov.hk/korea/en/news/releases/archives2019/jul/>

³² The Hong Kong Economic and Trade Office in Brussels, HKETO (Brussels), undated <https://www.hongkong-eu.org/25th-anniversary/>

³³ Hongkonger in Deutschland e.V., Twitter, August 2022, https://twitter.com/HongkongerV/status/1556249851498823682?cxt=HHwWhIC8xdO_9IgrAAAA

ARTICLE 23 LEGISLATION

The 2024 Safeguarding National Security Bill, which is implemented under Article 23 of the Basic Law of Hong Kong and referred to as ‘Article 23 legislation’, prohibits seven types of activities which the Hong Kong officials intend to declare as ‘offenses’, and has proposed provisions which are vague and criminalise the peaceful exercise of human rights while dramatically undermining due process and fair trial rights in Hong Kong.

Article 23 legislation will bring further devastating consequences for human rights and freedoms in Hong Kong, beyond the impact of the 2020 National Security Law. It will also further violate Hong Kong’s obligations under international human rights law.³⁴

It builds on the impact of the 2020 National Security Law (NSL) and specifically targets collaborations with foreigners and foreign organisations, as set out in the crimes of “external collusion” and “external interference.” It enables the PRC to have more power to interpret the law in the HKSAR, which further erodes the independence of the judiciary and the HKSAR’s high degree of autonomy. It will also exacerbate the NSL’s impact on quashing dissent and limiting civil society in the HKSAR.

The legislation also has a greater extraterritorial impact than previous legislation because of the provisions above, and its provision enabling the cancellation of passports, which could be used against pro-democracy activists abroad. Article 23 legislation will be used to divide activists abroad from local people in the HKSAR, and the HKETO may be a part of enabling and enforcing this.

Since the 2020 NSL, the PRC and HKSAR have blatantly violated their international legal obligations and eroded the rules-based international order by imposing and implementing the National Security Law in Hong Kong. This includes avoiding concerns and recommendations raised by the United Nations (UN) and UN member states.

In March 2024, six UN Special Rapporteurs published a letter to the Permanent Mission of the People’s Republic of China to the United Nations, expressing their concerns that Hong Kong’s new Safeguarding National Security Ordinance violates human rights.

The 18-page letter comments on the Safeguarding National Security Ordinance, which is implemented under Article 23 of the Basic Law and colloquially referred to as ‘Article 23’. Specifically, they write that it “includes numerous measures that would significantly and unduly limit the exercise of human rights and fundamental freedoms and would be incompatible with the Universal Declaration of Human Rights (UDHR), the International

³⁴ Hong Kong Watch, Hong Kong Watch condemns Bill under Article 23 legislation, 8 March 2024, <https://www.hongkongwatch.org/all-posts/2024/3/8/hong-kong-watch-condemns-bill-under-article-23-legislation>

Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).”

The letter details how Article 23 will violate freedoms of opinion and expression, peaceful assembly and association, freedom from arbitrary detention, the right to a fair trial, freedom of movement, the right to privacy, the right to take part in the conduct of participation in public affairs, and the right to academic freedom.³⁵

So far, the HKSAR and PRC have faced very few consequences for these violations of international law. Therefore, they are receiving the message that not only can they get away with it, but that they can also be more repressive towards Hong Kongers in the city and abroad.

Article 23 is an even more repressive national security law that will further violate the rights and freedoms of Hong Kongers. Reviewing the status of HKETOs after the enactment of Article 23 would send the message that HKETOs cannot maintain their privileges and immunities in international jurisdictions when they are violating international law and eroding the rules-based international order that benefits the international community.

Furthermore, the HKETO cannot use its privileges and immunities to enforce the draconian NSL and Article 23 legislation to violate the rights and freedoms of Hong Kongers abroad.

Moreover, as the PRC continues to choke the HKSAR and controls the city more directly, the international community must publicly recognize what is happening by reviewing the HKSAR’s special status, privileges, and immunities given that it is no longer highly autonomous.

³⁵ Hong Kong Watch, Hong Kong Watch welcomes UN Special Rapporteurs' letter expressing concerns about the enactment of Article 23. 28 March 2024, <https://www.hongkongwatch.org/all-posts/2024/3/28/hong-kong-watch-welcomes-un-special-rapporteurs-letter-expressing-concerns-about-the-enactment-of-article-23>

RESPONSES SINCE PUBLICATION OF 2022 REPORT

Since the publication of Hong Kong Watch’s 2022 report on HKETOs, the issue of HKETOs, their rapidly changing mandate that increasingly promotes the PRC’s agenda abroad, and their outdated privileges and immunities, have been widely picked up around the world.

In 2022, weeks after the publication of Hong Kong Watch’s report, the US-China Economic and Security Review Commission recommended in their annual report to Congress to “remove Hong Kong Economic and Trade Offices as a covered organisation, thereby eliminating diplomatic privileges enjoyed by such offices and their employees in the United States”.

Furthermore, “This amendment could be reversed under one of the following conditions: The People’s Republic of China negotiates an agreement with the United States to have Hong Kong Economic and Trade Offices considered an official part of the People’s Republic of China’s mission to the United States and subject to the same requirements. [and] China alters its treatment of Hong Kong to allow for sufficient autonomy and abides by One Country, Two Systems, as enumerated by the Hong Kong Policy Act”

In 2023, Senator Marco Rubio and Representative Chris Smith introduced the Hong Kong Economic and Trade Office (HKETO) Certification Act (S.490 and H.R.1103) which will “require the President to remove the extension of certain privileges, exemptions, and immunities to the Hong Kong Economic and Trade Offices if Hong Kong no longer enjoys a high degree of autonomy from the People’s Republic of China, and for other purposes.”

In March 2024, days before the 2024 Safeguarding National Security Bill was passed in the HKSAR, the Congressional-Executive Commission on China and the House Select Committee on the Chinese Communist Party wrote a joint letter to the US Secretary of State Anthony Blinken asking the Secretary to “take additional steps to protect American citizens and businesses in Hong Kong” and overseas Hong Kongers who are subject to transnational repression.

They made a number of recommendations, including to consider stripping the diplomatic privileges and immunities from the three Hong Kong Economic Trade Organization (HKETO) offices operating in the United States. HKETOs have become propaganda arms of the PRC, obscuring the truth about increasing repression in Hong Kong, defending the permanent erosion of the rule of law, and spreading PRC misinformation.”

RECOMMENDATIONS

Recommendation One: Review the status, privileges, and immunities of HKETOs in each country.

- Review the treaties that established HKETOs in national parliaments, particularly whether the conditions of Hong Kong SAR have changed since the establishment of each HKETO.
- The terms of the establishing treaty may be violated if Hong Kong SAR no longer has the same degree of autonomy.
- Review the HKETO treaties in domestic courts.

Recommendation Two: International lawmakers should propose that maintaining the status of HKETOs depends on Beijing not exercising more control over Hong Kong SAR.

Recommendation Three: The HKSAR's seat at the World Trade Organization, its representation at the EU, and its representation at International Maritime Organization should be reviewed or removed.

- If Hong Kong SAR does not have the same degree of autonomy, their seat at the World Trade Organisation (WTO) (represented by Geneva HKETO), the European Union (EU) (represented by Brussels HKETO), and International Maritime Organisation (IMO) (represented by London HKETO) should be removed, to avoid giving the PRC two seats at these international organisations.
- In January 2022, Members of the European Parliament urged the European Commission to review Hong Kong SAR's seat at the WTO, which is represented by the Geneva HKETO. This was in addition to calls to sanction Hong Kong SAR's top officials, over the deterioration of the situation in Hong Kong SAR.³⁶ Hong Kong SAR's seat at the WTO should be formally reviewed, as well as its seats at the EU and IMO.

Recommendation Four: Special Treatment of Hong Kong SAR should be reviewed.

- In 2020, the US suspended three bilateral agreements with Hong Kong SAR, concerning the surrender of fugitive offenders, the transfer of sentenced persons, and reciprocal tax exemptions on income derived from the international operation of ships.

³⁶ European Parliament debates resolution over 'deterioration' of media freedoms in Hong Kong, South China Morning Post, 20 January 2022, <https://www.scmp.com/news/china/diplomacy/article/3164010/european-parliament-debates-resolution-over-deterioration>

- This was because Hong Kong SAR’s high degree of autonomy under the Sino-British Joint Declaration had been so severely eroded, effectively ending “one country, two systems”.³⁷ Hong Kong SAR is therefore in permanent breach of the treaty.

International institutions and States should review all agreements and engagements with Hong Kong SAR, since it is no longer sufficiently autonomous.

³⁷ Suspension or Termination of Three Bilateral Agreements With Hong Kong, US Department of State, 19 August 2020, <https://2017-2021.state.gov/suspension-or-termination-of-three-bilateral-agreements-with-hong-kong/index.html>