

The Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: jsct@aph.gov.au

23 August 2019

Dear Secretary,

Submission with regards to the impending inquiry of the Australia-Hong Kong Free Trade Agreement

The Australia-Hong Kong Link is comprised of a group of Australia-residing Hong Kong citizens. We exist to support democracy, freedom, rule of law and human rights in Hong Kong, as well as to connect Hong Kong and Australia through the provision of support to Hongkongers residing in Australia and acting as a bridge of communication between members of the two societies.

We have decided to make this submission as we have become increasingly concerned over Hong Kong's autonomy as a Special Administrative Region within the People's Republic of China ("PRC"), especially with the occurrence of recent events in the city. As part of the committee's consideration with regards to the Australia-Hong Kong Free Trade Agreement ("A-HKFTA"), we would like to bring the following apprehensions into light.

Questionable governance of the HKSAR and PRC central governments, leading to significant political destabilisation

Destabilisation of Hong Kong's political environment and its citizens' dissatisfaction with the HKSAR government have become apparent over the past 10 years. One major reason being that, even though 22 years have passed since Hong Kong was handed over to China by the British, the PRC central government is yet to allow the implementation of universal suffrage in governmental elections of the city, which was originally promised to be in effect by 2008 in the Sino-British Joint Declaration signed in 1984. Universal suffrage in the election of Chief Executive is, in actuality, guaranteed by Article 45 of the Hong Kong Basic Law.

Hong Kong citizens' determination in their strive for democracy is evident in the three civil movements that occurred over the past five years, including the 2014 Umbrella Revolution, 2016 Mong Kok Movement and the current anti-ELAB pro-democratic movement that started in June. With regards to the current movement, regretfully, the HKSAR government has, since June, refused to respond to the pleas of a large number of Hong Kong citizens. Instead, the oppressive measures employed by the government have raised international

concerns and led to escalation of protests and rallies, one example being the recent airport protests that caused the cancellation of all flights in and out of Hong Kong, effectively paralysed the operation of Hong Kong's international transportation hub.

In fact, the uprising of dissatisfaction-led pro-democratic movements have become a pattern in the city. Until the central government fulfils its promise to the city with regards to the implementation of a true democratic governing system, Hong Kong's political instability will continue. Even if the current pro-democratic movement comes to a halt without apparent resolution, it is inevitable that mass demonstrations and movements will reoccur when triggered.

PRC central government's controversial take on international rule of law and universal values

It is a well-known issue that the PRC central government appears to hold a different view and level of respect for the international rule of law and universal values in comparison to other countries that Australia is an ally of. There have been numerous examples of the PRC central government blatantly ignoring the international rule of law that has been set by the UN and is understood by most countries, including the 2016 South China Sea territorial dispute between the PRC and the Philippines, during which PRC completely rejected the UN tribunal's unanimous rule in favour of the Philippines. PRC government officials even stated that while China does not reject the international rule of law per se, it would only abide by it when it has to and if it is in the nation's interest.

Considering the PRC central government's influence on each aspect and department of the HKSAR government, businesses and their personnel are subjected to an environment where safety and rule of law have been compromised, threatening the city's economic and financial development as its freedom continues to deteriorate, making the suitability of Hong Kong's continued role as an international commercial hub questionable.

Existence and proposal of policies with questionable intent

Hong Kong may no longer be the ideal city for the attraction of business trades. The HKSAR government continues to propose and support policies that benefit none but the PRC central government and China, including the extradition law amendment bill ("ELAB") that has gained international attention and the newly passed Foreign Investment Law of the People's Republic of China, which enforcement reach includes Hong Kong.

The ELAB proposed by the HKSAR government earlier this year allows the extradition of any persons suspected of law infringement to mainland China for legal proceedings. This bill affects not only Hong Kong citizens but also any foreign person in and/or passes through the city. One example being the Hong Kong British Consulate's official that has been detained in mainland China without explanation. Considering that Hong Kong is currently home to approximately one hundred thousand Australians, as well as 600 Australian businesses that play significant roles in maintaining the \$170 billion bilateral investment relationship, the acceptability of such risk of unreasonable political impact on business and personal safety is disputable. While the bill has been put on hold, the government is yet to legally terminate all ELAB legislative proceedings.

The existence and proposal of these policies and their likes suggest that Hong Kong's autonomy and independent financial system are slowly becoming bound under the PRC central government, strongly compromising the city's capitalistic character and its support for free trade and international rule of law, creating an environment that is subjected to unfairness and uncertainty for international trade.

Human rights concerns and safety of Australian personnel

Recent events in Hong Kong, including police brutality and misconduct, is now involved in the realm of human rights, especially that of freedom of speech and protest. As it is widely reported by the media internationally, HKSAR government and its law enforcement bodies have employed tactics that would instil fear in protestors striving for democracy and justice, in the hope that these unreasonable means that is infringing international standards would deter Hong Kong citizens from speaking up against the government's futility. We hope that Australia, as a member of the UN Human Rights Council, will heed and consider the current human rights dilemma in Hong Kong and legislate as necessary to protect Australia's national interest and foreign policy values.

With consideration of the above, we would therefore like to propose an additional condition within the proposed A-HKFTA to necessitate the protection of human rights and universal values, and would impose an impactful penalty if breached. The addition of such condition would restrict the HKSAR and PRC central governments' power over foreign personnel in Hong Kong, such as preventing Australian officials from becoming detained by law enforcement bodies for non-criminal reasons including that of political stance, and would in turn minimise the impact of these risks on trade and business in the city.

While it is Hong Kong's honour to enter into a free trade agreement with Australia as significant business partners, we must consider the many trials currently faced by the city. We hope that you will take into consideration the concerns detailed above. We believe it is of importance for all stakeholders to take into consideration Hong Kong's current political environment and its implication on the city's autonomy and international trade environment for Australia's interest.

Shall there be any questions or further discussion required, please contact our contact person for this submission, _____, through email: _____ or mobile:

_____. We also have personnel based across the country, including Sydney, Melbourne, Perth and Canberra, where public hearings are to be held from late August to early September, and we endeavour to attend on their respective dates. We thank you for your time and attention with regards to the matter.

Yours Sincerely

Australia-Hong Kong Link

