Does China's security law threaten Hong Kong's shipping charm?

Some within shipping circles remain upbeat about Hong Kong's future despite legislation that has triggered a backlash from the US with threat of sanctions. But others see the erosion of judicial and financial independence as undermining the city's ambition to boost its ship finance sector

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Hong Kong is said to have become 'a point of contention' in the escalating clash between the world's two largest economies

CHAO'S FAMILY IS ONE OF HONG KONG'S LARGEST HOMEGROWN SHIPOWNER NAMES, WHOSE HISTORY CAN BE TRACED BACK 70 YEARS.

HING Chao sees Hong Kong as a “middle ground” between China and the US, two superpowers interconnected in trade and finance yet fundamentally different in their politico-economic systems.

The outcome of this is that, “Hong Kong becomes a point of contention as US-China tension continues”, says the Wah Kwong Maritime Transport chairman.

Mr Chao’s family, one of Hong Kong’s largest homegrown shipowner house names, has been a beneficiary of the prosperity of the former British colony and a now Chinese special administrative region.

The city’s prominence as a leading maritime centre may have been stolen somewhat by Singapore during the past two decades. But boasting a good combination of open trade, independent legal systems and free capital flows, the place often dubbed as “where East meets West” still provides a god-given harbour to those making a living in shipping and many other industries.

Now, people living in this melting pot appear increasingly impelled to pick sides. Beijing’s recent push to impose a new national security law in the city has deepened concerns over what its future might hold.

It is a sensitive issue for the local business community that tends to shun political controversy. Some have spoken out about their unwavering confidence in the Asian maritime hub. Others are reluctant to put on record their upset and pessimism that may displease the country’s policy makers.

President Donald Trump’s administration has recommended Hong Kong lose its special trade territory status over Beijing’s assertiveness. The move, in Mr Chao’s view, reinforces US’s intention to decouple China as its major trading partner.

“This is unrealistic and will be extremely harmful to both Hong Kong and China, but ultimately it may harm the US even more,” he says.

Analysts have reminded the US that its trade surplus with Hong Kong — standing at $33.4bn in 2018 — is the biggest among all its trading partners. Still, a revoking of the customs status could still lead to losses of some US-bound transhipment activities at the city’s container port that is already on a decline.

However, Hong Kong’s role as a shipping hub goes far beyond the port and what meets the eye, according to Mr Chao, who is also an executive committee member of Hong Kong Shipowners Association.

He cited examples of a revival in Hong Kong shipping from his own observations and experiences during the past few years, where a positive shift has again started to attract new commercial principals to the city, while China’s national policies such as the Greater Bay Area, Belt and Road Initiative, and to develop an ocean economy, have also benefited and made Hong Kong more attractive as a place to conduct shipping business.

“I do not expect Hong Kong to be knocked off this trajectory,” he says. “And so long as China is doing international trade and continues to import and export on a significant scale, Hong Kong will continue to have value as the most important strategic ‘super connector’ between China and the world,”

The optimism is echoed by Arthur Bowring, former HKSOA managing director and president of the Hong Kong Maritime Arbitration Group.

Hong Kong remains in a "perfect position" to run a shipping business, with a prime location to travel, a speedy internet to communicate and major ability to finance with the setup of Chinese banks, he argues.

"So, when you look at the hostile threats to Hong Kong politically or trade wise, I can't see that very much takes away Hong Kong's attractiveness."

Mr Bowring adds that the SAR is the also only common law jurisdiction in China that can contribute greatly to the country's maritime world.

This is showcased in a 2019 court agreement, he says, which gives parties in Hong Kong and China Mainland seated arbitrations a direct route to apply for interim measure in each other's jurisdiction. HKMAG is among the institutions qualified for the applications.

"Hong Kong will remain major benefits to China by keeping our legal systems intact."

Some beg to differ, however

But some have called into question that very intactness, pointing to a widely shared fear that the national security law will erode the city's judicial integrity which underpins its success.

The proposed legislation, which could be enacted as soon as August, will strike yet another blow to the independence of Hong Kong's legal systems, following Beijing previous interventions, according to a locally based senior maritime figure who works for a multinational advisory group.

"It puts a dent in the attractiveness of Hong Kong for international business, because out of all the Asian locations it's really the only one that truly had independent courts where you could take a case against government and have some chance of winning," the source said. "I would imagine some international companies, such as lines and legal outfits, would have an adverse view of it."

The prospects, however, would look much bleaker should Washington escalate the tension and opt for the "nuclear option" to segregate Hong Kong from the US dollar clearing systems, he adds. "That's a very, very big stick that the US can wield, which would fairly cut Hong Kong off at its knees."

The fears are even surfacing among the Chinese leasing houses — a major force in today's ship finance arena — many of which are using Hong Kong as the key hub to deal with their US-denominated transactions.

One yard-backed leasing executive says his company is concerned about the situation, as its entire overseas deals are processed by Hong Kong's financial systems.

Another leasing firm, part of a leading state-owned Chinese bank, has now shelved a plan to establish a shipping subsidiary in the semi-autonomous territory, Lloyd's List understands.

The Hong Kong government is in the middle of approving a tax relief aiming to boost the city ship finance sector by alluring shipping lessors from China.

"If the proposed concessionary tax regime is put in place, it is estimated that Hong Kong could capture 12% of the global ship financing market in 10 years' time, representing a HK$265bn to HK$460bn cumulative increment in ship finance business," wrote PwC in a January briefing this year.

Neighboring shipping and financial hubs will be dusting their welcome mat for migrants, some have suggested.

Pradeep Rajan, head of Asia Pacific Shipping & Freight at S&P Global Platts in Singapore, says the restriction of using US dollars in Hong Kong may see banks based out of two top financial capitals in the West — New York and London— cut links with the SAR and withdraw credit to local shipping firms.

“That could see these companies experiencing a squeeze on their business operations,'' he said. “Seeking better conditions, such as a more stable political regime and favourable tax environment, they may choose to move their operations to Singapore or, as we hear from some of the shipping market participants based in Hong Kong, are exploring the possibility of moving out to Taiwan as well.”

Will US take such an extreme course of action?

That said, many have expected the US to refrain from taking such an aggressive step as it will also inflict great damage to its own interests, with scores of US and multinational companies headquartering their Asian business in Hong Kong.

A shipping dispute lawyer at Hill Dickinson, Edward Liu says that Beijing’s national security law would not damp Hong Kong’s investment outlook. On the contrary, it will bring in the much-need stability for the society to better grow its economy.

“I cannot see any reason why we should worry about a piece of legislation which, fairly speaking, has been in place in many other countries for years, including the US, the UK, Singapore as well as mainland China,” says Mr Liu. He adds that in mainland China, despite the implementation of its National Security Law in 2015, there was no decline but only growth of foreign direct investment.

“Everyone including foreign investors will benefit from the social stability under the continued principle of ‘one country, two systems’, which is in tune with border national interests,” he says.

If true, it should bode well for companies like Wah Kwong, which runs more than 40 dry bulkers and tankers. In recent years it has developed a successful relationship with the Chinese leasing lenders by assisting them operating and managing a growing fleet of their vessels.

“Hong Kong’s financial position has been built upon decades of foundation, and will not be shaken by a single act, while its many advantages will remain,” said Mr Chao.

But his confidence is also laced with caution.

“Is the US really ready to decouple with China? I am not so sure, but in today’s extremely volatile political environment, the increasingly embattled position President Trump is in, as America descends into a Hobbesian world of Leviathan in the wake of George Floyd’s tragic death, and given that it is election year, he may decide on an extreme course of action as a diversionary tactic,” he says.