

National Security Law & Hong Kong's "Special Status"

AmCham Temperature Survey Findings
June 2020

President's Note



Hong Kong has been hit by a double-whammy in the past week, with China announcing a proposed national security law, while President Trump said he would begin the process of revoking the US-HK special economic status.

AmCham has taken a temperature testing survey to see how these announcements are affecting their view of the financial and services hub and their presence in the city.

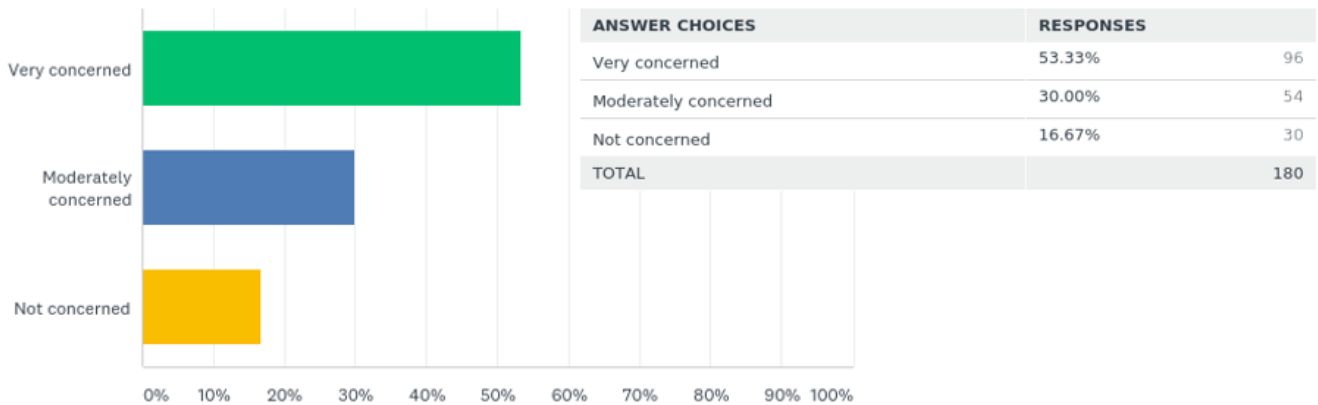
Not surprisingly, these are emotive issues and we received a wide variety of comments and feedback. But overall, there are some consistent themes: Well over half of our respondents said they were very concerned or moderately concerned by the national security law while nearly half of the respondents saying they feel pessimistic about the city's medium to long term outlook. An overwhelming majority were taking a "wait and see" attitude as to whether Hong Kong will lose its special US trading status.

Attached are the results, which comprise of 15% of our Chamber members, the majority of which are US companies, while a third represent Hong Kong companies and firms from other countries.

Note

- This is an internal membership survey to which 180 members responded between June 1 at 12pm and June 2 at 2pm.
- Further breakdown of data is unavailable, while selected unattributable comments are extracted for members' reference.
- This survey is not intended to be a scientific instrument, but rather a temperature test of members' sentiments.

Q1: How concerned are you about Hong Kong's national security law?



Many members understand the need for a national security law, but at the same time they are concerned about....

It is a good thing. My concern is the lack of such law. We operate in many jurisdictions with similar laws.

Believe will be better for HK in stabilizing the law & order and to stop all social unrest protest.

Hong Kong's national security law seems within the People's Congress's power, under both Articles 18 and 23 of the Basic Law(s). On the other hand, the scope of the national security law will be critical, because it naturally overlaps b/w defense (and security) (central) and maintaining social order (Hong Kong). If the scope is overly broad, it will smother Hong Kong.

The law itself is not concerning. Any country will elect such law to protect its own sovereignty.

This is a serious concern, both for the signals it sends to those outside of Hong Kong (in the U.S., the EU, China and elsewhere) about the SAR's eroding high degree of autonomy and, separately, to the very real dangers that it brings to business and other activities within Hong Kong.

It depends on how judiciary can maintain its independence, and how the freedom of speech will be protected.

First of all, as a US citizen, this situation leads to potential harassment and privacy concerns. While I do not think the US dollar peg will be effected, I am also worried the tax structure and changes to the HK tax system may occur.

I am more concerned about the US and China tensions than the security law

It may curtail basic civil liberties and undermine due process and rule of law, leading to greater public strife and mistrust in the current government

HK's role as a global financial and business center in Asia will not change (there is no realistic alternative). Most of us have lived or spent time in China. If our businesses can succeed in BJ and Shanghai under a much more authoritarian set of rules, businesses will do much better with all of HK's advantages even with any national security legislation in HK.

It will damage the overall business environment of HK that is used to being free with fair legal, financial and juridical systems

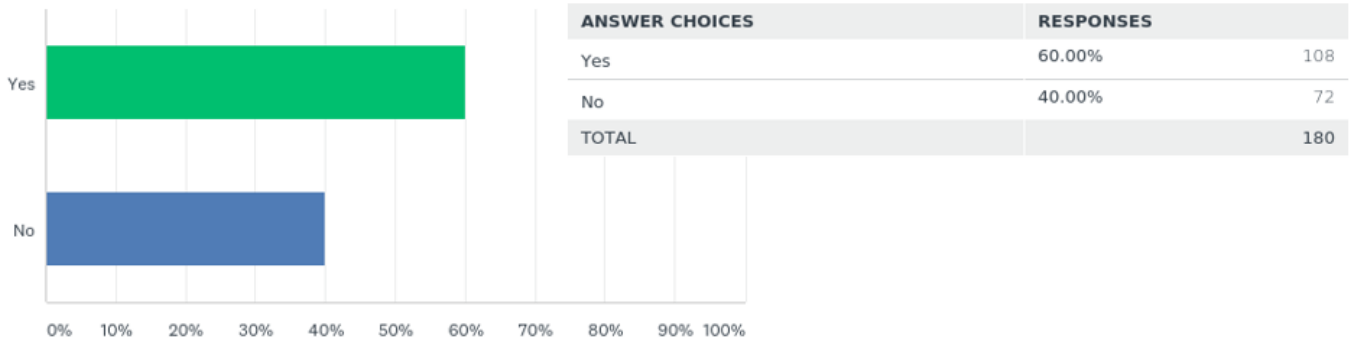
My main concern is not this particular law, but the fact that Hong Kong has not learned to govern itself or has not put the structures in place to govern itself properly.

New changes sound dangerous to current business environment. More importantly adds work to an already hard environment to work in.

Concerned about HK legal autonomy and eventually in other aspects.

Freedom of information and association concerns. Questions about how tightly or otherwise the laws will be drafted, who will have jurisdiction, who will initiate, etc.

Q2: Do you think the national security law will harm your business operations in Hong Kong?



Many think the national security law will harm business operations in Hong Kong but views are still speculative.

Hard to say how much due to the lack of clarity and lack of trust.

The answer is yes and no. It is unclear currently due to the lack of details but business risks operating in HKSAR will increase.

The law should not harm our business operations. However, it is other countries' punitive actions against China that are concerning - and could impact HK.

It is really too early to say, but it will definitely impact on attracting and retaining talent.

Our business is not directly tied to the Hong Kong economy or political situation.

My business relies on freedom of speech and association.

It totally depends on how the judiciary maintains its independence.

Concerned about free flow of information as well as criminalizing what would be regarded in open societies as normal, if not innocent, activities.

I work in an industry that depends on expats. This new law will make HK less attractive for expats and that will, ultimately, affect my business.

Realistically no.

It's another series of factors that are causing high caliber talent to leave Hong Kong for places that offer a better future.

Unclear at this stage, but a very real possibility.

This move will likely cause capital outflows and reduction in foreign investment into HK, which will also cause more job losses for the people of HK.

How could we possibly know yet? But it will keep away some business travelers, if for no other reason than because of the protests.

Recruitment of students, faculty and staff will all suffer as a result. The uncertainty will drive out many international employers whom the graduates depend on for jobs. Hong Kong will lose much of its appeal.

We are an international law firm so we will inevitably depend on our clients for business.

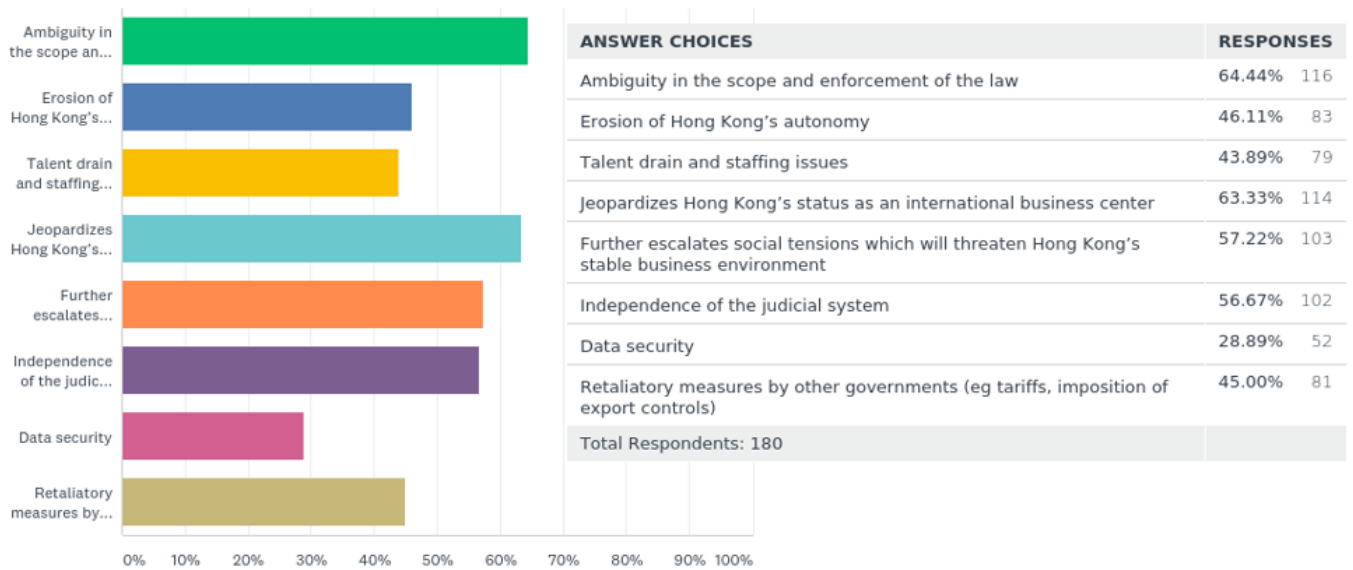
HK law will be severely diminished as a choice of governing law due to insecurity of contract; HK will no longer be viewed as a neutral seat for arbitration; and many areas of the capital markets will be restricted or will migrate to other cities in the region.

The answer is: it really depends. The intention is to bring stability and order back to HK to underpin its international financial center status. But depending upon how US reacts, since we are a US company operating in HK, US initiated changes of HK's special status following the national security law could bring uncertainty.

As we work in the global supply chain I believe HKG office which is our biggest office will be affected. It has already been affected by a number of disruptions this might be the biggest one. Our investment will probably have to go down. Our customers are mostly US and global and I don't see them investing more in HKG.

This law is likely to damage HK's reputation as a safe, free place to do business and enjoy a secure life and lifestyle. As a result, at the margin, foreign companies and skills may choose not to locate themselves and their business in HK, and/or cause existing companies, skills to leave HK for other less risky jurisdictions

Q3: What are your or your headquarter's top concerns about the passing of the national security law? (Pick up to five)



Other top concerns are....

Investor sentiment and perception regardless of the reality

Further escalation of Sino-US relations will impact cross-border deals from getting done

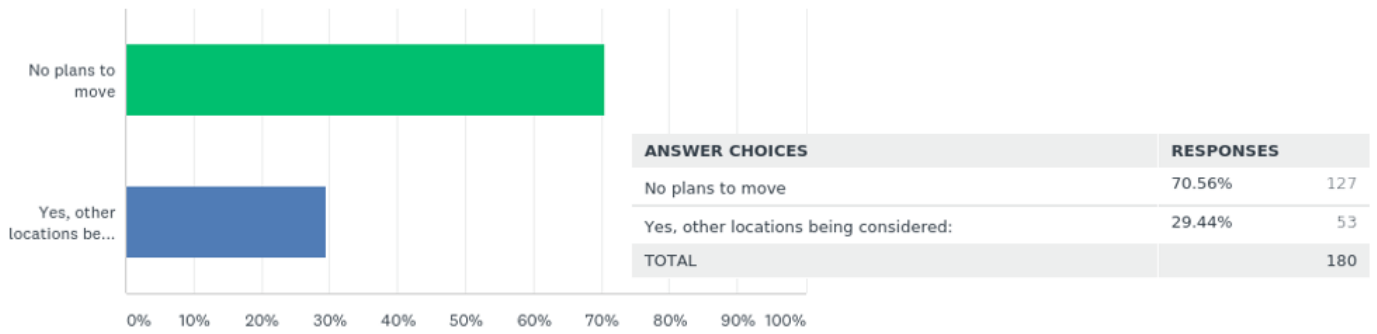
The stability of HKD currency

Mainland law enforcement and security organisations operating in HK

IMPORTANT NOTE:

Some members are not concerned about the national security law since they view Hong Kong as a safe place that will continue to be safe.

Q4: In light of the passing of the national security law, will your company consider moving capital/assets/business operations?



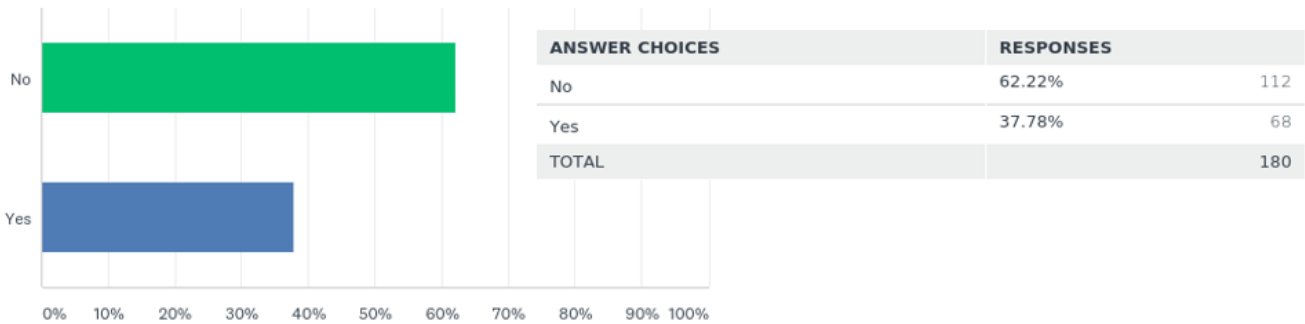
On a positive note, 70% of responding members have no plans to relocate their businesses. For those who plan to, some possible locations are:

- South America
- Singapore
- Sydney
- Bangkok
- Taipei
- Tokyo
- USA
- London

How soon?

- Not immediately, depends on how the law is drafted.
- More of a generalized concern regarding concentration risks to the business.
- Not at this moment but will do it eventually.
- No immediate plans, but will impact mid-term investment decisions.
- Any move will be based on the worst possible scenario.

Q5: In light of the national security law, are you personally considering leaving Hong Kong?



On a personal level, majority are not planning to leave Hong Kong in the short term.

It's not an immediate plan but mid to long term my family and business has to be protected.

Not yet, but certainly putting "insurance" plans in place and alternative jurisdictions.

The tension - from and on both sides - is so high, it does not feel completely safe to be an American in Hong Kong.

Not yet.

Not immediately but it will have a long terms effect that will make me less comfortable to plan for staying in HK for the long term.

Not in short term.

Hong Kong has been my home for the past 19 years, and it is still the best option as a base for conducting business in mainland China or Taiwan.

Plans already in motion but threat of this accelerated.

I feel safer to live in HK with the security law.

Have made plans to be out of Hong Kong more and have an exit plan. But on hold for now.

But that could quickly change if the quality of life deteriorates.

Not at the moment, but depending on the situation, our expat lawyers may be moved out of HK, either back to the US or to another Asian jurisdiction.

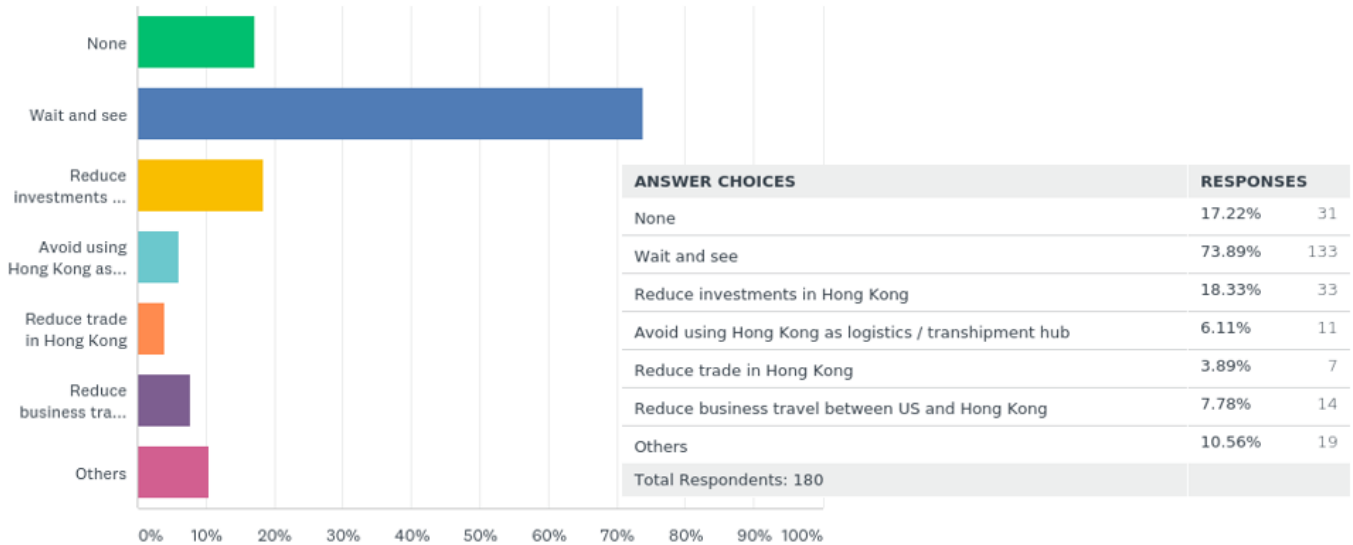
If there really were no difference between the two systems, we would consider moving to a city in mainland China, but we have no plans to leave as long as there still are many other meaningful differences.

Even with national security law, there is no where better in Asia.

If my business becomes impossible, I will have no choice other than to relocate.

Not because of the national security law in isolation, but as another element that is making Hong Kong increasingly unstable.

Q6: Following US President Trump's announcement to begin the process of revoking Hong Kong's special status, which of the following measures are likely to be adopted by your company? (Pick all that apply)



Most are adopting a “wait and see” attitude:

Take steps to set up a new legal entity in a sovereign country in the region.

Consider a migration plan out of Hong Kong.

Open sister company in Singapore.

Considering how to manage the HKD currency for transaction.

It is far too early to make strategic decisions on the revocation of special trade status as this will take many months to implement and finally impact HK.

The potential to reduce investment in HK is real.

Emphasize multi location strategy.

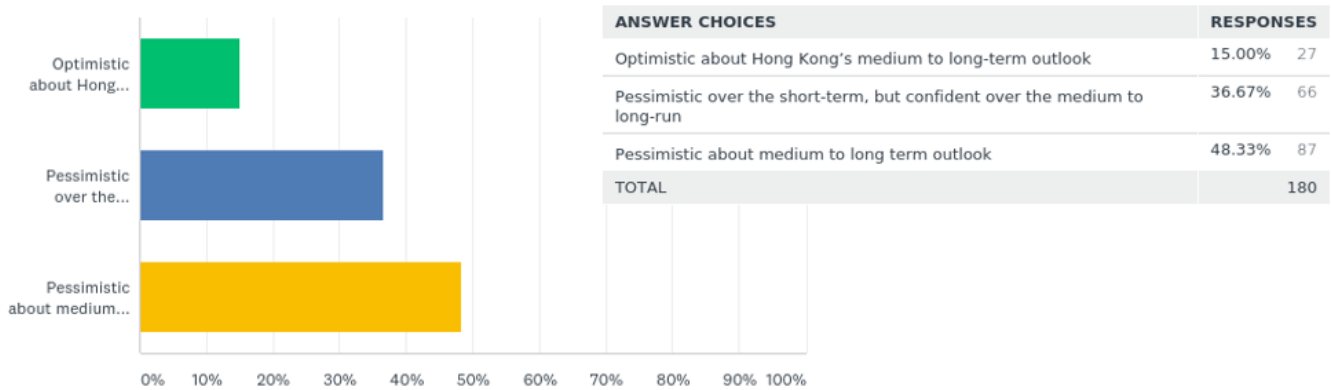
Wait for US election results in November!

Given our business is largely in finance, investment, private equity, it is as yet unclear just how badly such businesses might be affected.

No basis to make any decisions, given no formal policy actions taken to date.

Closely observing customers reaction.

Q7: Overall, which of the following statements best describes how you feel about business prospects in Hong Kong?



What our members say:

We have not seen any major impact to our activities or business prospects in Hong Kong.

Hong Kong remains an unparalleled location in Asia Pacific.

Quite pessimistic about HK law and viability as a good place for non-Chinese people to live, work and carry out business, raise children. The China economy is still a very large economy, and HK will likely continue to operate as a service centre for China.

HK will probably be fine though whether it is fine for foreign business and the local population is another issue.

I can see how this enables Hong Kong to play a focused mainland role. I cannot see how this enables Hong Kong to play a global or regional role.

Uncertainty over the short term, but positive in medium term.

With US-China tensions rising, I see more opportunities in Hong Kong.

Fearful that the luster will be lost forever. Being a major city in the second biggest economy is not a minor role but far less than a leading global city.

Hong Kong's connectivity to GBA and mainland GBA firms using Hong Kong as their international platform leave me more optimistic medium-term. But this is a very niche role.

Hong Kong will continue to be a good place for business for many years, but it will increasingly be about GBA and less about the world beyond China.

HK will benefit in the short run from a surge of mainland investing and a return of mainland tourists who may feel more comfortable.

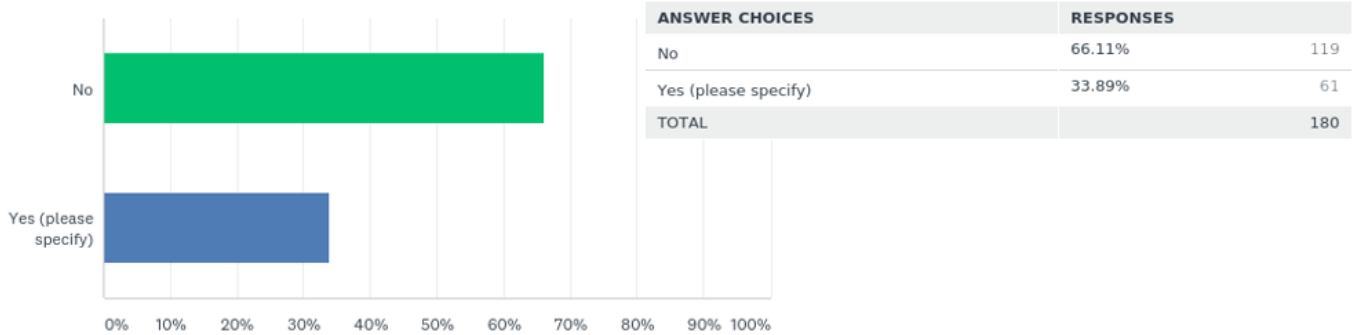
If the protests are truly defeated, a calm will return allowing more routine retail transactional flow. However, that may happen with an ebb of flows from the international community. My view would be short-term optimistic but long term uncertain with a lean to wary.

I agree that Hong Kong has serious problems (oligarchies, etc) that have contributed to the unrest, but the demonstrations were not helping anyone. I am hoping that our leadership can be more articulate in the future and that we can move towards a more functional democracy in an orderly way.

HK will simply become more mainland-dominated, but will continue to thrive. However the process of adjusting to a mainland-led economy and society will continue to be painful.

This seems like a signal of greater control to come. As Hong Kong quickly turns into just another Chinese city, investors will no longer see HK as a gateway to China.

Q8: In light of recent developments (national security law & escalating US-Hong Kong-China tension), have you or your company developed any contingency business plans in response to various scenarios? If yes, what are they?



- Increase data security and encryption.
- Remove HK from future strategic plans for APAC region.
- Exploring expanding network of offices into sovereign country in the region.
- The pace and extent of that move will be to some extent influenced by the details of the national security legislation.
- Opening off shore bank accounts.
- Looking for short term office lease.
- Looking at more mainland Chinese hiring.
- Cost cutting in an overall sense for economic downturn.
- More monitor and report rather than hardline plans.
- Possible to move positions to other countries closer to production.
- Reduce office space and have staff work-from-home more often.
- Outsourced activities to reduce local fixed head count.
- Increase the presence in China.
- Ongoing diversification of supply chains