

LCQ2: Implementation of sanctions imposed by United Nations Security Council

Following is a question by the Hon Kenneth Leung and a reply by the Acting Secretary for Commerce and Economic Development, Dr Bernard Chan, in the Legislative Council today (January 23):

Question:

Section 3(1) of the United Nations Sanctions Ordinance stipulates that the Chief Executive shall make regulations to give effect to the instructions given by the Ministry of Foreign Affairs to the Chief Executive on the implementation of the sanctions decided by the Security Council of the United Nations (sanctions regulations). In this connection, will the Government inform this Council:

(1) of the government department(s) currently responsible for enforcing the various sanctions regulations, as well as the relevant staffing establishment; whether it, in view of the sanctions regulations being updated from time to time and the ever-changing international landscape, provides sufficient guidelines and training for the staff concerned on a regular basis; if so, of the details; if not, the reasons for that;

(2) of the number of reports received by the authorities on activities suspected of violating the sanctions regulations, the respective numbers of such activities in respect of which the authorities monitored and investigated (with a breakdown by type), the number of activities involving violations of the sanctions regulations that they forestalled, as well as the respective numbers of the relevant prosecutions and convictions, in each of the past five years; and

(3) whether it will release regularly the details of the law enforcement actions taken in relation to the sanctions regulations (including the number of cases and their summaries), so as to demonstrate to the public and the international community Hong Kong's strict enforcement of the sanctions; if so, of the details; if not, the reasons for that?

Reply:

President,

According to the Charter of the United Nations (UN), Member States of the UN (including the People's Republic of China (PRC)) should apply measures decided by the UN Security Council (UNSC) to maintain or restore international peace and security. As part of the PRC, the Hong Kong Special Administrative Region (HKSAR) implements UNSC sanctions pursuant to the instructions of the Ministry of Foreign Affairs to fulfil our international

obligation.

Currently, UNSC imposes sanctions or restrictions against 14 places and two organisations (Note 1).

Generally speaking, the three most common types of measures imposed by the UNSC are financial sanction, travel ban and arms embargo:

(1) financial sanction prohibits the making available of or dealing with the financial assets and economic resources of persons or entities designated by the UNSC or its relevant Committees;

(2) travel ban prohibits the entry or transit of designated persons into or through the territories of UN Member States;

(3) arms embargo prohibits the supply, sale or transfer of arms and related materiel, technical advice, assistance or training related to military activities, to places or organisations under sanction.

Apart from the three aforementioned types of sanction measures, the UNSC may also impose other sanctions or restrictions having regard to the situation of individual places or organisations (Note 2).

Since Hong Kong's return to China, the HKSAR Government has, according to the principle of "one country, two systems", been implementing and strictly enforcing sanctions imposed by the UNSC through local legislation, i.e. the United Nations Sanctions Ordinance (Cap 537) (the Ordinance) and the regulations made under the Ordinance by the Chief Executive (CE). The HKSAR has made regulations to implement UNSC sanctions or restrictions against the 14 places and two organisations respectively. Relevant law enforcement agencies have been acting in accordance with the law, without fear or favour, to follow up on suspected violations of the Ordinance.

We note that certain countries may, based on their own considerations, impose unilateral sanctions against certain places. HKSAR does not have the responsibility nor the authority to enforce these unilateral sanctions or investigate related cases.

My reply to the three-part question is as follows:

(1) The Hong Kong Police Force (HKPF) and the Customs and Excise Department (C&ED) are the law enforcement agencies of the Ordinance. Generally speaking, the HKPF is mainly responsible for enforcement work related to the financial sanction mentioned above and sanctions on financial transactions or transfer of funds, while the C&ED is mainly responsible for enforcement against the supply, sale or transfer of arms and other items under sanction.

As regards staffing establishment, the Financial Investigation Division of the Narcotics Bureau of the HKPF, with 69 staff members, is mainly responsible for investigating money laundering cases, including suspected violations of the Ordinance. As for the C&ED, apart from the staff responsible for physical examination of cargoes at boundary control points, the Trade Controls Branch, with 47 staff members, is dedicated to the

enforcement of strategic trade controls, the control of the provision of services to assist in the development of weapons of mass destruction, and the enforcement of the Ordinance. We do not have a breakdown of manpower for each duty concerned.

The Government has been closely monitoring the latest information regarding the UNSC, such as new resolutions adopted, updates to sanctions lists, and reports or announcements of the relevant committees or panels of experts under the UNSC. Such information will be disseminated in a timely manner within the Government to keep officers of relevant bureaux, law enforcement agencies and other departments abreast of the latest information for follow-up actions. Besides, the HKPF and C&ED organise in-house training and workshops, arrange overseas training programmes for their officers, and engage in exchanges with their overseas counterparts.

(2) Our law enforcement agencies stay highly vigilant against suspected violations of the Ordinance. They also closely monitor reports published by relevant UNSC committees or panels of experts and other organisations, and actively investigate suspected cases involving Hong Kong. The law enforcement agencies have been following up these cases in accordance with the law, without fear or favour.

In the past five years, the HKPF and the C&ED investigated 201 and 99 suspected cases of sanctions violations respectively. Breakdowns by year are set out in Annex.

Hong Kong has a robust system to implement sanctions imposed by the UNSC. Coupled with the investigation efforts of our law enforcement agencies which are vigilant and with deterrent effect, a number of alleged Hong Kong-registered companies have been struck off, and suspicious vessels have been denied entry into Hong Kong waters. All these are conducive to preventing attempts to make use of Hong Kong as a base to violate UNSC sanctions, and hence safeguarding the international reputation of Hong Kong.

There are currently no prosecution cases under the Ordinance. Hong Kong will continue to maintain a stringent system of implementing UNSC sanctions in accordance with the law. Exercising their statutory authorities, the law enforcement agencies will continue to follow up on all suspected violations of UNSC sanctions, and will institute prosecution when there is sufficient evidence.

(3) Whenever the CE makes new regulations under the Ordinance or amends existing regulations to implement new resolutions adopted by the UNSC, representatives of the Government will attend meetings of the Legislative Council Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions, to brief Members on the regulations and answer Members' questions on the implementation and enforcement of the regulations. To ensure confidentiality of investigation work, we will only provide the total number of cases investigated, and will not disclose details of such cases.

On the international front, Hong Kong, as a member of the Financial

Action Task Force and the Asia/Pacific Group on Money Laundering, keeps the two organisations up-to-date on its efforts in anti-money laundering and counter-terrorist financing as well as implementation of UNSC sanctions.

Note 1: These 14 places are Afghanistan, Central African Republic, Democratic Republic of the Congo, Democratic People's Republic of Korea (DPRK), Guinea-Bissau, Iran, Iraq, Lebanon, Libya, Mali, Somalia, South Sudan, Sudan and Yemen, and the two organisations are Islamic State in Iraq and the Levant and Al-Qaida.

Note 2: For instance, UNSC prohibits Member States from:

(1) the supply or procurement of nuclear- and ballistic missile-related items to or from Iran or the DPRK;

(2) the supply of items such as aviation fuel, refined petroleum products, crude oil, industrial machinery and transport vehicles and certain luxury goods to the DPRK, the procurement of items such as coal, iron, rare earth minerals, textiles, seafood, food and agricultural products from the DPRK, certain business activities of financial institutions in the DPRK, provision of financial support for trade with persons connected with the DPRK, and engaging in ship-to-ship transfers with DPRK-registered ships, etc.;

(3) the import of charcoal from Somalia; and

(4) the transport or discharge of petroleum from Libya by vessels designated by the relevant UNSC Committee, or engaging in financial transactions concerned, etc.

[LCQ18: Study on the risk factors associated with breast cancer for local women](#)

Following is a question by the Dr Hon Chiang Lai-wan and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (January 23):

Question:

The Government has commissioned the University of Hong Kong (HKU) to conduct a study on the risk factors associated with breast cancer for local women, so as to help formulate the future strategies for breast cancer screening in Hong Kong. The study is expected to be completed in the latter half of this year. Besides, some studies have pointed out that as compared with conventional 2D mammography, 3D mammography is more accurate and carry a lower dosage of radiation, and therefore is more suitable for carrying out breast cancer screening on Asian women (including Hong Kong women) who have a higher density of mammary glands. In this connection, will the Government

inform this Council if it knows:

(1) the membership list of the HKU team that is in charge of the aforesaid study and the professions to which the team members belong, as well as the scope and the latest progress of the study;

(2) whether the team will meet with relevant overseas organisations (e.g. organisations in Taiwan and Singapore which advocate breast cancer screening) so as to learn from the experience of other countries or regions in implementing breast cancer screening; if the team will, of the details; if not, the reasons for that; and

(3) whether the team will, by making reference to medical papers on mammography devices, put forward recommendations on the selection by the Government of mammography devices which will better meet the needs of Hong Kong women; if the team will, of the details; if not, the reasons for that?

Reply:

President,

Regarding the various parts of the question, our reply is as follows:

(1) The commissioned study on the risk factors associated with breast cancer among local women is funded by the Health and Medical Research Fund administered under the Food and Health Bureau, and is approved by the Research Council after undergoing rigorous peer review and established procedures. This study is conducted by the research team led by Professor Gabriel Leung from the School of Public Health of the University of Hong Kong. Other research team members include Professor Ava Kwong from the Department of Surgery; Dr Irene Wong and Dr Wendy Lam from the School of Public Health; Professor Khoo Ui-soon from the Department of Pathology; and Professor Roger Ngan from the Department of Clinical Oncology of the University of Hong Kong.

The study aims at developing a breast cancer risk prediction model for Hong Kong, identifying risk factors among the local population through a case-control study, as well as building a comprehensive tissue bank and clinical database. According to the latest progress report, the research team has obtained data from the Shanghai Breast Cancer Study research group, which would be used to develop the risk prediction model for women in Hong Kong. For the case-control study, the research team has established collaboration with 15 public hospitals, seven private hospitals and six private practitioners to collect local breast cancer data and samples. As at September 28, 2018, 3 522 breast cancer cases and 2 653 control cases were recruited respectively. The research team is analysing the difference between the case patients and control subjects including the demographic characteristics, body mass index (BMI) ratio, physical activity, known breast cancer risk factors such as age at menarche, age at first live birth or nulliparous, family history of breast cancer and prior benign breast disease diagnosis. The study team will translate predicted risk values into

recommendations on whether women in Hong Kong should undergo regular breast cancer screening.

Upon completion of the study, the research should develop a personalised risk stratification tool for breast cancer in local women as well as determine and quantify potential breast cancer risk factors. The study is expected to be completed in the second half of 2019.

(2) and (3) The study aims at developing a local breast cancer risk prediction model to identify the high-risk groups among the local population. The objectives of the commissioned study do not include discussion with overseas advocacy groups on experience in implementing the breast cancer screening programmes and selection of the most appropriate local breast cancer screening test.

LCQ4: Bringing Chief Executive within ambit of sections 3 and 8 of Prevention of Bribery Ordinance

Following is a question by the Hon Dennis Kwok and a reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (January 23):

Question:

The Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests submitted its report to the Government in May 2012, recommending the enactment of legislation to provide that the Chief Executive (CE) must obtain permission from a statutory independent committee prior to the acceptance of advantages, so as to make the system under section 3 of the Prevention of Bribery Ordinance (POBO) applicable to CE. In addition, the incumbent CE has undertaken in her election manifesto that she would "resolve as soon as possible those constitutional and legal issues aiming at amending the Prevention of Bribery Ordinance to extend the scope of sections 3 and 8 to cover the Chief Executive". In his reply to a question raised by a Member of this Council on July 5, 2017, the Chief Secretary for Administration (CS) indicated that "upon completion of the study on such constitutional and legal issues, the Government will initiate the legislative procedure as early as possible". CS also stated that, in respect of a relevant private bill proposed by me, the Government would "examine whether the bill involves public expenditure, the political system, government operation, and so on". Regarding the efforts to amend POBO, will the Government inform this Council:

(1) whether it will propose legislative amendments in accordance with the proposal made by the Review Committee; if not, of the reasons for that, and the alternative proposals under consideration;

(2) whether it will complete the legislative amendment exercise within the current term of the Government; if so, of the legislative timetable; if not, the reasons for that; and

(3) whether it will undertake that it will, for the period from the present to the time of submission of the proposed legislative amendments to this Council, report on a half-yearly basis the progress of the legislative amendment exercise to this Council or any of its committees; if not, of the reasons for that?

Reply:

President,

Since the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (the IRC) submitted its report in May 2012, the Government has been actively following up on the IRC's recommendations, with a view to enhancing the robustness of the system concerned to effectively prevent and properly deal with potential conflicts of interests involving public officials.

The IRC recommended in its report that amendments be made to sections 3 and 8 of the Prevention of Bribery Ordinance (Cap 201) (POBO) to extend their application to the Chief Executive (CE). As the head of the Hong Kong Special Administrative Region (HKSAR) and the HKSAR Government, CE must be a person of integrity and dedicated to his/her duties according to Article 47 of the Basic Law. CE agrees that there should be a good system to maintain and strengthen public confidence in the integrity of the Government. At present, CE observes the provisions in the Code for Officials under the Political Appointment System and the declaration system applicable to Members of the Executive Council (ExCo) in declaring her financial and other interests. The open part of her declaration has been uploaded to the websites of CE's Office and ExCo for public inspection. The information related to gifts presented to and sponsorships received by CE has also been uploaded to the website of CE's office.

According to section 3 of POBO, any "prescribed officer" (including politically appointed official and civil servant) who, without CE's permission, solicits or accepts any advantage shall be guilty of a criminal offence. Also, section 8 of POBO stipulates that any person who, without lawful authority or reasonable excuse, while having dealings with any government department or public body, offers advantages to any "public servant" (including "prescribed officer") employed in that department or by that public body, shall be guilty of an offence.

Amending these two sections for application to CE has implications on the provisions about the political structure of HKSAR and CE's constitutional

status in HKSAR as prescribed in the Basic Law. The relevant constitutional and legal requirements as well as operational issues must be studied in a holistic manner.

Under Articles 15 and 45 of the Basic Law, CE shall be selected by election held in HKSAR and be appointed by the Central People's Government. Article 43 of the Basic Law stipulates that CE shall be the head of HKSAR, and shall be accountable to the Central People's Government and HKSAR in accordance with the provisions of the Basic Law. Pursuant to Article 60 of the Basic Law, CE shall also be the head of the Government of HKSAR. Hence CE is both the head of HKSAR and the head of the HKSAR Government. As indicated by the IRC in its report, any regime that gives permission to CE for soliciting or accepting advantages shall take into account the unique constitutional status of the office of CE under the Basic Law. The IRC recommended that a specialised independent committee, with members jointly appointed by the Chief Justice and the President of the Legislative Council, should be set up to give general or special permission to CE for soliciting and accepting advantages. This, however, may not be consistent with CE's unique constitutional status.

Furthermore, given that CE is the head of the HKSAR Government, amending section 8 to make it applicable to CE could have the effect of making it an offence potentially for any persons having dealings of any kind with any government department to offer an advantage to CE. In this connection, the IRC recommended that the reach of the statutory provisions would not include any person offering an advantage to CE where such acceptance of the advantage by CE is covered by a given general permission. But again, if such general permission is to be granted by a specialised independent committee established according to the IRC's recommendation, the above-mentioned constitutional and legal implications remain.

In fact, the existing POBO already contains certain provisions which effectively regulate the alleged corrupt acts of CE. Apart from such universally-applicable provisions as sections 6, 7 and 9 of POBO, sections 4, 5 and 10 are also applicable to CE for regulating respectively any bribery acts of soliciting and accepting advantages and possession of unexplained properties. Under these provisions, any person who offers any bribe to CE shall be guilty of an offence as well. Meanwhile, CE is subject to the regulation of bribery offences under the common law, and the offence of "misconduct in public office" under the common law also applies to CE.

The Government is now studying carefully the relevant issues on amending POBO to extend the application of sections 3 and 8 to CE in accordance with the constitutional framework set out in the Basic Law and the existing legal requirements. On completion of the study, the Government will report its findings to the Legislative Council (LegCo) as early as possible. Since the study is still in progress, the Government does not have a specific date for submitting the report or introducing the amendment bill on POBO to LegCo at this stage.

Thank you, President.

Missing man in Mong Kok located

A man who went missing in Mong Kok has been located.

Yeung Chun-wai, aged 24, went missing after he was last seen at MTR Mong Kok Station on January 19 afternoon. His family made a report to Police on January 21.

The man returned to his residence last night (January 22). He sustained no injuries and no suspicious circumstances were detected.

LCQ7: Factory canteens

Following is a question by the Hon Tommy Cheung and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (January 23):

Question:

Under the Food Business Regulation (Cap 132X), a factory canteen may only serve factory employees who work in the building where the canteen is located. The Food and Environmental Hygiene Department implemented new conditions for the Factory Canteen Licence (FCL) in February 2018 to stipulate that (i) a licensee must display a notice reading "FACTORY EMPLOYEES OF THIS BUILDING ONLY" outside each entrance of the canteen, and (ii) a factory canteen may only serve persons who possess employee identity cards issued by their employers or other acceptable proof. Some proprietors of factory canteens have relayed that the aforesaid requirements have led to a plunge in their businesses. They had applied for converting their canteens into general restaurants but their applications were rejected on grounds that the industrial buildings in which their canteens were located did not meet the fire safety and building structure requirements applicable to general restaurants. They have also pointed out that with the gradual decline of industries in Hong Kong, the existing legislation that regulates factory canteens is obviously outdated. On the other hand, while the Government has, since 2010, implemented measures to revitalise industrial buildings under which owners are permitted to convert or redevelop some industrial buildings for non-industrial uses (such as offices, art studios, cultural and creative industries, light industries, logistics), the authorities have not correspondingly adjusted the licensing conditions of FCL to dovetail with

such measures. In this connection, will the Government inform this Council:

(1) whether it will, in view of changing times and in order to dovetail with the measures to revitalise industrial buildings, amend the legislation to the effect that a factory canteen is permitted to serve, in addition to factory employees who work in the industrial building where the canteen is located, also other employees who work in the same industrial building as well as the employees of those organisations which have business dealings with the organisations situated in the industrial building; if so, of the details; if not, the reasons for that;

(2) of the respective numbers of applications for converting factory canteens into general restaurants received, approved and rejected by the authorities in the past eight years; if some applications were rejected, the main reasons for that; and the average processing time taken in respect of the approved applications;

(3) of the respective current numbers of industrial buildings and licensed factory canteens in Hong Kong, and whether it knows the number of factories that are in active operation in industrial buildings and the number of their employees, with a breakdown by District Council district; and

(4) whether it has compiled statistics on the numbers of units in industrial buildings used for non-industrial uses in each of the past three years and the numbers of employees involved; if so, of the details; if not, whether it will compile such statistics, so as to grasp the clientele size of factory canteens?

Reply:

President,

Having consulted the Development Bureau and the Labour and Welfare Bureau, the reply to the various parts of the question is as follows:

(1) Under the Food Business Regulation (Cap 132X), a factory canteen licence (FCL) must be obtained from the Food and Environmental Hygiene Department (FEHD) for operation of food business in a factory building which involves the sale or supply of meals or drinks for consumption on the premises by persons employed in the factory building concerned. The FCL was introduced to facilitate factory workers to take meals.

Industrial activities often involve the loading, unloading, storage and use of dangerous goods. The risks of fire hazards and accidents are therefore far greater in factory buildings than in commercial/composite buildings. Members of the public who do not work in such factory buildings are not familiar with their interior settings. They may be exposed to heightened danger if they are allowed to patronise factory canteens given they may not realise the potential dangers and know the escape routes in a factory building.

In terms of food safety, licensed factory canteens are subject to less stringent requirements than general restaurants with regard to the provision of food room and sanitary fittings as the types of food provided by factory canteens and their mode of operation are relatively simple. If factory canteens are allowed to serve members of the public, the existing provision of food room and sanitary fittings of a factory canteen may not be capable of coping with the substantial need for food storage and stock changes due to a vast increase in customers. The resulting food safety and hygiene implications will also constitute potential food safety hazards to customers.

In view of the above, the Government has no plan to relax the relevant licensing requirement, in other words, a factory canteen can only serve employees in the factory building where the canteen is situated.

(2) The respective numbers of FCL and General Restaurant Licence (GRL) applications received, approved, withdrawn/abandoned and rejected in the past eight years are set out at Annex 1. FEHD does not have the number of GRL applications lodged by licensed factory canteens.

(3) and (4) The distribution of factory buildings and licensed factory canteens in various districts is set out at Annex 2 and Annex 3 respectively. The Development Bureau and the Labour and Welfare Bureau do not maintain the number of factories in operation currently, the number of factory units used for non-industrial purposes in factory buildings and the number of employees concerned.