

LCQ11: Commodities seized by Customs and Excise Department

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

Question:

The Import and Export Ordinance (Cap. 60) imposes controls on the import or export of strategic commodities. Moreover, in accordance with the United Nations Sanctions Ordinance (Cap. 537) and the relevant regulations, Hong Kong enforces sanctions imposed by the Security Council of the United Nations against certain countries. It was reported that when the authorities of the United States (US) announced, in 2016, the imposition of export restrictions on ZTE Corporation (ZTE), they had made public some internal confidential documents of ZTE which revealed ZTE's violation of US's export bans. It was mentioned in one of the documents that in 2008, as ZTE had violated Hong Kong's export control laws (made in line with the US laws), there were four separate occasions on which ZTE's cargos were seized and confiscated by the Customs and Excise Department (C&ED) and ZTE was fined. In this connection, will the Government inform this Council:

(1) of the details of the aforesaid four occasions of cargo seizure (set out in Table 1);

Table 1

	Date of seizure	Details of commodities					Ordinance allegedly violated	Penalty/amount of fine
		Name of owner of commodities	Description and model number	Quantity and total value	Category of controlled commodities	Place of origin		
1								
2								
3								
4								

(2) of the respective numbers of cases of suspected violation of export control requirements in respect of which C&ED (i) conducted investigations and (ii) instituted prosecutions in the past five years, and the details of such cases (set out in Table 2 and Table 3); and

Table 2: Details of investigation cases

Date of seizure	Details of commodities					Ordinance allegedly violated
	Description and model number	Quantity and total value	Category of controlled commodities	Place of origin	Destination of export/re-export	

Table 3: Details of prosecution cases

Date of seizure	Details of commodities						Ordinance allegedly violated/ found to have violated	Details of penalty (if convicted)
	Name of owner of commodities	Description and model number	Quantity and total value	Category of controlled commodities	Place of origin	Destination of export/re-export		

(3) among the investigation and prosecution cases mentioned in (2), of the number and details of those cases which involved the violation of the export requirements by exporting or re-exporting telecommunications products to Iran (set out in Table 4)?

Table 4

Date of seizure	Description and model number of the telecommunications products	Quantity and total value of the products	Place of origin

Reply:

President,

Hong Kong implements strategic trade control in accordance with the Import and Export Ordinance (Chapter 60, Laws of Hong Kong) (Ordinance). The Ordinance stipulates that the import, export and transshipment of strategic commodities are subject to licensing control. More sensitive items, despite being article-in-transit, also require to be covered by import and export licences. Any person who imports or exports strategic commodities without a valid import or export licence commits an offence and is liable to an unlimited fine and to imprisonment for seven years on conviction. Offending strategic commodities seized are also subject to mandatory forfeiture.

The Hong Kong strategic trade control lists are drawn up on the basis of the control lists adopted by relevant international non-proliferation regimes and conventions, and are set out in detail in the Schedules to the Import and Export (Strategic Commodities) Regulations (Chapter 60G, Laws of Hong Kong). The Government has all along implemented trade control on strategic goods in

accordance with Hong Kong laws, and such efforts have been recognised and respected by our trading partners. Hong Kong will continue to maintain our robust trade control system in accordance with the law. Our law enforcement agencies will continue to conduct investigation in an impartial manner and in accordance with the law on any cases of suspected violation of the Ordinance.

Individual countries may, based on their own consideration, implement unilateral control against certain other countries on products not set out in Hong Kong's strategic trade control lists. Hong Kong does not have the responsibility nor the legal basis to implement such unilateral controls.

Our replies to the three parts of the question are as follows:

(1) The Government does not comment on individual cases.

(2) The Government does not comment on individual cases.

Statistics on strategic commodity-related enforcement in the past five years, i.e. 2014 to 2018, is tabulated below:

	2014	2015	2016	2017	2018
No. of licence verifications	2,732	3,090	2,899	3,046	3,527
No. of investigation cases	204	179	192	231	285
No. of prosecution cases	23	62	45	33	49
Fine (in million dollars)	0.85	3.58	1.18	0.75	0.94
Value of forfeited goods (in million dollars)	0	0.98	10.93	1.17	1.45

(3) In the past five years, i.e. 2014 to 2018, there was no strategic commodity-related prosecution case which involved export or re-export of telecommunication products to Iran.