

# LCQ15: Facilities, privileges and immunities enjoyed by Honorary Consuls

Following is a question by the Hon Paul Tse and a written reply by the Chief Secretary for Administration, Mr John Lee, in the Legislative Council today (October 20):

Question:

At present, some states, instead of sending officials from their own countries to station in Hong Kong, have appointed local people as their Honorary Consuls (HCs). Article 58 of Chapter III of the Vienna Convention on Consular Relations, as set out in the Schedule to the Consular Relations Ordinance (Cap. 557), stipulates that the facilities, privileges and immunities (FPIs) enjoyed by consuls under certain provisions of the Convention shall apply to HCs. However, some HCs have relayed that they do not know the FPIs which they enjoy, and they often do not receive clear replies to their enquiries from the Protocol Division, which is responsible for maintaining liaison with the foreign consuls in Hong Kong. They feel confused and not being respected. On the contrary, HCs of various states in Macao, which is also a Special Administrative Region (SAR) as Hong Kong, are provided with official documents setting out the FPIs which they enjoy. There are views that when our country, in an attempt to tackle the situation of the United States forming the "Five Eyes alliance" and AUKUS in order to surround and block up China, is striving to garner, on the diplomatic level, more support from different states to counter such surround-and-block-up tactic, the Hong Kong Government should review and improve its policies on facilitating HCs of various states in Hong Kong to perform their duties. In this connection, will the Government inform this Council:

- (1) of the current number of HCs in Hong Kong; the FPIs enjoyed by them, as well as the differences between such FPIs and those enjoyed by Career Consuls (i.e. career consular officers who are accredited by the sending states to Hong Kong);
- (2) of the policy put in place by the Protocol Division to assist HCs in getting to know their consular FPIs, so as to facilitate them to perform their duties;
- (3) whether it will, by drawing reference from the practice of the Macao Government, provide HCs with official documents setting out the FPIs which they enjoy;
- (4) in view of the aforesaid HCs feeling confused and not being respected, whether it has conducted a review to identify the reasons behind, and what improvement measures are in place; and
- (5) whether it has assessed if, in view of the current international

development, improving the relationship between the Hong Kong SAR Government and HCs of various states in Hong Kong will be conducive to strengthening our country's diplomatic relations; if it has assessed, of the outcome; if not, whether it will immediately conduct such an assessment?

Reply:

President,

In consultation with the Constitutional and Mainland Affairs Bureau, my reply to the Member's question is as follows:

(1) At present, there are 58 Honorary Consuls (HCs) in the Hong Kong Special Administrative Region (HKSAR). The HKSAR Government provides facilities, privileges and immunities (FPIs) relating to HCs in accordance with the Vienna Convention on Consular Relations (VCCR). Generally speaking, HCs enjoy the following FPIs:

(i) Not amenable to the jurisdiction of the judicial or administrative authorities in respect of acts performed in the exercise of consular functions;

(ii) Not obliged to give evidence or produce official documents concerning matters connected with the exercise of their functions in the course of judicial or administrative proceedings, and be entitled to decline to give evidence as expert witnesses with regard to the law of the sending state;

(iii) In the event of arrest or detention, pending trial, or of criminal proceedings in Hong Kong, the HKSAR Government shall promptly notify the head of the consular post, or the sending state through the diplomatic channel;

(iv) If criminal proceedings are instituted against an HC, the proceedings shall be conducted with the respect due to him/her and in a manner which will hamper the exercise of consular functions as little as possible; and

(v) Shall be exempt from all dues and taxes on the remuneration which he receives from the sending state.

Some FPIs are not applicable to HCs, but only applicable to career consular officers. These include not subject to any attack on their person, freedom or dignity; not be liable to arrest or detention pending trial (except in the case of a grave crime); not be committed to prison (except in execution of a judicial decision of final effect); no coercive measure or penalty may be applied if declines to attend as witnesses in the course of judicial or administrative proceedings; exempt from work permits; exempt from personal dues and taxes, including government rates, vehicle first registration tax, duty on petrol and duty on liquor and tobacco; and exempt from customs duties and inspections, etc. HCs and career consular officers enjoy different FPIs. This is a normal arrangement in compliance with the VCCR.

(2), (3) and (4) The question refers to the HKSAR Government not providing

HCs with official documents setting out the FPIs. This is not correct. The HKSAR Government has all along been committed to providing consular officers, including career consular officers and HCs with host government services, and has been maintaining communication and liaison with them. Upon the assumption of office of HCs, the Director of Protocol will meet with the HCs to explain in detail the FPIs they enjoy and provide them with relevant information and documents, including the VCCR which sets out the FPIs. In addition, the Protocol Division provides latest information relating to consular affairs on its website and will inform the consulates-general and honorary consulates of major updates as soon as practicable. The Protocol Division has also received enquiries on FPIs from individual HCs in the past and provided detailed reply on each and every occasion.

Like career consular officers, HCs play an important bridging role, representing their sending states in maintaining liaison with the HKSAR. Their work helps to foster economic and cultural exchanges and enhance co-operation between the sending states and the HKSAR, which is very important to the development of Hong Kong. The HKSAR Government has always attached great importance to the relationship with consular officers and invite them to attend important events and special briefings from time to time, such as the flag raising ceremonies cum receptions in celebration of the founding of the People's Republic of China and the establishment of the HKSAR, briefings on Policy Address, Budget briefings, briefings on COVID-19 and local visits.

(5) Under Article 13 of the Basic Law, the Central People's Government is responsible for foreign affairs relating to the HKSAR and authorises the HKSAR to conduct relevant external affairs on its own in accordance with the Basic Law. The HKSAR Government will continue to adhere fully to the country's foreign policy.