

SB's response to Ombudsman's direct investigation report

Regarding a report released by the Ombudsman today (December 23) on its direct investigation into the Government's control of illicit fuelling activities (the investigation report), the Security Bureau (SB)'s response is as follows:

The Ombudsman has made in the investigation report five recommendations. We welcome four of those recommendations, which are, the Fire Services Department (FSD) to review the staff establishment of the Anti-illicit Fuelling Activities Task Force, to consider increasing the frequency of surprise inspections and joint operations with the Customs and Excise Department and/or the Hong Kong Police Force, to review the related penalties for greater deterrence against the relevant persons participating in illicit fuelling activities, and to explore ways for diversifying publicity and public education. The FSD has implemented or is implementing the relevant measures as mentioned above, and will continue to strengthen enforcement and publicity from the fire safety perspective with a view to combatting illicit fuelling activities.

The fifth recommendation made by the Ombudsman suggests that the Government explore the feasibility of introducing control-at-source improvement measures, so as to combat illicit fuelling activities at the source of supply. As pointed out by the Ombudsman in the investigation report, the diesel market involves many operators and stakeholders in the sector, and to implement the recommendation with a view to achieving the effect of combatting illicit fuelling activities at source, the impact on the sector needs to be minimised at the same time. The Ombudsman also pointed out in the report that the formulation of related improvement measures would be complex.

Under the regulatory system of dangerous goods under the Dangerous Goods Ordinance (Cap. 295), the intent of the Ordinance is to control the manufacture, storage, conveyance and use of dangerous goods by means of a licensing system for the purpose of ensuring fire safety during the processes, rather than imposing restrictions on the supply and sale of dangerous goods. If control-at-source measures are introduced in accordance with the fifth recommendation of the investigation report, for example by imposing restrictions on the supply and sale of dangerous goods, it will not be in line with the legislative intent and purpose of the Dangerous Goods Ordinance. It will also go beyond its regulatory scope. Moreover, it will involve significant changes to the entire regulatory regime of dangerous goods, causing extensive impacts.

The substances regulated by the Dangerous Goods Ordinance are of a wide variety, including many consumer goods widely used by the public in daily life. Therefore, the recommendation to restrict the supply and sale of

dangerous goods may cause inconvenience to the public's daily lives, business operations, and more. It would not be in line with the Government's principle of facilitating the business sector and the general public.

Separately, the scale, operation and mode of operation of diesel distributors and retailers are complex, involving multi-layeredness, diversity and variability. The idea of combatting illicit fuelling activities at source is impracticable and its effect of curbing illicit fuelling activities is limited. In addition, the relevant recommendation goes beyond the intent and purpose of the Dangerous Goods Ordinance in regulating dangerous goods, and would possibly affect the daily lives of the public and operation of the business sector. The SB, after careful consideration, cannot accept the fifth recommendation of the investigation report.

The FSD has all along adopted a multi-pronged approach to specifically address the potential fire safety hazards associated with illicit fuelling activities, including carrying out inspections, investigations and taking enforcement actions from the fire safety perspective, and co-operating closely with other law enforcement agencies in conducting surprise joint operations from time to time to combat illicit fuelling activities. As with other policy initiatives, the SB will closely monitor the effectiveness of the work of the relevant departments in this regard, and will conduct a review in due course.