

香港特別行政區政府  
商務及經濟發展局  
工商及旅遊科



香港添馬添美道二號  
政府總部西翼二十三樓

COMMERCE, INDUSTRY AND TOURISM BRANCH  
COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU  
GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION

23/F, WEST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE  
TAMAR, HONG KONG

Tel. No.: (852) 2810 3029  
Fax No.: (852) 2918 1273

30 January 2015

Clerk to the Subcommittee  
to Examine the Implementation in Hong Kong of Resolutions  
of the United Nations Security Council in relation to Sanctions  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong  
(Attn: Ms Annette Lam)  
(Fax No.: 2978 7569)

Dear Ms Lam,

**Subcommittee to Examine the Implementation in Hong Kong of  
Resolutions of the United Nations Security Council in relation to Sanctions**

At the seventh meeting of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions of 13 January 2015, the Administration was requested to provide –

- (a) in respect of the use of the new terminology "controlled by" in the United Nations Sanctions (Côte d'Ivoire) Regulation 2014 (L.N. 114 of 2014), information on examples of local legislation in which such a terminology had been used;
- (b) in respect of the prohibition against making available funds or dealing with funds in the United Nations Sanctions (Democratic

People's Republic of Korea) (Amendment) Regulation 2014 (L.N. 115 of 2014), information on a case, if any, in Macao that was sanctioned by the United States of America in 2005 for allegedly handling funds for the government of North Korea, including how it was handled by the Macao Government and its implications on Hong Kong, if any; and

- (c) information on the implementation in Macao of the resolutions of the United Nations Security Council (UNSC) in relation to sanctions.

Our responses are set out in the ensuing paragraphs –

- (a) The term "control" is used in a similar context in the following other local legislation –

- (i) "(1) The approved trustee of a registered scheme must ensure that the scheme **assets**-

(a) are administered and dealt with as trust property by service providers appointed or engaged by the trustee for the purposes of the scheme; and

(b) are held, recorded or otherwise **controlled** in accordance with the market practices that are currently prevailing in the place where the scheme **assets** are held, recorded or otherwise **controlled**, and in such manner as is prudent in the circumstances; and"

*(Section 64 of the Mandatory Provident Funds Scheme (General) Regulation, Cap. 485A)*

- (ii) "(1) If it appears either from any statement sent to the Registrar under section 284 or otherwise that a liquidator has in his hands or **under his control any money** representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for 6 months after the date of their receipt, or any money held by the company in trust in respect of dividends or other sums due to any person as a member of the company, the liquidator shall forthwith pay the said money to the companies liquidation account, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof."

*(Section 285 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance, Cap. 32)*

- (iii) "(1) All **money** in the hands or **under the control** of a liquidator of a company representing unclaimed dividends, which for 6 months from the date when the dividend became payable have remained in the

hands or under the control of the liquidator, shall forthwith, on the expiration of the 6 months, be paid into the companies liquidation account."

*(Rule 183, Companies (Winding-up) Rules, Cap. 32H)*

- (b) Based on media information, the case concerns the United States' sanctions against a Macau bank named Banco Delta Asia under the USA Patriot Act. It is not related to the implementation of UNSC resolutions in Hong Kong.
- (c) According to available information, UNSC resolutions are promulgated by notices made by the Chief Executive of Macau and published in the Macao Special Administrative Region Gazette. This approach differs from the Hong Kong system where domestic legislation has to be enacted to give effect to UNSC resolutions and other international agreements.

Yours sincerely,



( Jerry Ji )

for Secretary for Commerce and Economic Development