

香港特別行政區政府
商務及經濟發展局
工商及旅遊科



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**COMMERCE AND ECONOMIC
DEVELOPMENT BUREAU**
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

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8 July 2013

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 Resolution
of the United Nations Security Council in relation to Sanctions**

At the third meeting of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions of 30 April 2013, the Administration was requested to take the following actions –

- (a) convey to the Central People's Government (CPG) members' concern about the time gap between the passing of the resolutions of the Security Council of the United Nations (UNSC) in relation to sanctions and the gazettal of the related regulations during which the Government of the Hong Kong Special Administrative Region (HKSAR) could only rely on the existing relevant local legislation for enforcement, and to take every possible steps to expedite the legislative process to shorten the time gap; and
- (b) in relation to the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013, consider putting in place administrative measures or specifying certain

exceptions to provide for specified entities under asset freeze to meet contractual liabilities and reasonable expenses, such as payments liable to be made under the Employment Ordinance and rents etc., similar to other anti-terrorism legislation, for example, the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

Our responses are set out at the ensuing paragraphs –

Timeliness of implementing United Nations sanctions

The implementation of the UNSC resolutions in the HKSAR concerns the discharge of People's Republic of China (PRC)'s international obligations to the United Nations, which is a matter of foreign policy over which the CPG has sole responsibility. Pursuant to section 3(1) of the United Nations Sanctions Ordinance (Cap. 537), the Chief Executive (CE) shall make regulations to give effect to the instructions of the Ministry of Foreign Affairs (MFA) of the PRC in relation to the implementation of sanctions as decided by the UNSC. The current mechanism is that when the MFA issues instructions to the CE as to the implementation of sanctions specified in the UNSC resolutions which fall within the purview of Cap. 537, the CE would make regulations under Cap. 537 to give effect to such instructions.

We will continue to work closely with the MFA to ensure timely implementation of the MFA's instructions in relations to United Nations sanctions in the HKSAR. The Administration has also endeavoured to expedite the process through more streamlined arrangements and deploying dedicated officers in the Department of Justice to deal with the subject. To facilitate drafting work, reference would be made to statutory provisions in similar regulations as far as possible. The effort to expedite legislative work is discernible in that the majority of regulations gazetted in recent years had a lead time of about three months only between the receipt of the MFA instructions and gazettal of the regulations.

Exceptions to financial sanctions

The exceptions to financial sanctions against the Democratic People's Republic of Korea were provided for under paragraph 9 of UNSC resolution 1718. They have been implemented by local legislation under section 11 of the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537AE). Under section 11(1), the CE will, subject to section 11(4), issue a licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities if the


requirements under section 11(2) are met. The requirements are set out as follows –

“(2) The requirements referred to in subsection (1) are as follows –

- (a) the funds or other financial assets or economic resources are –
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity;
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
- (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 14 October 2006 and is not for the benefit of a relevant person or a relevant entity or an individual or entity identified by the Committee or the Security Council;
 - (ii) are to be used to satisfy the lien or judgment.”

We believe the exceptions as provided in the UNSC resolution 1718 and as reflected in section 11(2) of Cap 537AE would cover basic expenses of a specified entity, which may include payments liable to be made under the Employment Ordinance (Cap 57), depending on the circumstances of each case. If the CE receives an application and determines that any requirement stated above is met, the CE will notify the Committee of the Security Council established under paragraph 12 of resolution 1718 of the application or seek its approval through the MFA before granting the licence in accordance with section 11(4). The applications will be handled on a case-by-case basis.

Yours sincerely,


(Raymond Wu)

for Secretary for Commerce and Economic Development