

香港特別行政區政府  
商務及經濟發展局  
工商及旅遊科



COMMERCE, INDUSTRY AND TOURISM BRANCH  
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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: Mr Desmond Lam)  
(Fax No.: 2978 7569)

Dear Mr Lam,

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

At the meeting of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions on 23 February 2017, the Government was requested to inform members, in relation to the United Nations Sanctions (Joint Comprehensive Plan of Action – Iran) Regulation (Cap. 537BV) ("the JCPOA – Iran Regulation") –

- (a) whether the "nuclear-related items" (defined as items, materials, equipment, goods or technologies set out in the International Atomic Energy Agency ("IAEA") documents INFCIRC/254/Rev.12/Part 1 and INFCIRC/254/Rev.9/Part 2) included:
  - (i) items which were solely for military-related uses (such as development of nuclear weapons);

- (ii) dual-use items which could be used for both military and peaceful purposes; or
- (iii) items which could only be used for peaceful purposes (such as electricity generation) with no potential military applications; and

of a brief summary of the "nuclear-related items" and the hyperlink of the said documents; and

- (b) of the legal provisions applicable to the forfeiture and disposal of articles seized under the JCPOA – Iran Regulation, given that the JCPOA – Iran Regulation did not contain provisions in relation to forfeiture and disposal of seized articles similar to sections 24A and 24B of the United Nations Sanctions (Iran) Regulation (Cap. 537AF).

## **Bureau's Response**

### ***Nuclear-related items***

The IAEA documents INFCIRC/254/Rev.12/Part 1 and INFCIRC/254/Rev.9/Part 2 contain the two sets of Nuclear Suppliers Group ("NSG") Guidelines, i.e. "Guidelines for nuclear transfers" and "Guidelines for transfers of nuclear-related dual-use equipment, materials, software, and related technology" respectively. The NSG aims to prevent nuclear transfers for commercial and peaceful purposes from being used to make nuclear weapons or other nuclear explosive devices, and to ensure that international trade and cooperation in the nuclear field is not hindered unjustly in the process. The two sets of Guidelines list out the specific items, materials, equipment, goods and technologies that are subject to export control. All such items are dual-use items which can be used for both military and peaceful purposes. The following paragraphs set out further details about the two documents.

The IAEA document INFCIRC/254/Rev.12/Part 1 lists items, materials, equipment, goods or technologies that are especially designed or prepared for nuclear use (including peaceful nuclear uses). Such items, materials, equipment, goods or technologies can be classified as –

- source material;
- special fissionable material;
- nuclear reactors and equipment;
- non-nuclear materials for reactors;
- plants and equipment for reprocessing of irradiated fuel elements;
- plants and equipment for the fabrication of nuclear reactor fuel elements;

- plants and equipment for the separation of isotopes of natural uranium, depleted uranium or special fissionable material;
- plants and equipment for the production and concentration of heavy water, deuterium and deuterium compounds; or
- plants and equipment for the conversion of uranium and plutonium for use in the fabrication of fuel elements and the separation of uranium isotopes.

The IAEA document INFCIRC/254/Rev.9/Part 2 lists items, materials, equipment, goods or technologies that could make a major contribution to a nuclear explosive activity, an unsafeguarded nuclear fuel cycle or acts of nuclear terrorism, but which have non-nuclear peaceful uses as well. Such items, materials, equipment, goods or technologies can be classified as –

- industrial equipment;
- materials;
- uranium isotope separation equipment and components;
- heavy water production plant related equipment;
- test and measurement equipment for the development of nuclear explosive devices; or
- components for nuclear explosive devices.

The items, materials, equipment, goods or technologies are clearly defined in the two IAEA documents, which are available at the website of the IAEA - <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r12p1.pdf> (IAEA document INFCIRC/254/Rev.12/Part 1) and <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r9p2.pdf> (IAEA document INFCIRC/254/Rev.9/Part 2).

### *Disposal of articles seized*

In the absence of specific provisions in relation to forfeiture and disposal of seized articles under the JCPOA—Iran Regulation, disposal of any document, cargo or article seized under the JCPOA—Iran Regulation is governed by section 102 of the Criminal Procedure Ordinance (Cap. 221).

Yours sincerely,



( Eileen YUE )

for Secretary for Commerce and Economic Development