



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : CITB CR 136/53/1 & CITB CR 106/53/1  
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By Fax (2918 1273)

13 November 2014

Ms Jerry Ji  
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Commerce and Economic Development Bureau  
Commerce Industry and Tourism Branch  
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22-23/F, West Wing,  
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Tamar, Hong Kong

Dear Ms Ji,

**United Nations Sanctions (Côte d'Ivoire) Regulation 2014 (L.N. 114 of 2014)**

**United Nations Sanctions (Democratic People's Republic of Korea)  
(Amendment) Regulation 2014 (L.N. 115 of 2014)**

We are scrutinizing the legal and drafting aspects of the subject Regulations. We would be most grateful if you could clarify the following matters.

L.N. 114 of 2014

It is noted that in the expired United Nations Sanctions (Côte d'Ivoire) Regulation 2013 (Cap. 537BE) (e.g. section 5(2)(b), (4)(b) and (5), section 10(1)(b) and (2)(a)(iii)), the phrase "owned by or otherwise belonging to, or held by" has been used. However, in the United Nations Sanctions (Côte d'Ivoire) Regulation 2014 (L.N. 114 of 2014) (e.g. section 4(2)(b), (4)(b) and (5), section 8(1)(b) and (2)(a)(iii)), the phrase "belonging to,

or owned or controlled by" is now used. Please let members know the rationale for the new terminology used.

Section 29 of L.N. 114 of 2014 provides that the Director-General of Trade and Industry is to make available at his or her office, for inspection by the public during normal office hours, free of charge, an English version and a Chinese version of any amendment to the list of specified goods. Please let members know whether any such amendment to the list of specified goods in the future would be made available to the public by any other means, e.g. the Internet.

#### L.N. 115 of 2014

It is noted that a new section 2A is added to the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537AE) relating to prohibition against the supply, sale or transfer of luxury goods. It provides that a person commits an offence if the person directly or indirectly supplies, sells or transfers an item knowing or having reason to believe that the item is luxury goods and the item is to be supplied, sold or transferred to a place in the Democratic People's Republic of Korea (DPRK). However, in the existing section 2 of Cap. 537AE, a different structure is used in respect of the prohibition against the supply, sale or transfer of specified items. Section 2(3) provides for a defence for a person charged if the person did not know and had no reason to believe that the item concerned was a specified item or that the item was or was to be supplied, sold or transferred to the DPRK etc. Please let members know the rationale for the difference between section 2 and the new section 2A as mentioned above.

Please also explain a similar difference between section 3 (prohibition against carriage of specified items) and the new section 3AA (prohibition against carriage of luxury goods).

Moreover, it is noted that the parts relating to "a person connected with the DPRK" in the existing section 3(2) (prohibition against carriage of specified items) do not appear in the corresponding new section 3AA(3) (prohibition against carriage of luxury goods). Please let members know the rationale for this difference.

It is noted that the phrase "owned or held by" in Cap. 537AE is amended to "or owned or controlled by" in a number of sections of L.N. 115 of 2014 (e.g. sections 15 and 18). Please let members know the rationale for the new terminology used.

In section 24 of L.N. 115 of 2014, a list of luxury goods is added to Schedule 1 to Cap. 537AE which appears to be modelled on the list in Annex IV to the Security Council's Resolution 2094 adopted on 7 March 2013 (Resolution 2094). However, it is noted that there are a number of differences between the items specified in Schedule 1 to Cap. 537AE and those in Annex IV to Resolution 2094. Please explain the rationale for the differences, in particular the reason(s) for not adopting the phrases used in Annex IV to Resolution 2094 in Schedule 1 to Cap. 537AE (e.g. gems, precious and semi-precious stones, precious metal, luxury automobiles and racing cars).

Furthermore, it is noted that according to paragraph 23 of Resolution 2094, the term "luxury goods" includes, but is not limited to, the items specified in Annex IV (emphasis added). However, "luxury goods" is defined in section 1 (as amended by section 3(1) of L.N. 115 of 2014) of Cap. 537AE to mean any item specified in Schedule 1. Please clarify whether the scope of "luxury goods" in Cap. 537AE is intended to be different from that in Resolution 2094, and if so, provide the justification(s) for the difference.

We should be grateful if you could let us have your reply as soon as possible, preferably by 24 November 2014.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Timothy TSO', is enclosed in a light blue rectangular box.

(Timothy TSO)  
Assistant Legal Adviser

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