



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

來函檔號 YOUR REF : SB CR 9/16/1476/74
本函檔號 OUR REF : LS/B/24/16-17
電話 TELEPHONE : 3919 3513

傳真 FAX : 2877 5029
電郵 E-MAIL : elee@legco.gov.hk

By Fax (2524 3762)

3 November 2017

Ms Iris LEE
Principal Assistant Secretary for Security
Security Bureau
10/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Ms LEE,

United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017

Further to the Administration's response to the issues raised at the Bills Committee meeting on 10 October 2017 (LegCo Paper No: CB(2)165/17-18(02)) dated 1 November 2017 ("Paper"), I would like to seek the following information.

Proposed section 11K

In relation to the proposed section 11K, which prohibits, among other things, a Hong Kong permanent resident from travelling with the intention to leave Hong Kong for a foreign state for purposes such as participating in terrorist acts, the Administration is of the view that the application of the proposed section 11K to Hong Kong permanent residents is in line with the spirit of UNSCR 2178 (2014) which requires states to prohibit travels of their "nationals" to another state. The Administration pointed out at paragraph 26 of the Paper that the United Nations did not elaborate on the meaning of "State of nationality" and "State of residence" mentioned in UNSCR 2178(2014) and considered it difficult to adopt these terms in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) under the unique circumstances of Hong Kong, as they involve complicated technical issues.


In the light of the above, please explain the complicated technical issues involved and how the proposed section 11K, as drafted, would help to address these issues. Please also elaborate how the application of the proposed section 11K is in line with the spirit of UNSCR 2178 (2014).

Further, under the proposed section 11K, it would appear that a person (including a terrorist) who is not a Hong Kong permanent resident would not be caught by the proposed section 11K even though all other conditions under the proposed section 11K(1) or (2) have been satisfied. Please explain what the Administration would do if the person is boarding a conveyance with the intention of leaving Hong Kong for a foreign state for purposes such as participating in a terrorist act, if the proposed section 11K is not applicable in the above circumstances.

Would the Administration also clarify whether the Administration has considered the proposed section 11K in the light of Articles 24 and 25 of the Basic Law, which provide that residents of the Hong Kong Special Administrative Region shall include permanent residents and non-permanent residents and all Hong Kong residents shall be equal before the law, and provide the justifications on how the proposed section 11K, as drafted, complies with these Articles.

As the next meeting of the Bills Committee will be held on 6 November 2017, please let us have your reply in both Chinese and English as soon as practicable.

Yours sincerely,



(Evelyn LEE)

Assistant Legal Adviser

c.c. Department of Justice
(Attn: Ms Carmen CHAN, Senior Government Counsel (By Fax: 2536 8755))
Legal Adviser
Senior Assistant Legal Adviser 3
Clerk to the Bills Committee