

II. REPORT

The date of First Reading of the Bill is 6 June 2018. Members may refer to the Legislative Council ("LegCo") Brief (File Ref: CITB CR14/46/13/6) issued by the Commerce and Economic Development Bureau in May 2018 for further details.

Object of the Bill

2. The Bill seeks to amend the United Nations Sanctions Ordinance (Cap. 537) to enable regulations made under that Ordinance to impose sanctions directly against persons whom the Security Council of the United Nations ("UNSC") decides to sanction.

Background

3. At present, Cap. 537 provides that the Chief Executive shall make regulations to give effect to instructions from the Ministry of Foreign Affairs ("MFA") of the People's Republic of China ("PRC") to implement sanctions imposed by UNSC against places outside PRC. Sanctions imposed by UNSC against 15 places¹ are currently being implemented by regulations made under Cap. 537.

4. UNSC adopted Resolution 2368 in July 2017 to impose sanctions against the Islamic State in Iraq and the Levant ("ISIL"), Al-Qaida, and associated individuals, groups, undertakings and entities. According to paragraphs 4 and 5 of the LegCo Brief, MFA has instructed the Government of the Hong Kong Special Administrative Region to implement sanction measures, including asset freeze, travel ban and arms embargo, against ISIL and Al-Qaida etc. Given that the existing Cap. 537 only provides for the implementation of sanctions against places, the above sanction measures against ISIL and Al-Qaida etc. cannot be implemented by regulations made under Cap. 537. The Administration therefore introduces the Bill into LegCo to amend Cap. 537 to enable sanctions to be made against persons under Cap. 537.

Provisions of the Bill

5. The Bill seeks to amend section 2 of Cap. 537 to enable regulations made under that Ordinance to impose sanctions against persons (including groups,

¹ These 15 places are Afghanistan, the Central African Republic, the Democratic Republic of the Congo, the Democratic People's Republic of Korea, Eritrea, Guinea-Bissau, Iran, Iraq, Lebanon, Libya, Mali, Somalia, South Sudan, Sudan and Yemen.

undertakings and entities), in addition to places, pursuant to UNSC's resolutions. The Bill also seeks to make consequential amendments to the long title of Cap. 537.

Commencement

6. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

Public Consultation

7. It is not stated in the LegCo Brief that the public has been consulted.

Consultation with LegCo Panel

8. As advised by the Clerk to the Panel on Commerce and Industry ("Panel"), the Panel was briefed on 10 April 2018 on the proposed legislative amendment to Cap. 537 to implement sanctions against terrorist groups to fulfil the international obligation of PRC as a member state of the United Nations. Some members expressed concern about the risks of inadvertent contravention of sanctions under Cap. 537 by ordinary members of the public in Hong Kong. Some members were keen to know how the industries concerned would be informed of the latest UNSC sanctions. Members also sought clarification from the Administration on the types of persons to be sanctioned under the proposed amendment to Cap. 537.

Conclusion

9. The Legal Service Division is making enquiries with the Administration on certain legal and drafting aspects of the Bill. In the light of the views expressed by members of the Panel, Members may consider whether a Bills Committee should be formed to study the Bill in detail.

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6 June 2018