

LCQ18: Predicate offences for money laundering involving environmental crimes

Following is a question by the Hon Hui Chi-fung and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (July 8):

Question:

The Financial Action Task Force (FATF) comprises 39 major economies of the world, including Hong Kong. In its Mutual Evaluation Report of Hong Kong (the Report) published in 2008 and its Follow-up Report published in 2012, the FATF pointed out that the predicate offences for money laundering (predicate offences) in Hong Kong had not adequately covered environmental crimes. In its Report published in 2019, the FATF pointed out that Hong Kong had made relevant legislative amendments in May 2018. In this connection, will the Government inform this Council:

(1) of the details and latest progress of the Government's efforts, since 2008, in rendering environmental crimes as predicate offences;

(2) of the details of those predicate offence cases involving environmental crimes which were detected by relevant government departments in each of the past five years, including (i) the number of cases, (ii) the total amount of money laundered, and (iii) the total value of assets frozen (if applicable), with a tabulated breakdown by type of environmental crime (e.g. (a) emission of pollutants, (b) smuggling of endangered wild animals, (c) smuggling of endangered species of plants, (d) illegal logging, and (e) illegal fishing); and

(3) whether the Government has plans to render, by making reference to the practice of other jurisdictions which have currently included environmental crimes as predicate offences, the various environmental crimes as predicate offences; if so, of the timetable; if not, the reasons for that?

Reply:

President,

The Financial Action Task Force (FATF) is an inter-governmental organisation which sets international standards for combating money laundering and terrorist financing (ML/TF). It conducts mutual evaluations, a peer-review process by member jurisdictions, to oversee the implementation of the FATF Standards around the world. As a member of the FATF since 1991, Hong Kong underwent the fourth round of mutual evaluation starting in January 2018. The assessment was concluded in June 2019, with the Mutual Evaluation

Report of Hong Kong (the Report) examined and adopted by the FATF Plenary convened in the United States.

Hong Kong has achieved satisfactory results in this round of mutual evaluation. The HKSAR Government's efforts in building a robust anti-money laundering and counter-terrorist financing (AML/CTF) regime is duly recognised by the international community. The Report commends Hong Kong for having a strong legal foundation and effective system for combatting ML/TF. Underpinned by a high-level commitment from the Government, the system is particularly effective in the areas of risk identification, law enforcement, asset recovery, counter-terrorist financing and international co-operation. Hong Kong's system is assessed to be compliant and effective overall, making us the first jurisdiction in the Asia-Pacific region to have achieved an overall compliant result in the current round of the FATF evaluation.

My reply to various parts of the question raised by the Hon Hui Chi-fung is as follows.

(1) and (3) All indictable offences are predicate offences covered under the ML offence stipulated in section 25 of the Organized and Serious Crimes Ordinance (Cap 455). The Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018, which came into effect in May 2018, stipulates as indictable offences the importing, exporting or re-exporting of scheduled endangered species otherwise than in accordance with the Ordinance. The offences are punishable upon conviction to a maximum penalty of a fine of \$10,000,000 and imprisonment for 10 years. In addition, acts such as illegal logging and wildlife smuggling can also be prosecuted through other applicable indictable offences (such as theft, smuggling, etc.), and therefore also constitute predicate offences covered by the ML offence.

Having conducted a comprehensive review of the ML offence in Hong Kong, the FATF acknowledges in the Report that it has covered all serious predicate offences, including various environmental crimes, and is therefore largely compliant with the international standards. Since environmental crimes are already predicate offences of ML covered under the laws of Hong Kong, the need does not arise for the Government to follow up in this regard.

(2) Statistics of various environmental crimes investigated by the relevant departments during the past five years are tabulated at Annex. No ML prosecution was involved in these cases.