

# Liability for Imposing Sanctions under Hong Kong's National Security Law

Albert H.Y. Chen<sup>\*</sup> and Simon N.M. Young<sup>†</sup>

*Under Article 29(4) of Hong Kong's National Security Law, a person or company who "receives instructions" from a foreign country to commit the act of "imposing sanctions" against the Hong Kong Special Administrative Region (HKSAR) or the People's Republic of China (PRC) commits a criminal offence. If, as required by the law of a foreign country X, a financial institution in Hong Kong performs an act in the course of its business for the purpose of implementing a sanction imposed by country X against the HKSAR or PRC, does that financial institution violate Article 29(4)? In this article, we argue the financial institution does not. The scope of Article 29(4) must be interpreted contextually. It covers the performance of an act of imposing a sanction or blockade or of engaging in other hostile activities. Such an act is only capable of being performed by a State, an individual acting on behalf of a State, or an international organisation. A financial institution, giving effect to sanctions against the HKSAR or the PRC, cannot be regarded as 'receiving instructions' to 'impose sanctions', which have already been imposed by a foreign state. It cannot be guilty of a criminal offence under Article 29(4) merely by participating in the implementation of the sanctions concerned to comply with a foreign law applicable to it.*

## 1. Introduction

Under Article 29(4) of Hong Kong's National Security Law (NSL), a person who "receives instructions" (接受外國的指使) from a foreign country to commit (實施) the act (行爲) of "imposing sanctions against the Hong Kong Special Administrative Region (HKSAR) or the People's Republic of China" (PRC) (對香港特別行政區或者中華人民共和國進行制裁) commits a criminal offence.<sup>1</sup> Recently, some foreign countries have taken steps towards imposing sanctions

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<sup>\*</sup> Cheng Chan Lan Yue Professor in Constitutional Law, Faculty of Law, University of Hong Kong; member, Hong Kong Basic Law Committee of the National People's Congress Standing Committee.

<sup>†</sup> Professor and Associate Dean (Research), Faculty of Law, University of Hong Kong; Barrister, Parkside Chambers, Hong Kong. The authors are grateful to the anonymous reviewer of this article for comments and suggestions on the draft of this article.

<sup>1</sup> The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL), promulgated in Hong Kong by the Chief Executive on 30 June 2020, LN 136 of 2020. The offence is punishable up to life imprisonment in grave cases for individuals (Article 29) and by unlimited fine for companies (Article 31). If a company is punished under the NSL, its operations may be suspended and business licences and permits may be revoked (Article 31).

against the HKSAR, PRC and their officials.<sup>2</sup> International banks and financial institutions in Hong Kong are worried that they may be in breach of Article 29(4) if as a result of their regulatory obligations they must give effect to these sanctions in their ordinary business operations.<sup>3</sup> *Prima facie* it may appear arguable that such institutions are ‘receiving instructions’ from a foreign country to ‘impose a sanction on the HKSAR and PRC’ and thus appear to be in breach of Article 29(4).

This article examines the scope of Article 29(4) and considers the possible liability risks for banks and financial institutions who must give effect to external sanctions or other measures directed at the HKSAR or PRC. It argues that the scope of Article 29(4) must be interpreted contextually as part of an offence concerned with collusion with outsiders in endangering national security. It consists of acts which are only capable of being performed by a state, head of state or international organisation, and thus a financial institution, giving effect to sanctions against Hong Kong, cannot be regarded as ‘receiving instructions’ to ‘impose sanctions’, which have *already been imposed by a foreign state*. It cannot be guilty of a criminal offence under Article 29(4) merely by participating in the implementation of the sanctions concerned to comply with a foreign law applicable to it.<sup>4</sup> However, in certain exceptional and special circumstances to be discussed below, it is possible for banks and financial institutions to become liable (as a non-principal offender) for providing financial services to a foreign head of State or political leader who (as a principal offender under Article 29(4)) has received funding or other support from a third party for the purpose of the State concerned imposing a sanction on the HKSAR or the PRC.

## 2. The Structure of Article 29

Discerning liability under Article 29 is made difficult by its clumsy drafting, block structure, and absence of clear subsections and paragraphs. Inserting numbering for subsections/paragraphs and other formatting can improve readability without altering the meaning of the article. Consider the following

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<sup>2</sup> For example, the United States passed the Hong Kong Autonomy Act, which became law on 14 July 2020, authorising the President to “impose sanctions on foreign individuals and entities that materially contribute to China’s failure to preserve Hong Kong’s autonomy”; see “H.R.7440 – Hong Kong Autonomy Act”, Summary, Congress.Gov website, accessible at <https://www.congress.gov/bill/116th-congress/house-bill/7440> (last accessed 5 August 2020).

<sup>3</sup> See, eg, “Businesses in Hong Kong fear collateral damage from security law”, *Financial Times*, 2 July 2020; “Banks in Hong Kong audit clients for exposure to US sanctions”, *Financial Times*, 10 July 2020.

<sup>4</sup> Note that this commentary does not address whether a financial institution implementing a sanction required by foreign law can be said to have “directly or indirectly received instructions” to implement the sanction. It is arguable any sanction being applied by the institution occurs by operation of law rather as a result of an instruction received and applied with a sufficient collusive element.

Chinese and unofficial English versions of Article 29 with new section numbering in square brackets and other formatting inserted for clarity:

## 第二十九條

[A] 為外國或者境外機構、組織、人員竊取、刺探、收買、非法提供涉及國家安全的國家秘密或者情報的；

[B]

[a] 請求外國或者境外機構、組織、人員實施，

[b] 與外國或者境外機構、組織、人員串謀實施，或者

[c] 直接或者間接接受外國或者境外機構、組織、人員的指使、控制、資助或者其他形式的支援實施

以下行為之一的，均屬犯罪：

（一）對中華人民共和國發動戰爭，或者以武力或者武力相威脅，對中華人民共和國主權、統一和領土完整造成嚴重危害；

（二）對香港特別行政區政府或者中央人民政府制定和執行法律、政策進行嚴重阻撓並可能造成嚴重後果；

（三）對香港特別行政區選舉進行操控、破壞並可能造成嚴重後果；

（四）對香港特別行政區或者中華人民共和國進行制裁、封鎖或者採取其他敵對行動；

（五）通過各種非法方式引發香港特別行政區居民對中央人民政府或者香港特別行政區政府的憎恨並可能造成嚴重後果。

## Article 29<sup>5</sup>

[A] A person who steals, spies, obtains with payment, or unlawfully provides State secrets or intelligence concerning national security for a foreign country or an institution, organisation or individual outside the

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<sup>5</sup> Unofficial English translation published by the Xinhua News Agency on 30 June 2020 (see [http://www.xinhuanet.com/english/2020-07/01/c\\_139178753.htm](http://www.xinhuanet.com/english/2020-07/01/c_139178753.htm) (last accessed 5 August 2020)) and re-published in the HKSAR Government Gazette on 3 July 2020.

mainland, Hong Kong and Macao of the People's Republic of China shall be guilty of an offence;

[B] a person who

[a] requests a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China, or

[b] conspires with a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China, or

[c] directly or indirectly receives instructions, control, funding or other kinds of support from a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China,

to commit any of the following acts shall be guilty of an offence:

(1) waging a war against the People's Republic of China, or using or threatening to use force to seriously undermine the sovereignty, unification and territorial integrity of the People's Republic of China;

(2) seriously disrupting the formulation and implementation of laws or policies by the Government of the Hong Kong Special Administrative Region or by the Central People's Government, which is likely to cause serious consequences;

(3) rigging or undermining an election in the Hong Kong Special Administrative Region, which is likely to cause serious consequences;

(4) imposing sanctions or blockade, or engaging in other hostile activities against the Hong Kong Special Administrative Region or the People's Republic of China; or

(5) provoking by unlawful means hatred among Hong Kong residents towards the Central People's Government or the Government of the Region, which is likely to cause serious consequences.

### **3. Discussion**

Hong Kong's criminal laws are to be interpreted with reference to the words used in the law, the purpose of the law, and the context in which the law is found.<sup>6</sup> Article 29 is found in Part 4 of the NSL which is titled "Collusion with a Foreign Country or with External Elements to Endanger National Security". Its purpose is to criminalise a person's acts of collusion with an 'outsider' for the commission of specific acts that endanger national security. An 'outsider' means a "foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the [PRC]".<sup>7</sup> While the offenders are likely to be insiders (i.e. a Hong Kong resident), they need not be and can also include bodies such as companies.<sup>8</sup>

For present purposes, we are focusing only on section [B] of Article 29. Section [B] has three limbs, each of which constitutes wholly or partly the *actus reus* of a criminal offence under Article 29[B]: [a], [b] and [c], corresponding to the three forms of collusion proscribed by Article 29. They are acts of "requesting", "conspiring with" or "receiving instructions, ... funding, etc" that the person must commit with the outsider. But to commit the offence, those acts must be done to achieve certain objectives, as specified in paragraphs (1) to (5). The prohibited acts referred to in these paragraphs (e.g. waging a war, etc) do not need to materialise for the offence to be committed.<sup>9</sup> The relevant acts specified in paragraphs (1) to (5) represent the intended objects of the collusion, while the collusion itself lies at the heart of the offence. The essence of the offence targets the acts of "requesting", "conspiring with", or "receiving instructions, ... funding, etc from" an outsider in order for one or more of the five prohibited acts to be committed.

While the accused person must commit an act of "requesting", "conspiring" or "receiving ...", questions will arise as to the scope of each of the five intended objects. For example, must the accused or outsider also be an intended party to the collusion object? Who is capable of committing the collusion object? The answer to these and other questions concerning the scope of the intended object will depend on two main considerations: (1) the logical connection between the relevant *actus reus* limb and the specific collusion object; and (2) nature of the specific collusion object.

Limb [a] involves the person requesting an outsider "to commit" one or more of the collusion objects (1) to (5). This clearly contemplates the outsider

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<sup>6</sup> *HKSAR v Lam Kwong Wai* (2006) 9 HKCFAR 574, [63]; *HKSAR v Cheung Kwun Yin* (2009) 12 HKCFAR 574, [12].

<sup>7</sup> NSL, Article 29, para 1.

<sup>8</sup> NSL, Articles 31, 36-38.

<sup>9</sup> There is another view that some of the acts in these paragraphs, such as that in paragraphs (2), (3) or (5), may actually need to materialise and thus form part of the *actus reus* of an offence, say, under Article 29[B][c]. But in the case of the operation of Article 29[B][a](4), the act of the imposition of a sanction against the HKSAR or PRC may also materialise, though it will not form part of the *actus reus* of the offence under Article [B][a](4), as the *actus reus* in this case is confined to the "requesting".

committing the prohibited act in (1) to (5), e.g. if A requests State B to wage a war against the PRC it is State B who will wage the war, not A. Limb [b] involves the person conspiring with an outsider “to commit” one or more of the collusion objects. The law of conspiracy in Hong Kong requires an agreement between two or more person to commit an offence by at least one of those party to the agreement.<sup>10</sup> Applying this law of conspiracy implies that under limb [b] any party to the conspiracy (including the person and outsider) may commit the intended collusion object, e.g. if A conspires with State B to rig or undermine an election in the HKSAR (paragraph (3)), it is intended that anyone party to this conspiracy, including A or State B, will be actually rigging or undermining the election. Finally, limb [c] involves the person receiving instructions or other kinds of support from an outsider “to commit” the collusion object. The natural and logical meaning of these words suggests that it is the person (though perhaps jointly with others) who will commit one or more of the prohibited acts in (1) to (5). For example, if A receives instructions or funding from State B to rig or undermine an election in the HKSAR, this suggests at least A will be the person performing the act of rigging or undermining the election.

Once one appreciates the significance of the logical connection between the *actus reus* limb and collusion object, it is necessary to consider the text and nature of the collusion object to fully appreciate its scope.

Collusion object (4) concerning sanctions reads as follows in the original Chinese (with translated English terms inserted):

“對香港特別行政區或者中華人民共和國進行(impose)制裁(sanctions)、封鎖(blockade)或者採取(engage in)其他敵對行動(other hostile activities)”

The terms “imposing sanctions”, “imposing blockade” and “engaging in other hostile activities” must be understood contextually. They have something in common. These are not things which an ordinary person or company can do “against” the HKSAR or PRC. When the term “imposing sanctions” is used in Hong Kong law, it normally refers to an official act performed by a court or public authority.<sup>11</sup> While “blockade” is sometimes used locally to refer to a road blockade,<sup>12</sup> this is unlikely to be its intended meaning when the term is understood contextually relative to the other two terms.

All three terms are commonly used in public international law to refer to types of hostile relations between States. Sanctions are “measures of constraint

<sup>10</sup> See Crimes Ordinance (Cap 200), s 159(1)(a).

<sup>11</sup> See e.g. Telecommunications Ordinance (Cap 106), s 36C(7); Payment Systems and Stored Value Facilities Ordinance (Cap 584), s 33Q(1); Financial Reporting Council Ordinance (Cap 588), s 9(a); *Competition Commission v Kam Kwong Engineering Company* [2020] HKCT 3, [16]; *Sin Chung Yin Ronald v The Dental Council of Hong Kong* (2016) 19 HKCFAR 528, [12].

<sup>12</sup> E.g. Air Pollution Control (Construction Dust) Regulation (Cap 311, sub leg R), s 2(1).

taken either by States or international organizations in order to restore the international legality, broken by the illicit act of an international legal subject”.<sup>13</sup> This resonates with the definition of “sanction” in the United Nations Sanctions Ordinance.<sup>14</sup> Blockade is “a belligerent operation to prevent vessels and/or aircraft of all nations, enemy and neutral, from entering or exiting specified ports, airports, or coastal areas belonging to, occupied by, or under the control of an enemy nation”.<sup>15</sup> As for ‘hostile activities’, the term can be traced as far back as the 1648 Treaty of Westphalia which provided that “no body, under any pretext whatsoever, shall practise any Acts of Hostility, entertain any Enmity, or Cause any Trouble to each other”.<sup>16</sup>

This interpretation of paragraph (4) is confirmed by our on-line research into the use of the term *didui xingdong* (敵對行動) (‘hostilities’ or ‘hostile activities’) in works on public international law and legal documents in China, which shows that *didui xingdong* (敵對行動) is usually an action taken by a State (including its military forces) against another State (and may also include military conflicts in circumstances of civil war), although individual human beings may participate in (參與) *didui xingdong* (敵對行動).<sup>17</sup>

It follows that in Article 29(4), the subject (or actor) performing the acts of ‘imposition of sanctions or blockade’ (進行制裁、封鎖) or ‘engaging in other hostile activities’ (採取其他敵對行動) was intended to be a State (including the government of the State), a person with authority to act on behalf of a State (eg the Head of State), or an international organisation whose membership consists of States. In other words, where the first paragraph of article 29 (immediately following limb [c] and immediately before object (1)) refers to “...實施以下行為之一的” (“to commit any of the following acts”), the relevant 行為 (“act”) in object (4) may only be committed by a State, a person with authority to act on behalf of a State, or an international organisation and cannot be committed by

<sup>13</sup> Alain Pellet & Alina Miron, “Sanctions”, *Max Planck Encyclopedias of International Law*, Oxford Public International Law, Oxford University Press, August 2013, [5].

<sup>14</sup> Under the United Nations Sanctions Ordinance (Cap 537), s 2(1), sanction “includes complete or partial economic and trade embargoes, arms embargoes, and other mandatory measures decided by the Security Council of the United Nations...”

<sup>15</sup> Wolff Heintschel von Heinegg, “Blockade”, *Max Planck Encyclopedias of International Law*, Oxford Public International Law, Oxford University Press, October 2015, [1]. See also Article 42 of the Charter of the United Nations, 1 UNTS XVI (24 October 1945), which mentions blockades as a form of action the Security Council may take to maintain or restore international peace and security.

<sup>16</sup> Treaty of Westphalia: Peace Treaty Between the Holy Roman Emperor and the King of France and their respective Allies, 24 October 1648, Article II, accessible at The Avalon Project, Lillian Goldman Law Library, Yale Law School, [https://avalon.law.yale.edu/17th\\_century/westphal.asp](https://avalon.law.yale.edu/17th_century/westphal.asp) (last accessed 5 August 2020).

<sup>17</sup> For instance, the Agreement on the Cessation of Hostilities in Cambodia (which, together with the Agreement on the Cessation of Hostilities in Vietnam and the Agreement on the Cessation of Hostilities in Laos, formed the Geneva Agreement of 1954) is called in Chinese 關於在柬埔寨停止敵對行動的協定. Thus 敵對行動 is the Chinese term for “hostilities”.



any other person or entity such as a bank or financial institution. For example, in the United State's Hong Kong Autonomy Act, it is explicitly stated that the President may or shall "impose sanctions" under certain circumstances.<sup>18</sup>

If one accepts this State-centred approach to the understanding of paragraph (4), there is still the question of liability from the perspective of the three *actus reus* limbs. Limb [a] involves persons requesting an outsider (which is a State) to impose sanctions, etc, on the HKSAR or PRC. This (i.e. Article 29[B][a](4)) is the most logical combination between any of limbs [a], [b] and [c] with the object in paragraph (4). The prohibition of such "requesting" (the latter actually occurred in 2019 during the anti-extradition movement in Hong Kong<sup>19</sup>) falls directly within "the mischief" or purpose of Article 29(4). Similarly, under limb [b], those who conspire with an outsider (being a State) for the State concerned to impose sanctions on the HKSAR or PRC would also be caught (i.e. Article 29[B][b](4)).

Banks and other financial institutions will not be caught by limbs [a] or [b] as combined with paragraph (4) so long as they abstain from any "requesting" of the imposition of sanctions against the HKSAR or PRC and from any conspiracy with a State for this purpose. The critical question for our present purpose is whether they might be caught by limb [c] if, for example, they are required by the law of a foreign State to perform any act (in their business activities) that would form part of the implementation of a sanction imposed by the foreign State on the HKSAR or the PRC, and they comply with such a legal requirement. Would they be "receiving instructions ..." from an outsider, including a foreign State, to impose sanctions on the HKSAR or PRC?

In our view, a bank or financial institution acting in compliance with a foreign law which requires it to participate in the implementation of such a sanction cannot be guilty (as a principal offender) of any offence created by the combination of limb [c] with paragraph (4). This is because the relevant act (行為) in the expression "...實施以下行為之一的" (to commit (or perform) any of the following acts) (in the first paragraph of article 29 immediately following limb [c] and immediately before paragraph (1)) cannot, as far as paragraph or object (4) is concerned, be committed by a bank or financial institution. A bank or financial institution (complying with a foreign law imposing a sanction on the PRC or the HKSAR, or on individual persons or corporate entities in the PRC or

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<sup>18</sup> Hong Kong Autonomy Act, (n 2 above), sections 6-8.

<sup>19</sup> See, e.g., "Hong Kong pro-democracy lawmakers in US to discuss city's crisis with politicians and business leaders", South China Morning Post, 16 Aug 2019, accessible at <https://www.scmp.com/news/hong-kong/politics/article/3023015/hong-kong-pro-democracy-lawmakers-us-discuss-citys-crisis> (last accessed 5 August 2020); "Hong Kong activist seeks U.S. support for pro-democracy protests"; Reuters, 15 Sept 2019, accessible at <https://www.reuters.com/article/us-hongkong-protests-wong/hong-kong-activist-joshua-wong-seeks-u-s-support-for-protests-idUSKBN1VZ0LQ> (last accessed 5 August 2020).



the HKSAR) may *participate in the implementation of* a sanction imposed by a foreign State against the PRC or the HKSAR, but it cannot “*impose a sanction*” against the PRC or HKSAR. Such a bank or financial institution would only be liable if the wording of object (4) were amended to include not only “imposing a sanction ... on the PRC or the HKSAR” (對香港特別行政區或者中華人民共和國進行制裁) but also “participating in the implementation of a sanction imposed by a State against the PRC or the HKSAR” (參與外國對香港特別行政區或者中華人民共和國進行的制裁的實施).<sup>20</sup>

In our opinion, the act described in object (4) as “imposing a sanction, ...” against the HKSAR or PRC (which in our view is an act (行為) that can only be performed or committed (實施) by a State, a person acting on behalf of a State (such as a head of State or the president, premier or prime minister of a State), or an international organisation composed of States) is different and distinct from any act of ‘participating in the implementation of a sanction imposed by a State against the PRC or the HKSAR’. The latter act is an act that can be performed by individuals or corporate entities, but it is not covered by object (4). The act (行為) covered by object (4) can be committed or performed (實施) in the context of Article 29[B][a](4) (i.e. a person requesting a foreign State to impose sanctions on the PRC or the HKSAR), or in the context of Article 29[B][b](4) (i.e. a person conspiring with a State so that the State would impose a sanction on the PRC or the HKSAR). But the combination of limb [c] and object (4) (i.e. the operation of Article 29[B][c](4)) will only be possible in rare and exceptional circumstances as discussed below.

Conceivably, there is possible liability under limb [c] for a bank or financial institution where the head of State A (or its president, premier or prime minister) receives “funding” from an outsider for the purpose of State A imposing sanctions on the HKSAR or PRC. If the outsider is a bank or financial institution outside of the mainland, Hong Kong and Macau, then it could be liable under the last paragraph of Article 29 (on accomplice liability).<sup>21</sup> Given the severity and

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<sup>20</sup> In our opinion, neither the text of Article 29(4) nor its policy intention covers the criminal liability of banks or financial institutions in such circumstances. If the HKSAR government decides at any future point in time to adopt the policy option of prohibiting banks or financial institutions in Hong Kong from complying with requirements of a foreign law relating to a particular sanction imposed by a foreign State, it can invoke its powers under Hong Kong’s existing law – a pre-1997 colonial law that has continued in force after 1997. See the Protection of Trading Interests Ordinance (Cap 471), which localised the Protection of Trading Interests Act 1980. This law was enacted to protect British firms from the extra-territorial reach of United States laws, especially anti-trust laws. See David Lloyd Jones, “Protection of Trading Interests Act 1980” (1981) 40 Cambridge LJ 41.

<sup>21</sup> This last paragraph may be translated as follows: “The institution, organisation and individual outside the mainland, Hong Kong and Macao of the People’s Republic of China referred to in the first paragraph of this Article shall be convicted and punished for jointly committing the offence with the

stigma of the offence, it is likely it would need to be proven the outside bank or financial institution acted with full knowledge of the relevant circumstances constituting the collusion offence for the head of State A.

Another example of possible liability under limb [c] for a bank or financial institution is through the vehicle of the common law principles of accessorial liability, assuming they apply to extend the net of liability of NSL offences. Take the same example of the head of State A receiving funding (e.g. in the nature of a political donation or bribe) from an outsider for the purpose of State A imposing sanctions on the HKSAR or PRC. If a bank or financial institution provides the services to enable the head of State A to receive those funds from the outsider, again with full knowledge of the circumstances of the facts that constitute the collusion offence, it could be argued that the financial institution aided and abetted the receipt of those funds. Under the common law principles of accessorial liability, if the institution acts with knowledge of the essential matters constituting the offence and with the intention of assisting or encouraging the principal offender (in this example the head of State A) to do the things which constitute the offence, then the institution will also be liable for that offence as a secondary party.<sup>22</sup>

In these two examples of possible liability for assisting or encouraging a State official to impose sanctions on the HKSAR or PRC, the liability can be prevented most likely by existing compliance and due diligence procedures and systems. In both examples, liability is based on the financial institution enabling the transfer of funds to a State official, who has the authority to impose sanctions on another State and decides to authorise such sanctions because of the receipt of those funds. In such situations, existing anti-money laundering systems will flag such transactions as they relate to a politically exposed person (PEP) and call for enhanced due diligence screening. Compliance officers will know to inquire into the origins of the funds and its intended purpose and use. But in addition to inquiring into the usual forms of crime-tainted property, e.g. proceeds of crime, bribe, instrument of crime, etc, compliance officers will now also need to ask if the PEP is receiving the funds on account of a decision to impose a sanction or

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principal offender”. We consider the above a more accurate translation than the following version in the English translation of the NSL published by the Xinhua News Agency and reproduced in the HKSAR Government Gazette: “The institution, organisation and individual outside the mainland, Hong Kong and Macao of the People’s Republic of China referred to in the first paragraph of this Article shall be convicted and punished for the same offence. The Chinese original is as follows: “本條第一款規定涉及的境外機構、組織、人員，按共同犯罪定罪處刑。”

<sup>22</sup> *HKSAR v Chan Kam Shing* (2016) 19 HKCFAR 640, [11].

blockade on or to engage in another form of hostile activity against the HKSAR or PRC.

#### **4. Conclusion**

In our view, banks and financial institutions, which may be required by the law of a foreign state to implement sanctions against the HKSAR, PRC or their officials who are their customers, will not commit an offence under limb [c] of Article 29(4) as it is not capable of performing the act of imposing a sanction or blockade or engaging in other hostile activities. Such an act may only be performed by a State, an individual acting on behalf of a State (such as a head of State or political leader), or an international organisation. However, this does not mean that a bank or financial institution may never be liable as a result of the operation of Article 29[B][c](4) of the NSL. In the exceptional and special circumstances discussed in this article, liability may still be possible under limb [c] either as an outsider or secondary party who has knowingly facilitated a head of State or political leader in receiving funding or support to impose sanctions against the HKSAR or PRC.