

**立法會**  
**Legislative Council**

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

**Paper for the meeting on 15 April 2005**

**Purpose**

This paper seeks members' agreement to request the Administration to provide additional information to facilitate the Subcommittee's consideration of the current arrangements for implementing sanctions as provided under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO).

**Background**

2. The Subcommittee notes that during the last legislative term, when Members examined individual Regulations to implement sanctions imposed by the United Nations Security Council (UNSC), the following issues have been raised :

- (a) the absence of any power for the Legislative Council (LegCo) to approve or amend Regulations made under section 3 of UNSO, even though they purport to have serious penal effect;
- (b) the Administration's refusal to disclose the instruction from the Ministry of Foreign Affairs of the Central People's Government on the basis of which the Chief Executive makes relevant Regulations under section 3 of UNSO; and
- (c) the timing of making and gazetting the relevant Regulations.

3. At its meeting held on 29 October 2004, the Subcommittee decided, inter alia, that it would examine the aforesaid legal and constitutional issues. Members also agreed to follow up with Professor Yash GHAI of the Department

of Law of the University of Hong Kong on his further submission on the legal and constitutional aspects of the subject. For this purpose, Hon Margaret NG, Chairman of the Subcommittee, has written to Professor GHAI on 24 February 2005. The Secretariat has also kept Professor GHAI posted of the work of the Subcommittee.

4. Meanwhile, pending receipt of Professor Yash GHAI's further views, several Regulations have been made under section 3 of UNSO (listed in the **Annex**) to give effect to various sanctions imposed through resolutions of the UNSC. When considering these Regulations, the House Committee agreed that they should be referred to this Subcommittee for further study as well.

### **Additional information to be sought from the Administration**

5. Following a perusal of the Regulations gazetted so far, the Subcommittee Chairman has considered that the Administration should be requested to provide additional information to facilitate scrutiny by the Subcommittee.

### Legislative Council Brief

6. Although the Regulations made under section 3 of UNSO are not subject to the approval or amendment by LegCo, they are made by the Chief Executive after consultation with the Executive Council and are part of the laws of Hong Kong to prescribe serious matters and criminal offences. However, unlike the majority of gazetted legislative proposals (Bills or proposed subsidiary legislation), the Administration has not issued any LegCo Brief on the Regulations. LegCo Briefs are important documents as they spell out the policy intent, background and related matters of the legislative proposals. The availability of such information will facilitate members to ascertain the merits or otherwise of the legislation in question.

7. In anticipation that more Regulations under section 3 of UNSO will be made in future when relevant resolutions are passed by UNSC, it is desirable that the Administration should provide a LegCo Brief, or an information paper comparable to a LegCo Brief, in respect of each Regulation to be made under section 3 of UNSO.

### Interim arrangements

8. As evident from the **Annex**, there is usually a long time gap (ranging from several months to over a year) before a Regulation is made and gazetted to give effect to the relevant resolutions passed by UNSC.

9. In this connection, the Administration should be requested to account for the legal and/or administrative arrangements during the time gaps when the

relevant sanctions have not yet been implemented by local legislation; and whether it has, or will, put in place any measures to minimize such time gaps. If a LegCo Brief is to be provided in future, such explanation should be included in the Brief for reference.

### **Advice sought**

10. To facilitate the future work of the Subcommittee, members' agreement is being sought to request the Administration to :

- (a) provide a LegCo Brief (or an information paper comparable to a LegCo Brief) in respect of each Regulation to be made under section 3 of UNSO (paragraph 7); and
- (b) account for the interim arrangements before the relevant Regulations made under section 3 of UNSO are in place to give effect to the UNSC resolutions (paragraph 9)

11. Subject to members' agreement to paragraph 10(a) and (b), the Secretariat will put up the request to the Administration in writing and follow up its reply accordingly.

Council Business Division 1  
Legislative Council Secretariat  
6 April 2005

**Regulations made under section 3 of the United Nations  
Sanctions Ordinance (Cap. 537)  
(since July 2004)**

<b>Regulation</b>	<b>Date of gazettal</b>	<b>Resolution of the United Nations Security Council</b>
1. United Nations Sanctions (Iraq) (Amendment) Regulation 2004	9 July 2004 (L.N. 132 of 2004)	Resolution 1483 of 22 May 2003
2. United Nations Sanctions (Liberia) Regulation 2004	3 December 2004 (L.N. 198 of 2004)	Resolution 1521 of 22 December 2003
3. United Nations Sanctions (Democratic Republic of the Congo) Regulation	4 March 2005 (L.N. 27 of 2005)	Resolution 1552 of 27 July 2004 and Resolution 1493 of 28 July 2003
4. United Nations Sanctions (Sudan) Regulation	1 April 2005 (L.N. 45 of 2005)	Resolution 1556 of 30 July 2004