

立法會
Legislative Council

LC Paper No. LS9/07-08

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

**Observations of the Legal Service Division
on the Administration's Comments**

This paper sets out the observations of the Legal Service Division on the comments of the Administration in a paper issued in August 2007 (CB(1)2323/06-07(01)) (the Comments) on the report of the Subcommittee submitted to the House Committee on 18 May 2007 (CB(1)1587/06-07) (the Report).

2. In the Comments, the Administration has maintained the views that it has expressed previously and summarised in the Report. Nevertheless, there are two points which are highlighted in the following paragraphs for the Subcommittee's attention.

Removal of Vetting by LegCo of subsidiary legislation under Cap. 1 and Common Law

3. The Administration has reiterated that disapplication of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) in the scrutiny of subsidiary legislation had always been permissible in Hong Kong before 1997 and that by operation of Articles 17 and 18 of the Basic Law, this position has not been changed. Two additional examples have been referred to in support of its position:

- (a) Hong Kong Institute of Education Ordinance (Cap. 444) (16 of 1994);
and
- (b) Vocational Training Council Ordinance (Cap. 1130) (6 of 1982).

4. Subject matters that are provided in subsidiary legislation made under the above two ordinances are in relation to internal regulation and management of the respective organisations concerned. They are quite different from those that are provided in regulations made under the United Nations Sanctions Ordinance (Cap. 537) (UNSO).

Instruction given by the CPG to CE to Implement UN Sanctions

5. In paragraphs 17 and 18 of the Comments, it is mentioned that the entire set of draft regulation has to be submitted to the Central People's Government for approval before the legislative process under UNSO commences and that the regulation is part and parcel of the instruction given by CPG.

6. This piece of information is new. It has not been mentioned by the Administration in previous written information provided to the House Committee or the Subcommittee, nor when explaining orally to the Subcommittee the process of implementing UN sanctions.

Prepared by

Legal Service Division
Legislative Council Secretariat
26 October 2007