

立法會
Legislative Council

Revised
LC Paper No. LS89/07-08

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

**Implementation of resolutions of
the United Nations Security Council in Hong Kong
before 1 July 1997**

Background

At the closed meeting of the Subcommittee on 3 April 2008, Members requested that a paper should be prepared to consolidate the arrangements of implementing in Hong Kong of the resolutions of the United Nations Security Council (UNSC) as set out in the Legal Service Division's paper LS36/03-04 and the Administration's paper CB(2)966/03-04(01). The arrangements as consolidated are set out below.

Implementation of UNSC Resolutions in Hong Kong before 1997

2. The United Nations Act 1946 of the United Kingdom provides that if the UNSC has called upon His Majesty's Government in the United Kingdom to apply any measures to give effect to any decision of that Council, "His Majesty may by Order in Council make such provision as appears to Him necessary or expedient for enabling those measures to be effectively applied". These Orders in Council may extend to any part of His Majesty's dominions and to any other territory under His jurisdiction. A copy of the Act is enclosed at **Annex A**.

3. Prior to 1 July 1997, the text of a relevant Order in Council was prepared in the United Kingdom. Under section 1(4) of the United Nations Act 1946, an Order in Council made under the Act will have to be laid before the Parliament before its coming into force. Hong Kong was then required to publish the Order in the Gazette if the Order was extended to Hong Kong. From 1990 to 30 June 1997,

more than 20 such Orders in Council were made and extended to Hong Kong. An example is the United Nations Arms Embargoes (Dependent Territories) Order 1995 (L.N. 249 of 1995). That Order, which is to give effect to decisions of UNSC in relation to Liberia, Somalia, the former Yugoslavia and Rwanda was made by Her Majesty in Council on 11 April 1995, laid before Parliament on 25 April 1995, came into force on 16 May 1995 and published in the Hong Kong Gazette on 16 June 1995.

4. Members may also refer to the letter from the Administration to the Clerk to the former Subcommittee dated 9 January 2004 (LC Paper No. CB(2)966/03-04(01)) at **Annex B**. According to the Administration, when sanctions stipulated in UNSC Resolutions had to be applied in Hong Kong, the United Kingdom Government (UKG) would draft an Order in Council specifying the sanctions to be applied, the penalties which would be applied in the event of offences being committed, and which persons were authorized to carry out enforcement actions, etc. The Foreign and Commonwealth Office of UKG would pass the draft Order in Council to the Hong Kong Government (HKG) for comments, prepare the final text, and advise HKG of the date on which the Order in Council would take effect. HKG would then proceed to publish the Order in Council in the Gazette and issue a press release to announce the implementation of sanctions.

5. All such Orders in Council as extended to Hong Kong lapsed at midnight on 30 June 1997.

Prepared by

Kelvin LEE
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
29 May 2008

Annex A

UNITED NATIONS ACT 1946

(9 & 10 Geo 6 c 45)

An Act to enable effect to be given to certain provisions of the Charter of the United Nations [15 April 1946]

Northern Ireland This Act applies.

1 Measures under Article 41

(1) If, under Article forty-one of the Charter of the United Nations signed at San Francisco on the twenty-sixth day of June, nineteen hundred and forty-five, (being the Article which relates to measures not involving the use of armed force) the Security Council of the United Nations call upon His Majesty's Government in the United Kingdom to apply any measures to give effect to any decision of that Council, His Majesty may by Order in Council make such provision as appears to Him necessary or expedient for enabling those measures to be effectively applied, including (without prejudice to the generality of the preceding words) provision for the apprehension, trial and punishment of persons offending against the Order.

(2) Orders in Council made under this section may be so made as to extend to any part of His Majesty's dominions (other than Dominions within the meaning of the Statute of Westminster 1931 territories administered by the Government of any such Dominion,) and, to the extent that His Majesty has jurisdiction therein, to any other territory in which His Majesty has from time to time jurisdiction (other than territories which are being administered by the Government of such a Dominion as aforesaid, . . .).

(3) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

(4) Every Order in Council made under this section shall [forthwith after it is made be laid—

(a) before Parliament; and

(b) if any provision made by the Order would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament, before that Parliament] . . .

(5) Any expenses incurred by His Majesty's Government in the United Kingdom in applying any such measures as are mentioned in this section shall be defrayed out of moneys provided by Parliament.

2 Short title

This Act may be cited as the United Nations Act 1946.

Annex B

LC Paper No. CB(2)966/03-04(01)

香港特別行政區政府
工商及科技局
工商科



香港金鐘道八十八號
太古廣場第一期二十九樓

COMMERCE AND INDUSTRY BRANCH
COMMERCE, INDUSTRY AND
TECHNOLOGY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

LEVEL 29, ONE PACIFIC PLACE
88 QUEENSWAY
HONG KONG

Our Ref : CIBCR 41/08/4 III

Tel : 2918 7490

Fax : 2530 5966

Email : philomena_leung@citb.gov.hk

9 January 2004

By Fax: 2509 0775

Mrs Sharon Tong
Clerk to Subcommittee on
United Nations Sanctions (Liberia) Regulation 2003
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Mrs Tong,

**Subcommittee on
United Nations Sanctions (Liberia) Regulation 2003**

I refer to your letter of 18 December 2003 asking for information on how resolutions of the United Nations Security Council relating to sanctions were implemented in Hong Kong before 1 July 1997.

Prior to 1 July 1997, sanctions stipulated in United Nations Security Council Resolutions were implemented in Hong Kong vide United Kingdom Orders in Council. Orders in Council which applied to Hong Kong had the status of law in Hong Kong. The United Kingdom Government (UKG) was also responsible for revoking or revising such Orders in Council.

When sanctions stipulated in United Nations Security Council Resolutions had to be applied in Hong Kong, the UKG would draft an Order in Council specifying the sanctions to be applied, the penalties which would be applied in the event of offences being committed, and which

persons were authorized to carry out enforcement actions etc. The Foreign and Commonwealth Office of the UKG would pass the draft Order in Council to the Hong Kong Government (HKG) for comment, prepare the final text, and advise the HKG of the date on which the Order in Council would take effect. The HKG would then proceed to publish the Order in Council in the Government Gazette and issue a press release to announce the implementation of sanctions.

Please feel free to contact me or Mr Lau Wai-ming at 2918 7506 if you have any queries.

Yours sincerely,

Philomena Leung
(Mrs Philomena Leung)

for Secretary for Commerce, Industry and Technology