

立法會
Legislative Council

LC Paper No. CB(1)1109/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/HS/2/08

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

**Minutes of the second meeting on
Tuesday, 24 February 2009 at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon Margaret NG (Chairman)
Hon LAU Kong-wah, JP
Hon Cyd HO Sau-lan
Hon Tanya CHAN

Public Officers attending : Ms Linda LAI, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)

Miss Wendy CHUNG
Principal Assistant Secretary for Commerce and Economic
Development (Commerce and Industry)

Miss LEE Sau-kong
Deputy Principal Government Counsel (Mutual Legal
Assistance)
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Annette LAM
Senior Council Secretary (1)3

Action

I. Confirmation of minutes of meeting

LC Paper No. CB(1)445/08-09 -- Minutes of meeting held on
1 December 2008

The minutes of the meeting held on 1 December 2008 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)546/08-09(01) -- Administration's letter dated
9 January 2009

LC Paper No. CB(1)418/08-09(01) -- Administration's paper on United
Nations Sanctions (Côte d'Ivoire)
(No. 2) Regulation 2008

LC Paper No. LS25/08-09 -- Report on subsidiary legislation
gazetted on 12 December 2008 to
the House Committee meeting on
2 January 2009 prepared by the
Legal Services Division

LC Paper No. LS10/08-09 -- Report on subsidiary legislation
gazetted on 31 October 2008 to the
House Committee meeting on
7 November 2008 prepared by the
Legal Services Division

LC Paper No. CB(1)1926/07-08 -- Further report of the Subcommittee
to the House Committee meeting on
20 June 2008 prepared by the
Legislative Council Secretariat

LC Paper No. CB(1)1587/06-07 -- Report of the Subcommittee to the
House Committee meeting on 18
May 2007 prepared by the
Legislative Council Secretariat

LC Paper No. CB(1)277/08-09 -- Paper summarizing concerns raised by Members during the study on the gazetted regulations made under the United Nations Sanctions Ordinance in the Third Legislative Council prepared by the Legislative Council Secretariat (background brief)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Admin 3. The Administration undertook to:

- (a) provide a mark-up version of the United Nations Sanctions (Arms Embargoes) Regulation Cap. 537E showing amendments by the United Nations Sanctions (Arms Embargoes (Amendment) Regulation 2008 in revision mode;
- (b) provide the documents issued by the Chief Secretary for Administration confirming the instructions of the Ministry of Foreign Affairs (MFA) of the Peoples' Republic of China to implement United Nations Security Council (UNSC) Resolution 1367 and Resolution 1823;
- (c) provide in future background information of the relevant UNSC resolution, the Administration's rationale for the method adopted in implementing the relevant UNSC resolution, and if there was a long time gap between the passing of the relevant UNSC resolution and the gazettal of the regulation, the reason for it;
- (d) consider briefing the Panel on Commerce and Industry in future on the implications of the implementation of the UNSC resolutions on businesses in Hong Kong; and
- (e) explore with the Trade and Industry Department ways to disseminate information on UNSC resolutions in relation to sanctions to the respective trade as early as possible.

Admin 4. As regards the mark-up version of the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008, the Administration undertook to:

- (a) review the use of the Chinese abbreviation (安理會) for "Security Council" and the use of the abbreviation "UNOCI" (聯科行動) under section 1 of Part 1 to address members' concern about the propriety of such use in the statute laws of Hong Kong;

- (b) review section 7(1) and (2) of Part 2 and consider whether they needed to be refined to reflect more clearly the intended purpose of prohibiting against entry or transit through the HKSAR; and
- (c) consider improving the textual layout of the definition of "specified person" under section 7(4) and (5) of Part 2 in a more concise manner, and whether notice given by the Chief Executive was required to specify the scope of "specified person" in the Gazette.

Other concern

5. Members commended the Law Drafting Division (LDD) of the Department of Justice for the drafting and textual improvement made to the English text of the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008. They considered that such improvement work should be carried out to all existing legislation and that guidelines should be provided to uphold the quality and standards of law drafting. In this connection, members considered that the Law Draftsman should be invited to update the relevant Panel on the work of LDD and its future initiatives, in particular, whether LDD would undertake to carry out improvement work on the drafting of bilingual legislation. The Chairman requested the Clerk to convey members' view to the Panel on Administration of Justice and Legal Services for consideration.

Clerk

III. Any other business

Date of next meeting

6. Members agreed to schedule a meeting to continue examining the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008. The Administration would be invited to attend the next meeting. The Secretariat would consult members on the meeting date in due course.

Clerk

(Post-meeting note: With the concurrence of the Chairman, the next meeting was scheduled for Tuesday, 31 March 2009 at 8:30 am in Conference Room B of the Legislative Council Building. Notice of the meeting was issued to members vide LC Paper No. CB(1)908/08-09 on 25 February 2009.)

7. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the second meeting of
the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of
the United Nations Security Council in relation to Sanctions
on Tuesday, 24 February 2009 at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000049 – 000725	Chairman Administration	<p>Opening remarks by the Chairman</p> <p>Confirmation of minutes of the meeting held on 1 December 2008 (LC Paper No. CB(1)445/08-09)</p> <p>Briefing by the Administration on the following regulations:</p> <p>(a) the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2008;</p> <p>(b) the United Nations Sanctions (Federal Republic of Yugoslavia) (Prohibition on Terrorist Activity) Regulation (Repeal) Regulation; and</p> <p>(c) the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008.</p>	
000726 – 003339	Chairman Ms Cyd HO Mr LAU Kong-wah Administration	<p>Briefing by the Administration's response to members views on the adoption of model law approach (paragraphs 4 and 5 of LC Paper No. CB(1)546/08-09(01))</p> <p>The Subcommittee agreed to resume the discussion on modal law approach after completion of the study of the drafting and textual amendments of the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008.</p> <p>Discussion on notifying/consulting the CI Panel on the resolutions of the UNSC in relation to sanctions</p> <p>The Administration explained that given the time-critical nature of UNSC sanctions and the need for their prompt implementation, CI Panel was not consulted in view of the tight time-frame for gazettal following receipt of the MFA's instruction.</p>	The Administration to follow up as stated in paragraph 3 of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>The Subcommittee appreciated that the implementation of UNSC resolution was a matter of foreign affairs, and that from the legal point of view, UNSC sanctions would only become relevant to Hong Kong upon the MFA's instruction on implementing the UNSC resolution in Hong Kong. The Subcommittee held the view that CI Panel should be informed of the UNSC sanctions which had direct relevance to and impact on trade and industry in Hong Kong as early as possible.</p> <p>Discussion on the alternative methods to implement a UNSC sanction</p> <p>Members noted that the MFA's instructions had not prescribed the specific vehicle to be used for implementing the UNSC sanctions. The actual method of implementation was a decision for the HKSAR Government. As such, they considered that making regulations under section 3(1) of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) might not be the only method as the Administration was at liberty to consider other options, such as by applying or amending existing legislation, e.g. the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (UNATMO), or by enacting new legislation.</p> <p>The Administration advised that the UNSO was purposefully created as a legislative framework for implementing UNSC sanctions, and regulations made under the UNSO should be the primary instrument for implementing sanctions resolutions passed by the UNSC.</p> <p>The Administration explained that the UNATMO was a special case, aimed to implement the UNSC Resolution 1373 and a number of international conventions as well as the recommendations of the Financial Action Task Force (FATF) of which Hong Kong, China was a member. The international instruments covered by the UNATMO sought to tackle terrorism and the financing of terrorism in a continuous manner, and were not "sanctions" against a place as such. Due to the differences in the nature of the subject matter involved, and</p>	

Time marker	Speaker	Subject(s)	Action required
		the time-critical nature of sanctions against places, the legislative approach under the UNATMO was not appropriate for implementing sanctions under the UNSO.	
003340 – 004619	Chairman Ms Cyd HO Mr LAU Kong-wah Assistant Legal Adviser Administration	Study of the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2008 (Annex to LS10/08-09) Study of the United Nations Sanctions (Federal Republic of Yugoslavia) (Prohibition on Terrorist Activity) Regulation (Repeal) Regulation (Annex to LS10/08-09) Members noted the long time gap between the passing of the UNSC resolution 1367 in September 2001 and the gazettal of the United Nations Sanctions (Federal Republic of Yugoslavia) (Prohibition on Terrorist Activity) Regulation (Repeal) Regulation in October 2008.	The Administration to follow up as stated in paragraph 3 of the minutes
004620 – 020607	Chairman Ms Cyd HO Miss Tanya CHAN Administration	Study of the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2008 (CB(1)546/08-09(01)) Members noted the drafting and textual improvement made to the English text of the Regulation.	The Administration to follow up as stated in paragraph 4 of the minutes The Clerk to follow up as stated in paragraph 5 of the minutes
020608 – 020630	Chairman	Meeting arrangement	The Clerk to follow up as stated in paragraph 6 of the minutes