

立法會
Legislative Council

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by the Administration)

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

**Minutes of the eighth meeting
held on Friday, 28 May 2010 at 10:45 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

**Public Officers
attending** : Agenda item I

Ms Linda LAI Wai-ming, 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)

Mr James DING
Acting Deputy Principal Government Counsel (Treaties
and Law)
Department of Justice

Ms Agnes CHEUNG Siu-hang
Senior Government Counsel (Treaties and Law)
Department of Justice

Ms Frances HUI Hang-ka
Senior Government Counsel
Department of Justice

Ms Lonnie NG Wah-chi
Senior Government Counsel
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. Meeting with the Administration

(LC Paper No. CB(1)1791/09-10(01) -- Administration's paper on United Nations Sanctions (Côte d'Ivoire) Regulation 2010

LC Paper No. CB(1)1791/09-10(02) -- Administration's paper on United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010

LC Paper No. CB(1)1791/09-10(03) -- Administration's paper on United Nations Sanctions (Liberia) Regulation 2010 and United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation

LC Paper No. LS61/09-10 -- Report on subsidiary legislation gazetted on 30 April 2010 to the House Committee meeting on 7 May 2010

LC Paper No. CB(1)2040/09-10(01) -- Letter from Assistant Legal Adviser to the Administration dated 25 May 2010

LC Paper No. CB(1)2067/09-10(01) -- Administration's paper dated (tabled at the meeting and subsequently issued on 31 May 2010) 28 May 2010 in response to letter from Assistant Legal Adviser as set out in LC Paper No. CB(1)2040/09-10(01))

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

2. The Subcommittee completed the study of the English version of the United Nations Sanctions (Côte d'Ivoire) Regulation 2010, United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010, United Nations Sanctions (Liberia) Regulation 2010 and United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation (the Repeal Regulation).

3. The Assistant Legal Adviser was requested to examine the legal and drafting aspects of the Chinese version of the three Regulations and the Repeal Regulation, and to report irregularity, if any, to the Subcommittee.

4. The Administration was requested to provide information on whether the provision relating to "economic resources" applied to all United Nations sanctions regulations, and whether the expression "economic resources" was used and defined in the anti-terrorism legislation and, if not, whether consideration would be given to doing so.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)2297/09-10(01) on 21 June 2010.)

The way forward

5. Members agreed that an interim report on the Subcommittee's work should be made to the House Committee on 25 June 2010. The House Committee's support should be sought for Dr Hon Margaret NG, in the capacity as the Subcommittee Chairman, to move a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting on 7 July 2010 for the purpose of enabling Members to debate the following issue:

"The current arrangement of implementing in Hong Kong sanctions resolved by the Security Council of the United Nations."

II. Any other business

6. There being no other business, the meeting ended at 12:10 pm.

Council Business Division 1
Legislative Council Secretariat
28 June 2010

**Proceedings of the eighth meeting of
the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of
the United Nations Security Council in relation to Sanctions
on Friday, 28 May 2010 at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000353	Chairman	Opening remarks by the Chairman	
000354 – 001038	Chairman Assistant Legal Adviser (ALA) Administration Mr LAU Kong-wah Ms Cyd HO Clerk	<p>Meeting with the Administration</p> <p>Discussion on section 6 of the United Nations Sanctions (Côte d'Ivoire) Regulation 2010 (LC Paper No. CB(1)1791/09-10(01), L. N. 46 of 2010, Annex F)</p> <p>ALA's letter to the Administration regarding new provisions added to section 6 of the United Nations Sanctions (Côte d'Ivoire) Regulation 2010 prohibiting dealing with funds. (LC Paper No. CB(1)2040/09-10(01))</p> <p>The Administration's response (LC Paper No. CB(1)2067/09-10(01)) as follows:</p> <p>(a) the prohibition against dealing with funds was added to implement more effectively paragraphs 11 and 12 of the United Nations Council (UNSC) Resolution 1572, which were renewed by paragraph 1 of the UNSC Resolution 1893;</p> <p>(b) an interpretation of "deal with" was provided in subsection(6);</p> <p>(c) the new provision was an improvement with reference to similar provisions in the UK laws on freezing of funds. It made clear that the designated persons or entities were prohibited from using, transferring, or changing in any way those funds, other financial assets or economic resources that might be in their physical possession; and</p> <p>(d) similar drafting improvements had been introduced to the United Nations Sanctions (Democratic People's Republic of Korea (Regulation), the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010, and the United Nations Sanctions (Liberia) Regulation 2010. The same improvement</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>would also be made as appropriate to other Regulations to be made under the UNSO when opportunity arose.</p>	
001039 – 002029	<p>Chairman Administration Mr LAU Kong-wah</p>	<p><u>Study of the mark-up English version of the United Nations Sanctions (Côte d’Ivoire) Regulation 2010</u> (LC Paper No. CB(1)1791/09-10(01), L. N. 46 of 2010, Annex F)</p> <p><u>Section 1 – Interpretation</u></p> <p>Ms Cyd HO enquired whether the provision relating to "economic resources" applied to all United Nations sanctions regulations, and whether the expression “economic resources” was used and defined in the anti-terrorism legislation and, if not, whether consideration would be given to doing so.</p> <p><u>Section 2 – Prohibition against supply, sale or transfer of certain goods</u></p> <p>Members noted that as recommended by the Law Draftsman, the word "shall" was replaced by "must", which would be introduced to future Regulations made under the UNSO when opportunity arose.</p>	<p>The Administration to follow up as stated in paragraph 4 of the minutes.</p>
002030 – 002300	<p>Chairman Administration Ms Cyd HO</p>	<p><u>Section 5 – Prohibition against importation of rough diamonds</u></p> <p>In response to Ms Cyd HO's enquiry, the Administration explained that the provision for exemption on the importation of rough diamonds from Côte d'Ivoire into the Hong Kong Special Administrative Region (HKSAR) by way of a licence granted under section 11(1) was to implement paragraph 16 of UNSC Resolution 1893.</p>	
002301 – 003156	<p>Chairman Administration</p>	<p><u>Section 6 – Prohibition against making available funds, etc. or dealing with funds, etc.</u></p> <p>In response to the Chairman's enquiry, the Administration explained that the expressions “relevant person” and “relevant entity” in section 6 were respectively defined in section 1(Interpretation), that the definitions referred to section 32 under which the Chief Executive (CE) might, by notice published in the gazette, specify as a "relevant person" or "relevant entity" a person or an entity referred to in the list maintained by the Committee (established under paragraph 14 of UNSC Resolution 1572) for the purposes of paragraph 11 of Resolution 1572.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration also supplemented that persons or entities so listed would be those decided by the Committee as constituting a threat to the peace and national reconciliation process in Côte d'Ivoire.</p>	
003157 – 003827	Chairman Administration Ms Cyd HO	<p><u>Section 11 – Licence for importation of rough diamonds</u></p> <p>The Administration explained the conditions and requirements to be satisfied for the CE to grant a licence to import rough diamonds from Côte d'Ivoire into the HKSAR.</p> <p>In response to the Chairman and Ms Cyd HO's enquiry, the Administration explained that the Kimberley Process started when Southern African diamond-producing states met in Kimberley, South Africa in May 2000 to discuss ways to stop the trade in "conflict diamonds". Under the Kimberley Process, Members agreed to only buy and import rough diamonds certified by the Kimberley Process Certification Scheme to ensure that diamond purchases were not funding violence or used by rebel movements to finance wars against legitimate governments.</p>	
003828 – 004424	Chairman Administration ALA	<p><u>Section 14 – Licence or permission granted by authorities of places outside HKSAR</u></p> <p>In response to the Chairman's enquiry, the Administration and ALA explained that the doing of a thing by a person in a place outside Hong Kong under the authority of a licence or with permission granted by the authority in that place outside Hong Kong in accordance with any equivalent law in force in that place would not be prohibited by this Regulation.</p>	
004425 – 005445	Chairman Administration Ms Cyd HO	<p><u>Study of the mark-up English version of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010 (LC Paper No. CB(1)1791/09-10(02), L. N. 47 of 2010, Annex E)</u></p> <p><u>Section 1 – Interpretation</u></p> <p>Members noted:</p> <p>(a) under "prohibited goods", the word "material" was replaced by "materiel" (from the French word "materiel" which more specifically pertained to weapons, ammunition, supplies, apparatus and paramilitary equipment of armed</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>forces) which had already been included in English dictionary; and</p> <p>(b) the use of 安全理事會 as the Chinese equivalent of "Security Council".</p>	
005446 – 011003	Chairman Administration	<p><u>Study of the mark-up English version of the United Nations Sanctions (Liberia) Regulation 2010 (LC Paper No. CB(1)1791/09-10(03), L. N. 48 of 2010, Annex G)</u></p> <p><u>Section 1 – Interpretation</u></p> <p>In response to the Chairman's enquiry, the Administration explained that to implement Resolution 1903 relaxing prohibition against the Liberian Government, the reference to "person connected with Liberia" was deleted, and where appropriate, replaced by "person operating in the territory of Liberia".</p> <p><u>Section 10 – Licence for provision of certain assistance, advice or training</u></p> <p>The Administration explained that the changes were made to implement Resolution 1903 providing exceptions for certain assistance, advice or training related to military activities specified under subsection (2)(a)-(d).</p>	
011004 – 011158	Chairman Administration ALA	<p><u>United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation (LC Paper No. CB(1)1791/09-10(03), L.N. 49 of 2010, Annex B)</u></p> <p>Members noted that sections 6 and 11 of the Liberia Regulation (L. N. 48 of 2010) would come into effect on 7 May 2010 upon the 2009 Regulation (Cap. 537, sub. leg. AM) being repealed by the Repeal Regulation on the same date. The other provisions of the Liberia Regulation had come into operation upon gazettal on 30 April 2010.</p>	
011159 – 011749	Chairman Clerk Ms Cyd HO	<p>The way forward</p> <p>Discussion on the proposed timetable to move a motion for adjournment at a Council meeting and the proposed wording of the motion.</p>	