

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2518/11-12  
(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 twelfth meeting  
held on Tuesday, 22 May 2012 at 4:30 pm  
in Conference Room 2B of the Legislative Council Complex**

**Members present** : Dr Hon Margaret NG (Chairman)  
Hon LAU Kong-wah, JP  
Hon Cyd HO Sau-lan  
Hon LEUNG Kwok-hung

**Member absent** : Hon LEE Cheuk-yan

**Public officers  
attending** : Agenda item I

Ms Linda LAI Wai-ming, JP  
Deputy Secretary for Commerce and Economic  
Development (Commerce and Industry)

Mr Raymond WU Wai-man  
Principal Assistant Secretary for Commerce and  
Economic Development (Commerce and Industry)

Ms Francoise LAM See-man  
Senior Assistant Law Draftsman (Acting)  
Department of Justice

Mr James DING Kwok-wing  
Deputy Principal Government Council  
(Treaties and Law)  
Department of Justice

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

**Staff in attendance :** Ms Wendy KAN  
Assistant Legal Adviser 6

Mr Joey LO  
Senior Council Secretary (1)3

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Action

**I. Meeting with the Administration**

(LC Paper No. CB(1)1338/11-12(01) -- United Nations Sanctions  
(Libya) Regulation 2011  
(Amendment) Regulation 2012

LC Paper No. CB(1)1338/11-12(02) -- United Nations Sanctions  
(Afghanistan) Regulation 2012  
and United Nations Sanctions  
(Afghanistan) Regulation  
(Repeal) Regulation

LC Paper No. CB(1)1486/11-12(01) -- United Nations Sanctions  
(Democratic Republic of the  
Congo) Regulation 2012

LC Paper No. CB(1)1731/11-12(01) -- United Nations Sanctions  
(Liberia) Regulation 2012 and  
United Nations Sanctions  
(Liberia) Regulation 2011  
(Repeal) Regulation

LC Paper No. LS48/11-12 -- Report on subsidiary legislation  
gazetted on 16 March 2012 to  
the House Committee meeting  
on 23 March 2012

- LC Paper No. LS52/11-12 -- Report on subsidiary legislation gazetted on 30 March 2012 to the House Committee meeting on 13 April 2012
- LC Paper No. LS56/11-12 -- Report on subsidiary legislation gazetted on 27 April 2012 to the House Committee meeting on 4 May 2012)

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

2. The Subcommittee completed the study of the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012, the United Nations Sanctions (Afghanistan) Regulation 2012, the United Nations Sanctions (Afghanistan) Regulation (Repeal) Regulation, the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2012, the United Nations Sanctions (Liberia) Regulation 2012 and the United Nations Sanctions (Liberia) Regulation 2011 (Repeal) Regulation.
3. Members noted that the Administration would not submit any further regulations to be made under the United Nations Sanctions Ordinance (Cap. 537) (UNSO) to the Subcommittee before the end of the current LegCo term. The Chairman suggested and Members agreed that a further report on the Subcommittee's work would be provided to the House Committee in June 2012. The report would cover the concerns and recommendations of the Subcommittee during the study of the regulations made under the UNSO since the last report submitted to the House Committee on 25 June 2010.

**II. Any other business**

4. There being no other business, the meeting ended at 5:29 pm.

**Proceedings of the twelfth 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, 22 May 2012 at 4:30 pm  
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 001138	Chairman	Opening remarks by the Chairman	
001139 – 002630	Chairman Administration	<p><b>Meeting with the Administration</b></p> <p><u>Briefing by the Administration on the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012 (LC Paper No. CB(1)1338/11-12(01), Annex F)</u></p> <p>Study of the English mark-up version of the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012</p> <p><u>Section 13. Licence for supply, sale, transfer or carriage of certain goods</u></p> <p>Discussion on the requirement to notify the Committee of the United Nations Security Council (UNSC) of the Chief Executive's intention to grant a licence under subsection (1).</p> <p><u>Section 15. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities</u></p> <p>Discussion on the difference between the formulation of subsections (2) and (2A).</p>	
002631 – 003600	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Afghanistan) Regulation 2012 (LC Paper No. CB(1)1338/11-12(02), Annex A)</u></p> <p>Discussion on the lead time required for implementing the UNSC Resolution 1988 against Afghanistan between receipt of the instructions from the Ministry of Foreign Affairs and gazettal of the United Nations Sanctions (Afghanistan) Regulation 2012 (the Afghanistan Regulation 2012).</p> <p>The Administration advised that the existing regulation on Afghanistan (the Existing Regulation) was made in June 2000 and its structure and style was very different from other regulations that had been</p>	

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		<p>made under the United Nations Sanctions Ordinance (Cap. 537) (UNSO) in recent years. Substantial amendments to the Existing Regulation had to be made to bring its structure and style in line with those of more recent regulations. Afghanistan Regulation 2012 had to be made to implement the UNSC Resolution 1988 instead of amending the Existing Regulation. Meanwhile, the UNSC had imposed separate sanctions regimes on Al-Qaida and the Taliban (Resolution 1988 dealt with sanctions relating to the Taliban, while Resolution 1989 adopted in 2011 addressed sanctions on Al-Qaida). The Administration had taken more time to determine the coverage of the Afghanistan Regulation 2012 during the drafting process.</p> <p>The Chairman noted that the Administration had taken the Subcommittee's view raised previously that it would be ultra vires to implement the UNSC Resolutions in Hong Kong against Al-Qaida, which was an international terrorist organization and not a place, and had decided not to make a regulation under the UNSO to implement Resolution 1989.</p> <p>Briefing by the Administration on the trade relation between Hong Kong and Afghanistan.</p> <p><u>Study of the English version of the United Nations Sanctions (Afghanistan) Regulation 2012</u></p>	
003601 – 003642	Chairman Administration	<p><u>Section 3 - Prohibition against supply, sale or transfer of certain goods</u></p> <p>Discussion on the definition of "prohibited goods".</p>	
003643 – 003900	Chairman Administration	<p><u>Section 5 – Prohibition against provision of certain advice, assistance or training</u></p> <p>Discussion on whether similar prohibitions had been enforced previously.</p>	
003901 – 004100	Chairman Administration	<p><u>Section 8 – Exception to prohibition against entry or transit by certain persons</u></p> <p>Discussion on similar provisions in other regulations made under the UNSO.</p>	
004101 – 004120	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Afghanistan) Regulation (Repeal) Regulation (LC Paper No. CB(1)1338/11-12(02), Annex B)</u></p>	

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004121 – 004244	Chairman Administration	<u>Briefing by the Administration on the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2012 (LC Paper No. CB(1)1486/11-12(01))</u>	
004245 – 004511	Chairman Administration	<u>Briefing on the trade relation between Hong Kong and the Democratic Republic of the Congo (LC Paper No. CB(1)1486/11-12(01), Annex F)</u>  <u>Study of the English version of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2012 (LC Paper No. CB(1)1486/11-12(01), Annex A)</u>	
004521 – 005000	Chairman Administration	<u>Briefing by the Administration on the United Nations Sanctions (Liberia) Regulation 2012 and the United Nations Sanctions (Liberia) Regulation 2011 (Repeal) Regulation (LC Paper No. CB(1)1731/11-12(01))</u>  <u>Study of the English version of the United Nations Sanctions (Liberia) Regulation 2012 and the United Nations Sanctions (Liberia) Regulation 2011 (Repeal) Regulation (LC Paper No. CB(1)1731/11-12(01), Annexes A and B)</u>	
005001 – 005700	Chairman Mr LEUNG Kwok-hung Administration	<u>Deliberations on the way forward</u>  Members noted that the Administration would not submit any further regulations to be made under the UNSO to the Subcommittee before the end of the current LegCo term. A further report on the Subcommittee's work would be provided to the House Committee in June 2012. The report would cover the concerns/recommendations of the Subcommittee during the study of the regulations made under the UNSO since the last report submitted to the House Committee on 25 June 2010.  The Subcommittee recommended the setting up of a dedicated subcommittee under the House Committee in the Fifth LegCo to deal with the regulations to be made under the UNSO. Under this arrangement, future regulations to be made and gazetted under the UNSO would be considered by Members at the House Committee meetings for the whole LegCo term, and where necessary, these regulations would be referred to the subcommittee for study.  The Subcommittee agreed that for regulations which involved minor amendments such as date of commencement and UNSC resolution numbers, the	

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		<p>dedicated subcommittee might adopt a streamlined approach to study the regulations by circulating the information papers provided by the Administration instead of going through the regulations by conducting section-by-section examinations at its meetings.</p> <p>The Subcommittee noted that while different sanction measures, targets and subjects of the sanctions might be formulated for different countries or places, the drafting approach adopted in most of the regulations made under the UNSO was broadly similar. The Chairman agreed with the previous Subcommittee that the use of a model law approach (or developing different models for different scenarios) would be conducive to improving efficiency in the Administration's preparation and the Subcommittee's study of the regulations. She was aware that the same approach had been adopted in the preparation of the orders made under the Fugitive Offenders Ordinance (Cap.503) and the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), which provided LegCo a role in scrutinizing the orders made under the Ordinances. As such, the Chairman reiterated her view that the Administration should reconsider using the model law approach when preparing future regulations to be made under the UNSO.</p>	
005701 – 005944	Chairman ALA Administration	<p>ALA noted that in the Chinese version of section 7(2)(b) of the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012, there was a Chinese character "由" before "該首述人士擁有" but this Chinese character did not appear similarly in relevant provisions in other relevant regulations made under the UNSO studied at the meeting.</p> <p>ALA also noted that in section 2 of the Chinese version of the United Nations Sanctions (Liberia) Regulation 2012, the order of the definitions did not accord with the practice adopted in other Regulations made under the UNSO. For instance, the definition of "資金" (funds) should be put before that of "禁制物品" (prohibited goods).</p> <p>The Administration agreed to maintain textual and syntax consistency in preparing future regulations to be made under the UNSO.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<p>(<i>Post meeting note:</i> The Administration made a written response via email on 28 June 2012 concerning ALA's enquiries on (i) the addition of "由" in the phrase "則包括由該首述人士擁有的任何資金 ..." under section 7(2)(b) of the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012, and (ii) the order of the definitions under the United Nations Sanctions (Liberia) Regulation 2012. For (i), the character "由" was added so as to tally with the newly added section 7(2A)(b). In other words, this phrase was used because of the relevant sanctions imposed on Libya (UNSCR 2009) and it would not be necessary to add "由" to the other United Nations Sanctions Regulations where financial sanctions were imposed. For (ii), the Law Drafting Division of the Department of Justice had recently decided to determine the sequence of Chinese items according to the 《常用字字形表》 prepared by the Education Bureau. Such order would be adopted as the index system when drafting new items. Since the Liberia Regulation was a new Regulation (and not an amendment Regulation), the new sorting order had been adopted.)</p>	