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19 February 2004

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

Dear Mrs Tong,

Thank you for your letter dated 21 January 2004 seeking our opinion on a technical matter relating to the implementation of the United Nations Sanctions (Liberia) Regulation 2003. Our Department has discussed about the matter and I would like to forward to you our views.

Given the constitutional arrangements as stipulated in the Hong Kong Basic Law, if the central authority of China decides to abide by the Resolution of the United Nations in imposing sanctions against a given state, Hong Kong has to follow. In the area of foreign policies and national defense, Hong Kong has no right except to follow the central authority in Beijing. The Legislative Council has no power to discuss about foreign policy and national defense, and Hong Kong judicial court has no jurisdiction on issues relating to foreign and military affairs.

What the Legislative Council is concerning about deals with a technical and administrative matter: how the Chinese government's

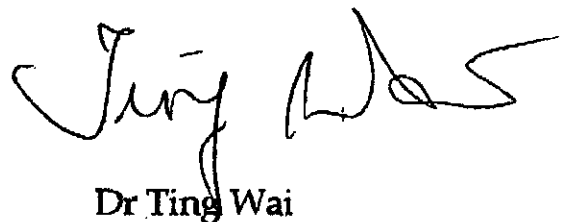
decision can be implemented. The only point which is clear now is that the Ministry of Foreign Affairs sent to Hong Kong government an "instruction" ordering that the United Nations resolution has to be carried out by the law enforcement agencies in Hong Kong. According to the Hong Kong government, just a simple letter saying that the "instruction" will be implemented is more than sufficient.

Some Legislative Councillors are skeptical with whether the Hong Kong government would abuse its power when carrying out the order in sanction. If the Legislative Council thinks that it is more assuring if the Chief Executive would issue a certificate to the relevant agencies when carrying out its function, members of our Department think it is a viable solution to preempt the worries of the Legislative Councillors.

I hope that our opinion would be useful to you.

With my best wishes.

Yours Sincerely,



Dr Ting Wai
Associate Professor