

立法會
Legislative Council

LC Paper No. CB(1)1470/05-06
(These minutes have been seen by
the Administration)

Ref: CB1/HS/1/04/1

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

**Minutes of seventh meeting
held on Monday, 3 April 2006, at 2:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon LAU Kong-wah, JP
- Public officers attending** : Mrs Philomena LEUNG
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce and Industry)
- Mr John HUNTER
Deputy Principal Government Counsel
(Treaties and Law)
Department of Justice
- Mr CHAN Tung-wai
Assistant Secretary for Commerce, Industry and
Technology (Commerce and Industry)
- Clerk in attendance** : Miss Polly YEUNG
Chief Council Secretary (1)3
- Staff in attendance** : Miss Anita HO
Assistant Legal Adviser 2
- Mr Paul WOO
Senior Council Secretary (1)3
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The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

I Confirmation of minutes and matters arising

LC Paper No. CB(1)983/05-06 -- Minutes of meeting held on 7 February 2006

LC Paper No. CB(1)824/05-06(01) -- Draft report of the Subcommittee to the House Committee

2. The minutes of the meeting held on 7 February 2006 were confirmed.

II Paper issued since last meeting

LC Paper No. CB(1)877/05-06(01) -- Article on "Enacting security laws in Hong Kong" by Mr Simon N M YOUNG published in the Cambridge University Press in 2005 (English version only)

3. Members noted that the above paper had been issued for the Subcommittee's information.

III Meeting with the Administration

LC Paper No. CB(1)1105/05-06(01) -- The Administration's response to the issues raised at the meeting on 7 February 2006

LC Paper No. LS42/05-06 -- Paper on "Provisions in the United Nations Sanctions Regulations that implement decisions of the United Nations Security Council Resolutions against designated persons" prepared by the Legal Service Division

LC Paper No. CB(1)1166/05-06(01) -- List of Regulations made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (since July 2004 and up to 24 March 2006)

LC Paper No. CB(1)1133/05-06(01) -- United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2006

LC Paper No. CB(1)1133/05-06(02) -- United Nations Sanctions (Côte d'Ivoire) Regulation 2006

The Administration's response to the Subcommittee's draft report

Admin 4. Members noted that the Subcommittee's draft report to the House Committee had been forwarded to the Administration for comments on 9 February 2006. In response to the Chairman, the Administration informed members that the Department of Justice was still considering the issues raised in the Subcommittee's deliberations. It would provide a response to the Subcommittee in due course.

The Administration's response to the issues raised at the meeting on 7 February 2006

(LC Paper No.CB(1)1105/05-06(01))

5. The Chairman sought the Administration's views on the arrangements adopted by the Macau Special Administrative Region (SAR) Government for implementing United Nations Security Council (UNSC) resolutions relating to sanctions. Members noted that according to available information, UNSC resolutions were promulgated by notices made by the Chief Executive of Macau and published in the Gazette. They became part of the laws of Macau and separate legislation was not required to be made. This approach differed from the Hong Kong system where domestic legislation had to be enacted to give effect to UNSC resolutions and other international agreements.

6. In this connection, the Administration advised that Macau operated a legal system different from that of Hong Kong. As explained in the Administration's written response to the Subcommittee, Macau Law No.4/2002 on Compliance with Certain Instruments of International Law had created specific offences relating to provision and supply of prohibited military/non-military services, prohibited weapons and goods, application and disposition of prohibited funds etc. The items in respect of which prohibitions etc. applied were apparently defined in very wide and general terms. The various prohibitions were then stated to apply in respect of a state territory person or public or private entity subject to international rules or sanctions, thereby creating a link to the particular UNSC resolution. In practice, however, because of the wide definitions, it would be a matter for interpretation as to how the various general provisions in the Macau Law were circumscribed by the particular UNSC resolution, and it would be difficult for one to know fully the particular offences when perusing the law. There was also the concern that the current definitions in the Macau Law might not be adequate to cover future UNSC resolutions. In contrast, Regulations made in Hong Kong to give effect to specific UNSC resolutions were clear in scope and provided greater

certainty on the prohibition and offences in question. For the above reasons, the Administration considered that the approach adopted in Macau could hardly be applied to Hong Kong.

7. The Chairman pointed out that as Hong Kong and Macau were both SARs of the People's Republic of China, each with the Basic Law as its constitutional basis, the different approaches adopted by the two SARs were only reflections of different legal policies, rather than questions of constitutionality or sovereignty. As such, she remarked that the Administration should give further consideration to how the current arrangement could be improved.

Paper on "Provisions in the United Nations Sanctions Regulations that implement decisions of the United Nations Security Council Resolutions against designated persons" prepared by the Legal Services Division
(LC Paper No. LS42/05-06)

8. The Assistant Legal Adviser (ALA2) briefed members on the above paper which had been prepared at the request of the Subcommittee. The paper set out the relevant provisions in the 10 Regulations made under the United Nations Sanctions Ordinance (Cap. 537) (UNSO) from July 2004 till early March 2006 that imposed sanctions against designated persons instead of against a place as provided in the definition of "Sanction" in section 2 of UNSO. These provisions also included those which sought to freeze funds held by a person designated in the relevant UNSC Resolution. The United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2006 and United Nations Sanctions (Cote d'Ivoire) Regulation 2006 gazetted on 17 March 2006 had not been included in the paper.

ALA2 9. For members' reference, the Chairman requested ALA2 to update the paper by including relevant provisions, if any, of the two aforesaid Regulations.

Information papers on United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2006 (L.N. 58 of 2006) and United Nations Sanctions (Cote d'Ivoire) Regulation 2006 (L.N.59 of 2006)
(LC Paper Nos. CB(1)1133/05-06(01) and (02))

10. Members noted the information papers provided by the Administration on the two Regulations, which dealt with the extension of the duration of certain provisions relating to sanctions. Members agreed that there were no specific issues arising from the two Regulations which warranted further discussion at another meeting.

IV Any other business

Date of next meeting

11. Members agreed that the next meeting would be scheduled when the Administration was ready to revert to the Subcommittee on the Subcommittee's

draft report to the House Committee.

12. There being no other business, the meeting ended at 3:00 pm.

Council Business Division 1
Legislative Council Secretariat
11 May 2006

**Proceedings of the seventh meeting of the
Subcommittee to Examine the Implementation in Hong Kong
of Resolutions of the United Nations Security Council in relation to Sanctions
on Monday, 3 April 2006 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
000510 – 000609	Chairman	(a) Introductory and welcoming remarks (b) Confirmation of minutes of meeting on 7 February 2006	
000610 – 001439	Chairman Administration Dr LUI Ming-wah ALA2	The Administration's position that it was not in favour of adopting in Hong Kong the arrangements in Macau for implementing UN sanctions.	
001440 – 001647	Chairman Administration	The Subcommittee's draft report to the House Committee	The Administration to take follow-up action as required under paragraph 4 of the minutes
001648 – 002914	Chairman ALA2	ALA's elaboration on the relevant provisions in the 10 Regulations made under the UNSO since July 2004 which imposed sanctions against designated persons instead of against a place as provided in UNSO.	ALA to take follow-up action as required under paragraph 9 of the minutes
002915 – 003118	Chairman Administration	(a) The United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2006 (L.N. 58 of 2006) and United Nations Sanctions (Cote d'Ivoire) Regulation 2006 (L.N. 59 of 2006) which extended the duration of certain provisions in relation to sanctions (b) Date of next meeting	