

立法會
Legislative Council

LC Paper No. CB(1)1404/04-05
(These minutes have been
cleared with the Chairman)

Ref: CB1/HS/1/04

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

**Minutes of second meeting
held on Friday, 15 April 2005, at 9:00 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon LAU Kong-wah, JP
- Member absent** : Dr Hon LUI Ming-wah, JP
- Clerk in attendance** : Miss Polly YEUNG
Chief Council Secretary (1)3
- Staff in attendance** : Miss Anita HO
Assistant Legal Adviser 2
- Ms Rosalind MA
Senior Council Secretary (1)8

Action

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

Withdrawal of membership

2. The Chairman informed members that Mr James TO had advised her in writing that he would withdraw from the Subcommittee with effect from 14 April 2005.

I. Proposed Terms of Reference

(LC Paper No. CB(1)1194/04-05(01) - Proposed Terms of Reference)

3. Members endorsed the proposed Terms of Reference.

II. Follow-up action

(LC Paper No. CB(1)1195/04-05 - Discussion paper prepared by the Secretariat)

Additional information to be sought from the Administration

4. Members deliberated on the need for the Administration to provide additional information in the form of Legislative Council (LegCo) Briefs to facilitate members' scrutiny work. While noting that Regulations made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) were not subject to the approval or amendment by LegCo, members considered it necessary that the Administration should provide a LegCo Brief (or a sufficiently detailed paper comparable to a LegCo Brief) on each Regulation made under section 3 of UNSO to facilitate the study by LegCo. Members further agreed that the Administration should provide the requested paper/LegCo Brief on each Regulation to be made under section 3 of UNSO in future, as well as on the four Regulations gazetted since July 2004 (as set out in the Annex to LC Paper No. CB(1) 1195/04-05).

5. Members expressed concern about the long time gap (ranging from several months to over a year) before a Regulation was made and gazetted to give effect to the relevant resolutions passed by the United Nations Security Council (UNSC). Noting that the Regulations were made by the Chief Executive on the instructions from the Ministry of Foreign Affairs (MFA) and after consultation with the Executive Council, members would like to know the Administration's liaison, if any, with MFA regarding its instructions. After discussion, members agreed that the Administration should include the following information in the paper/LegCo Brief on the Regulations:

- (a) the policy intent and background;

- (b) pertinent information on the relevant resolution(s) passed by UNSC, including the date on which the resolution was passed and the validity period of the resolution;
- (c) the date of receipt of the instruction of MFA;
- (d) the date of consultation with the Executive Council on the making of the Regulations;
- (e) in case there was a time gap between the adoption of the resolution and the gazettal of the relevant Regulation made under section 3 of UNSO, the reasons for such a time gap, the administrative and/or legal arrangements in place to give effect to the sanctions, measures to minimize such a time gap, and any attempt to liaise with MFA in case its instruction had not been received following the passing of the resolutions by UNSC; and
- (f) the formal document issued by the Chief Secretary for Administration to confirm the instructions of MFA (to be attached to the LegCo Brief/paper).

(Post-meeting note: With the agreement of the Chairman, the Clerk had conveyed the above request for additional information to the Administration on 18 April 2005, incorporating the suggestion of the Assistant Legal Adviser 2 that an explanatory note on each section of the Regulation be provided.)

6. The Chairman also asked the Clerk to check whether the Administration had provided any explanation in the past on the reasons for the time gap between the adoption of the resolution by UNSC and the making of the relevant Regulation under section 3 of UNSO.

(Post-meeting note: The relevant information was circulated to members vide LC Paper No. CB(1)1335/04-05 on 21 April 2005.)

Further views from Professor Yash GHAI

7. Members noted that Professor Yash GHAI of the Department of Law of the University of Hong Kong had indicated recently that he would try his best to provide by end April 2005 his further views on the legal and constitutional aspects of the issues arising from the implementation in Hong Kong of United Nations sanctions. The Secretariat would follow up with Professor GHAI in due course.

III. Any other business

Date of next meeting

8. Members agreed that the next meeting would be held in the second week of May 2005. The exact date would be confirmed after consulting all Subcommittee members on their availability. Members also agreed that the Administration should be invited to attend the next meeting.

(Post-meeting note: With the concurrence of the Chairman, the next meeting was scheduled for Thursday, 12 May 2005 at 9:00 am. Notice of the meeting was issued to members vide LC Paper No. CB(1)1302/04-05 on 19 April 2005.)

9. There being no other business, the meeting ended at 9:35 am.

Council Business Division 1
Legislative Council Secretariat
28 April 2005

**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 Friday, 15 April 2005 at 9:00 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
000000 – 000600	Chairman Clerk	Proposed Terms of Reference	
000601 – 000721	Chairman	(a) Withdrawal of membership of the Subcommittee; (b) Further views from Professor Yash GHAI	The Clerk would take actions as requested under paragraph 7 of the minutes
000722 – 000851	Chairman Clerk	Additional information to be sought from the Administration (LC Paper No. CB(1) 1195/04-05 prepared by the Secretariat)	
000852 – 001439	Mr Martin LEE Chairman Clerk	Members deliberated on: (a) reasons for the long time gap before a Regulation was made and gazetted to give effect to the relevant resolutions passed by UNSC; (b) the date on which the relevant resolution was passed by UNSC and the validity period of the resolution in question; (c) date of receipt of the instruction of MFA; (d) administrative and/or legal arrangements in place to give effect to the sanctions; and (e) measures in place to minimize such a time gap	

Time Marker	Speaker	Subject(s)	Action required
001440 -002027	Mr LAU Kong-wah Chairman Martin LEE	(a) Whether the Administration had attempted to liaise with MFA in case its instruction had not been received following the passing of the resolutions by UNSC; (b) Whether the Administration had provided explanation in the past on the reasons for the time gap between the adoption of the resolution by UNSC and the making of the relevant Regulation	The Clerk to take actions as requested under paragraph 6 of the minutes
002028 - 002440	Chairman Mr Martin LEE Mr LAU Kong-wah Clerk	Date of next meeting	