

立法會
Legislative Council

LC Paper No. LS90/07-08

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

**Comments on the Implementation of the Decisions of the
Security Council of the United Nations by
the United Nations Sanctions Ordinance (Cap. 537) and the United Nations
(Anti-Terrorism Measures) Ordinance (Cap. 575)**

Background

At the informal meeting held on 23 May 2008, it was found that the more common sanctions imposed by the Security Council of the United Nations (UNSC) and implemented in Hong Kong through the 26 Gazetted Regulations made under the United Nations Sanctions Ordinance (Cap. 503) (UNSO) are against the following activities –

- (a) the sale and supply of arms and related materials;
- (b) importation of certain goods (i.e. timber, rough diamonds);
- (c) provision of advice, assistance or training related to military activities;
- (d) making available funds or assets or resources to certain persons or entities; and
- (e) the entry into or transit through Hong Kong of certain persons.

2. The Legal Service Division was asked to examine whether the above sanctions may be implemented through the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (UNATMO).

Persons or Entities Targeted under UNATMO and UNSO

3. UNATMO is to further implement Resolution 1373 of 28 September 2001 of UNSC relating to measures for the prevention of terrorist acts, and to permit the implementation of –

- (a) the United Nations International Convention for the Suppression of Terrorist Bombings;
- (b) the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation;
- (c) the United Nations Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, etc.

4. Under section 4(1) of UNATMO, the Chief Executive is empowered to specify by notice in the Gazette a person who is designated by a committee established by the UNSC as terrorist¹. The Chief Executive may also apply to the Court of First Instance for an order to specify a person as a terrorist.

5. In relation to the regulations made under UNSO (the Regulations), the targeted persons or entities are usually listed in the relevant resolutions imposing the sanctions, or designated by UNSC or committees established under the said relevant resolutions for the purpose of the said resolutions².

¹ One of such committees is the Committee established pursuant to Resolution 1267 of 1999 (the Committee). A consolidated list of terrorists designated by this Committee is available at <http://www.un.org/sc/committees/1267/consolidatedlist.htm>

² See for example, section 31 of the United Nations Sanctions (Iran) Regulation (Cap. 537 sub. legl AF) (originally L.N. 179 of 2007).

Prohibitions Imposed by UNSO and UNATMO

6. UNATMO contains no prohibition concerning the importation of goods (for example, timber, rough diamonds), the provision of advice, assistance or training related to military activities, and the entry into or transit through Hong Kong of certain persons.

7. Having said that, UNATMO and the Regulations both prohibit –

- (a) the supply of weapons to terrorists and terrorist associates (section 4 of UNATMO);
- (b) making funds available to terrorists and terrorist associates (section 8 of UNATMO).

Comments

8. The sanctions provided in each of the Regulations and the UNATMO respectively, even if they might be identical in some instances, appear, in any event, to be applicable to different persons/entities. Therefore, the sanctions imposed by the Regulations may not be implemented through UNATMO. However, subject to the terms of future UNSC resolutions which have to be implemented in Hong Kong, it is possible that they may be implemented through UNATMO or regulations made under UNSO provided that the relevant sanctions and the person/entities to which they apply are identical to those provided in UNATMO.

Prepared by

LEE Ka-yun, Kelvin
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
1 June 2008