

立法會
Legislative Council

LC Paper No. LS95/04-05

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 8 July 2005**

LEGAL NOTICES NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Côte D'Ivoire) Regulation

(L.N. 122)

This Regulation gives effect to decisions of the Security Council of the United Nations ("the UNSC") in Resolution 1572 of 15 November 2004 to implement sanctions on Côte D'Ivoire.

2. In December 2004, the Chief Executive ("CE") received instruction from the Ministry of Foreign Affairs of the People's Republic of China ("MFA") requesting the HKSAR Government to implement that Resolution.

3. The Regulation provides for, among other things, the implementation of the following sanctions -

- (a) prohibition against the direct or indirect sale, supply or transfer of arms or related materials to Côte d'Ivoire;
- (b) prohibition against the provision of advice, assistance or training related to military activities in certain circumstances;
- (c) prohibition against making available to or for the benefits of certain persons or entities any funds or other financial assets or economic resources; and
- (d) prohibition against entry into or transit through the HKSAR of certain persons.

4. A person may apply to the CE for a licence to be exempted from the above prohibitions if certain requirements are met. Enforcement and offence provisions are also provided in the Regulation.

5. This Regulation comes into operation on the date of gazettal, i.e. on 8 July 2005 and expires at midnight on 14 December 2005.

6. Members may refer to the Paper issued by the Commerce, Industry and Technology Bureau in July 2005 (CB(1)2029/04-05(01)) for details. The Regulation is attached at Annex A to the Paper. A document issued by the Acting Chief Secretary for Administration confirming the receipt of the MFA's instruction by the CE in December 2004 is at Annex B while a copy of the Resolution is at Annex C.

United Nations Sanctions (Democratic Republic of the Congo) (Amendment) Regulation 2005 (L.N. 123)

7. The principal Regulation, i.e. the United Nations Sanctions (Democratic Republic of the Congo) Regulation (L.N. 27 of 2005) came into operation on 4 March 2005 to implement UNSC Resolutions 1493 and 1552. The latter Resolution was adopted by UNSC on 27 July 2004 which decided to renew until 31 July 2005 the relevant provisions of Resolution 1493 of 28 July 2003. In August 2004, the CE received instructions from MFA requesting the HKSAR Government to implement Resolutions 1493 and 1552.

8. On 18 April 2005, the UNSC adopted Resolution 1596 making further decisions concerning the Democratic Republic of the Congo after taking note of a Group of Experts reports. The UNSC further decided that it shall, no later than 31 July 2005, review the relevant measures. In May 2005, the CE received instruction from MFA requesting the HKSAR Government to implement Resolution 1596.

9. This Amendment Regulation amends the principal Regulation to give effect to a decision of Resolution 1596 by -

- (a) replacing the definition of "person connected with Congo" with the new term of "person in the territory of the Democratic Republic of the Congo";
- (b) amending the requirements to be met for granting of licences for supply, delivery or carriage of prohibited goods and provision of certain assistance or training; and
- (c) providing for the implementation of the following new sanctions imposed by the UNSC
 - (i) prohibition against making available to or for the benefits of certain persons or entities any funds or other financial assets or economic resources; and
 - (ii) prohibition against entry into or transit through the HKSAR of certain persons.

10. This Amendment Regulation comes into operation on the date of gazettal, i.e. on 8 July 2005. The principal Regulation (as amended by this Amendment Regulation) will expire at midnight on 31 July 2005.

11. Members may refer to the Paper issued by the Commerce, Industry and Technology Bureau in July 2005 (CB(1)2029/04-05(02)) for details. The Amendment Regulation is attached at Annex A to the Paper. A document issued by the Acting Chief Secretary for Administration confirming the receipt of the MFA's instruction by the Acting Chief Executive in May 2005 is at Annex B while a copy of Resolution 1596 is at Annex C.

United Nations Sanctions (Sudan) (Amendment) Regulation 2005 (L.N. 124)

12. The principal Regulation, i.e. the United Nations Sanctions (Sudan) Regulation (L.N. 45 of 2005) came into operation on 1 April 2005 to implement UNSC Resolution 1556.

13. On 29 March 2005, UNSC adopted Resolution 1591 making further decisions concerning Sudan. In May 2005, the CE received instruction from MFA requesting the HKSAR Government to implement that Resolution.

14. This Amendment Regulation amends the principal Regulation to give effect to a decision of Resolution 1591 by -

- (a) replacing the definition of "person connected with Darfur" by "person connected with Sudan" to include all the parties to the N'djamena Ceasefire Agreement and other belligerents in Darfur;
- (b) amending the requirements to be met for granting of licences for supply, delivery or carriage of prohibited goods and provision of certain assistance; and
- (c) providing for the implementation of the following new sanctions imposed by the UNSC—
 - (i) prohibition against making available to or for the benefit of certain persons or entities any funds or other financial assets or economic resources; and
 - (ii) prohibition against entry into or transit through the HKSAR of certain persons.

15. This Amendment Regulation comes into operation on the date of gazettal, i.e. on 8 July 2005. There is no expiry date in the principal Regulation or in this Amendment Regulation.

16. Members may refer to the Paper issued by the Commerce, Industry and Technology Bureau in July 2005 (CB(1)2029/04-05(03)) for details. The Amendment Regulation is attached at Annex A to the Paper. A document issued by the Acting Chief Secretary for Administration confirming the receipt of the MFA's instruction by the Acting Chief Executive in May 2005 is at Annex B while a copy of Resolution 1591 is at Annex C.

Recommendation on the above Regulations

17. Although the above regulations (made under section 3 of the United Nations Sanctions Ordinance) are not required to be tabled to LegCo and are not subject to scrutiny or amendment by LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), they come within the terms of reference of the Subcommittee to examine the implementation in Hong Kong of resolutions of the United Nations Security Council in relation to sanctions. It is recommended that the above Regulations be referred to the Subcommittee for further study. Members may note that by the time these Regulations are referred to the House Committee, the Regulation on the Democratic Republic of the Congo will have expired and that there might be a new resolution before 31 July 2005.

Prepared by

Ho Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
20 July 2005