

立法會
Legislative Council

LC Paper No. CB(1)1895/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/HS/2/08

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

**Minutes of the fifth meeting on
Tuesday, 19 May 2009 at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon Margaret NG (Chairman)
Hon LAU Kong-wah, JP
Hon Cyd HO Sau-lan
Hon Tanya CHAN

**Public officers
attending** : Ms Linda LAI Wai-ming, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)

Miss Wendy CHUNG
Principal Assistant Secretary for Commerce and
Economic Development (Commerce & Industry)

Mr Peter WONG Hing-hong
Deputy Principal Government Counsel (Treaties & Law)
Department of Justice

Ms Agnes CHEUNG Siu-hang
Senior Government Counsel
Department of Justice

Miss Selina LAU Suet-ching
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Annette LAM
Senior Council Secretary (1)3

Action

I. Confirmation of minutes of meetings

(LC Paper No. CB(1)1564/08-09 -- Minutes of meeting held on
31 March 2009

LC Paper No. CB(1)1565/08-09 -- Minutes of meeting held on
27 April 2009)

The minutes of the meetings held on 31 March and 27 April 2009 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)1193/08-09(01) -- Administration's paper on United Nations Sanctions (Somalia) Regulation (L.N. 58 of 2009) and United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009 (L.N. 59 of 2009)

LC Paper No. CB(1)1576/08-09(01) -- Administration's paper on supplementary information on Somalia

LC Paper No. CB(1)1576/08-09(02) -- Mark-up version of the United Nations Sanctions (Somalia) Regulation

LC Paper No. CB(1)1576/08-09(03) -- Mark-up version of the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009)

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

Admin 3. The Administration was requested to provide, as far as practicable, the following information:

- (a) the origin of goods re-exported to Somalia routed through Hong Kong;
- (b) the types and nature of telecommunication equipment that were re-exported to Somalia;
- (c) a break-down of the total trade volume of HK\$2.06 million between Hong Kong and Somalia in 2008; and
- (d) trade relations between the Mainland and Somalia.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1858/08-09(01) on 9 June 2009.)

4. The Subcommittee completed the study of the United Nations Sanctions (Somalia) Regulation and the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009.

ALA 5. The Assistant Legal Adviser was requested to examine the legal and drafting aspects of the Chinese version of the United Nations Sanctions (Somalia) Regulation, and the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009 and to report irregularity, if any, to the Subcommittee.

III. Any other business

6. There being no other business, the meeting ended at 9:37 am.

**Proceedings of the fifth meeting of
the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of
the United Nations Security Council in relation to Sanctions
on Tuesday, 19 May 2009 at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000244	Chairman	<p>Opening remarks by the Chairman</p> <p>Confirmation of minutes of the meetings held on 31 March and 27 April 2008 (LC Paper Nos. CB(1)1564/08-09 and CB(1)1565/08-09)</p>	
000245 – 001715	Chairman Ms Cyd HO Mr LAU Kong-wah Miss Tanya CHAN Assistant Legal Adviser (ALA) Administration	<p><u>Meeting with the Administration</u></p> <p>Briefing by the Administration on the background of the UN sanctions on Somalia, pirate activities off the Somali coast and trade relations between Hong Kong and Somalia as detailed in the Administration Paper No. CB(1)1576/08-09(01).</p>	The Administration to follow up as stated in paragraph 3 of the minutes.
001716 – 010454	Chairman Administration	<p><u>Study of the English mark-up version of the United Nations Sanctions (Somalia) Regulation (Paper No. CB(1)1576/08-09(02))</u></p> <p>The Administration took members through the amendments.</p> <p>Members noted that while the phrase "directly or indirectly" was deleted under section 5(2) in relation to prohibition against making available funds or other financial assets or economic resources, the said phrase was retained under sections 2(2)(c) and 8(1)(a)(iii) in respect of prohibition against the supply, delivery or carriage of certain goods. Members enquired about the rationale and the legal implications of the deletion or otherwise of the phrase "directly or indirectly", if any, and whether clarifications had been sought with the UN and/or the Central People's Government (CPG).</p> <p>The Administration explained that the Regulation was made pursuant to the instruction of the Ministry of Foreign Affairs to implement sanctions decided by the Security Council of the United Nations (UNSC). As such, the amendments would mainly follow the wording of the UNSC resolutions and were intended to reflect the requirements of the UNSC resolutions. It was considered that the deletion or otherwise of the phrase "directly or indirectly" in respect of funds or</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>other financial assets or economic resources in the present context would not make any material differences from the legal perspective. The Administration would seek clarification from the CPG as and when necessary. Clarification on some technical terms had been sought from the CPG in the past.</p> <p><u>Model law approach</u></p> <p>Members noted that while sanction measures, targets and subjects of the sanctions might differ in respect of different countries or places, the drafting approach adopted in most of the regulations made under the United Nations Sanctions Ordinance (Cap 537) was broadly similar. Members were of the view that the use of a model law approach or developing different models for different scenarios was conducive to improving efficiency in the Administration's preparation and the Subcommittee's scrutiny of the regulations as well as easily understood by the public.</p> <p>The Administration responded that while a model law approach could serve as a useful reference, the specific details of the sanction measures might vary from one UNSC resolution to another and there were often variations in the detailed wording of the resolutions. Therefore, it might not be possible to devise a standardized approach and "model clauses" that would be appropriate for universal adoption in all subsidiary legislation on UN sanctions.</p> <p>Chinese version of the United Nations Sanctions (Somalia) Regulation (Paper No. CB(1)1576/08-09(02))</p>	<p>ALA to follow up as stated in paragraph 5 of the minutes.</p>
014055 – 010852	Chairman Administration	<p><u>Study of the mark-up version of the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009 (LC Paper No. CB(1)1576/08-09(03))</u></p> <p>Members noted that consequential to the making of the United Nations Sanctions (Somalia) Regulation to implement all relevant sanctions against Somalia under the various Resolutions, the United Nations Sanctions (Arms embargoes) (Amendment) Regulation 2009 was enacted simultaneously to remove Somalia from the Arms Embargoes</p>	

Time marker	Speaker	Subject(s)	Action required
		Regulation. Chinese version of the United Nations Sanctions (Arms embargoes) (Amendment) Regulation 2009 (LC Paper No. CB(1)1576/08-09(03))	ALA to follow up as stated in paragraph 5 of the minutes.

Council Business Division 1
Legislative Council Secretariat
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