

立法會
Legislative Council

LC Paper No. CB(1)356/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/HS/1/12

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

**Minutes of second meeting on
Friday, 16 November 2012, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon James TO Kun-sun
Hon NG Leung-sing, SBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon Dennis KWOK
Hon Martin LIAO Cheung-kong, JP

Members absent : Hon IP Kwok-him, GBS, JP
Hon Kenneth LEUNG

Public officers attending : Agenda item II

Ms Carol YUEN, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry) 1

Mr Raymond WU
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry) 2

Ms Francoise LAM
Senior Assistant Law Draftsman

Miss Agnes CHEUNG
Senior Government Counsel (Treaties and Law) 1

Clerk in attendance: Ms Annette LAM
Chief Council Secretary (1)3

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Sarah YUEN
Senior Council Secretary (1)3

Action

- I. Confirmation of minutes of meeting**
(LC Paper No. CB(1)171/12-13 -- Minutes of meeting held on
31 October 2012)

The minutes of the meeting held on 31 October 2012 were confirmed.

- II. Meeting with the Administration**
(LC Paper No. LS2/12-13 -- Legal Service Division Report
on subsidiary legislation
gazetted between 15 June and
28 September 2012 (L.N. 139
to L.N. 142) for the House
Committee meeting on
12 October 2012
- United Nations Sanctions
(Côte d'Ivoire) Regulation
2012 (L.N. 139 of 2012)
 - United Nations Sanctions
(Democratic People's
Republic of Korea)
(Amendment) Regulation
2012 (L.N. 140 of 2012)
 - United Nations Sanctions
(Guinea-Bissau)
Regulation (L.N. 141 of
2012)

- United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142 of 2012)

LC Paper No. CB(1)77/12-13(01) -- Paper on Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (background brief)

LC Paper No. CB(1)1665/04-05(01) -- Submission from Professor Yash GHAI of the University of Hong Kong

LC Paper No. CB(1)1934/04-05(01) -- Administration's response to Professor Yash GHAI's submission

LC Paper No. CB(1)2327/09-10 -- Interim report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions for the House Committee meeting on 25 June 2010

LC Paper No. CB(1)2244/11-12 -- Further Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions for the House Committee meeting on 29 June 2012)

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

Follow-up actions

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3. The Administration was requested to take the following actions:

- (a) ensure that members of the relevant Panels, namely, the Panel on Commerce and Industry and the Panel on Financial Affairs, would be alerted to the resolutions of the United Nations Security Council in relation to sanctions being implemented in Hong Kong by way of regulations made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO), including the following four regulations gazetted on 28 September 2012 –
 - (i) United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N.139 of 2012);
 - (ii) United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140 of 2012);
 - (iii) United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141 of 2012); and
 - (iv) United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142 of 2012) (the Amendment Regulation);
- (b) take note of members' concern on the meaning of "a person owned directly or indirectly by a person or entity" in the definition of "relevant person" under section 1 of the United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) (the Regulation) as amended by section 2(3) of the Amendment Regulation, and improve the drafting (both the English and Chinese text) when amending the Regulation in future; and
- (c) amend "第 537 條" to "第 537 章" under section 1 of the Chinese text of the Amendment Regulation.

4. The Subcommittee completed the study of the four regulations listed in paragraph 3(a)(i-iv) above.

The way forward and meeting arrangements

5. Members agreed that there was no need for the Chairman or any Subcommittee members to address the Legislative Council on the four regulations. Members also agreed that the third meeting of the Subcommittee originally scheduled for 30 November 2012 should be cancelled. The Subcommittee would meet when future regulations made under section 3 of UNSO were referred to the Subcommittee for study.

(Post-meeting note: Members were informed of the cancellation of the 30 November 2012 meeting vide LC Paper No. CB(1)187/12-13 on 19 November 2012.)

III. Any other business

6. There being no other business, the meeting ended at 12:00 noon.

Council Business Division 1
Legislative Council Secretariat
27 December 2012

**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, 16 November 2012, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Confirmation of minutes of meeting			
000000 – 000339	Chairman	Opening remarks Confirmation of minutes of meeting on 31 October 2012 (LC Paper No. CB(1)171/12-13)	
Agenda Item II – Meeting with the Administration			
000340 – 000950	Chairman Administration	<u>General introduction of the following four regulations made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) by the Administration -</u> (a) United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N. 139 of 2012); (b) United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140 of 2012); (c) United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141 of 2012); and (d) United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142 of 2012).	
000951 – 001155	Chairman Assistant Legal Adviser 6 (ALA6)	At the Chairman's invitation, ALA6 reported that the Legal Service Division had made enquiries with the Administration earlier in relation to the drafting aspect of the United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N. 139 of 2012). After clarification by the Administration, ALA6 advised that no follow-up action was required.	
001156 – 002340	Chairman Administration	<u>Study of the United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (by reference to the mark-up version showing the amendments to the United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2011 (Cap. 537 sub. leg. AV))</u>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration took members through the amendments which sought to implement the sanctions against Côte d'Ivoire that were further renewed and modified by United Nations Security Council (UNSC) Resolution 2045 adopted on 26 April 2012.</p> <p>Members raised no objection to the amendments.</p> <p>In response to the Chairman, the Administration explained the efforts made to notify Legislative Council Members (including members of the Panel on Commerce and Industry) and relevant bureaux/departments/trade associations of the UNSC resolutions in relation to sanctions being implemented in Hong Kong.</p>	<p>The Administration to take follow-up action as required in paragraph 3(a) of the minutes</p>
002341 – 002551	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141 of 2012)</u></p>	
002552 – 003515	Chairman Mr Martin LIAO Administration Dr Kenneth CHAN ALA6	<p><u>Study of the United Nations Sanctions (Guinea-Bissau) Regulation</u></p> <p>The Administration took members through the Regulation which sought to implement the sanctions against Guinea-Bissau pursuant to UNSC Resolution 2048 adopted on 18 May 2012, namely, imposing a travel ban (prohibition against entry into or transit through Hong Kong Special Administrative Region (HKSAR)) on designated persons in relation to Guinea-Bissau.</p> <p>Members raised no objection to the Regulation.</p> <p><u>Discussion</u></p> <p>In response to the Chairman and members, the Administration explained that –</p> <p>(a) Specified persons prohibited from entry into or transit through the HKSAR could seek exceptions to the prohibition under section 3 of the Regulation before applying for a visa;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) Currently, all nationals of Guinea-Bissau, regardless of whether they were prohibited persons, would require visas to visit or transit (including airside transit) through Hong Kong. In case that prohibited persons were somehow intercepted at the airside, they would normally be refused landing and detained until repatriation; and</p> <p>(c) In principle, a prohibited person would not be granted permission to enter into Hong Kong. That said, under emergency circumstances, the prohibited person would be refused landing but would be escorted by immigration officers under detention until the person was removed from Hong Kong.</p>	
003516 – 003716	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140 of 2012)</u></p>	
003717 – 004153	Chairman Administration	<p><u>Study of the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (by reference to the mark-up version showing the amendments to the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE))</u></p> <p>The Administration took members through the amendments to expand the scope of the sanctions against the Democratic People's Republic of Korea under UNSC Resolution 1718.</p> <p>Members raised no objection.</p> <p><u>Discussion</u> <i>Part 1 Section 1 Interpretation</i></p> <p>The Administration's explanation of the textual improvement to the definition of "有關連人士" in the Chinese text of section 1, namely, the redundant expression "任何" therein had been deleted in keeping with the drafting trends in recent years.</p>	

Time marker	Speaker	Subject(s)	Action required
004154 – 004416	Chairman Administration	<u>Briefing by the Administration on the United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142 of 2012) (the Amendment Regulation)</u>	
004417 – 005928	Chairman Administration ALA6 Mr Martin LIAO Mr Dennis KWOK	<p><u>Study of the Amendment Regulation (by reference to the mark-up version showing the amendments to the United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) (the Regulation))</u></p> <p>The Administration took members through the amendments to implement the United Nations sanctions against Somalia in the HKSAR pursuant to UNSC Resolution 2036.</p> <p>Members raised no objection to the amendments.</p> <p><u>Discussion</u> <i>Part 1</i></p> <p>The Administration explained that -</p> <p>(a) The amendments to provide for the prohibition against making available funds, other financial assets or economic resources to or for the benefit of certain persons or entities or dealing with funds of certain persons or entities, and the granting of licence for such activities aimed to bring the structure and style of relevant provisions under the Regulation in line with that of similar provisions in other regulations recently made under UNSO; and</p> <p>(b) The phrase "unless the context otherwise requires" ("除文意另有所指外") in the first sentence of section 1 was deleted in line with the drafting of regulations recently made under UNSO.</p> <p>Discussion on the enquiry raised by ALA6 on the meaning of "a person owned directly or indirectly by a person or entity" in the definition of "relevant person" under section 1 of the Regulation as amended by section 2(3) of the Amendment Regulation –</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) The Chairman's view that the owning of a person by another person was inappropriate, and that the wordings of UNSC resolution(s) should not be rigidly adopted in the regulation(s) concerned; and</p> <p>(b) The drafting of the definition of "relevant person" (in both the English and Chinese text) should be improved to address members' concern on "a person owned directly or indirectly by a person or entity" when amending the Regulation in future.</p>	<p>The Administration to take follow-up action as required in paragraph 3(b) of the minutes</p>
005929 – 010430	Chairman Administration	<p><i>Parts 2 to 3</i></p> <p>In response to the Chairman, the Administration –</p> <p>(a) Explained the notification arrangements regarding the United Nations sanctions and regulations made under UNSO. Under the arrangements, information about the regulations made would be disseminated to the relevant bureaux/departments concerned, including the Hong Kong Monetary Authority, which would then notify stakeholders under their purviews (such as trade associations/banks etc) as appropriate through routine channels; and</p> <p>(b) Undertook to ensure that members of the relevant Panels, namely, the Panel on Commerce and Industry and the Panel on Financial Affairs, would be notified of the UNSC resolutions in relation to sanctions being implemented in Hong Kong by way of regulations made under section 3 of UNSO.</p>	<p>The Administration to take follow-up action as required in paragraph 3(a) of the minutes</p>
010431 – 010609	Chairman ALA6 Administration	<p>ALA6 advised that "第537條" under section 1 of the Chinese text of the Amendment Regulation should be "第537章". The Administration noted the comment.</p>	

Time marker	Speaker	Subject(s)	Action required
010610 – 010720	Chairman	The way forward and meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
27 December 2012