

立法會
Legislative Council

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by the Administration)

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

**Minutes of third meeting on
Tuesday, 30 April 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon James TO Kun-sun
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon Martin LIAO Cheung-kong, JP

Members absent : Hon IP Kwok-him, GBS, JP
Hon NG Leung-sing, SBS, JP
Dr Hon Kenneth CHAN Ka-lok

Public officers attending : Agenda item I

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

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

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

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Connie HO
Senior Council Secretary (1)3

Action

I. Meeting with the Administration

(LC Paper No. CB(1)720/12-13(01) -- United Nations Sanctions
(Democratic Republic of the
Congo) Regulation 2013

LC Paper No. CB(1)720/12-13(02) -- United Nations Sanctions
(Liberia) Regulation 2013 and
United Nations Sanctions
(Liberia) Regulation 2012
(Repeal) Regulation

LC Paper No. CB(1)848/12-13(01) -- United Nations Sanctions
(Democratic People's Republic
of Korea) (Amendment)
Regulation 2013

LC Paper No. LS32/12-13 -- Legal Service Division Report
on subsidiary legislation
gazetted on 15 March 2013
(L.N. 31 to L.N. 33) for the
House Committee meeting on
22 March 2013

LC Paper No. LS39/12-13

-- Legal Service Division Report on subsidiary legislation gazetted on 12 April 2013 (L.N. 54) for the House Committee meeting on 19 April 2013)

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

2. The Subcommittee completed the study of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013, the United Nations Sanctions (Liberia) Regulation 2013, the United Nations Sanctions (Liberia) Regulation 2012 (Repeal) Regulation and the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013.

Follow-up actions

Admin

3. The Administration was requested to take the following actions :
- (a) convey to the Central People's Government members' concern about the time gap between the passing of the resolutions of the Security Council of the United Nations in relation to sanctions and the gazettal of the related regulations during which the Government of the Hong Kong Special Administrative Region could only rely on the existing relevant local legislation for enforcement, and to take every possible steps to expedite the legislative process to shorten the time gap; and
 - (b) in relation to the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013, consider putting in place administrative measures or specifying certain exceptions to provide for specified entities under asset freeze to meet contractual liabilities and reasonable expenses, such as payments liable to be made under the Employment Ordinance and rents etc., similar to other anti-terrorism legislation, for example, the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

II. Any other business

Date of next meeting

4. The Chairman said that, if necessary, a meeting of the Subcommittee would be held to follow up on the Administration's response to paragraph 3(b) above.

5. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 1
Legislative Council Secretariat
27 June 2013

**Proceedings of the third 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, 30 April 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration			
000000 – 000440	Chairman	Opening remarks by the Chairman	
000441 – 001215	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013 (Congo Regulation)</u></p> <p>The Chairman's view that sunset clauses were commonly made by the Administration in stipulating time-limits for certain sanctions or prohibitions.</p> <p>Addressing the Chairman's concern over the time required for drafting and enacting the regulation upon receiving the instruction from the Ministry of Foreign Affairs (MFA) of the People's Republic of China, the Administration explained that efforts had been made to streamline the related legislative process to shorten the processing time. In fact, the majority of the regulations made under the United Nations Sanctions Ordinance (Cap. 537) (UNSO) were gazetted within three months upon the receipt of MFA's instructions.</p>	
001216 – 001400	Chairman Administration ALA 6	At the invitation of the Chairman, ALA6 briefed members on the amendments made to the Congo Regulation.	
001401 – 003646	Chairman Mr James TO Mr Martin LIAO Administration	<p>Discussion on the legal framework to implement resolutions made by the Security Council of the United Nations (UNSC) in relation to sanctions in the Hong Kong Special Administrative Region (HKSAR) and the time gap between the passing of resolutions of UNSC (the UNSC Resolutions), the receipt of MFA's instructions and the gazettal of the related regulations.</p> <p>The Chairman's view that the time gap between the passing of the UNSC Resolutions in relation to sanctions and the gazettal of the related regulations during which the Government of HKSAR could only rely on the existing relevant local legislation</p>	The Administration to take follow-up action as required in

Time marker	Speaker	Subject(s)	Action required
		<p>for enforcement was undesirable.</p> <p>In response to members' concern about the continued implementation of sanctions that expired before the gazettal of the regulations to be made under UNSO for the renewed sanctions, the Administration advised that -:</p> <ul style="list-style-type: none">(a) normal trade between HKSAR and the places under sanction would not be affected;(b) prohibition of export or import of arms or related items was subject to the control regime under the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G); and(c) financial sanctions might be covered by relevant local legislation in relation to money laundering and terrorist financing. <p>In response to Mr James TO, the Administration explained that -:</p> <ul style="list-style-type: none">(a) there would be a necessary lead time between the receipt of MFA's instructions and the gazettal of the related regulations for the purpose of completing the legislative process as provided under the UNSO. The Administration had been striving to shorten this time gap; and(b) it was not appropriate for the Administration to assume whether and how sanctions of the United Nations Security Council would be implemented in Hong Kong in the absence of an instruction from MFA and prior to the completion of the legislative process under the UNSO. <p>In response to Mr Martin LIAO, the Administration advised that-:</p> <ul style="list-style-type: none">(a) UNSC had not imposed any specific timeframe for member states to complete their local legislation procedures for implementation of the UNSC Resolutions in relation to sanctions; and	<p>paragraph 3(a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		(b) UNSC monitored the implementation of the resolutions by requiring member states to report the progress of the related work.	
003647 – 004158	Chairman Administration	<p><u>Study of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013 (Congo Regulation)</u></p> <p>Part 2 Section 6</p> <p>In view of the time gap between the expiry of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2012 at midnight on 30 November 2012 and the gazettal of the Congo Regulation on 15 March 2013, the Chairman expressed concern on whether HKSAR could promptly implement prohibition against entry or transit by specified persons from the Democratic Republic of the Congo (DR Congo) pursuant to UNSC Resolution 2078 adopted on 28 November 2012.</p> <p>The Administration advised that all nationals of DR Congo, regardless of whether they were prohibited persons, would require visas to visit or transit (including airside transit) through HKSAR.</p> <p>Members raised no objection to the Congo Regulation.</p>	
004159 – 004542	Chairman Administration	Briefing by the Administration on the United Nations Sanctions (Liberia) Regulation 2013 and the United Nations Sanctions (Liberia) Regulation 2012 (Repeal) Regulation.	
004543 – 005049	Chairman Administration	<p><u>Study of the United Nations Sanctions (Liberia) Regulation 2013 (Liberia Regulation)</u></p> <p>Members raised no objection to the Liberia Regulation.</p>	
005050 – 005359	Chairman Mr Kenneth LEUNG Administration	<p><u>Study of the United Nations Sanctions (Liberia) Regulation 2012 (Repeal) Regulation (Repeal Regulation)</u></p> <p>In response to Mr Kenneth LEUNG, the Administration advised that the Repeal Regulation commenced on 22 March 2013 and sections 6 and 11 of the Liberia Regulation came into operation at</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the same point of time.</p> <p>In response to the Chairman's enquiry on a time gap of 7 days between the gazettal and commencement date of the Repeal Regulation, the Administration explained that after the repeal of the United Nations Sanctions (Liberia) Regulation 2012, the current list of relevant persons or relevant entities as specified by the Chief Executive for the purpose of the financial sanctions would cease to have effect. A new name list could only be gazetted pursuant to section 31 of the Liberia Regulation after it had come into effect on 15 March 2013. To ensure continued implementation of the financial sanctions, the Repeal Regulation and sections 6 and 11 of the Liberia Regulation relating to financial sanctions were brought into operation on 22 March 2013, i.e. one week after the Liberia Regulation had come into effect.</p> <p>Members raised no objection to the Repeal Regulation.</p>	
005400 – 010205	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013 (Amendment Regulation)</u></p> <p>Noting that a Hong Kong company was subject to asset freeze under UNSC Resolution 2087 upon gazettal of the Amendment Regulation, the Chairman said that while implementing financial sanctions in fulfillment of international obligations, the Administration should consider putting in place administrative measures or specifying certain exceptions to provide for specified entities under asset freeze to meet contractual liabilities and reasonable expenses in the light of other anti-terrorism legislation to help meet contractual liabilities and reasonable expenses of the specified entity while implementing the financial sanctions.</p>	The Administration to take follow-up action as required in paragraph 3(b) of the minutes
010206 – 001455	Chairman Administration	<p><u>Study of the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013 (Amendment Regulation)</u></p>	

Time marker	Speaker	Subject(s)	Action required
		Members raised no objection to the Amendment Regulation.	
011456 – 011616	Chairman	Meeting arrangements	

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