

立法會
Legislative Council

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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 the sixth meeting on
Monday, 9 June 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon IP Kwok-him, GBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon Dennis KWOK

Members absent : Hon James TO Kun-sun
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
Hon Martin LIAO Cheung-kong, JP

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

Ms Alice CHOY
Senior Government Counsel (Treaties & Law) 1
Department of Justice

Miss Michelle FUNG
Acting Senior Government Counsel (Treaties &
Law)
Department of Justice

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

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Clara TAM
Assistant Legal Adviser 9

Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Connie HO
Senior Council Secretary (1)3

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1092/13-14(01) -- Legislative Council Brief
on United Nations
Sanctions (Liberia)
Regulation 2014 and
United Nations Sanctions
(Liberia) Regulation 2013
(Repeal) Regulation

LC Paper No. LS36/13-14 -- Legal Service Division
Report on subsidiary
legislation gazetted on 14
March 2014 (L.N. 29 and
L.N. 30) for the House
Committee meeting on 21
March 2014

LC Paper No. CB(1)1342/13-14(01) -- Assistant Legal Adviser's
letter dated 14 April 2014
to the Administration

- LC Paper No. CB(1)1342/13-14(02) -- Administration's reply letter dated 25 April 2014 to Assistant Legal Adviser
- LC Paper No. CB(1)1483/13-14(01) -- Assistant Legal Adviser's letter dated 29 April 2014 to the Administration
- LC Paper No. CB(1)1552/13-14(01) -- Assistant Legal Adviser's letter dated 16 May 2014 to the Administration
- LC Paper No. CB(1)1552/13-14(02) -- Administration's reply letter dated 30 May 2014 to Assistant Legal Adviser
- File reference: CITB CR 75/53/8 -- Legislative Council Brief on United Nations Sanctions (Central African Republic) Regulation
- File reference: CITB CR 75/53/4 -- Legislative Council Brief on United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014
- File reference: CITB CR 102/53/1 -- Legislative Council Brief on United Nations Sanctions (Somalia) (Amendment) Regulation 2014
- LC Paper No. LS45/13-14 -- Legal Service Division Report on subsidiary legislation gazetted on 11 April 2014 (L.N. 51 to L.N. 53) for the House Committee meeting on 2 May 2014

File reference: CITB CR 75/53/9	-- Legislative Council Brief on United Nations Sanctions (Yemen) Regulation
LC Paper No. LS56/13-14	-- Legal Service Division Report on subsidiary legislation gazetted on 16 May 2014 (L.N. 62) for the House Committee meeting on 16 May 2014)

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

2. The Subcommittee completed the study of the United Nations Sanctions (Liberia) Regulation 2014, the United Nations Sanctions (Liberia) Regulation 2013 (Repeal) Regulation, the United Nations Sanctions (Central African Republic) Regulation, the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014, the United Nations Sanctions (Somalia) (Amendment) Regulation 2014 and the United Nations Sanctions (Yemen) Regulation.

Follow-up actions

3. The Administration was requested to:
- (a) disseminate to the public in websites of relevant Government bureaux/departments the list of specified persons prohibited from entry into or transit through Hong Kong as stipulated by the United Nations Security Council (the "UNSC") in the relevant resolutions in relation to sanctions that were implemented in Hong Kong;
 - (b) provide an explanation on the deletion of section 9(2)(b) of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013 from the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014 being scrutinized by the Subcommittee to serve as a record on the change in drafting practice adopted by the Administration in the regulations to implement in Hong Kong the resolutions of the UNSC in relation to sanctions; and

- (c) explain the reason for using different terms, such as "the Federal Government of Somalia" and "Somali authorities" in the United Nations Sanctions (Somalia)(Amendment) Regulation 2014 and to address members' concerns about the confusion which such an inconsistency might cause.

II. Any other business

- 4. There being no other business, the meeting ended at 11:53 am.

Council Business Division 1
Legislative Council Secretariat
29 August 2014

**Proceedings of the sixth meeting of
the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of
the United Nations Security Council in relation to Sanctions
on Monday, 9 June 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000327	Chairman	Opening remarks by the Chairman	
000328 – 001320	Chairman Administration Assistant Legal Adviser 4 (ALA4) Mr IP Kwok-him	<p><u>Briefing by the Administration on the United Nations Sanctions (Liberia) Regulation 2014 ("the Liberia Regulation") and United Nations Sanctions (Liberia) Regulation 2013 (Repeal) Regulation ("the Repeal Regulation")</u></p> <p>ALA4's question whether it would be more appropriate to adopt "the Republic of Liberia" ("Formal Name"), rather than "Liberia" ("Short Name"), in the operative provisions of the Liberia Regulation to achieve consistency in the use of "the Republic of Liberia" in the laws of Hong Kong as in the case of Schedule 1 to the Patents Ordinance (Cap. 514), Schedule 1 to the Registered Designs Ordinance (Cap. 522) and Schedule 1 to the Trade Marks Ordinance (Cap. 559).</p> <p>The Chairman's advice that the Administration should consider adopting a uniform name for "Liberia" in local legislation for consistency sake.</p> <p>The Administration advised that when determining the name of a country to be adopted in the provisions in local legislation, consideration would generally be given to the international convention or treaty that gave rise to that local legislation. In the case of the Liberia Regulation, since the United Nations Security Council ("UNSC") first imposed sanctions against Liberia in 2001, the relevant resolutions adopted by the UNSC had been referring to the country as "Liberia". The adoption of the reference to "Liberia" in the Liberia Regulation was therefore in line with the relevant UNSC resolutions. Moreover, in the Terminology Bulletin No. 347/Rev.1 (Country Names) issued by the United Nations ("UN") in 1997 as well as the United Nations Multilingual Terminology Database (http://unterm.un.org/), the official name of Liberia had been referred to as "Liberia" and "the Republic of Liberia"</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>respectively. The references to both the Short Name and Formal Name of Liberia were considered to be equally valid from the perspective of international law. Both terms were valid as of the date of the commencement of the Liberia Regulation (i.e. 21 March 2014).</p> <p>Mr IP Kwok-him considered the Administration's approach of making reference to the relevant UNSC resolutions when determining the name of a country to be adopted in relevant local legislation appropriate.</p> <p>The Chairman's view was that the Administration should adhere to the established principles and practices when determining the name of a country to be adopted in a particular local legislation for the sake of consistency and uniformity.</p>	
001321-002207	Chairman Administration	<p><u>Study of the Liberia Regulation and the Repeal Regulation</u> (Annex A and Annex B to LC Paper No. CB(1)1092/13-14(01))</p> <p>Members raised no objection to the Liberia Regulation and the Repeal Regulation</p>	
002208 – 002641	Chairman Administration Assistant Legal Adviser 9 (ALA9)	<p><u>Briefing by the Administration on the United Nations Sanctions (Central African Republic) Regulation ("the Central African Republic Regulation")</u></p> <p>Noting that a variety of goods was involved in the trade between Hong Kong and the Central African Republic, the Chairman was concerned whether relevant companies of the trades concerned had been duly notified of the sanctions against the Central African Republic.</p> <p>The Administration responded that the Central African Republic Regulation had been circulated to members of the Legislative Council Panel on Commerce and Industry. The relevant trades had been notified of the sanctions against the Central African Republic through the Trade and Industry Department Circulars. Given the rather small trade volume between Hong Kong and the Central African Republic, members of the trades concerned had not indicated any specific problems associated with the implementation of the relevant sanctions.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman advised that to further refine the notification mechanism, individual companies, for example those importing meat products from the Central African Republic, should be directly notified of the sanctions given the small number of companies involved.</p>	
002642–003510	Chairman Administration	<p><u>Study of the Central African Republic Regulation (Annex A to CITB CR 75/53/8)</u></p> <p><u>Part 2 : Section 6 – Prohibition against entry or transit by certain persons</u></p> <p>In response to the Chairman's enquiry about the list of specified persons prohibited from entry into and transit through Hong Kong under the Central African Republic Regulation, the Administration advised that the list of specified persons subject to travel ban designated by the relevant sanctions committee established pursuant to the relevant UNSC resolution was normally not provided in the relevant local legislation. Such information was open to the public and was available on the UN's website. In the case of financial sanctions, the list of relevant persons or relevant entities designated by the relevant sanctions committee for such purpose would be specified by the Chief Executive by notice published in the Gazette.</p> <p>To address the Chairman's concern, the Administration was requested to disseminate to the public in websites of relevant Government bureaux/departments the list of specified persons prohibited from entry into or transit through Hong Kong as specified in the relevant UNSC resolution in relation to sanctions that were implemented in Hong Kong.</p> <p>Noting that "specified person" subject to travel ban was defined under Part 2 section 7(4) of the Liberia Regulation while the same was not set out under the relevant section of the Central African Republic Regulation, the Chairman advised that the Administration should be consistent in the drafting of the relevant sections in the UN sanctions regulations in the future.</p> <p>Members raised no objection to the Central African Republic Regulation.</p>	<p>The Administration to take follow-up action as required in paragraph 3(a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
003511 – 003800	Chairman Administration ALA9	<p><u>Briefing by the Administration on the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014 ("the Congo Regulation")</u></p> <p>ALA9 highlighted that sections 8(2)(e) and 9(2)(d) in Part 3 of the Congo Regulation were newly added provisions.</p>	
003801 – 004710	Chairman Administration	<p><u>Study of the Congo Regulation (Annex A to CITB CR 75/53/4)</u></p> <p><u>Part 2: Section 6 – Prohibition against entry or transit by certain persons</u></p> <p>The Chairman reiterated that the list of specified persons subject to travel ban as designated by the relevant UN sanctions committee and thus prohibited from entry into or transit through Hong Kong, if any, should be disseminated to the public through the websites of relevant Government bureau/departments .</p> <p><u>Part 3: Section 8 – Licence for supply, sale, transfer or carriage of certain goods</u></p> <p>The Administration advised that a new section (8)(2)(e) was added to provide for the granting of licence for the supply, sale, transfer or carriage of prohibited goods which were intended solely for the support of or use by the African Union-Regional Task Force pursuant to UNSC Resolution 2136.</p> <p><u>Part 3: Section 9 – Licence for provision of certain assistance, advice or training</u></p> <p>The Administration advised that a new section (9)(2)(d) was added to provide for the granting of licence for the provision of assistance, advice or training which was intended solely for the support of or use by the African Union-Regional Task Force pursuant to UNSC Resolution 2136.</p> <p>As requested by the Chairman, the Administration would provide an explanation on the deletion of section 9(2)(b) of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013 from the Congo Regulation to serve as a record on the change in drafting practice adopted by the Administration in the regulations to</p>	<p>The Administration to take follow-up action as required in paragraph 3(b)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>implement in Hong Kong the UN sanctions.</p> <p>The Chairman reiterated the need for the Administration to provide explanations regarding changes in drafting practice and to keep such information on record to facilitate the understanding and study of the UN sanctions regulations by the Subcommittee in the future.</p> <p>Members raised no objection to the Congo Regulation.</p>	of the minutes
004711 – 004933	Chairman Administration ALA9	<p><u>Briefing by the Administration on the United Nations Sanctions (Somalia) (Amendment) Regulation 2014 ("the Amendment Regulation")</u></p> <p>ALA 9's enquiry about the meaning of the new terms "Somali authorities" and "索馬里當局" used in Part 3 sections 8(2)(j) and 9(2)(g) in the English and Chinese texts of the Amendment Regulation respectively.</p>	
004934 – 010120	Chairman Administration ALA9 Dr Kenneth CHAN	<p><u>Study of the mark-up versions of the Amendment Regulation (Annex F to CITB CR 102/53/1)</u></p> <p>In response to the Chairman's request that mark-up versions of the UN sanctions regulations be provided to facilitate the Subcommittee's study of the regulations, the Administration advised that in accordance with the long-established practice, the Administration had been providing the Subcommittee with mark-up version where an existing UN sanctions regulation had been amended. In the case where a new regulation was made essentially to renew or continue the implementation of sanctions imposed on a country, and where the existing regulation had expired or had been repealed, no mark-up version showing amendments made to the existing regulation would normally be prepared by the Administration. In the light of the Chairman's advice, the Administration would consider providing the Subcommittee with information highlighting the differences between the new UN sanctions regulation and the existing one to facilitate the Subcommittee's study on the regulations.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Part 3: Section 8 – Licence for supply, sale, transfer or carriage of certain goods</u></p> <p>The Administration drew members' attention to the revised section 8 (2)(j) and the addition of section 8(2)(k) as per paragraph 14 of Resolution 2125 and paragraph 2 of Resolution 2142 respectively.</p> <p>Noting that two different terms, namely "Somali authorities" and "the Federal Government of Somalia" were used in section 8 (2)(j) and section 8(2)(k) respectively, the Chairman opined that the mere adoption of the terms used in the UNSC Resolutions in the relevant UN sanctions regulations would cause confusion in local legislation. The Administration advised that as clarified with the Office of the Commissioner of the Ministry of Foreign Affairs, there was no difference between the meaning of the two terms.</p> <p>Dr Kenneth CHAN pointed out that under section 8(2)(j), licence would only be granted on the request of Somali authorities for which the Secretary-General of the UN who played a gate-keeping role had been notified. The use of a general term "Somali authorities" in the Amendment Regulation might be due to the political instability in Somalia where the governing authority was subject to change and difficult to define.</p> <p>The Chairman thanked Dr Kenneth CHAN for the explanation proffered which she considered logical and acceptable. She requested the Administration to provide a written explanation for using different terms, such as "the Federal Government of Somalia" and "Somali authorities" in the Amendment Regulation and to address members' concerns about the confusion which such an inconsistency might cause.</p> <p><u>Part 3: Section 9 – Licence for provision of certain advice, assistance or training</u></p> <p>The Administration drew members' attention to the newly added sections 9(2)(g) and 9(2)(h) as per paragraph 14 of Resolution 2125 and paragraph 2 of Resolution 2142 respectively.</p> <p>Members raised no objection to the Amendment</p>	<p>The Administration to take follow-up action as required in paragraph 3(c) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		Regulation.	
010121 – 010323	Chairman Administration Assistant Legal Adviser (ALA1)	<p><u>Briefing by the Administration on the United Nations Sanctions (Yemen) Regulation ("the Yemen Regulation")</u></p> <p>ALA 1 advised that the Yemen Regulation was a brand new UN sanctions regulation to implement in Hong Kong the UNSC Resolution 2140. The drafting approach of this regulation was broadly similar to other UN sanctions regulations.</p>	
010324 – 010858	Chairman Administration	<p><u>Study of the Yemen Regulation (Annex A to CITB CR 75/53/9)</u></p> <p><u>Section 3: Prohibition against entry or transit by certain persons</u></p> <p>The Administration advised that the UN sanctions committee established pursuant to the relevant UNSC Resolution had not designated any specified persons prohibited to enter into or transit through UN Member States' territories.</p> <p>Members raised no objection to the Yemen Regulation.</p>	