

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 ninth meeting on
Tuesday, 9 June 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan, JP (Chairman)
Hon NG Leung-sing, SBS, JP
Hon Dennis KWOK
Hon Martin LIAO Cheung-kong, SBS, JP

Members absent : Hon James TO Kun-sun
Hon IP Kwok-him, GBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon Kenneth LEUNG

Public officers attending : Ms Carol YUEN Siu-wai, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)¹

Mr Sam HUI Chark-shum
Principal Assistant Secretary for Commerce and Economic
Development (Commerce and Industry)²

Miss Michelle FUNG Bun-bun
Acting Senior Government Counsel (Treaties and Law)

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

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Ms Wendy KAN
Assistant Legal Adviser 6

Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Connie HO
Senior Council Secretary (1)3

Action

I. Meeting with the Administration

(File Ref: CITB CR 104/53/1 -- Legislative Council Brief on United Nations Sanctions (Liberia) Regulation 2015 and United Nations Sanctions (Liberia) Regulation 2014 (Repeal) Regulation

LC Paper No. LS55/14-15 -- Legal Service Division Report on L.N. 69 and 70 for the House Committee meeting on 10 April 2015

File Ref: CITB CR 75/53/8 -- Legislative Council Brief on United Nations Sanctions (Central African Republic) Regulation 2015

File Ref: CITB CR 75/53/4 -- Legislative Council Brief on United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015

- LC Paper No. LS63/14-15 -- Legal Service Division Report on L.N. 82 and 83 for the House Committee meeting on 8 May 2015
- File Ref: CITB CR 75/53/5/1 -- Legislative Council Brief on United Nations Sanctions (South Sudan) Regulation
- LC Paper No. LS69/14-15 -- Legal Service Division Report on L.N. 104 for the House Committee meeting on 5 June 2015)

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

2. The Subcommittee completed the study of the United Nations Sanctions (Liberia) Regulation 2015, the United Nations Sanctions (Liberia) Regulation 2014 (Repeal) Regulation, the United Nations Sanctions (Central African Republic) Regulation 2015, the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015 and the United Nations Sanctions (South Sudan) Regulation.

II. Any other business

3. There being no other business, the meeting ended at 5:26 pm.

Council Business Division 1
Legislative Council Secretariat
23 July 2015

**Proceedings of the ninth 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, 9 June 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000343	Chairman	Opening remarks by the Chairman.	
000344 – 001109	Chairman Mr NG Leung-sing Administration	<p>The Administration briefed members on its response to the issues raised at the Subcommittee meeting held on 16 February 2015 (LC Paper No. CB(1)887/14-15(01)).</p> <p>Mr NG Leung-sing noted that the Macao Special Administrative Region Government ("MSARG") implemented resolutions of the Security Council of the United Nations ("UNSC") in relation to sanctions by publication of the concerned UNSC resolutions in MSAR Gazette upon receiving relevant instructions from the Ministry of Foreign Affairs ("MFA") of the People's Republic of China ("PRC"). He enquired whether the Administration would consider simplifying the processes for implementing sanctions of the United Nations ("UN") in Hong Kong by making reference to the aforesaid practice of the MSARG.</p> <p>The Administration advised that the implementation of UNSC resolutions in Hong Kong concerned the discharge of PRC's international obligation to the UN. The Government of the Hong Kong Special Administrative Region ("HKSAR") implemented UN sanctions in Hong Kong by enactment of local legislation, namely the United Nations Sanctions Ordinance ("UNSO") (Cap. 537), and regulations made by the Chief Executive ("CE") under section 3(1) of UNSO upon receipt of instructions from the MFA. Given that the implementation of UN sanctions by way of local legislation provided an expressed legal basis for enforcement of the relevant UN sanctions applicable in Hong Kong and had all along been effective, the Administration considered that the current mechanism should be maintained.</p>	

Time marker	Speaker	Subject(s)	Action required
001110 – 001456	Chairman Mr Martin LIAO Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Liberia) Regulation 2015 ("the Liberia Regulation 2015 ") and the United Nations Sanctions (Liberia) Regulation 2014 (Repeal) Regulation ("the Repeal Regulation")</u></p> <p>Considering that some clauses in UNSC resolutions, for example, the expression of grave concern about the outbreak of the Ebola virus in and its impact on West Africa including Liberia (page 1 of UNSC Resolution 2188) might not be directly related to sanctions, and that the issues concerned might be under the purview of different policy bureaux, the Chairman and Mr Martin LIAO were of the view that the implementation of UN sanctions by way of gazettal of the relevant UNSC resolutions, as in the case of the MSARG, might give rise to implementation and enforcement problems.</p>	
001457 – 002020	Chairman Administration	<p><u>Study of the marked-up version of the Liberia Regulation 2015 (Annex E to CITB CR 104/53/1) and the Repeal Regulation (Annex B to CITB CR 104/53/1)</u></p> <p>The Administration advised that the scope of sanctions provided for in the Liberia Regulation 2015 was broadly the same as that in the previous Regulation, i.e. the United Nations Sanctions (Liberia) Regulation 2014 ("the 2014 Regulation") to be repealed, and the revisions made to the 2014 Regulation were mainly technical amendments.</p> <p><u>Part 2 Section 10 - Licence for provision of certain assistance, advice or training</u></p> <p>The Administration advised that section 10(2)(b) in the 2014 Regulation (i.e. the provision of assistance, advice or training relating to protective clothing, including flak jackets and military helmets, to be temporarily exported to Liberia by the personnel of the UN, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only) was deleted to ensure that the scope of sanction provided for in the Liberia Regulation 2015 was consistent with that stipulated in UNSC Resolution 2188.</p>	

Time marker	Speaker	Subject(s)	Action required
		Members raised no objection to the Liberia Regulation 2015 and the Repeal Regulation.	
002021 – 002849	Chairman SALA1 Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Central African Republic) Regulation 2015 ("the Central African Republic Regulation 2015")</u></p> <p>SALA1 enquired about the reason for the difference in the drafting of section 2(2) of the Central African Republic Regulation 2015 and section 2(2) of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015 ("the Congo Regulation 2015") relating to the prohibition against supply, sale or transfer of certain goods.</p> <p>The Administration advised that –</p> <p>(a) the target of prohibitions in section 2(2) of the Central African Republic Regulation 2015 was the "Central African Republic" while that of the Congo Regulation 2015 was "a person operating in the territory of the Democratic Republic of the Congo"; and</p> <p>(b) section 2(2) of the respective regulations were drafted with reference to the relevant UNSC resolutions (i.e. paragraph 1 in UNSC Resolution 2196 for the Central African Republic Regulation 2015 and paragraph 1 in UNSC Resolution 1807 for the Congo Regulation 2015) and reflected the wordings used therein.</p> <p>At the Chairman's request, the Administration tabled for members' reference, the relevant part of UNSC Resolution 1807 which was not provided in the Legislative Council Brief on the Congo Regulation 2015 (CITB CR 75/53/4).</p> <p>(Post-meeting note: UNSC Resolution 1807 was circulated to Subcommittee members vide LC Paper No. CB(1)972/14-15(01) issued on 10 June 2015.)</p>	
002850 – 003439	Chairman Administration	<u>Study of the marked-up version of the Central African Republic Regulation 2015 (Annex D to CITB CR 75/53/8)</u>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Part 1 Section 1 - Interpretation</u></p> <p>The Administration briefed members that –</p> <p>(a) the Subcommittee had advised at a previous meeting that the definitions of not commonly used terms which the industries might not be familiar with should be provided in the regulations to facilitate public understanding of the regulations concerned. Pursuant to the Subcommittee's advice, the definitions of the new terms "MINUSCA" (中非穩定團) and "AU-RTF" (非盟特混部隊) were provided under Section 1.</p> <p>(b) the definition of the term "relevant entity" had been expanded to include "an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the CE as a relevant person or relevant entity" ("specified person/entity").</p> <p>Citing the example of money laundering cases, the Chairman relayed the accounting sector's concern about whether an accountant, who had rendered professional services for a company that had a connection with a specified person/entity during their normal course of business, would be subject to any legal liability.</p> <p>The Administration advised that if the persons concerned did not know that their clients and/or the sources of funds of their clients were connected with the specified person/entity, they could use this reason as a defence.</p>	
003440 – 003752	Chairman Mr Martin LIAO Administration	<p><u>Part 3 Section 9 - Licence for provision of certain assistance or training</u></p> <p>In response to Mr Martin LIAO's enquiry, the Administration advised that MINUSCA and AU-RTF were multi-national peacemaking operation of UN and the African Union and not mercenaries.</p> <p>Members raised no objection to the Central African Republic Regulation 2015.</p>	

Time marker	Speaker	Subject(s)	Action required
003753 – 003932	Chairman Administration	<u>Briefing by the Administration on the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015</u>	
003933 – 004024	Chairman SALA1	In response to the Chairman, SALA1 confirmed that section 2(2) of the Congo Regulation 2015 was drafted with reference to paragraph 1 of the UNSC Resolution 1807 tabled by the Administration.	
004025 – 004453	Chairman Administration	<p><u>Study of the marked-up version of the Congo Regulation 2015 (Annex D to CITB CR 75/53/4)</u></p> <p><u>Part 1 Section 1 - Interpretation</u></p> <p>The Administration advised that –</p> <p>(a) in line with the drafting practice of the previous regulations relating to sanctions on Congo, the long form of some new terms, namely the "United Nations Organization Stabilization Mission" and the "African Union-Regional Task Force" were used in the Congo Regulation 2015. The definitions of these terms were thus not provided under section 1 of the Congo Regulation 2015; and</p> <p>(b) the Administration would consider providing definitions for the relevant terms in future exercises if view was received from the industry that this might help enhance the readability of the regulations.</p> <p>Members raised no objection to the Congo Regulation 2015.</p>	
004454 – 004812	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (South Sudan) Regulation ("the South Sudan Regulation")</u></p> <p>The Administration advised that the South Sudan Regulation was a new regulation made under UNSO. It sought to implement UNSC Resolution 2206 by providing for the prohibition against –</p> <p>(a) making available to, or for the benefit of, certain persons or entities any funds or other</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>financial assets or economic resources;</p> <p>(b) dealing with any funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and</p> <p>(c) entry into or transit through HKSAR by certain persons.</p>	
004813 – 004828	Chairman ALA6	In response to the Chairman's enquiry, ALA6 advised that the provisions in the South Sudan Regulation were drafted with reference to the relevant UNSC resolution (i.e. UNSC Resolution 2206) and were broadly similar to those in other regulations made pursuant to UNSO.	
004829 – 005509	Chairman Administration	<u>Study of the South Sudan Regulation (Annex A to CITB CR 75/53/5/1)</u> Members raised no objection to the South Sudan Regulation.	