

立法會
Legislative Council

LC Paper No. CB(1)1170/15-16
(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 the twelfth meeting
on Tuesday, 14 June 2016, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

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

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

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

Clerk in attendance: Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Connie HO
Senior Council Secretary (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Meeting with the Administration

(File Ref: CITB CR 75/53/8 -- Legislative Council Brief on
United Nations Sanctions
(Central African Republic)
Regulation 2016

File Ref: CITB CR 75/53/9 -- Legislative Council Brief on
United Nations Sanctions
(Yemen) Regulation 2015
(Amendment) Regulation 2016

LC Paper No. LS56/15-16 -- Legal Service Division Report
on L.N. 90 and L.N. 91 for the
House Committee meeting on 3
June 2016)

Deliberation on the way forward

The Chairman informed members that the Subcommittee would submit a report to the House Committee ("HC") at its meeting on 24 June 2016 to give an account of its work on the study of the regulations made under the United Nations Sanctions Ordinance ("UNSO") (Cap. 537), which were referred by HC in the Fifth Legislative Council ("LegCo").

2. Given that regulations made under UNSO would be submitted by the Government to LegCo from time to time, the Subcommittee agreed to recommend that a dedicated subcommittee under HC in the Sixth LegCo be set up to deal with these regulations. Under this arrangement, future regulations made under UNSO and gazetted would be considered by

Members at HC meetings for the whole LegCo term, and where necessary, these regulations would be referred to the dedicated subcommittee for study.

3. The Subcommittee also agreed that for regulations made under UNSO which involved minor amendments such as date of commencement and number of the Resolution of the Security Council of the United Nations, the dedicated subcommittee might adopt a streamlined approach to study the regulations by circulating the information papers provided by the Administration instead of going through the regulations by conducting section-by-section examination at the meetings.

4. Members noted that the above recommendations would be included in the report of the work of the Subcommittee to be submitted to HC at its meeting on 24 June 2016.

Study of the United Nations Sanctions (Central African Republic) Regulation 2016 and the United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2016

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

6. The Subcommittee completed the study of the United Nations Sanctions (Central African Republic) Regulation 2016 and the United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2016 ("the Yemen Amendment Regulation").

Follow-up actions of the Administration

7. In relation to the Yemen Amendment Regulation, the Administration was requested to –

- (a) advise the Subcommittee whether Yemen was one of the Belt and Road countries; and
- (b) provide information on whether the countries being sanctioned were Belt and Road countries in future LegCo Briefs on regulations made under UNSO.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1070/15-16(01) on 24 June 2016.)

II. Any other business

8. There being no other business, the meeting ended at 11:20 am.

Council Business Division 1
Legislative Council Secretariat
22 August 2016

**Proceedings of the twelfth 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, 14 June 2016, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
|-----------------|--|--|-----------------|
| 000000 – 000821 | Chairman | Opening remarks by the Chairman. Deliberation on the way forward. | |
| 000822 – 001039 | Chairman Administration | <u>Briefing by the Administration on the United Nations Sanctions (Central African Republic) Regulation 2016 ("the Central African Republic Regulation 2016") (L.N. 90 of 2016)</u> | |
| 001040 – 001551 | Chairman Mr Kenneth LEUNG Administration | <p><u>Study of the marked-up version of the Central African Republic Regulation 2016 (Annex D to CITB CR 75/53/8)</u></p> <p><u>Part 1: Preliminary</u> <u>Section 1 – Interpretation</u></p> <p>Members raised no question.</p> <p><u>Part 2: Prohibitions</u> <u>Section 3 – Prohibition against carriage of certain goods</u></p> <p>In response to Mr Kenneth LEUNG's enquiry about the rationale for the amendment to sections (1)(b) and (d) (i.e. to substitute "Hong Kong" for "the HKSAR" after "the waters of" under section (1)(b); and to substitute "Hong Kong" for "the HKSAR" under section 3(1)(d) and the use of the references "Hong Kong" and "HKSAR" in local legislation, the Administration's advice that –</p> <p>(a) given that the term "waters of Hong Kong" was a legal concept which was defined under the Interpretation and General Clauses Ordinance (Cap. 1), it was a common practice to adopt this term in local legislation when referring to the waters of the territory. In the light of the above, the Administration took the opportunities to replace the term "waters of the HKSAR" with "waters of Hong Kong" in regulations made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") when making amendment to the existing</p> | |

| Time marker | Speaker | Subject(s) | Action required |
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| | | <p>regulations; and</p> <p>(b) both the terms "HKSAR" and "Hong Kong" were currently used in local legislation. The Administration advised that it would depend on the context of the relevant provisions of the concerned legislation in determining whether the reference "Hong Kong" or "HKSAR" should be used.</p> <p>In response to the Chairman's enquiry, the Administration's confirmation that the terms "waters of Hong Kong" and "Hong Kong air space" instead of "waters of the HKSAR" and "the HKSAR air space" would be adopted in new regulations made under UNSO when referring to the waters and air space of the territory.</p> | |
| 001552 – 001930 | Chairman Administration | <p><u>Part 3: Licences</u> <u>Part 4: Things Done outside HKSAR</u> <u>Part 5: Enforcement of Regulation</u> <u>Part 6: Evidence</u> <u>Part 7: Disclosure of Information or Documents</u> <u>Part 8: Other Offences and Miscellaneous Matters</u> <u>Part 9: Duration</u></p> <p>Members raised no question.</p> <p>Members completed the study of the Central African Republic Regulation 2016 and raised no objection to the Regulation.</p> | |
| 001931 – 002213 | Chairman Mr Kenneth LEUNG Administration | <p><u>Briefing by the Administration on the United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2016 ("the Yemen Amendment Regulation") (L.N. 91 of 2016)</u></p> <p>In response to Mr Kenneth LEUNG's enquiry and at the request of the Chairman, the Administration's undertaking to –</p> <p>(a) advise the Subcommittee whether Yemen was one of the Belt and Road countries; and</p> <p>(b) provide information on whether the countries being sanctioned were Belt and Road countries in future Legislative Council ("LegCo") Briefs on regulations made under UNSO.</p> | <p>The Administration to take follow-up action as required in paragraph 7(a) and (b) of the minutes.</p> |

| Time marker | Speaker | Subject(s) | Action required |
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| 002214 – 002938 | Chairman Administration | <p><u>Study of the marked-up version of the Yemen Amendment Regulation</u> (Annex D to CITB CR 75/53/9)</p> <p><u>Part 1: Preliminary</u> <u>Part 2: Prohibitions</u> <u>Part 3A: Licence</u></p> <p>In response to the Chairman's enquiry, the Administration's explanation that new provisions with content similar to the original provisions were added to the regulation because the original provisions had expired prior to this amendment exercise in accordance with the duration specified in the regulation. Therefore, the Administration had to reinstate the expired provisions by adding new provisions to the regulation.</p> | |
| 002939 – 003440 | Chairman Mr Kenneth LEUNG ALA10 Administration | <p><u>Part 4: Things Done outside HKSAR</u> <u>Part 5: Enforcement of Regulation</u> <u>Part 6: Evidence</u> <u>Part 7: Disclosure of Information or Documents</u></p> <p>Members raised no question.</p> <p><u>Part 8: Other Offences and Miscellaneous Matters</u></p> <p>In response to Mr Kenneth LEUNG's enquiry, the Administration's advice that to avoid confusion, new provisions reinstating expired old provisions would be given new section numbers. It was the usual practice adopted by the Department of Justice when making amendments to existing legislation.</p> <p><u>Part 9: Duration</u></p> <p>Members raised no question.</p> <p>Members completed the study of the Yemen Amendment Regulation and raised no objection to the Regulation.</p> | |
| 003441 – 003613 | Chairman Administration | <p>The Chairman's advice that as it would be unlikely for the Subcommittee to convene a further meeting before the prorogation of the Fifth LegCo on 16 July 2016, regulations made under UNSO to be gazetted after this meeting, if any, would be studied by the dedicated subcommittee recommended to be set up under the House</p> | |

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| | | Committee in the Sixth LegCo. | |

Council Business Division 1
Legislative Council Secretariat
22 August 2016