

**立法會**  
**Legislative Council**

LC Paper No. CB(1)380/16-17  
(These minutes have been seen  
by the Administration)

Ref : CB1/HS/1/16

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

**Minutes of first meeting on  
Tuesday, 8 November 2016, at 3:00 pm  
in Conference Room 2B of the Legislative Council Complex**

**Members present** : Hon Kenneth LEUNG (Chairman)  
Hon Dennis KWOK Wing-hang  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon Holden CHOW Ho-ding  
Hon Tanya CHAN

**Public officers attending** : Agenda item II  
  
Ms Vivian SUM, JP  
Deputy Secretary for Commerce and Economic  
Development (Commerce and Industry) 1  
  
Ms Leona LAW  
Principal Assistant Secretary for Commerce and  
Economic Development (Commerce and Industry) 2  
  
Ms Carmen CHAN  
Acting Senior Government Counsel  
  
Mr David NG  
Government Counsel (Treaties and Law)

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

**Staff in attendance:** Miss Rachel DAI  
Assistant Legal Adviser 2

Ms Clara TAM  
Assistant Legal Adviser 9

Mr Joey LO  
Senior Council Secretary (1)8

Miss Judy YEE  
Council Secretary (1)3

Ms May LEUNG  
Legislative Assistant (1)3

Miss Zoe YIP  
Clerical Assistant (1)3

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Action

**I. Election of Chairman**

Mr Kenneth LEUNG, the member who had the highest precedence among those who joined the Subcommittee, presided over the election of the Chairman of the Subcommittee for the Sixth Legislative Council ("LegCo").

2. Mr Kenneth LEUNG invited nominations for the chairmanship of the Subcommittee. Mr Kenneth LEUNG was nominated by Ms Tanya CHAN and the nomination was seconded by Mr Martin LIAO. Mr Kenneth LEUNG accepted the nomination.

3. There being no other nominations, Mr Kenneth LEUNG was declared Chairman of the Subcommittee for the Sixth LegCo.

4. Members agreed that it was not necessary to elect a Deputy Chairman.

**II. Meeting with the Administration**

(LC Paper No. LS1/16-17

-- Legal Service Division Report on subsidiary legislation gazetted between 21 June and 30 September 2016 (L.N. 111) for the House Committee ("HC") meeting on 14 October 2016 enclosing:

File Ref: CITB CR 95/53/1  
Legislative Council Brief on United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016

File Ref: CITB CR 75/53/4

-- Legislative Council Brief on United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016

File Ref: CITB CR 75/53/5/1

-- Legislative Council Brief on United Nations Sanctions (South Sudan) Regulation 2016

LC Paper No. LS3/16-17

-- Legal Service Division Report on subsidiary legislation gazetted on 14 October 2016 (L.N. 157 and L.N. 158) for the HC meeting on 21 October 2016 (discussed at the HC meeting on 28 October 2016)

LC Paper No. CB(1)75/16-17(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)

Background information

- LC Paper No. CB(1)1058/15-16 -- 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 24 June 2016
- LC Paper No. CB(2)4/16-17(03) -- Extract of paragraph 22 from the minutes of the 30th House Committee meeting on 24 June 2016
- LC Paper No. CB(2)4/16-17(02) -- Extract of paragraphs 3 and 4 from the minutes of the 31st House Committee meeting on 8 July 2016)

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

6. The meeting was suspended at 3:23 pm and resumed at 3:25 pm (Details were set out at Annex [Time marker: 002226 to 002419]).

7. The Subcommittee completed the study of the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016, the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016 ("DR Congo Regulation") and the United Nations Sanctions (South Sudan) Regulation 2016.

Follow-up actions by the Administration

8. In relation to the DR Congo Regulation, the Administration was requested to:

- (a) provide an explanation on why the phrase "through the HKSAR" existed in sections 7(a), (b), (c) and (d) but not in section 7(e) of the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015 (Cap. 537BN); and
- (b) address members' concern about the textual ambiguity which the deletion of the phrase "through the HKSAR" in sections 7(b), (c) and (d) of the DR Congo Regulation might create.

*(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)205/16-17(01) on 29 November 2016.)*

**III. Any other business**

9. There being no other business, the meeting ended at 3:48 pm.

Council Business Division 1  
Legislative Council Secretariat  
30 December 2016

**Proceedings of the first 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, 8 November 2016, at 3:00 pm  
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000005 – 000230	Mr Kenneth LEUNG Mr Martin LIAO Ms Tanya CHAN	<u>Election of Chairman</u>  Mr Kenneth LEUNG was elected Chairman of the Subcommittee for the Sixth Legislative Council.	
000231 – 000800	Chairman Administration	<u>Briefing by the Administration on the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016 ("the Amendment Regulation")</u>  The Administration introduced the Amendment Regulation which sought to amend the United Nations Sanctions (Libya) Regulation 2011 (Cap. 537AW) to implement Resolution 2278 of the Security Council of the United Nations ("UNSC") to extend the sanctions imposed against Libya in respect of the prevention of illicit oil exports until 31 July 2017.	
000801 – 001144	Chairman Administration	<u>Section-by-section examination of the marked-up version of the Amendment Regulation (Annex D to CITB CR 95/53/1)</u>  <u>Part 1 : Preliminary</u> <u>Section 1 – Interpretation</u>  In response to the Chairman's enquiry about the rationale behind substituting "under" for "in accordance with" in the definition of "relevant entity", the Administration advised that the word "under" would more appropriately describe the situation where the Chief Executive was empowered under section 38(a) of Cap. 537AW as amended to take measures against a relevant person or relevant entity, whereas the phrase "in accordance with" was generally used to describe a situation where a set of procedures was being followed. The Chairman urged the Administration to use the terms with consistency when drafting legislation to avoid confusion.	

Time marker	Speaker	Subject(s)	Action required
001145 – 001440	Chairman Administration	<p><u>Part 2 : Prohibitions</u>  <u>Section 3E – Prohibition against loading, transport or discharge of crude oil</u>  <u>Section 3F – Exceptions to prohibition under section 3E</u></p> <p>In response to the Chairman's enquiry on drafting conventions and practices, the Administration advised that 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. The Administration advised that sections 3C and 3D had expired at midnight on 31 March 2016, and had been reinstated by the new sections 3E and 3F respectively.</p>	
001441 – 001630	Chairman Administration	<p><u>Part 3: Licences</u>  <u>Section 15A – Licence for provision of certain services to certain ships</u></p> <p>In response to the Chairman's enquiry, the Administration advised that the new section 15A was added to replace the expired section 10E(1), which was drafted in the form of an exception provision, to the effect that the relevant prohibition did not apply if the provision of the specified services was necessary for, inter alia, humanitarian purposes. The new section 15A was not drafted in the form of an exception provision. The new section 15A provided that the prohibition would not apply if, on application, a licence was granted by the Chief Executive for the provision of specified services to a ship designated under paragraph 11 of UNSC Resolution ("UNSCR") 2146 by the Committee established pursuant to paragraph 24 of UNSCR 1970 ("the Libya Committee").</p>	
001631 – 001715	Chairman 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>	

Time marker	Speaker	Subject(s)	Action required
001716 – 001859	Chairman Administration	<p><u>Part 8 : Other Offences and Miscellaneous Matters</u> <u>Section 42 – Duration</u></p> <p>In response to the Chairman's enquiry, the Administration advised that the new section 42 was added to replace section 41 which had expired at midnight on 31 March 2016. Section 40 was non-existent in the marked-up version as it was a provision which had expired prior to this amendment exercise.</p>	
001900 – 002225	Chairman Mr Holden CHOW Assistant Legal Adviser 2 ("ALA 2") Administration	<p><u>Part 3: Licences</u> <u>Section 15A – Licence for provision of certain services to certain ships</u></p> <p>In response to Mr Holden CHOW's further enquiry, the Administration explained the rationale for the addition of the new section 15A.</p> <p>The Administration advised that the new section 15A was added to provide that an application for licence had to be made for the provision of specified services to certain ships under certain circumstances. This new arrangement was to ensure that the Administration would become aware of the provision of specified services to designated ships, and thus would be able to notify the Libya Committee as requested by the UNSC.</p> <p>In response to the Chairman's enquiry, ALA2 advised that no legal or drafting difficulties were identified in respect of the Amendment Regulation.</p> <p>Members completed the study of the Amendment Regulation and raised no objection to the Amendment Regulation.</p>	
002226 – 002419	Chairman	The Chairman suspended the meeting for about two minutes to allow technicians to fix a problem with the recording system.	
002420 – 002720	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2016 ("DR Congo Regulation")</u></p> <p>The Administration introduced the DR Congo Regulation which sought to implement the sanctions against the Democratic Republic of the Congo ("DR Congo") as renewed by UNSCR 2293</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>adopted by the UNSC on 23 June 2016. The United Nations Sanctions (Democratic Republic of the Congo) Regulation 2015 (Cap. 537BN) expired at midnight on 1 July 2016.</p>	
002721 – 003015	Chairman Administration	<p><u>Section-by-section examination of the marked-up versions of the DR Congo Regulation (Annex E to CITB CR 75/53/4)</u></p> <p><u>Part 1 : Preliminary</u> <u>Section 1 – Interpretation</u></p> <p>In response to the Chairman's enquiry regarding the validity of UNSCRs 1533 and 1807, the Administration advised that since 2003, UNSC had adopted various resolutions imposing sanctions against DR Congo in view of the threats constituted by the situation in DR Congo to international peace and security to the region. These resolutions had been implemented by regulations made under United Nations Sanctions Ordinance ("UNSO") (Cap. 537). UNSCRs 1533 and 1807 were examples of such resolutions and certain provisions of the two UNSCRs were still valid.</p>	
003016 – 003503	Chairman Mr Holden CHOW Administration	<p><u>Part 2 : Prohibitions</u> <u>Section 7 – Exceptions to prohibition against entry or transit by certain persons</u></p> <p>The Chairman and Mr Holden CHOW raised concern over the ambiguity which the deletion of the phrase "through the HKSAR" in sections 7(b), (c) and (d) of the DR Congo Regulation might create.</p> <p>The Administration explained that the deletion served as an ellipsis from the construction of sections 7(b), (c) and (d) to avoid repeating the identical phrase that already existed in section 7(a). The deletion also sought to simplify the relevant provisions without changing their meaning. The Chairman stressed that it was an important principle in law drafting that simplicity should not be pursued at the expense of clarity.</p> <p>The Administration advised that the deletion in sections 7(b), (c) and (d) would not cause ambiguity in interpretation as the sections were</p>	The Administration to take

Time marker	Speaker	Subject(s)	Action required
		<p>compact in structure. Nevertheless, the Administration undertook to address members' concern about the ambiguity which the deletion of the phrase "through the HKSAR" in sections 7(b), (c) and (d) of the DR Congo Regulation might create.</p> <p>In response to the Chairman's enquiry, the Administration advised that "relevant entry" under section 7(a) referred to the entry described under section 6 – Prohibition against entry or transit by certain persons.</p>	<p>follow-up action as required in paragraph 8 (b) of the minutes.</p>
003504 – 003700	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>	
003701 – 004200	Chairman Mr Holden CHOW Assistant Legal Adviser 9 ("ALA 9") Administration	<p><u>Part 2 : Prohibitions</u>  <u>Section 7 – Exceptions to prohibition against entry or transit by certain persons</u></p> <p>At the request of Mr Holden CHOW and the Chairman, the Administration would provide information on why the phrase "through the HKSAR" existed in sections 7(a), (b), (c) and (d) but not in section 7(e) of Cap. 537BN.</p> <p>ALA 9 pointed out that while the phrase "through the HKSAR" was deleted in sections 7(b), (c) and (d) of the English version of the DR Congo Regulation, no deletions were correspondingly made in the Chinese version of the relevant sections.</p> <p>The Administration advised that, having thoroughly examined the English and Chinese versions of section 7 of the DR Congo Regulation, it had come to the conclusion that there was no room for making corresponding deletions for the sake of conciseness in the Chinese version of the relevant sections.</p> <p>Members completed the study of the DR Congo</p>	<p>The Administration to take follow-up action as required in paragraph 8 (a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		Regulation and raised no objection to the DR Congo Regulation.	
004201 – 004412	Chairman Administration	<p><u>Briefing by the Administration on the United Nations Sanctions (South Sudan) Regulation 2016 ("South Sudan Regulation")</u></p> <p>The Administration introduced the South Sudan Regulation which sought to implement the sanctions against South Sudan as renewed by UNSCR 2290, adopted by UNSC on 31 May 2016. The United Nations Sanctions (South Sudan) Regulation (Cap. 537BO) expired at midnight on 2 March 2016.</p>	
004413 – 004500	Chairman Administration	<p><u>Section-by-section examination of the marked-up version of the South Sudan Regulation (Annex E to CITB CR 75/53/5/1)</u></p> <p><u>Part 1: Preliminary</u> <u>Part 2: Prohibitions</u></p> <p>Members raised no question.</p>	
004501 – 004605	Chairman Administration	<p><u>Part 3 : Licence</u> <u>Section 5 – Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities</u></p> <p>In response to the Chairman's enquiry, the Administration advised that the addition of "or entity" and "or a relevant entity" in section 5(2)(d) was made to reflect the coverage of "entity" in addition to "person" under UNSCR 2290, and was in line with the drafting practice of other regulations made under section 3 of UNSO.</p>	
004606 – 004617	Chairman Administration	<p><u>Part 4 : Things Done outside HKSAR</u> <u>Part 5 : Evidence</u> <u>Part 6 : Disclosure of Information or Documents</u> <u>Part 7 : Other Offences and Miscellaneous Matters</u></p> <p>Members raised no question.</p>	
004618 – 004732	Chairman ALA 9 Administration	<p><u>Part 8 : Duration</u> <u>Section 17 – Duration</u></p> <p>In response to the Chairman's enquiry regarding the time gap between the expiration of Cap.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>537BO and the gazettal of the South Sudan Regulation to implement the sanctions in HKSAR, the Administration advised that UNSCR 2290 against South Sudan was adopted by UNSC on 31 May 2016. Upon receipt of the instruction to implement UNSCR 2290 from the Ministry of Foreign Affairs ("MFA") in July 2016, the Administration gazetted on 14 October 2016 the South Sudan Regulation which came into operation on the same date. There was a time gap of about three months between the receipt of the MFA's instructions and the gazettal of the South Sudan Regulation.</p> <p>In response to the Chairman's enquiry, ALA 9 advised that no legal or drafting difficulties were identified in respect of the South Sudan Regulation.</p> <p>Members completed the study of the South Sudan Regulation and raised no objection to the South Sudan Regulation.</p>	
004733 – 004813	Chairman	End of meeting.	