

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

UNITED NATIONS SANCTIONS
(CÔTE D’IVOIRE) REGULATION 2006

INTRODUCTION

At the meeting of the Executive Council on 14 March 2006, the Council advised and the Chief Executive ordered that the United Nations Sanctions (Côte d’Ivoire) Regulation 2006 (“the Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The Regulation was gazetted on 17 March 2006 and came into effect on the same day.

BACKGROUND

Obligation and Authority

2. Under section 3(1) of the Ordinance, the Chief Executive (“CE”) is required to make regulations to give effect to an instruction of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In January 2006, the CE received specific instruction from MFA which requested the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement United Nations Security Council Resolution (“UNSCR”) 1643. The Regulation was made in pursuance of that instruction. A document issued by the Chief Secretary for Administration confirming MFA’s instruction is at Annex B.

A

B

UNSCR 1643

C

3. UNSCR 1643 (at Annex C) was adopted on 15 December 2005 by UNSC which decided, inter alia:

- (a) to renew until 15 December 2006 the provisions of paragraphs 7 to 12 of UNSCR 1572 (paragraph 1 of UNSCR 1643); and
- (b) that all States shall take the necessary measures to prevent the import of all rough diamonds from Côte d'Ivoire to their territory (paragraph 6 of UNCSR 1643).

UNSCR 1572

D

4. Under paragraphs 7 and 8 of UNSCR 1572 (at Annex D), all States shall, subject to certain exceptions, take the necessary measures to prevent the direct or indirect supply, sale or transfer to Côte d'Ivoire, from their territories or by their nationals, or using their flag vessels or aircraft, of arms or any related material, in particular military aircraft and equipment, as well as the provision of any assistance, advice or training related to military activities.

5. Under paragraphs 9 and 10 of UNSCR 1572, all States shall, subject to certain exceptions, take the necessary measures to prevent the entry into or transit through their territories of all persons designated by the Committee established by paragraph 14 of UNSCR 1572 ("the Committee"), who constitute a threat to the peace and national reconciliation process in Côte d'Ivoire, provided that these measures shall not oblige a State to refuse entry into its territory to its own nationals.

6. Under paragraphs 11 and 12 of UNSCR 1572, all States shall, subject to certain exceptions, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of adoption of UNSCR 1572 or at any time thereafter, owned or controlled directly or indirectly by the persons designated pursuant to paragraph 9 of UNSCR 1572 by the Committee, or that are held by

entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction, as designated by the Committee, and that all States shall ensure that any funds, financial assets or economic resources are prevented from being made available, by their nationals or by any persons within their territories, to or for the benefit of such persons or entities.

THE REGULATION

7. The Regulation, at Annex A, implements sanctions decided under UNSCR 1643. The main provisions are -

- (a) section 1 which provides that all sections, except those relating to import of rough diamonds, will expire at midnight on 15 December 2006; there is no expiry date in respect of those sections relating to import of rough diamonds;
- (b) sections 3 to 6 which provide for prohibition against supply, delivery and carriage of arms and related material to Côte d'Ivoire;
- (c) section 7 which provides for prohibition against provision to persons connected with Côte d'Ivoire of advice, assistance or training related to military activities;
- (d) section 8 which provides for prohibition against making available funds, other financial assets or economic resources to or for the benefit of a person specified by the CE in accordance with section 37 ("relevant person"), or to or for the benefit of an entity specified by the CE in accordance with section 37 ("relevant entity");
- (e) section 9 which provides for prohibition against importation of rough diamonds from Côte d'Ivoire;
- (f) sections 10 and 11 which provide for prohibition against entry into or transit through HKSAR by certain specified persons;

- (g) sections 12 to 15 which provide for the granting of licence for the supply, delivery or carriage of arms and related material; provision of assistance or training related to military activities; or making available funds, other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity, where the exceptions provided for in UNSCR 1572 are satisfied;
- (h) sections 17 to 29 which provide for the enforcement powers; and
- (i) section 37 which provides that the CE may by notice published in the Gazette specify a person or an entity referred to in the list maintained by the Committee for the purposes of paragraph 11 of UNSCR 1572 as a relevant person or a relevant entity.

IMPLICATIONS OF THE REGULATION

8. The Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, civil service, economic, productivity, environmental or sustainability implications.

PUBLICITY

9. A press release was issued on 17 March 2006 when the Regulation was published in the Gazette.

RELATED MATTER

10. Between receipt of MFA's instruction in January 2006 and the making of the Regulation, some of the sanctions imposed under UNSCR 1643 were implemented through existing law as follows :

- (a) in respect of prohibition against sale or supply of arms and related material, Regulation 2 of the Import and Export (Strategic Commodities) Regulations (Cap. 60G) provides that no person shall import or export an article specified in Schedule 1 to the Regulations except under and in accordance with an import or export licence issued by the Director-General of Trade and Industry. The Trade and Industry Department maintains import and export control on strategic commodities, including munition items, chemical and biological weapons and their precursors, nuclear materials and equipment, and dual-use goods that are capable to be developed into weapons of mass destruction;

- (b) in respect of prohibition against entry into Hong Kong, section 7 of the Immigration Ordinance (Cap. 115) provides that a person may not land in Hong Kong without the permission of an immigration officer or immigration assistant unless he enjoys the right of abode or may land in Hong Kong by virtue of section 9(1) or 10(1) of Cap. 115; and

- (c) in respect of prohibition against importation of rough diamonds, section 6C(1) of the Import and Export Ordinance (Cap. 60) and First Schedule to the Import and Export (General) Regulations (Cap. 60A) provide that a licence under section 3 of Cap. 60 is required for importing rough diamonds into Hong Kong. The HKSAR Government has made these provisions to fulfil the requirement of the Kimberley Process¹. The Trade and Industry Department maintains import control on rough diamonds and in the light of instruction from the Chair of the Kimberley Process, has ceased to approve applications for import of rough diamonds from Cote d'Ivoire since

¹ The Kimberley Process is a negotiating forum originated from discussions in the United Nations General Assembly (UNGA) regarding rebel activities in some parts of Africa. It seeks to stop trade in conflict diamonds (rough diamonds used by rebel movements or their allies to finance conflicts aimed at undermining legitimate governments, as described in relevant UNSC resolutions, and as understood and recognised in the relevant UNGA Resolutions) from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament. For this purpose, the Kimberley Process has implemented an international certification scheme for rough diamonds.

November 2004.

ADVICE SOUGHT

11. Members are invited to note the implementation of UNSCR 1643 by the Regulation.

**Commerce, Industry and Technology Bureau
March 2006**

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**UNITED NATIONS SANCTIONS (CÔTE D'IVOIRE)
REGULATION 2006**

(Made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council)

1. Duration

The following provisions expire at midnight on 15 December 2006—

- (a) the definitions in section 2, other than the definitions of “authorized officer”, “Security Council” and “ship”;
- (b) sections 3, 4, 5, 6, 7, 8, 10 and 11;
- (c) Parts 3, 4 and 5; and
- (d) sections 36(2) and 37.

PART 1

PRELIMINARY

2. Interpretation

In this Regulation, unless the context otherwise requires—

“Accra III Agreement” (《阿克拉協定三》) means the agreement known as the Accra III Agreement, signed in Accra, Ghana, on 30 July 2004 by the President of the Republic of Côte d'Ivoire, the Prime Minister of the Government of National Reconciliation and all the political forces of Côte d'Ivoire;

“arms or related material” (軍火或相關的物資) includes military aircraft and equipment;

“authorized officer” (獲授權人員) means—

- (a) a police officer;
- (b) a member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); or
- (c) a public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade;

- “commander” (機長), in relation to an aircraft, means the member of the flight crew designated as the commander of the aircraft by the operator of the aircraft, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;
- “Commissioner” (關長) means the Commissioner of Customs and Excise, the Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;
- “Committee” (委員會) means the Committee of the Security Council established pursuant to paragraph 14 of Resolution 1572;
- “funds” (資金) includes—
- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
 - (d) interest, dividends or other income on or value accruing from or generated by property;
 - (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
 - (f) letters of credit, bills of lading and bills of sale; and
 - (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;
- “High Representative for the elections” (選舉高級代表) means the person appointed by the Secretary-General of the United Nations as the High Representative of the Secretary-General for the elections in Côte d’Ivoire;
- “International Working Group” (國際工作組) means the International Working Group established, under a decision of the Peace and Security Council of the African Union adopted at its meeting held in Addis Ababa on 6 October 2005, to assist the Government of the Côte d’Ivoire in implementing the peace process;
- “licence” (特許) means a licence granted under section 12(1)(a) or (b), 13(1) or (2) or 14(1);
- “Linas-Marcoussis Agreement” (《利納 — 馬庫錫協定》) means the agreement known as the Linas-Marcoussis Agreement, signed by the Ivoirian political forces in Linas-Marcoussis on 24 January 2003 and approved by the Conference of Heads of States on Côte d’Ivoire held in Paris on 25 and 26 January 2003;
- “master” (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;
- “operator” (營運人), in relation to an aircraft or a vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner” (擁有人), in relation to a ship, where the owner of the ship is not the operator, means the operator and any person to whom it is chartered;

“person connected with Côte d’Ivoire” (有關連人士) means—

- (a) the Government of Côte d’Ivoire;
- (b) any person in, or resident in, Côte d’Ivoire;
- (c) any body incorporated or constituted under the law of Côte d’Ivoire;
- (d) any body, wherever incorporated or constituted, which is controlled by the Government mentioned in paragraph (a), a person mentioned in paragraph (b) or a body mentioned in paragraph (c); or
- (e) any person acting on behalf of the Government mentioned in paragraph (a), a person mentioned in paragraph (b) or a body mentioned in paragraph (c) or (d);

“prohibited goods” (禁制物品) means any arms or related material;

“relevant entity” (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 37;

“relevant person” (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 37;

“Resolution 1572” (《第 1572 號決議》) means Resolution 1572 (2004) adopted by the Security Council on 15 November 2004;

“Resolution 1643” (《第 1643 號決議》) means Resolution 1643 (2005) adopted by the Security Council on 15 December 2005;

“Security Council” (安全理事會) means the Security Council of the United Nations;

“ship” (船舶) includes every description of vessel used in navigation not propelled by oars;

“UNOCI” (聯科行動) means the United Nations Operation in Côte d’Ivoire.

PART 2

PROHIBITIONS

Supply and delivery of goods

3. Prohibition against supply and delivery of certain goods to Côte d’Ivoire

(1) Except under the authority of a licence granted under section 12(1)(a), a person shall not supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, any prohibited goods—

- (a) to Côte d'Ivoire;
 - (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) In any proceedings for an offence under subsection (2), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the goods concerned were to be supplied or delivered—
 - (i) to Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (4) This section applies to—
- (a) a person within the HKSAR; and
 - (b) a person acting elsewhere who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

Carriage of goods

4. Application of sections 5 and 6

Sections 5 and 6 apply to—

- (a) a ship that is registered in the HKSAR;
- (b) an aircraft that is registered in the HKSAR;
- (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) within the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or

- (iii) a body incorporated or constituted under the law of the HKSAR; and
- (d) a vehicle within the HKSAR.

5. Prohibition against carriage of certain goods destined for Côte d'Ivoire

(1) Except under the authority of a licence granted under section 12(1)(b), and without prejudice to the generality of section 3, a ship, aircraft or vehicle to which this section and section 6 apply shall not be used for the carriage of any prohibited goods if the carriage is, or forms part of, carriage—

- (a) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (2) Subsection (1) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
 - (b) the supply or delivery was authorized by a licence granted under section 12(1)(a).

(3) This section does not operate so as to prejudice any other law prohibiting or restricting the use of ships, aircraft or vehicles.

6. Offences in respect of carriage of certain goods destined for Côte d'Ivoire

(1) For the purposes of subsection (2), “specified person” (指明人士) means—

- (a) in relation to a ship registered in the HKSAR, the owner or master of the ship;
- (b) in relation to any other ship—
 - (i) the person to whom the ship is for the time being chartered; or
 - (ii) the master of the ship, if the master is within the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (c) in relation to an aircraft registered in the HKSAR, the operator or commander of the aircraft;
- (d) in relation to any other aircraft—
 - (i) the person to whom the aircraft is for the time being chartered;

- (ii) the operator of the aircraft, if the operator is within the HKSAR, is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; or
 - (iii) the commander of the aircraft, if the commander is within the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or
 - (e) in relation to a vehicle, the operator or driver of the vehicle.
- (2) If a ship, aircraft or vehicle is used in contravention of section 5(1), each specified person commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) In any proceedings for an offence under subsection (2), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the carriage of the goods concerned was, or formed part of, carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.

Provision of advice, assistance or training

7. Prohibition against provision of certain advice, assistance or training to persons connected with Côte d'Ivoire

(1) A person shall not provide to a person connected with Côte d'Ivoire any advice related to military activities.

(2) Except under the authority of a licence granted under section 13(1) or (2), a person shall not provide to a person connected with Côte d'Ivoire any assistance or training related to military activities.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) In any proceedings for an offence under subsection (3), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the advice, assistance or training concerned was to be provided to a person connected with Côte d'Ivoire; or
 - (b) that the advice, assistance or training concerned related to military activities.
- (5) This section applies to—
- (a) a person within the HKSAR; and
 - (b) a person acting elsewhere who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

Making available funds, etc. to certain persons or entities

8. Prohibition against making available funds, etc. to certain persons or entities

(1) Except under the authority of a licence granted under section 14(1), a person shall not make available any funds or other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(3) In any proceedings for an offence under subsection (2), it is a defence for a person charged to prove that he did not know and had no reason to believe that the funds or other financial assets or economic resources concerned were to be made available to or for the benefit of a relevant person or a relevant entity.

(4) This section applies to—

- (a) a person within the HKSAR; and
- (b) a person acting elsewhere who is—

- (i) both a Hong Kong permanent resident and a Chinese national; or
- (ii) a body incorporated or constituted under the law of the HKSAR.

Importation of rough diamonds

9. Prohibition against importation of rough diamonds into HKSAR

(1) A person shall not import any rough diamond from Côte d'Ivoire into the HKSAR.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(3) In any proceedings for an offence under subsection (2), it is a defence for a person charged to prove that he did not know and had no reason to believe that the rough diamond concerned was imported from Côte d'Ivoire into the HKSAR.

(4) This section does not operate so as to prejudice any other law prohibiting or restricting the importation of rough diamonds into the HKSAR.

Entry into or transit through HKSAR

10. Prohibition against entry or transit by certain persons

(1) Subject to the exception in section 11, a specified person shall not enter or transit through the HKSAR.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

(3) This section shall not prohibit a person having the right of abode or the right to land in the HKSAR from entry into the HKSAR.

(4) In this section—

“paragraph 7 of Resolution 1572” (《第 1572 號決議》第 7 段) means paragraph 7 of Resolution 1572 as renewed by the Security Council in paragraph 1 of Resolution 1643;

“paragraph 9 of Resolution 1572” (《第 1572 號決議》第 9 段) means paragraph 9 of Resolution 1572 as renewed by the Security Council in paragraph 1 of Resolution 1643;

“specified person” (指明人士) means a person designated by the Committee, for the purposes of paragraph 9 of Resolution 1572, as a person who constitutes a threat to the peace and national reconciliation process in Côte d’Ivoire.

(5) For the purposes of the definition of “specified person” in subsection (4)—

(a) any of the following constitutes a threat to the peace and national reconciliation process in Côte d’Ivoire—

(i) any serious obstacle to the freedom of movement of the UNOCI or the French forces which support the UNOCI;

(ii) any attack or obstruction to the action of the UNOCI, the French forces, the High Representative for the elections, or the International Working Group; and

(b) without affecting the generality of paragraph (a), a person who constitutes a threat to the peace and national reconciliation process in Côte d’Ivoire includes—

(i) a person who blocks the implementation of the Linas-Marcoussis Agreement and Accra III Agreement;

(ii) a person who is responsible for serious violations of human rights and international humanitarian law in Côte d’Ivoire;

(iii) a person who incites publicly hatred and violence; and

(iv) a person who is determined by the Committee to be in violation of measures imposed by paragraph 7 of Resolution 1572.

11. Exception to prohibition against entry or transit by certain persons

Section 10 shall not apply if—

(a) the Committee determines that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation; or

(b) the Committee concludes that the relevant entry into or transit through the HKSAR would further the objectives of the resolutions of the Security Council, for peace and national reconciliation in Côte d’Ivoire and stability in the region.

PART 3

LICENCE

12. Licence for supply, delivery or carriage of certain goods

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant, as appropriate—

- (a) a licence for the supply or delivery of prohibited goods, or the doing of an act likely to promote the supply or delivery of prohibited goods—
 - (i) to Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire; or
 - (b) a licence for the carriage of prohibited goods which is, or forms part of, carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are intended solely for the support of or use by the UNOCI and the French forces which support the UNOCI;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (c) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Côte d'Ivoire by the personnel of the United Nations, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

- (d) the prohibited goods are to be temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with the international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, and the Committee has been notified in advance of the supply of the goods;
- (e) the prohibited goods are intended solely for the support of or use in the process of restructuring defence and security forces pursuant to subparagraph (f) of paragraph 3 of the Linas-Marcoussis Agreement, as approved in advance by the Committee.

13. Licence for provision of certain assistance or training

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (3) is met, the Chief Executive shall, on application, grant a licence for the provision to a person connected with Côte d'Ivoire of assistance related to military activities.

(2) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (4) is met, the Chief Executive shall, on application, grant a licence for the provision to a person connected with Côte d'Ivoire of training related to military activities.

(3) The requirements referred to in subsection (1) are as follows—

- (a) the assistance is technical assistance intended solely for the support of or use by the UNOCI and the French forces which support the UNOCI;
- (b) the assistance is technical assistance related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
- (c) the assistance is technical assistance intended solely for the support of or use in the process of restructuring defence and security forces pursuant to subparagraph (f) of paragraph 3 of the Linas-Marcoussis Agreement, as approved in advance by the Committee.

(4) The requirements referred to in subsection (2) are as follows—

- (a) the training is technical training related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;

- (b) the training is technical training intended solely for the support of or use in the process of restructuring defence and security forces pursuant to subparagraph (f) of paragraph 3 of the Linas-Marcoussis Agreement, as approved in advance by the Committee.

**14. Licence for making available funds, etc.
to certain persons or entities**

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant a licence for making available funds or other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity.

(2) The requirements referred to in subsection (1) are as follows—

- (a) the funds or other financial assets or economic resources have been determined by the Chief Executive to be—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines and medical treatments, taxes, insurance premiums, and public utility charges; or
 - (ii) exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services,and the Committee has been notified by the Chief Executive of the intention to authorize, where appropriate, access to such funds or other financial assets or economic resources, and the Committee has not made a negative decision within 2 working days of such notification;
- (b) the funds or other financial assets or economic resources have been determined by the Chief Executive to be necessary for extraordinary expenses, and the Committee has been notified by the Chief Executive of the determination, and the Committee has approved the determination;
- (c) the funds or other financial assets or economic resources have been determined by the Chief Executive to be the subject of a judicial, administrative or arbitral lien or judgment, and the lien or judgment—
 - (i) was entered prior to 15 November 2004;
 - (ii) is not for the benefit of a relevant person or a relevant entity; and
 - (iii) has been notified by the Chief Executive to the Committee.

(3) A licence granted by the Chief Executive under subsection (1), on his being satisfied that the requirements in subsection (2)(c) are met, shall only authorize that the funds or other financial assets or economic resources be used to satisfy the relevant lien or judgment.

15. Provision of false information or documents for purpose of obtaining licences

(1) If, for the purpose of obtaining a licence, a person makes any statement or provides or produces any information or document that he knows to be false in a material particular, that person commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If, for the purpose of obtaining a licence, a person recklessly makes any statement or provides or produces any information or document that is false in a material particular, that person commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

PART 4

THINGS DONE OUTSIDE HKSAR

16. Licence or permission granted by authorities of places outside HKSAR

(1) If the circumstances described in subsection (2) apply, a provision of this Regulation which prohibits the doing of a thing except under the authority of a licence shall not have effect in relation to any such thing done in a place outside the HKSAR by—

- (a) a person who is ordinarily resident in that place; or
- (b) a body corporate incorporated or constituted under the law of that place.

(2) For the purposes of subsection (1), the circumstances are that the thing is done under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.

PART 5

ENFORCEMENT OF REGULATION

Investigation, etc. of suspected ships**17. Investigation of suspected ships**

(1) If an authorized officer has reason to suspect that a ship to which sections 5 and 6 apply has been, is being or is about to be used in contravention of section 5(1), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the master or charterer of the ship to provide such information relating to the ship and its cargo, and produce for his inspection such documents so relating and such cargo carried on it, as he may specify.

(2) If an authorized officer has reason to suspect that a ship is being or is about to be used in contravention of section 5(1), he may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)), with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued, do one or more of the following—

- (a) direct the master or charterer of the ship to refrain, except with the consent of an authorized officer, from landing at any port specified by the authorized officer any part of the ship's cargo that is so specified;
- (b) request the master or charterer of the ship to take one or more of the following steps—
 - (i) to cause the ship, including any of its cargo, not to proceed with the voyage on which the ship is then engaged or about to be engaged until the master or charterer is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) (if the ship is in the HKSAR) to cause the ship and any of its cargo to remain in the HKSAR until the master or charterer is notified by an authorized officer that the ship and its cargo may depart;

- (iii) (if the ship is in any other place) to take the ship and any of its cargo to such port as is specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the master or charterer is notified by an authorized officer that the ship and its cargo may depart;
- (iv) to take the ship and any of its cargo to such other destination as may be specified by an authorized officer in agreement with the master or charterer.

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

18. Offences by master or charterer of ship

(1) If a master or charterer of a ship disobeys any direction given under section 17(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a master or charterer of a ship, in response to a request made under section 17(1)(b) or (2)(b), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

19. Power of authorized officers to enter and detain ships

(1) Without prejudice to section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(2)(b) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and the ship concerned;
- (b) detain, or authorize the detention of, that ship and any of its cargo; and
- (c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any ship for more than 12 hours.

(3) The Chief Secretary for Administration may, by order in writing under his hand, authorize the detention of a ship referred to in subsection (1) for further periods of not more than 12 hours each, and any such order shall state the times from which and for which the order shall be effective.

20. Sections 17, 18 and 19 not to prejudice other laws

Sections 17, 18 and 19 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a ship.

Investigation, etc. of suspected aircraft

21. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which sections 5 and 6 apply has been, is being or is about to be used in contravention of section 5(1), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the charterer, operator or commander of the aircraft, or all of them, to provide such information relating to the aircraft and its cargo, and produce for his inspection such documents so relating and such cargo carried on it, as he may specify.

(2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)) further request the charterer, operator or commander, or all of them, to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or commander is, or (if the further request is made to all of them) all of them are, notified by an authorized officer that the aircraft and its cargo may depart.

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

22. Offences by charterer, operator or commander of aircraft

(1) If a charterer, operator or commander of an aircraft, without reasonable excuse, refuses or fails to comply with a request made under section 21(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a charterer, operator or commander of an aircraft, in response to a request made under section 21(1)(b) or (2), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

23. Power of authorized officers to enter and detain aircraft

(1) Without prejudice to section 22, if an authorized officer has reason to suspect that a request that has been made under section 21(2) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and the aircraft concerned;
- (b) detain, or authorize the detention of, that aircraft and any of its cargo; and
- (c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any aircraft for more than 6 hours.

(3) The Chief Secretary for Administration may, by order in writing under his hand, authorize the detention of an aircraft referred to in subsection (1) for further periods of not more than 6 hours each, and any such order shall state the times from which and for which the order shall be effective.

24. Sections 21, 22 and 23 not to prejudice other laws

Sections 21, 22 and 23 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of an aircraft.

Investigation, etc. of suspected vehicles

25. Investigation of suspected vehicles

(1) If an authorized officer has reason to suspect that a vehicle within the HKSAR has been, is being or is about to be used in contravention of section 5(1), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
- (b) request the operator or driver of the vehicle to provide such information relating to the vehicle and any article carried on it, and produce for his inspection such documents so relating and such articles carried on it, as he may specify; and
- (c) (either there and then or on consideration of any information provided or document or article produced in response to a request made under paragraph (b)) further request the operator or driver to take the vehicle and any article carried on it to such place as is specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

(2) A power conferred by this section to request the provision of any information or the production of any document or article for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or article should be produced for inspection.

26. Offences by operator or driver of vehicle

(1) If an operator or driver of a vehicle, without reasonable excuse, refuses or fails to comply with a request made under section 25(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If an operator or driver of a vehicle, in response to a request made under section 25(1)(b) or (c), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

27. Power of authorized officers to enter and detain vehicles

(1) Without prejudice to section 26, if an authorized officer has reason to suspect that a request that has been made under section 25(1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and enter, or authorize the entry into, the vehicle concerned;
- (b) detain, or authorize the detention of, that vehicle and any article carried on it; and
- (c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any vehicle for more than 12 hours.

(3) The Commissioner may, by order in writing under his hand, authorize the detention of a vehicle referred to in subsection (1) for further periods of not more than 12 hours each, and any such order shall state the times from which and for which the order shall be effective.

28. Sections 25, 26 and 27 not to prejudice other laws

Sections 25, 26 and 27 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a vehicle.

Proof of identity

29. Production of proof of identity

Before or on exercising a power conferred by section 17, 19, 21, 23, 25 or 27, an authorized officer shall, if requested so to do, produce evidence of his identity.

PART 6

EVIDENCE

30. Power of magistrate or judge to grant warrant

(1) A magistrate or judge may grant a warrant if he is satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—

- (a) an offence under this Regulation has been committed or is being committed; and
- (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.

(3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—

- (a) to search any person who is found on, or whom he has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
- (b) to seize and detain any document or article found on the premises, ship, aircraft or vehicle or on such person that he has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
- (c) to take in relation to any such document or article any other steps that may appear necessary for preserving the document or article seized and preventing interference with it.

(4) A person may only be searched under this section by a person who is of the same sex.

(5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, he may use such force as is reasonably necessary for that purpose.

31. Detention of documents or articles seized

(1) Subject to subsection (2), any document or article seized under section 30(3) may not be detained for a period of more than 3 months.

(2) If the document or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document or article may be detained until the completion of those proceedings.

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

32. Disclosure of information or documents

(1) Any information or document provided, produced or seized in pursuance of this Regulation may be disclosed only if—

- (a) the person who provided or produced the information or document or the person from whom the document was seized has given consent to the disclosure;
 - (b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;
 - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any place outside the People's Republic of China for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Côte d'Ivoire decided on by the Security Council; or
 - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—

- (a) a person may not give consent to the disclosure if he has obtained the information or possessed the document only in his capacity as servant or agent of another person; and
- (b) a person may give consent to the disclosure if he is entitled to the information or to the possession of the document in his own right.

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

33. Liability of person other than principal offender

(1) Where the person convicted of an offence under this Regulation is a body corporate and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, the director, manager, secretary or other similar officer shall be guilty of the like offence.

(2) Where the person convicted of an offence under this Regulation is a firm and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any person concerned in the management of the firm, the partner or the person concerned in the management of the firm shall be guilty of the like offence.

34. Offences in relation to obstruction of authorized persons, etc.

A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of his powers under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

35. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

36. Proceedings to be instituted

(1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.

(2) Summary proceedings for an offence under this Regulation, being an offence alleged to have been committed outside the HKSAR, may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after the alleged commission of the offence.

37. Specification of relevant person or relevant entity by Chief Executive

(1) The Chief Executive may by notice published in the Gazette specify a person or an entity referred to in the list maintained by the Committee for the purposes of paragraph 11 of Resolution 1572 as a relevant person or a relevant entity.

(2) In this section, “paragraph 11 of Resolution 1572” (《第 1572 號決議》第 11 段) means paragraph 11 of Resolution 1572 as renewed by the Security Council in paragraph 1 of Resolution 1643.

38. Exercise of powers of Chief Executive

The Chief Executive may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorize the delegation of any of his powers or functions under this Regulation to any person, or class or description of persons, approved by him, and references in this Regulation to the Chief Executive shall be construed accordingly.

Donald TSANG
Chief Executive

14 March 2006

Explanatory Note

The purpose of this Regulation is to give effect to a decision of the Security Council of the United Nations (“the Security Council”) in Resolution 1643 (2005) as adopted by the Security Council on 15 December 2005.

2. The Regulation provides for the further implementation of the following sanctions imposed by the Security Council in Resolution 1572 (2004), as renewed by the Security Council in Resolution 1643 (2005)—

- (a) prohibition against the direct or indirect sale, supply or transfer of arms or related materials to Côte d’Ivoire;
- (b) prohibition against the provision of advice, assistance or training related to military activities in certain circumstances;
- (c) prohibition against making available to or for the benefits of certain persons or entities any funds or other financial assets or economic resources; and
- (d) prohibition against entry into or transit through the HKSAR of certain persons.

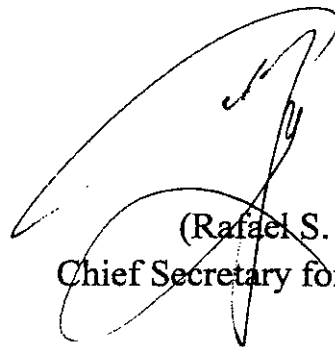
3. The Regulation also provides for the prohibition against importation of rough diamonds from Côte d’Ivoire, which is imposed by the Security Council in Resolution 1643 (2005).

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Côte d'Ivoire) Regulation 2006

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in January 2006 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1643 of the Security Council of the United Nations, and that the United Nations Sanctions (Côte d'Ivoire) Regulation 2006 was made in pursuance of that instruction.

Dated this 16th day of March 2006



(Rafael S. Y. HUT)
Chief Secretary for Administration

United Nations

S/RES/1643 (2005)

**Security Council**Distr.: General
15 December 2005

Resolution 1643 (2005)**Adopted by the Security Council at its 5327th meeting,
on 15 December 2005***The Security Council,**Recalling* its previous resolutions and statements of its President relating to the situation in Côte d'Ivoire,*Reaffirming* its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation,*Recalling* that it endorsed the Agreement signed by the Ivorian political forces in Linas-Marcoussis on 24 January 2003 (S/2003/99) (the Linas-Marcoussis Agreement) approved by the Conference of Heads of State on Côte d'Ivoire, held in Paris on 25 and 26 January 2003, the Agreement signed in Accra on 30 July 2004 (the Accra III Agreement) and the Agreement signed in Pretoria on 6 April 2005 (the Pretoria Agreement), as well as the decision of the Peace and Security Council of the African Union on the situation in Côte d'Ivoire adopted at its 40th meeting at the level of Heads of State and Government held on 6 October 2005 in Addis Ababa (S/2005/639),*Commending* the efforts of the Secretary-General, the African Union, in particular President Olusegun Obasanjo of Nigeria, Chair of the African Union, and President Thabo Mbeki of the Republic of South Africa, Mediator of the African Union, President Mamadou Tandja of Niger, Chair of the Economic Community of West African States (ECOWAS) and the leaders of the region, to promote peace and stability in Côte d'Ivoire, and *reiterating* its full support for them,*Recalling* the final communiqué of the International Working Group of 8 November 2005, which stated in particular that the fundamental basis of the peace and national reconciliation process is enshrined in resolution 1633 (2005), and recalling also its final communiqué of 6 December 2005,*Recalling* strongly the obligations of all Ivorian parties, the Government of Côte d'Ivoire as well as the Forces nouvelles, to refrain from any violence, in particular against civilians including foreign citizens, and to cooperate fully with the activities of the United Nations Operation in Côte d'Ivoire (UNOCI),

Expressing its serious concern at the persistence of the crisis in Côte d'Ivoire and of obstacles to the peace and national reconciliation process from all sides,

Reiterating its firm condemnation of all violations of human rights and international humanitarian law, including the use of child soldiers, in Côte d'Ivoire,

Taking note of the final communiqué of the Kimberley Process Plenary Meeting held in Moscow from 15 to 17 November 2005 and of the resolution adopted by Kimberley Process participants at that meeting setting out concrete measures to prevent the introduction of diamonds from Côte d'Ivoire into the legitimate diamond trade, and *recognizing* the linkage between the illegal exploitation of natural resources such as diamonds, illicit trade in such resources, and the proliferation and trafficking of arms and the recruitment and use of mercenaries as one of the sources of fuelling and exacerbating conflicts in West Africa,

Taking note also of the report of the United Nations Panel of Experts on Côte d'Ivoire dated 7 November 2005 (S/2005/699),

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to renew until 15 December 2006 the provisions of paragraphs 7 to 12 of resolution 1572 (2004);

2. *Reaffirms* paragraphs 4 and 6 of resolution 1572 (2004), paragraph 5 of resolution 1584 (2005), and paragraphs 3, 9, 14, 15, 16, 17, 18, 19 and 21 of resolution 1633 (2005), *reaffirms* also paragraph 8 of resolution 1584 (2005), and, in this regard, demands that the Forces nouvelles establish without delay a comprehensive list of armaments in their possession, in accordance with their obligations;

3. *Reaffirms* its readiness to impose the individual measures provided for in paragraphs 9 and 11 of resolution 1572 (2004), including against any person designated by the Committee established by paragraph 14 of resolution 1572 who blocks the implementation of the peace process as enshrined in resolution 1633 (2005) and in the final communiqué of the International Working Group, who is determined responsible for serious violations of human rights and international humanitarian law committed in Côte d'Ivoire since 19 September 2002, who incites publicly hatred and violence, and who is determined to be in violation of the arms embargo;

4. *Decides* that any serious obstacle to the freedom of movement of UNOCI and of the French forces which support it, or any attack or obstruction to the action of UNOCI, of the French forces, of the High Representative for the elections and of the International Working Group constitutes a threat to the peace and national reconciliation process for purposes of paragraphs 9 and 11 of resolution 1572 (2004);

5. *Requests* the Secretary-General and the French Government to report to it immediately, through the Security Council Committee established by paragraph 14 of resolution 1572 (2004) (the Committee), of any serious obstacle to the freedom of movement of UNOCI and of the French forces which support it, including the

names of those responsible, and requests also the High Representative for the elections and the International Working Group to report to it immediately, through the Committee, any attack or obstruction to their action;

6. *Decides* that all States shall take the necessary measures to prevent the import of all rough diamonds from Côte d'Ivoire to their territory, *welcomes* the measures agreed by participants in the Kimberley Process Certification Scheme to this effect, and *calls upon* the States in the region which are not participants in the Kimberley Process to intensify their efforts to join the Kimberley Process in order to increase the effectiveness of monitoring the import of diamonds from Côte d'Ivoire;

7. *Requests* all States concerned, in particular those in the region, to report to the Committee, within 90 days from the date of adoption of this resolution, on the actions they have taken to implement the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above, and *authorizes* the Committee to request whatever further information it may consider necessary;

8. *Decides* that at the end of the period mentioned in paragraph 1 above, the Security Council shall review the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above, in the light of progress accomplished in the peace and national reconciliation process in Côte d'Ivoire, and *expresses* its readiness to consider the modification or termination of these measures before the aforesaid period only if the provisions of resolution 1633 (2005) have been fully implemented;

9. *Requests* the Secretary-General, in consultation with the Committee, to re-establish, within 30 days from the date of adoption of this resolution and for a period of 6 months, a group of experts consisting of no more than five members (the Group of Experts), with the appropriate range of expertise, in particular on arms, diamonds, finance, customs, civil aviation and any other relevant expertise, to perform the following mandate:

(a) To exchange information with UNOCI and the French forces in the context of their monitoring mandate set out in paragraphs 2 and 12 of resolution 1609 (2005),

(b) To gather and analyse all relevant information in Côte d'Ivoire and elsewhere, in cooperation with the governments of those countries, on flows of arms and related materiel, on provision of assistance, advice or training related to military activities, on networks operating in violation of the measures imposed by paragraph 7 of resolution 1572 (2004), and on the sources of financing, including from the exploitation of natural resources in Côte d'Ivoire, for purchases of arms and related materiel and activities,

(c) To consider and recommend, where appropriate, ways of improving the capabilities of States, in particular those in the region, to ensure the effective implementation of the measures imposed by paragraph 7 of resolution 1572 (2004) and by paragraph 6 above,

(d) To seek further information regarding the action taken by States with a view to implementing effectively the measures imposed by paragraph 6 above,

(e) To report to the Security Council in writing within 90 days from its establishment, through the Committee, on the implementation of the measures

imposed by paragraph 7 of resolution 1572 (2004) and paragraph 6 above, with recommendations in this regard,

(f) To keep the Committee regularly updated on its activities,

(g) To provide the Committee in its reports with evidence of any violations of the measures imposed by paragraph 7 of resolution 1572 (2004) and paragraph 6 above,

(h) To cooperate with other relevant groups of experts, in particular that established on Liberia by resolutions 1521 of 22 December 2003 and 1579 of 21 December 2004,

(i) To monitor the implementation of the individual measures set out in paragraphs 9 and 11 of resolution 1572 (2004);

10. *Requests* the Secretary-General to communicate as appropriate to the Security Council, through the Committee, information gathered by UNOCI and, when possible, reviewed by the Group of Experts, about the supply of arms and related materiel to Côte d'Ivoire and about the production and illicit export of diamonds;

11. *Requests* also the French Government to communicate as appropriate to the Security Council, through the Committee, information gathered by the French forces and, when possible, reviewed by the Group of Experts, about the supply of arms and related materiel to Côte d'Ivoire and about the production and illicit export of diamonds;

12. *Requests* also the Kimberley Process to communicate as appropriate to the Security Council, through the Committee, information and, when possible, reviewed by the Group of Experts, about the production and illicit export of diamonds;

13. *Urges* all States, relevant United Nations bodies and other organizations and interested parties, including the Kimberley Process, to cooperate fully with the Committee, the Group of Experts, UNOCI and the French forces, in particular by supplying any information at their disposal on possible violations of the measures imposed by paragraphs 7, 9 and 11 of resolution 1572 (2004) and by paragraphs 4 and 6 above;

14. *Decides* to remain actively seized of the matter.

**Security Council**

Distr.: General
15 November 2004

Resolution 1572 (2004)

**Adopted by the Security Council at its 5078th meeting,
on 15 November 2004**

The Security Council,

Recalling its resolution 1528 (2004) of 27 February 2004, as well as the relevant statements of its President, in particular those of 6 November 2004 (S/PRST/2004/42) and of 5 August 2004 (S/PRST/2004/29),

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and *recalling* the importance of the principles of good neighbourliness, non-interference and regional cooperation,

Recalling that it endorsed the agreement signed by the Ivoirian political forces in Linas-Marcoussis on 24 January 2003 (S/2003/99) (the Linas-Marcoussis Agreement) approved by the Conference of Heads of States on Côte d'Ivoire, held in Paris on 25 and 26 January 2003, and the Agreement signed in Accra on 30 July 2004 (Accra III Agreement),

Deploring the resumption of hostilities in Côte d'Ivoire and the repeated violations of the ceasefire agreement of 3 May 2003,

Deeply concerned by the humanitarian situation in Côte d'Ivoire, in particular in the northern part of the country, and by the use of the media, in particular radio and television broadcasts, to incite hatred and violence against foreigners in Côte d'Ivoire,

Recalling strongly the obligations of all Ivoirian parties, the Government of Côte d'Ivoire as well as the Forces Nouvelles, to refrain from any violence against civilians, including against foreign citizens, and to cooperate fully with the activities of the United Nations Operation in Côte d'Ivoire (UNOCI),

Welcoming the ongoing efforts of the Secretary-General, the African Union and the Economic Community of Western African States (ECOWAS) towards re-establishing peace and stability in Côte d'Ivoire,

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* the air strikes committed by the national armed forces of Côte d'Ivoire (FANCI) which constitute flagrant violations of the ceasefire agreement of 3 May 2003 and *demands* that all Ivoirian parties to the conflict, the Government of Côte d'Ivoire as well as Forces nouvelles, fully comply with the ceasefire;

2. *Reiterates* its full support for the action undertaken by UNOCI and French forces in accordance with their mandate under resolution 1528 (2004) and with the statement of its President of 6 November 2004 (S/PRST/2004/42);

3. *Emphasizes* again that there can be no military solution to the crisis and that the full implementation of the Linas-Marcoussis and Accra III Agreements remains the only way to resolve the crisis persisting in the country;

4. *Urges* as a consequence the President of the Republic of Côte d'Ivoire, the heads of all the Ivoirian political parties and the leaders of the Forces Nouvelles immediately to begin resolutely implementing all the commitments they have made under these agreements;

5. *Expresses* its full support for the efforts of the Secretary-General, the African Union and ECOWAS and *encourages* them to continue these efforts in order to relaunch the peace process in Côte d'Ivoire;

6. *Demands* that the Ivoirian authorities stop all radio and television broadcasting inciting hatred, intolerance and violence, *requests* UNOCI to strengthen its monitoring role in this regard, and *urges* the Government of Côte d'Ivoire and the Forces nouvelles to take all necessary measures to ensure the security and the safety of civilian persons, including foreign nationals and their property;

7. *Decides* that all States shall, for a period of thirteen months from the date of adoption of this resolution, take the necessary measures to prevent the direct or indirect supply, sale or transfer to Côte d'Ivoire, from their territories or by their nationals, or using their flag vessels or aircraft, of arms or any related materiel, in particular military aircraft and equipment, whether or not originating in their territories, as well as the provision of any assistance, advice or training related to military activities;

8. *Decides* that the measures imposed by paragraph 7 above shall not apply to:

(a) supplies and technical assistance intended solely for the support of or use by UNOCI and the French forces who support them,

(b) supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as approved in advance by the Committee established by paragraph 14 below,

(c) supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Côte d'Ivoire by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only,

(d) supplies temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular

responsibility in Côte d'Ivoire, as notified in advance to the Committee established by paragraph 14 below,

(e) supplies of arms and related materiel and technical training and assistance intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement, as approved in advance by the Committee established by paragraph 14 below;

9. *Decides* that all States shall take the necessary measures, for a period of twelve months, to prevent the entry into or transit through their territories of all persons designated by the Committee established by paragraph 14 below, who constitute a threat to the peace and national reconciliation process in Côte d'Ivoire, in particular those who block the implementation of the Linas-Marcoussis and Accra III Agreements, any other person determined as responsible for serious violations of human rights and international humanitarian law in Côte d'Ivoire on the basis of relevant information, any other person who incites publicly hatred and violence, and any other person determined by the Committee to be in violation of measures imposed by paragraph 7 above, provided that nothing in this paragraph shall oblige a State to refuse entry into its territory to its own nationals;

10. *Decides* that the measures imposed by paragraph 9 shall not apply where the Committee established by paragraph 14 below determines that such travel is justified on the grounds of humanitarian need, including religious obligation, or where the Committee concludes that an exemption would further the objectives of the Council's resolutions, for peace and national reconciliation in Côte d'Ivoire and stability in the region;

11. *Decides* that all States shall, for the same period of twelve months, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of adoption of this resolution or at any time thereafter, owned or controlled directly or indirectly by the persons designated pursuant to paragraph 9 above by the Committee established by paragraph 14 below, or that are held by entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction, as designated by the Committee, and *decides further* that all States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons within their territories, to or for the benefit of such persons or entities;

12. *Decides* that the provisions of paragraph 11 do not apply to funds, other financial assets and economic resources that:

(a) have been determined by relevant States to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Committee established by paragraph 14 below of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within two working days of such notification,

(b) have been determined by relevant States to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee, or

(c) have been determined by relevant States to be subject of a judicial, administrative or arbitral lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement: was entered prior to the date of the present resolution, is not for the benefit of a person referred to in paragraph 11 above or an individual or entity identified by the Committee, and has been notified by the relevant States to the Committee;

13. *Decides* that, at the end of a period of 13 months from the date of adoption of this resolution, the Security Council shall review the measures imposed by paragraphs 7, 9 and 11 above, in the light of progress accomplished in the peace and national reconciliation process in Côte d'Ivoire as defined by the Linas-Marcoussis and Accra III Agreements, and expresses its readiness to consider the modification or termination of these measures before the aforesaid period of 13 months only if the Linas-Marcoussis and Accra III Agreements have been fully implemented;

14. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council (the Committee), to undertake the following tasks:

(a) to designate the individuals and entities subject to the measures imposed by paragraphs 9 and 11 above, and to update this list regularly,

(b) to seek from all States concerned, and particularly those in the region, information regarding the actions taken by them to implement the measures imposed by paragraphs 7, 9 and 11 above, and whatever further information it may consider useful, including by providing them with an opportunity to send representatives to meet the Committee to discuss in more detail any relevant issues,

(c) to consider and decide upon requests for the exemptions set out in paragraphs 8, 10 and 12 above,

(d) to make relevant information publicly available through appropriate media, including the list of persons referred to in subparagraph (a) above,

(e) to promulgate guidelines as may be necessary to facilitate the implementation of the measures imposed by paragraphs 11 and 12 above,

(f) to present regular reports to the Council on its work, with its observations and recommendations, in particular on ways to strengthen the effectiveness of the measures imposed by paragraphs 7, 9 and 11 above;

15. *Requests* all States concerned, in particular those in the region, to report to the Committee, within ninety days from the date of adoption of this resolution, on the actions they have taken to implement the measures imposed by paragraphs 7, 9 and 11 above, and *authorizes* the Committee to request whatever further information it may consider necessary;

16. *Urges* all States, relevant United Nations bodies and, as appropriate, other organizations and interested parties, to cooperate fully with the Committee, in

particular by supplying any information at their disposal on possible violations of the measures imposed by paragraphs 7, 9 and 11 above;

17. *Expresses its determination* to consider without delay further steps to ensure the effective monitoring and implementation of the measures imposed by paragraphs 7, 9 and 11 above, in particular the establishment of a panel of experts;

18. *Requests* the Secretary-General to submit a report to the Council by 15 March 2005, drawing on information from all relevant sources, including the Government of National Reconciliation in Côte d'Ivoire, UNOCI, ECOWAS and the African Union, on progress made towards the goals described in paragraph 13 above;

19. *Decides* that the measures imposed by paragraphs 9 and 11 above shall enter into force on 15 December 2004, unless the Security Council shall determine before then that the signatories of the Linas-Marcoussis and Accra III Agreements have implemented all their commitments under the Accra III Agreement and are embarked towards full implementation of the Linas-Marcoussis Agreement;

20. *Decides* to remain actively seized of the matter.
