

**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 (ERITREA) REGULATION

INTRODUCTION

A
At the meeting of the Executive Council on 21 September 2010, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Eritrea) Regulation (“the Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”) to give effect to the instruction from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Regulation was gazetted on 24 September 2010 and came into effect on the same day.

BACKGROUND

Obligation and Authority

B & C
2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction by the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In January 2010, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Eritrea in HKSAR pursuant to UNSC Resolution (“UNSCR”) 1907. The Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction, and copy of UNSCR 1907, are at Annexes B and C respectively.

UNSCR 1907

3. In view of the international concern over the unresolved border dispute between Eritrea and Djibouti and Eritrea’s support to the

armed groups in Somalia that upset the peace process in the region, the UNSC passed Resolution 1907 on 23 December 2009 to implement a range of sanctions against Eritrea. These sanctions concern -

- (a) prohibition against the sale or supply to Eritrea of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial and other assistance, related to the military activities or to the provision, manufacture, maintenance or use of these items (*paragraph 5 of UNSCR 1907 refers*);
- (b) prohibition against the procurement of the items, training and assistance described in paragraph 5 of UNSCR 1907 from Eritrea (*paragraph 6 of UNSCR 1907 refers*);
- (c) seizure and disposal of items the supply, sale, transfer, or export of which is prohibited by paragraphs 5 and 6 of UNSCR 1907 upon discovery (*paragraph 8 of UNSCR 1907 refers*);
- (d) prohibition against the entry or transit of individuals, designated by the Committee established pursuant to UNSCR 751 (1992) and expanded by UNSCR 1844 (2008) (“Committee”) pursuant to the criteria in paragraph 15 of UNSCR 1907, subject to exceptions in paragraph 11 (*paragraphs 10 and 11 of UNSCR 1907 refer*);
- (e) prohibition against the direct or indirect supply, sale or transfer of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and the direct or indirect supply of technical assistance or training, financial and other assistance including investment, brokering or other financial services, related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military

equipment, to the individuals or entities designated by the Committee pursuant to paragraph 15 of UNSCR 1907^{Note 1} (*paragraph 12 of UNSCR 1907 refers*); and

- (f) freezing of funds, other financial assets and economic resources owned or controlled directly or indirectly by the entities and individuals designated by the Committee pursuant to paragraph 15 of UNSCR 1907, or by individuals or entities acting on their behalf or at their direction, and prohibition against making available to, or for the benefit of, such individuals or entities any funds, financial assets or economic resources, subject to exceptions (*paragraphs 13 and 14 of UNSCR 1907 refer*).

THE REGULATION

4. The Regulation, at Annex A, seeks to implement the sanctions in respect of Eritrea decided under UNSCR 1907. The main provisions of the Regulation include -

- (a) sections 2 and 3, which prohibit the supply, sale, transfer and carriage of arms or related materiel to Eritrea or certain persons;
- (b) section 4, which prohibits the provision of technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of any arms or related materiel to certain persons;
- (c) sections 5 and 6, which prohibit the procurement of arms or related materiel, or any technical assistance, training, or

^{Note 1} Paragraph 15 of UNSCR 1907 provides that the provisions of paragraphs 12 and 13 of UNSCR 1907 shall apply to individuals and entities, including but not limited to Eritrean political and military leadership, governmental, and parastatal entities, and entities privately owned by the Eritrean nationals living within or outside of Eritrean territory, designated by the Committee.

financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of any arms or related materiel from Eritrea or certain persons, as well as prohibit the use of ships, aircraft or vehicles in connection with such procurement;

- (d) section 7, which provides for a prohibition against making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities;
- (e) section 8, which prohibits the entry into or transit through the HKSAR by certain persons;
- (f) section 10, which provides for the granting of licences for making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities;
- (g) sections 24 and 25, which empower the magistrate or judge to make an order for forfeiture and disposal of seized items on application by an authorized officer, and provide for procedures for the owner (or authorized agent of the owner) of the seized items to object to the proposed forfeiture; and
- (h) section 32, which provides that the CE may by notice published in the Gazette specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purpose of the financial sanctions under UNSCR 1907.

IMPLICATIONS OF THE PROPOSAL

5. The proposal 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, economic,

productivity, environmental or sustainability implications. Additional work arising from the enforcement of the Regulation, if any, will be absorbed by the relevant departments.

PUBLICITY

6. A press release was issued on 24 September 2010 when the Regulation was published in the Gazette.

INFORMATION ON ERITREA AND RELATION WITH HKSAR

7. A note summarising background information on Eritrea and bilateral trade relation between Eritrea and Hong Kong is at Annex D.

D

ADVICE SOUGHT

8. Members are invited to note the implementation of the UNSCR 1907 in HKSAR by the Regulation.

**Commerce and Economic Development Bureau
September 2010**

UNITED NATIONS SANCTIONS ORDINANCE (CAP. 537)

UNITED NATIONS SANCTIONS (ERITREA) REGULATION

ANNEXES

ANNEX A UNITED NATIONS SANCTIONS (ERITREA)
REGULATION

ANNEX B DOCUMENT ISSUED BY THE CHIEF
SECRETARY FOR ADMINISTRATION
CONFIRMING THE INSTRUCTION FROM
THE MINISTRY OF FOREIGN AFFAIRS

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United Nations Sanctions (Eritrea) Regulation

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United Nations Sanctions (Eritrea) Regulation

(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)

Part 1

Preliminary

1. Interpretation

In this Regulation—

arms or related materiel (軍火或相關的物資) includes—

- (a) any weapon, ammunition, military vehicle, military equipment or paramilitary equipment; and
- (b) any spare part of any item specified in paragraph (a);

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;

Commissioner (關長) means the Commissioner of Customs and Excise, any 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 under Resolution 751 and expanded by Resolution 1844;

designated person (指明人士) means a person or entity designated by the Committee—

- (a) as violating the measures established by paragraphs 5 and 6 of Resolution 1907;
- (b) as providing support from Eritrea to armed opposition groups which aim to destabilize the region;
- (c) as obstructing the implementation of Resolution 1862 concerning Djibouti;
- (d) as harbouring, financing, facilitating, supporting, organizing, training, or inciting individuals or groups to perpetrate acts of violence or terrorist acts against other States or their citizens in the region; or
- (e) as obstructing the investigations or work of the Monitoring Group re-established by Resolution 1853;

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

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;

licence (特許) means a licence granted under section 10(1);

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 a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;

person connected with Eritrea (有關連人士) means—

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

but does not include a designated person;

pilot in command (機長), in relation to an aircraft, means the pilot designated by the operator or the owner, as

appropriate, as being in charge of the aircraft without being under the direction of any other pilot in the aircraft and charged with the safe conduct of a flight;

prohibited goods (禁制物品) means any arms or related materiel;

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 32; or
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 32;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 32; or
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 32;

Resolution 751 (《第 751 號決議》) means Resolution 751 (1992) adopted by the Security Council on 24 April 1992;

Resolution 1844 (《第 1844 號決議》) means Resolution 1844 (2008) adopted by the Security Council on 20 November 2008;

Resolution 1853 (《第 1853 號決議》) means Resolution 1853 (2008) adopted by the Security Council on 19 December 2008;

Resolution 1862 (《第 1862 號決議》) means Resolution 1862 (2009) adopted by the Security Council on 14 January 2009;

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Part 1

Section 1

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Resolution 1907 (《第1907號決議》) means Resolution 1907 (2009) adopted by the Security Council on 23 December 2009;

Security Council (安全理事會) means the Security Council of the United Nations.

Part 2

Prohibitions

2. Prohibition against supply, sale or transfer of certain goods

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR 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.
- (2) A person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to Eritrea;
 - (b) to, or to the order of, a person connected with Eritrea;
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Eritrea or to, or to the order of, a person connected with Eritrea;

- (d) to, or to the order of, a designated person; or
 - (e) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.
- (3) A person who contravenes subsection (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) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to Eritrea;
 - (ii) to, or to the order of, a person connected with Eritrea;
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Eritrea or to, or to the order of, a person connected with Eritrea;
 - (iv) to, or to the order of, a designated person; or

- (v) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.

3. Prohibition against carriage of certain goods

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;
 - (e) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 2, a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) from a place outside Eritrea to a place in Eritrea;
 - (b) to, or to the order of, a person connected with Eritrea;
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Eritrea or to, or to the order of, a person connected with Eritrea;

- (d) to, or to the order of, a designated person; or
 - (e) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;

- (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (4) A person who commits an offence under subsection (3) 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.
- (5) It is a defence for a person charged with an offence under subsection (3) to prove that the person 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, a carriage—
 - (i) from a place outside Eritrea to a place in Eritrea;
 - (ii) to, or to the order of, a person connected with Eritrea;
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Eritrea or to, or to the order of, a person connected with Eritrea;
 - (iv) to, or to the order of, a designated person; or

- (v) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.

4. Prohibition against provision of certain assistance or training

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR 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.
- (2) A person must not provide, directly or indirectly, to a person connected with Eritrea any technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods.
- (3) A person must not provide, directly or indirectly, to a designated person any technical assistance or training, or financial or other assistance including investment, brokering or other financial services, related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of any weapon or military equipment.
- (4) A person who contravenes subsection (2) or (3) 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.

- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) if the person is charged with contravening subsection (2)—
 - (i) that the assistance or training concerned was or was to be provided to a person connected with Eritrea; or
 - (ii) that the assistance or training concerned related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods; or
 - (b) if the person is charged with contravening subsection (3)—
 - (i) that the assistance or training concerned was or was to be provided to a designated person; or
 - (ii) that the assistance or training concerned related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of any weapon or military equipment.

5. Prohibition against procurement of certain items or services by certain persons

- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR 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.

- (2) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any prohibited goods—
 - (a) from Eritrea; or
 - (b) from a person connected with Eritrea.
- (3) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods—
 - (a) from Eritrea; or
 - (b) from a person connected with Eritrea.
- (4) A person who contravenes subsection (2) or (3) 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.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) if the person is charged with contravening subsection (2)—

- (i) that the goods concerned were prohibited goods;
or
- (ii) that the goods concerned were—
 - (A) from Eritrea; or
 - (B) from a person connected with Eritrea; or
- (b) if the person is charged with contravening subsection (3)—
 - (i) that the assistance or training concerned related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods; or
 - (ii) that the assistance or training concerned was or was to be procured from Eritrea or a person connected with Eritrea.

6. Prohibition against procurement of certain items or services using ships, aircraft or vehicles

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;
 - (e) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 5, a ship, aircraft or vehicle must not be used for or in connection with the procurement of—
 - (a) any prohibited goods—
 - (i) from Eritrea; or
 - (ii) from a person connected with Eritrea; or
 - (b) any technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods—
 - (i) from Eritrea; or
 - (ii) from a person connected with Eritrea.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

- (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (4) A person who commits an offence under subsection (3) 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.
- (5) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods;

- (b) that the goods concerned were—
 - (i) from Eritrea; or
 - (ii) from a person connected with Eritrea;
- (c) that the assistance or training concerned related to military activities or to the provision, manufacture, maintenance or use of any prohibited goods; or
- (d) that the assistance or training concerned was or was to be procured from Eritrea or a person connected with Eritrea.

7. Prohibition against making available funds, etc. or dealing with funds, etc.

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR 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.
- (2) Except under the authority of a licence—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (“first-mentioned person”) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources

owned by or otherwise belonging to, or held by, the first-mentioned person.

- (3) A person who contravenes subsection (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) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

 - (a) in respect of funds—

- (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

8. Prohibition against entry or transit by certain persons

- (1) Subject to section 9, a designated person must 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 does not apply to a person having the right of abode or the right to land in the HKSAR.

9. Exceptions to prohibition against entry or transit by certain persons

Section 8 does not apply to a case in respect of which—

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

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Part 2

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- (b) the Committee has determined that the relevant entry into or transit through the HKSAR would otherwise further the objectives of peace and stability in the region.
-

Part 3

Licence

10. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
 - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, 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 are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic

- resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 23 December 2009 and is not for the benefit of a relevant person or a relevant entity; and
 - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
- (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence; and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
 - (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular 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) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular 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

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

- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
 - (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person 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

Division 1

Investigation, etc. of Suspected Ships

13. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies is being or is about to be used in contravention of section 3(2) or 6(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 6(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—

- (a) direct the charterer, operator or master 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 charterer, operator or master of the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master 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 charterer, operator or master 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 a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master 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 another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document 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 cargo or document should be produced for inspection.

14. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 13(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 13(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or master of a ship who, in response to a request made under section 13(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

15. Power of authorized officers to enter and detain ships

- (1) Without limiting section 14, if an authorized officer has reason to suspect that a request that has been made under section 13(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or the ship concerned;
 - (b) detain or authorize the detention of that ship or any of its cargo;

- (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 2

Investigation, etc. of Suspected Aircraft

16. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's 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 pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer 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 cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and

any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document 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 cargo or document should be produced for inspection.

17. Offences by charterer, operator or pilot in command of aircraft

- (1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 16(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 16(1)(b) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

18. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 17, if an authorized officer has reason to suspect that a request that has been made under

section 16(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

- (a) enter or authorize the entry on any land or the aircraft concerned;
 - (b) detain or authorize the detention of that aircraft or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3

Investigation, etc. of Suspected Vehicles

19. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's 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 any information relating to the vehicle or any article carried on it, or produce for inspection any article

carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and

- (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place 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 a person to provide any information or produce any article or document 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 article or document should be produced for inspection.

20. Offences by operator or driver of vehicle

- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

- (2) An operator or driver of a vehicle who, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
 - (b) detain or authorize the detention of that vehicle or any article carried on it;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4

Proof of Identity

22. Production of proof of identity

Before or on exercising a power conferred by section 13, 15, 16, 18, 19 or 21, an authorized officer must, if requested by any person so to do, produce proof of the officer's identity to the person for inspection.

Part 6

Evidence

23. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if 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, ship, aircraft or vehicle 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) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

- (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article 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, the person may use any force that is reasonably necessary for that purpose.

24. Seized articles, etc. liable to forfeiture

- (1) If an authorized officer intends to apply to a magistrate or judge under section 25 for an order for forfeiture of any document, cargo or article seized under section 23(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.
- (2) A notice under subsection (1) is to be regarded as having been duly served on a person if—
 - (a) it is delivered personally to the person;
 - (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
 - (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.

- (3) An owner, or the authorized agent of an owner, of the document, cargo or article referred to in a notice served under subsection (1), or a person who was in possession of the document, cargo or article at the time of seizure, or a person who has a legal or equitable interest in the document, cargo or article, may object to the proposed forfeiture by serving a notice in writing on the Commissioner.
- (4) A notice of objection under subsection (3)—
 - (a) must be served on the Commissioner by a person referred to in subsection (3) (“claimant”) within 30 days from—
 - (i) if the notice under subsection (1) is delivered personally to the person named in the notice, the date of delivery;
 - (ii) if the notice under subsection (1) is sent by registered post, 2 days after the date of posting; or
 - (iii) if the notice under subsection (1) is exhibited as described in subsection (2)(c), the first day it is so exhibited;
 - (b) must state the claimant’s full name and address for service in Hong Kong; and
 - (c) if the claimant does not have a permanent address in Hong Kong, must state the name and address of a solicitor who is qualified to practise under the Legal Practitioners Ordinance (Cap. 159) and is authorized to accept service on behalf of the claimant in relation to any forfeiture proceedings.
- (5) An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized document, cargo or article in respect of which a notice has been served under subsection (1)—

- (a) after the expiration of the appropriate period of time specified in subsection (4)(a) for the serving of a notice of objection; or
- (b) if a notice of objection is served in accordance with subsections (3) and (4), after the receipt of the notice.

25. Power of magistrate or judge to make order for forfeiture and disposal

- (1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, manufacture, maintenance or use of any prohibited goods, or that the seized cargo or article is prohibited goods, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.
- (2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.
- (3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 24(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.
- (4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.

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Part 6

Section 26

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26. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2) and any order made under section 25, any document, cargo or article seized under section 23(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
-

Part 7

Disclosure of Information or Documents

27. Disclosure of information or documents

- (1) Any information or document provided, produced or seized under this Regulation may be disclosed only if—
 - (a) the person who provided or produced the information or document or 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—
 - (i) any organ of the United Nations;
 - (ii) any person in the service of the United Nations; or
 - (iii) 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 Eritrea 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)—

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

Part 8

Other Offences and Miscellaneous Matters

28. Liability of persons other than principal offenders

- (1) If 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 is guilty of the like offence.
- (2) If 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 is guilty of the like offence.

29. 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 the powers of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

30. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document, cargo 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.

31. Consent and time limit for proceedings

- (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 that is 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.

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

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purposes of paragraph 13 of Resolution 1907.

33. Exercise of powers of Chief Executive

- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

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Donald TSANG
Chief Executive

22 September 2010

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 1907 (2009) as adopted by the Security Council of the United Nations on 23 December 2009 by providing for the prohibition against—

- (a) the supply, sale, transfer or carriage of arms or related materiel to Eritrea or certain persons;
- (b) the provision of certain assistance or training in certain circumstances;
- (c) the procurement of certain items, assistance or training from Eritrea or a person connected with Eritrea;
- (d) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (e) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (f) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)**United Nations Sanctions (Eritrea) Regulation**

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 2010 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1907 of the Security Council of the United Nations, and that the United Nations Sanctions (Eritrea) Regulation was made in pursuance of that instruction.

Dated this 21 day of September 2010

A handwritten signature in black ink, appearing to be 'Henry Tang', written in a cursive style.

(Henry Tang)
Chief Secretary for Administration



Security Council

Distr.: General
23 December 2009

Resolution 1907 (2009)

Adopted by the Security Council at its 6254th meeting, on 23 December 2009

The Security Council,

Recalling its previous resolutions and statements of its President concerning the situation in Somalia and the border dispute between Djibouti and Eritrea, in particular its resolutions 751 (1992), 1844 (2008), and 1862 (2009), and its statements of 18 May 2009 (S/PRST/2009/15), 9 July 2009 (S/PRST/2009/19), 12 June 2008 (S/PRST/2008/20),

Reaffirming its respect for the sovereignty, territorial integrity, and political independence and unity of Somalia, Djibouti and Eritrea, respectively,

Expressing the importance of resolving the border dispute between Djibouti and Eritrea,

Reaffirming that the Djibouti Agreement and Peace Process represent the basis for a resolution of the conflict in Somalia, and further reaffirming its support for the Transitional Federal Government (TFG),

Noting the decision of the 13th Assembly of the African Union (AU) in Sirte, Libya, calling on the Council to impose sanctions against foreign actors, both within and outside the region, especially Eritrea, providing support to the armed groups engaged in destabilization activities in Somalia and undermining the peace and reconciliation efforts as well as regional stability (S/2009/388),

Further noting the decision of the 13th Assembly of the AU in Sirte, Libya expressing its grave concern at the total absence of progress regarding the implementation by Eritrea of, inter alia, resolution 1862 (2009) regarding the border dispute between Djibouti and Eritrea (S/2009/388),

Expressing its grave concern at the findings of the Monitoring Group re-established by resolution 1853 (2008) as outlined in its December 2008 report (S/2008/769) that Eritrea has provided political, financial and logistical support to armed groups engaged in undermining peace and reconciliation in Somalia and regional stability,

Condemning all armed attacks on TFG officials and institutions, the civilian population, humanitarian workers and the African Union Mission to Somalia (AMISOM) personnel,



Expressing its grave concern at Eritrea's rejection of the Djibouti Agreement, as noted in the letter of 19 May 2009, from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council (S/2009/256),

Recalling its resolution 1844 (2008) in which it decided to impose measures against individuals or entities designated as engaging in or providing support to acts that threaten peace, security and stability in Somalia, acting in violation of the arms embargo or obstructing the flow of humanitarian assistance to Somalia,

Expressing its appreciation of the contribution of AMISOM to the stability of Somalia, and further expressing its appreciation for the continued commitment to AMISOM by the Governments of Burundi and Uganda,

Reiterating its intention to take measures against those who seek to prevent or block the Djibouti Peace Process,

Expressing its deep concern that Eritrea has not withdrawn its forces to the status quo ante, as called for by the Security Council in its resolution 1862 (2009) and the statement of its President dated 12 June 2008 (S/PRST/2008/20),

Reiterating its serious concern at the refusal of Eritrea so far to engage in dialogue with Djibouti, or to accept bilateral contacts, mediation or facilitation efforts by sub-regional or regional organizations or to respond positively to the efforts of the Secretary-General,

Taking note of the letter of the Secretary-General issued on 30 March 2009 (S/2009/163), and the subsequent briefings by the Secretariat on the Djibouti-Eritrea conflict,

Noting that Djibouti has withdrawn its forces to the status quo ante and cooperated fully with all concerned, including the United Nations fact-finding mission and the good offices of the Secretary-General,

Determining that Eritrea's actions undermining peace and reconciliation in Somalia as well as the dispute between Djibouti and Eritrea constitute a threat to international peace and security,

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

1. *Reiterates* that all Member States, including Eritrea, shall comply fully with the terms of the arms embargo imposed by paragraph 5 of resolution 733 (1992), as elaborated and amended by resolutions 1356 (2001), 1425 (2002), 1725 (2006), 1744 (2007) and 1772 (2007) on Somalia and the provisions of resolution 1844 (2008);

2. *Calls upon* all Member States, including Eritrea, to support the Djibouti Peace Process and support reconciliation efforts by the TFG in Somalia, and demands that Eritrea cease all efforts to destabilize or overthrow, directly or indirectly, the TFG;

3. *Reiterates* its demand that Eritrea immediately comply with resolution 1862 (2009) and:

(i) *Withdraw* its forces and all their equipment to the positions of the status quo ante, and ensure that no military presence or activity is being pursued in the area where the conflict occurred in Ras Doumeira and Doumeira Island in June 2008;

(ii) *Acknowledge* its border dispute with Djibouti in Ras Doumeira and Doumeira Island, *engage* actively in dialogue to defuse the tension and *engage also* in diplomatic efforts leading to a mutually acceptable settlement of the border issue; and,

(iii) *Abide* by its international obligations as a Member of the United Nations, *respect* the principles mentioned in Article 2, paragraphs 3, 4, and 5, and Article 33 of the Charter, and *cooperate* fully with the Secretary-General, in particular through his proposal of good offices mentioned in paragraph 3 of resolution 1862 (2009);

4. *Demands* that Eritrea make available information pertaining to Djiboutian combatants missing in action since the clashes of 10 to 12 June, 2008 so that those concerned may ascertain the presence and condition of Djiboutian prisoners of war;

5. *Decides* that all Member States shall immediately take the necessary measures to prevent the sale or supply to Eritrea by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial and other assistance, related to the military activities or to the provision, manufacture, maintenance or use of these items, whether or not originating in their territories;

6. *Decides* that Eritrea shall not supply, sell or transfer directly or indirectly from its territory or by its nationals or using its flag vessels or aircraft any arms or related materiel, and that all Member States shall prohibit the procurement of the items, training and assistance described in paragraph 5 above from Eritrea by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of Eritrea;

7. *Calls upon* all Member States to inspect, in their territory, including seaports and airports, in accordance with their national authorities and legislation, and consistent with international law, all cargo to and from Somalia and Eritrea, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, transfer, or export of which is prohibited by paragraphs 5 and 6 of this resolution or the general and complete arms embargo to Somalia established pursuant to paragraph 5 of resolution 733 (1992) and elaborated and amended by subsequent resolutions for the purpose of ensuring strict implementation of those provisions;

8. *Decides* to authorize all Member States to, and that all Member States shall, upon discovery of items prohibited by paragraphs 5 and 6 above, seize and dispose (either by destroying or rendering inoperable) items the supply, sale, transfer, or export of which is prohibited by paragraphs 5 and 6 of this resolution and decides further that all Member States shall cooperate in such efforts;

9. *Requires* any Member State when it finds items the supply, sale, transfer, or export of which is prohibited by paragraphs 5 and 6 of this resolution to submit promptly a report to the Committee containing relevant details, including the steps taken to seize and dispose of the items;

10. *Decides* that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals, designated by the Committee established pursuant to resolution 751 (1992) and expanded by resolution 1844 (2008) (herein “the Committee”) pursuant to the criteria in paragraph 15 below, provided that nothing in this paragraph shall oblige a state to refuse entry into its territory to its own nationals;

11. *Decides* that the measures imposed by paragraph 10 above shall not apply:

(a) where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation; or,

(b) where the Committee determines on a case-by-case basis that an exemption would otherwise further the objectives of peace and stability in the region;

12. *Decides* that all Member States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer by their nationals or from their territories or using their flag vessels or aircraft of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and the direct or indirect supply of technical assistance or training, financial and other assistance including investment, brokering or other financial services, related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to the individuals or entities designated by the Committee pursuant to paragraph 15 below;

13. *Decides* that all Member States shall freeze without delay the funds, other financial assets and economic resources which are on their territories on the date of adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the entities and individuals designated by the Committee pursuant to paragraph 15 below, or by individuals or entities acting on their behalf or their direction, and decides further that all Member States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any individuals or entities within their territories to or for the benefit of such individuals or entities;

14. *Decides* that the measures imposed by paragraph 13 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

(a) 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 Member State to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets or economic resources, and in the absence of a negative decision by the Committee within three working days of such notification;

(b) to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant Member State(s) to the Committee and has been approved by the Committee; or

(c) to be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to the date of the present resolution, is not for the benefit of a person or entity designated pursuant to paragraph 13 above, and has been notified by the relevant Member State(s) to the Committee;

15. *Decides* that the provisions of paragraph 10 above shall apply to individuals, including but not limited to the Eritrean political and military leadership, and that the provisions of paragraphs 12 and 13 above shall apply to individuals and entities, including but not limited to Eritrean political and military leadership, governmental, and parastatal entities, and entities privately owned by Eritrean nationals living within or outside of Eritrean territory, designated by the Committee:

(a) as violating the measures established by paragraphs 5 and 6 above;

(b) as providing support from Eritrea to armed opposition groups which aim to destabilize the region;

(c) as obstructing implementation of resolution 1862 (2009) concerning Djibouti;

(d) as harbouring, financing, facilitating, supporting, organizing, training, or inciting individuals or groups to perpetrate acts of violence or terrorist acts against other States or their citizens in the region;

(e) as obstructing the investigations or work of the Monitoring Group;

16. *Demands* that all Member States, in particular Eritrea, cease arming, training, and equipping armed groups and their members including al-Shabaab, that aim to destabilize the region or incite violence and civil strife in Djibouti;

17. *Demands* Eritrea cease facilitating travel and other forms of financial support to individuals or entities designated by the Committee and other Sanctions Committees, in particular the Committee established pursuant to resolution 1267 (1999), in line with the provisions set out in the relevant resolutions;

18. *Decides* to further expand the mandate of the Committee to undertake the additional tasks:

(a) To monitor, with the support of the Monitoring Group, the implementation of the measures imposed in paragraphs 5, 6, 8, 10, 12 and 13 above;

(b) To designate those individuals or entities subject to the measures imposed by paragraphs 10, 12 and 13 above, pursuant to criteria set forth in paragraph 15 above;

(c) To consider and decide upon requests for exemptions set out in paragraphs 11 and 14 above;

(d) To update its guidelines to reflect its additional tasks;

19. *Decides* to further expand the mandate of the Monitoring Group re-established by resolution 1853 (2008) to monitor and report on implementation of the measures imposed in this resolution and undertake the tasks outlined below, and requests the Secretary-General to make appropriate arrangements for additional resources and personnel so that the expanded Monitoring Group may continue to carry out its mandate, and in addition:

(a) Assist the Committee in monitoring the implementation of the measures imposed in paragraphs 5, 6, 8, 10, 12 and 13 above, including by reporting any information on violations;

(b) Consider any information relevant to implementation of paragraphs 16 and 17 above that should be brought to the attention of the Committee;

(c) Include in its reports to the Security Council any information relevant to the Committee's designation of the individuals and entities described in paragraph 15 above;

(d) Coordinate as appropriate with other Sanctions Committees' panels of experts in pursuit of these tasks;

20. *Calls upon* all Members States to report to the Security Council within 120 days of the adoption of this resolution on steps they have taken to implement the measures outlined in the paragraphs 5, 6, 10, 12 and 13 above;

21. *Affirms* that it shall keep Eritrea's actions under review and that it shall be prepared to adjust the measures, including through their strengthening, modification, or lifting, in light of Eritrea's compliance with the provisions of this resolution;

22. *Requests* the Secretary-General to report within 180 days on Eritrea's compliance with the provisions of this resolution;

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

United Nations Sanctions (Eritrea) Regulation

Information on Eritrea

Country Background

Eritrea is a northeastern African country with a total area of 117,600 sq. km. and an estimated population of 4.93 million in 2008. It is bordered by the Red Sea and surrounded by Sudan, Ethiopia and Djibouti. Its capital and largest city is Asmara. Once a colony of Italy, Eritrea was federated with Ethiopia by the United Nations (UN) in 1952 and was annexed to Ethiopia in 1962. Following a 30-year struggle for independence and the UN-supervised referendum, Eritrea became an independent state in May 1993. Isaias Afworki of the People's Front for Democracy and Justice was elected president by the provisional legislature in 1993; as the presidential and parliamentary elections set for 2001 were indefinitely postponed pending resolution of the continued conflict with Ethiopia, the Eritrean government continues to be transitional and Afworki remains in power since 1993.^{Note 1}

2. Eritrea is a single-party state and has a command economy. Agriculture is the major sector of the Eritrean economy, and three quarters of the population is dependent upon the production of crops and livestock. The rugged topography and harsh climate of Eritrea, combined with the devastation caused by wars with Ethiopia, has led to economic hardship and food insecurity for this country. In 2008, Eritrea had a GDP of US\$1.48 billion (or HK\$11.5 billion).^{Note 2} The estimated value of the merchandise imports and exports of Eritrea in 2009 amounted to US\$ 515 million (or HK\$4.01 billion) and US\$ 15 million (or HK\$116.8 million) respectively.^{Note 3}

United Nations sanctions against Eritrea

3. Eritrea's relations with its neighbours and members of the African Union since its independence have been a strained one. The dispute over undemarcated border renewed tensions in the Eritrea – Ethiopia relation,

Note 1 Source: Official Website of the Permanent Mission of Eritrea to the United Nations at <http://www.eritrea-unmission.org>

Note 2 Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://data.un.org/CountryProfile.aspx?cname=Eritrea>

Note 3 Source: WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language=E>

resulting in the outbreak of hostilities in 1998. The border war ended in 2000 under the auspices of the UN. A UN peacekeeping mission on the border of Eritrea and Ethiopia was set up to stabilize the area by monitoring the ceasefire agreement. The UN mission was withdrawn in 2008 when Eritrea refused to provide supplies to the peacekeepers. Meanwhile, the row over border dispute between Eritrea and Djibouti escalated. Eritrea took military action against Djibouti in Ras Doumeira and Doumeira Island in June 2008, and refused to pull out from the disputed territory. The United Nations Security Council (UNSC) adopted Resolution 1862 in January 2009 to demand Eritrea to withdraw its forces and all their equipment to the position of the status quo ante, and engage in dialogue and diplomatic efforts leading to a mutually acceptable settlement of the border issue.^{Note 4}

4. Wary of the Transitional Federal Government of Somalia which was perceived as a proxy for the Government of Ethiopia, Eritrea has supported opposition to the Somali Government through the provision of significant and sustained political, financial and material support to armed rebels in Somalia since 2007.^{Note 5} It is Eritrea's stated policy to oppose to the Djibouti Agreement, which was the peace accord signed between the Somali Transitional Federal Government and the Alliance for the Re-Liberation of Somalia in August 2008.

5. As Eritrea failed to comply with UNSC Resolution 1862, and continued its destabilizing role in the Somalia conflict, the UNSC adopted Resolution 1907 on 23 December 2009. The resolution imposes sanctions in respect of Eritrea, including arms embargo, travel ban and assets freeze measures.

Trade Relation between Hong Kong and other African countries including Eritrea^{Note 6}

6. In 2009, Eritrea, together with Mayotte, British Indian Ocean Territory, Western Sahara, and the remaining African countries/ territories

^{Note 4} Source: United Nations Security Council Resolution 1862 (S/RES/1862)

^{Note 5} Source: Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1853 (2008) (S/2010/91)

^{Note 6} Separate trade statistics on Eritrea is not available from the Census & Statistics Department (C&SD) as the country is grouped under "African countries/ territories, not elsewhere specified", together with several other African countries including Mayotte, British Indian Ocean Territory, Western Sahara and other African countries/ territories not elsewhere specified. The countries are considered as a single group in data processing and data dissemination in view of their extremely small share in Hong Kong's trade (the group of countries accounted for less than 0.0002% of Hong Kong's trade in 2008-2009). Suppressing extremely small values as a single group is a common practice in statistics compilation.

not elsewhere specified, ranked 185th among Hong Kong's trading partners in the world. The total trade between Hong Kong and these African countries amounted to HK\$6.5 million. Of these, HK\$3.9 million worth of trade were exports, including domestic exports and re-exports to these countries, and HK\$2.6 million were imports. Hong Kong's trade with this group of African countries are summarized as follows –

Hong Kong's trade with the group of African Countries concerned, including Eritrea [Value in HK\$ (in million)]		
Item	2008	2009
(a) Total Exports	2.4	3.9
<i>(i) Domestic exports</i>	0.016 ^{Note 7}	0.004 ^{Note 8}
<i>(ii) Re-exports</i>	2.4 ^{Note 9}	3.9 ^{Note 10}
(b) Imports	3.2 ^{Note 11}	2.6 ^{Note 12}
Total Trade [(a) + (b)]	5.6	6.5

In 2009, HK\$7.3 million worth of goods, or 2.0%^{Note 13} of the total trade between this group of African countries and the Mainland, were routed through Hong Kong. Of these, HK\$4.7 million worth of goods were re-exports from those countries to Mainland. The remaining HK\$2.6 million were re-exports of Mainland origin to those countries via Hong Kong.

Note 7 In 2008, domestic export items to the African countries concerned include special transactions and commodities not classified according to kind. (Note: According to information provided by C&SD, these are commodities not classified according to kind with a value of HK\$10,000 or less per declaration. As a trade facilitation measure to minimise reporting burden, traders are not required to declare low-valued items according to their respective codes of Hong Kong Harmonized System (HS codes). These low-valued items have extremely small impact on Hong Kong's trade.)

Note 8 In 2009, the domestic exports items to the African countries concerned include special transactions and commodities not classified according to kind. (These are commodities not classified according to kind with a value of HK\$10,000 or less per declaration. Note 7 refers.)

Note 9 In 2008, re-exports to the African countries concerned mainly include telecommunications equipment, textiles, plastic articles, travel goods and handbags, and cutlery.

Note 10 In 2009, re-exports to the African countries concerned mainly include telecommunications equipment, cathode valves and tubes/transistors/integrated circuits/semi-conductor devices, plastic articles, musical instruments and sound recordings, and travel goods and handbags.

Note 11 In 2008, imports from the African countries concerned mainly include leather, plastic waste and scrap, and fresh or chilled fish.

Note 12 In 2009, imports from the African countries concerned mainly include leather, plastic waste and scrap, telecommunications equipment, and fresh or chilled fish.

Note 13 The percentage is an estimate with reference to China's Customs Statistics and Hong Kong Trade Statistics.

7. The current arms embargo, travel ban and financial sanctions against Eritrea imposed by the UNSC would unlikely affect the trade between Hong Kong and Eritrea adversely, as the major categories of commodities traded are not related to arms and related materials. In addition, given the rather small trade volume between the two places, the United Nations sanctions against Eritrea would unlikely have any effect on the economy of Hong Kong.

**Commerce and Economic Development Bureau
September 2010**