

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance
(Chapter 537)

UNITED NATIONS SANCTIONS (SOMALIA) (AMENDMENT) REGULATION 2018

INTRODUCTION

A At the meeting of the Executive Council on 17 April 2018, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Somalia) (Amendment) Regulation 2018 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance, Cap 537 (“the Ordinance”). The Amendment Regulation was gazetted on 20 April 2018 and came into operation on the same day.

BACKGROUND

Obligation and Authority

B 2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction from the Ministry of Foreign Affairs of the People’s Republic of China (“MFA”) to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In December 2017, the CE received an instruction from the MFA to implement UNSC Resolution (“UNSCR”) 2385 (at Annex B) in respect of Somalia. The Amendment Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s
C instruction is at Annex C.

Sanctions against Somalia

3. Having regard to the heavy loss of human lives and widespread material damages resulting from the conflict in Somalia, the UNSC passed a number of resolutions since 1992 to implement a range of sanctions against Somalia. The current framework for the sanctions was set out in UNSCR 733 adopted in January 1992, UNSCR 1844 adopted in November 2008 and UNSCR 2036 adopted in February 2012. They include general arms embargo¹, as well as travel ban², financial restriction³ and arms embargo⁴ in respect of persons or entities designated by the Committee established under paragraph 11 of UNSCR 751 (“the Committee”), and charcoal ban⁵. In addition to sanctions, the UNSC subsequently allowed exemptions to the above measures through adopting various UNSCRs. No time limits have been prescribed for the sanction measures and most of the exemptions, whereas certain exemptions to arms embargo, as set out in UNSCR 2142⁶, and to financial sanctions, as set out in UNSCR 2182⁷, have time limit and

¹ Paragraph 5 of UNSCR 733 imposes a general and complete embargo on all deliveries of weapons and military equipment to Somalia.

² Paragraph 1 of UNSCR 1844 provides for the prohibition against the entry into or transit through the territory of Member States by individuals designated by the Committee.

³ Paragraph 3 of UNSCR 1844 provides for the freezing of funds, other financial assets and economic resources owned or controlled, directly or indirectly, by individuals or entities designated by the Committee, or by the individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and the prohibition against making available any funds, financial assets or economic resources to or for the benefit of such individuals or entities.

⁴ Paragraph 7 of UNSCR 1844 provides for the prohibition against the direct or indirect supply, sale or transfer of weapons and military equipment to individuals or entities designated by the Committee, as well as the direct or indirect supply of technical assistance or training, financial and other assistance related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment.

⁵ Paragraph 22 of UNSCR 2036 provides for the prohibition against the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia.

⁶ Paragraph 2 of UNSCR 2142 provides that until 25 October 2014 the arms embargo on Somalia shall not apply to deliveries of weapons, ammunition or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, to provide security for the Somali people, except in relation to deliveries of the items set out in the annex of UNSCR 2111.

⁷ Paragraph 41 of UNSCR 2182 provides that until 30 October 2015 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of UNSCR 1844 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded NGOs participating in the United Nations Consolidated Appeal for Somalia.

have been renewed several times. Such exemptions were last renewed in November 2016 and they expired at midnight on 15 November 2017.

4. Pursuant to the instructions of the MFA, the HKSAR implemented the sanctions against Somalia through the United Nations Sanctions (Somalia) Regulation, Cap. 537AN (“the existing Regulation”).

UNSCR 2385

5. Determining that the situation in Somalia continues to constitute a threat to international peace and security in the region, the UNSC adopted UNSCR 2385 on 14 November 2017, which decided, inter alia, that –

- (a) the provisions set out in paragraph 2 of UNSCR 2142 be renewed until 15 November 2018 and reiterated that the arms embargo on Somalia shall not apply to
 - (i) deliveries of weapons, ammunition or military equipment, or
 - (ii) the provision of advice, assistance or training, intended solely for the development of the Somali National Security Forces, to provide security for the Somali people, except in relation to deliveries of the items set out in the annex of UNSCR 2111 (**paragraph 2 of UNSCR 2385 refers**); and
- (b) until 15 November 2018 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of UNSCR 1844 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia (**paragraph 33 of UNSCR 2385 refers**).

THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to implement the exceptions to sanctions against Somalia as renewed by UNSCR 2385. The main provisions of the Amendment Regulation include –

- (a) **section 9 which amends section 8 of the existing Regulation** to reflect the exceptions to the arms embargo measures against Somalia as per paragraph 2 of UNSCR 2385;
- (b) **section 10 which amends section 9 of the existing Regulation** to reflect the exception to the prohibition against the provision of advice, assistance and training in respect of Somalia as per paragraph 2 of UNSCR 2385;
- (c) **section 11 which amends section 10 of the existing Regulation** to reflect the exception to the financial sanctions against Somalia as per paragraph 33 of UNSCR 2385; and
- (d) **section 14 which amends section 32 of the existing Regulation** to specify that provisions reflecting the above exceptions will expire at midnight on 15 November 2018.

A marked-up version showing amendments to the existing Regulation is at D Annex D for easy reference by Members.

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Regulation will not affect the current binding effect of the Ordinance. It has no financial, civil service, economic, productivity, environmental, sustainability, family or gender implications. Additional work arising from the enforcement of the existing Regulation as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments with existing resources.

PUBLICITY

8. A press release was issued on 20 April 2018 when the Amendment Regulation was published in the Gazette. A spokesperson is available to answer media and public enquiries.

INFORMATION ON SOMALIA AND RELATION WITH THE HKSAR

9. For information on Somalia, the background of the sanctions imposed against the country by the UNSC as well as its bilateral trade relation with the HKSAR, please refer to Annex E.

E

ADVICE SOUGHT

10. Members are invited to note the implementation of UNSCR 2385 in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau
April 2018**

United Nations Sanctions (Somalia) (Amendment) Regulation 2018

L.N. 66 of 2018
B677

L.N. 66 of 2018

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United Nations Sanctions (Somalia) (Amendment) Regulation 2018

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**United Nations Sanctions (Somalia) (Amendment)
Regulation 2018**

(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. **United Nations Sanctions (Somalia) Regulation amended**
The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) is amended as set out in sections 2 to 14.
2. **Section 1 amended (interpretation)**
 - (1) Section 1, Chinese text, definition of 有關實體, paragraph (a), before “行政長官”—
Add
“由”.
 - (2) Section 1, definition of *relevant entity*, paragraph (b)—
Repeal
“directly or indirectly”.
 - (3) Section 1, Chinese text, definition of 有關實體, paragraph (b), after “人或實體”—
Add
“(該等人士或實體)”.
 - (4) Section 1, Chinese text, definition of 有關實體, paragraph (b), after “指示”—
Add
“而”.

- (5) Section 1, Chinese text, definition of 有關人士, paragraph (a), before “行政長官”—
Add
“由”.
 - (6) Section 1, Chinese text, definition of 有關人士, paragraph (b), after “指示”—
Add
“而”.
3. **Section 2 amended (prohibition against supply, sale or transfer of certain goods)**
 - (1) Section 2(2)(c), English text—
Repeal
“indirectly,”
Substitute
“indirectly”.
 - (2) Section 2(3)(b), English text—
Repeal
“indirectly,”
Substitute
“indirectly”.
 - (3) Section 2(4)(a), English text—
Repeal
“indictment to”
Substitute
“indictment—to”.
 - (4) Section 2(4)(b), English text—

Section 3

- Repeal**
“conviction to”
- Substitute**
“conviction—to”.
- (5) Section 2(5)(b), English text—
- Repeal**
“subsection (2), that”
- Substitute**
“subsection (2)—that”.
- (6) Section 2(5)(b), English text—
- Repeal**
“were or were to be”
- Substitute**
“were, or were to be,”.
- (7) Section 2(5)(b)(iii), English text—
- Repeal**
“indirectly,”
- Substitute**
“indirectly”.
- (8) Section 2(5)(c), English text—
- Repeal**
“subsection (3), that”
- Substitute**
“subsection (3)—that”.
- (9) Section 2(5)(c), English text—
- Repeal**

Section 4

- “were or were to be”
- Substitute**
“were, or were to be,”.
- (10) Section 2(5)(c)(ii), English text—
- Repeal**
“indirectly,”
- Substitute**
“indirectly”.
4. **Section 3 amended (prohibition against carriage of certain goods)**
- (1) Section 3(2)(c), English text—
- Repeal**
“indirectly,”
- Substitute**
“indirectly”.
- (2) Section 3(4)(b), English text—
- Repeal**
“indirectly,”
- Substitute**
“indirectly”.
- (3) Section 3(6)(a), English text—
- Repeal**
“indictment to”
- Substitute**
“indictment—to”.
- (4) Section 3(6)(b), English text—
- Repeal**

Section 5

- “conviction to”
Substitute
 “conviction—to”.
- (5) Section 3(7)(b), English text—
Repeal
 “subsection (2), that”
Substitute
 “subsection (2)—that”.
- (6) Section 3(7)(b)(iii), English text—
Repeal
 “indirectly,”
Substitute
 “indirectly”.
- (7) Section 3(7)(c), English text—
Repeal
 “subsection (4), that”
Substitute
 “subsection (4)—that”.
- (8) Section 3(7)(c)(ii), English text—
Repeal
 “indirectly,”
Substitute
 “indirectly”.
5. Section 4 amended (prohibition against provision of certain advice, assistance or training)
- (1) Section 4(4)(a), English text—

Section 6

- Repeal**
 “indictment to”
Substitute
 “indictment—to”.
- (2) Section 4(4)(b), English text—
Repeal
 “conviction to”
Substitute
 “conviction—to”.
- (3) Section 4(5)(a)(i), English text—
Repeal
 “was or was to be”
Substitute
 “was, or was to be,”.
- (4) Section 4(5)(b)(i), English text—
Repeal
 “was or was to be”
Substitute
 “was, or was to be,”.
6. Section 4A amended (prohibition against importation of charcoal)
- (1) Section 4A(3)(a), English text—
Repeal
 “indictment to”
Substitute
 “indictment—to”.

Section 7

- (2) Section 4A(3)(b), English text—

Repeal

“conviction to”

Substitute

“conviction—to”.

7. **Section 5 amended (prohibition against making available funds, etc. or dealing with funds, etc.)**

- (1) Section 5(4)(a), English text—

Repeal

“indictment to”

Substitute

“indictment—to”.

- (2) Section 5(4)(b), English text—

Repeal

“conviction to”

Substitute

“conviction—to”.

- (3) Section 5(5)(a), before “that the funds”—

Add

“for a contravention of subsection (2)(a)—”.

- (4) Section 5(5)(a), English text—

Repeal

“were or were to be”

Substitute

“were, or were to be.”.

- (5) Section 5(5)(b), before “that the person”—

Section 8

Add

“for a contravention of subsection (2)(b)—”.

- (6) Section 5(7), definition of
- deal with*
- , paragraph (b)—

Repeal

“resources,”

Substitute

“resources—”.

8. **Section 7 amended (exceptions to prohibition against entry or transit by certain persons)**

Section 7, Chinese text—

Repeal paragraphs (a) and (b)**Substitute**

“(a) 經委員會認定，有關的入境或過境，是具有出於人道主義需要（包括宗教義務）的正當理由的；或

(b) 經委員會認定，有關的入境或過境，將推進索馬里的和平及民族和解以及該區域的穩定的目標。”.

9. **Section 8 amended (licence for supply, sale, transfer or carriage of certain goods)**

- (1) Section 8(1)(a)(iii), English text—

Repeal

“indirectly,”

Substitute

“indirectly”.

- (2) Section 8(1)(b)(iii), English text—

Repeal

“indirectly,”

Section 10

Substitute

“indirectly”.

- (3) At the end of section 8(2)—

Add

“(p) the prohibited goods do not include any item covered by the Annex to Resolution 2111, and are intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.”.

10. **Section 9 amended (licence for provision of certain advice, assistance or training)**

At the end of section 9(2)—

Add

“(l) the advice, assistance or training is intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.”.

11. **Section 10 amended (licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities)**

- (1) Section 10(2)(a)(ii), after “services”—

Add

“under the law of the HKSAR”.

- (2) At the end of section 10(2)—

Add

Section 12

“(h) the funds or other financial assets or economic resources are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—

- (i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or
- (ii) their implementing partners, including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia.”.

12. **Section 11 amended (provision of false information or documents for purpose of obtaining licences)**

- (1) Section 11(1)(a), English text—

Repeal

“indictment to”

Substitute

“indictment—to”.

- (2) Section 11(1)(b), English text—

Repeal

“conviction to”

Substitute

“conviction—to”.

- (3) Section 11(2)(a), English text—

Repeal

“indictment to”

Section 13

Substitute

“indictment—to”.

- (4) Section 11(2)(b), English text—

Repeal

“conviction to”

Substitute

“conviction—to”.

13. **Section 28 amended (offences in relation to evasion of this Regulation)**

- (1) Section 28(a), English text—

Repeal

“indictment to”

Substitute

“indictment—to”.

- (2) Section 28(b), English text—

Repeal

“conviction to”

Substitute

“conviction—to”.

14. **Section 32 amended (duration)**

At the end of section 32—

Add

- “(6) Sections 8(2)(p), 9(2)(l) and 10(2)(h) expire at midnight on 15 November 2018.”.

Carrie LAM
Chief Executive

17 April 2018

United Nations Sanctions (Somalia) (Amendment) Regulation 2018

Explanatory Note
Paragraph 1

L.N. 66 of 2018
B705

Explanatory Note

This Regulation gives effect to certain decisions in Resolution 2385 (2017) adopted by the Security Council of the United Nations on 14 November 2017 by amending the licensing requirements for—

- (a) the supply, sale, transfer or carriage of certain goods;
- (b) providing certain advice, assistance or training;
- (c) making available funds or other financial assets or economic resources to certain persons or entities; and
- (d) dealing with funds or other financial assets or economic resources of certain persons or entities.

2. The Regulation also makes certain minor textual amendments.



Resolution 2385 (2017)

Adopted by the Security Council at its 8099th meeting, on 14 November 2017

The Security Council,

Recalling all its previous resolutions and statements of its President on the situation in Somalia and Eritrea, in particular resolutions 733 (1992), 1844 (2008), 1907 (2009), 2036 (2012), 2023 (2011), 2093 (2013), 2111 (2013), 2124 (2013), 2125 (2013), 2142 (2014), 2182 (2014), 2244 (2015) and 2317 (2016),

Taking note of the final reports of the Somalia and Eritrea Monitoring Group (the SEMG) on Somalia (S/2017/924) and Eritrea (S/2017/925) and their conclusions on the situations in both Somalia and Eritrea,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, Djibouti and Eritrea respectively, and underscoring the importance of working to prevent destabilizing effects of regional crises and disputes from spilling over into Somalia,

Condemning any flows of weapons and ammunition supplies to and through Somalia in violation of the arms embargo on Somalia, including when they undermine the sovereignty and territorial integrity of Somalia, and to Eritrea in violation of the arms embargo on Eritrea, as a serious threat to peace and stability in the region,

Expressing concern that Al-Shabaab continues to pose a serious threat to the peace and stability of Somalia and the region, and expressing concern at the emergence of, and growing threat of, affiliates of ISIL (also known as Da'esh),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights law, international refugee law, and international humanitarian law, threats to international peace and security caused by terrorist acts,

Welcoming the further improved relationship between the Federal Government of Somalia (FGS), Federal Member States (FMS), and the SEMG, and *underlining* the importance of these relationships improving further and strengthening in the future,

Welcoming the FGS and FMS's political agreement reached on 16 April 2017 on a National Security Architecture to integrate regional and federal forces, the



Security Pact, agreed at the London Conference and looking forward to the Security Conference to be held in Mogadishu in December 2017,

Welcoming the efforts of the FGS to improve its notifications to the Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea (“the Committee”), *urging* further progress in the future, particularly in relation to post-delivery notifications, and *recalling* that improved arms and ammunition management in Somalia is a fundamental component of greater peace and stability for the region,

Taking note of the efforts of the FGS to restore key economic and financial institutions, increase domestic revenue and implement financial governance and structural reforms; *welcoming* the passing of a landmark telecommunications bill together with progress on the anti-corruption bill; and *highlighting* the importance of continual progress in these areas,

Underlining the importance of financial propriety in contributing to stability and prosperity and *stressing* the need for a zero tolerance approach to corruption to promote transparency and increase mutual accountability in Somalia,

Expressing serious concern at reports of illegal, unreported and unregulated fishing in waters where Somalia has jurisdiction, *underlining* the importance of refraining from illegal, unreported and unregulated fishing, *welcoming* further reporting on the matter, and encouraging the FGS, with the support of the international community, to ensure that fishing licenses are issued in a responsible manner and in line with the appropriate Somali legal framework,

Expressing serious concern at the ongoing difficulties in delivering humanitarian aid in Somalia, and *condemning* in the strongest terms any party obstructing the delivery of humanitarian assistance, as well as the misappropriation or diversion of any humanitarian funds or supplies,

Recalling that the FGS has the primary responsibility to protect its population, and *recognizing* the FGS’ responsibility, working with the FMS to build the capacity of its own national security forces, as a matter of priority,

Taking note of the three meetings between the representative of the Government of Eritrea and the SEMG, *expressing concern* that the SEMG has not been able to visit Eritrea since 2011 and fully discharge its mandate, and *underlining* that deepened cooperation will help the Security Council fully assess Eritrea’s compliance with the relevant Security Council resolutions,

Expressing concern over reports by the SEMG of ongoing Eritrean support for certain regional armed groups, and *encouraging* the SEMG to provide further detailed reporting and evidence on support for armed groups in the region,

Welcoming the release of four prisoners of war by Eritrea in March 2016, expressing concern at ongoing reports of Djiboutian combatants missing in action since the clashes in 2008, *calling on* Eritrea and Djibouti to continue to engage in resolving the issues of combatants, and *urging* Eritrea to share any further available detailed information pertaining to the combatants, including to the SEMG,

Welcoming the restraint shown by both Eritrea and Djibouti with regard to the situation on their shared border following the withdrawal of Qatari forces, recalling the African Union’s deployment of a fact finding mission to the Djibouti border following the withdrawal of Qatari forces, *noting* that the fact-finding mission visited Djibouti and is yet to visit Asmara, and welcoming the call by the Assembly of the African Union in July 2017 to encourage the Chairperson of the Commission, with the necessary support of the two countries, to pursue efforts towards normalization of relations and good neighbourhood between Djibouti and Eritrea,

Underlining the importance it attaches to all Member States complying with the terms of the arms embargo imposed on Eritrea by resolution [1907 \(2009\)](#),

Determining that the situation in Somalia, as well as the dispute between Djibouti and Eritrea, continues to constitute a threat to international peace and security in the region,

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

Arms embargo

1. *Reaffirms* the arms embargo on Somalia, imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon in paragraphs 1 and 2 of resolution [1425 \(2002\)](#) and modified by paragraphs 33 to 38 of resolution [2093 \(2013\)](#) and paragraphs 4 to 17 of resolution [2111 \(2013\)](#), paragraph 14 of resolution [2125 \(2013\)](#), paragraph 2 of resolution [2142 \(2014\)](#), and paragraph 2 of resolution [2244 \(2015\)](#), and paragraph 2 of resolution [2317 \(2016\)](#) (hereafter referred to as “the arms embargo on Somalia”);

2. *Decides* to renew the provisions set out in paragraph 2 of resolution [2142 \(2014\)](#) until 15 November 2018, and in that context *reiterates* that the arms embargo on Somalia shall not apply to deliveries of weapons, ammunition or military equipment or the provision of advice, assistance or training, intended solely for the development of the Somali National Security Forces, to provide security for the Somali people, except in relation to deliveries of the items set out in the annex of resolution [2111 \(2013\)](#);

3. *Reaffirms* that the entry into Somali ports for temporary visits of vessels carrying arms and related materiel for defensive purposes does not amount to a delivery of such items in violation of the arms embargo on Somalia, provided that such items remain at all times aboard such vessels;

4. *Reiterates* that weapons or military equipment sold or supplied solely for the development of the Somali National Security Forces may not be resold to, transferred to, or made available for use by, any individual or entity not in the service of the Somali National Security Forces, and *underlines* the responsibility of the FGS to ensure the safe and effective management, storage and security of their stockpiles;

5. *Welcomes* in this regard the initial improvements by the FGS, of a more rigorous weapons registration, recording and marking procedure, *expresses concern* at reports of continued weapons diversion from within the FGS and FMS, *encourages* further improvements, *notes* that further improved weapons management is vital in order to prevent the diversion of weapons, and reiterates that the Security Council is committed to monitoring and assessing improvements in order to review the arms embargo when all conditions as set out in Security Council resolutions are met;

6. *Welcomes* the efforts of the FGS to develop detailed Standard Operating Procedures for weapons and ammunition management including an issue and receipt system to track all weapons post distribution, and *urges* the FGS to finalize and implement these procedures as soon as possible;

7. *Further welcomes* the efforts of the FGS in establishing the Joint Verification Team (JVT) and *urges* Member States to support improved weapons and ammunition management to improve the capacity of the FGS to manage weapons and ammunition;

8. *Welcomes* the improvement in FGS reporting to the Security Council pursuant to paragraph 9 of resolution [2182 \(2014\)](#) and as requested in paragraph 7

of resolution 2244 (2015), *calls on* the FGS and FMS to implement the National Security Architecture, and the Security Pact, agreed at the London Conference on Somalia which set out to provide Somali-led security and protection to the people of Somalia, and *requests* the FGS to report to the Security Council in accordance with paragraph 9 of resolution 2182 (2014) and as requested in paragraph 7 of resolution 2244 (2015) on the structure, composition, strength and disposition of its Security Forces, including the status of regional and militia forces by 30 March 2018 and then by 30 September 2018;

9. *Recalls* that the FGS has the primary responsibility to notify the Committee, pursuant to paragraphs 3 to 8 of resolution 2142 (2014), *welcomes* the efforts of the FGS in improving its notifications to the Committee;

10. *Calls upon* the FGS to improve the timeliness and content of notifications regarding the completion of deliveries, as set out in paragraph 6 of resolution 2142 (2014) and the destination unit upon distribution of imported arms and ammunition, as set out by paragraph 7 of resolution 2142 (2014);

11. *Stresses* Member States' obligations pursuant to the notification procedures set out in paragraph 11 (a) of resolution 2111 (2013), *underlines* the need for Member States to strictly follow the notification procedures for providing assistance to develop Somali security sector institutions, and *encourages* Member States to consider the Implementation Assistance Notice of 14 March 2016 as a guide;

12. *Recalls* paragraph 2 of resolution 2142 (2014) and notes that support for the development of the Somali National Security Forces may include, inter alia, building infrastructure and provision of salaries and stipends solely provided to the Somali National Security Forces;

13. *Urges* increased cooperation by Africa Union Mission in Somalia (AMISOM), as set out in paragraph 6 of resolution 2182 (2014), to document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates, involving other Somali National Security Forces as appropriate;

14. *Calls upon* the FGS and FMS to enhance civilian oversight of its Security Forces, to adopt and implement appropriate vetting procedures of all defence and security personnel, including human rights vetting, in particular through investigation and prosecuting individuals responsible for violations of international law, including international humanitarian law, and in this context *recalls* the importance of the Secretary-General's Human Rights and Due Diligence Policy in relation to the support provided by the United Nations to the Somali National Army;

15. *Requests* the SEMG to continue its investigations related to the export to Somalia of chemicals that may be used as oxidisers in the manufacture of improvised explosive devices, such as the precursors ammonium nitrate, potassium chlorate, potassium nitrate and sodium chlorate with a view to considering further action, and *calls on* Member States and the FGS to cooperate with the SEMG in this regard;

16. *Underlines* the importance of timely and predictable payment of salaries to the Somali security forces and *calls on* the FGS to implement systems to improve the timeliness and accountability of payments and supply of provisions to the Somali security forces;

17. *Recalls* the need to build the capacities of the Somali National Security Forces, in particular the provision of equipment, training and mentoring, in order to

develop credible, professional and representative security forces to enable the gradual handing over of security responsibilities from AMISOM to the Somali security forces, and *encourages* further donor support and coordination as set out in the Security Pact;

18. *Recalls* OP16 and OP17 of resolution [1907 \(2009\)](#) and recognizes that during the course of its current and three previous mandates the SEMG has not found conclusive evidence that Eritrea supports Al-Shabaab;

19. *Further reaffirms* the arms embargo on Eritrea imposed by paragraphs 5 and 6 of resolution [1907 \(2009\)](#) (hereafter referred to as “the arms embargo on Eritrea”);

Threats to peace and security

20. *Expresses concern* at the continued reports of corruption and diversion of public resources which pose a risk to State-building efforts, *expresses serious concern* at reports of financial impropriety involving members of the FGS, FMS and Federal Parliament, which pose a risk to State-building efforts, and in this context *underlines* that individuals engaged in acts which threaten the peace and reconciliation process in Somalia may be listed for targeted measures;

21. *Welcomes* the efforts which the FGS has made in order to improve its financial management procedures including continued engagement between the FGS and the International Monetary Fund (IMF), *encourages* the FGS and FMS to maintain the pace of reform and continue the implementation of IMF-recommended reforms to support the continuation of a Staff Monitored Programme and increased transparency, accountability, comprehensiveness and predictability in revenue collection and budget allocations, and expresses concern at the generation and distribution of counterfeit Somali currency;

22. *Recognizes* that addressing outstanding constitutional issues around power and resource sharing between the FGS and FMS is crucial for Somalia’s stability, *emphasizes* the importance of Somali leadership to address these issues in an inclusive manner, with the FGS and the FMS working constructively together, and *encourages* the FGS and FMS to implement the outstanding elements of the National Security Architecture agreement, including decisions around the make-up, distribution and command and control of the security forces and resource-sharing;

23. *Reaffirms* Somalia’s sovereignty over its natural resources;

24. *Reiterates its serious concern* that the petroleum sector in Somalia could be a driver for increased conflict, and in that context *underlines* the vital importance of the FGS putting in place, without undue delay, resource-sharing arrangements and credible legal framework to ensure that the petroleum sector in Somalia does not become a source of increased tension;

25. *Expresses serious concern* at Al-Shabaab’s increasing reliance on revenue from natural resources including the taxing of illicit sugar trade, agricultural production, and livestock and further expresses its concern at the group’s involvement in the illicit charcoal trade, and *looks forward* to further SEMG reporting on this issue;

Charcoal ban

26. *Reaffirms* the ban on the import and export of Somali charcoal, as set out in paragraph 22 of resolution [2036 \(2012\)](#) (“the charcoal ban”), *welcomes* efforts of Member States to prevent the import of charcoal of Somali origin, *reiterates* that the FGS and FMS shall take the necessary measures to prevent the export of charcoal

from Somalia, and *urges* Member States to continue their efforts to ensure full implementation of the ban;

27. *Reiterates* its requests in paragraph 18 of resolution 2111 (2013), that AMISOM support and assist the FGS and FMS in implementing the total ban on the export of charcoal from Somalia and *calls upon* AMISOM to facilitate regular access for the SEMG to charcoal exporting ports;

28. *Welcomes* the efforts of the Combined Maritime Forces (CMF) in their efforts to disrupt the export and import of charcoal to and from Somalia, and *further welcomes* the cooperation between the SEMG and CMF in keeping the Committee informed on the charcoal trade;

29. *Expresses concern* that the charcoal trade provides significant funding for Al-Shabaab, and in that context reiterates paragraphs 11 to 21 of resolution 2182 (2014), and *further decides* to renew the provisions set out in paragraph 15 of resolution 2182 (2014) until 15 November 2018;

30. *Condemns* the ongoing export of charcoal from Somalia, in violation of the total ban on the export of charcoal, *calls* on Member States to share information with the SEMG, *requests* the SEMG to focus on this in their next report, and propose further measures, taking account of human rights concerns, and *expresses* its intention to consider further measures if violations continue;

31. *Encourages* the United Nations Office on Drugs and Crime to continue its work, with the FGS, within its current mandate, under the Indian Ocean Forum on Maritime Crime to bring together relevant Member States and international organizations to develop strategies to disrupt the trade in Somali charcoal;

Humanitarian access

32. *Expresses serious concern* at the acute humanitarian situation in Somalia and the risk of famine, *welcomes* efforts by the United Nations, the international community and the FGS to avert famine, *condemns* in the strongest terms increased attacks against humanitarian actors and any misuse of donor assistance and the obstruction of the delivery of humanitarian aid, *reiterates* its demand that all parties allow and facilitate full, safe and unhindered access for the timely delivery of aid to persons in need across Somalia and *encourages* the FGS to improve the regulatory environment for aid donors;

33. *Decides* that until 15 November 2018 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia;

34. *Requests* the Emergency Relief Coordinator to report to the Security Council by 15 October 2018 on the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia, and *requests* relevant United Nations agencies and humanitarian organizations having observer status with the United Nations General Assembly and their implementing partners that provide humanitarian assistance in Somalia to increase their cooperation and willingness to share information with the United Nations;

Eritrea

35. *Welcomes* the SEMG's ongoing and significant efforts to engage with the Government of Eritrea, in that context recalls the three meetings between the Representative of the Government of Eritrea and the SEMG, *reiterates* its expectation that the Government of Eritrea will facilitate the entry of the SEMG to Eritrea, to discharge fully its mandate, in line with its repeated requests, including in paragraph 52 of resolution [2182 \(2014\)](#);

36. *Welcomes* recent efforts by the Government of Eritrea to engage with the international community, *underlines* that deepened cooperation will help the Security Council be better informed about Eritrea's compliance with the relevant Security Council resolutions and enable a review of measures on Eritrea;

37. *Urges* the Government of Eritrea to facilitate visits by the SEMG to Eritrea, acknowledges the willingness as expressed by the Government of Eritrea to facilitate a visit by the Chair and urges the Government to agree a date as soon as possible;

38. *Calls on* Eritrea to cooperate fully with the SEMG, in accordance with the SEMG's mandate contained in paragraph 13 of resolution [2060 \(2012\)](#) and updated in paragraph 41 of resolution [2093 \(2013\)](#);

39. *Urges* Eritrea and Djibouti to engage on the issue of the Djiboutian combatants missing in action and *urges* Eritrea to make available any further detailed information including to the SEMG;

40. *Urges* the two parties to continue to maintain an atmosphere of calm and restraint and *calls* on them to seek all available solutions to settle their border dispute peacefully in a manner consistent with international law;

41. *Expresses* its intention to keep under regular review measures on Eritrea, in light of the upcoming midterm update by the SEMG due by 30 April 2018, taking into account relevant Security Council resolutions, and paragraphs 35 to 40 above;

Somalia

42. *Recalls* resolution [1844 \(2008\)](#) which imposed targeted sanctions and resolutions [2002 \(2011\)](#) and [2093 \(2013\)](#) which expanded the listing criteria, and *notes* one of the listing criteria under resolution [1844 \(2008\)](#) is engaging in or providing support for acts that threaten the peace, security or stability of Somalia;

43. *Reiterates* its willingness to adopt targeted measures against individuals and entities on the basis of the above-mentioned criteria;

44. *Recalls* paragraph 2 (c) of resolution [2060 \(2012\)](#) and emphasizes that certain misappropriation of financial resources is a criterion for designation and applies to misappropriation at all levels;

45. *Reiterates its request* for Member States to assist the SEMG in their investigations, *reiterates* that obstructing the investigations or work of the SEMG is a criterion for listing under paragraph 15 (e) of resolution [1907 \(2009\)](#) and *further requests* the FGS, FMS and AMISOM to share information with the SEMG regarding Al-Shabaab activities;

46. *Decides* to extend until 15 December 2018 the mandate of the Somalia and Eritrea SEMG as set out in paragraph 13 of resolution [2060 \(2012\)](#) and updated in paragraph 41 of resolution [2093 \(2013\)](#), and *expresses* its intention to review the mandate and take appropriate action regarding the further extension no later than 15 November 2018;

47. *Requests* the Secretary-General to take the necessary administrative measures as expeditiously as possible to re-establish the SEMG, in consultation with the Committee, until 15 December 2018, drawing, as appropriate, on the expertise of the members of the SEMG established pursuant to previous resolutions, and *further requests* that administrative support to the SEMG be adjusted, within existing resources, to facilitate the delivery of their mandate;

48. *Requests* the SEMG to provide monthly updates to the Committee, and a comprehensive midterm update, as well as to submit, for the Security Council's consideration, through the Committee, two final reports; one focusing on Somalia, the other on Eritrea by 15 October 2018, covering all the tasks set out in paragraph 13 of resolution [2060 \(2012\)](#) and updated in paragraph 41 of resolution [2093 \(2013\)](#) and paragraph 15 of resolution [2182 \(2014\)](#);

49. *Requests* the Committee, in accordance with its mandate and in consultation with the SEMG and other relevant United Nations entities to consider the recommendations contained in the reports of the SEMG and recommend to the Security Council ways to improve the implementation of and compliance with the Somalia and Eritrea arms embargoes, the measures regarding the import and export of charcoal from Somalia, as well as implementation of the measures imposed by paragraphs 1, 3 and 7 of resolutions [1844 \(2008\)](#) and paragraphs 5, 6, 8, 10, 12 and 13 of resolution [1907 \(2009\)](#) in response to continuing violations;

50. *Requests* the Committee to consider, where and when appropriate, visits to selected countries by the Chair and/or Committee members to enhance the full and effective implementation of the measures above, with a view to encouraging States to comply fully with this resolution;

51. *Decides* to remain seized of the matter.

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

United Nations Sanctions (Somalia) (Amendment) Regulation 2018

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 December 2017 which requested the Government of the Hong Kong Special Administrative Region to implement Resolution 2385 of the Security Council of the United Nations, and that the United Nations Sanctions (Somalia) (Amendment) Regulation 2018 was made in pursuance of that instruction.

Dated this 17th day of April 2018

A handwritten signature in black ink, consisting of a large, stylized loop followed by a series of connected strokes that form the name 'Matthew Cheung Kin-chung'.

(Matthew Cheung Kin-chung)
Chief Secretary for Administration

United Nations Sanctions (Somalia) Regulation

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United Nations Sanctions (Somalia) Regulation

Part 1

Preliminary

1. Interpretation

In this Regulation—

AMISOM (非索特派團) means the African Union Mission in Somalia;

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 paragraph 11 of Resolution 751;

designated person (指認人士) means a person or an entity designated by the Committee—

- (a) as engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, including acts that threaten the peace and reconciliation process in Somalia, or threaten the Federal Government of Somalia or AMISOM by force;

- (b) as having acted in violation of—
 - (i) the arms embargo imposed by paragraph 5 of Resolution 733, as further elaborated upon by paragraphs 1 and 2 of Resolution 1425, and as amended by paragraphs 33 to 38 of Resolution 2093;
 - (ii) the arms resale and transfer restrictions set out in paragraph 34 of Resolution 2093;
- (c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
- (d) as being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law; or
- (e) as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;

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 8(1)(a) or (b), 9(1) or 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 Somalia (有關連人士) means—

- (a) the Government of Somalia;
- (b) any person in, or resident in, Somalia;
- (c) any body incorporated or constituted under the law of Somalia;
- (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 weapons or military equipment;

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity under section 30; or
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled ~~directly or indirectly~~ by, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 30;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person under section 30; 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 under section 30;

Resolution 733 (《第 733 號決議》) means Resolution 733 (1992) adopted by the Security Council on 23 January 1992;

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

Resolution 1425 (《第 1425 號決議》) means Resolution 1425 (2002) adopted by the Security Council on 22 July 2002;

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

Resolution 2093 (《第 2093 號決議》) means Resolution 2093 (2013) adopted by the Security Council on 6 March 2013;

Resolution 2111 (《第 2111 號決議》) means Resolution 2111 (2013) adopted by the Security Council on 24 July 2013;

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) Except under the authority of a licence granted under section 8(1)(a), 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 Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) 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, or to the order of, a designated person; or

- (b) to a destination for the purpose of delivery or transfer, directly or indirectly⁵ to, or to the order of, a designated person.
- (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) that the goods concerned were prohibited goods;
- (b) for a contravention of subsection (2)~~;~~~~—~~ that the goods concerned were₂ or were to be₂ supplied, sold or transferred—
- (i) to Somalia;
- (ii) to, or to the order of, a person connected with Somalia; or
- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly⁵ to Somalia or to, or to the order of, a person connected with Somalia; or
- (c) for a contravention of subsection (3)~~;~~~~—~~ that the goods concerned were₂ or were to be₂ supplied, sold or transferred—
- (i) to, or to the order of, a designated person; or
- (ii) to a destination for the purpose of delivery or transfer, directly or indirectly⁵ 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) 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) 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
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 8(1)(b), 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 Somalia to a place in Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 8(1)(a).

- (4) 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) to, or to the order of, a designated person; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.
- (5) If a ship, aircraft or vehicle is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
- (a) for a ship registered in the HKSAR—the charterer, the operator and the master of the ship;
 - (b) for 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) for an aircraft registered in the HKSAR—the charterer, the operator and the pilot in command of the aircraft;
 - (d) for 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) for a vehicle—the operator and the driver of the vehicle.
- (6) A person who commits an offence under subsection (5) 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.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods;
 - (b) for a contravention of subsection (2), ~~that~~ the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or

- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
- (c) for a contravention of subsection (4), ~~that~~ the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) to, or to the order of, a designated person; or
 - (ii) 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 advice, 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) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person connected with Somalia any technical advice, financial or other assistance or training related to military activities.
- (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 prohibited goods.

- (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) for a contravention of subsection (2)—
 - (i) that the advice, assistance or training concerned was, or was to be, provided to a person connected with Somalia; or
 - (ii) that the advice, assistance or training concerned related to military activities; or
 - (b) for a contravention of 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 prohibited goods.

4A. Prohibition against importation of charcoal

- (1) A person must not import, directly or indirectly, any charcoal from Somalia into the HKSAR.
- (2) Subsection (1) applies whether or not the charcoal concerned was originated in Somalia.
- (3) 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.
- (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 that the charcoal concerned was imported, directly or indirectly, from Somalia into the HKSAR.

5. 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 granted under section 10(1)—
- (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 belonging to, or owned or controlled 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 belonging to, or owned or controlled by, the first-mentioned person.

- (4) 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.
- (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) for a contravention of subsection (2)(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) for a contravention of subsection (2)(b)—that the person was dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (6) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account belonging to, or owned or controlled 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.
- (7) 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~~ use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

6. Prohibition against entry or transit by certain persons

- (1) Subject to section 7, 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.

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

Section 6 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry or transit is justified on the ground of humanitarian need, including religious obligation; or
 - (b) the Committee has determined that the relevant entry or transit would otherwise further the objectives of peace and national reconciliation in Somalia and stability in the region.
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Part 3

Licences

8. Licence for supply, sale, transfer or carriage of certain goods

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (2) The requirements are as follows—
 - (a) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Somalia by the personnel of the United

- Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
- (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
 - (c) the prohibited goods are intended solely for the support of or use by AMISOM;
 - (d) the prohibited goods are intended solely for the purposes of helping develop Somali security sector institutions;
 - (e) *(expired)*
 - (f) the prohibited goods are intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in cooperation and coordination with AMISOM;
 - (g) the prohibited goods are intended solely for the support of or use by the personnel of the United Nations, including the United Nations Assistance Mission in Somalia;
 - (h) the prohibited goods are any of the items covered by the Annex to Resolution 2111 and to be supplied to the Federal Government of Somalia, as approved in advance by the Committee on a case-by-case basis;
 - (i) the prohibited goods are intended solely for the support of or use by the European Union Training Mission in Somalia;
 - (j) the prohibited goods are intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea

off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;

- (k) *(expired)*
- (l) *(expired)*
- (m) *(expired)*
- (n) the prohibited goods are intended for defensive purposes and are—
 - (i) to be carried by a ship that enters a Somali port for a temporary visit; and
 - (ii) to remain aboard the ship at all times while the ship is in Somalia;

(o) ¹*(expired)*

(p) the prohibited goods do not include any item covered by the Annex to Resolution 2111, and are intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.

- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(b) is met, the Chief Executive must cause the Committee to be notified of the determination 5 days before granting a licence under subsection (1);
 - (b) the requirement in subsection (2)(d) is met, the Chief Executive—

¹ Before its expiry, this provision read “the prohibited goods do not include any item covered by the Annex to Resolution 2111, and are intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.”

- (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
- (ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

9. Licence for provision of certain advice, assistance or training

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence for the provision, to a person connected with Somalia, of technical advice, financial or other assistance or training related to military activities.
- (2) The requirements are as follows—
 - (a) the assistance or training is technical training or assistance intended solely for the support of or use by AMISOM;
 - (b) the assistance or training is technical assistance or training intended solely for the purposes of helping develop Somali security sector institutions;
 - (c) *(expired)*
 - (d) the assistance is intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in cooperation and coordination with AMISOM;
 - (e) the assistance is intended solely for the support of or use by the personnel of the United Nations, including the United Nations Assistance Mission in Somalia;

- (f) the assistance or training is technical training or assistance intended solely for the support of or use by the European Union Training Mission in Somalia;
 - (g) the assistance is intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;
 - (h) *(expired)*
 - (i) *(expired)*
 - (j) *(expired)*
 - (k) ²*(expired)*
 - (l) the advice, assistance or training is intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.
- (3) If the Chief Executive determines that the requirement in subsection (2)(b) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

² Before its expiry, this provision read “the advice, assistance or training is intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.”

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 belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements 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 under the law of the HKSAR; 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 belonging to, or owned or controlled 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 20 November 2008 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;
- (d) *(expired)*
- (e) *(expired)*
- (f) *(expired)*
- (g) ³*(expired)*
- (h) the funds or other financial assets or economic resources are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—
 - (i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or
 - (ii) their implementing partners, including bilaterally or multilaterally funded non-governmental

³ Before its expiry, this provision read “the funds or other financial assets or economic resources are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—

(i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or

(ii) their implementing partners, including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia.”

organizations participating in the United Nations Humanitarian Response Plan for Somalia.

- (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 under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of receiving 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.
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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 applies has been, is being or is about to be used in contravention of section 3(2) or (4), 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 applies is being or is about to be used in contravention of section 3(2) or (4), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or (4) 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 applies has been, is being or is about to be used in contravention of section 3(2) or (4), 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.

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- (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 (4), 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. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), 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.
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Part 7

Disclosure of Information or Documents

25. 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 Somalia 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 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.
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Part 8

Other Offences and Miscellaneous Matters

26. 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.

27. 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.

28. 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.

29. 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.

30. 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 3 of Resolution 1844.

31. 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.

32. Duration

(1) *(spent)*

(2) *(spent)*

(3) *(spent)*

(4) *(spent)*

(5) *(spent)*

(6) Sections 8(2)(p), 9(2)(l) and 10(2)(h) expire at midnight on 15 November 2018.

United Nations Sanctions (Somalia) (Amendment) Regulation 2018

Information on Somalia

Country Background

Somalia is a country in Eastern Africa, situated in the east of Ethiopia, bordering the Gulf of Aden and the Indian Ocean^{Note 1}. It has a total area of 637,657 sq. km. and had an estimated population of around 14.74 million in 2017. With its capital in Mogadishu, Somalia achieved independence in 1960. It is an agriculture dependent economy and had a GDP of US\$1.56 billion (or HK\$12.1 billion) in 2015^{Note 2}. The inauguration of the new Federal Parliament of Somalia on 20 August 2012 marked the end of the transitional period following decades of warfare in the country.

Sanctions imposed by the United Nations Security Council

2. The overthrow of the former President of Somalia, Siad Barre in January 1991 left Somalia without a viable government. Fighting broke out, mainly between two major clans, with the support of a number of clan-based militias. By early 1992, the country's humanitarian situation was dire with more than 300,000 people estimated to have died of hunger and disease and another 1.5 million in danger of starvation. Against this background, in January 1992, the United Nations Security Council ("UNSC") adopted Resolution 733 to impose an arms embargo against the country. Since then, the sanctions regime against Somalia was further expanded and amended by Resolutions 1356, 1725, 1744, 1772, etc.

3. Under the Djibouti Agreement reached in June 2008, the Transitional Federal Government of Somalia and the opposition Alliance for the Re-liberation of Somalia agreed to end their conflict and to establish a unity government. To take measures against those who sought to prevent or block a peaceful political process, or take action that undermines stability in Somalia or the region, the UNSC adopted Resolution 1844 on 20 November 2008 to apply travel ban and financial sanctions to individuals and entities that engaged in such activities, as well as those who violated the arms embargo, which was put in place by Resolution 733 and amended by subsequent resolutions. On 22 February 2012, the UNSC further strengthened sanctions in respect of Somalia by adopting Resolution 2036 to impose a charcoal ban against the country to cut off the main funding of Al-Shabaab, a prominent insurgent group in the country.

^{Note 1} At present, there is not a definite list of Belt and Road countries, but Somalia is usually not regarded as one of the countries along the Belt and Road.

^{Note 2} Source: World Statistics Pocket Book published by the United Nations Statistics Division at <http://unstats.un.org/unsd/pocketbook/WSPB2017.pdf>

4. Recognising the significant progress made in Somalia while noting that the situation in Somalia continues to pose a threat to international peace and security in the region, the UNSC adopted Resolutions 2060 and 2093 in 2012 and 2013 respectively to provide for exemptions to the financial sanctions for the delivery of humanitarian assistance in Somalia and to partially lift the arms embargo for the purpose of building the capacity of the Security Forces of the Federal Government of Somalia, for a certain period. The partial lift of the arms-related sanctions and the humanitarian exemption to the financial sanctions were renewed for a number of times by the UNSC since then. On 14 November 2017, the UNSC adopted Resolution 2385 to further renew such exemptions until 15 November 2018^{Note 3}.

Trade Relation between Hong Kong and Somalia

5. In 2017, Somalia ranked 169th among Hong Kong's trading partners in the world, with a total trade of HK\$23.6 million. Of these, HK\$14.5 million worth of trade were exports to Somalia, and HK\$9.2 million imports from Somalia. Hong Kong's trade with Somalia are summarised as follows –

Hong Kong's Trade with Somalia [Value in HK\$ (in million)]		
Item	2016	2017
(a) Total Exports to Somalia	13.5	14.5
(i) Domestic exports	-	0.7 ^{Note 4}
(ii) Re-exports	13.5 ^{Note 5}	13.8 ^{Note 6}
(b) Imports from Somalia	3.7 ^{Note 7}	9.2 ^{Note 8}
Total Trade [(a) + (b)]	17.2	23.6

In 2017, HK\$14.32 million worth of goods, or 0.4%^{Note 9} of the total trade between Somalia and the Mainland, were routed through Hong Kong. Of these, HK\$0.52

^{Note 3} Source of information contained in paragraphs 2-4: United Nations News Centre at <http://www.un.org/apps/news/>, Webpage of Security Council Committee pursuant to Resolutions 751 and 1907 concerning Somalia and Eritrea at <https://www.un.org/sc/suborg/en/sanctions/751>.

^{Note 4} In 2017, Hong Kong's domestic export item to Somalia was tobacco and tobacco manufactures (100%).

^{Note 5} In 2016, Hong Kong's major re-export items to Somalia were telecommunications and sound recording and reproducing apparatus and equipment (56.2%).

^{Note 6} In 2017, Hong Kong's major re-export items to Somalia include telecommunications and sound recording and reproducing apparatus and equipment (54.1%); and office machines and automatic data processing machines (12.7%).

^{Note 7} In 2016, Hong Kong's major import items from Somalia include fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (64.8%); and cork and wood (21.0%).

^{Note 8} In 2017, Hong Kong's major import items from Somalia was fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (93.7%).

^{Note 9} The percentage is an estimate with reference to China's Customs Statistics and Hong Kong

million worth of goods were re-exports of Somali origin to the Mainland via Hong Kong. The remaining HK\$13.8 million were re-exports of Mainland origin to Somalia via Hong Kong.

6. The sanctions against Somalia imposed by the UNSC would unlikely affect the trade between Hong Kong and Somalia notably, as the major categories of commodities traded are not related to arms nor charcoal. In addition, given the rather small trade volume between the two places, the sanctions against Somalia would unlikely have any significant effect on the Hong Kong economy.

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