

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance
(Chapter 537)

UNITED NATIONS SANCTIONS (MALI) REGULATION

INTRODUCTION

A At the meeting of the Executive Council on 23 January 2018, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Mali) Regulation (“the Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The Regulation was gazetted on 26 January 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 September 2017, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2374 in the HKSAR. The Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction is at Annex B.

Sanctions against Mali

3. Determining that the situation in Mali constitutes a threat to international peace and security in the region, the UNSC adopted UNSCR 2374 (at Annex C) on 5 September 2017, imposing sanctions against Mali. The UNSC decided, inter alia, that –

C

- (a) for an initial period of one year from the date of the adoption of UNSCR 2374, all Member States shall take necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee of the UNSC established pursuant to paragraph 9 of UNSCR 2374 (“the Committee”), provided that a State is not obliged to refuse its own nationals entry into its territory, subject to the exceptions set out in paragraph 2 of UNSCR 2374 (*paragraphs 1 and 2 of UNSCR 2374 refer*); and
- (b) for an initial period of one year from the date of the adoption of UNSCR 2374, all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them; and all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, directly or indirectly to or for the benefit of the individuals or entities designated by the Committee, subject to the exceptions set out in paragraphs 5, 6, and 7 of UNSCR 2374 (*paragraphs 4, 5, 6 and 7 of UNSCR 2374 refer*).

THE REGULATION

4. The Regulation, at Annex A, seeks to implement the sanctions against Mali as imposed by UNSCR 2374. The main provisions of the Regulation include -

- (a) **section 2**, which provides for the prohibitions against making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (b) **section 3**, which prohibits the entry into or transit through the HKSAR by certain persons;
- (c) **section 4**, which provides for exceptions to the prohibition against the entry into or transit through the HKSAR by certain persons;
- (d) **section 5**, which provides for the granting of licence for making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (e) **section 15**, which provides that 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 purpose of the financial sanctions under the Regulation; and
- (f) **section 17**, which provides that the Regulation would expire at midnight on 4 September 2018.

A marked-up version showing differences when compared against relevant provisions in other United Nations Sanctions Regulations is at Annex D for Members' reference.

IMPLICATIONS OF THE PROPOSAL

5. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The 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 Regulation, if any, will be absorbed by the relevant departments with existing resources.

PUBLICITY

6. A press release was issued on 26 January 2018 when the Regulation was published in the Gazette. A spokesperson will be available to answer media and public enquiries.

INFORMATION ON MALI AND RELATION WITH THE HKSAR

7. For information on Mali, 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

8. Members are invited to note the implementation of the UNSCR 2374 in the HKSAR by the Regulation.

**Commerce and Economic Development Bureau
January 2018**

United Nations Sanctions (Mali) Regulation

L.N. 12 of 2018
B193

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United Nations Sanctions (Mali) Regulation

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

Part 1

Preliminary

1. Interpretation

In this Regulation—

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;

Committee (委員會) means the Committee of the Security Council established under paragraph 9 of Resolution 2374;

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 5(1);

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity under section 15;
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled by, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person under section 15; 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 15;

Resolution 2374 (《第2374號決議》) means Resolution 2374 (2017) adopted by the Security Council on 5 September 2017;

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

Part 2**Prohibitions**

2. **Prohibition against making available funds, etc. or dealing with funds, etc.**
- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence—
- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources 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.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on conviction on indictment—to a fine and to imprisonment for 7 years; or

- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) 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.
- (5) 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.
- (6) In this section—
- deal with* (處理) means—
- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

- (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources—use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

3. Prohibition against entry or transit by certain persons

- (1) Subject to section 4, a specified 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.
- (4) In this section—

specified person (指明人士) means a person designated by the Committee for the purposes of paragraph 1 of Resolution 2374.

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

Section 3 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;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process; or

- (c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in Mali and stability in the region.
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Part 3**Licence****5. 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 5 September 2017 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) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;
 - (e) the Committee has determined that making available, or dealing with, the funds or other financial assets or economic resources would further the objectives of peace and national reconciliation in Mali and stability in the region.
- (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 5 working days of the notification;
- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

6. Provision of false information or documents for purpose of obtaining licence

- (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**

7. **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**Evidence**

8. **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.

9. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 8(3) may not be detained for more than 3 months.
- (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.

Part 6

Disclosure of Information or Documents

10. 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 Mali 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 7

Other Offences and Miscellaneous Matters

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 4 of Resolution 2374.

16. 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.

Part 8

Duration

17. **Duration**

This Regulation expires at midnight on 4 September 2018.

Matthew CHEUNG Kin-chung
Acting Chief Executive

23 January 2018

Explanatory Note

This Regulation gives effect to certain decisions in Resolution 2374 (2017) adopted by the Security Council of the United Nations on 5 September 2017 by providing for the prohibition against—

- (a) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (c) entry into or transit through the HKSAR by certain persons.

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

United Nations Sanctions (Mali) Regulation

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in September 2017 which requested the Government of the Hong Kong Special Administrative Region to strictly implement Resolution 2374 of the Security Council of the United Nations, and that the United Nations Sanctions (Mali) Regulation was made in pursuance of that instruction.

Dated this 23rd day of January 2018

A handwritten signature in black ink, appearing to read 'Matthew Cheung Kin-chung', with a large circular flourish at the beginning and a long horizontal stroke extending to the right.

(Matthew Cheung Kin-chung)
Chief Secretary for Administration



Resolution 2374 (2017)

Adopted by the Security Council at its 8040th meeting, on 5 September 2017

The Security Council,

Recalling its previous resolutions, in particular resolutions [2364 \(2017\)](#) and [2359 \(2017\)](#), concerning the situation in Mali,

Reaffirming its strong commitment to the sovereignty, unity and territorial integrity of Mali, *emphasizing* that the Malian authorities have primary responsibility for the provision of stability and security throughout the territory of Mali, and *underscoring* the importance of achieving national ownership of peace- and security-related initiatives,

Recognizing the legitimate aspiration of all Malian citizens to enjoy lasting peace and development,

Recognizing that the Agreement on Peace and Reconciliation in Mali (“the Agreement”) signed in 2015 by the Government of Mali, the *Plateforme* coalition of armed groups, and the *Coordination des Mouvements de l’Azawad* coalition of armed groups, and its continued implementation, represents a historic opportunity to achieve lasting peace in Mali,

Condemning the repeated violations of the ceasefire arrangements by the *Plateforme* and *Coordination* armed groups in the Kidal and Menaka regions, *urging* them to cease hostilities, to strictly adhere to the ceasefire arrangements and to resume a constructive dialogue without delay for the full implementation of the Agreement, and *welcoming* to this extent the recent signing of a truce agreement on 23 August 2017 in Bamako,

Recognizing the recent progress achieved for the implementation of the Agreement, including the establishment of all interim administrations in the North, *while expressing* its deep concern over the persistent delays for its full implementation two years after it was concluded, and *highlighting* the pressing need to deliver tangible and visible peace dividends to the population in the North and other parts of Mali in order to keep the momentum of the Agreement,

Affirming its intention to facilitate, support and follow closely the implementation of the Agreement, *commending* the role played by Algeria and other members of the international mediation team to assist the Malian parties to implement the Agreement, *emphasizing* the need for increased engagement by the members of the international mediation team, and *further emphasizing* the central



role the Special Representative of the Secretary-General for Mali should continue to play to support and oversee the implementation of the Agreement,

Deploring that the slow progress in the implementation of the Agreement, particularly its defence and security provisions, as well as the delayed restructuring of the security sector, have hampered efforts to restore security and the authority of the Malian State and the delivery of basic social services in the North of Mali, and *stressing* the primary responsibility of the Government of Mali, the *Plateforme* and *Coordination* armed groups to accelerate the implementation of the Agreement in order to improve the security situation across Mali and to forestall attempts by terrorist groups to derail the implementation of the Agreement,

Expressing its serious concern about the volatile security situation, especially the expansion of terrorist and other criminal activities into Central and Southern Mali as well as the intensification of criminal activities such as drug trafficking and trafficking in persons in Mali,

Emphasizing that security and stability in Mali are inextricably linked to that of the Sahel and West Africa regions, as well as the situation in Libya and in the North Africa region,

Acknowledging the impact of the situation in Mali on peace and security in the Sahel, as well as on the wider West Africa and North African region,

Expressing its continued concern over the transnational dimension of the terrorist threat in the Sahel region, as well as the serious challenges posed by transnational organized crime in the Sahel region, including arms, drug and cultural property trafficking, the smuggling of migrants, trafficking in persons, and its increasing links, in some cases, with terrorism, and *underscoring* the responsibility of the countries in the region in addressing these threats and challenges,

Noting that impunity can encourage a culture of corruption in which trafficking and other criminal interests can thrive, further encouraging instability and insecurity, and *calling for* the Malian government to devote appropriate law enforcement resources in this regard and *encouraging* international, regional and sub-regional cooperation and support to the Malian Government in this endeavor,

Strongly condemning the activities in Mali and in the Sahel region of terrorist organizations, including the *Mouvement pour l'unicité et le jihad en Afrique de l'Ouest* (MUJAO), Al-Qaida in the Islamic Maghreb (AQIM), Al-Mourabitoun, Ansar Eddine, and associated individuals and groups such as Jama'at Nusrat al-Islam wal-Muslimin (Group for the Support of Islam and Muslims), Islamic State in Greater Sahara and Ansaroul Islam, which continue to operate in Mali and constitute a threat to peace and security in the region and beyond, as well as human rights abuses and violence against civilians, notably women and children, committed in Mali and in the region by terrorist groups,

Recalling the listing of MUJAO, the Organisation of Al-Qaida in the Islamic Maghreb, Ansar Eddine and its leader Iyad Ag Ghali, and Al-Mourabitoun on the ISIL (Da'esh) and Al-Qaida sanctions list established pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#), and *reiterating its readiness*, under the above-mentioned regime, to sanction further individuals, groups, undertakings and entities who are associated with ISIL (Da'esh), Al-Qaida and other listed entities or individuals, including AQIM, Al Mourabitoun and Ansar Eddine, in accordance with the established listing criteria,

Strongly condemning the continuing attacks, including terrorist attacks against civilians, the Malian defense and security forces, the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the

French forces, *underlining* the need to bring perpetrators, organizers, financiers and sponsors of these reprehensible acts of terrorism to justice, and *urging* the Government of Mali to take measures to ensure that those responsible for these attacks are held accountable,

Strongly condemning the incidents of kidnapping and hostage-taking with the aim of raising funds or gaining political concessions, *reiterating* its determination to prevent kidnapping and hostage-taking in the Sahel region and to secure the safe release of hostages without ransom payments or political concessions, in accordance with applicable international law, *recalling* its resolutions [2133 \(2014\)](#), [2253 \(2015\)](#) and [2368 \(2017\)](#) and including its call upon all Member States to prevent terrorists from benefitting directly or indirectly from the payment of ransoms or from political concessions and to secure the safe release of hostages and, in this regard, *noting* the publication of the Global Counterterrorism Forum's (GCTF) "Algiers Memorandum on Good Practices on Preventing and Denying the Benefits of Kidnapping for Ransom by Terrorists",

Strongly condemning all abuses and violations of human rights and violations of international humanitarian law in Mali, including those involving extrajudicial and summary executions, arbitrary arrests and detentions and ill-treatment of persons whose liberty has been restricted, sexual and gender-based violence, as well as killing, maiming, recruitment and use of children, attacks against schools and hospitals, *calling on* all parties to respect the civilian character of schools as such in accordance with international humanitarian law and to cease unlawful and arbitrary detention of all children, and *calling upon* all parties to bring an end to such violations and abuses and to comply with their obligations under applicable international law,

Emphasizing the need for all parties to uphold and respect the humanitarian principles of humanity, neutrality, impartiality and independence in order to ensure the continued provision of humanitarian assistance, the safety and protection of civilians receiving assistance and the security of humanitarian personnel operating in Mali, *stressing* the importance of humanitarian assistance being delivered on the basis of need, *reiterating* that all parties must allow and facilitate full, safe, and unhindered access for the timely delivery of aid to all persons in need across Mali,

Noting with grave concern the involvement of non-state actors, notably terrorist groups, in the destruction of cultural heritage and the trafficking in cultural property and related offences and *further taking note* of the fact that on 27 September 2016 the ICC found Mr Al Mahdi guilty of the war crime of intentionally directing attacks against religious and historical monuments in Timbuktu,

Welcoming the continued action by the French forces, at the request and in support of the Malian authorities, to deter the terrorist threat in the North of Mali,

Welcoming the deployment of the Force Conjointe des Etats du G5 Sahel (FC-G5S), *underlining* that the FC-G5S efforts to counter the activities of terrorist groups and other organized criminal groups will contribute to create a more secure environment in the Sahel region, with a view to supporting MINUSMA fulfil its mandate to stabilize Mali,

Commending the role of the European Union Training Mission (EUTM Mali) in Mali in providing training and advice for the Malian Defence and Security Forces, including contributing to the strengthening of civilian authority and respect for human rights, and of the European Union Capacity Building Mission (EUCAP Sahel Mali) in providing strategic advice and training for the Police, Gendarmerie and Garde nationale in Mali,

Recalling the mandate of MINUSMA as outlined in resolution 2364 (2017), *reiterating* its strong support for the Special Representative of the Secretary-General for Mali, and for MINUSMA to assist the Malian authorities and the Malian people in their efforts to bring lasting peace and stability to their country, bearing in mind the primary responsibility of the Malian authorities to protect the population, and *welcoming* the stabilizing effect of the international presence in Mali, including MINUSMA,

Recalling the provisions of the Agreement calling upon the Security Council to give its full support to the Agreement, to closely monitor its implementation and, if necessary, to take measures against anyone hindering the implementation of the commitments contained therein or the realization of its objectives,

Recalling the provisions of resolution 2364 (2017) expressing the readiness of the Security Council to consider targeted sanctions against those who take actions to obstruct or threaten the implementation of the Agreement, those who resume hostilities and violate the ceasefire, those who attack and take actions to threaten MINUSMA and other international presences, as well as those who provide support to such attacks and actions,

Taking note of the letter of the Government of Mali to the President of the Security Council of 9 August 2017 underlining that the repeated violations of the ceasefire since the beginning of June 2017, particularly in the Kidal region, pose serious threats to the fragile gains made in implementing the Agreement, and thus requesting the Security Council, in order to address the many obstacles to the implementation of the Agreement, to immediately establish a regime of targeted sanctions against those responsible for obstructing the implementation of the Agreement,

Determining that the situation in Mali continues to constitute a threat to international peace and security in the region,

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

Travel ban

1. *Decides* that, for an initial period of one year from the date of the adoption of this resolution, all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee established pursuant to paragraph 9 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

2. *Decides* that the measures imposed by paragraph 1 above shall not apply:

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

(b) Where entry or transit is necessary for the fulfilment of a judicial process;

(c) Where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Mali and stability in the region;

3. *Emphasizes* that violations of the travel ban can undermine the peace, stability or security of Mali, observes that individuals who knowingly facilitate the travel of a listed individual in violation of the travel ban may be determined by the Committee to have met the designation criteria provided for in this resolution and calls upon all parties and all Member States to cooperate with the Committee as

well as the Panel of experts established pursuant to paragraph 11 below on the implementation of the travel ban;

Asset freeze

4. *Decides* that, for an initial period of one year from the date of the adoption of this resolution, all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and *decides* further that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, directly or indirectly to or for the benefit of the individuals or entities designated by the Committee;

5. *Decides* that the measures imposed by paragraph 4 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

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

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

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

(d) Where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Mali and stability in the region;

6. *Decides* that Member States may permit the addition to the accounts frozen pursuant to the provisions of paragraph 4 above of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen;

7. *Decides* that the measures in paragraph 4 above shall not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that the relevant States have determined that the payment is not directly or indirectly received by a person or entity designated pursuant to paragraph 4 above, and after notification by the relevant States to the Committee of the intention to make or receive such payments

or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, 10 working days prior to such authorization;

Designation criteria

8. *Decides* that the measures contained in paragraph 1 shall apply to individuals, and that the measures contained in paragraph 4 shall apply to individuals and entities, as designated for such measures by the Committee as responsible for or complicit in, or having engaged in, directly or indirectly, the following actions or policies that threaten the peace, security, or stability of Mali:

- (a) Engaging in hostilities in violation of the Agreement;
- (b) Actions taken that obstruct, or that obstruct by prolonged delay, or that threaten the implementation of the Agreement;
- (c) Acting for or on behalf of or at the direction of or otherwise supporting or financing individuals and entities identified in subparagraphs (a) and (b) above, including through the proceeds from organized crime, including the production and trafficking of narcotic drugs and their precursors originating in or transiting through Mali, the trafficking in persons and the smuggling of migrants, the smuggling and trafficking of arms as well as the trafficking in cultural property;
- (d) Involvement in planning, directing, sponsoring, or conducting attacks against: (i) the various entities referenced in the Agreement, including local, regional and state institutions, joint patrols and the Malian Security and Defense forces; (ii) MINUSMA peacekeepers and other UN and associated personnel, including members of the Panel of experts; (iii) international security presences, including the FC-G5S, European Union Missions and French forces;
- (e) Obstructing the delivery of humanitarian assistance to Mali, or access to, or distribution of, humanitarian assistance in Mali;
- (f) Planning, directing, or committing acts in Mali that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, including those involving the targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge;
- (g) The use or recruitment of children by armed groups or armed forces in violation of applicable international law, in the context of the armed conflict in Mali;

New Sanctions Committee

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

- (a) To monitor implementation of the measures imposed in paragraphs 1 and 4 above;
- (b) To designate those individuals and entities subject to the measures imposed by paragraph 4, to review information regarding those individuals, and to consider requests for exemptions in accordance with paragraph 5 above;
- (c) To designate those individuals subject to the measures imposed by paragraph 1, to review information regarding those individuals, and to consider requests for exemptions in accordance with paragraph 2 above;

(d) To establish such guidelines as may be necessary to facilitate the implementation of the measures imposed above;

(e) To encourage a dialogue between the Committee and interested Member States and international, regional and subregional organizations, in particular those in the region, including by inviting representatives of such States or organizations to meet with the Committee to discuss implementation of the measures;

(f) To seek from all States and international, regional and sub-regional organizations whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed above;

(g) To examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution;

10. *Requests* the Secretary-General to make the necessary financial arrangements to enable the Committee to undertake the tasks mentioned in paragraph 9 above;

Panel of experts

11. *Requests* the Secretary-General to create, for an initial period of thirteen months from the adoption of this resolution, in consultation with the Committee, a group of up to five experts (“Panel of experts”), under the direction of the Committee, and to make the necessary financial and security arrangements to support the work of the Panel, *expresses* its intent to consider the renewal of this mandate no later than 12 months after the adoption of this resolution, and *decides* that the Panel shall carry out the following tasks:

(a) Assist the Committee in carrying out its mandate as specified in this resolution, including through providing the Committee with information relevant to the potential designation at a later stage of individuals who may be engaging in the activities described in paragraph 8 above;

(b) Gather, examine and analyse information from States, relevant United Nations bodies, regional organizations and other interested parties regarding the implementation of the measures decided in this resolution, in particular incidents of non-compliance;

(c) Provide to the Council, after discussion with the Committee, an interim update by March, 1, 2018, and a final report by September, 1, 2018, and periodic updates in between;

(d) To assist the Committee in refining and updating information on the list of individuals subject to measures imposed by paragraphs 1 and 4 above, including through the provision of biometric information and additional information for the publicly-available narrative summary of reasons for listing;

(e) To cooperate closely with INTERPOL and the United Nations Office on Drugs and Crime (UNODC), as appropriate;

12. *Requests* that the Panel of experts has the necessary gender expertise, in line with paragraph 6 of resolution [2242 \(2015\)](#);

13. *Notes* that the selection process of the experts composing the Panel should prioritize appointing individuals with the strongest qualifications to fulfil the duties described above while paying due regard to the importance of regional and gender representation in the recruitment process;

14. *Directs* the Panel of experts to cooperate with other relevant expert groups established by the Security Council to support the work of its Sanctions

Committees, including the Panel of experts established by resolution 1973 (2011) concerning Libya and the Analytical Support and Sanctions Monitoring Team pursuant to resolutions 1526 (2004) and 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and the Taliban and associated individuals and entities;

15. *Urges* all parties and all Member States, as well as international, regional and subregional organizations to ensure cooperation with the Panel of experts and further urges all Member States involved to ensure the safety of the members of the Panel of experts and unhindered access, in particular to persons, documents and sites in order for the Panel of experts to execute its mandate;

Role of MINUSMA

16. *Encourages* timely information exchange between MINUSMA and the Panel of experts, and *requests* MINUSMA to assist the Committee and the Panel of experts, within its mandate and capabilities;

Reporting and review

17. *Calls upon* all States, particularly those in the region, to actively implement the measures contained in this resolution and to regularly report to the Committee on the actions they have taken to implement the measures imposed by paragraphs 1 and 4 above;

18. *Requests* the Committee to report orally, through its Chair, at least once per year to the Council, on the state of the overall work of the Committee, including alongside the Special Representative of the Secretary-General for Mali on the situation in Mali as appropriate, and encourages the Chair to hold regular briefings for all interested Member States;

19. *Requests* the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative for Sexual Violence in Conflict to share relevant information with the Committee in accordance with paragraph 7 of resolution 1960 (2010) and paragraph 9 of resolution 1998 (2011);

20. *Affirms* that it shall keep the situation in Mali under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution, including the strengthening through additional measures, modification, suspension or lifting of the measures, as may be needed at any time in light of the progress achieved in the stabilization of the country and compliance with this resolution;

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

United Nations Sanctions (Mali) Regulation¹

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United Nations Sanctions (Mali) Regulation

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

Part 1

Preliminary

1. Interpretation

In this Regulation—

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;

Committee (委員會) means the Committee of the Security Council established under **paragraph 9 of Resolution 2374**;

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 5(1);

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity under section 15;
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled by, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person under section 15; 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 15;

Resolution 2374 (《第 2374 號決議》) means Resolution 2374 (2017) adopted by the Security Council on 5 September 2017;

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

Part 2

Prohibitions

- 2. Prohibition against making available funds, etc. or dealing with funds, etc.**
- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence—
- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources 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.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on conviction on indictment—to a fine and to imprisonment for 7 years; or

- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) 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.
- (5) 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.
- (6) In this section—
- deal with*** (處理) means—
- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and

- (b) in respect of other financial assets or economic resources—use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

3. Prohibition against entry or transit by certain persons

- (1) Subject to section 4, a specified 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.
- (4) In this section—

specified person (指明人士) means a person designated by the Committee for the purposes of **paragraph 1 of Resolution 2374**.

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

Section 3 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;
 - (b) the relevant entry or transit is necessary for the fulfilment of a judicial process; or
 - (c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in **Mali** and stability in the region.
-

Part 3

Licence

- 5. 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 5 September 2017 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) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;
 - (e) the Committee has determined that making available, or dealing with, the funds or other financial assets or economic resources would further the objectives of peace and national reconciliation in Mali and stability in the region.
- (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 5 working days of the notification;

- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

6. Provision of false information or documents for purpose of obtaining licence

- (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

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

- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
 - (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.
-

Part 5

Evidence

8. 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.

9. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 8(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
-

Part 6

Disclosure of Information or Documents

10. 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 **Mali** 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.
-

Part 7

Other Offences and Miscellaneous Matters

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 4 of Resolution 2374**.

16. Exercise of powers of Chief Executive

- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
 - (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.
 - (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.
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Part 8

Duration

17. Duration

This Regulation expires at midnight on 4 September 2018.

Chief Executive

2018

United Nations Sanctions (Mali) Regulation

Information on Mali

Country Background

Mali is a landlocked country in West Africa¹. It has a total area of 1,240,192 sq. km. and an estimated population of around 18.5 million. After independence from France in 1960, Mali had been ruled under 23 years of military dictatorship until a coup in 1991 which led to the establishment of a new constitution and the establishment of Mali as a democratic and multi-party state. The first presidential election was held in 1992.

2. Dependence on gold mining and agricultural exports for revenue, Mali is one of the 25 poorest countries in the world, and has a GDP of US\$13.1 billion (or HK\$101.6 billion) in 2015².

Sanctions imposed by the United Nations Security Council

3. Since 2011, the security situation in Mali has significantly deteriorated as the Malian returnees from Libya exacerbated tensions in northern Mali and Tuareg ethnic militias rebelled in January 2012. In April 2012, intensive mediation efforts led by the Economic Community of West African States returned power to a civilian administration with the appointment of an interim president. The post-coup chaos led to rebels expelling the Malian military from the country's three northern regions and allowed Islamic militants to set up strongholds. Hundreds of thousands of northern Malians fled the violence to southern Mali and neighboring countries, exacerbating regional food shortages in host communities. French military intervention began in January 2013 and retook most of the northern region³.

4. Noting the deteriorating situation and the escalation of violence in the country, the United Nations Security Council (UNSC) decided to create a peacekeeping mission in Mali in April 2013. In June 2015, the Malian Government and the northern armed groups signed the Agreement on Peace and Reconciliation.

5. Notwithstanding this, the security situation in Mali became even more volatile due to continued terrorist attacks against civilians, as well as the intensification of criminal activities such as drug and human trafficking, kidnapping and hostage-taking. There have also been repeated ceasefire violations by armed groups in northern Mali since June 2017.

6. Determining that the situation in Mali constitutes a threat to international peace and security in the region, the UNSC adopted Resolution 2374 on 5 September

¹ At present, there is not a definite list of Belt and Road countries, but Mali is usually not regarded as one of the countries along the Belt and Road.

² Source: World Statistics Pocket Book 2017 published by United Nations at <https://unstats.un.org/unsd/publications/pocketbook/files/world-stats-pocketbook-2017.pdf>

³ Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/ml.html>

2017, imposing travel ban and asset freeze against designated individuals or entities until 4 September 2018. As at 31 December 2017, no individuals or entities have been designated.

Trade Relation between Hong Kong and Mali

7. In 2016, Mali ranked 122nd among Hong Kong's trading partners in the world, with a total trade of HK\$230.1 million. Of these, HK\$220.6 million worth of trade were exports to Mali, and HK\$9.4 million imports from Mali. Hong Kong's trade with Mali is summarised as follows –

Hong Kong's Trade with Mali [Value in HK\$ (in million)]		
Item	2016	2017 (January – September)
(a) Total Exports to Mali	220.6	215.2
(i) Domestic exports	4.1 ⁴	1.2 ⁵
(ii) Re-exports	216.5 ⁶	214.0 ⁷
(b) Imports from Mali	9.4 ⁸	6.5 ⁹
Total Trade [(a) + (b)]	230.1	221.7

In 2016, HK\$233.0 million worth of goods or 6.5%¹⁰ of the total trade between Mali and the Mainland, were routed through Hong Kong. Of these, HK\$16.8 million worth of goods were re-exports of Mali-origin to the Mainland via Hong Kong. The remaining HK\$216.2 million were re-exports of Mainland-origin to Mali via Hong Kong.

⁴ In 2016, Hong Kong's major domestic export items to Mali were non-ferrous metals (64.9%); and articles of apparel and clothing accessories (34.8%).

⁵ In the first nine months of 2017, Hong Kong's major domestic export item to Mali was articles of apparel and clothing accessories (99.2%).

⁶ In 2016, Hong Kong's major re-export item to Mali was telecommunications and sound recording and reproducing apparatus and equipment (86.5%).

⁷ In the first nine months of 2017, Hong Kong's major re-export item to Mali was telecommunications and sound recording and reproducing apparatus and equipment (86.2%).

⁸ In 2016, Hong Kong's major import items from Mali were telecommunications and sound recording and reproducing apparatus and equipment (63.3%); and live animals other than fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (24.2%).

⁹ In the first nine months of 2017, Hong Kong's major import item from Mali was telecommunications and sound recording and reproducing apparatus and equipment (88.2%).

¹⁰ The percentage is an estimate with reference to the Mainland's Customs Statistics and Hong Kong Trade Statistics. Since two different sets of data are involved, the calculated percentage is solely indicative.

8. Given that the sanctions imposed by the UNSC against Mali are not related to trading of goods, such sanctions would unlikely have any significant effect on the Hong Kong economy.

**Commerce and Economic Development Bureau
January 2018**