

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

**UNITED NATIONS SANCTIONS
(DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA)
(AMENDMENT) REGULATION 2010**

INTRODUCTION

A At the meeting of the Executive Council on 12 January 2010, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Democratic People’s Republic of Korea) (Amendment) Regulation 2010 (“the Amendment Regulation”), at Annex A, be made under section 3 of the United Nations Sanctions Ordinance (“the Ordinance”) to give effect to the instructions of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China. The Amendment Regulation was gazetted on 15 January 2010 and came into operation on the same date.

BACKGROUND

Obligation and Authority

2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction by the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In July 2009, the CE received instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against the Democratic People’s Republic of Korea (“the DPRK”) pursuant to UNSC Resolution 1874. The CE also received two instructions from the MFA in June and August 2009 to give effect to the decisions of the UNSC to expand the scope of existing sanctions against the DPRK under UNSC Resolution 1718 to a list of items, material, equipment, goods or technology set out in the UNSC documents S/2009/205 and S/2009/364

respectively¹. The Amendment Regulation was made pursuant to these instructions. A document issued by the Chief Secretary for Administration confirming the MFA's instructions is at Annex B.

B

Existing Sanctions against the DPRK

3. In view of the DPRK's continued violation of its international obligation relating to non-proliferation of nuclear weapons, in October 2006, the UNSC adopted Resolution 1718 (at Annex C), which aims to implement prohibitions against the DPRK concerning the following-

C

- (a) the direct or indirect supply, sale or transfer of prohibited items (comprising material, equipment, goods and technology related to weaponry and luxury goods) to the DPRK;
- (b) the procurement of specified items ² from the DPRK;
- (c) the provision and acceptance of certain training, services, advice or assistance related to the provision, manufacture, maintenance or use of specified items to or from the DPRK;
- (d) making available to or for the benefit of certain persons or entities designated by the UNSC funds, other financial assets and economic resources; and

¹ UNSC Resolution 1718 provides that the Committee established under paragraph 12 of the same Resolution shall determine additional items, materials, equipment, goods and technology to be specified for the purpose of implementing sanctions under paragraphs 8(a)(i) and 8(a)(ii) of UNSC Resolution 1718. The two relevant UNSC documents S/2009/205 and S/2009/364 set out these additional specified items as determined by the Committee.

² Under Cap. 537 AE, 'specified item' means –

- (a) any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related material (including any spare part);
- (b) any item, material, equipment, goods or technology set out in the UNSC document S/2006/814;
- (c) any item, material, equipment, goods or technology set out in the UNSC document S/2006/815; or
- (d) any item, material, equipment, goods or technology set out in the UNSC document S/2006/853 as rectified by the UNSC document S/2006/853/Corr.1.

- (e) entry into or transit through the HKSAR by certain persons designated by the UNSC.

On the instruction of the MFA, we enacted the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub.leg. AE) ("existing Regulation") to implement UNSC Resolution 1718 in the HKSAR.

UNSC Resolution 1874

4. Having regard to international concerns over the nuclear test conducted by the DPRK in May 2009 in violation of UNSC Resolution 1718, the UNSC adopted Resolution 1874 (at Annex D) on 12 June 2009 to expand the existing sanctions against the DPRK. UNSC Resolution 1874 stipulated, inter alia, that –

- (a) the measures set out in paragraph 8(b)³ of UNSC Resolution 1718 shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms or materiel (paragraph 9 of UNSC Resolution 1874 refers);
- (b) the measures set out in paragraph 8(a)⁴ of UNSC Resolution 1718 shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms, except for small arms and light weapons and their related materiel; and further stipulates that all Member States shall notify the Committee⁵ at least five days prior to selling, supplying or transferring small arms or light weapons to the

³ Paragraph 8(b) of UNSC Resolution 1718 relates to prohibition against the procurement of specified items from the DPRK.

⁴ Paragraph 8(a) of UNSC Resolution 1718 relates to prohibition against the supply, sale or transfer of prohibited items to the DPRK.

⁵ The "Committee" refers to the Committee established under paragraph 12 of UNSC Resolution 1718.

DPRK (paragraph 10 of UNSC Resolution 1874 refers);

- (c) all Member States be authorized to and shall seize and dispose of items the supply, sale, transfer or export of which is prohibited by paragraph 8(a), 8(b) or 8(c) of UNSC Resolution 1718 or by paragraph 9 or 10 of UNSC Resolution 1874 that are identified in inspections pursuant to paragraph 11, 12 or 13 of UNSC Resolution 1874 ⁶ in a manner that is not inconsistent with their obligations under applicable Security Council resolutions and other relevant international obligations (paragraph 14 of UNSC Resolution 1874 refers);
- (d) all Member States shall prohibit the provision by their nationals or from their territory of bunkering services, such as provision of fuel or supplies, or other servicing of vessels, to the DPRK vessels if they have information that provides reasonable grounds to believe the vessels are carrying items the supply, sale, transfer or export of which is prohibited by paragraph 8(a), 8(b) or 8(c) of UNSC Resolution 1718 or by paragraph 9 or 10 of UNSC Resolution 1874, unless provision of such services is necessary for humanitarian purposes or until such time as the cargo has been inspected, seized and disposed of if necessary (paragraph 17 of UNSC Resolution 1874 refers)⁷; and
- (e) the measures set out in paragraphs 8(a), 8(b) or 8(c) of UNSC Resolution 1718 shall also apply to the items listed in INFCIRC/254/Rev.9/Part 1a and INFCIRC/254/Rev.7/ Part 2a (paragraph 23 of UNSC Resolution 1874 refers).

⁶ Paragraphs 11, 12 and 13 of UNSC Resolution 1874 call upon Member States to inspect all cargo to and from the DPRK in their territory and vessels on the high sea if they have information that provides reasonable grounds to believe that the cargo or the cargo on the vessels contains items the supply, sale, transfer or export of which is prohibited under UNSC Resolutions 1718 or 1874.

⁷ The UNSC underlines, in paragraph 17 of UNSC Resolution 1874, that this paragraph is not intended to affect legal economic activities.

THE AMENDMENT REGULATION

5. The Amendment Regulation, at Annex A, amends the existing Regulation to implement the expanded sanctions against the DPRK as a result of UNSC Resolution 1874 and UNSC's related decisions. The main provisions of the Amendment Regulation include -

- (a) section 1, which expands the scope of "specified item" to include all arms and related materiel, and those items, material, equipment, goods or technology set out in the UNSC documents S/2009/205 and S/2009/364, and in INFCIRC/254/Rev.9/Part 1a and INFCIRC/254/Rev.7/ Part 2a;
- (b) sections 5 and 9, which broaden the scope of prohibition against carriage and procurement of certain items using ships, aircraft or vehicles to cover foreign vessels and aircraft in Hong Kong;
- (c) section 8, which expands the prohibition against procurement of certain items to the procurement of certain training, services, assistance or advice related to the provision, manufacture, maintenance or use of certain items;
- (d) section 10, which prohibits the engagement in certain financial transactions related to the provision, manufacture, maintenance or use of specified arms the supply, sale, transfer, carriage or procurement of which is prohibited under the existing Regulation as amended by the Amendment Regulation;
- (e) sections 6, 10 and 13, which exempt small arms and light weapons from prohibitions under sections 2, 3, 5A(2) and 6 of the existing Regulation as amended by the Amendment Regulation, and require a person to notify the Chief Executive before performing certain acts relating to small arms and light weapons;
- (f) section 16, which provides for prohibitions against making available or dealing with funds or other financial assets or economic resources of certain persons;

- (g) section 20, which prohibits the provision of bunkering and other services to a ship registered in the DPRK; and
- (h) section 26, which empowers the magistrate or judge to make order for forfeiture and disposal of seized items on application by an authorized officer, and provides for procedures for the owner (or authorized agent of the owner) of the seized items to object to the proposed forfeiture.

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

IMPLICATIONS OF THE PROPOSAL

6. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, economic, productivity, environmental or sustainability implications. Additional work arising from the enforcement of the Amendment Regulation will be absorbed within the relevant bureaux or departments.

PUBLICITY

7. A press release was issued on 15 January 2010 when the Amendment Regulation was published in the Gazette.

INFORMATION ON THE DPRK AND RELATION WITH HKSAR

8. A note summarising background information on the DPRK as analysed by various international agencies and bilateral trade relation between the DPRK and Hong Kong is at Annex F.

F

ADVICE SOUGHT

9. Members are invited to note the implementation of the UNSC Resolution 1874 and the expanded sanctions against the DPRK by the Amendment Regulation.

Commerce and Economic Development Bureau
January 2010

UNITED NATIONS SANCTIONS ORDINANCE (CAP. 537)

UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA) (AMENDMENT) REGULATION 2010

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L.N. 5 of 2010

**UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA) (AMENDMENT)
REGULATION 2010**

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**UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA) (AMENDMENT)
REGULATION 2010**

(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. Interpretation

(1) Section 1 of the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) is amended, in the English text, in the definition of "armoured combat vehicle", in paragraph (a), by repealing "infantrymen" and substituting "infantry personnel".

(2) Section 1 is amended by repealing the definitions of "commander" and "ship".

(3) Section 1 is amended, in the definition of "Commissioner", by repealing "the Deputy" and substituting "any Deputy".

(4) Section 1 is amended, in the definition of "Committee", by repealing "pursuant to" and substituting "under".

(5) Section 1 is amended, in the definition of "person connected with the DPRK", by repealing paragraphs (d) and (e) and substituting—

“(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);”.

(6) Section 1 is amended, in the definition of "specified item", by repealing paragraph (a) and substituting—

“(a) all arms or related materiel including any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related materiel (including any spare part);”.

(7) Section 1 is amended, in the definition of "specified item", in paragraph (c), by repealing "or" at the end.

(8) Section 1 is amended, in the definition of “specified item”, by adding—

- “(e) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) any item, material, equipment, goods or technology set out in the Security Council document S/2009/205;
- (h) graphite designed or specified for use in Electrical Discharge Machining (EDM) machines; or
- (i) para-aramid fibre (Kevlar and other Kevlar-like), filament and tape;”.

(9) Section 1 is amended by adding—

““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;

“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;

“small arms” (小型軍火) means any arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G);

“specified arms” (指明軍火) means any arms referred to in paragraph (a) of the definition of “specified item”;

“specified person” (指明人士) means—

- (a) a person connected with the DPRK; or
- (b) a national of the DPRK who is in a place outside the DPRK;”.

2. Cross-heading repealed

The cross-heading immediately before section 2 is repealed.

3. Prohibition against supply, delivery or transfer of certain items to DPRK

(1) The heading of section 2 is amended by repealing “**delivery or transfer of certain items to DPRK**” and substituting “**sale or transfer of certain items**”.

(2) Section 2 is amended by adding before subsection (1)—

“(1A) 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.”.

(3) Section 2(1) is repealed and the following substituted—

“(1) Subject to section 3A, 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 item—

- (a) to the DPRK;
- (b) to, or to the order of, a person connected with the DPRK; or
- (c) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.”.

(4) Section 2(3) is amended by repealing everything before paragraph (a) and substituting—

“(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—”.

(5) Section 2(3)(b) is repealed and the following substituted—

“(b) that the item concerned was or was to be supplied, sold or transferred—

- (i) to the DPRK;
- (ii) to, or to the order of, a person connected with the DPRK; or
- (iii) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.”.

(6) Section 2(4) is repealed.

4. Cross-heading repealed

The cross-heading immediately before section 3 is repealed.

5. Prohibition against carriage of certain items to DPRK

- (1) The heading of section 3 is amended by repealing “to DPRK”.
- (2) Section 3(1) is amended by adding—
 - “(aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;”.
- (3) Section 3(1) is amended by adding—
 - “(ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;”.
- (4) Section 3(2) is amended by repealing everything before paragraph (a) and substituting—
 - “(2) Subject to section 3A, a ship, aircraft or vehicle must not be used for the carriage of any prohibited item if the carriage is, or forms part of, a carriage—”.
- (5) Section 3(2)(c) is amended by adding “or transfer” after “delivery”.
- (6) Section 3 is amended by adding—
 - “(2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;

- (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.”.

(7) Section 3(3) is amended by repealing everything before paragraph (a) and substituting—

“(3) A person who commits an offence under subsection (2A) is liable—”.

(8) Section 3(4) is amended by repealing everything before paragraph (a) and substituting—

“(4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe—”.

(9) Section 3(4)(b) is amended, in the English text, by adding “a” before “carriage—”.

(10) Section 3(4)(b)(iii) is amended by adding “or transfer” after “delivery”.

(11) Section 3(5) is repealed.

6. Section 3A added

The following is added immediately after section 3—

“3A. Exceptions to prohibitions under sections 2 and 3

(1) Sections 2 and 3 do not apply if—

- (a) the prohibited item is small arms or their related materiel;
and

- (b) the person who intends to perform any act in relation to the prohibited item that, but for this section, would be prohibited under section 2 or 3 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.”.

7. **Cross-heading repealed**

The cross-heading immediately before section 4 is repealed.

8. **Prohibition against procurement of certain items from DPRK by certain persons**

(1) The heading of section 4 is amended by repealing “**from DPRK**” and substituting “**or services**”.

(2) Section 4 is amended by adding before subsection (1)—

“(1A) 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.”.

(3) Section 4(1) is repealed and the following substituted—

“(1) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any specified item—

(a) from the DPRK; or

(b) from a person connected with the DPRK.”.

(4) Section 4(3) is amended by repealing everything before paragraph (a) and substituting—

“(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—”.

(5) Section 4 is amended by adding—

“(3A) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms—

(a) from the DPRK; or

(b) from a person connected with the DPRK.

(3B) A person who contravenes subsection (3A) 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.

(3C) It is a defence for a person charged with an offence under subsection (3B) to prove that the person did not know and had no reason to believe—

(a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or

(b) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK.”.

(6) Section 4(4) is repealed.

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

(1) The heading of section 5 is amended by adding “**or services**” after “**items**”.

(2) Section 5(1) is amended by adding—

“(aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;”.

(3) Section 5(1) is amended by adding—

“(ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;”.

(4) Section 5(2) is repealed and the following substituted—

“(2) Without limiting section 4, a ship, aircraft or vehicle must not be used for or in connection with the procurement of—

- (a) any specified item—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK; or
 - (b) any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK.”.
- (5) Section 5 is amended by adding—
 - “(2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

- (e) in the case of a vehicle, the operator and the driver of the vehicle.”.
- (6) Section 5(3) is amended by repealing everything before paragraph (a) and substituting—
 - “(3) A person who commits an offence under subsection (2A) is liable—”.
- (7) Section 5(4) is repealed and the following substituted—
 - “(4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe—
 - (a) that the item concerned was a specified item;
 - (b) that the item concerned was—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK;
 - (c) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or
 - (d) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK.”.
- (8) Section 5(5) is repealed.

10. Sections 5A and 5B added

The following are added immediately after section 5—

“5A. Prohibition against engaging in certain financial transactions

- (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) Subject to section 5B, a person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply, sale, transfer or carriage of which is prohibited under section 2 or 3.
- (3) A person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the procurement of which is prohibited under section 4.

(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 financial transaction concerned related to the provision, manufacture, maintenance or use of any specified arms;
- (b) that the supply, sale, transfer or carriage of the arms concerned was prohibited under section 2 or 3; or
- (c) that the procurement of the arms concerned was prohibited under section 4.

5B. Exception to prohibition under section 5A(2)

(1) Section 5A(2) does not apply if—

- (a) the specified arms is small arms or their related materiel; and
- (b) the person who intends to perform any act in relation to the specified arms that, but for this section, would be prohibited under section 5A(2) notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.”.

11. Cross-heading repealed

The cross-heading immediately before section 6 is repealed.

12. Prohibition against provision of certain training, services, assistance or advice to certain persons

(1) The heading of section 6 is amended by repealing “**certain training, services, assistance or advice**” and substituting “**technical training, services, etc.**”.

(2) Section 6 is amended by adding before subsection (1)—

“(1A) 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.”.

(3) Section 6(1) is amended by repealing “A person shall not provide” and substituting “Subject to section 6A, a person must not provide, directly or indirectly,”.

(4) Section 6(3) is repealed and the following substituted—

“(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
- (b) that the technical training, service, assistance or advice concerned was or was to be provided to a person connected with the DPRK.”.

(5) Section 6(4) is repealed.

13. Section 6A added

The following is added—

“6A. Exception to prohibition under section 6

(1) Section 6 does not apply if—

- (a) the specified item is small arms or their related materiel; and
- (b) the person who intends to perform any act in relation to the specified item that, but for this section, would be prohibited under section 6 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.”.

14. Prohibition against acceptance of certain training, services, assistance or advice provided by certain persons

(1) The heading of section 7 is amended by repealing “**certain training, services, assistance or advice**” and substituting “**technical training, services, etc.**”.

(2) Section 7 is amended by adding before subsection (1)—

“(1A) 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.”.

(3) Section 7(1) is repealed and the following substituted—

“(1) A person must not accept, directly or indirectly, any technical training, service, assistance or advice that is provided by a specified person and related to the provision, manufacture, maintenance or use of any specified item.”.

(4) Section 7(3) is repealed and the following substituted—

“(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—

(a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or

(b) that the technical training, service, assistance or advice concerned was or was to be provided by a specified person.”.

(5) Section 7(4) and (5) is repealed.

15. Cross-heading repealed

The cross-heading immediately before section 8 is repealed.

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

(1) The heading of section 8 is amended by repealing “**to certain persons or entities**” and substituting “**or dealing with funds, etc.**”.

(2) Section 8 is amended by adding before subsection (1)—

- “(1A) 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.”.
- (3) Section 8(1) is repealed and the following substituted—
- “(1) 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 (including a relevant person and a relevant entity) must not deal with, directly or indirectly, any funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.”.
- (4) Section 8(3) is repealed and the following substituted—
- “(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe that—
- (a) 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) the person was dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.”.
- (5) Section 8(4) is repealed.
- (6) Section 8 is amended by adding—
- “(5) A person is not to be regarded as having contravened subsection (1) by reason only of having credited an account belonging to, owned or held by a relevant person or a relevant entity with—
- (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose prior to 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.”.

17. Cross-heading repealed

The cross-heading immediately before section 9 is repealed.

18. Prohibition against entry or transit by certain persons

- (1) Section 9(1) is repealed and the following substituted—

“(1) Subject to section 10, a person designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718 must not enter or transit through the HKSAR.”.

- (2) Section 9(3) is repealed and the following substituted—

“(3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.”.

- (3) Section 9(4) is repealed.

19. Section 10 substituted

Section 10 is repealed and the following substituted—

“10. Exceptions to prohibition against entry or transit by certain persons

Section 9 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation; or
- (b) the Committee has determined that the relevant entry into or transit through the HKSAR would otherwise further the objectives of Resolution 1718.”.

20. Sections 10A and 10B added

The following are added immediately after section 10—

“10A. Prohibition against provision of certain services to ships registered in DPRK

(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) Subject to section 10B, a person must not provide, directly or indirectly, any specified services to a ship registered in the DPRK if the person knows or has reasonable grounds to believe that the ship is carrying a prohibited item.

(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) In this section, “specified services” (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—

- (a) the provision of fuel to the ship;
- (b) the provision of tools or equipment for shipboard maintenance;
- (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;
- (d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).

10B. Exception to prohibition under section 10A

Section 10A does not apply if the provision of the specified services concerned is necessary for humanitarian purposes.”.

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

(1) The heading of section 11 is amended by adding “**or dealing with funds, etc. of certain persons or entities**” after “**entities**”.

(2) Section 11(1) and (2) is repealed and the following substituted—

“(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 (4), 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, owned or held by a relevant person or a relevant entity.

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

(a) the funds or other financial assets or economic resources are—

(i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

(ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or

(iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity;

(b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;

(c) the funds or other financial assets or economic resources—

(i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered prior to 14 October 2006 and is not for the benefit of a relevant person or a relevant entity or an individual or entity identified by the Committee or the Security Council; and

(ii) are to be used to satisfy the lien or judgment.”.

- (3) Section 11(3) is repealed.
- (4) Section 11 is amended by adding—
 - “(4) 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.”.

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

- (1) Section 12(1) is amended by repealing everything before paragraph (a) and substituting—

“(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—”.

- (2) Section 12(2) is amended by repealing everything before paragraph (a) and substituting—

“(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—”.

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

- (1) Section 13(1) is repealed and the following substituted—

“(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) Section 13(2) is amended by adding “by the person” after “done”.

24. Part 5 substituted

Part 5 is repealed and the following substituted—

“PART 5

ENFORCEMENT OF REGULATION

Division 1—Investigation, etc. of Suspected Ships

14. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—

- (a) either alone or accompanied and assisted by any person acting under the officer’s authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.

(2) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies is being or is about to be used in contravention of section 3(2) or 5(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 5(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—

- (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship’s cargo that is so specified;

- (b) request the charterer, operator or master of the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) if the ship is in the HKSAR, to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iii) if the ship is in any other place, to take the ship and any of its cargo to a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

15. Offences by charterer, operator or master of ship

(1) A charterer, operator or master of a ship who disobeys any direction given under section 14(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 14(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 14(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.

16. Power of authorized officers to enter and detain ships

(1) Without limiting section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(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

17. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—

- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.

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

(3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—

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

18. 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 17(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 17(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.

19. Power of authorized officers to enter and detain aircraft

(1) Without limiting section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(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

20. 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 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
 - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.
- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and

- (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

21. 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 20(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 20(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.

22. Power of authorized officers to enter and detain vehicles

(1) Without limiting section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(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

23. Production of proof of identity

Before or on exercising a power conferred by section 14, 16, 17, 19, 20 or 22, an authorized officer must, if requested by any person so to do, produce proof of the officer's identity to the person for inspection.”.

25. Power of magistrate or judge to grant warrant

(1) Section 24(1) is amended, in the English text, by repealing “he is”.

(2) Section 24(3)(a), (b) and (c) is repealed and the following substituted—

- “(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.”.

(3) Section 24(5) is amended by repealing “he may use such force as” and substituting “the person may use any force that”.

26. Sections 24A and 24B added

The following are added—

“24A. Seized articles, etc. liable to forfeiture

(1) If an authorized officer intends to apply to a magistrate or judge under section 24B for an order for forfeiture of any document, cargo or article seized under section 24(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.

(2) A notice under subsection (1) is to be regarded as having been duly served on a person if—

- (a) it is delivered personally to the person;

- (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
- (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.

(3) An owner, or the authorized agent of an owner, of the document, cargo or article referred to in a notice served under subsection (1), or a person who was in possession of the document, cargo or article at the time of seizure, or a person who has a legal or equitable interest in the document, cargo or article, may object to the proposed forfeiture by serving a notice in writing on the Commissioner.

(4) A notice of objection under subsection (3)—

- (a) must be served on the Commissioner by a person referred to in subsection (3) (“claimant”) within 30 days from—
 - (i) if the notice under subsection (1) is delivered personally to the person named in the notice, the date of delivery;
 - (ii) if the notice under subsection (1) is sent by registered post, 2 days after the date of posting; or
 - (iii) if the notice under subsection (1) is exhibited as described in subsection (2)(c), the first day it is so exhibited;
- (b) must state the claimant’s full name and address for service in Hong Kong; and
- (c) if the claimant does not have a permanent address in Hong Kong, must state the name and address of a solicitor who is qualified to practise under the Legal Practitioners Ordinance (Cap. 159) and is authorized to accept service on behalf of the claimant in relation to any forfeiture proceedings.

(5) An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized document, cargo or article in respect of which a notice has been served under subsection (1)—

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

24B. Power of magistrate or judge to make order for forfeiture and disposal

(1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, manufacture, maintenance or use of a prohibited item, or that the seized cargo or article is a prohibited item, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.

(2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.

(3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 24A(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.

(4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.”.

27. Section 25 substituted

Section 25 is repealed and the following substituted—

“25. Detention of documents, cargoes or articles seized

(1) Subject to subsection (2) and any order made under section 24B, any document, cargo or article seized under section 24(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.”.

28. Disclosure of information or documents

(1) Section 26(1) is amended by repealing “in pursuance of” and substituting “under”.

(2) Section 26(1)(a) is amended, in the English text, by repealing “the person from” and substituting “from”.

(3) Section 26(1)(c) is repealed and the following substituted—

“(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 the DPRK decided on by the Security Council; or”.

(4) Section 26(2)(a) and (b), in the English text, is repealed and the following substituted—

- “(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.”.

29. Liability of person other than principal offender

(1) The heading of section 27 is amended, in the English text, by repealing “**person other than principal offender**” and substituting “**persons other than principal offenders**”.

(2) Section 27(1) and (2) is amended, in the English text, by repealing “Where” and substituting “If”.

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

(1) The heading of section 28 is amended, in the Chinese text, by repealing “人士” and substituting “的人”.

(2) Section 28 is amended by repealing “his powers” and substituting “the powers of that other person”.

31. Offences in relation to evasion of this Regulation

Section 29 is amended by adding “, cargo” after “document”.

32. Proceedings to be instituted

(1) The heading of section 30 is repealed and the following substituted—
“**Consent and time limit for proceedings**”.

(2) Section 30(2) is amended by repealing “, being an offence alleged to have been committed outside the HKSAR,” and substituting “that is alleged to have been committed outside the HKSAR”.

33. Section 31 substituted

Section 31 is repealed and the following substituted—

“31. 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 or the Security Council under paragraph 8(d) of Resolution 1718.”.

34. Access to Security Council document S/2006/814, etc.

(1) Section 32 is amended, in the English text, by adding “or her” after “his”.

(2) Section 32(d) is amended by repealing the full stop at the end and substituting a semicolon.

(3) Section 32 is amended by adding—

- “(e) the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) the Security Council document S/2009/205.”.

35. Section 33 substituted

Section 33 is repealed and the following substituted—

“33. Exercise of powers of Chief Executive

(1) The Chief Executive may delegate any of the Chief Executive’s powers or functions under this Regulation to any person or class or description of person.

(2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.

(3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.”.

Donald TSANG
Chief Executive

12 January 2010

Explanatory Note

This Regulation amends the United Nations Sanctions (Democratic People’s Republic of Korea) Regulation (Cap. 537 sub. leg. AE) (“principal Regulation”) to give effect to certain decisions of the Security Council of the United Nations (“Security Council”) in Resolution 1874 (2009) as adopted by the Security Council on 12 June 2009 by—

- (a) amending the definition of “specified item” in section 1 of the principal Regulation to cover additional items;
- (b) extending the prohibition against the procurement of certain items from the Democratic People’s Republic of Korea (“DPRK”) to any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms;
- (c) providing for the prohibition against engaging in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply or procurement of which is prohibited under the principal Regulation as amended by this Regulation; and

(d) providing for the prohibition against the provision of certain services to ships registered in the DPRK under certain circumstances.

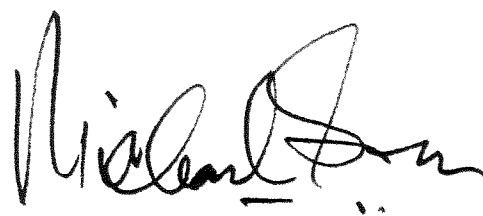
2. This Regulation also amends the definition of “specified item” in section 1 of the principal Regulation to cover additional items set out in the Security Council document S/2009/205 and goods specified in the Security Council document S/2009/364.

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Democratic People's Republic of Korea)
(Amendment) Regulation 2010**

This is to confirm that the Chief Executive received specific instructions from the Ministry of Foreign Affairs of the People's Republic of China in June, July and August 2009 which requested the Government of the Hong Kong Special Administrative Region to implement Resolution No. 1874 and decisions made by the Committee established under paragraph 12 of Resolution No. 1718 of the Security Council of the United Nations, and that the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2010 was made in pursuance of these instructions.

Dated this 12 day of January 2010

A handwritten signature in black ink, appearing to read 'Michael MY Suen', with a stylized flourish at the end.

(Michael MY Suen)
Acting Chief Secretary for Administration

United Nations

S/RES/1718 (2006)

**Security Council**Distr.: General
14 October 2006

Resolution 1718 (2006)**Adopted by the Security Council at its 5551st meeting, on
14 October 2006***The Security Council,*

Recalling its previous relevant resolutions, including resolution 825 (1993), resolution 1540 (2004) and, in particular, resolution 1695 (2006), as well as the statement of its President of 6 October 2006 (S/PRST/2006/41),

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Expressing the gravest concern at the claim by the Democratic People's Republic of Korea (DPRK) that it has conducted a test of a nuclear weapon on 9 October 2006, and at the challenge such a test constitutes to the Treaty on the Non-Proliferation of Nuclear Weapons and to international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons, and the danger it poses to peace and stability in the region and beyond,

Expressing its firm conviction that the international regime on the non-proliferation of nuclear weapons should be maintained and recalling that the DPRK cannot have the status of a nuclear-weapon state in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons,

Deploring the DPRK's announcement of withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons and its pursuit of nuclear weapons,

Deploring further that the DPRK has refused to return to the Six-Party talks without precondition,

Endorsing the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States,

Underlining the importance that the DPRK respond to other security and humanitarian concerns of the international community,

Expressing profound concern that the test claimed by the DPRK has generated increased tension in the region and beyond, and *determining* therefore that there is a clear threat to international peace and security,



Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Condemns* the nuclear test proclaimed by the DPRK on 9 October 2006 in flagrant disregard of its relevant resolutions, in particular resolution 1695 (2006), as well as of the statement of its President of 6 October 2006 (S/PRST/2006/41), including that such a test would bring universal condemnation of the international community and would represent a clear threat to international peace and security;

2. *Demands* that the DPRK not conduct any further nuclear test or launch of a ballistic missile;

3. *Demands* that the DPRK immediately retract its announcement of withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons;

4. *Demands* further that the DPRK return to the Treaty on the Non-Proliferation of Nuclear Weapons and International Atomic Energy Agency (IAEA) safeguards, and *underlines* the need for all States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to continue to comply with their Treaty obligations;

5. *Decides* that the DPRK shall suspend all activities related to its ballistic missile programme and in this context re-establish its pre-existing commitments to a moratorium on missile launching;

6. *Decides* that the DPRK shall abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner, shall act strictly in accordance with the obligations applicable to parties under the Treaty on the Non-Proliferation of Nuclear Weapons and the terms and conditions of its International Atomic Energy Agency (IAEA) Safeguards Agreement (IAEA INFCIRC/403) and shall provide the IAEA transparency measures extending beyond these requirements, including such access to individuals, documentation, equipments and facilities as may be required and deemed necessary by the IAEA;

7. *Decides* also that the DPRK shall abandon all other existing weapons of mass destruction and ballistic missile programme in a complete, verifiable and irreversible manner;

8. *Decides* that:

(a) All Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of:

(i) Any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related materiel including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee);

(ii) All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the

Security Council or the Committee, which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes;

(iii) Luxury goods;

(b) The DPRK shall cease the export of all items covered in subparagraphs (a) (i) and (a) (ii) above and that all Member States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the DPRK;

(c) All Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in subparagraphs (a) (i) and (a) (ii) above;

(d) All Member States shall, in accordance with their respective legal processes, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of the adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons or entities designated by the Committee or by the Security Council as being engaged in or providing support for, including through other illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes, or by persons or entities acting on their behalf or at their direction, and ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of such persons or entities;

(e) All Member States shall take the necessary steps to prevent the entry into or transit through their territories of the persons designated by the Committee or by the Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to the DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, provided that nothing in this paragraph shall oblige a state to refuse its own nationals entry into its territory;

(f) In order to ensure compliance with the requirements of this paragraph, and thereby preventing illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials, all Member States are called upon to take, in accordance with their national authorities and legislation, and consistent with international law, cooperative action including through inspection of cargo to and from the DPRK, as necessary;

9. *Decides* that the provisions of paragraph 8 (d) above do not apply to financial or other assets or resources that have been determined by relevant States:

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

to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within five working days of such notification;

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

(c) To be subject of a judicial, administrative or arbitral lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement was entered prior to the date of the present resolution, is not for the benefit of a person referred to in paragraph 8 (d) above or an individual or entity identified by the Security Council or the Committee, and has been notified by the relevant States to the Committee;

10. *Decides* that the measures imposed by paragraph 8 (e) above shall not apply where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligations, or where the Committee concludes that an exemption would otherwise further the objectives of the present resolution;

11. *Calls upon* all Member States to report to the Security Council within thirty days of the adoption of this resolution on the steps they have taken with a view to implementing effectively the provisions of paragraph 8 above;

12. *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, to undertake the following tasks:

(a) To seek from all States, in particular those producing or possessing the items, materials, equipment, goods and technology referred to in paragraph 8 (a) above, information regarding the actions taken by them to implement effectively the measures imposed by paragraph 8 above of this resolution and whatever further information it may consider useful in this regard;

(b) To examine and take appropriate action on information regarding alleged violations of measures imposed by paragraph 8 of this resolution;

(c) To consider and decide upon requests for exemptions set out in paragraphs 9 and 10 above;

(d) To determine additional items, materials, equipment, goods and technology to be specified for the purpose of paragraphs 8 (a) (i) and 8 (a) (ii) above;

(e) To designate additional individuals and entities subject to the measures imposed by paragraphs 8 (d) and 8 (e) above;

(f) To promulgate guidelines as may be necessary to facilitate the implementation of the measures imposed by this resolution;

(g) To report at least every 90 days to the Security Council on its work, with its observations and recommendations, in particular on ways to strengthen the effectiveness of the measures imposed by paragraph 8 above;

13. *Welcomes and encourages further* the efforts by all States concerned to intensify their diplomatic efforts, to refrain from any actions that might aggravate

tension and to facilitate the early resumption of the Six-Party Talks, with a view to the expeditious implementation of the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States, to achieve the verifiable denuclearization of the Korean Peninsula and to maintain peace and stability on the Korean Peninsula and in north-east Asia;

14. *Calls upon* the DPRK to return immediately to the Six-Party Talks without precondition and to work towards the expeditious implementation of the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States;

15. *Affirms* that it shall keep DPRK's actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in paragraph 8 above, including the strengthening, modification, suspension or lifting of the measures, as may be needed at that time in light of the DPRK's compliance with the provisions of the resolution;

16. *Underlines* that further decisions will be required, should additional measures be necessary;

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

United Nations

S/RES/1874 (2009)

**Security Council**Distr.: General
12 June 2009

Resolution 1874 (2009)**Adopted by the Security Council at its 6141st meeting, on
12 June 2009***The Security Council,*

Recalling its previous relevant resolutions, including resolution 825 (1993), resolution 1540 (2004), resolution 1695 (2006), and, in particular, resolution 1718 (2006), as well as the statements of its President of 6 October 2006 (S/PRST/2006/41) and 13 April 2009 (S/PRST/2009/7),

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Expressing the gravest concern at the nuclear test conducted by the Democratic People's Republic of Korea ("the DPRK") on 25 May 2009 (local time) in violation of resolution 1718 (2006), and at the challenge such a test constitutes to the Treaty on Non-Proliferation of Nuclear Weapons ("the NPT") and to international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons towards the 2010 NPT Review Conference, and the danger it poses to peace and stability in the region and beyond,

Stressing its collective support for the NPT and commitment to strengthen the Treaty in all its aspects, and global efforts towards nuclear non-proliferation and nuclear disarmament, and *recalling* that the DPRK cannot have the status of a nuclear-weapon state in accordance with the NPT in any case,

Deploing the DPRK's announcement of withdrawal from the NPT and its pursuit of nuclear weapons,

Underlining once again the importance that the DPRK respond to other security and humanitarian concerns of the international community,

Underlining also that measures imposed by this resolution are not intended to have adverse humanitarian consequences for the civilian population of the DPRK,

Expressing its gravest concern that the nuclear test and missile activities carried out by the DPRK have further generated increased tension in the region and beyond, and *determining* that there continues to exist a clear threat to international peace and security,

Reaffirming the importance that all Member States uphold the purposes and principles of the Charter of the United Nations,



Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Condemns* in the strongest terms the nuclear test conducted by the DPRK on 25 May 2009 (local time) in violation and flagrant disregard of its relevant resolutions, in particular resolutions 1695 (2006) and 1718 (2006), and the statement of its President of 13 April 2009 (S/PRST/2009/7);

2. *Demands* that the DPRK not conduct any further nuclear test or any launch using ballistic missile technology;

3. *Decides* that the DPRK shall suspend all activities related to its ballistic missile programme and in this context re-establish its pre-existing commitments to a moratorium on missile launches;

4. *Demands* that the DPRK immediately comply fully with its obligations under relevant Security Council resolutions, in particular resolution 1718 (2006);

5. *Demands* that the DPRK immediately retract its announcement of withdrawal from the NPT;

6. *Demands* further that the DPRK return at an early date to the NPT and International Atomic Energy Agency (IAEA) safeguards, bearing in mind the rights and obligations of States Parties to the NPT, and *underlines* the need for all States Parties to the NPT to continue to comply with their Treaty obligations;

7. *Calls upon* all Member States to implement their obligations pursuant to resolution 1718 (2006), including with respect to designations made by the Committee established pursuant to resolution 1718 (2006) (“the Committee”) pursuant to the statement of its President of 13 April 2009 (S/PRST/2009/7);

8. *Decides* that the DPRK shall abandon all nuclear weapons and existing nuclear programs in a complete, verifiable and irreversible manner and immediately cease all related activities, shall act strictly in accordance with the obligations applicable to parties under the NPT and the terms and conditions of the IAEA Safeguards Agreement (IAEA INFCIRC/403) and shall provide the IAEA transparency measures extending beyond these requirements, including such access to individuals, documentation, equipment and facilities as may be required and deemed necessary by the IAEA;

9. *Decides* that the measures in paragraph 8 (b) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms or materiel;

10. *Decides* that the measures in paragraph 8 (a) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms, except for small arms and light weapons and their related materiel, and *calls upon* States to exercise vigilance over the direct or indirect supply, sale or transfer to the DPRK of small arms or light weapons, and further *decides* that States shall notify the Committee at least five days prior to selling, supplying or transferring small arms or light weapons to the DPRK;

11. *Calls upon* all States to inspect, in accordance with their national authorities and legislation, and consistent with international law, all cargo to and from the DPRK, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer, or export of which is prohibited by paragraph 8 (a), 8 (b), or 8 (c) of resolution 1718 or by paragraph 9 or 10 of this resolution, for the purpose of ensuring strict implementation of those provisions;

12. *Calls upon* all Member States to inspect vessels, with the consent of the flag State, on the high seas, if they have information that provides reasonable grounds to believe that the cargo of such vessels contains items the supply, sale, transfer, or export of which is prohibited by paragraph 8 (a), 8 (b), or 8 (c) of resolution 1718 (2006) or by paragraph 9 or 10 of this resolution, for the purpose of ensuring strict implementation of those provisions;

13. *Calls upon* all States to cooperate with inspections pursuant to paragraphs 11 and 12, and, if the flag State does not consent to inspection on the high seas, *decides* that the flag State shall direct the vessel to proceed to an appropriate and convenient port for the required inspection by the local authorities pursuant to paragraph 11;

14. *Decides* to authorize all Member States to, and that all Member States shall, seize and dispose of items the supply, sale, transfer, or export of which is prohibited by paragraph 8 (a), 8 (b), or 8 (c) of resolution 1718 or by paragraph 9 or 10 of this resolution that are identified in inspections pursuant to paragraph 11, 12, or 13 in a manner that is not inconsistent with their obligations under applicable Security Council resolutions, including resolution 1540 (2004), as well as any obligations of parties to the NPT, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 29 April 1997, and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 10 April 1972, and *decides* further that all States shall cooperate in such efforts;

15. *Requires* any Member State, when it undertakes an inspection pursuant to paragraph 11, 12, or 13, or seizes and disposes of cargo pursuant to paragraph 14, to submit promptly reports containing relevant details to the Committee on the inspection, seizure and disposal;

16. *Requires* any Member State, when it does not receive the cooperation of a flag State pursuant to paragraph 12 or 13 to submit promptly to the Committee a report containing relevant details;

17. *Decides* that Member States shall prohibit the provision by their nationals or from their territory of bunkering services, such as provision of fuel or supplies, or other servicing of vessels, to DPRK vessels if they have information that provides reasonable grounds to believe they are carrying items the supply, sale, transfer, or export of which is prohibited by paragraph 8 (a), 8 (b), or 8 (c) of resolution 1718 (2006) or by paragraph 9 or 10 of this resolution, unless provision of such services is necessary for humanitarian purposes or until such time as the cargo has been inspected, and seized and disposed of if necessary, and *underlines* that this paragraph is not intended to affect legal economic activities;

18. *Calls upon* Member States, in addition to implementing their obligations pursuant to paragraphs 8 (d) and (e) of resolution 1718 (2006), to prevent the provision of financial services or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad), or persons or financial institutions in their territory, of any financial or other assets or resources that could contribute to the DPRK's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs or activities, including by freezing any financial or other assets or resources on their territories or that hereafter come within their territories, or that are subject to their jurisdiction or that hereafter become subject to their jurisdiction, that are associated with such programs or activities and applying enhanced monitoring to prevent all such transactions in accordance with their national authorities and legislation;

19. *Calls upon* all Member States and international financial and credit institutions not to enter into new commitments for grants, financial assistance, or concessional loans to the DPRK, except for humanitarian and developmental purposes directly addressing the needs of the civilian population, or the promotion of denuclearization, and also *calls upon* States to exercise enhanced vigilance with a view to reducing current commitments;

20. *Calls upon* all Member States not to provide public financial support for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the DPRK's nuclear-related or ballistic missile-related or other WMD-related programs or activities;

21. *Emphasizes* that all Member States should comply with the provisions of paragraphs 8 (a) (iii) and 8 (d) of resolution 1718 (2006) without prejudice to the activities of the diplomatic missions in the DPRK pursuant to the Vienna Convention on Diplomatic Relations;

22. *Calls upon* all Member States to report to the Security Council within forty-five days of the adoption of this resolution and thereafter upon request by the Committee on concrete measures they have taken in order to implement effectively the provisions of paragraph 8 of resolution 1718 (2006) as well as paragraphs 9 and 10 of this resolution, as well as financial measures set out in paragraphs 18, 19 and 20 of this resolution;

23. *Decides* that the measures set out at paragraphs 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006) shall also apply to the items listed in INFCIRC/254/Rev.9/Part 1a and INFCIRC/254/Rev.7/Part 2a;

24. *Decides* to adjust the measures imposed by paragraph 8 of resolution 1718 (2006) and this resolution, including through the designation of entities, goods, and individuals, and directs the Committee to undertake its tasks to this effect and to report to the Security Council within thirty days of adoption of this resolution, and further *decides* that, if the Committee has not acted, then the Security Council will complete action to adjust the measures within seven days of receiving that report;

25. *Decides* that the Committee shall intensify its efforts to promote the full implementation of resolution 1718 (2006), the statement of its President of 13 April 2009 (S/PRST/2009/7) and this resolution, through a work programme covering compliance, investigations, outreach, dialogue, assistance and cooperation, to be

submitted to the Council by 15 July 2009, and that it shall also receive and consider reports from Member States pursuant to paragraphs 10, 15, 16 and 22 of this resolution;

26. *Requests* the Secretary-General to create for an initial period of one year, in consultation with the Committee, a group of up to seven experts ("Panel of Experts"), acting under the direction of the Committee to carry out the following tasks: (a) assist the Committee in carrying out its mandate as specified in resolution 1718 (2006) and the functions specified in paragraph 25 of this resolution; (b) gather, examine and analyze information from States, relevant United Nations bodies and other interested parties regarding the implementation of the measures imposed in resolution 1718 (2006) and in this resolution, in particular incidents of non-compliance; (c) make recommendations on actions the Council, or the Committee or Member States, may consider to improve implementation of the measures imposed in resolution 1718 (2006) and in this resolution; and (d) provide an interim report on its work to the Council no later than 90 days after adoption of this resolution, and a final report to the Council no later than 30 days prior to termination of its mandate with its findings and recommendations;

27. *Urges* all States, relevant United Nations bodies and other interested parties, to cooperate fully with the Committee and the Panel of Experts, in particular by supplying any information at their disposal on the implementation of the measures imposed by resolution 1718 (2006) and this resolution;

28. *Calls upon* all Member States to exercise vigilance and prevent specialized teaching or training of DPRK nationals within their territories or by their nationals, of disciplines which could contribute to the DPRK's proliferation sensitive nuclear activities and the development of nuclear weapon delivery systems;

29. *Calls upon* the DPRK to join the Comprehensive Nuclear-Test-Ban Treaty at the earliest date;

30. *Supports* peaceful dialogue, *calls upon* the DPRK to return immediately to the Six Party Talks without precondition, and *urges* all the participants to intensify their efforts on the full and expeditious implementation of the Joint Statement issued on 19 September 2005 and the joint documents of 13 February 2007 and 3 October 2007, by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States, with a view to achieving the verifiable denuclearization of the Korean Peninsula and to maintain peace and stability on the Korean Peninsula and in north-east Asia;

31. *Expresses* its commitment to a peaceful, diplomatic and political solution to the situation and welcomes efforts by Council members as well as other Member States to facilitate a peaceful and comprehensive solution through dialogue and to refrain from any actions that might aggravate tensions;

32. *Affirms* that it shall keep the DPRK's actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in paragraph 8 of resolution 1718 (2006) and relevant paragraphs of this resolution, including the strengthening, modification, suspension or lifting of the measures, as may be needed at that time in light of the DPRK's compliance with relevant provisions of resolution 1718 (2006) and this resolution;

33. *Underlines* that further decisions will be required, should additional measures be necessary;

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

ANNEX E

**UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA) (AMENDMENT) REGULATION
2010**

**UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA) (AMENDMENT) REGULATION
2010**

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**UNITED NATIONS SANCTIONS (DEMOCRATIC
PEOPLE’S REPUBLIC OF KOREA) (AMENDMENT)
REGULATION 2010**

(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, unless the context otherwise requires –

“armoured combat vehicle” (裝甲戰鬥車) means any tracked, semi-tracked or wheeled self-propelled vehicle, with armoured protection and cross-country capability, either –

- (a) designed and equipped to transport a squad of 4 or more ~~infantrymen~~ infantry personnel; or
- (b) armed with an integral or organic weapon of at least 12.5 mm calibre or a missile launcher;

“attack helicopter” (攻擊直昇機) –

- (a) means any rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for those weapons; and
- (b) includes any version of an aircraft described in paragraph (a) that performs specialized reconnaissance or electronic warfare missions;

“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;

“battle tank” (作戰坦克) means any tracked or wheeled self-propelled armoured fighting vehicle with high cross-country mobility and a high-level of self-protection, weighing at least 16.5 metric tons unladen weight, with a high muzzle velocity direct fire main gun of at least 75 mm calibre;

“combat aircraft” (作戰飛機) –

- (a) means any fixed-wing or variable-geometry wing aircraft, or any primary trainer aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction; and
- (b) includes any version of an aircraft described in paragraph (a) that performs specialized electronic warfare, suppression of air defence or reconnaissance missions;

~~“commander” (機長), in relation to an aircraft, means the member of the flight crew designated as the commander of the aircraft by the operator of the aircraft, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;~~

“Commissioner” (關長) means the Commissioner of Customs and Excise, ~~the~~ 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 ~~pursuant to~~ under paragraph 12 of Resolution 1718;

“DPRK” (朝鮮) means the Democratic People’s Republic of Korea;

“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;

“large-calibre artillery system” (大口徑火炮) means any gun, howitzer, artillery piece combining the characteristics of a gun or howitzer, mortar or multiple-launch rocket system, capable of engaging surface targets by delivering primarily indirect fire, with a calibre of 75 mm and above;

“licence” (特許) means a licence granted under section 11(1);

“luxury goods” (奢侈品) means any item as specified in the Schedule;

“master” (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“missile and missile launcher” (導彈及導彈發射器) means –

- (a) any guided or unguided rocket, ballistic or cruise missile or remotely piloted vehicle capable of delivering a warhead or weapon of destruction to a range of at least 25 km;
- (b) any means, other than any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system or warship, designed or modified specifically for launching any rocket or missile described in paragraph (a); or
- (c) any Man-portable Air-Defence Systems (MANPADS), but does not include any ground-to-air missile;

“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 the DPRK” (有關連人士) means –

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

“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 item” (禁制項目) means –

- (a) any specified item; or
- (b) any luxury goods;

“relevant entity” (有關實體) means –

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 31; or
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31;

“relevant person” (有關人士) means –

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 31; or
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31;

“Resolution 1718” (《第 1718 號決議》) means Resolution 1718 (2006) adopted by the Security Council on 14 October 2006;

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

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

“small arms” (小型軍火) means any arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G);

“specified arms” (指明軍火) means any arms referred to in paragraph (a) of the definition of “specified item”;

“specified item” (指明項目) means –

- (a) all arms or related materiel including any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related ~~material~~-materiel (including any spare part);
- (b) any item, material, equipment, goods or technology set out in the Security Council document S/2006/814;
- (c) any item, material, equipment, goods or technology set out in the Security Council document S/2006/815; ~~or~~
- (d) any item, material, equipment, goods or technology set out in the Security Council document S/2006/853 as rectified by the Security Council document S/2006/853/Corr.1;
- (e) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) any item, material, equipment, goods or technology set out in the Security Council document S/2009/205;
- (h) graphite designed or specified for use in Electrical Discharge Machining (EDM) machines; or
- (i) para-aramid fibre (Kevlar and other Kevlar-like), filament and tape;

“specified person” (指明人士) means –

- (a) a person connected with the DPRK; or

(b) a national of the DPRK who is in a place outside the DPRK;

“warship” (軍艦) means any vessel or submarine armed and equipped for military use with a standard displacement of 500 metric tons or above, or any vessel or submarine with a standard displacement of less than 500 metric tons, equipped for launching missiles with a range of at least 25 km or torpedoes with similar range.

PART 2

PROHIBITIONS

~~Supply, delivery or transfer of items~~

2. Prohibition against supply, delivery-sale or transfer of certain items ~~to DPRK~~

(1A) 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.

(1) Subject to section 3A, A person ~~shall~~must not supply, ~~deliver-sell~~ or transfer, or agree to supply, ~~deliver-sell~~ or transfer, directly or indirectly, or do any act likely to promote the supply, ~~delivery-sale~~ or transfer of, any prohibited item –

(a) to the DPRK;

(b) to, or to the order of, a person connected with the DPRK;
or

- (c) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.

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

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

(3) ~~In any proceedings for an offence under subsection (2), it~~ It is a defence for a person charged with an offence under subsection (2) to prove that ~~he~~ the person did not know and had no reason to believe –

- (a) that the item concerned was a prohibited item; or
- (b) that the item concerned was or was to be supplied, ~~delivered-sold~~ or transferred –
 - (i) to the DPRK;
 - (ii) to, or to the order of, a person connected with the DPRK; or
 - (iii) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.

~~(4) This section applies to –~~

- ~~(a) a person in the HKSAR; and~~
- ~~(b) a person acting elsewhere who is –~~
 - ~~(i) both a Hong Kong permanent resident and a Chinese national; or~~
 - ~~(ii) a body incorporated or constituted under the law of the HKSAR.~~

Carriage of items

**3. Prohibition against carriage of certain items
to DPRK**

- (1) This section applies to –
- (a) a ship that is registered in the HKSAR;
 - (aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
 - (b) an aircraft that is registered in the HKSAR;
 - (ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;
 - (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 prejudice to the generality of section 2,~~ Subject to section 3A, a ship, aircraft or vehicle ~~shall~~must not be used for the carriage of any prohibited item if the carriage is, or forms part of, a carriage –
- (a) from a place outside the DPRK to a place in the DPRK;
 - (b) to, or to the order of, a person connected with the DPRK; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.

(2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence –

- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
- (b) in the case of any other ship –
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
- (d) in the case of any other aircraft –
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(e) in the case of a vehicle, the operator and the driver of the vehicle.

(3) ~~If a ship, aircraft or vehicle is used in contravention of subsection (2), each specified person~~ A person who commits an offence under subsection (2A) ~~and~~ is liable –

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(4) ~~In any proceedings for an offence under subsection (3), it~~ It is a defence for a person charged with an offence under subsection (2A) to prove that ~~he~~ the person did not know and had no reason to believe –

(a) that the item concerned was a prohibited item; or

(b) that the carriage of the item concerned was, or formed part of, a carriage –

(i) from a place outside the DPRK to a place in the DPRK;

(ii) to, or to the order of, a person connected with the DPRK; or

(iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.

~~(5) In this section, “specified person” (指明人士) means—~~

~~(a) in relation to a ship registered in the HKSAR, the charterer, operator or master of the ship;~~

~~(b) in relation to any other ship—~~

- ~~(i) the charterer of the ship;~~
- ~~(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; or~~
- ~~(iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;~~
- ~~(c) in relation to an aircraft registered in the HKSAR, the charterer, operator or commander of the aircraft;~~
- ~~(d) in relation to any other aircraft –~~
 - ~~(i) the charterer of the aircraft;~~
 - ~~(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; or~~
 - ~~(iii) the commander of the aircraft, if the commander is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or~~
- ~~(e) in relation to a vehicle, the operator or driver of the vehicle.~~

3A. Exceptions to prohibitions under sections 2 and 3

(1) Sections 2 and 3 do not apply if –

- (a) the prohibited item is small arms or their related materiel;
and
- (b) the person who intends to perform any act in relation to the prohibited item that, but for this section, would be

prohibited under section 2 or 3 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

Procurement of items

4. Prohibition against procurement of certain items or services from DPRK by certain persons

(1A) 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.

(1) A person ~~shall~~must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any specified item –

(a) from the DPRK; or

(b) from a person connected with the DPRK.

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

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(3) ~~In any proceedings for an offence under subsection (2), it~~ It is a defence for a person charged with an offence under subsection (2) to prove that ~~he~~the person did not know and had no reason to believe –

- (a) that the item concerned was a specified item; or
- (b) that the item concerned was –
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK.

(3A) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms –

- (a) from the DPRK; or
- (b) from a person connected with the DPRK.

(3B) A person who contravenes subsection (3A) 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.

(3C) It is a defence for a person charged with an offence under subsection (3B) to prove that the person did not know and had no reason to believe –

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or
- (b) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK.

~~(4) This section applies to –~~

~~(a) a person in the HKSAR; and~~

~~(b) a person acting elsewhere who is –~~

~~(i) both a Hong Kong permanent resident and a Chinese national; or~~

~~(ii) a body incorporated or constituted under the law of the HKSAR.~~

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

(1) This section applies to –

(a) a ship that is registered in the HKSAR;

(aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;

(b) an aircraft that is registered in the HKSAR;

(ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;

(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 ~~prejudice to limiting~~ section 4, a ship, aircraft or vehicle ~~shall~~must not be used for or in connection with the procurement of –

(a) any specified item –

~~(ai)~~ from the DPRK; or

~~(bii)~~ from a person connected with the DPRK; or

(b) any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms –

(i) from the DPRK; or

(ii) from a person connected with the DPRK.

(2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence –

(a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;

(b) in the case of any other ship –

(i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;

(ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;

(d) in the case of any other aircraft –

(i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body

incorporated or constituted under the law of the HKSAR;

(ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(e) in the case of a vehicle, the operator and the driver of the vehicle.

(3) ~~If a ship, aircraft or vehicle is used in contravention of subsection (2), each specified person~~ A person who commits an offence under subsection (2A) and is liable –

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(4) ~~In any proceedings for an offence under subsection (3), it~~ It is a defence for a person charged with an offence under subsection (2A) to prove that ~~he~~ the person did not know and had no reason to believe –

(a) that the item concerned was a specified item; ~~or~~

(b) that the item concerned was –

(i) from the DPRK; or

(ii) from a person connected with the DPRK;

(c) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or

(d) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK.

~~(5) In this section, “specified person” (指明人士) means—~~

~~(a) in relation to a ship registered in the HKSAR, the charterer, operator or master of the ship;~~

~~(b) in relation to any other ship—~~

~~(i) the charterer of the ship;~~

~~(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; or~~

~~(iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;~~

~~(c) in relation to an aircraft registered in the HKSAR, the charterer, operator or commander of the aircraft;~~

~~(d) in relation to any other aircraft—~~

~~(i) the charterer of the aircraft;~~

~~(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; or~~

~~(iii) the commander of the aircraft, if the commander is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or~~

~~(e) in relation to a vehicle, the operator or driver of the vehicle.~~

5A. Prohibition against engaging in certain financial transactions

(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) Subject to section 5B, a person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply, sale, transfer or carriage of which is prohibited under section 2 or 3.

(3) A person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the procurement of which is prohibited under section 4.

(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 financial transaction concerned related to the provision, manufacture, maintenance or use of any specified arms;

(b) that the supply, sale, transfer or carriage of the arms concerned was prohibited under section 2 or 3; or

(c) that the procurement of the arms concerned was prohibited under section 4.

5B. Exception to prohibition under section 5A(2)

(1) Section 5A(2) does not apply if –

(a) the specified arms is small arms or their related materiel;
and

(b) the person who intends to perform any act in relation to the specified arms that, but for this section, would be prohibited under section 5A(2) notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

~~Provision of training, services, assistance or advice~~

6. Prohibition against provision of certain technical training, services, ~~assistance or advice etc.~~ to certain persons

(1A) 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.

(1) Subject to section 6A, A-a person ~~shall~~must not provide, directly or indirectly, to a person connected with the DPRK any technical training, service,

assistance or advice related to the provision, manufacture, maintenance or use of any specified item.

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

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

(3) ~~In any proceedings for an offence under subsection (2), it~~ It is a defence for a person charged with an offence under subsection (2) to prove that ~~he~~ the person did not know and had no reason to believe –

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
- (b) that the technical training, service, assistance or advice concerned was or was to be provided to a person connected with the DPRK.

~~(4) This section applies to –~~

- ~~(a) a person in the HKSAR; and~~
- ~~(b) a person acting elsewhere who is –~~
 - ~~(i) both a Hong Kong permanent resident and a Chinese national; or~~
 - ~~(ii) a body incorporated or constituted under the law of the HKSAR.~~

6A. Exception to prohibition under section 6

(1) Section 6 does not apply if –

- (a) the specified item is small arms or their related materiel;
- and

(b) the person who intends to perform any act in relation to the specified item that, but for this section, would be prohibited under section 6 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.

(2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

7. Prohibition against acceptance of ~~certain~~ technical training, services, ~~assistance or advice etc.~~ provided by certain persons

(1A) 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.

(1) A person ~~shall~~must not accept, directly or indirectly, any technical training, service, assistance or advice that is provided by a specified person and ~~related to the provision, manufacture, maintenance or use of any specified item and provided by a specified person.~~

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

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(3) ~~In any proceedings for an offence under subsection (2), it~~ It is a defence for a person charged with an offence under subsection (2) to prove that ~~he~~the person did not know and had no reason to believe –

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
- (b) that the technical training, service, assistance or advice concerned was or was to be provided by a specified person.

~~(4) In this section, “specified person” (指明人士) means—~~

- ~~(a) a person connected with the DPRK; or~~
- ~~(b) a national of the DPRK who is in a place outside the DPRK.~~

~~(5) This section applies to—~~

- ~~(a) a person in the HKSAR; and~~
- ~~(b) a person acting elsewhere who is—~~
 - ~~(i) both a Hong Kong permanent resident and a Chinese national; or~~
 - ~~(ii) a body incorporated or constituted under the law of the HKSAR.~~

~~***Making available funds, etc. to certain persons or entities***~~

8. Prohibition against making available funds, etc. or dealing with funds, etc.~~**to certain persons or entities**~~

(1A) 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.

(1) Except under the authority of a licence, ~~a person shall not~~ —

(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 (including a relevant person and a relevant entity) must not deal with, directly or indirectly, any funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.

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

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(3) ~~In any proceedings for an offence under subsection (2), it~~ It is a defence for a person charged with an offence under subsection (2) to prove that ~~he~~ the person did not know and had no reason to believe that —

(a) 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) the person was dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.

~~(4) This section applies to —~~

~~(a) a person in the HKSAR; and~~

~~(b) a person acting elsewhere who is —~~

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

(5) A person is not to be regarded as having contravened subsection (1) by reason only of having credited an account belonging to, owned or held by a relevant person or a relevant entity with –

- (a) interest or other earnings due on that account; or
- (b) payment due under contracts, agreements or obligations that arose prior to 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.

~~Entry into or transit through HKSAR~~

9. Prohibition against entry or transit by certain persons

(1) Subject to ~~the exception in~~ section 10, a ~~specified~~ person ~~shall~~ designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718 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 ~~shall~~does not ~~prohibit~~apply to a person having the right of abode or the right to land in the HKSAR ~~from entry into the HKSAR~~.

~~(4) In this section, “specified person” (指明人士) means a person designated by the Committee or the Security Council pursuant to paragraph 8(e) of Resolution 1718.~~

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

Section 9 ~~shall~~does not apply ~~if~~to a case in respect of which –

- (a) the Committee ~~has determined~~determines on a case by case basis that the relevant entry into or transit through the HKSAR is justified on the grounds of humanitarian need, including religious obligations; or
- (b) the Committee ~~has determined~~concludes that the relevant entry into or transit through the HKSAR would otherwise further the objectives of Resolution 1718.

10A. Prohibition against provision of certain services to ships registered in DPRK

(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) Subject to section 10B, a person must not provide, directly or indirectly, any specified services to a ship registered in the DPRK if the person

knows or has reasonable grounds to believe that the ship is carrying a prohibited item.

(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) In this section, “specified services” (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services –

(a) the provision of fuel to the ship;

(b) the provision of tools or equipment for shipboard maintenance;

(c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;

(d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).

10B. Exception to prohibition under section 10A

Section 10A does not apply if the provision of the specified services concerned is necessary for humanitarian purposes.

PART 3

LICENCE

11. 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 it is proved to the satisfaction of~~ the Chief Executive determines that any ~~one~~ of the requirements in subsection (2) is met, the Chief Executive ~~shall~~must, subject to subsection (4), on application, 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, owned or held by a relevant person or a relevant entity.

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

(a) the funds or other financial assets or economic resources ~~are have been determined by the Chief Executive to be~~ –

(i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, ~~and~~ medical treatments, taxes, insurance premiums, and public utility charges; ~~or~~

(ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or,

(iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic

resources belonging to, owned or held by a relevant person or a relevant entity;

~~and the Committee has been notified by the Chief Executive of the intention to authorize, where appropriate, access to such funds or other financial assets or economic resources, and the Committee has not made a negative decision within 5 working days of such notification;~~

(b) the funds or other financial assets or economic resources ~~have been determined by the Chief Executive to be~~are necessary for extraordinary expenses; ~~and the Committee has been notified by the Chief Executive of the determination, and the Committee has approved the determination;~~

(c) the funds or other financial assets or economic resources =

(i) ~~have been determined by the Chief Executive to be~~are the subject of a judicial, administrative or arbitral lien or judgment that was entered prior to 14 October 2006 and is not for the benefit of a relevant person or a relevant entity or an individual or entity identified by the Committee or the Security Council; and

(ii) ~~are to be used to satisfy the lien or judgment, and the lien or judgment—~~

(i) ~~was entered prior to 14 October 2006;~~

(ii) ~~is not for the benefit of a relevant person or a relevant entity or an individual or entity identified by the Committee or the Security Council; and~~

(iii) ~~has been notified by the Chief Executive to the Committee.~~

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

(4) 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.

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

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

(a) on conviction on indictment to a fine and to imprisonment for 2 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

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

(a) on conviction on indictment to a fine and to imprisonment for 2 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

PART 4

THINGS DONE ~~OUT~~OUTSIDE HKSAR

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

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

~~(a) — a person who is ordinarily resident in that place; or~~

~~(b) — a body corporate incorporated or constituted under the law of that place.~~

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

PART 5

ENFORCEMENT OF REGULATION

Investigation, etc. of suspected ships

Division 1 - Investigation, etc. of Suspected Ships

14. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), ~~he~~the officer may –

- (a) either alone or accompanied and assisted by any person acting under ~~his~~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 ~~such~~any information relating to the ship ~~and~~or its cargo, ~~and or~~ produce for ~~his~~ inspection ~~such documents so relating and such cargo carried on it, as he may specify~~ any of its cargo or any document relating to the ship or its cargo, that the officer may specify.

(2) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies is being or is about to be used in contravention of section 3(2) or 5(2), ~~he~~the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 5(2) or to pursue enquiries, (either there and then or on consideration of any information provided or ~~document or~~ cargo or document produced in response to a request made under subsection (1)(b)), ~~with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued,~~ do one or more of the following –

- (a) direct the 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 ~~one or more~~ any of the following steps –
 - (i) to cause the ship, ~~including 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 ~~such a~~ port ~~as is~~ 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 ~~such other~~ another destination ~~as may be~~ specified by an authorized officer in agreement with the charterer, operator or master.

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

15. Offences by charterer, operator or master of ship

(1) ~~If a~~A charterer, operator or master of a ship who disobeys any direction given under section 14(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 14(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, ~~the charterer, operator or master~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) ~~If a~~A charterer, operator or master of a ship who, in response to a request made under section 14(1)(b) or (2)(b), provides or produces to an authorized officer any information, ~~explanation~~ or document that ~~he the charterer, operator or master~~ knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, ~~explanation~~ or document that is false in a material particular, ~~the charterer, operator or master~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

16. Power of authorized officers to enter and detain ships

(1) Without ~~prejudice to~~limiting section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(2)(b) may not be complied with, ~~he the officer~~ may take ~~such any~~ steps ~~as that~~ appear to ~~him the officer~~ to be necessary to secure compliance with that request ~~and, without prejudice to the generality of the foregoing, may for that purpose including, in particular, any of the following steps –~~

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

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

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

~~Investigation, etc. of suspected aircraft~~

Division 2 - Investigation, etc. of Suspected Aircraft

17. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), ~~he the officer~~ may –

- (a) either alone or accompanied and assisted by any person acting under ~~his 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 ~~commander pilot in command~~ of the aircraft, ~~or all of them,~~ to provide such any information relating to the aircraft ~~and or~~ its cargo, ~~and or~~ produce for ~~his inspection such documents so relating and such cargo carried on it, as he may specify~~ 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 document or cargo or document produced in response to a request made under subsection (1)(b)),~~ further request the charterer, operator or commander, or all of them, 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 commander pilot in command is, ~~or (if the further request is made to all of them) all of them are,~~ notified by an authorized officer that the aircraft and its cargo may depart.

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

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

(1) ~~If a~~ charterer, operator or commander pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, ~~the charterer, operator or commander~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

19. Power of authorized officers to enter and detain aircraft

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

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

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

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

~~Investigation, etc. of suspected vehicles~~

Division 3 - Investigation, etc. of Suspected Vehicles

20. 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 5(2), ~~he~~ the officer may –

- (a) either alone or accompanied and assisted by any person acting under ~~his~~ 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 ~~such~~ any information relating to the vehicle ~~and~~ or any article carried on it, ~~and~~ or produce for ~~his~~ inspection ~~such documents so relating and such articles carried on it, as he~~ 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 document or article or document produced in response to a request made under paragraph (b)), further request~~ the operator or driver to take the vehicle and any article carried on it to ~~such~~ a place ~~as is~~ specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

(2) A power conferred by this section to request ~~the provision of a person to provide~~ any information or ~~the production of~~ produce any ~~document or~~ 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 ~~document or~~ article or document should be produced for inspection.

21. Offences by operator or driver of vehicle

(1) ~~If an~~An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 20(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, ~~the operator or driver~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) ~~If an~~An operator or driver of a vehicle who, in response to a request made under section 20(1)(b) or (c), provides or produces to an authorized officer any information, ~~explanation~~ or document that ~~he~~the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, ~~explanation~~ or document that is false in a material particular, ~~the operator or driver~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

22. Power of authorized officers to enter and detain vehicles

(1) Without ~~prejudice to~~limiting section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(1)(c) may not be complied with, ~~he~~the officer may take ~~such~~any steps ~~as~~that appear to ~~him~~the officer to be necessary to secure compliance with that request ~~and, without prejudice to the generality of the foregoing, may for that purpose~~including, in particular, any of the following steps –

- (a) enter, or authorize the entry on, any land ~~and~~or enter, or authorize the entry into, the vehicle concerned;

(b) detain, or authorize the detention of, that vehicle ~~and~~ any article carried on it; ~~and~~

(c) use, or authorize the use of, reasonable force.

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

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

Proof of identity

Division 4 - Proof of Identity

23. Production of proof of identity

Before or on exercising a power conferred by section 14, 16, 17, 19, 20 or 22, an authorized officer ~~shall~~must, if requested ~~by any person~~so to do, produce ~~evidence of his~~proof of the officer's identity ~~to the person for inspection~~.

PART 6

EVIDENCE

24. Power of magistrate or judge to grant warrant

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

(a) an offence under this Regulation has been committed or is being committed; and

(b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, 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) ~~to~~ search any person who is found on, or whom ~~he~~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) ~~to~~ seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on ~~such~~any person ~~that he~~ 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) ~~to~~ take in relation to any ~~such~~ document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article ~~seized~~ and preventing interference with it.

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

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

24A. Seized articles, etc. liable to forfeiture

(1) If an authorized officer intends to apply to a magistrate or judge under section 24B for an order for forfeiture of any document, cargo or article seized under section 24(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.

(2) A notice under subsection (1) is to be regarded as having been duly served on a person if –

- (a) it is delivered personally to the person;
- (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
- (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.

(3) An owner, or the authorized agent of an owner, of the document, cargo or article referred to in a notice served under subsection (1), or a person who was in possession of the document, cargo or article at the time of seizure, or a person who has a legal or equitable interest in the document, cargo or article, may object to the proposed forfeiture by serving a notice in writing on the Commissioner.

(4) A notice of objection under subsection (3) –

- (a) must be served on the Commissioner by a person referred to in subsection (3) (“claimant”) within 30 days from –

- (i) if the notice under subsection (1) is delivered personally to the person named in the notice, the date of delivery;
- (ii) if the notice under subsection (1) is sent by registered post, 2 days after the date of posting; or
- (iii) if the notice under subsection (1) is exhibited as described in subsection (2)(c), the first day it is so exhibited;
- (b) must state the claimant's full name and address for service in Hong Kong; and
- (c) if the claimant does not have a permanent address in Hong Kong, must state the name and address of a solicitor who is qualified to practise under the Legal Practitioners Ordinance (Cap. 159) and is authorized to accept service on behalf of the claimant in relation to any forfeiture proceedings.

(5) An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized document, cargo or article in respect of which a notice has been served under subsection (1) –

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

24B. Power of magistrate or judge to make order for forfeiture and disposal

(1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, manufacture, maintenance or use of a prohibited item, or that the seized cargo or

article is a prohibited item, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.

(2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.

(3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 24A(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.

(4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.

25. Detention of documents, cargoes or articles seized

(1) Subject to subsection (2) and any order made under section 24B, any document, cargo or article seized under section 24(3) may not be detained for ~~a period of~~ more than 3 months.

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

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

26. Disclosure of information or documents

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

- (a) the person who provided or produced the information or document or ~~the person~~ from whom the document was seized has given consent to the disclosure;
- (b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;
- (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to –
 - (i) any organ of the United Nations; ~~or to~~
 - (ii) any person in the service of the United Nations; or
 - (iii) to ~~the~~ 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 the DPRK decided on by the Security Council; or
- (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.

(2) For the purposes of subsection (1)(a) –

- (a) a person may not give consent to the disclosure if ~~he~~ the person has obtained the information or possessed the

document only in ~~his~~the person's capacity as servant or agent of another person; and

- (b) a person may give consent to the disclosure if ~~he~~the person is entitled to the information or to the possession of the document in ~~his~~the person's own right.

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

27. Liability of persons other than principal offenders

(1) ~~Where~~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) ~~Where~~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.

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

A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of ~~his~~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.

29. 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.

30. Consent and time limit for Proceedings to be instituted

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

(2) Summary proceedings for an offence under this Regulation, ~~being an offence 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.

31. 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 ~~an~~ relevant entity a person or an entity designated by the Committee or the Security Council ~~pursuant to~~ under paragraph 8(d) of Resolution 1718 ~~as a relevant person or a relevant entity~~.

32. Access to Security Council document S/2006/814, etc.

The Director-General of Trade and Industry is to make available at his or her office, for inspection by the public during normal office hours, free of charge, an English version and a Chinese version of each of the following documents –

- (a) the Security Council document S/2006/814;

- (b) the Security Council document S/2006/815;
- (c) the Security Council document S/2006/853;
- (d) the Security Council document S/2006/853/Corr.1-;
- (e) the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) the Security Council document S/2009/205.

33. Exercise of powers of Chief Executive

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

(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.

SCHEDULE

[s. 1]

LUXURY GOODS

Chief Executive

201007

Explanatory Note

This Regulation amends the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) ("principal Regulation") to give effect to certain decisions of the Security Council of the United Nations ("Security Council") in Resolution 1874 (2009) as adopted by the Security Council on 12 June 2009 by –

- (a) amending the definition of "specified item" in section 1 of the principal Regulation to cover additional items;
- (b) extending the prohibition against the procurement of certain items from the Democratic People's Republic of Korea ("DPRK") to any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms;
- (c) providing for the prohibition against engaging in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply or procurement of which is prohibited under the principal Regulation as amended by this Regulation; and
- (d) providing for the prohibition against the provision of certain services to ships registered in the DPRK under certain circumstances.

2. This Regulation also amends the definition of "specified item" in section 1 of the principal Regulation to cover additional items set out in the Security Council document S/2009/205 and goods specified in the Security Council document S/2009/364.

~~The purpose of this Regulation is to give effect to a decision of the Security Council of the United Nations (“the Security Council”) in Resolution 1718 (2006) as adopted by the Security Council on 14 October 2006.~~

~~2. The Regulation provides for the implementation of the following sanctions imposed by the Security Council in Resolution 1718 (2006)—~~

- ~~(a) prohibition against the direct or indirect sale, supply or transfer of certain arms or related materials, items or technology to the DPRK;~~
- ~~(b) prohibition against the procurement of certain items from the DPRK;~~
- ~~(c) prohibition against the transfer of certain training, services, assistance or advice to or from the DPRK;~~
- ~~(d) prohibition against making available to or for the benefits of certain persons or entities any funds or other financial assets or economic resources; and~~
- ~~(e) prohibition against entry into or transit through the HKSAR of certain persons.~~

**United Nations Sanctions
(Democratic People's Republic of Korea) (Amendment) Regulation 2010**

Information on the Democratic People's Republic of Korea

Country Background

The Democratic People's Republic of Korea (the DPRK), generally known as North Korea, is a country of a total area of 120 538 sq. km. and a projected population of around 23.8 million in eastern Asia, occupying the northern half of the Korean Peninsula. It is bordered by China and Republic of Korea (South Korea), with its capital and largest city located in Pyongyang. The DPRK is currently led by King Jong-il and the Korean Workers' Party. A socialist state operating a state-owned, agriculture-oriented economy, the DPRK had a GDP of US\$14.8 billion (or HK\$115.4 billion) in 2007.¹ Merchandise imports and exports of the DPRK in 2007 amounted to US\$ 3,445.3 million (or HK\$26.9 billion) and US\$ 1,609.9 million (or HK\$12.6 billion) respectively.²

United Nations Sanctions against the DPRK

2. The DPRK has been a Member of the United Nations since 17 September 1991. In response to the DPRK's withdrawal from international cooperation and dialogue in respect of nuclear talks, their programme to enrich uranium for nuclear weapons and their reported nuclear test in October 2006, the United Nations Security Council (UNSC) passed the Resolution 1718 to impose a range of sanctions against the DPRK for its pursuit of weapons of mass destruction. Although the DPRK engaged in constructive steps in 2008 to disable its nuclear facilities, their suspension of the disablement process in end 2008 and their reported engagement in another nuclear test in 2009 led to the passage of another UNSC Resolution 1874 in June 2009 to tighten up

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://data.un.org/CountryProfile.aspx?crName=Korea.%20Democratic%20People's%20Republic%20of>

² Source : Direction of Trade Statistics Yearbook 2008, International Monetary Fund

sanctions against the DPRK.³

Trade Relation between Hong Kong and the DPRK

3. In 2008, the DPRK ranked 133rd among Hong Kong's trading partners in the world, with a total trade of HK\$85 million. Of these, HK\$70.3 million worth of trade were exports to the DPRK, and HK\$15 million imports. Hong Kong's trade with the DPRK are summarized as follows –

Hong Kong's Trade with the DPRK [Value in HK\$ (in million)]		
Item	2008	Jan – Nov 2009
(a) Total Exports to the DPRK	70.3	193.2
<i>(i) Domestic exports</i>	0.3 ⁴	0.2
<i>(ii) Re-exports</i>	70 ⁵	193 ⁶
(b) Imports from the DPRK	15 ⁷	12
Total Trade [(a) + (b)]	85	205

HK\$193.9 million worth of goods, or 0.9% of the total trade between DPRK and the Mainland, were routed through Hong Kong. Of these, HK\$154 million worth of goods were re-exports from the DPRK to Mainland.

³ Source of information in paragraph 2: Fact Sheet on DPRK Nuclear Safeguards of the International Atomic Energy Agency at http://www.iaea.org/NewsCenter/Focus/IaeaDprk/fact_sheet_may2003.shtml

⁴ Domestic export items to the DPRK include tobacco and tobacco manufactures (44%); electrical machinery, apparatus and appliances and electrical parts thereof (11%); and professional, scientific and controlling instruments and apparatus (6%).

⁵ Re-exports to the DPRK include telecommunications and sound recording and reproducing apparatus and equipment (29%); tobacco and tobacco manufactures (12%); and electrical machinery, apparatus and appliances and electrical parts thereof (12%). Of these, HK\$40 million worth of re-exports were of Mainland origin.

⁶ The increase was mainly due to surge in re-exports of “medicaments (including veterinary medicaments)” by 19 times in the first eleven months of 2009. This product item accounted for 8% of re-exports to the DPRK in the same period in 2008.

⁷ Imports from the DPRK include non-ferrous metals (70%); telecommunications and sound recording and reproducing apparatus and equipment (14%); and articles of plastics (5%).

The remaining HK\$40 million were re-exports of Mainland origin to the DPRK via Hong Kong.

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

Commerce and Economic Development Bureau
January 2010