

**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 (SOMALIA) REGULATION

**UNITED NATIONS SANCTIONS (ARMS EMBARGOES)
(AMENDMENT) REGULATION 2009**

INTRODUCTION

At the meeting of the Executive Council on 24 March 2009, the Council advised and the Chief Executive (“CE”) ordered that –

A

(a) the United Nations Sanctions (Somalia) Regulation (“the Regulation”), at Annex A, be made under section 3 of the United Nations Sanctions Ordinance (“the Ordinance”) to give effect to the instruction of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China; and

B

(b) the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009 (“the Amendment Regulation”), at Annex B, be made consequential to the making of the Regulation.

The Regulation and the Amendment Regulation were gazetted on 27 March 2009. The two Regulations 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 December 2008 and March 2009, the CE received instructions from the MFA which requested the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolutions 1844 and Resolutions 1356, 1425, 1725, 1744 and 1772 respectively. The Regulation was made pursuant to these instructions. A document issued by the Chief Secretary for Administration confirming the MFA’s instructions is at Annex C.

C

Sanctions against Somalia

3. In 1992, having regard to the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country, the UNSC imposed a general and complete embargo on all deliveries of weapons and military equipment against Somalia by adopting Resolution 733 (at Annex D). To implement this arms embargo, Somalia was included as one of the places subject to the sanction regime under the United Nations Sanctions (Arms Embargoes) Regulation (Cap. 537 sub. leg. E) (“the Arms Embargo Regulation”).

D

4. Between 2001 and 2007, the UNSC adopted further Resolutions relating to Somalia, including Resolutions 1356 (at Annex E), 1425 (at Annex F), 1725 (at Annex G), 1744 (at Annex H) and 1772 (at Annex I). On 20 November 2008, the UNSC adopted Resolution 1844 (at Annex J), under which it inter alia –

E, F, G &H

I

J

- (a) re-affirmed the general and complete arms embargo against Somalia imposed by Resolution 733, as elaborated and amended by Resolutions 1356, 1425, 1725, 1744 and 1772;
- (b) decided that all Member States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer of weapons and military equipment and the direct or indirect supply of technical assistance or training, financial and other assistance including investment, brokering or other financial services, related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to

the individuals or entities designated by the Committee pursuant to paragraph 8 of Resolution 1844;

- (c) decided that all Member States shall take necessary measures to, subject to some exceptions, prevent the entry into or transit through their territories of individuals designated by the Committee pursuant to paragraph 8 of Resolution 1844; and
- (d) decided that all Member States shall, subject to some exceptions, freeze the funds, other financial assets and economic resources which are owned or controlled by individuals or entities designated by the Committee pursuant to paragraph 8 of Resolution 1844, or individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee; and that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of such individuals or entities.

5. Apart from Resolutions 733 and 1844, the CE, however, did not receive any relevant instruction from the MFA relating to Resolutions 1356, 1425, 1725, 1744 and 1772 until March 2009. Taking the opportunity of implementing Resolution 1844, instructions from the MFA to implement the related Resolutions have been sought and obtained.

THE REGULATION

6. As mentioned in paragraph 3 above, the sanctions against Somalia under Resolution 733 are currently implemented by the Arms Embargoes Regulation. That Regulation creates a legislative framework for implementing embargoes on the supply of arms to prohibited destinations. As the scope and types of sanctions against Somalia have been modified and broadened by subsequent UNSC Resolutions (Resolutions 1356, 1425, 1725, 1744, 1772 and 1844), it is considered appropriate to enact the Regulation at Annex A to implement all relevant sanctions against Somalia under the various Resolutions,

and to simultaneously remove Somalia from the Arms Embargoes Regulation.

7. The main provisions of the Regulation include -
- (a) sections 2 and 3, which prohibit the supply, delivery and carriage of weapons and military equipment to persons in relation to Somalia;
 - (b) section 4, which prohibits the provision of assistance, advice or training related to military activities or to the supply, delivery, manufacture, maintenance or use of weapons and military equipment to such persons;
 - (c) section 5, which prohibits making funds, other financial assets or economic resources available to or for the benefit of certain persons and entities;
 - (d) sections 6 and 7, which prohibit the entry into or transit through the HKSAR by certain persons;
 - (e) sections 8 to 10, which provide for the granting of licences for the supply, delivery or carriage of weapons and military equipment; the provision of assistance, advice or training related to military activities; or the making available of funds, other financial assets or economic resources to or for the benefit of certain persons or entities;
 - (f) sections 13 to 22, which provide for enforcement powers; and
 - (g) section 30, which provides that the CE may, by notice published in the Gazette, specify a person or an entity designated by the Committee for the purposes of the paragraph 3 of Resolution 1844 as a relevant person or a relevant entity.

THE AMENDMENT REGULATION

8. Simultaneous with the enactment of the Regulation, we enacted the Amendment Regulation at Annex B to remove Somalia from the sanctions regime thereunder, by amending the definition of “prohibited destination” in section 1(1) of the Arms Embargoes Regulation to remove the references to Somalia, and by making consequential amendments to section 8(8)(c) and Schedule 2 to the Arms Embargoes Regulation.

IMPLICATIONS OF THE REGULATIONS

9. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Regulation and the Amendment Regulation will not affect the binding effect of the United Nations Sanctions Ordinance. It has no financial, economic, civil service, productivity, environmental or sustainability implications. Additional work arising from the enforcement of the proposed Regulation will be absorbed by manpower redeployment within the relevant departments.

PUBLICITY

10. A press release was issued on 27 March 2009 when the Regulations were published in the Gazette.

ADVICE SOUGHT

11. Members are invited to note the implementation of UNSC Resolutions 1356, 1425, 1725, 1744, 1772 and 1844 by the Regulation and the Amendment Regulation.

Commerce and Economic Development Bureau
March 2009

L.N. 58 of 2009**UNITED NATIONS SANCTIONS (SOMALIA) REGULATION****CONTENTS**

Section	Page
---------	------

PART 1**PRELIMINARY**

- | | | |
|----|----------------------|------|
| 1. | Interpretation | B805 |
|----|----------------------|------|

PART 2**PROHIBITIONS**

- | | | |
|----|---|------|
| 2. | Prohibition against supply or delivery of certain goods | B809 |
| 3. | Prohibition against carriage of certain goods | B811 |
| 4. | Prohibition against provision of certain advice, assistance or training | B815 |
| 5. | Prohibition against making available funds, etc. | B817 |
| 6. | Prohibition against entry or transit by certain persons | B819 |
| 7. | Exceptions to prohibition against entry or transit by certain persons | B819 |

PART 3**LICENCES**

- | | | |
|-----|---|------|
| 8. | Licence for supply, delivery or carriage of certain goods | B819 |
| 9. | Licence for provision of certain advice, assistance or training | B821 |
| 10. | Licence for making available funds, etc. to certain persons or entities | B823 |
| 11. | Provision of false information or documents for purpose of obtaining licences | B825 |

Section		Page
---------	--	------

PART 4

THINGS DONE OUTSIDE HKSAR

- | | | |
|-----|--|------|
| 12. | Licence or permission granted by authorities of places outside HKSAR | B825 |
|-----|--|------|

PART 5

ENFORCEMENT OF REGULATION

Division 1—Investigation, etc. of Suspected Ships

- | | | |
|-----|--|------|
| 13. | Investigation of suspected ships | B827 |
| 14. | Offences by charterer, operator or master of ship | B829 |
| 15. | Power of authorized officers to enter and detain ships | B831 |

Division 2—Investigation, etc. of Suspected Aircraft

- | | | |
|-----|---|------|
| 16. | Investigation of suspected aircraft | B831 |
| 17. | Offences by charterer, operator or pilot in command of aircraft | B833 |
| 18. | Power of authorized officers to enter and detain aircraft | B833 |

Division 3—Investigation, etc. of Suspected Vehicles

- | | | |
|-----|---|------|
| 19. | Investigation of suspected vehicles | B835 |
| 20. | Offences by operator or driver of vehicle | B835 |
| 21. | Power of authorized officers to enter and detain vehicles | B837 |

Division 4—Proof of Identity

- | | | |
|-----|---------------------------------------|------|
| 22. | Production of proof of identity | B837 |
|-----|---------------------------------------|------|

Section	Page
PART 6	
EVIDENCE	
23. Power of magistrate or judge to grant warrant	B837
24. Detention of documents, cargoes or articles seized	B839
PART 7	
DISCLOSURE OF INFORMATION OR DOCUMENTS	
25. Disclosure of information or documents	B841
PART 8	
OTHER OFFENCES AND MISCELLANEOUS MATTERS	
26. Liability of person other than principal offender	B843
27. Offences in relation to obstruction of authorized persons, etc.	B843
28. Offences in relation to evasion of this Regulation	B843
29. Consent and time limit for proceedings	B843
30. Specification of relevant person or relevant entity by Chief Executive	B845
31. Exercise of powers of Chief Executive	B845

UNITED NATIONS SANCTIONS (SOMALIA) REGULATION

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

PART 1

PRELIMINARY

1. Interpretation

In this Regulation, unless the context otherwise requires—
“authorized officer” (獲授權人員) means—

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

“Commissioner” (關長) means the Commissioner of Customs and Excise, any Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;

“Committee” (委員會) means the Committee of the Security Council established under paragraph 11 of Resolution 751;

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

- (a) as engaging in or providing support for acts that threaten the peace, security or stability of Somalia, including acts that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the Transitional Federal Institutions or African Union Mission in Somalia by force;
- (b) as having acted in violation of the general and complete arms embargo reaffirmed in paragraph 6 of Resolution 1844; or
- (c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

“funds” (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;

- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and
- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“licence” (特許) means a licence granted under section 8(1)(a) or (b), 9(1) or 10(1);

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

“operator” (營運人), in relation to a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;

“person connected with Somalia” (有關連人士) means—

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

but does not include a designated person;

“pilot in command” (機長), in relation to an aircraft, means the pilot designated by the operator or the owner, as appropriate, as being in charge of the aircraft without being under the direction of any other pilot in the aircraft and charged with the safe conduct of a flight;

“prohibited goods” (禁制物品) means any weapons or military equipment;

“relevant entity” (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 30;

“relevant person” (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 30;

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

“Resolution 1744” (《第 1744 號決議》) means Resolution 1744 (2007) adopted by the Security Council on 20 February 2007;

“Resolution 1772” (《第 1772 號決議》) means Resolution 1772 (2007) adopted by the Security Council on 20 August 2007;

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

“Security Council” (安理會) means the Security Council of the United Nations.

PART 2

PROHIBITIONS

2. Prohibition against supply or delivery of certain goods

(1) This section applies to—

(a) a person acting in the HKSAR; and

(b) a person acting outside the HKSAR who is—

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

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

(2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, any prohibited goods—

(a) to Somalia;

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

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

(3) A person must not supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, any prohibited goods—

(a) to, or to the order of, a designated person; or

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

- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods;
 - (b) if the person is charged with contravening subsection (2), that the goods concerned were or were to be supplied or delivered—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
 - (c) if the person is charged with contravening subsection (3), that the goods concerned were or were to be supplied or delivered—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a designated person.

3. Prohibition against carriage of certain goods

- (1) This section applies to—
- (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 8(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) from a place outside Somalia to a place in Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.

- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
 - (b) the supply or delivery was authorized by a licence granted under section 8(1)(a).
- (4) Without limiting section 2, a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) to, or to the order of, a designated person; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a designated person.
- (5) If a ship, aircraft or vehicle is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
- (a) 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;
 - (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;
 - (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) A person who commits an offence under subsection (5) is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—

- (a) that the goods concerned were prohibited goods;
- (b) if the person is charged with contravening subsection (2), that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
- (c) if the person is charged with contravening subsection (4), that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a designated person.

4. Prohibition against provision of certain advice, assistance or training

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person connected with Somalia any technical advice, financial or other assistance or training related to military activities.
- (3) A person must not provide, directly or indirectly, to a designated person any technical assistance or training, or financial or other assistance including investment, brokering or other financial services, related to military activities or to the supply, delivery, manufacture, maintenance or use of any prohibited goods.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—

- (a) if the person is charged with contravening subsection (2)—
 - (i) that the advice, assistance or training concerned was to be provided to a person connected with Somalia; or
 - (ii) that the advice, assistance or training concerned related to military activities; or
- (b) if the person is charged with contravening subsection (3)—
 - (i) that the assistance or training concerned was to be provided to a designated person; or
 - (ii) that the assistance or training concerned related to military activities or to the supply, delivery, manufacture, maintenance or use of any prohibited goods.

5. Prohibition against making available funds, etc.

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

(2) Except under the authority of a licence granted under section 10(1), a person must not make available any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity.

(3) The addition to an account owned or controlled, directly or indirectly, by a relevant person or a relevant entity of—

- (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,

does not constitute making available funds or other financial assets or economic resources to, or for the benefit of, the relevant person or the relevant entity.

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

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

(5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe that the funds or other financial assets or economic resources concerned were to be made available to, or for the benefit of, a relevant person or a relevant entity.

6. Prohibition against entry or transit by certain persons

(1) Subject to section 7, a designated person must not enter or transit through the HKSAR.

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

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

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

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

- (a) the Committee has determined that the relevant entry 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 peace and national reconciliation in Somalia and stability in the region.

PART 3

LICENCES

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

(1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant, as appropriate—

- (a) a licence for the supply or delivery of, or the doing of an act likely to promote the supply or delivery of, prohibited goods—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or

- (iii) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
- (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Somalia by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (c) the prohibited goods are intended solely for the support of or use by the mission established under paragraph 4 of Resolution 1744;
 - (d) the prohibited goods are intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1, 2, 3, 4 and 5 of Resolution 1772, and—
 - (i) the Committee has been notified of the proposed supply or delivery of the prohibited goods to which the application for the licence relates under paragraph 12 of Resolution 1772; and
 - (ii) the Committee has not made a negative decision within 5 working days of receiving the notification.

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

(1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence to provide to a person connected with Somalia technical advice, financial or other assistance or training related to military activities.

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

- (a) the assistance or training is technical training or assistance intended solely for the support of or use by the mission established under paragraph 4 of Resolution 1744;
- (b) the assistance is technical assistance intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1, 2, 3, 4 and 5 of Resolution 1772, and—
 - (i) the Committee has been notified of the proposed provision of the assistance to which the application for the licence relates under paragraph 12 of Resolution 1772; and
 - (ii) the Committee has not made a negative decision within 5 working days of receiving the notification.

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

(1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence for making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity.

- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, 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;
 - (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 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and
 - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

- (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of the notification;
- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

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

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

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

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

PART 4

THINGS DONE OUTSIDE HKSAR

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

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

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

PART 5

ENFORCEMENT OF REGULATION

Division 1—Investigation, etc. of Suspected Ships

13. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—

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

(2) If an authorized officer has reason to suspect that a ship to which section 3 applies is being or is about to be used in contravention of section 3(2) or (4), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of that section or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—

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

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

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

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

14. Offences by charterer, operator or master of ship

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

(2) A charterer, operator or master of a ship who, in response to a request made under section 13(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

15. Power of authorized officers to enter and detain ships

(1) Without limiting section 14, if an authorized officer has reason to suspect that a request that has been made under section 13(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

(3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 2—Investigation, etc. of Suspected Aircraft**16. Investigation of suspected aircraft**

(1) If an authorized officer has reason to suspect that an aircraft to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—

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

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

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

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

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

(1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 16(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 16(1)(b) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

18. Power of authorized officers to enter and detain aircraft

(1) Without limiting section 17, if an authorized officer has reason to suspect that a request that has been made under section 16(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

(3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3—Investigation, etc. of Suspected Vehicles

19. Investigation of suspected vehicles

(1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—

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

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

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

20. Offences by operator or driver of vehicle

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

(2) An operator or driver of a vehicle who, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer

any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

(1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

(3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4—Proof of Identity

22. Production of proof of identity

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

PART 6

EVIDENCE

23. Power of magistrate or judge to grant warrant

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

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

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

24. Detention of documents, cargoes or articles seized

(1) Subject to subsection (2), any document, cargo or article seized under section 23(3) may not be detained for more than 3 months.

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

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

25. Disclosure of information or documents

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

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

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

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

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

26. Liability of person other than principal offender

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

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

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

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

28. Offences in relation to evasion of this Regulation

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

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

29. Consent and time limit for proceedings

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

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

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

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purposes of paragraph 3 of Resolution 1844.

31. Exercise of powers of Chief Executive

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

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

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

Donald TSANG
Chief Executive

25 March 2009

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 733 (1992) as adopted by the Security Council of the United Nations ("Security Council") on 23 January 1992, as elaborated and amended by Resolutions 1356 (2001), 1425 (2002), 1725 (2006), 1744 (2007) and 1772 (2007) as adopted by the Security Council between 19 June 2001 and 20 August 2007, and Resolution 1844 (2008) as adopted by the Security Council on 20 November 2008 by providing for the prohibition against—

- (a) the supply, delivery or carriage of weapons or military equipment to certain persons;
- (b) the provision of advice, assistance or training in certain circumstances;

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

L.N. 59 of 2009**UNITED NATIONS SANCTIONS (ARMS EMBARGOES)
(AMENDMENT) REGULATION 2009**

(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 and application

Section 1(1) of the United Nations Sanctions (Arms Embargoes) Regulation (Cap. 537 sub. leg. E) is amended, in the definition of “prohibited destination”, by repealing paragraph (b).

**2. Investigation, etc. of suspected ships,
aircraft and vehicles**

Section 8(8)(c) is amended by repealing “Somalia or”.

3. Evidence and information

Schedule 2 is amended, in section 2(5)(c), by repealing “Somalia or”.

Donald TSANG
Chief Executive

25 March 2009

Explanatory Note

This Regulation amends the United Nations Sanctions (Arms Embargoes) Regulation (Cap. 537 sub. leg. E) (“principal Regulation”), upon the making of the United Nations Sanctions (Somalia) Regulation (“new Regulation”).

2. On 23 January 1992, the Security Council of the United Nations (“Security Council”) adopted Resolution 733 (1992) to impose an arms embargo on Somalia. The principal Regulation gives effect to that Resolution by including Somalia in the definition of “prohibited destination” and consequentially in other provisions.

3. The new Regulation is a consolidated instrument which gives effect to certain decisions of the Security Council in Resolution 1844 (2008) and continues to give effect to a decision of the Security Council in Resolution 733 (1992). As a result, references to Somalia in the principal Regulation are removed.

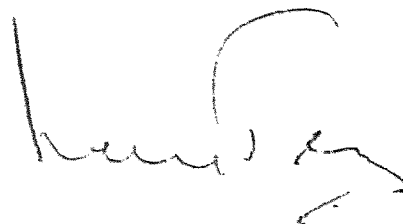
United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Somalia) Regulation

**United Nations Sanctions (Arms Embargoes) (Amendment)
Regulation 2009**

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in December 2008 and March 2009 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolutions No. 1356, 1425, 1725, 1744, 1772 and 1844 of the Security Council of the United Nations, and that the United Nations Sanctions (Somalia) Regulation and the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2009 were made in pursuance of that instruction.

Dated this 25 day of March 2009



(Henry Tang)
Chief Secretary for Administration

ITEMS RELATING TO THE SITUATION IN SOMALIA

Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council

Decision

At its 3039th meeting, on 23 January 1992, the Council decided to invite the representative of Somalia to participate, without vote, in the discussion of the item entitled "Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council (S/23445)".³

Resolution 733 (1992)
of 23 January 1992

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,¹⁷⁴

Having heard the report of the Secretary-General on the situation in Somalia and commending the initiative taken by him in the humanitarian field,

Gravely alarmed at the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country and aware of its consequences on stability and peace in the region,

Concerned that the continuation of this situation constitutes, as stated in the report of the Secretary-General, a threat to international peace and security,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter,

Expressing its appreciation to the international and regional organizations that have provided assistance to the populations affected by the conflict and deploring that personnel of these organizations have lost their lives in the exercise of their humanitarian tasks,

Taking note of the appeals addressed to the parties by the Chairman of the Organization of the Islamic Conference on 16 December 1991, the Secretary-General of the Organization of African Unity on 18 December 1991¹⁷⁵ and the League of Arab States on 5 January 1992,¹⁷⁶

1. *Takes note* of the report of the Secretary-General on the situation in Somalia and expresses its concern with the situation prevailing in that country;

2. *Requests* the Secretary-General immediately to undertake the necessary actions to increase humanitarian assistance by the United Nations and its specialized agencies to the affected population in all parts of Somalia in liaison with the other international humanitarian organizations and to this end to appoint a coordinator to oversee the effective delivery of this assistance;

3. *Also requests* the Secretary-General of the United Nations, in cooperation with the Secretary-General of the Organization of African Unity and the Secretary-General of the League of Arab States, immediately to contact all parties involved in the conflict, to seek their commitment to the cessation of hostilities in order to permit the humanitarian assistance to be distributed, to promote a cease-fire and compliance therewith, and to assist in the process of a political settlement of the conflict in Somalia;

4. *Strongly urges* all parties to the conflict immediately to cease hostilities and agree to a cease-fire and to promote the process of reconciliation and of political settlement in Somalia;

5. *Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Somalia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia until the Council decides otherwise;

6. *Calls on* all States to refrain from any action which might contribute to increasing tension and to impeding or delaying a peaceful and negotiated outcome to the conflict in Somalia, which would permit all Somalis to decide upon and to construct their future in peace;

7. *Calls upon* all parties to cooperate with the Secretary-General to this end and to facilitate the delivery by the United Nations, its specialized agencies and other humanitarian organizations of humanitarian assistance to all those in need of it, under the supervision of the coordinator;

8. *Urges* all parties to take all the necessary measures to ensure the safety of personnel sent to provide humanitarian assistance, to assist them in their tasks and to ensure full respect for the rules and principles of international law regarding the protection of civilian populations;

9. *Calls upon* all States and international organizations to contribute to the efforts of humanitarian assistance to the population in Somalia;

10. *Requests* the Secretary-General to report to the Security Council as soon as possible on this matter;

11. *Decides* to remain seized of the matter until a peaceful solution is achieved.

Adopted unanimously at the 3039th meeting

Decisions

In a letter dated 3 February 1992,¹⁷⁷ addressed to the President of the Security Council, for the attention of the members of the Council, the Secretary-General enclosed a letter dated 31 January 1992¹⁷⁸ from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations transmitting the text of a letter from the Federal Minister for Foreign Affairs of Germany addressed to the Secretary-General, and requesting that that letter be brought to the attention of the members of the Council. The letter referred to the great danger which the mining of the entire territory of northern Somalia constituted for the civilian population, and stated that the German non-governmental organization Komitee Kap Anamur had asked the German Government to support a mine-clearing programme which was already being implemented by Komitee Kap Anamur. In particular, the Committee had asked for the provision of two demilitarized mine-clearing tanks. The German Government was ready to grant that request and assumed that that humanitarian measure did not conflict with the provisions of Council resolution 733 (1992).

In a letter dated 5 February 1992,¹⁷⁹ the President of the Security Council informed the Secretary-General as follows:

"I have the honour to inform you that your letter dated 3 February 1992¹⁷⁷ transmitting a communication from the Federal Minister for Foreign Affairs of Germany has been brought to the attention of the members of the Council. They have taken note of the intention of the German Government and have no objection thereto."

The situation in Somalia

Decisions

At its 3060th meeting, on 17 March 1992, the Council decided to invite the representatives of Italy, Kenya, Nigeria and Somalia to participate, without vote, in the discussion of the item entitled:

"The situation in Somalia:

- (a) "Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council (S/23445);³
- (b) "Report of the Secretary-General (S/23693 and Corr.1)".³

At the same meeting, the Council also decided, at the request of the representative of Morocco,¹⁸⁰ to extend an invitation to Mr. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, under rule 39 of its provisional rules of procedure.

At the same meeting, the Council also decided, at the request of the representative of Morocco,¹⁸¹ to extend an invitation to Mr. Aboul Nasr, Permanent Observer of the League of Arab States to the United Nations, under rule 39 of the provisional rules of procedure.

Resolution 746 (1992) of 17 March 1992

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,¹⁷⁴

Reaffirming its resolution 733 (1992) of 23 January 1992,

Having considered the report of the Secretary-General of 11 March 1992¹⁸² on the situation in Somalia,

Taking note of the signing at Mogadishu on 3 March 1992 of the cease-fire agreements,¹⁸³ including agreements for the implementation of measures aimed at stabilizing the cease-fire through a United Nations monitoring mission,

Deeply regretting that the factions have not yet abided by their commitment to implement the cease-fire and thus have still not permitted the unimpeded provision and distribution of humanitarian assistance to the people in need in Somalia,

Deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the continuation of the situation in Somalia constitutes a threat to international peace and security,

Bearing in mind that the factors described in paragraph 76 of the Secretary-General's report must be taken into account,

Cognizant of the importance of cooperation between the United Nations and regional organizations in the context of Chapter VIII of the Charter of the United Nations,

Underlining the importance which it attaches to the international, regional and non-governmental organizations, including the International Committee of the Red Cross, continuing to provide humanitarian and other relief assistance to the people of Somalia under difficult circumstances,

Expressing its appreciation to the regional organizations, including the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, for their cooperation with the United Nations in the effort to resolve the Somali problem,

United Nations

S/RES/1356 (2001)

**Security Council**

Distr.: General

19 June 2001

Resolution 1356 (2001)**Adopted by the Security Council at its 4332nd meeting, on
19 June 2001***The Security Council,**Reaffirming* its resolutions 733 (1992) of 23 January 1992 and 751 (1992) of 24 April 1992,*Expressing* its desire to see peace and security return to Somalia,*Recognizing* the ongoing efforts of the United Nations, its specialized agencies and humanitarian organizations to deliver humanitarian assistance to Somalia,*Acting* under Chapter VII of the Charter of the United Nations,

1. *Reiterates* to all States their obligation to comply with the measures imposed by resolution 733 (1992), and urges each State to take the necessary steps to ensure full implementation and enforcement of the arms embargo;
 2. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;
 3. *Decides also* that the measures imposed by paragraph 5 of resolution 733 (1992) shall not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee established pursuant to resolution 751 (1992) (the Committee);
 4. *Requests* the Committee to give consideration to and decide upon requests for the exemptions set out in paragraph 3 above;
 5. *Decides* to remain seized of the matter.
-



United Nations

S/RES/1425 (2002)

**Security Council**

Distr.: General

22 July 2002

Resolution 1425 (2002)**Adopted by the Security Council at its 4580th meeting, on
22 July 2002***The Security Council,*

Reaffirming its previous resolutions concerning the situation in Somalia, in particular on the weapon and military equipment embargo established by paragraph 5 of resolution 733 (1992) of 23 January 1992 (hereinafter referred to as the “arms embargo”), resolution 1407 (2002) of 3 May 2002, and the statement of its President of 28 March 2002 (S/PRST/2002/8),

Noting with serious concern the continued flow of weapons and ammunition supplies to and through Somalia from sources outside the country, in contravention of the arms embargo, which is severely undermining peace and security and the political efforts for national reconciliation in Somalia,

Reiterating its call on all States and other actors to comply scrupulously with the arms embargo, and its insistence that all States, in particular those of the region, should not interfere in the internal affairs of Somalia. Such interference only further destabilizes Somalia, contributes to a climate of fear and impacts adversely on human rights, and could jeopardize the sovereignty, territorial integrity, political independence and unity of Somalia,

Underlining the role of the Intergovernmental Authority of Development (IGAD), in particular the frontline States (Djibouti, Ethiopia and Kenya), in bringing lasting peace to Somalia, and expressing its support and expectation that the planned National Reconciliation Conference for Somalia to be held in Nairobi will move forward as a matter of urgency and with the pragmatic and result-oriented involvement of the frontline States,

Welcoming the report of the Secretary-General of 27 June 2002 (S/2002/709) and the report of the expert team appointed by the Secretary-General (S/2002/722), detailing the resources and expertise required for a Panel of Experts to generate independent information on the violations and for improving the enforcement of the arms embargo, in accordance with resolution 1407 (2002),

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

1. *Stresses* that the arms embargo on Somalia prohibits financing of all acquisitions and deliveries of weapons and military equipment;

2. *Decides* that the arms embargo prohibits the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities;

3. *Requests* the Secretary-General to establish, within one month from the date of adoption of this resolution, in consultation with the committee established by resolution 751 (1992) of 24 April 1992 (hereinafter referred to as “the Committee”), a Panel of Experts consisting of three members to be based in Nairobi for a period of six months, in order to generate independent information on violations of the arms embargo and as a step towards giving effect to and strengthening the embargo, with the following mandate:

- investigating the violations of the embargo covering access to Somalia by land, air and sea, in particular by pursuing any sources that might reveal information related to violations, including relevant States, intergovernmental organizations and international law enforcement cooperation bodies, non-governmental organizations, financial institutions and intermediaries, other brokering agencies, civil aviation companies and authorities, members of the Transitional National Government, local authorities, political and traditional leaders, civil society and the business community;
- detailing information in relevant areas of expertise related to violations and measures to give effect to and strengthen the arms embargo in its various aspects;
- carrying out field based research, where possible, in Somalia, States neighbouring Somalia and other States, as appropriate;
- assessing the capacity of States in the region to implement fully the arms embargo, including through a review of national customs and border control regimes;
- providing recommendations on possible practical steps and measures for giving effect to and strengthening the arms embargo;

4. *Further requests* the Secretary-General to ensure that the Panel of Experts comprises, and have access to, sufficient expertise in the areas of armament and financing thereof, civil aviation, maritime transport, and regional affairs, including specialized knowledge of Somalia, in accordance with the resource requirements, administrative and financial arrangements outlined in the report of the expert team pursuant to resolution 1407 (2002);

5. *Requests* the Panel of Experts in its work in accordance with its mandate to take fully into account the recommendations provided in the report of the experts team pursuant to resolution 1407 (2002), including regarding cooperative arrangements, methodology and issues related to the strengthening of the arms embargo;

6. *Requests* all States and the Transitional National Government and local authorities in Somalia to cooperate fully with the Panel of Experts in its quest for information in accordance with this resolution, including by facilitating visits to sites and actors and by providing full access to government officials and records, as required by the Panel of Experts;

7. *Calls* again upon all States, in particular those in the region, to provide the Committee with all available information on violations of the arms embargo;

8. *Urges* all other individuals and entities contacted by the Panel of Experts to cooperate fully by providing relevant information and facilitating its investigations, including political and traditional leaders, members of the civil society and the business community, financial institutions and intermediaries, other brokering agencies, civil aviation companies and authorities, non-governmental organizations, intergovernmental organizations and international law enforcement cooperation bodies;

9. *Requests* the Panel of Experts to notify the Security Council immediately, through the Committee, of any lack of cooperation by the States, authorities, individuals and entities referred to in paragraphs 6 and 8 above;

10. *Further requests* the Panel of Experts to brief the Chairman of the Committee to inform his mission to the region, scheduled for October 2002, and to provide an oral briefing to the Council, through the Committee, in November 2002;

11. *Requests* the Panel of Experts to submit a final report at the end of its mandated period to the Security Council, through the Committee, for its consideration;

12. *Requests* the Chairman of the Committee to forward the report of the Panel of Experts, within two weeks of its reception, to the Security Council for its consideration;

13. *Expresses* its determination to consider the report of the Panel of Experts and any relevant proposals for follow-up action and recommendations on possible practical steps for strengthening the arms embargo;

14. *Requests* the Secretary-General, in his next report due on 31 October 2002, to include updates on:

- the activities undertaken to coordinate ongoing peace-building initiatives and to provide for their incremental expansion, and on the preparatory activities undertaken on the ground in preparation for a comprehensive peace-building mission once security conditions permit, in accordance with the statement of its President of 28 March 2002;
- the technical assistance and cooperation provided to enhance the administrative and judicial capacities throughout Somalia to contribute to the monitoring of and giving full effect to the arms embargo, in accordance with the statement of its President of 28 March 2002 and resolution 1407 (2002);
- the reporting by States to the Committee on measures they have in place to ensure the full and effective implementation of the arms embargo, in accordance with resolution 1407 (2002);

15. *Further requests* the Secretary-General to invite Member States to make contributions to the United Nations Trust Fund for Peace-Building in Somalia, acknowledging any pledges already made, and to ensure proper coordination among the involved United Nations agencies in implementing the tasks to be carried out in accordance with the statement of its President of 28 March 2002;

16. *Calls* on Member States to come forward with contributions to the United Nations activities in support of Somalia, including the Consolidated Inter-Agency Appeal for 2002;

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

United Nations

S/RES/1725 (2006)

**Security Council**Distr.: General
6 December 2006

Resolution 1725 (2006)**Adopted by the Security Council at its 5579th meeting on
6 December 2006***The Security Council,*

Recalling its previous resolutions concerning the situation in Somalia, in particular resolution 733 (1992) of 23 January 1992, resolution 1356 (2001) of 19 June 2001, resolution 1425 (2002) of 22 January 2002, and the statements of its President, in particular that of 13 July 2006 (S/PRST/2006/31),

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

Reiterating its commitment to a comprehensive and lasting settlement of the situation in Somalia through the Transitional Federal Charter, and stressing the importance of broad-based and representative institutions and of an inclusive political process, as envisaged in the Transitional Federal Charter,

Reiterating its insistence that all Member States, in particular those in the region, should refrain from any action in contravention of the arms embargo and related measures, and should take all actions necessary to prevent such contraventions,

Emphasizing its willingness to engage with all parties in Somalia who are committed to achieving a political settlement through peaceful and inclusive dialogue, including the Union of Islamic Courts,

Underlining the importance for stability in Somalia of broad-based and representative institutions and of an inclusive political process, *commending* the crucial efforts of the League of Arab States and the Intergovernmental Authority on Development (IGAD) to promote and encourage political dialogue between the Transitional Federal Institutions and the Union of Islamic Courts, *expressing* its full support for these initiatives, and *affirming* its readiness to assist as appropriate an inclusive political process in Somalia,

Urging both the Transitional Federal Institutions and the Union of Islamic Courts to unite behind and continue a process of dialogue, recommit to the principles of the 22 June 2006 Khartoum Declaration and the agreements made at the 2-4 September 2006 Khartoum meeting, and establish a stable security situation inside Somalia,



Calling upon the Union of Islamic Courts to cease any further military expansion and reject those with an extremist agenda or links to international terrorism,

Deploring the bombing in Baidoa on 30 November 2006 and *expressing* the Security Council's concern regarding the continued violence inside Somalia,

Welcoming the agreement reached between the Union of Islamic Courts and the Secretariat of the Intergovernmental Authority on Development dated 2 December 2006, and *encouraging* IGAD to continue discussions with the Transitional Federal Institutions,

Calls upon all parties inside Somalia and all other States to refrain from action that could provoke or perpetuate violence and violations of human rights, contribute to unnecessary tension and mistrust, endanger the ceasefire and political process, or further damage the humanitarian situation,

Taking note of the note verbale dated 16 October 2006 from the Permanent Mission of Kenya to the United Nations to the President of the Security Council transmitting the text of the Deployment Plan for a Peacekeeping Mission of IGAD in Somalia (IGASOM),

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

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

1. *Reiterates* that the Transitional Federal Charter and Institutions offer the only route to achieving peace and stability in Somalia, *emphasizes* the need for continued credible dialogue between the Transitional Federal Institutions and the Union of Islamic Courts, and *affirms* therefore that the following provisions of the present resolution, based on the decisions of IGAD and the Peace and Security Council of the African Union, aim solely at supporting peace and stability in Somalia through an inclusive political process and creating the conditions for the withdrawal of all foreign forces from Somalia;

2. *Urges* the Transitional Federal Institutions and the Union of Islamic Courts to fulfil commitments they have made, resume without delay peace talks on the basis of the agreements reached in Khartoum, and adhere to agreements reached in their dialogue, and *states* its intention to consider taking measures against those that seek to prevent or block a peaceful dialogue process, overthrow the Transitional Federal Institutions by force, or take action that further threatens regional stability;

3. *Decides* to authorize IGAD and Member States of the African Union to establish a protection and training mission in Somalia, to be reviewed after an initial period of six months by the Security Council with a briefing by IGAD, with the following mandate drawing on the relevant elements of the mandate and concept of operations specified in the Deployment Plan for IGASOM:

(a) To monitor progress by the Transitional Federal Institutions and the Union of Islamic Courts in implementing agreements reached in their dialogue;

(b) To ensure free movement and safe passage of all those involved with the dialogue process;

(c) To maintain and monitor security in Baidoa;

(d) To protect members of the Transitional Federal Institutions and Government as well as their key infrastructure;

(e) To train the Transitional Federal Institutions' security forces to enable them to provide their own security and to help facilitate the re-establishment of national security forces of Somalia;

4. *Endorses* the specification in the IGAD Deployment Plan that those States that border Somalia would not deploy troops to Somalia;

5. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated in paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to supplies of weapons and military equipment and technical training and assistance intended solely for the support of or use by the force referred to in paragraph 3 above;

6. *Encourages* Member States to provide financial resources for IGASOM;

7. *Requests* the Secretary-General, in consultation with the Commission of the African Union and the secretariat of IGAD, to report to the Security Council on the implementation of the mandate of IGASOM within thirty (30) days, and every sixty (60) days thereafter;

8. *Emphasizes* the continued contribution made to Somalia's peace and security by the arms embargo, *demands* that all Member States, in particular those of the region, fully comply with it, and *reiterates* its intention to consider urgently ways to strengthen its effectiveness, including through targeted measures in support of the arms embargo;

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

United Nations

S/RES/1744 (2007)*

**Security Council**Distr.: General
21 February 2007

Resolution 1744 (2007)**Adopted by the Security Council at its 5633rd meeting,
on 20 February 2007***The Security Council,*

Recalling its previous resolutions concerning the situation in Somalia, in particular resolution 733 (1992), resolution 1356 (2001), resolution 1425 (2002) and resolution 1725 (2006), the statements of its President, in particular those of 13 July 2006 (S/PRST/2006/31) and 22 December 2006 (S/PRST/2006/59),

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

Reiterating its commitment to a comprehensive and lasting settlement of the situation in Somalia through the Transitional Federal Charter, and stressing the importance of broad-based and representative institutions reached through an all-inclusive political process, as envisaged in the Transitional Federal Charter,

Reiterating its strong support for the Special Representative of the Secretary-General, Mr. François Fall,

Reiterating its appreciation of the efforts of the African Union, the League of Arab States and the Intergovernmental Authority on Development to promote peace, stability and reconciliation in Somalia, and *welcoming* their continued engagement in this regard,

Taking note of the communiqué of the African Union Peace and Security Council of 19 January 2007, which states that the African Union shall deploy for a period of six months a mission to Somalia (AMISOM), aimed essentially at contributing to the initial stabilization phase in Somalia, and that the mission will evolve into a United Nations operation that will support the long-term stabilization and post-conflict restoration of Somalia,

Welcoming the African Union's intention to establish a mission in Somalia and *underlining* the urgency of the development,

Welcoming the decision of Ethiopia to withdraw its troops from Somalia, *taking note* of the fact that Ethiopia has already started withdrawing its troops, and *underlining* that the deployment of AMISOM will help avoid a security vacuum and create the conditions for full withdrawal and the lifting of emergency security measures currently in place,

* Reissued for technical reasons.



Reiterating its support for Somalia's Transitional Federal Institutions, *underlining* the importance of maintaining and providing stability and security throughout Somalia, and *underscoring* in this regard the importance of disarmament, demobilization and reintegration of militia and ex-combatants in Somalia,

Condemning all acts of violence and extremism inside Somalia, *deploring* the recent bombings in Mogadishu, and *expressing* its concern regarding the continued violence inside Somalia,

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

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

1. *Stresses* the need for broad-based and representative institutions reached through an all-inclusive political process in Somalia, as envisaged in the Transitional Federal Charter, in order to consolidate stability, peace and reconciliation in the country and ensure that international assistance is as effective as possible;

2. *Welcomes* the initiative of the Transitional Federal Institutions to pursue an inclusive intra-Somali political process, particularly the announcement made by President Abdullahi Yusuf Ahmed at the African Union Summit of his intention to convene urgently a national reconciliation congress involving all stakeholders including political leaders, clan leaders, religious leaders, and representatives of civil society, *looks forward* to the sustained and all-inclusive political process that is needed as a result of that commitment and that will help pave the way to democratic elections at the local, regional and national levels as set out in Somalia's Transitional Federal Charter, and *encourages* those in the Transitional Federal Government and the other Transitional Federal Institutions to unite behind efforts to promote such an inclusive dialogue;

3. *Requests* the Secretary-General to assist the Transitional Federal Institutions with the national reconciliation congress, and, more widely, promoting an ongoing all-inclusive political process, working together with the African Union, the League of Arab States and the Intergovernmental Authority on Development, *requests* the Secretary-General to report back to the Security Council within sixty (60) days of adoption of this resolution on progress made by the Transitional Federal Institutions in pursuing an all-inclusive political process and reconciliation, and *reiterates its intention* to consider taking measures against those who seek to prevent or block a peaceful political process, threaten the Transitional Federal Institutions by force, or take action that undermines stability in Somalia or the region;

4. *Decides* to authorize member States of the African Union to establish for a period of six months a mission in Somalia, which shall be authorized to take all necessary measures as appropriate to carry out the following mandate:

(a) To support dialogue and reconciliation in Somalia by assisting with the free movement, safe passage and protection of all those involved with the process referred to in paragraphs 1, 2 and 3;

(b) To provide, as appropriate, protection to the Transitional Federal Institutions to help them carry out their functions of government, and security for key infrastructure;

(c) To assist, within its capabilities, and in coordination with other parties, with implementation of the National Security and Stabilization Plan, in particular the effective re-establishment and training of all-inclusive Somali security forces;

(d) To contribute, as may be requested and within capabilities, to the creation of the necessary security conditions for the provision of humanitarian assistance;

(e) To protect its personnel, facilities, installations, equipment and mission, and to ensure the security and freedom of movement of its personnel;

5. *Urges* member States of the African Union to contribute to the above mission in order to create the conditions for the withdrawal of all other foreign forces from Somalia;

6. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated in paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to:

(a) Supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the mission referred to in paragraph 4 above; or

(b) Such supplies and technical assistance by States intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1, 2 and 3 above and in the absence of a negative decision by the Committee established pursuant to resolution 751 (1992) within five working days of receiving the notification described in paragraph 7 below;

7. *Decides* that States providing supplies or technical assistance in accordance with paragraph 6 (b) above shall notify the Committee established pursuant to resolution 751 (1992) in advance and on a case-by-case basis;

8. *Urges* Member States to provide personnel, equipment and services if required, for the successful deployment of AMISOM, and *encourages* Member States to provide financial resources for AMISOM;

9. *Requests* the Secretary-General to send a Technical Assessment Mission to the African Union headquarters and Somalia as soon as possible to report on the political and security situation and the possibility of a UN Peacekeeping Operation following the AU's deployment, and to report to the Security Council within sixty (60) days of the adoption of this resolution with recommendations covering the UN's further engagement in support of peace and security in Somalia, as well as further recommendations on stabilization and reconstruction;

10. *Emphasizes* the continued contribution made to Somalia's peace and security by the arms embargo, *demands* that all Member States, in particular those of the region, fully comply with it, and *reiterates* its intention to consider urgently ways to strengthen its effectiveness, including through targeted measures in support of the arms embargo;

11. *Expresses its deep concern* over the humanitarian situation in Somalia, *demands* that all parties in Somalia ensure complete and unhindered humanitarian access, as well as providing guarantees for the safety and security of humanitarian aid workers in Somalia, and *welcomes* and *encourages* the ongoing relief efforts in Somalia;

12. *Decides* that, having regard to the establishment of AMISOM, the measures contained in paragraphs 3 to 7 of resolution 1725 (2006) shall no longer apply;

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

United Nations

S/RES/1772 (2007)

**Security Council**Distr.: General
20 August 2007**Resolution 1772 (2007)****Adopted by the Security Council at its 5732nd meeting, on
20 August 2007***The Security Council,*

Recalling its previous resolutions concerning the situation in Somalia, in particular resolution 733 (1992), resolution 1356 (2001), resolution 1425 (2002), resolution 1725 (2006) and resolution 1744 (2007), the statements of its President, in particular those of 13 July 2006 (S/PRST/2006/31), 22 December 2006 (S/PRST/2006/59), 30 April 2007 (S/PRST/2007/13) and 14 June 2007 (S/PRST/2007/19),

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

Reiterating its commitment to a comprehensive and lasting settlement of the situation in Somalia through the Transitional Federal Charter, and stressing the importance of broad-based and representative institutions reached through an all-inclusive political process, as envisaged in the Transitional Federal Charter,

Reiterating its strong support for the Special Representative of the Secretary-General, Mr. François Fall,

Reiterating its appreciation of the efforts of the international community, in particular the African Union, as well as the League of Arab States, the Intergovernmental Authority on Development and the European Union, to promote peace, stability and reconciliation in Somalia, and *welcoming* their continued engagement,

Welcoming the communiqué of the African Union Peace and Security Council of 18 July 2007, which states that the African Union will extend the mandate of its mission to Somalia (AMISOM) for an additional six months, and *noting* that the communiqué calls for the United Nations to deploy a peacekeeping operation to Somalia that will support the long-term stabilization and post-conflict restoration in the country,

Taking note of the letter of the Chairperson of the African Union Commission dated 4 August 2007 to the Secretary-General (S/2007/499), which requested that experts from the African Union Commission and the United Nations Secretariat meet as soon as possible to discuss what further support might be provided to AMISOM,



Taking note of the Secretary-General's report on Somalia of 25 June 2007 (S/2007/381), in particular paragraph 30 on the deployment of a team of 10 military, police, and civilian experts to African Union headquarters to support its mission planning and management capacity structure, and *expressing* its appreciation for this support of AMISOM,

Recalling that cooperation between the United Nations and the regional arrangements in matters relating to the maintenance of peace and security, as are appropriate for regional action, is an integral part of collective security as provided for in the Charter of the United Nations,

Taking note of paragraph 27 of the Secretary-General's report referred to above communicating the offer of the International Contact Group of its "Good Offices" to facilitate the process of genuine political reconciliation in Somalia, and *encouraging* the International Contact Group to continue the implementation of this offer,

Reiterating its support for Somalia's Transitional Federal Institutions, *underlining* the importance of providing and maintaining stability and security throughout Somalia, and *underscoring* the importance of disarmament, demobilization and reintegration of militia and ex-combatants in Somalia,

Condemning all acts of violence and extremism inside Somalia, and *expressing* its concern regarding the continued violence inside Somalia,

Stressing its concern at the upsurge in piracy off the Somali coast described in paragraph 51 of the Secretary-General's report, and *taking note* of the joint communiqué of the International Maritime Organization and the World Food Programme of 10 July 2007,

Emphasizing the contribution that AMISOM and its Ugandan contingents are making to lasting peace and stability in Somalia, *condemning* any hostility towards them, and *urging* all parties in Somalia and the region to support and cooperate with AMISOM,

Underlining that the full deployment of AMISOM will help avoid a security vacuum and help create the conditions for full withdrawal of other foreign forces from Somalia,

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

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

1. *Stresses* the need for broad-based and representative institutions reached through an all-inclusive political process in Somalia, as envisaged in the Transitional Federal Charter, in order to consolidate stability, peace and reconciliation in the country and to ensure that international assistance is as effective as possible;

2. *Welcomes* the convening of the National Reconciliation Congress (NRC) at the initiative of the Transitional Federal Institutions, and *urges* all parties to support the NRC and participate in the political process;

3. *Stresses* the need for the NRC to be an all-inclusive intra-Somali political process involving all stakeholders including all political leaders, clan leaders,

religious leaders, the business community, and representatives of civil society such as women's groups;

4. *Urges* the Transitional Federal Institutions and all parties in Somalia to respect the conclusions of the NRC and to sustain an equally inclusive ongoing political process thereafter, and *encourages* them to unite behind the efforts to promote such an inclusive dialogue;

5. *Reiterates* the need for the ongoing political process to both agree on a comprehensive and lasting cessation of hostilities and to produce a road map for a comprehensive peace process, including democratic elections at the local, regional and national levels as set out in Somalia's Transitional Federal Charter;

6. *Requests* the Secretary-General to continue and intensify his efforts to strengthen the NRC and, more widely, promote an ongoing all-inclusive political process, including by assisting the Transitional Federal Institutions' role in delivering both and by working together with the African Union, the League of Arab States, the Intergovernmental Authority on Development, the European Union, and the International Contact Group on Somalia, and *requests* the Secretary-General to report, pursuant to the timetable set out in paragraph 17 below, on the efforts of the Transitional Federal Institutions, on progress made in the NRC and the subsequent political process, and on any obstacles to the success of either;

7. *Requests* the Secretary-General to provide in the same reports an assessment of further measures that may be required to strengthen the ability of the United Nations Political Office for Somalia (UNPOS) to fulfil the role envisaged in paragraph 6 above, including the possibility of relocation from Nairobi to Mogadishu and any security measures that might be necessary for such a move;

8. *States its intention*, following the Secretary-General's reports referred to in paragraph 6 above, to take measures against those who seek to prevent or block the NRC or a peaceful political process, or those who threaten the Transitional Federal Institutions or AMISOM by force, or take action that undermines stability in Somalia or the region;

9. *Decides* to authorize member States of the African Union to maintain a mission in Somalia for a further period of six months, which shall be authorized to take all necessary measures as appropriate to carry out the following mandate:

(a) To support dialogue and reconciliation in Somalia by assisting with the free movement, safe passage and protection of all those involved with the process referred to in paragraphs 1 to 5;

(b) To provide, as appropriate, protection to the Transitional Federal Institutions to help them carry out their functions of government, and security for key infrastructure;

(c) To assist, within its capabilities, and in coordination with other parties, with implementation of the National Security and Stabilization Plan, in particular the effective re-establishment and training of all-inclusive Somali security forces;

(d) To contribute, as may be requested and within capabilities, to the creation of the necessary security conditions for the provision of humanitarian assistance;

(e) To protect its personnel, facilities, installations, equipment and mission, and to ensure the security and freedom of movement of its personnel;

10. *Urges* member States of the African Union to contribute to the above mission in order to help create the conditions for the withdrawal of all other foreign forces from Somalia;

11. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon in paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to:

(a) Supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the mission referred to in paragraph 9 above; or

(b) Such supplies and technical assistance by States intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1 to 5 above and in the absence of a negative decision by the Committee established pursuant to resolution 751 (1992) within five working days of receiving the notification described in paragraph 12 below;

12. *Decides* that States providing supplies or technical assistance in accordance with paragraph 11 (b) above shall notify the Committee established pursuant to resolution 751 (1992) in advance and on a case-by-case basis;

13. *Emphasizes* the continued contribution made to Somalia's peace and security by the arms embargo, *demands* that all Member States, in particular those of the region, fully comply with it, *reiterates* its intention to consider urgently ways to strengthen its effectiveness, including through targeted measures in support of the arms embargo, and *requests* that the Committee established pursuant to resolution 751 (1992) report to the Council within 60 days of the adoption of this resolution on possible measures that might be taken and how they might be implemented;

14. *Urges* Member States to provide financial resources, personnel, equipment and services for the full deployment of AMISOM;

15. *Requests* the Secretary-General to consult with the African Union Commission on what further support might be provided to AMISOM and report back to the Council on any progress, pursuant to the timetable set out in paragraph 17 below;

16. *Requests* the Secretary-General, further to the observations in his report on Somalia of 25 June 2007 referred to above, to continue to develop the existing contingency planning for the possible deployment of a United Nations Peacekeeping Operation replacing AMISOM including:

(a) Sending a further Technical Assessment Mission to the region as soon as possible;

(b) Further contact with potential troop-contributing countries;

(c) Identifying what further action the United Nations and the international community should take to help create the conditions necessary for, and to overcome potential obstacles to, the deployment and success of a United Nations peacekeeping mission in Somalia, including specifying measures, indicators and time frames for review of progress that will assist the Security Council's decision on the appropriateness of and objectives for a United Nations mission;

17. *Requests* that the Secretary-General report to the Council within 30 days after the adoption of this resolution, and then again within a further 30 days, on the status of the further development of the plans outlined in paragraph 16 above, as well as the political aspects in paragraphs 6 and 7 above;

18. *Encourages* Member States whose naval vessels and military aircraft operate in international waters and airspace adjacent to the coast of Somalia to be vigilant to any incident of piracy therein and to take appropriate action to protect merchant shipping, in particular the transportation of humanitarian aid, against any such act, in line with relevant international law;

19. *Reaffirms* its previous resolutions 1325 (2000) on women, peace and security, and 1674 (2006) and 1738 (2006) on the protection of civilians in armed conflict, and *stresses* the responsibility of all parties and armed groups in Somalia to take appropriate steps to protect the civilian population in the country, consistent with international humanitarian, human rights and refugee law, in particular by avoiding any indiscriminate attacks on populated areas;

20. *Strongly supports and encourages* the ongoing relief efforts in Somalia, *recalls* its resolution 1502 (2003) on the protection of humanitarian and United Nations personnel, *calls on* all parties and armed groups in Somalia to take appropriate steps to ensure the safety and security of AMISOM and humanitarian personnel, and grant timely, safe and unhindered access for the delivery of humanitarian assistance to all those in need, and *urges* the countries in the region to facilitate the provision of humanitarian assistance by land or via air and sea ports;

21. *Reaffirms* its previous resolution 1612 (2005) on children and armed conflict and *recalls* the subsequent conclusions of the Security Council Working Group on Children in Armed Conflict pertaining to parties to the armed conflict in Somalia (S/AC.51/2007/14);

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

United Nations

S/RES/1844 (2008)

**Security Council**Distr.: General
20 November 2008

Resolution 1844 (2008)**Adopted by the Security Council at its 6019th meeting, on
20 November 2008***The Security Council,*

Recalling its previous resolutions concerning the situation in Somalia, in particular resolution 733 (1992), resolution 751 (1992), resolution 1356 (2001), resolution 1425 (2002), resolution 1519 (2003), resolution 1676 (2006), resolution 1725 (2006), resolution 1744 (2007), resolution 1772 (2007), resolution 1801 (2008), resolution 1811 (2008), and resolution 1814 (2008), and the statements of its President, in particular those of 13 July 2006 (S/PRST/2006/31), 22 December 2006 (S/PRST/2006/59), 30 April 2007 (S/PRST/2007/13), and 14 June 2007 (S/PRST/2007/19), and recalling also its resolution 1730 (2006) on general issues relating to sanctions,

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

Underlining the importance of providing and maintaining stability and security throughout Somalia,

Reaffirming its condemnation of all acts of violence in Somalia and incitement to violence inside Somalia, and *expressing* its concern at all acts intended to prevent or block a peaceful political process,

Expressing its grave concern over the recent increase in acts of piracy and armed robbery at sea against vessels off the coast of Somalia, and noting the role piracy may play in financing embargo violations by armed groups, as described in the statement of 9 October 2008 by the Chairman of the Committee established pursuant to resolution 751 (1992) (hereinafter "the Committee") to the Security Council,

Emphasizing the continued contribution made to Somalia's peace and security by the arms embargo imposed by paragraph 5 of resolution 733 (1992), as elaborated and amended by resolutions 1356 (2001), 1425 (2002), 1725 (2006), 1744 (2007) and 1772 (2007), and *reiterating* its demand that all Member States, in particular those in the region, comply fully with the requirements of these resolutions,



Recalling its intention, outlined in paragraph 6 of resolution 1814 (2008), to take measures against those who seek to prevent or block a peaceful political process, or those who threaten the Transitional Federal Institutions (TFIs) of Somalia or the African Union Mission in Somalia (AMISOM) by force, or take action that undermines stability in Somalia or the region,

Further recalling its intention to strengthen the effectiveness of the United Nations arms embargo on Somalia, outlined in paragraph 7 of resolution 1814 (2008), and to take measures against those who breach the arms embargo, and those who support them in doing so,

Recalling also its request, outlined in paragraphs 6 and 7 of resolution 1814 (2008), to the Committee to provide recommendations on specific targeted measures to be imposed against such individuals or entities,

Taking note of the letter of 1 August 2008 from the Vice-Chairman of the Committee to the President of the Security Council,

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

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

1. *Decides* that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee pursuant to paragraph 8 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

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

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

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

3. *Decides* that all Member States shall freeze without delay the funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee pursuant to paragraph 8 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee, and decides further that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of such individuals or entities;

4. *Decides* that the measures imposed by paragraph 3 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

(a) to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or

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

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

(c) to be the 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 into prior to the date of the present resolution, is not for the benefit of a person or entity designated pursuant to paragraph 3 above, and has been notified by the relevant State or Member States to the Committee;

5. *Decides* that Member States may permit the addition to the accounts frozen pursuant to the provisions of paragraph 3 above of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen;

6. *Reaffirms* the general and complete arms embargo against Somalia imposed by resolution 733 (1992), as elaborated and amended by resolutions 1356 (2001), 1425 (2002), 1725 (2006), 1744 (2007) and 1772 (2007);

7. *Decides* that all Member States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer of weapons and military equipment and the direct or indirect supply of technical assistance or training, financial and other assistance including investment, brokering or other financial services, related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to the individuals or entities designated by the Committee pursuant to paragraph 8 below;

8. *Decides* that the provisions of paragraphs 1, 3 and 7 above shall apply to individuals, and that the provisions of 3 and 7 above shall apply to entities, designated by the Committee;

(a) as engaging in or providing support for acts that threaten the peace, security or stability of Somalia, including acts that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the TFIs or AMISOM by force;

(b) as having acted in violation of the general and complete arms embargo reaffirmed in paragraph 6 above;

(c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

9. *Decides* that the measures outlined in paragraphs 1, 3 and 7 above cease to apply in respect of such individuals or entities if, and at such time as the Committee removes them from the list of designated individuals and entities;

10. *Underlines* the importance of co-ordination by the Committee with other United Nations Sanctions Committees and with the Special Representative of the Secretary-General;

11. *Decides* further to expand the mandate of the Committee as set out in resolution 751(1992) to include the following tasks:

(a) to monitor, with the support of the Monitoring Group established pursuant to resolution 1519 (2003), implementation of the measures imposed in paragraphs 1, 3 and 7 above, in addition to the general and complete arms embargo reaffirmed in paragraph 6 above;

(b) to seek from all Member States, in particular those in the region, information regarding the actions taken by them to implement effectively the measures imposed by paragraphs 1, 3 and 7 above and whatever further information it may consider useful in this regard;

(c) to examine information regarding alleged violations of measures imposed by paragraphs 1, 3 and 7 above, paragraph 5 of resolution 733 (1992) and paragraphs 1 and 2 of resolution 1425 (2002), and take appropriate action if necessary;

(d) to designate individuals and entities pursuant to paragraphs 3 and 8 above, upon the request of Member States as referred to in paragraph 12 below;

(e) to consider and decide upon requests for exemptions set out in paragraphs 2 and 4 above;

(f) to review regularly the list of individuals and entities designated by the Committee pursuant to paragraphs 3 and 8 above, with a view to keeping the list as updated and accurate as possible and to confirm that listing remains appropriate, and to encourage Member States to provide any additional information whenever such information becomes available;

(g) to report at least every 120 days to the Security Council on its work and on the implementation of this resolution, with its observations and recommendations, in particular on ways to strengthen the effectiveness of the measures imposed by paragraphs 1, 3 and 7 above;

(h) to identify possible cases of non-compliance with the measures pursuant to paragraphs 1, 3, and 7 above and to determine the appropriate course of action on each case, and requests the Chairman, in periodic reports to the Council pursuant to paragraph 11 (g) above to provide progress reports on the Committee's work on this issue;

(i) to amend its existing guidelines to facilitate the implementation of the measures imposed by this resolution and keep these guidelines under active review as may be necessary;

Listing

12. *Encourages* Member States to submit to the Committee for inclusion on its list of designees, names of individuals or entities who meet the criteria set out in paragraph 8 above, as well as any entities owned or controlled, directly or indirectly, by the submitted individuals or entities or individuals or entities acting on behalf of or at the direction of the submitted entities;

13. *Decides* that, when proposing names to the Committee for listing, Member States shall provide a detailed statement of case, together with sufficient identifying information to allow for the positive identification of individuals and entities by Member States, and *decides further* that for each such proposal Member States shall identify those parts of the statement of case that may be publicly released, including for use by the Committee for development of the summary described in paragraph 14 below or for the purpose of notifying or informing the listed individual or entity, and those parts which may be released upon request to interested States;

14. *Directs* the Committee in coordination with the relevant designating States and with the assistance of the Monitoring Group, after a name is added to the list, to make accessible on the Committee's website a narrative summary of reasons for listing;

15. *Decides* that the Secretariat shall, after publication but within one week after a name is added to the list of individuals and entities, notify the Permanent Mission of the country or countries where the individual or entity is believed to be located and, in the case of individuals, the country of which the person is a national (to the extent this information is known) and to include with this notification a copy of the publicly releasable portion of the statement of case, any information on reasons for listing available on the Committee's website, a description of the effects of designation, the Committee's procedures for considering delisting requests, and the provisions regarding available exemptions;

16. *Demands* that Member States receiving notification as in paragraph 15 above take, in accordance with their domestic laws and practices, all possible measures to notify or inform in a timely manner the listed individual or entity of the designation, together with the information provided by the Secretariat as set out in paragraph 15 above;

17. *Encourages* Member States receiving notification as in paragraph 15 above to inform the Committee on steps they have taken to implement the measures set out in paragraphs 1, 3 and 7 above;

Delisting

18. *Welcomes* the establishment within the Secretariat of the Focal Point, pursuant to resolution 1730 (2006), that provides listed individuals, groups, undertakings or entities with the option to submit a petition for de-listing directly to the Focal Point;

19. *Urges* designating States and States of citizenship and residence to review de-listing petitions received through the Focal Point, in accordance with the procedures outlined in the annex to resolution 1730 (2006), in a timely manner and to indicate whether they support or oppose the request in order to facilitate the Committee's review;

20. *Directs* the Committee to consider requests, in accordance with its guidelines, for the removal from the Committee's list of designees those who no longer meet the criteria pursuant to this resolution;

21. *Decides* that the Secretariat shall, within one week after a name is removed from the Committee's list of designees, notify the Permanent Mission of

the country or countries where the individual or entity is believed to be located and, in the case of individuals, the country of which the person is a national (to the extent this information is known), and demands that States receiving such notification take measures, in accordance with their domestic laws and practices, to notify or inform the concerned individual or entity of the delisting in a timely manner;

22. *Encourages* the Committee to ensure that fair and clear procedures exist for placing individuals and entities on the Committee's list of designees and for removing them as well as for granting humanitarian exemptions;

23. *Decides* that the mandate of the Monitoring Group, as set out in paragraph 3 of resolution 1811 (2008) shall also include the tasks outlined below:

(a) to assist the Committee in monitoring implementation of this resolution by providing any information on violations, of the measures imposed in paragraphs 1, 3 and 7 above, in addition to the general and complete arms embargo reaffirmed in paragraph 6 above;

(b) to include in its reports to the Committee any information relevant to the Committee's designation of the individuals and entities described in paragraph 8 above;

(c) to assist the Committee in compiling narrative summaries referred to in paragraph 14 above;

24. *Reminds* all Member States of their obligation to implement strictly the measures imposed by this and all relevant resolutions;

25. *Decides* that all Member States shall report to the Committee within 120 days of the adoption of this resolution on the steps they have taken with a view to implementing effectively paragraphs 1 to 7 above;

26. *Decides* to review the measures outlined in paragraphs 1, 3 and 7 above, within 12 months;

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