

立法會

Legislative Council

LC Paper No. LS2/12-13

Paper for the House Committee Meeting on 12 October 2012

Legal Service Division Report on Subsidiary Legislation gazetted between 15 June and 28 September 2012

Purpose

The purposes of this paper are to present our reports on subsidiary legislation for Members' consideration, and to explain the Legislative Council (LegCo)'s power to amend subsidiary legislation in accordance with the statutory framework provided by law.

Background

2. All items (with the exception of seven items mentioned in paragraph (b) below) of subsidiary legislation currently submitted to Members are subject to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (the Ordinance), which empowers LegCo to amend an item of subsidiary legislation in any manner consistent with the power to make such subsidiary legislation. They are divided into two groups:

- (a) Items tabled before LegCo between 20 June and 11 July 2012
(Appendix A)

Under section 34(2) and (3) of the Ordinance, the period during which amendment may be made to these items is deemed to extend to and expire on the day after the second meeting of the Fifth LegCo (i.e. 17 October 2012). This period could be further extended under section 34(4) of the Ordinance by resolution of LegCo to the meeting of 7 November 2012.

(b) Items gazetted between 13 July and 28 September 2012
(Appendix B)

These items have been made and gazetted after the last meeting of the Fourth LegCo on 11 July 2012. Except for items listed below, they will be tabled at the meeting on 10 October 2012, and LegCo may by resolution amend them by 7 November 2012, or by 28 November 2012 if extended by resolution-

- (i) Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2012 (L.N. 110) made under Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202);
- (ii) Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2012 (L.N. 136) made under Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474);
- (iii) Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012 (L.N. 137) made under Western Harbour Crossing Ordinance (Cap. 436);
- (iv) United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N. 139) made under United Nations Sanctions Ordinance (Cap. 537);
- (v) United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140) made under United Nations Sanctions Ordinance (Cap. 537);
- (vi) United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141) made under United Nations Sanctions Ordinance (Cap. 537); and
- (vii) United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142) made under United Nations Sanctions Ordinance (Cap. 537).

Section 34 of the Ordinance does not apply to these excepted items. Hence, they are not required to be tabled before LegCo and are not subject to amendment by LegCo.

3. The Legal Service Division has issued reports on subsidiary legislation gazetted between 15 June and 17 August 2012 to Members of the Fourth LegCo and a report on subsidiary legislation gazetted on 28 September 2012 is attached to this report for Members' reference. Members may view the gazette version of these items at the following website: <http://www.gld.gov.hk/egazette/> or obtain their hard copies from the LegCo Library. Where a LegCo Brief has been issued by the Administration on a particular item, the Brief is appended to the report on the relevant item. Members may wish to refer to the LegCo Brief for background information.

Items for Particular Attention

4. Members may wish to pay particular attention to the following items:

- (a) Prevention and Control of Disease (Amendment) Regulation 2012 (L.N. 143)
Prevention and Control of Disease Ordinance (Amendment of Schedules 1 and 2) Notice 2012 (L.N. 144)

L.N. 143 was made by the Secretary for Food and Health under section 7 of the Prevention and Control of Disease Ordinance (Cap. 599) (the Ordinance) to amend section 56 of the Prevention and Control of Disease Regulation (Cap. 599 sub. leg. A) (the Regulation) by including "Severe Respiratory Disease associated with Novel Coronavirus" (the Disease) as one of the "specified disease".

L.N. 144 was made by the Director of Health (the Director) under section 15 of the Ordinance by adding the Disease as item 34AA in Schedule 1 (Scheduled Infectious Diseases) and "Novel Coronavirus associated with Severe Respiratory Disease" (the Novel Virus) as item 20A in Schedule 2 (Scheduled Infectious Agents) to the Ordinance respectively.

The addition of the Disease to Schedule 1 makes it a requirement under section 4 of the Regulation for a medical practitioner to notify the Director immediately if the medical practitioner has reason to suspect the existence of a case of any disease specified in Schedule 1. A person who fails to notify the Director or gives false information to the Director commits an offence and is liable on conviction to a fine of \$5,000.

The addition of the Novel Virus to Schedule 2 makes it a requirement for the owner or the person in charge of a laboratory to notify the Director immediately under section 43 of the Regulation if it comes to the knowledge of that person that there is a leakage of an agent listed in Schedule 2 to the Ordinance that may pose a public health risk. Failure to notify the Director or the giving of false information to him is an offence and punishable by a fine of \$5,000 and imprisonment for 6 months.

Members may refer to the LegCo Brief issued by the Food and Health Bureau and the Department of Health in September 2012 (File ref.: FH CR 4/3231/96) for further information on L.N. 143 and L.N. 144.

- (b) United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N. 139)
United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140)
United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141)
United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142)

L.N. 139 to L.N. 142 were made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) on the instruction of the Ministry of Foreign Affairs and after consultation with the Executive Council. L.N. 139 to L.N. 142 came into operation when it was published in the Gazette on 28 September 2012. Members may refer to the information papers provided by the Commerce and Economic Development Bureau in September 2012 (with no reference number) for further information.

Under section 3(5) of UNSO, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under UNSO. Therefore, L.N. 139 to L.N. 142 are not subject to amendment by LegCo.

In the Fourth LegCo, regulations made under UNSO were considered by the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee), which was established under the House Committee. The Subcommittee submitted its interim report and further report to the House Committee of the Fourth LegCo on 25 June 2010 and 29 June 2012 respectively.

Given that Regulations made under section 3 of the UNSO would be made by the Government from time to time, the Subcommittee recommended in its report to the House Committee meeting on 29 June 2012 that a subcommittee should be set up in the Fifth LegCo to deal with these Regulations. Members attending the House Committee meeting agreed in principle to the Subcommittee's recommendation. Members may wish to form a similar subcommittee and refer L.N. 139 to L.N. 142 to the subcommittee for consideration.

Encl

Prepared by

Legal Service Division
Legislative Council Secretariat
8 October 2012

**Legal Service Division Report on
Subsidiary Legislation tabled between 20 June and 11 July 2012**

<u>L.N. No</u>	<u>Item</u>
105	Declaration of Increase in Pensions Notice 2012
106	Widows and Orphans Pension (Increase) Notice 2012
107	Public Health and Municipal Services Ordinance (Public Swimming Pools) (Amendment of Fourteenth Schedule) Order 2012
108	Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2012
109	Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2012

**Legal Service Division Report on
Subsidiary Legislation gazetted between 13 July and 28 September 2012
(to be tabled on 10 October 2012)**

<u>L.N. No</u>	<u>Item</u>
*110	Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2012
+	
*136	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2012
*137	Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012
138	Prevention and Control of Disease Ordinance (Amendment of Schedule 1) Notice 2012
*139	United Nations Sanctions (Côte d'Ivoire) Regulation 2012
*140	United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012
*141	United Nations Sanctions (Guinea-Bissau) Regulation
*142	United Nations Sanctions (Somalia) (Amendment) Regulation 2012
143	Prevention and Control of Disease (Amendment) Regulation 2012
144	Prevention and Control of Disease Ordinance (Amendment of Schedules 1 and 2) Notice 2012

* Legal Notices not required to be tabled and not subject to amendment

+L.N. No. 111 to No. 135 are resolutions passed by LegCo

立法會
Legislative Council

LC Paper No. LS82/11-12

**Paper for the House Committee Meeting
on 22 June 2012**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 June 2012**

Date of tabling in LegCo : 20 June 2012

Amendment to be made by : 2nd meeting of LegCo in the next session
(or the 1st meeting after 21 days from the
2nd meeting of the next session if extended
by resolution)

Pensions (Increase) Ordinance (Cap. 305)
Declaration of Increase in Pensions Notice 2012 (L.N. 105)

Widows and Orphans Pension (Increase) Ordinance (Cap. 205)
Widows and Orphans Pension (Increase) Notice 2012 (L.N. 106)

L.N. 105 and L.N. 106 are made by the Chief Executive respectively under section 4(1B) of the Pensions (Increase) Ordinance (Cap. 305) and section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205). These Notices respectively declare and specify a 5.7% increase in the following pensions with effect from 1 April 2012 -

- (a) basic pension payable to ex-officers and dependants eligible for pension under various pension ordinances as specified in Schedule 1 to Cap. 305; and
 - (b) pensions described in Cap. 205 payable to widows and orphans under the Widows and Orphans Pension Ordinance (Cap. 94).
2. Under Cap. 305 and Cap. 205, if the average monthly Consumer

Price Index(A) (Average Index) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by more than 0.1%, the Chief Executive shall declare or specify a percentage of increase in the relevant pensions equal to the excess as soon as practicable by notice in the Gazette.

3. According to the Administration, the Average Index of the 12 months ending on 31 March 2012 exceeds the Average Index of the immediately preceding 12 months by 5.7%. In accordance with the provisions in Cap. 305 and Cap. 205, L.N. 105 and L.N. 106 are made to declare and specify a 5.7% increase in the relevant pensions.

4. According to the LegCo Brief (File Ref: CSBCR/AP/4-075-005/5 Pt. 15) issued by the Civil Service Bureau dated 13 June 2012, no consultation with pensioners and dependants is required as pension increase in accordance with increase in the Average Index is a statutory entitlement for pensioners and dependants, and L.N. 105 and L.N. 106 are made in accordance with the relevant statutory provisions as well as established policy and procedures.

5. The Administration has not consulted any LegCo Panel on the two Notices.

6. The effective date as provided in L.N. 105 and L.N. 106 is 1 April 2012. According to the LegCo Brief, the proposed date is in line with the usual practice of effecting a pension increase from 1 April of a year.

7. No difficulties have been identified in the legal or drafting aspects of the Notices.

Prepared by

Kitty CHENG
Assistant Legal Adviser
Legislative Council Secretariat
19 June 2012

LEGISLATIVE COUNCIL BRIEF

Pensions (Increase) Ordinance
(Cap. 305)

Widows and Orphans Pension (Increase) Ordinance
(Cap.205)

DECLARATION OF INCREASE IN PENSIONS NOTICE 2012

WIDOWS AND ORPHANS PENSION (INCREASE) NOTICE 2012

INTRODUCTION

At the meeting of the Executive Council on 5 June 2012, the Council ADVISED and the Chief Executive ORDERED that -

- (a) the Declaration of Increase in Pensions Notice 2012, at Annex A, should be made under section 4(1B) of the Pensions (Increase) Ordinance [P(I)O] (Cap. 305), to declare a 5.7% increase in basic pension⁽¹⁾ payable to ex-officers and dependants eligible for pension under the various pension ordinances⁽²⁾ as specified in Schedule 1 of the P(I)O; and

Notes⁽¹⁾ Basic pension means the yearly amount of any pension or other allowance payable by way of periodical payments under any of the ordinances as specified in Schedule 1 to the P(I)O and, where part of such pension or allowance has been commuted, means the yearly amount of the pension or allowance as reduced by the commutation. In case of deferred pension benefits, the proposed pension increase will also be applicable to the commuted pension gratuity in the same manner as a basic pension as regards the period from the date the deferred pension benefits are granted to the date when the commuted pension gratuity is paid.

⁽²⁾ Pensions Ordinance (Cap. 89), Pension Benefits Ordinance (Cap. 99), Pension Benefits (Judicial Officers) Ordinance (Cap. 401), Surviving Spouses' and Children's Pensions Ordinance (Cap. 79), Auxiliary Forces Pay and Allowances Ordinance (Cap. 254), Police Force Ordinance 1932 and Police Officers (Special Cases) Pensions Ordinance 1954.

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- (b) the Widows and Orphans Pension (Increase) Notice 2012, at Annex B, should be made under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance [WOP(I)O] (Cap. 205), to specify a 5.7% increase in dependant pensions payable to widows and orphans as defined under the Widows and Orphans Pension Ordinance (Cap. 94),

with effect from 1 April 2012.

JUSTIFICATIONS

Pension Increase Mechanism

2. Civil servants and judicial officers appointed on pensionable terms are granted pension benefits⁽³⁾ on retirement from the service in specified circumstances under the respective pension legislation. The two dependent pension schemes, namely the Surviving Spouses' and Children's Pensions Scheme (SSCPS) and Widows and Orphans Pension Scheme (W&OPS), provide for dependant pension benefits to the surviving spouses and children of officers who were contributors of one of the schemes, on the death of the officers⁽⁴⁾.

3. The Government policy is to increase pensions and dependant pensions annually according to the increase in the CPI(A) over the specified period should such an increase be registered; and independently of any adjustment in civil service salaries. The objective is to maintain the purchasing power of pensions and dependant pensions. Since 1993, the current mechanism for determining pension increase has been enshrined in the P(I)O and the WOP(I)O. Section 4(1A) to 4(1C) of the P(I)O provides that if in any year, the average monthly CPI(A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the year in question

Notes ⁽³⁾ The amount of an officer's pension entitlement is determined at the time he leaves the service, and on the basis of his highest pensionable emoluments and the length of his pensionable service.

⁽⁴⁾ The level of benefits awarded for SSCPS is based on the deceased member's actual length of contributory service and his highest pensionable emoluments subject to the minimum benefit provision. The basic pension under W&OPS is calculated with reference to the date of entry to the scheme, rate of contribution, date of marriage and ages of the contributor and his wife.

exceeds the average monthly CPI(A) of the period of 12 months immediately preceding that period by more than 0.1%, the Chief Executive shall declare a percentage of increase in basic pension equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette, and to specify in the notice the effective date for such an increase. Section 3(2) to 3(5) of the WOP(I)O contains similar provisions for an increase in dependant pensions payable under the W&OPS. Extracts of the relevant sections of the two Ordinances are at Annex C.

The Making of Notices on Pension Increase in 2012

4. The Commissioner for Census and Statistics has recently announced that the average monthly CPI(A) for the period from 1 April 2011 to 31 March 2012, as compared with the average monthly CPI(A) for the previous 12 months, has increased by 5.7%. In accordance with the relevant provisions in the P(I)O and the WOP(I)O, the Chief Executive has made notices in the Gazette to declare and specify a 5.7% increase in pensions and dependant pensions granted under the various pension legislation referred to in the two Ordinances, and has specified in the notices 1 April 2012 as the effective date for the increase. The proposed effective date is in accordance with the usual practice, adopted administratively since 1982, of effecting a pension increase from 1 April of a year. The notices will be published in the Gazette on 15 June 2012. We plan to pay the increased pensions and dependant pensions from June 2012.

THE NOTICES

5. The Declaration of Increase in Pensions Notice 2012 and the Widows and Orphans Pension (Increase) Notice 2012 seek to declare and specify a 5.7% increase in pensions and dependant pensions payable under the relevant legislation with effect from 1 April 2012.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be -

Publication in the Gazette

15 June 2012

IMPLICATIONS OF THE PROPOSAL

7. We estimate that the 5.7% increase in pensions and dependant pensions will result in additional pension payments amounting to about \$721 million for around 106 400 pensioners and dependants in 2012-13. We expect that the general reserve set aside in the 2012/13 Estimates would be sufficient to cover the additional expenditure so arising. There are no staffing implications. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the existing binding effect of the P(I)O and the WOP(I)O. It has no productivity, environmental or sustainability implications, and also has no significant economic implications.

PUBLIC CONSULTATION

8. No consultation with pensioners and dependants is required as pension increase in accordance with increase in CPI(A) is a statutory entitlement for pensioners and dependants, and the proposed notices are made in accordance with the relevant statutory provisions as well as established policy and procedures.

PUBLICITY

9. We will publish the notices in the Gazette. All pensioners and relevant dependants, as well as the staff sides of the Central Staff Consultative Councils, will be notified of the pension increase and related arrangements.

ENQUIRIES

10. Any enquiries on this brief may be addressed to Ms Jenny Choi, Administrative Assistant to Secretary for the Civil Service at 2810 2358.

Civil Service Bureau
13 June 2012

Declaration of Increase in Pensions Notice 2012

Section 1

1

Declaration of Increase in Pensions Notice 2012

(Made by the Chief Executive under section 4(1B) of the Pensions (Increase) Ordinance (Cap. 305) after consultation with the Executive Council)

1. Declaration of increase in pensions

- (1) An increase of 5.7% is declared for the purpose of section 4(1A) of the Ordinance.
- (2) The effective date of this declaration is 1 April 2012.

Chief Executive

2012

Declaration of Increase in Pensions Notice 2012

Explanatory Note

Paragraph 1

2

Explanatory Note

Under the Pensions (Increase) Ordinance (Cap. 305), if the average monthly Consumer Price Index (A) (*Average Index*) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the basic pension to which the Ordinance applies has to be increased by the same percentage.

2. The Average Index of the 12 months ending on 31 March 2012 exceeds the Average Index of the immediately preceding 12 months by 5.7%. Accordingly, this Notice declares that the percentage of increase in respect of the basic pension is 5.7% with effect from 1 April 2012.

Widows and Orphans Pension (Increase) Notice 2012

Section 1

1

Widows and Orphans Pension (Increase) Notice 2012

(Made by the Chief Executive under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) after consultation with the Executive Council)

1. Increase in pension

The following are specified—

- (a) the date from which the increase in pension pursuant to section 3(2) of the Ordinance is effective is 1 April 2012;
- (b) the percentage of the increase as determined in accordance with section 3(2) of the Ordinance is 5.7%.

Chief Executive

2012

Widows and Orphans Pension (Increase) Notice 2012

Explanatory Note

Paragraph 1

2

Explanatory Note

Under the Widows and Orphans Pension (Increase) Ordinance (Cap. 205), if the average monthly Consumer Price Index (A) (*Average Index*) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the pensions described in that Ordinance have to be increased by the same percentage.

2. The Average Index of the 12 months ending on 31 March 2012 exceeds the Average Index of the immediately preceding 12 months by 5.7%. Accordingly, this Notice specifies a 5.7% increase in respect of those pensions with effect from 1 April 2012.

Extract from Chapter 305 Pensions (Increase) Ordinance

Section 4 Authorized increases

(1A) A basic pension to which this Ordinance applies (including any adjusted pension) shall, in respect of any period beginning on or after 1 April 1993, be increased or further increased, as the case may be, by such percentage ("percentage of increase") declared by the Chief Executive under subsection (1B) from time to time after the period in which the salary in force is the salary on which the pension is based. (Added 3 of 1993 s. 58. Amended 63 of 1999 s. 3)

(1B) If, in any year after 1992 ("the succeeding year"), the average monthly Consumer Price Index (A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the succeeding year, exceeds the average monthly Consumer Price Index (A) of the period of 12 months immediately preceding that first mentioned period by an amount which when expressed as a percentage exceeds 0.1%, the Chief Executive shall, for the purpose of subsection (1A), declare a percentage of increase equal to the excess expressed as a percentage. (Added 3 of 1993 s. 58. Amended 63 of 1999 s. 3)

(1C) A declaration under subsection (1B) shall be made as soon as practicable by notice in the Gazette and shall take effect on a date specified in such notice, which date shall not be later than the date of the notice. (Added 3 of 1993 s. 58)

**Extract from Chapter 205 Widows and Orphans Pension (Increase)
Ordinance**

Section 3 Increase in pension

(2) If, in any year after 1992 ("the succeeding year"), the average monthly Consumer Price Index (A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the succeeding year, exceeds the average monthly Consumer Price Index (A) of the 12 months immediately preceding that first-mentioned period by an amount which when expressed as a percentage exceeds 0.1%, the pensions described in subsection (4) shall be increased by a percentage equal to the excess expressed as a percentage with effect from the date specified under subsection (3)(a) in respect of such increase. (Added 3 of 1993 s. 54)

(3) Where, pursuant to subsection (2), any pension becomes subject to an increase, the Chief Executive shall, as soon as practicable, by notice published in the Gazette specify- (Amended 63 of 1999 s. 3)

- (a) the date, which shall not be later than the date of the notice, from which such increase shall be effective; and
 - (b) the percentage of the increase as determined in accordance with subsection (2). (Added 3 of 1993 s. 54)
- (4) The pensions referred to in subsection (2) are-
- (a) in the case of the first increase under that subsection-
 - (i) any pension calculated on the total contributions up to 31 March 1992 together with the total increases in pension; and
 - (ii) any pension calculated on the contributions from 1 April 1992, up to the date immediately preceding the specified date of such first increase; and
 - (b) in the case of any subsequent increase under subsection (2)-
 - (i) any pension calculated on the contributions up to the date immediately preceding the specified date of the last increase under that subsection together with the total increases in pension; and
 - (ii) any pension calculated on the contributions from the specified date of the last increase under that subsection, up to the date immediately preceding the specified date of such subsequent increase. (Added 3 of 1993 s. 54)

(5) In subsection (4) "specified date" (指定日期), in relation to an increase under subsection (2), means the date specified under subsection (3)(a) as the date from which that increase shall be effective. (Added 3 of 1993 s. 54)

立法會
Legislative Council

LC Paper No. LS86/11-12

**Paper for the House Committee Meeting
on 6 July 2012**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 June 2012**

Date of tabling in LegCo : 4 July 2012

Amendment to be made by : Second meeting of LegCo in the next session
(or the first meeting after 21 days from the
second meeting of the next session if extended
by resolution)

Public Health and Municipal Services Ordinance (Cap. 132)

**Public Health and Municipal Services Ordinance (Public Swimming Pools)
(Amendment of Fourteenth Schedule) Order 2012 (L.N. 107)**

**Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2012 (L.N. 108)**

L.N. 107 and L.N. 108 are made by the Director of Leisure and Cultural Services (the Director) under sections 42A and 106 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) respectively.

L.N. 107

2. L.N. 107 designates Lam Tin Swimming Pool as a public swimming pool and adds this swimming pool to the Fourteenth Schedule to the Ordinance to reflect the designation. The effect of L.N. 107 is to vest the management and control of Lam Tin Swimming Pool in the Director.

L.N. 108

3. L.N. 108 sets aside the following 11 venues for use as public pleasure grounds and adds these venues to the list of public pleasure grounds in the Fourth Schedule to the Ordinance (the Fourth Schedule) for updating purpose -

- (a) Siu Sai Wan Road Sitting-out Area;
- (b) Ka Wing Street Sitting-out Area;
- (c) Lee On Road Sitting-out Area;
- (d) New Clear Water Bay Road Sitting-out Area;
- (e) Sau Ming Road Sitting-out Area;
- (f) Ha Mei Tsuen Sitting-out Area;
- (g) Kai Leng Sitting-out Area;
- (h) Ma On Shan Sai Sha Road Garden;
- (i) Ma On Shan Sai Sha Road Sitting-out Area;
- (j) Po Lam Sitting-out Area; and
- (k) Shui Tsiu San Tsuen Road Sitting-out Area.

4. According to the Administration, Po Lam Sitting-out Area in paragraph 3(j) above is a new venue that is already open for public use by the Leisure and Cultural Services Department (LCSD). The rest are venues that are already taken over or will be taken over from the Home Affairs Department by LCSD. The effect of setting aside and including the venues in the Fourth Schedule is to vest the general management and control of them in the Director.

5. L.N. 108 also provides that Sam Ka Lane Children's Playground ceases to be set aside for use as a public pleasure ground and deletes the venue from the Fourth Schedule. The site, according to the Administration, has been used for the development of the Pak Tze Lane Park.

6. L.N. 108 further renames two public pleasure grounds in the Fourth Schedule in order to better reflect their respective locations as follows -

- (a) "Tin Tze Garden" is renamed as "Tin Tsz Garden" to tally with the road "Tin Tsz Road" nearby; and
- (b) the Chinese name of Pik Uk Garden is renamed as "壁屋花園" instead of "碧屋花園" to reflect the geographical place in the vicinity.

7. According to the two LegCo Briefs (with the same File Ref: L/M(1) in LCS 19/HQ 813/00 (18)) issued by LCSD dated 18 June 2012, the Administration has consulted the relevant District Councils and has their support for the proposals. The Panel on Home Affairs has not been consulted on these two Orders.

8. L.N. 107 and L.N. 108 came into operation on the date of publication in the Gazette, i.e. 29 June 2012.

9. No difficulties have been identified in the legal or drafting aspects of the Orders.

Prepared by

KAN Wan-yee, Wendy
Assistant Legal Adviser
Legislative Council Secretariat
4 July 2012

LS/S/30/11-12

LEGISLATIVE COUNCIL BRIEF

PUBLIC HEALTH AND MUNICIPAL SERVICES DESIGNATION OF PUBLIC SWIMMING POOL

INTRODUCTION

The Director of Leisure and Cultural Services, in her capacity as the Authority (“Authority”) under the Public Health and Municipal Services Ordinance Cap.132 (“the Ordinance”), manages the public swimming pools listed in the Fourteenth Schedule to the Ordinance. Under Section 42A of the Ordinance, the Authority may, from time to time, by order designate public swimming pools, and may by order amend, or add to, or delete from the Fourteenth Schedule.

2. We propose to introduce the amendments through the Public Health and Municipal Services Ordinance (Public Swimming Pools) (Amendment of Fourteenth Schedule) Order 2012 (Amendment Order) at Annex A to this Brief to designate the venue specified in the Schedule to the Amendment Order for use as a public swimming pool.

JUSTIFICATIONS

3. The proposal to designate one new venue as a public swimming pool will enable the Authority to enforce the regulations relating to this public swimming pool for proper management.

DESIGNATION OF PUBLIC SWIMMING POOL

4. The Lam Tin Swimming Pool will be designated as a public swimming pool and be included in the Fourteenth Schedule.

AMENDMENT OF FOURTEENTH SCHEDULE

5. The Amendment Order at Annex A amends the Fourteenth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to update the list of public swimming pools.

LEGISLATIVE TIMETABLE

6. The legislative timetable is as follows –

Publication in the Gazette	29 June 2012
Tabling at the Legislative Council for negative vetting	4 July 2012

PUBLIC CONSULTATION AND PUBLICITY

7. We have consulted the District Council concerned which supports the proposal. The addition of the public swimming pool to the Fourteenth Schedule of the Ordinance will be published in the Gazette.

ENQUIRY

8. Please contact Miss Margrit LI, Assistant Director (Leisure Services)1, at 2601 8966 for enquiries on this subject.

Leisure and Cultural Services Department
18 June 2012

Public Health and Municipal Services Ordinance (Public Swimming Pools)
(Amendment of Fourteenth Schedule) Order 2012

Section 1

1

**Public Health and Municipal Services Ordinance
(Public Swimming Pools) (Amendment of Fourteenth
Schedule) Order 2012**

(Made by the Director of Leisure and Cultural Services under section 42A
of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Designation of public swimming pool

The premises specified in Schedule 1 are designated as a public swimming pool.

2. Public Health and Municipal Services Ordinance amended

The Public Health and Municipal Services Ordinance (Cap. 132) is amended as set out in Schedule 2.

Public Health and Municipal Services Ordinance (Public Swimming Pools)
(Amendment of Fourteenth Schedule) Order 2012

Schedule 1

2

Schedule 1

[s. 1]

Premises Designated as Public Swimming Pool

Kowloon

Lam Tin Swimming Pool

Schedule 2

[s. 2]

**Amendment to Public Health and Municipal Services
Ordinance**

1. **Fourteenth Schedule amended (public swimming pools)**
Fourteenth Schedule, under heading "Kowloon"—
Add in alphabetical order
"Lam Tin Swimming Pool".



(Mrs Betty FUNG)
Director of Leisure and Cultural
Services

14 June 2012

Explanatory Note

This Order designates the Lam Tin Swimming Pool as a public swimming pool and amends the Fourteenth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to reflect that designation.

LEGISLATIVE COUNCIL BRIEF

PUBLIC HEALTH AND MUNICIPAL SERVICES SETTING ASIDE PLACES FOR USE AS PUBLIC PLEASURE GROUNDS

INTRODUCTION

The Director of Leisure and Cultural Services, in her capacity as the Authority (“Authority”) under the Public Health and Municipal Services Ordinance Cap.132 (“the Ordinance”), manages the public pleasure grounds listed in the Fourth Schedule to the Ordinance. Under Section 106 of the Ordinance, the Authority may, from time to time, by order set aside places for use as public pleasure grounds, and may by order amend, or add to, or delete from the Fourth Schedule.

2. We propose to introduce the amendments through the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2012 (Amendment Order) at Annex A to this Brief to -

- (a) set aside the places specified in Schedule 1 of the Amendment Order for use as public pleasure grounds;
- (b) cease to set aside the public pleasure ground specified in Schedule 2 of the Amendment Order for use as public pleasure grounds;
- (c) rename the public pleasure grounds specified in the Schedule 3 at the Amendment Order.

JUSTIFICATIONS

3. The proposal to set aside 11 new venues as public pleasure grounds will enable the Authority to enforce the regulations relating to public pleasure grounds for proper management. We also propose to repeal one venue and to rename two venues in the Fourth Schedule.

PLACES TO BE SET ASIDE FOR USE AS PUBLIC PLEASURE GROUNDS

4. The following 11 new venues will be designated as public pleasure grounds and be included in the Fourth Schedule —

- (i) One new venue that is already open for public use by the Leisure and Cultural Services Department (LCSD):
 - (a) Po Lam Sitting-out Area
- (ii) Ten venues that are already taken over or will be taken over from Home Affairs Department for management by LCSD :
 - (a) Siu Sai Wan Road Sitting-out Area
 - (b) Ka Wing Street Sitting-out Area
 - (c) Lee On Road Sitting-out Area
 - (d) New Clear Water Bay Road Sitting-out Area
 - (e) Sau Ming Road Sitting-out Area
 - (f) Ha Mei Tsuen Sitting-out Area
 - (g) Kai Leng Sitting-out Area
 - (h) Ma On Shan Sai Sha Road Garden
 - (i) Ma On Shan Sai Sha Road Sitting-out Area
 - (j) Shui Tsiu San Tsuen Road Sitting-out Area

PLACE CEASES TO BE SET ASIDE FOR USE AS PUBLIC PLEASURE GROUND

5. Sam Ka Lane Children's Playground is to be deleted from the Fourth Schedule as the site has been used for the development of the Pak Tze Lane Park.

RENAMING OF PUBLIC PLEASURE GROUNDS

6. To better reflect the location of the venues, we recommend renaming the following two venues in the Fourth Schedule :

- (a) Tin Tsz Garden

Tin Tze Garden is recommended to be renamed as Tin Tsz Garden to tally with the road "Tin Tsz Road" nearby. The renaming proposal is supported by Yuen Long District Council.

- (b) Pik Uk Garden (壁屋花園)

The Chinese name of Pik Uk Garden is recommended to be renamed as 壁屋花園 instead of 碧屋花園 to reflect the

geographical place in the vicinity. The renaming proposal is supported by Sai Kung District Council.

AMENDMENT OF FOURTH SCHEDULE

7. The Amendment Order at Annex A amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to update the list of public pleasure grounds, to repeal one venue and to rename two venues.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows –

Publication in the Gazette	29 June 2012
Tabling at the Legislative Council for negative vetting	4 July 2012

PUBLIC CONSULTATION AND PUBLICITY

9. We have consulted the respective District Councils which support the proposals. The additions and amendments to the Fourth Schedule of the Ordinance will be published in the Gazette.

ENQUIRY

10. Please contact Miss Margrit LI, Assistant Director (Leisure Services)¹, at 2601 8966 for enquiries on this subject.

Leisure and Cultural Services Department

18 June 2012

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2012

Section 1

1

**Public Health and Municipal Services Ordinance
(Public Pleasure Grounds) (Amendment of Fourth
Schedule) Order 2012**

(Made by the Director of Leisure and Cultural Services under section 106
of the Public Health and Municipal Services Ordinance (Cap. 132))

1. **Places set aside for use as public pleasure grounds**
The places specified in Schedule 1 are set aside for use as public pleasure grounds.
2. **Place ceasing to be set aside for use as public pleasure ground**
The place specified in Schedule 2 ceases to be set aside for use as a public pleasure ground.
3. **Public Health and Municipal Services Ordinance amended**
The Public Health and Municipal Services Ordinance (Cap. 132) is amended as set out in Schedule 3.

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2012
Schedule 1—Part 1

2

Schedule 1

[s. 1]

Places Set Aside for Use as Public Pleasure Grounds

Part 1

Hong Kong Island

Siu Sai Wan Road Sitting-out Area

Part 2

Kowloon

Ka Wing Street Sitting-out Area

Lee On Road Sitting-out Area

New Clear Water Bay Road Sitting-out Area

Sau Ming Road Sitting-out Area

Part 3

The New Territories

Ha Mei Tsuen Sitting-out Area

Kai Leng Sitting-out Area

Ma On Shan Sai Sha Road Garden

Ma On Shan Sai Sha Road Sitting-out Area

Po Lam Sitting-out Area

Shui Tsiu San Tsuen Road Sitting-out Area

Schedule 2 [s. 2]

**Place Ceasing to be Set Aside for Use as Public Pleasure
Ground**

Hong Kong Island

Sam Ka Lane Children's Playground

Schedule 3 [s. 3]

**Amendments to Public Health and Municipal Services
Ordinance**

1. **Fourth Schedule amended (public pleasure grounds)**
 - (1) Fourth Schedule, list of public pleasure grounds (other than bathing beaches), under heading "Hong Kong Island"—
Repeal
"Sam Ka Lane Children's Playground".
 - (2) Fourth Schedule, list of public pleasure grounds (other than bathing beaches), under heading "Hong Kong Island"—
Add in alphabetical order
"Siu Sai Wan Road Sitting-out Area".
 - (3) Fourth Schedule, list of public pleasure grounds (other than bathing beaches), under heading "Kowloon"—
Add in alphabetical order
"Ka Wing Street Sitting-out Area
Lee On Road Sitting-out Area
New Clear Water Bay Road Sitting-out Area
Sau Ming Road Sitting-out Area".
 - (4) Fourth Schedule, English text, list of public pleasure grounds (other than bathing beaches), under heading "The New Territories"—
Repeal
"Tin Tze Garden"
Substitute
"Tin Tsz Garden".

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2012

Schedule 3
Section 1

5

- (5) Fourth Schedule, Chinese text, list of public pleasure grounds (other than bathing beaches), under heading “新界”—

(a) **Repeal**

“碧屋花園”;

- (b) **Add according to the number of strokes**

“壁屋花園”.

- (6) Fourth Schedule, list of public pleasure grounds (other than bathing beaches), under heading “The New Territories”—

Add in alphabetical order

“Ha Mei Tsuen Sitting-out Area

Kai Leng Sitting-out Area

Ma On Shan Sai Sha Road Garden

Ma On Shan Sai Sha Road Sitting-out Area

Po Lam Sitting-out Area

Shui Tsiu San Tsuen Road Sitting-out Area”.



(Mrs Betty FUNG)
Director of Leisure and Cultural
Services

14 June 2012

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2012

Explanatory Note
Paragraph 1

6

Explanatory Note

This Order sets aside certain places for use as public pleasure grounds and provides that the Sam Ka Lane Children's Playground ceases to be set aside for use as a public pleasure ground.

2. The Order also amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to—

(a) reflect the changes mentioned in paragraph 1; and

(b) rename—

(i) in English only, “Tin Tze Garden” as “Tin Tsz Garden”; and

(ii) in Chinese only, “碧屋花園” as “壁屋花園” for Pik Uk Garden.

立法會
Legislative Council

LC Paper No. LS88/11-12

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 6 July 2012**

Date of tabling in LegCo : 11 July 2012

Amendment to be made by : Second meeting of LegCo in the next session (or the first meeting after 21 days from the second meeting in the next session if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No.2) Order 2012 (L.N. 109)**

The Order is made by the Director of Leisure and Cultural Services (the Director) under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance).

2. The Order states that West Kowloon Waterfront Promenade (the venue) ceases to be set aside for use as a public pleasure ground, and amends the Fourth Schedule to the Ordinance by deleting the reference to the venue. According to paragraph 3 of the LegCo Brief (File Ref.: L/M(1) in LCS 19/HQ 813/00 (18)) issued by Leisure and Cultural Services Department on 28 June 2012, the venue is no longer required to be used as public pleasure ground and will be handed over to the West Kowloon Cultural District Authority for use and management subject to the completion of relevant procedures.

3. According to paragraph 7 of the LegCo Brief, the Administration has consulted the Yau Tsim Mong District Council which supports the proposal in the Order. The Panel on Home Affairs has not been consulted on the Order.

4. The Order came into operation on the date of publication in the Gazette, i.e. 6 July 2012.

5. No difficulties have been identified in the legal or drafting aspects of the Order.

Prepared by

LO Wing-yee, Winnie
Assistant Legal Adviser
Legislative Council Secretariat
18 July 2012

LEGISLATIVE COUNCIL BRIEF

PUBLIC HEALTH AND MUNICIPAL SERVICES SETTING ASIDE PLACES FOR USE AS PUBLIC PLEASURE GROUNDS

INTRODUCTION

The Director of Leisure and Cultural Services, in her capacity as the Authority (“Authority”) under the Public Health and Municipal Services Ordinance Cap.132 (“the Ordinance”), manages the public pleasure grounds listed in the Fourth Schedule to the Ordinance. Under Section 106 of the Ordinance, the Authority may, from time to time, by order set aside places for use as public pleasure grounds, and may by order amend, or add to, or delete from the Fourth Schedule.

2. We propose to introduce the amendments through the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2012 (Amendment Order) at Annex A to this Brief to cease to set aside the public pleasure ground specified in Schedule 1 of the Amendment Order for use as public pleasure grounds.

JUSTIFICATIONS

3. The venue is no longer required to be used as public pleasure ground and should be removed from the Fourth Schedule. Subject to the completion of relevant procedures, the venue will be handed over to the West Kowloon Cultural District Authority for use and management.

PLACE CEASES TO BE SET ASIDE FOR USE AS PUBLIC PLEASURE GROUND

4. The West Kowloon Waterfront Promenade will be deleted from the Fourth Schedule to the Ordinance.

AMENDMENT OF FOURTH SCHEDULE

5. The Amendment Order at Annex A amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to update the list of public pleasure grounds and to repeal one venue.

LEGISLATIVE TIMETABLE

6. The legislative timetable is as follows –

Publication in the Gazette	6 July 2012
Tabling at the Legislative Council for negative vetting	11 July 2012

PUBLIC CONSULTATION AND PUBLICITY

7. We have consulted the Yau Tsim Mong District Council which supports the proposal. The deletion and amendment to the Fourth Schedule of the Ordinance will be published in the Gazette.

ENQUIRY

8. Please contact Miss Margrit LI, Assistant Director (Leisure Services)¹, at 2601 8966 for enquiries on this subject.

Leisure and Cultural Services Department
28 June 2012

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No. 2) Order 2012

Section 1

1

**Public Health and Municipal Services Ordinance
(Public Pleasure Grounds) (Amendment of Fourth
Schedule) (No. 2) Order 2012**

(Made by the Director of Leisure and Cultural Services under section 106
of the Public Health and Municipal Services Ordinance (Cap. 132))

1. **Place ceasing to be set aside for use as public pleasure ground**
The place specified in Schedule 1 ceases to be set aside for use as a
public pleasure ground.
2. **Public Health and Municipal Services Ordinance amended**
The Public Health and Municipal Services Ordinance (Cap. 132) is
amended as set out in Schedule 2.

Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No. 2) Order 2012

Schedule 1

2

Schedule 1

[s. 1]

**Place Ceasing to be Set Aside for Use as Public Pleasure
Ground**

Kowloon

West Kowloon Waterfront Promenade

Schedule 2

[s. 2]

**Amendment to Public Health and Municipal Services
Ordinance**

1. Fourth Schedule amended (public pleasure grounds)

Fourth Schedule, list of public pleasure grounds (other than bathing
beaches), under heading “Kowloon”—

Repeal

“West Kowloon Waterfront Promenade”.



(Mrs Betty FUNG)
Director of Leisure and Cultural
Services

28 June 2012

Explanatory Note

This Order provides that the West Kowloon Waterfront Promenade
ceases to be set aside for use as a public pleasure ground and
amends the Fourth Schedule to the Public Health and Municipal
Services Ordinance (Cap. 132) to reflect the cessation.

立法會
Legislative Council

LC Paper No. LS90/11-12

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 July 2012**

**LEGAL NOTICE NOT REQUIRED TO BE TABLED AND NOT
SUBJECT TO AMENDMENT**

**Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202)
Volunteer and Naval Volunteer Pensions Ordinance (Amendment of
Schedules) Order 2012 (L.N. 110)**

The Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) (the Ordinance) provides for the payment of pensions, gratuities, and other allowances (the statutory payment) in connection with the disablement or death of officers and volunteers of the Hong Kong Volunteer Defence Corps and members of the Hong Kong Naval Volunteer Force who were called out on actual military service or actual service during the Second World War. Under section 35(2) of the Ordinance, the amounts of the statutory payment are adjusted in accordance with the percentage of increase declared in a notice made under section 4(1C) of the Pensions (Increase) Ordinance (Cap. 305) (PIO).

2. The Order is made by the Secretary for Labour and Welfare under section 35(2) of the Ordinance. It amends Schedules 3 to 8 to the Ordinance to adjust the amounts of the statutory payment. Section 35(5) of the Ordinance provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to an order made under section 35(2) of the Ordinance. Accordingly, the Order is not required to be tabled in the Legislative Council and is not subject to amendment.

3. By the Declaration of Increase in Pensions Notice 2012 (L.N. 105 of 2012) (the DIP Notice) gazetted on 15 June 2012 made under PIO, an increase of 5.7% is declared in respect of a basic pension with effect from 1 April 2012 in accordance with the percentage of increase in the average monthly Consumer Price Index (A) (the Average Index) of the 12 months ending on 31 March 2012 over the Average Index of the immediately preceding 12 months. Accordingly, pursuant to the Order, the amounts set out in Schedules 3 to 8 to the Ordinance are adjusted in accordance with the

percentage of increase (5.7%) in respect of a basic pension declared in the DIP Notice. The relevant amounts were last revised in April 2011 (L.N. 132 of 2011).

4. Section 35(4) of the Ordinance provides that an order made under section 35(2) shall take effect on the same date as specified in the relevant notice made under PIO. As mentioned in paragraph 3 above, the DIP Notice came into effect on 1 April 2012. Accordingly, the Order is deemed to have come into operation on 1 April 2012.

5. The Panel on Welfare Services has not been consulted on the Order.

6. No difficulties have been identified in the legal and drafting aspects of the above item of subsidiary legislation.

Prepared by

YICK Wing-kin
Assistant Legal Adviser
Legislative Council Secretariat
20 July 2012

LEGISLATIVE COUNCIL BRIEF

Volunteer and Naval Volunteer Pensions Ordinance (Chapter 202)

VOLUNTEER AND NAVAL VOLUNTEER PENSIONS ORDINANCE (AMENDMENT OF SCHEDULES) ORDER 2012

INTRODUCTION

Pursuant to section 35 of the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) (the Ordinance), the Secretary for Labour and Welfare (SLW) has made the Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2012 (the Order) at **Annex** to amend Schedules 3 to 8 to the Ordinance to adjust the rates and amounts of the pensions and allowances for eligible recipients.

JUSTIFICATIONS

2. Under section 35(2) of the Ordinance, SLW may by order amend the rates and amounts of the pensions and allowances specified in Schedules 3 to 8 to the Ordinance in accordance with the percentage of increase as declared in a notice made under section 4(1C) of the Pensions (Increase) Ordinance (Cap. 305). The percentage of increase in pensions as declared in the Declaration of Increase in Pensions Notice 2012 (the Notice) was 5.7%.

THE ORDER

3. A copy of the Order is at **Annex**. The Order amends Schedules 3 to 8 to the Ordinance to set out the new payment rates to eligible recipients.

LEGISLATIVE TIMEABLE

4. The Order will be gazetted on 13 July 2012. Pursuant to section 35(4) of the Ordinance, the Order is deemed to have taken effect from the effective date for the increase in pensions as declared in the Notice, i.e. 1 April 2012.

IMPLICATIONS OF THE ORDER

5. The Order is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance. It has no productivity, civil service, economic, environmental and sustainability implications.

FINANCIAL IMPLICATIONS

6. At present, there are 11 recipients eligible for pensions and allowances payable under the Ordinance. Since the total number of recipients is less than last year's, the revision of the payment rates will not incur any additional expenditure over and above the original estimates. The total expenditure under this Ordinance will amount to about \$520,000 in 2012-13.

PUBLIC CONSULTATION

7. Since this is a routine updating exercise, public consultation on the Order is considered not necessary.

PUBLICITY

8. The Administration will inform eligible recipients in writing of the adjusted rates and amounts of the pensions and allowances.

BACKGROUND

9. The Ordinance provides for the payment of pensions and allowances in respect of deaths, disablement or sickness of members of the two volunteer forces, namely, the Hong Kong Volunteer Defence Corps and the Hong Kong Naval Volunteer Force, who fought in the defence of Hong Kong during the Second World War.

ENQUIRY

10. Any enquiries on this brief should be addressed to Mr. Cyrus CHEUNG, Assistant Secretary for Labour and Welfare (Welfare) 1B, at 2810-3933.

Labour and Welfare Bureau

11 July 2012

Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2012

(Made by the Secretary for Labour and Welfare under section 35(2) of the
Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202))

1. **Commencement**

This Order is deemed to have come into operation on 1 April 2012.

2. **Volunteer and Naval Volunteer Pensions Ordinance amended**

The Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202)
is amended as set out in sections 3 to 8.

3. **Schedule 3 amended (rates of disablement pension)**

Schedule 3—

Repeal column 2

Substitute

“Column 2
Monthly rate
(HK\$)

Officer rank	Member rank
7,728.70	7,723.86
6,957.50	6,951.49
6,183.93	6,179.10
5,410.31	5,406.70
4,637.94	4,634.32
3,865.55	3,861.93
3,093.15	3,089.54
2,319.58	2,317.17

Officer rank	Member rank
1,545.98	1,544.77”.

4. **Schedule 4 amended (rates of minor disablement gratuity)**

(1) **Schedule 4, Part I—**

Repeal column 3

Substitute

“Column 3

Amount
(HK\$)

Officer rank	Member rank
84,561.78	84,052.48
67,682.71	67,260.33
56,374.51	56,036.60
33,758.09	33,586.71
73,253.56	72,828.77
56,374.51	56,036.60
45,066.32	44,812.86
28,187.26	28,018.29
45,066.32	44,812.86
39,495.47	39,242.04
33,758.09	33,586.71
16,879.05	16,794.58
84,561.78	84,052.48
22,447.47	22,362.99
22,447.47	22,362.99
11,308.21	11,223.74

Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules)
Order 2012

Section 5

3

Officer rank	Member rank
33,758.09	33,586.71
16,879.05	16,794.58
39,495.47	39,242.04
22,447.47	22,362.99
56,374.51	56,036.60
22,447.47	22,362.99".

(2) Schedule 4, Part II—

Repeal column 3

Substitute

"Column 3	
Amount (HK\$)	
Officer rank	Member rank
4,757.42	4,654.84
10,597.37	10,360.82
18,537.25	18,113.67
9,513.61	9,328.98
21,127.16	20,670.99
36,990.04	36,177.82
28,558.98	27,865.04
63,450.30	61,892.24
111,038.94	108,228.16".

5. **Schedule 5 amended (rates of other allowances)**

Schedule 5—

Repeal column 2

Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules)
Order 2012

Section 6

4

Substitute

"Column 2

Monthly rate
(HK\$)

5,844.79

(maximum)

2,923.01

(maximum)

1,251.51

(maximum)

515.33

796.53

1,136.86

1,589.43".

6. **Schedule 6 amended (rates of pension for surviving spouses)**

Schedule 6—

Repeal columns 2 and 3

Substitute

"Column 2	Column 3
Monthly rate (HK\$)	Monthly rate (HK\$)
6,053.58	6,053.58
5,855.64	1,370.98".

7. **Schedule 7 amended (rates of age allowance for elderly surviving spouses)**

Schedule 7—

Repeal column 2

Substitute

“Column 2

Monthly rate

(HK\$)

664.98

1,280.47

1,904.41”.

8. Schedule 8 amended (adjusted rates of payment)

Schedule 8—

Repeal column 2

Substitute

“Column 2

Monthly rate

(HK\$)

4,774.32

2,912.14

2,775.77”.



Secretary for Labour and Welfare

6 July 2012

Explanatory Note

This Order amends Schedules 3 to 8 to the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) (*Ordinance*) to adjust the rates for the payment of pensions, gratuities and other allowances under the Ordinance in connection with the disablement or death of the officers and volunteers of the Hong Kong Volunteer Defence Corps and members of the Hong Kong Naval Volunteer Force who fought in defence of Hong Kong during the Second World War.

2. The rates are adjusted in accordance with the percentage of increase in respect of basic pensions as declared in the Declaration of Increase in Pensions Notice 2012 (L.N. 105 of 2012) (*Notice*).
3. Under section 35(4) of the Ordinance, the Order is deemed to have taken effect from 1 April 2012 (the effective date for the increase declared in the Notice).

立法會
Legislative Council

LC Paper No. LS91/11-12

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 27 July 2012**

**LEGAL NOTICES NOT REQUIRED TO BE TABLED AND NOT
SUBJECT TO AMENDMENT**

**Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)
Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment
of Schedule 1) Notice 2012 (L.N. 136)**

L.N. 136 is made by the Commissioner for Transport (the Commissioner) under section 45(1) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) to replace Schedule 1 to the Ordinance with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Tai Lam Tunnel and Yuen Long Approach Road (Route 3). L.N. 136 came into operation on 1 August 2012.

2. Cap. 474 provides for a toll adjustment mechanism in respect of Route 3. Under section 39(1), Route 3 (CPS) Company Limited (the Franchisee) may, during the franchise period, give effect to an anticipated toll increase on each of three specified dates (i.e. 1 January 2003, 1 January 2010 and 1 January 2017) referred to in Schedule 3. However, under section 40(1), if the Franchisee's Actual Net Revenue (ANR) for any year, which is not a year ending immediately before a specified date, is less than the Minimum Estimated Net Revenue (MENR) for that year as specified in Schedule 4, the Franchisee may apply to the Secretary for Transport and Housing (the Secretary) to give effect to the next anticipated toll increase. Under section 42(1), where the Franchisee has given effect to all the anticipated toll increases pursuant to section 39(1) or 40(1) and its ANR for any year occurring before the expiry of the franchise period is less than its MENR for that year, it may apply to the Secretary for an additional toll increase. Schedule 2 specifies the amounts of toll increase to which the Franchisee may give effect in respect of different categories of vehicles.

3. Under section 45(1), where a toll is increased under the mechanism described in paragraph 2 above, the Commissioner shall by notice published in the Gazette amend Schedule 1 to vary the tolls for different categories of

vehicles using Route 3. Section 45(3) provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in respect of such notice. Accordingly, L.N. 136 is not required to be tabled before, and is not subject to amendment by, the Legislative Council.

4. The amounts of increase of statutory tolls reflected in L.N. 136 are in accordance with the amounts specified in Schedule 2 to Cap. 474. The last statutory toll increase for Route 3 came into effect on 1 August 2011 (L.N. 130 of 2011). According to paragraph 9 of the Information Note issued by the Transport and Housing Bureau (THB) on 27 July 2012 (File Ref: THB(T)CR 19/3/5591/91), the Franchisee will continue to offer concessions to all types of vehicles so that the current concessionary tolls¹ will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of Route 3 will not be affected by any actual increase in tolls.

5. A comparison of the Route 3 statutory tolls before and after the increase, and the applicable concessionary tolls, is at **Annex I**.

6. As stated in paragraph 3 of the Information Note, since the operation of Route 3 in 1998, the Franchisee's actual net revenue has consistently fallen short of the specified levels. The current toll increase is based on the Franchisee's 2007/08 Net Revenue Statement (NRS) which shows that its ANR for 2007/08 was \$593 million, which is lower than the MENR of \$1,494 million for that year specified in Schedule 4 to Cap. 474. According to paragraph 8 of the Information Note, by 19 June 2005, the Franchisee has effected all the anticipated toll increases and has since then effected six additional toll increases. The present increase is the seventh additional toll increase.

Western Harbour Crossing Ordinance (Cap. 436)

Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012 (L.N. 137)

7. L.N. 137 is made by the Commissioner under section 52(1) of the Western Harbour Crossing Ordinance (Cap. 436) to replace Schedule 1 to the Ordinance with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Western Harbour Crossing (WHC). L.N. 137 came into operation on 31 July 2012.

8. Cap. 436 provides for WHC a toll adjustment mechanism similar to that of Route 3 described in paragraphs 2 and 3 above. Under section 45(1),

¹ The current concessionary tolls took effect from 1 January 2011.

Western Harbour Tunnel Company Limited (the Company) may, during the franchise period, give effect to an anticipated toll increase on each of six specified dates (i.e. 1 January 2001, 1 January 2005, 1 January 2009, 1 January 2013, 1 January 2017 and 1 January 2021) referred to in Schedule 4. However, whenever the Company's net revenue in any year, which is not a year ending immediately before a specified date, is less than the MENR for that year as specified in Schedule 5, it may apply to the Secretary to give effect to the next anticipated toll increase (section 46(1)). Under section 48(1), where the Company has given effect to all the anticipated toll increases and its net revenue in respect of any year before the expiry of the franchise period is less than the MENR for that year, it may apply to the Secretary to give effect to an additional toll increase. The amounts of toll increase to which the company may give effect for different categories of vehicles on or after 1 January 2011 are specified in Schedule 3 (section 50(1)).

9. Where a toll is increased in accordance with the mechanism mentioned above, the Commissioner shall by notice published in the Gazette amend Schedule 1 to vary the tolls for different categories of vehicles (section 52(1)). Section 52(3) provides that section 34 of Cap. 1 shall not apply to such notice. Accordingly, L.N. 137 is not required to be tabled before, and is not subject to amendment by, the Legislative Council.

10. The amounts of increase of statutory tolls reflected in L.N. 137 are in accordance with the amounts specified in Schedule 3 to Cap. 436. The last statutory toll increase for WHC came into effect on 31 July 2011 (L.N. 131 of 2011). According to paragraph 9 of the Information Note issued by THB on 27 July 2012 (File Ref: THB(T)CR 1/4651/99), the Company will continue to offer concessions to all types of vehicles so that the current concessionary tolls² will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of WHC will not be affected by any actual increase in tolls.

11. A comparison of the WHC statutory tolls before and after the increase, and the applicable concessionary tolls, is at **Annex II**.

12. As stated in paragraph 3 of the Information Note, since the operation of WHC in 1997, the Company's net revenue has consistently fallen short of the specified levels. The current toll increase is based on the Company's 2008/09 NRS which shows that its net revenue for 2008/09 was \$788 million, which is lower than the MENR of \$1,876 million for that year specified in Schedule 5 to Cap. 436. According to paragraph 8 of the Information Note, by 31 July 2006, the Company has effected all the anticipated toll increases and has since then effected five additional toll increases. The present increase is the sixth additional toll increase.

² The current concessionary tolls took effect from 1 August 2010.

13. The Panel on Transport has not been consulted on the new statutory tolls specified in L.N. 136 and L.N. 137.

14. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 136 and L.N. 137.

Prepared by

TAM Shuk-fong, Clara
Assistant Legal Adviser
Legislative Council Secretariat
2 August 2012

Annex I

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 1 August 2012	
1.	Motorcycles, motor tricycles	55	60	20
2.	Private cars, electrically powered passenger vehicles, taxis	60	65	33
3.	Public and private light buses	165	180	100
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	165	180	34
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	65	70	0
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	175	190	40
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	65	70	0
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	195	210	45
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	65	70	0
7.	Public and private single-decked buses	165	180	115
8.	Public and private double-decked buses	180	195	135

Annex II

Western Harbour Crossing Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 31 July 2012	
1.	Motorcycles, motor tricycles	70	80	23
2.	Private cars, electrically powered passenger vehicles	135	150	50
	Taxis	135	150	45
3.	Public and private light buses	150	170	60
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	200	220	60
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	135	150	30
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	280	315	85
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	135	150	30
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	410	455	115
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	135	150	30
7.	Public and private single-decked buses	150	170	90
8.	Public and private double-decked buses	220	250	128

Information Note

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Chapter 474)

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2012

INTRODUCTION

Pursuant to section 45(1) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (“the Ordinance” hereafter, Cap. 474), the Commissioner for Transport has published today the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2012 (at Annex A) to show the new statutory tolls of Route 3 (Country Park Section) (“Route 3” hereafter). The actual tolls of Route 3 will remain unchanged and users of Route 3 will not be affected.

JUSTIFICATIONS

2. The Ordinance provides for a specified toll adjustment mechanism in respect of Route 3, under which the franchisee may effect anticipated toll increases on three specified dates (1 January of 2003, 2010 and 2017). According to section 42 of the Ordinance, if the franchisee’s actual net revenue falls short of the minimum estimated net revenue for that year as specified in Schedule 4 to the Ordinance, the franchisee may advance an anticipated toll increase or create an additional toll increase if all the anticipated toll increases have been effected. The maximum levels of increase in respect of different categories of vehicles are specified in Schedule 2 to the Ordinance.

3. Since the commissioning of Route 3 in 1998, the franchisee’s actual net revenue has consistently fallen short of the specified levels. In July 2012, the franchisee informed the Government that based on its 2007/08 Net Revenue Statement (“NRS”), it would exercise the right to statutory toll increases and the new statutory toll levels would take effect on

1 August 2012. The NRS shows that the franchisee's actual net revenue for 2007/08 was \$593 million and lower than the minimum estimated net revenue of \$1,494 million for that year specified in Schedule 4 to the Ordinance. The franchisee is therefore entitled to an additional toll increase under section 42 of the Ordinance. We have carefully examined the NRS in accordance with the requirement under the toll adjustment mechanism, and consider that the franchisee's statutory toll increase complies with the relevant provisions of the Ordinance (copies of section 42, section 45, Schedule 2 and Schedule 4 are at Annex B).

THE NOTICE

4. The Notice sets out the new tolls of Route 3 for different categories of vehicles.

LEGISLATIVE TIMETABLE

5. The legislative timetable is as follows -

Publication in the Gazette	27 July 2012
Commencement	1 August 2012

IMPLICATIONS

6. The statutory toll increase is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial, economic, environmental, sustainability, productivity or civil service implications. The Notice does not affect the binding effect of the Ordinance.

PUBLICITY

7. A press release has been issued on 27 July 2012.

BACKGROUND

8. By 19 June 2005, the franchisee has effected all the anticipated toll increases and has since created six additional toll increases. The impending statutory toll increase will be the seventh additional toll increase.

9. The franchisee offers concessions to all categories of vehicles and therefore the actual tolls are lower than the statutory levels. The franchisee will offer concessions to all types of vehicles after the present statutory toll increase has taken effect, so that the current concessionary tolls will be maintained and users of Route 3 will not be affected. The historical changes in Route 3 tolls are at Annex C. The new statutory and concessionary tolls of Route 3 as compared with the current tolls are at Annex D.

ENQUIRIES

10. Any enquiries concerning this Note can be directed to Miss Erica Ng, Principal Assistant Secretary for Transport and Housing (Transport), at 3509 8192.

Transport and Housing Bureau
27 July 2012

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of
Schedule 1) Notice 2012

Section 1

1

**Tai Lam Tunnel and Yuen Long Approach Road
Ordinance (Amendment of Schedule 1) Notice 2012**

(Made by the Commissioner for Transport under section 45(1) of the Tai
Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474))

1. Commencement

This Notice comes into operation on 1 August 2012.

**2. Tai Lam Tunnel and Yuen Long Approach Road Ordinance
amended**

The Tai Lam Tunnel and Yuen Long Approach Road Ordinance
(Cap. 474) is amended as set out in section 3.

3. Schedule 1 substituted

Schedule 1—

Repeal the Schedule

Substitute

“Schedule 1 [ss. 2(1), 27, 28,
30 & 45]

**Tai Lam Tunnel and Yuen Long Approach Road
Tolls**

Category	Vehicle	Toll \$
1.	Motorcycles, motor tricycles.....	60
2.	Private cars, electrically powered passenger vehicles, taxis	65

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of
Schedule 1) Notice 2012

Section 3

2

Category	Vehicle	Toll \$
3.	Public and private light buses	180
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes.....	180
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	70
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes.....	190
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	70
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	210
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	70
7.	Public and private single-decked buses.....	180
8.	Public and private double-decked buses	195”.



Commissioner for Transport

23 July 2012

Explanatory Note

This Notice replaces Schedule 1 to the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) to show the new tolls.

Annex B

Chapter:	474	Title:	TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD ORDINANCE	Gazette Number:	
Section:	42	Heading:	Creation of additional toll increases	Version Date:	30/06/1997

(1) Where the Company has given effect to all the anticipated toll increases pursuant to section 39(1) or 40(1) and the Actual Net Revenue of the Company for any year occurring before the expiry of the franchise period is less than its Minimum Estimated Net Revenue for that year, the Company may apply to the Secretary to give effect to an additional toll increase.

(2) Section 39(3), (4), (5) and (6) shall apply in relation to an application under subsection (1).

(3) The date on which a toll increase applied for under subsection (1), if permitted, may be given effect to is 1 January next following the year in respect of which the application is made.

(Enacted 1995)

Chapter:	474	Title:	TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD ORDINANCE	Gazette Number:	
Section:	45	Heading:	Amendment of Schedule 1	Version Date:	30/06/1997

(1) Where a toll is increased in accordance with this Part and the project agreement, the Commissioner shall by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll.

(2) For the avoidance of doubt it is declared that the Company shall not give effect to more than 1 increase in the tolls in 1 year.

(3) Section 34 of the Interpretation and General Clauses Ordinance (Cap 1) shall not apply in respect of a notice under subsection (1).

(Enacted 1995)

Chapter:	474	Title:	TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD ORDINANCE	Gazette Number:	
Schedule:	2	Heading:	INCREASES IN TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD TOLLS	Version Date:	30/06/1997

[sections 28 & 44]

Category	Vehicle	Increase \$
1.	Motorcycles, motor tricycles	5
2.	Private cars, electrically powered passenger vehicles, taxis	5
3.	Public and private light buses	15
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	15
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	5
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	15
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	5
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	15
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	5
7.	Public and private single-decked buses	15
8.	Public and private double-decked buses	15

(Enacted 1995)

Chapter:	474	Title:	TAI LAM TUNNEL AND YUEN LONG APPROACH ROAD ORDINANCE	Gazette Number:
Schedule:	4	Heading:	ESTIMATED NET REVENUE (\$000000's)	Version Date: 30/06/1997

[section 36]

Year ending on 31 July in	Minimum Estimated Net Revenue	Maximum Estimated Net Revenue
1999	45	202
2000	101	253
2001	149	339
2002	264	430
2003	479	774
2004	648	1095
2005	762	1285
2006	877	1488
2007	1236	1602
2008	1494	1670
2009	1605	1819
2010	1863	2159
2011	2066	2344
2012	2140	2348
2013	2129	2551
2014	2059	2648
2015	1988	2571
2016	1899	2483
2017	2040	2439
2018	2146	2419
2019	2068	2348
2020	1953	2234
2021	1856	2125
2022	1715	1976
2023	1625	1895
2024	1524	1757
2025	929	1098

Note 1: In this Schedule "year" shall be construed with reference to the definition of "year" in section 36 of this Ordinance.

Note 2: The period specified in the last item of column 1 may be varied in accordance with the project agreement.

(Enacted 1995)

Historical Toll Levels of Route 3 (page 1 of 3)

	25 May 1998		11 August 1998		27 October 1998		1 April 2000		18 September 2000		1 April 2001	
	Statutory	Actual	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary
Motorcycles and motor tricycles	\$10	\$10	\$10	\$10	\$10	\$10	\$15	\$15	\$15	\$15	\$20	\$17
Private cars, electrically powered passenger vehicles and taxis	\$15	\$15	\$15	\$15	\$15	\$15	\$20	\$20	\$20	\$20	\$25	\$22
Light buses	\$30	\$30	\$30	\$30	\$30	\$30	\$45	\$45	\$45	\$45	\$60	\$60
Light goods vehicles	\$30	\$30	\$30	\$30	\$30	\$23	\$45	\$25	\$45	\$25	\$60	\$25
Medium goods vehicles	\$40	\$40	\$40	\$30	\$40	\$30	\$55	\$35	\$55	\$35	\$70	\$35
Heavy goods vehicles	\$60	\$60	\$60	\$30	\$60	\$30	\$75	\$35	\$75	\$40	\$90	\$40
Single-decked buses	\$30	\$30	\$30	\$30	\$30	\$30	\$45	\$45	\$45	\$45	\$60	\$60
Double-decked buses	\$45	\$45	\$45	\$45	\$45	\$45	\$60	\$60	\$60	\$60	\$75	\$75
Additional axle for goods vehicles	\$20	\$20	\$20	\$0	\$20	\$0	\$25	\$0	\$25	\$0	\$30	\$0

Historical Toll Levels of Route 3 (page 2 of 3)

	19 June 2005		17 September 2006		19 August 2007		28 December 2008		1 August 2009	
	Statutory	Concessionary	Statutory	Concessionary	Statutory	Concessionary	Statutory	Concessionary	Statutory	Concessionary
Motorcycles and motor tricycles	\$25	\$17	\$30	\$17	\$35	\$18	\$40	\$20	\$45	\$20
Private cars, electrically powered passenger vehicles and taxis	\$30	\$25	\$35	\$25	\$40	\$28	\$45	\$30	\$50	\$30
Light buses	\$75	\$75	\$90	\$75	\$105	\$90	\$120	\$100	\$135	\$100
Light goods vehicles	\$75	\$28	\$90	\$28	\$105	\$30	\$120	\$32	\$135	\$32
Medium goods vehicles	\$85	\$35	\$100	\$35	\$115	\$35	\$130	\$40	\$145	\$40
Heavy goods vehicles	\$105	\$40	\$120	\$40	\$135	\$40	\$150	\$45	\$165	\$45
Single-decked buses	\$75	\$75	\$90	\$75	\$105	\$90	\$120	\$100	\$135	\$100
Double-decked buses	\$90	\$90	\$105	\$90	\$120	\$105	\$135	\$120	\$150	\$120
Additional axle for goods vehicles	\$35	\$0	\$40	\$0	\$45	\$0	\$50	\$0	\$55	\$0

Historical Toll Levels of Route 3 (page 3 of 3)

	4 September 2010		1 January 2011		1 August 2011	
	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary
Motorcycles and motor tricycles	\$50	\$20	\$50	\$20	\$55	\$20
Private cars, electrically powered passenger vehicles and taxis	\$55	\$30	\$55	\$33	\$60	\$33
Light buses	\$150	\$100	\$150	\$100	\$165	\$100
Light goods vehicles	\$150	\$32	\$150	\$34	\$165	\$34
Medium goods vehicles	\$160	\$40	\$160	\$40	\$175	\$40
Heavy goods vehicles	\$180	\$45	\$180	\$45	\$195	\$45
Single-decked buses	\$150	\$100	\$150	\$115	\$165	\$115
Double-decked buses	\$165	\$120	\$165	\$135	\$180	\$135
Additional axle for goods vehicles	\$60	\$0	\$60	\$0	\$65	\$0

Existing and New Tolls of Route 3

	Existing Tolls ^(Note)		New Tolls (w.e.f. 1 August 2012)		
	Statutory	Concessionary	Statutory	Concessionary	Actual Increase
Motorcycles and motor tricycles	\$55	\$20	\$60	\$20	\$0
Private cars, electrically powered passenger vehicles and taxis	\$60	\$33	\$65	\$33	\$0
Light buses	\$165	\$100	\$180	\$100	\$0
Light goods vehicles	\$165	\$34	\$180	\$34	\$0
Medium goods vehicles	\$175	\$40	\$190	\$40	\$0
Heavy goods vehicles	\$195	\$45	\$210	\$45	\$0
Single-decked buses	\$165	\$115	\$180	\$115	\$0
Double-decked buses	\$180	\$135	\$195	\$135	\$0
Additional axle for goods vehicles	\$65	\$0	\$70	\$0	\$0

Note : Existing statutory tolls took effect from 1 August 2011; concessionary tolls took effect from 1 January 2011.

Information Note

Western Harbour Crossing Ordinance (Chapter 436) Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012

INTRODUCTION

Pursuant to section 52(1) of the Western Harbour Crossing Ordinance (“the Ordinance” hereafter, Cap. 436), the Commissioner for Transport has published today the Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012 (at Annex A) to show the new statutory tolls of the Western Harbour Crossing (“WHC” hereafter). The actual tolls of WHC will remain unchanged and tunnel users will not be affected.

JUSTIFICATIONS

2. The Ordinance provides for a specified toll adjustment mechanism in respect of WHC, under which the franchisee may effect anticipated toll increases on six specified dates (1 January of 2001, 2005, 2009, 2013, 2017 and 2021). According to section 48 of the Ordinance, if the franchisee’s actual net revenue in any year falls short of the minimum estimated net revenue for that year specified in Schedule 5 to the Ordinance, the franchisee may advance an anticipated toll increase or create an additional toll increase if all the anticipated toll increases have been effected. The maximum levels of increase in respect of different categories of vehicles are specified in Schedule 3 to the Ordinance.

3. Since the commissioning of WHC in 1997, the franchisee's actual net revenue has consistently fallen short of the specified levels. In June 2012, the franchisee informed the Government that based on its 2008/09 Net Revenue Statement ("NRS"), it would exercise the right to statutory toll increases and the new statutory toll levels would take effect on 31 July 2012. The NRS shows that the franchisee's actual net revenue for 2008/09 was \$788 million and lower than the minimum estimated net revenue of \$1,876 million for that year specified in Schedule 5 to the Ordinance. The franchisee is therefore entitled to an additional toll increase under section 48 of the Ordinance. We have carefully examined the NRS in accordance with the requirement under the toll adjustment mechanism, and consider that the franchisee's statutory toll increase complies with the relevant provisions of the Ordinance (copies of section 48, section 52, Schedule 3 and Schedule 5 are at Annex B).

THE NOTICE

4. The Notice sets out the new tolls of WHC for different categories of vehicles.

LEGISLATIVE TIMETABLE

5. The legislative timetable is as follows -

Publication in the Gazette	27 July 2012
Commencement	31 July 2012

IMPLICATIONS

6. The statutory toll increase is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial, economic, environmental, sustainability, productivity or civil service implications. The Notice does not affect the binding effect of the Ordinance.

PUBLICITY

7. A press release has been issued on 27 July 2012.

BACKGROUND

8. By 31 July 2006, the franchisee has effected all the anticipated toll increases* and has since created five additional toll increases. The impending statutory toll increase will be the sixth additional toll increase.

9. The franchisee offers concessions to all categories of vehicles and therefore the actual tolls are lower than the statutory levels. The franchisee will offer concessions to all types of vehicles after the present statutory toll increase has taken effect, so that the current concessionary tolls will be maintained and tunnel users will not be affected. The historical changes in WHC tolls are at Annex C. The new statutory and concessionary tolls of WHC as compared with the current tolls are at Annex D.

ENQUIRIES

10. Any enquiries concerning this Note can be directed to Miss Erica Ng, Principal Assistant Secretary for Transport and Housing (Transport) at 3509 8192.

Transport and Housing Bureau
27 July 2012

* It has forfeited its right once to effect anticipated toll increase.

Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2012

(Made by the Commissioner for Transport under section 52(1) of the Western Harbour Crossing Ordinance (Cap. 436))

1. Commencement

This Notice comes into operation on 31 July 2012.

2. Western Harbour Crossing Ordinance amended

The Western Harbour Crossing Ordinance (Cap. 436) is amended as set out in section 3.

3. Schedule 1 substituted

Schedule 1—

Repeal the Schedule

Substitute

“Schedule 1 [ss. 2(1), 33, 34, 36 & 52]

Western Harbour Crossing Tolls

Category	Vehicle	Toll \$
1.	Motorcycles, motor tricycles.....	80
2.	Private cars, electrically powered passenger vehicles, taxis.....	150
3.	Public and private light buses	170

Category	Vehicle	Toll \$
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes.....	220
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	150
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes.....	315
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	150
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	455
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2.....	150
7.	Public and private single-decked buses.....	170
8.	Public and private double-decked buses	250”.



Commissioner for Transport

23 July 2012

Explanatory Note

This Notice replaces Schedule 1 to the Western Harbour Crossing Ordinance (Cap. 436) to show the new tolls.

Annex B

Chapter:	436	Title:	WESTERN HARBOUR CROSSING ORDINANCE	Gazette Number:	
Section:	48	Heading:	Creation of additional toll increases	Version Date:	30/06/1997

(1) Where the Company has given effect to all the anticipated toll increases referred to in section 45(1) and the net revenue of the Company in respect of any year before the expiry of the franchise period is less than the minimum estimated net revenue for that year, the Company may apply to the Secretary to give effect to an additional toll increase of an amount which is appropriate having regard to section 50.

(2) Sections 45(3) and (4) shall apply in relation to an application under subsection (1).

(3) The date on which a toll increase applied for under subsection (1), if permitted, may be given effect to is 1 January next following the year in respect of which the application is made.

(Enacted 1993)

Chapter:	436	Title:	WESTERN HARBOUR CROSSING ORDINANCE	Gazette Number:	
Section:	52	Heading:	Amendment of Schedule 1	Version Date:	30/06/1997

(1) Where a toll is increased in accordance with this Part and the project agreement, the Commissioner shall by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll.

(2) For the avoidance of doubt it is declared that the Company shall not give effect to more than 1 increase in the tolls in 1 year.

(3) Section 34 of the Interpretation and General Clauses Ordinance (Cap 1) shall not apply in respect of a notice under subsection (1).

(Enacted 1993)

Chapter:	436	Title:	WESTERN HARBOUR CROSSING ORDINANCE	Gazette Number:
Schedule:	3	Heading:	INCREASES IN WESTERN HARBOUR CROSSING TOLLS	Version Date: 30/06/1997

[sections 34, 49 & 50]

(on or after 1 January 2011 or after expiry of 13 years beginning on
operating date up to expiry of franchise period)

Category	Vehicle	Increase
		\$
1.	Motorcycles, motor tricycles	10
2.	Private cars, electrically powered passenger vehicles, taxis	15
3.	Public and private light buses	20
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	20
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	15
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	35
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	15
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	45
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	15
7.	Public and private single-decked buses	20
8.	Public and private double-decked buses	30

(Enacted 1993)

Chapter: 436 Title: WESTERN HARBOUR CROSSING ORDINANCE Gazette Number:
Schedule: 5 Heading: **ESTIMATED NET REVENUE (\$000000's)** Version Date: 30/06/1997
[section 42]

Year Ending 31 July in	Minimum Estimated Net Revenue	Upper Estimated Net Revenue	Maximum Estimated Net Revenue
1998	154	336	403
1999	201	399	471
2000	253	461	538
2001	506	768	865
2002	713	1016	1128
2003	794	1106	1221
2004	880	1202	1321
2005	1190	1570	1711
2006	1455	1881	2039
2007	1549	1983	2143
2008	1623	2061	2223
2009	1876	2369	2551
2010	2028	2562	2760
2011	1892	2405	2594
2012	1821	2326	2513
2013	2212	2815	3038
2014	2573	3267	3524
2015	2733	3474	3749
2016	2891	3682	3974
2017	3507	4449	4797
2018	4018	5090	5486
2019	4220	5355	5775
2020	4422	5621	6064
2021	5192	6583	7098
2022	5747	7285	7855
2023	5726	7286	7864

Note: In this Schedule "year" shall be construed having regard to the definition of "year" in section 42 of this Ordinance.

(Enacted 1993)

Historical Toll Levels of WHC (page 1 of 3)

	30 April 1997		3 December 2000		31 July 2002		16 February 2003		24 February 2004		4 July 2004	
	Statutory	Actual	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary
Motorcycles and motor tricycles	\$ 15	\$ 15	\$ 20	\$ 20	\$25	\$20	\$25	\$20	\$30	\$20	\$30	\$22
Private cars and electrically powered passenger vehicles	\$30	\$30	\$40	\$35	\$50	\$35	\$50	\$37	\$60	\$37	\$60	\$40
Taxis	\$30	\$30	\$40	\$35	\$50	\$35	\$50	\$35	\$60	\$35	\$60	\$35
Light buses	\$40	\$40	\$50	\$45	\$60	\$45	\$60	\$47	\$70	\$47	\$70	\$50
Light goods vehicles	\$45	\$45	\$60	\$50	\$75	\$50	\$75	\$50	\$90	\$50	\$90	\$55
Medium goods vehicles	\$65	\$65	\$85	\$70	\$105	\$70	\$105	\$70	\$125	\$70	\$125	\$80
Heavy goods vehicles	\$95	\$95	\$125	\$100	\$155	\$100	\$155	\$100	\$185	\$100	\$185	\$110
Single-decked buses	\$40	\$40	\$50	\$50	\$60	\$50	\$60	\$60	\$70	\$60	\$70	\$70
Double-decked buses	\$55	\$55	\$70	\$70	\$85	\$70	\$85	\$85	\$100	\$85	\$100	\$100
Additional axle for goods vehicles	\$30	\$30	\$40	\$30	\$50	\$30	\$50	\$30	\$60	\$30	\$60	\$30

Historical Toll Levels of WHC (page 2 of 3)

	31 July 2005		31 July 2006		31 July 2007		6 January 2008		31 July 2008		31 July 2009	
	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary	Statutory	Conces- sionary
Motorcycles and motor tricycles	\$35	\$22	\$40	\$22	\$45	\$22	\$45	\$22	\$50	\$22	\$55	\$22
Private cars and electrically powered passenger vehicles	\$70	\$40	\$80	\$40	\$90	\$40	\$90	\$45	\$100	\$45	\$110	\$45
Taxis	\$70	\$35	\$80	\$35	\$90	\$35	\$90	\$40	\$100	\$40	\$110	\$40
Light buses	\$80	\$50	\$90	\$50	\$100	\$50	\$100	\$55	\$110	\$55	\$120	\$55
Light goods vehicles	\$105	\$55	\$120	\$55	\$135	\$55	\$135	\$55	\$150	\$55	\$165	\$55
Medium goods vehicles	\$145	\$80	\$165	\$80	\$185	\$80	\$185	\$80	\$205	\$80	\$225	\$80
Heavy goods vehicles	\$215	\$110	\$245	\$110	\$275	\$110	\$275	\$110	\$305	\$110	\$335	\$110
Single-decked buses	\$80	\$70	\$90	\$70	\$100	\$70	\$100	\$80	\$110	\$80	\$120	\$80
Double-decked buses	\$115	\$100	\$130	\$100	\$145	\$100	\$145	\$115	\$160	\$115	\$175	\$115
Additional axle for goods vehicles	\$70	\$30	\$80	\$30	\$90	\$30	\$90	\$30	\$100	\$30	\$110	\$30

Historical Toll Levels of WHC (page 3 of 3)

	31 July 2010 ¹		31 July 2011	
	Statutory	Conces- sionary	Statutory	Conces- sionary
Motorcycles and motor tricycles	\$60	\$23	\$70	\$23
Private cars and electrically powered passenger vehicles	\$120	\$50	\$135	\$50
Taxis	\$120	\$45	\$135	\$45
Light buses	\$130	\$60	\$150	\$60
Light goods vehicles	\$180	\$60	\$200	\$60
Medium goods vehicles	\$245	\$85	\$280	\$85
Heavy goods vehicles	\$365	\$115	\$410	\$115
Single-decked buses	\$130	\$90	\$150	\$90
Double-decked buses	\$190	\$128	\$220	\$128
Additional axle for goods vehicles	\$120	\$30	\$135	\$30

¹ Statutory tolls took effect from 31 July 2010; concessionary tolls took effect from 1 August 2010.

Annex D**Existing and New Tolls of WHC**

	Existing Tolls ^(Note)		New Tolls (w.e.f. 31 July 2012)		
	Statutory	Concessionary	Statutory	Concessionary	Actual Increase
Motorcycles and motor tricycles	\$70	\$23	\$80	\$23	\$0
Private cars and electrically powered passenger vehicles	\$135	\$50	\$150	\$50	\$0
Taxis	\$135	\$45	\$150	\$45	\$0
Light buses	\$150	\$60	\$170	\$60	\$0
Light goods vehicles	\$200	\$60	\$220	\$60	\$0
Medium goods vehicles	\$280	\$85	\$315	\$85	\$0
Heavy goods vehicles	\$410	\$115	\$455	\$115	\$0
Single-decked buses	\$150	\$90	\$170	\$90	\$0
Double-decked buses	\$220	\$128	\$250	\$128	\$0
Additional axle for goods vehicles	\$135	\$30	\$150	\$30	\$0

Note : Existing statutory tolls took effect from 31 July 2011; concessionary tolls took effect from 1 August 2010.

立法會
Legislative Council

LC Paper No. LS92/11-12

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 August 2012**

Date of tabling in LegCo : 10 October 2012

Amendment to be made by : A sitting of LegCo held not later than 7 November 2012 or, if extended by resolution, the first sitting of LegCo held not earlier than 28 November 2012.

**Prevention and Control of Disease Ordinance (Cap. 599)
Prevention and Control of Disease Ordinance (Amendment of Schedule 1)
Notice 2012 (L.N. 138)**

The Amendment Notice is made by the Director of Health (the Director) under section 15 of Prevention and Control of Disease Ordinance (Cap. 599) (the Ordinance).

2. The Ordinance and its subsidiary legislation provide a statutory framework for the control and prevention of any disease that poses public health risks in Hong Kong. Section 15 of the Ordinance provides that the Director may by notice published in the Gazette amend Schedule 1 (which specifies a list of infectious diseases known as "scheduled infectious diseases") to the Ordinance. Further, section 4 of Prevention and Control of Disease Regulation (Cap. 599A) provides that if a medical practitioner has reason to suspect the existence of a case of any disease specified in the schedule, the practitioner shall notify the Director immediately.

3. At present, there are 45 items of scheduled infectious diseases. Item 16 of the schedule specifies various Influenza A diseases. The Amendment Notice adds "Variant Influenza A (H3N2)" to the item. According to the Press Release issued on 17 August 2012, the Administration considers it necessary to include H3N2 to the Schedule to strengthen the surveillance over this type of influenza to enable effective public health prevention and control measures to be implemented locally.

4. No LegCo Brief has been issued at the date of this report. The Panel on Health Services has not been consulted on the Amendment Notice. The Amendment Notice came into operation on 17 August 2012.

5. No difficulties have been identified in relation to the legal or drafting aspects of the Amendment Notice.

Prepared by

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23 August 2012

LS/S/34/11-12

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Chapter 599)

PREVENTION AND CONTROL OF DISEASE ORDINANCE (AMENDMENT OF SCHEDULE 1) NOTICE 2012

INTRODUCTION

On 14 August 2012, the Director of Health (“the Director”), in exercise of powers conferred by section 15 of the Prevention and Control of Disease Ordinance (Cap.599) (“the Ordinance”), made the Prevention and Control of Disease Ordinance (Amendment of Schedule 1) Notice 2012 at the Annex.

JUSTIFICATIONS

2. The Ordinance and its subsidiary legislation, the Prevention and Control of Disease Regulation (“the Regulation”), provide a legislative framework for the prevention and control of communicable diseases of public health importance. Section 4 of the Regulation requires medical practitioners to notify the Director if they have reason to suspect the existence of any of the infectious diseases specified in Schedule 1 to the Ordinance in a form as specified by the Director. The reporting of infectious diseases is an important element in the surveillance, prevention and control of spread of infectious diseases.

3. The Director regularly reviews the list of infectious diseases statutorily notifiable by medical practitioners in order to ensure maximal protection of the local community against infectious diseases. Under section 15 of the Ordinance, the Director may amend the Schedules to the Ordinance by notice published in the Gazette. There are 47 infectious diseases listed in the Schedule 1 to the Ordinance. Influenza A (H2), influenza A (H5), influenza A (H7) and influenza A (H9) were the types of influenza among the list of infectious diseases in Schedule 1 prior to the amendment.

Variant Influenza A (H3N2)

4. Influenza A virus infections are common in pigs, and these influenza A viruses are generally different from those circulating among humans. Swine influenza A viruses can occasionally cause human infections, but this is uncommon. These viruses are called “variant viruses” when people are infected with them. Human infections with variant influenza viruses most commonly occur in people with

exposure to infected pigs (e.g. workers in the swine industry, children near pigs at a farm fair).

5. In 2011, the United States detected a new influenza A(H3N2) variant (“A(H3N2)v”) virus which had acquired the matrix gene (“M gene”) from the influenza A(H1N1)pdm09 virus. Since July 2012, the United States saw an increasing number of human infections with A(H3N2)v. As at 7 September 2012, the United States Centers for Disease Control and Prevention (USCDC) reported 297 cases in 2012, of which 296 cases were reported since July 2012.

6. Most of the cases reported in the United States were mild and self-limited, presenting with symptoms and signs of influenza (fever, cough, runny nose, sore throat, muscle aches) and most cases have recovered. According to USCDC, since July 2012, there have been 16 confirmed hospitalisations with A(H3N2)v and one death has occurred, involving a 61-year-old female with multiple underlying health conditions.

7. While still rare, A(H3N2)v has been identified with greater frequency than previous human infections with other variant influenza viruses. It is possible that acquisition of the M gene from A(H1N1)pdm09 may have made A(H3N2)v more transmissible from swine to human and from human to human. The vast majority of cases have been associated with swine exposure, though likely instances of limited human-to-human transmission have been identified.

8. While no sustained community transmission of A(H3N2)v has been observed yet, it is possible that this A(H3N2)v could gain increased capacity for efficient and sustained human-to-human transmission because influenza viruses are constantly evolving. Limited serologic studies conducted in the United States to date indicate that children would have little or no immunity to this virus, whereas adults may have some cross-protective immunity.

9. So far, no human infections with A(H3N2)v have been detected outside the United States. However, with the frequent international travel, it is possible that imported cases of A(H3N2)v may occur in Hong Kong. In view of the recent significant increase in the number of infections with A(H3N2)v reported in the United States and to prepare in advance for possible importations of this infection into Hong Kong and their consequences, there is public health justification to strengthen the surveillance of this type of influenza to enable effective public health preventive and control measures be implemented locally.

10. To this end, the Director considered it necessary to add “Variant Influenza A (H3N2)” to the list of infectious diseases specified in the Schedule 1 to the Ordinance. This enabled the provisions of the Ordinance and its subsidiary

legislation be applied as and when necessary, including section 4 of the Regulation whereby medical practitioners are required to notify the Director if they have reason to suspect the existence of this disease. Upon the amendment of the Schedule, the Director has made necessary amendment to the relevant notification form.

11. Hong Kong has a sensitive laboratory surveillance system for influenza virus. The Centre for Health Protection (CHP) of the Department of Health (DH) conducts characterisation of all influenza virus isolates including antigenic and genetic analysis. Upon detection of a case, CHP would conduct epidemiological investigation, contact tracing and the other necessary control measures to ascertain and contain the extent of transmission of the infection.

THE NOTICE

12. The Prevention and Control of Disease Ordinance (Amendment of Schedule 1) Notice 2012 amends Schedule 1 to the Ordinance by adding “Variant Influenza A (H3N2)” to the list of infectious diseases specified in that Schedule. The Notice was gazetted on 17 August 2012 for commencement on the same day.

LEGISLATIVE TIMETABLE

13. The legislative timetable is as follows –

Publication in the Gazette	17 August 2012
Tabling at Legislative Council	10 October 2012

IMPLICATIONS OF THE ORDERS

14. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance and have no economic, financial or civil service implications.

PUBLIC CONSULTATION

15. In view of the latest development and the risk of sustained human-to-human transmission of the new strain of influenza, members of the public and health professionals welcome the amendment which strengthen Hong Kong’s capability to prevent the introduction and spread of the disease.

PUBLICITY

16. DH issued a press release on 17 August 2012 regarding the Notice and informed medical practitioners in Hong Kong on an individual basis of the requirement to notify the Director of cases of A (H3N2)v. A spokesman from DH is available to answer media enquiries.

OTHERS

17. For any enquiries on this brief, please contact Dr S K CHUANG, Consultant Community Medicine (Communicable Disease) of CHP (tel: 2125 2200).

**Food and Health Bureau
September 2012**

L.N. 138 of 2012

**Prevention and Control of Disease Ordinance
(Amendment of Schedule 1) Notice 2012**

(Made by the Director of Health under section 15 of the Prevention
and Control of Disease Ordinance (Cap. 599))

1. Prevention and Control of Disease Ordinance amended

The Prevention and Control of Disease Ordinance (Cap. 599) is
amended as set out in section 2.

2. Schedule 1 amended (scheduled infectious diseases)

Schedule 1—

Repeal item 16

Substitute

“16. Influenza A (H2), Variant Influenza A (H3N2),
Influenza A (H5), Influenza A (H7), Influenza A
(H9) (甲型流行性感冒(H2)、變異株甲型流行性感冒
(H3N2)、甲型流行性感冒(H5)、甲型流行性感冒
(H7)、甲型流行性感冒(H9))”.

Dr. Constance CHAN
Director of Health

14 August 2012

Explanatory Note

The purpose of this Notice is to add “Variant Influenza A
(H3N2)” to the list of scheduled infectious diseases specified in
Schedule 1 to the Prevention and Control of Disease Ordinance
(Cap. 599).

立法會
Legislative Council

LC Paper No. LS1/12-13

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 September 2012**

Date of tabling in LegCo : 10 October 2012

Amendment to be made by : A sitting of LegCo held not later than 7 November 2012 or, if extended by resolution, the first sitting of LegCo held not earlier than 28 November 2012.

PART I SUBSIDIARY LEGISLATION

Prevention and Control of Disease Ordinance (Cap. 599)

Prevention and Control of Disease (Amendment) Regulation 2012 (L.N. 143)

Prevention and Control of Disease Ordinance (Amendment of Schedules 1 and 2) Notice 2012 (L.N. 144)

L.N. 143

The Prevention and Control of Disease Ordinance (Cap. 599) (the Ordinance) and its subsidiary legislation provide a statutory framework for the control and prevention of diseases that pose public health risks in Hong Kong. L.N. 143 was made by the Secretary for Food and Health under section 7 of the Ordinance to amend section 56 of the Prevention and Control of Disease Regulation (Cap. 599 sub. leg. A) (the Regulation) by including "Severe Respiratory Disease associated with Novel Coronavirus" (the Disease) as one of the "specified disease".

2. At present, three diseases (including the Severe Acute Respiratory Syndrome, SARS) are specified under section 56 of the Regulation. Under section 57 of the Regulation, if a health officer has reason to believe that a person is suffering from a specified disease or has been exposed to the risk of infection of a specified disease, a health officer may by order in writing prohibit the person from leaving Hong Kong during a period specified in the order. A person who fails to comply with the order commits an offence and is liable on

conviction to a fine at \$5,000 and to imprisonment of six months. The addition of the Disease to section 56 of the Regulation extends the power of section 57 to cover the Disease.

L.N. 144

3. L.N. 144 was made by the Director of Health (the Director) under section 15 of the Ordinance by adding the Disease as item 34AA and "Novel Coronavirus associated with Severe Respiratory Disease" (the Novel Virus) as item 20A in Schedules 1 (Scheduled Infectious Diseases) and 2 (Scheduled Infectious Agents) to the Ordinance respectively.

4. Under section 15 of the Ordinance, the Director may by notice published in the Gazette amend Schedule 1. The addition of the Disease to Schedule 1 makes it a requirement under section 4 of the Regulation for a medical practitioner to notify the Director immediately if the medical practitioner has reason to suspect the existence of a case of any disease specified in Schedule 1. A person who fails to notify the Director or gives false information to the Director commits an offence and is liable on conviction to a fine of \$5,000. At present, there are 47 diseases in Schedule 1, including SARS.

5. The addition of the Novel Virus to Schedule 2 makes it a requirement of the owner or the person in charge of a laboratory to notify the Director immediately under section 43 of the Regulation if it comes to the knowledge of that person that there is a leakage of an agent listed in Schedule 2 to the Ordinance that may pose a public health risk. Failure to notify the Director or the giving of false information to him is an offence and punishable by a fine of \$5,000 and imprisonment for 6 months. At present, there are 31 infectious agents in Schedule 2.

6. According to the LegCo Brief, coronaviruses are a large family of viruses that can be found in humans and animals. In humans, coronaviruses can cause mild illness like common cold, as well as severe illness like SARS. Two cases of acute respiratory syndrome have been reported in September 2012, which were caused by a novel coronavirus. One of the cases is a fatal case. The Administration considers it necessary to amend the Ordinance and the Regulation to include the Disease and the Novel Virus for the purposes of prevention and implementing control measures.

7. Members may refer to the LegCo Brief issued by the Food and Health Bureau and the Department of Health in September 2012 (File ref.: FH CR 4/3231/96) for further information on L.N. 143 and L.N. 144.

8. L.N. 143 and L.N. 144 have come into operation when they were published in the Gazette on 28 September 2012.

9. No difficulties in the legal and drafting aspects of L.N. 143 and L.N. 144 have been identified.

PART II LEGAL NOTICES NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (L.N. 139)

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 (L.N. 140)

United Nations Sanctions (Guinea-Bissau) Regulation (L.N. 141)

United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (L.N. 142)

10. L.N. 139 to L.N. 142 were made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) on the instruction of the Ministry of Foreign Affairs and after consultation with the Executive Council.

L.N. 139

11. Since 2004, the United Nations Security Council (UNSC) has made several resolutions imposing sanctions against Côte d'Ivoire or renewing certain of these sanctions upon their expiry in view of the persistent human rights violations against civilians which threaten the peace process in the region. These resolutions have been implemented by regulations made under UNSO, the last one being the United Nations Sanctions (Côte d'Ivoire) Regulation 2011 (Cap. 537 sub. leg. AV), which expired at midnight on 30 April 2012.

12. L.N. 139 was made to implement UNSC Resolution 2045 of 2012 adopted on 26 April 2012, which seeks to renew until 30 April 2013 the prohibitions against –

- (a) the supply, sale, transfer or carriage of arms or related materiel to Côte d'Ivoire, subject to certain exemptions specified in resolution 2045;

- (b) the importation of rough diamonds from Côte d'Ivoire;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through Hong Kong by certain persons.

13. The prohibitions against the provision of advice, assistance or training related to military activities and the provision of the supply, sale, transfer or carriage of vehicles to the Ivorian security forces without a licence, which were imposed by the expired United Nations Sanctions (Côte d'Ivoire) Regulation 2011, are not renewed by Resolution 2045.

14. Apart from the modifications imposed by Resolution 2045, the provisions of L.N. 139 are similar to the provisions in the expired United Nations Sanctions (Côte d'Ivoire) Regulation 2011.

15. The Legal Service Division is making certain enquiries with the Administration in relation to the drafting aspect of L.N. 139 and will report further if necessary.

L.N. 140

16. In October 2006, UNSC adopted Resolution 1718 of 2006 to impose sanctions against the Democratic People's Republic of Korea (commonly known as North Korea) (DPRK) in view of its persistent failure to comply fully with its international obligations on non-proliferation of nuclear weapons. The United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) (the DPRK Regulation) was made in 2007 to implement such sanctions. The DPRK Regulation was amended in 2009 to expand the sanctions against DPRK. The main provisions of the DPRK Regulation prohibits –

- (a) the direct or indirect supply, sale or transfer of prohibited items (comprising luxury goods and specified items like materials, equipment, goods and technology related to weaponry) to DPRK;
- (b) the procurement of specified items;

- (c) the provision of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of specified items to a person connected with DPRK or acceptance of such training, advice, services or assistance provided by a specified person;
- (d) making available to or for the benefit of certain persons or entities designated by UNSC funds, other financial assets and economic resources; and
- (e) entry into or transit through Hong Kong by certain persons designated by UNSC.

17. A committee was established by UNSC under paragraph 12 of Resolution 1718 (the Committee). One of the functions of the Committee is to determine additional items, materials, equipment, goods and technology to be specified for the purpose of paragraph 16 above. According to the information paper provided by the Commerce and Economic Development Bureau in September 2012 (with no reference number), the Committee decided on 2 May 2012 that the items, materials, equipment, goods and technology related to ballistic missile programmes in document S/2012/235¹ and the items contained in document INFCIRC/254/Rev. 10/Part 1² shall be subject to the measures mentioned in paragraph 16 above.

18. L.N. 140 implements the decision of the Committee by amending the definition of "specified item" to include references to the two documents. Section 32 of the DPRK Regulation is also amended so that the Director-General of Trade and Industry is required to make available the two documents at the Director-General's office for inspection by the public. The other provisions of the DPRK Regulation remain unchanged.

L.N. 141

19. L.N. 141 imposes UNSC sanctions against Guinea-Bissau which is a country in Western Africa where a military coup took place on 12 April 2012. On 18 May 2012, UNSC adopted Resolution 2048 of 2012, condemning the military coup and expressed concerns, among other things, with the continuing

¹ Available at the website of UNSC at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/NKorea%20S%202012%20235.pdf> (accessed on 3 October 2012).

² Available at the website of the International Atomic Energy Agency at <http://www.iaea.org/Publications/Documents/Infcircs/2011/infcirc254r10p1.pdf> (accessed on 3 October 2012).

instability and reported human rights violation, and imposing travel ban on designated persons in relation to Guinea-Bissau. No other sanction has been imposed by UNSC in Resolution 2048.

20. L.N. 141 was made to implement the travel ban against certain persons designated by UNSC in the Annex to Resolution 2048. The Legal Service Division is making certain enquiries with the Administration in relation to the drafting aspect of L.N. 141 and will report further if necessary.

L.N. 142

21. Since 1992, UNSC has adopted various resolutions to impose sanctions on Somalia having regard to the conflict in the country, which resulted in heavy loss of human life. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) (the Somalia Regulation) was made to implement such sanctions. The main prohibitions include –

- (a) the supply, delivery or carriage of weapons or military equipment to certain persons;
- (b) the provision of advice, assistance or training under 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 Hong Kong by certain persons.

22. Determining that the situation of Somalia continues to constitute a threat to international peace and security in the region, on 22 February 2012, UNSC adopted Resolution 2036 of 2012 to impose an additional prohibition of importing charcoal from Somalia.

23. L.N. 142 amends the Somalia Regulation by introducing a new section 4A to prohibit importation of charcoal from Somalia. L.N. 142 also amends certain provisions in the Somalia Regulation to bring the structure and style of those provisions in line with the structure and style of similar provisions in other regulations made under UNSO.

Concluding remarks for L.N. 139 to L.N. 142

24. L.N. 139 to L.N. 142 have come into operation when it was published in the Gazette on 28 September 2012. Members may refer to the information papers provided by the Commerce and Economic Development Bureau in September 2012 (with no reference number) for further information.

25. Under section 3(5) of UNSO, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under UNSO. Therefore, L.N. 139 to L.N. 142 are not subject to amendment by the Legislative Council.

26. In the Fourth Legislative Council, regulations made under UNSO were considered by the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the UNSC in relation to Sanctions (the Subcommittee), which was established under the House Committee. The Subcommittee submitted its interim report and further report to the House Committee of the Fourth Legislative Council on 25 June 2010 and 29 June 2012 respectively. Given that Regulations made under section 3 of the UNSO would be made by the Government from time to time, the Subcommittee recommended in its report to the House Committee meeting on 29 June 2012 that a subcommittee should be set up in the Fifth Legislative Council to deal with these Regulations. Members attending the House Committee meeting agreed in principle to the Subcommittee's recommendation. Members may wish to consider whether a similar subcommittee should be formed in the Fifth Legislative Council and if it is in the affirmative, whether L.N. 139 to L.N. 142 should be referred to the subcommittee for consideration.

27. Apart from L.N. 139 and L.N. 141, no difficulties in the legal and drafting aspects in L.N. 139 to L.N. 142 have been identified.

Prepared by

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8 October 2012

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Chapter 599)

PREVENTION AND CONTROL OF DISEASE ORDINANCE (AMENDMENT OF SCHEDULES 1 AND 2) NOTICE 2012

PREVENTION AND CONTROL OF DISEASE (AMENDMENT) REGULATION 2012

INTRODUCTION

On 27 September 2012, the Secretary for Food and Health, in exercise of powers conferred by section 7 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”), made the Prevention and Control of Disease (Amendment) Regulation 2012; the Director of Health (“the Director”), in exercise of powers conferred by section 15 of the Ordinance, made the Prevention and Control of Disease Ordinance (Amendment of Schedules 1 and 2) Notice 2012. The Notice and Amendment Regulation are at the [Annex](#).

JUSTIFICATIONS

2. The Ordinance and its subsidiary legislation, the Prevention and Control of Disease Regulation (Cap. 599A) (“the Regulation”), provide a legislative framework for the prevention and control of communicable diseases of public health importance. The Regulation provides for various disease control measures for infectious diseases.¹

3. Section 4 of the Regulation requires medical practitioners to notify the Director if they have reason to suspect the existence of any of the infectious diseases specified in Schedule 1 to the Ordinance in a form as specified by the Director. The reporting of infectious diseases is an important element in the surveillance, prevention and control of spread of infectious diseases.

¹ Under the Ordinance –

- “infected” means the presence of an infectious agent on the surface of or inside the body of, or in, a human being or an article; and
- “infectious agent” means a parasite, a fungus, a bacterium, a virus, a prion or any other agent that can cause an infectious disease.

4. Section 43 of the Regulation requires persons in charge of a laboratory to notify the Director leakage of any infectious agent specified in Schedule 2 to the Ordinance in the laboratory that may pose a public health risk. The reporting of infectious diseases is important to ensure laboratory safety and prevention of laboratory-acquired infections.

5. Section 56 of the Regulation defines specified diseases, which provides for section 57 empowering the prohibition of cases and contacts of a specified disease from leaving Hong Kong, and section 59 empowering the taking of body temperature of travellers at a point of entry.

6. The Director regularly reviews the list of infectious diseases statutorily notifiable by medical practitioners in order to ensure maximal protection of the local community against infectious diseases. At present, there are 47 infectious diseases listed in the Schedule 1 to the Ordinance. Severe Acute Respiratory Syndrome (“SARS”), which is caused by a coronavirus, is among the list of 47 infectious diseases in Schedule 1 of the Ordinance; it is also a specified disease under section 56 of the Regulation. The SARS-coronavirus is among the 31 infectious agents under Schedule 2 of Ordinance.

Severe Respiratory Disease associated with Novel Coronavirus

7. Coronaviruses are a large family of viruses that can be found in humans and animals. In humans, coronaviruses can cause mild illness like the common cold, as well as severe illness like SARS. Coronaviruses are typically spread like other respiratory infections such as influenza.

8. On 23 September 2012, the World Health Organization (“WHO”) reported a case of acute respiratory syndrome with renal failure from the United Kingdom (“the UK”) involving a 49 year-old male Qatari national. He developed symptoms on 3 September 2012 and had travel history to the Kingdom of Saudi Arabia prior to onset of illness. On 7 September, he was admitted to an intensive care unit in Doha, Qatar. On 11 September, he was transferred to the UK by air ambulance from Qatar. The Health Protection Agency of the UK (“HPA”) conducted laboratory testing and confirmed the presence of a novel coronavirus. The patient is currently being managed in strict respiratory isolation in UK. HPA has compared the sequencing of the virus from this patient with the isolate from another fatal case in a 60 year-old male, Saudi national, reported earlier on 20 September. This comparison indicated that the gene sequence was 99.5% identical over the regions compared.

9. WHO is currently in the process of obtaining further information about the novel coronavirus to determine the public health implications of the two confirmed cases. Investigation into these cases by WHO and national health authorities is ongoing. Locally, the Centre for Health Protection of the Department of Health (“CHP”) is closely monitoring the latest situation of this novel coronavirus infection.

In particular, CHP is in close liaison with WHO and relevant overseas authorities to obtain latest epidemiological and laboratory information on the infection.

10. Hong Kong has an effective laboratory diagnostic system for respiratory viruses including coronaviruses. The Public Health Laboratory Services Branch of CHP is able to conduct characterization of coronaviruses including genetic analysis. No human infections with this novel coronavirus have been identified in Hong Kong so far.

11. Our experience of the 2003 SARS outbreak showed that effective measures to control the spread of the infection include early detection of cases and swift control measures such as isolation, quarantine and disinfection. Information of this novel coronavirus is limited at this stage and it is not known how easily this virus spreads between people. However, owing to the severity of the two known cases, it would be prudent to heighten surveillance and to implement effective public health control measures, including border control measures promptly, to prevent spread of this infection both within and across the boundary Hong Kong.

12. Some SARS cases were associated with possible incidents of virus leakage in laboratories. In light that this novel coronavirus is a potentially dangerous pathogen, it is important that any incidents of leakage of the virus from laboratories shall be notified to the Director to ensure appropriate control measures are implemented in a timely manner for the protection of laboratory workers and prevention of laboratory-acquired infection.

13. In view of the foregoing, we consider it necessary to amend the Ordinance and its subsidiary legislation to include this severe respiratory coronavirus and its infection as a statutorily notifiable disease, scheduled infectious agent and specified disease. This would enable the provisions of the Ordinance and its subsidiary legislation be applied as and when necessary for the purposes of prevention and control measures.

THE NOTICE AND AMENDMENT REGULATION

14. The Prevention and Control of Disease Ordinance (Amendment of Schedules 1 and 2) Notice 2012 amends Schedule 1 to the Ordinance by adding “Severe Respiratory Disease associated with Novel Coronavirus” to the list of infectious diseases; and amends Schedule 2 to the Ordinance by adding “Novel Coronavirus associated with Severe Respiratory Disease” to the list of infectious agents.

15. The Prevention and Control of Disease (Amendment) Regulation amends section 56 of the Regulation by adding “Severe Respiratory Disease associated with Novel Coronavirus” to the list of specified diseases.

16. The Notice and Amendment Regulation is gazetted on 28 September 2012 for commencement of operation on the same date.

LEGISLATIVE TIMETABLE

17. The legislative timetable is as follows –

Publication in the Gazette	28 September 2012
Tabling at Legislative Council	10 October 2012

IMPLICATIONS

18. The Notice and Amendment Regulation are in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance and have no economic, financial or civil service implications.

PUBLIC CONSULTATION

19. In view of the latest development and the potential severity of the disease, members of the public, health professionals and medical laboratory sector are expected to welcome the amendment, which will strengthen Hong Kong's capability to prevent the introduction and spread of the disease, to ensure laboratory safety and to protect laboratory workers.

PUBLICITY

20. The Department of Health issued a press release on 27 September 2012 regarding the Notice and Amendment Regulation. CHP has informed medical practitioners and the laboratory sector in Hong Kong of the changes in notification requirements. A spokesman from DH is available to answer media enquiries.

OTHERS

21. For any enquiries on this brief, please contact Dr S K CHUANG, Consultant Community Medicine (Communicable Disease) of CHP (tel: 2125 2200).

**Food and Health Bureau
Department of Health
September 2012**

Prevention and Control of Disease (Amendment) Regulation 2012

Section 1

L.N. 143 of 2012

B6333

L.N. 143 of 2012**Prevention and Control of Disease (Amendment)
Regulation 2012**

(Made by the Secretary for Food and Health under section 7 of the
Prevention and Control of Disease Ordinance (Cap. 599))

1. Prevention and Control of Disease Regulation amended

The Prevention and Control of Disease Regulation (Cap. 599
sub. leg. A) is amended as set out in section 2.

2. Section 56 amended (specified diseases)

Section 56, definition of *specified disease*, after paragraph (a)—

Add

“(ab) Severe Respiratory Disease associated with Novel
Coronavirus;”.

Dr. KO Wing-man
Secretary for Food and Health

27 September 2012

Prevention and Control of Disease (Amendment) Regulation 2012

Explanatory Note

L.N. 143 of 2012

Paragraph 1

B6335

Explanatory Note

The purpose of this Regulation is to include “Severe Respiratory
Disease associated with Novel Coronavirus” in the list of
specified diseases set out in section 56 of the Prevention and
Control of Disease Regulation (Cap. 599 sub. leg. A) in order to
prevent and control the spread of that disease.

L.N. 144 of 2012

**Prevention and Control of Disease Ordinance
(Amendment of Schedules 1 and 2) Notice 2012**

(Made by the Director of Health under section 15 of the Prevention and Control of Disease Ordinance (Cap. 599))

1. Prevention and Control of Disease Ordinance amended

The Prevention and Control of Disease Ordinance (Cap. 599) is amended as set out in sections 2 and 3.

2. Schedule 1 amended (scheduled infectious diseases)

Schedule 1, after item 34—

Add

“34AA. Severe Respiratory Disease associated with Novel Coronavirus (新型冠狀病毒致嚴重呼吸系統病)”.

3. Schedule 2 amended (scheduled infectious agents)

Schedule 2, after item 20—

Add

“20A. Novel Coronavirus associated with Severe Respiratory Disease (致嚴重呼吸系統病新型冠狀病毒)”.

Dr. Thomas TSANG
Acting Director of Health

27 September 2012

Explanatory Note

The purpose of this Notice is to add—

- (a) “Severe Respiratory Disease associated with Novel Coronavirus” to the list of scheduled infectious diseases specified in Schedule 1 to the Prevention and Control of Disease Ordinance (Cap. 599); and
- (b) “Novel Coronavirus associated with Severe Respiratory Disease” to the list of scheduled infectious agents specified in Schedule 2 to that Ordinance,

in order to prevent and control the spread of that disease.

UNITED NATIONS SANCTIONS (CÔTE D'IVOIRE) REGULATION 2012

INTRODUCTION

A At the meeting of the Executive Council on 25 September 2012, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Côte d’Ivoire) Regulation 2012 (“the 2012 Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The 2012 Regulation was gazetted on 28 September 2012 and came into operation on the same day.

BACKGROUND

Obligation and Authority

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In May 2012, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Côte d’Ivoire in the HKSAR pursuant to the UNSC Resolution (“UNSCR”) 2045. The 2012 Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 2045 are at Annexes B and C respectively.

Sanctions against Côte d’Ivoire

3. In view of Côte d’Ivoire’s persistent human rights violations against civilians which threaten the peace process in the region, the UNSC has passed a number of resolutions since 2004 to implement a range of sanctions against Côte d’Ivoire. These sanctions were most recently modified and renewed by UNSCRs 1975 and 1980 in March and April 2011 respectively. They concern arms embargoes⁽¹⁾, travel ban on certain

Notes ⁽¹⁾ Paragraph 7 of UNSCR 1572 provides for the prohibition against the direct or indirect supply, sale, transfer or carriage of arms and related materiel to Côte d’Ivoire, as well as the provision of any assistance, advice or training related to military activities. Exceptions to the measure are set out in paragraph 8 of UNSCR 1572.

individuals designated by the Committee established by paragraph 14 of UNSCR 1572 (“the Committee”)⁽²⁾, financial sanctions against certain persons and entities designated by the Committee⁽³⁾, and ban on import of rough diamonds from Côte d’Ivoire⁽⁴⁾.

4. Pursuant to the instruction of the MFA, the HKSAR implemented the sanctions against Côte d’Ivoire by gazetting the United Nations Sanctions (Côte d’Ivoire) (No. 2) Regulation 2011 (Cap. 537 AV) (at Annex D) on 30 June 2011. Cap. 537AV expired at midnight on 30 April 2012.

UNSCR 2045

5. Noting that the situation in Côte d’Ivoire continues to pose a threat to international peace and security in the region, the UNSC adopted UNSCR 2045 on 26 April 2012. The UNSC, inter alia, decides that –

- (a) the measures on arms and related materiel, previously imposed by paragraphs 7 and 8 of UNSCR 1572 be replaced by paragraphs 5 (b) to (c) below and shall no longer apply to the provision of training, advice and expertise related to security and military activities, as well as to the supplies of civilian vehicles to the Ivorian security forces (*paragraph 1 of UNSCR 2045 refers*);
- (b) prohibition against the direct or indirect supply, sale or transfer to Côte d’Ivoire by all States, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any

Notes⁽²⁾ Paragraph 9 of UNSCR 1572 provides for the prohibition against the entry into or transit through the territory of Member States by persons designated by the Committee as persons who constitute a threat to the peace and national reconciliation in Côte d’Ivoire. Exceptions to the measure are set out in paragraph 10 of UNSCR 1572.

⁽³⁾ Paragraph 11 of UNSCR 1572 provides for the freezing of funds, other financial assets and economic resources owned or controlled directly or indirectly by the persons designated by the Committee, or that are held by entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction, as designated by the Committee, and the prohibition against making available to, or for the benefit of, certain persons or entities any funds, financial assets or economic resources. Exceptions to the measure are set out in paragraph 12 of UNSCR 1572.

⁽⁴⁾ Paragraph 6 of UNSCR 1643 provides for the prohibition against importation of all rough diamonds from Côte d’Ivoire. Paragraphs 16 and 17 of UNSCR 1893 further provide that the ban on import of rough diamond is subject to exemption for import used solely for the purposes of scientific research and analysis coordinated by the Kimberley Process, and approved on a case-by-case basis by the Committee, to facilitate the development of specific technical information concerning Ivorian diamond production.

related materiel, whether or not originating in their territories, be imposed until 30 April 2013 (*paragraph 2 of UNSCR 2045 refers*);

(c) the measures imposed by paragraph 5(b) above shall not apply to (*paragraph 3 of UNSCR 2045 refers*) –

- (i) supplies intended solely for the support of or use by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces who support them;
- (ii) supplies of non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee;
- (iii) supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Côte d'Ivoire by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;
- (iv) supplies temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, as notified in advance to the Committee;
- (v) supplies of non-lethal law enforcement equipment intended to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as notified in advance to the Committee; and
- (vi) supplies of arms and other related lethal equipment to the Ivorian security forces, intended solely for support of or use in the Ivorian process of Security Sector Reform, as approved in advance by the Committee;

(d) the financial and travel measures imposed by paragraphs 9 to 12 of UNSCR 1572 and paragraph 12 of UNSCR 1975, and the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of UNSCR 1643 be renewed until 30 April 2013 (*paragraph 6 of UNSCR 2045 refers*).

THE 2012 REGULATION

6. The 2012 Regulation, at Annex A, seeks to implement the sanctions against Côte d'Ivoire that are further renewed and slightly modified by UNSCR 2045. The main provisions of the 2012 Regulation include -

- (a) **sections 2 and 3**, which prohibit the supply, sale, transfer and carriage of arms or related materiel to Côte d'Ivoire or certain persons connected with Côte d'Ivoire;
- (b) **section 4**, which prohibits the importation of rough diamonds from Côte d'Ivoire;
- (c) **section 5**, which provides for prohibition against making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (d) **sections 6 and 7**, which provide for prohibition against the entry into or transit through the HKSAR by certain persons and relevant exceptions;
- (e) **sections 8 to 10**, which provide for the granting of licences for the supply, sale, transfer or carriage of prohibited goods; for the importation of rough diamonds from Côte d'Ivoire for the purpose of scientific research and analysis approved by the Committee; and for making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (f) **section 30**, which provides that the CE may by notice published in the Gazette specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purpose of the financial sanctions under section 5 of the 2012 Regulation; and
- (g) **section 32**, which provides that the 2012 Regulation will expire at midnight on 30 April 2013.

As the 2012 Regulation primarily renews and modifies the now expired

E sanctions under Cap. 537AV, a mark-up version showing amendments to Cap. 537AV is at Annex E for easy reference by Members.

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the UNSO. It has no financial, economic, productivity, environmental or sustainability implications. Additional workload arising from the enforcement of the 2012 Regulation, if any, will be absorbed by the relevant departments within existing resources.

PUBLICITY

8. A press release was issued on 28 September 2012 when the 2012 Regulation was published in the Gazette.

INFORMATION ON CÔTE D'IVOIRE AND RELATION WITH HKSAR

9. For information on Côte d'Ivoire, background of the sanction regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex F.

F

ADVICE SOUGHT

10. Members are invited to note the implementation of UNSCR 2045 in the HKSAR by the 2012 Regulation.

**Commerce and Economic Development Bureau
September 2012**

United Nations Sanctions (Côte d'Ivoire) Regulation 2012

L.N. 139 of 2012
B6197

L.N. 139 of 2012

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2012****Contents**

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United Nations Sanctions (Côte d'Ivoire) Regulation 2012

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United Nations Sanctions (Côte d'Ivoire) Regulation 2012

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

Part 1

Preliminary

1. Interpretation

In this Regulation—

authorized officer (獲授權人員) means—

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

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 14 of Resolution 1572;

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

funds (資金) includes—

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

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

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

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

person connected with Côte d'Ivoire (有關連人士) means—

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

(d) any body, wherever incorporated or constituted, which is controlled by—

- (i) the Government mentioned in paragraph (a);
- (ii) a person mentioned in paragraph (b); or
- (iii) a body mentioned in paragraph (c); or

(e) any person acting on behalf of—

- (i) the Government mentioned in paragraph (a);
- (ii) a person mentioned in paragraph (b); or
- (iii) a body mentioned in paragraph (c) or (d);

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

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

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 1572 (《第 1572 號決議》) means Resolution 1572 (2004) adopted by the Security Council on 15 November 2004;

Resolution 1893 (《第 1893 號決議》) means Resolution 1893 (2009) adopted by the Security Council on 29 October 2009;

Resolution 1975 (《第 1975 號決議》) means Resolution 1975 (2011) adopted by the Security Council on 30 March 2011;

Resolution 2045 (《第 2045 號決議》) means Resolution 2045 (2012) adopted by the Security Council on 26 April 2012;

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

UNOCI (聯科行動) means the United Nations Operation in Côte d'Ivoire.

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to Côte d'Ivoire;
 - (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods; or
 - (b) that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.

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 Côte d'Ivoire to a place in Côte d'Ivoire;
 - (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 8(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

- (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) 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.
- (6) 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; or

- (b) that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.

4. Prohibition against importation of rough diamonds

- (1) Except under the authority of a licence granted under section 9(1), a person must not import any rough diamond from Côte d'Ivoire into the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe that the rough diamond concerned was imported from Côte d'Ivoire into the HKSAR.

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

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

- (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1)—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or

- (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—
deal with (處理) means—
 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

6. Prohibition against entry or transit by certain persons

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

- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—
paragraph 9 of Resolution 1572 (《第 1572 號決議》第 9 段) means paragraph 9 of Resolution 1572 as renewed by the Security Council by paragraph 6 of Resolution 2045;
specified person (指明人士) means—
 - (a) a person designated by the Committee for the purposes of paragraph 9 of Resolution 1572; or
 - (b) a person listed in Annex I to Resolution 1975.

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 further the objectives of the resolutions of the Security Council, that is, peace and national reconciliation in Côte d'Ivoire and stability in the region.

Part 3**Licences****8. Licence for supply, sale, transfer or carriage of certain goods**

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (2) The requirements referred to in subsection (1) are as follows—

- (a) the prohibited goods are intended solely for the support of or use by the UNOCI or the French forces which support the UNOCI;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
 - (c) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Côte d'Ivoire by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (d) the prohibited goods are to be temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire;
 - (e) the prohibited goods are non-lethal law enforcement equipment intended to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order;
 - (f) the prohibited goods are arms and other related lethal equipment, the supply, sale, transfer or carriage of which to the Ivorian security forces is intended solely for support of or use in the Ivorian process of Security Sector Reform, as approved in advance by the Committee.
- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(b), (d) or (e) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed supply, sale, transfer or carriage of the prohibited goods to which the application for the licence relates.

9. Licence for importation of rough diamonds

- (1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to import rough diamonds from Côte d'Ivoire into the HKSAR.
- (2) The requirement referred to in subsection (1) is that—
 - (a) the proposed import is solely for the purpose of scientific research, and analysis in connection with the research, to facilitate the development of specific technical information concerning Ivorian diamond production; and
 - (b) the research is coordinated by the Kimberley Process and approved by the Committee.
- (3) If the requirement in subsection (2) is met, the Chief Executive—
 - (a) must cause the parties by which a request is required to be submitted under paragraph 17 of Resolution 1893 to be notified of the application; and
 - (b) must not grant the licence unless the Committee has given its approval for the proposed import.
- (4) In subsection (2)(b)—

Kimberley Process (金伯利進程) has the same meaning as in regulation 6DA of the Import and Export (General) Regulations (Cap. 60 sub. leg. A).

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

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
- (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
 - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 15 November 2004 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 2 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), 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), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is so specified;

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

14. Offences by charterer, operator or master of ship

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

15. Power of authorized officers to enter and detain ships

- (1) Without limiting section 14, if an authorized officer has reason to suspect that a request that has been made under section 13(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or the ship concerned;
 - (b) detain or authorize the detention of that ship or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.

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

Division 2—Investigation, etc. of Suspected Aircraft

16. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 applies has been, is being or is about to be used in contravention of section 3(2), the officer may—
- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—

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

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

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

18. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 17, if an authorized officer has reason to suspect that a request that has been made under section 16(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
- (a) enter or authorize the entry on any land or the aircraft concerned;
 - (b) detain or authorize the detention of that aircraft or any of its cargo;

- (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3—Investigation, etc. of Suspected Vehicles

19. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
 - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

20. Offences by operator or driver of vehicle

- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) An operator or driver of a vehicle who, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

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

- (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
 - (b) detain or authorize the detention of that vehicle or any article carried on it;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
 - (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4—Proof of Identity

22. Production of proof of identity

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

Part 6

Evidence

23. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
 - (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
 - (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

- (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
- (5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use any force that is reasonably necessary for that purpose.

24. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 23(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
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Part 7**Disclosure of Information or Documents****25. Disclosure of information or documents**

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

- (2) For the purposes of subsection (1)(a)—
- (a) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
 - (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.
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Part 8

Other Offences and Miscellaneous Matters

26. Liability of persons other than principal offenders

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

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

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

28. Offences in relation to evasion of this Regulation

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

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

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- (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

- (1) The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—
 - (a) a person or an entity referred to in the list maintained by the Committee for the purposes of paragraph 11 of Resolution 1572;
 - (b) a person listed in Annex I to Resolution 1975.

- (2) In this section—

paragraph 11 of Resolution 1572 (《第 1572 號決議》第11段) means paragraph 11 of Resolution 1572 as renewed by the Security Council by paragraph 6 of Resolution 2045.

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.

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

Part 9

Duration

32. Duration

This Regulation expires at midnight on 30 April 2013.

C. Y. LEUNG
Chief Executive

26 September 2012

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2045 (2012), as adopted by the Security Council of the United Nations on 26 April 2012, by providing for the prohibition against—

- (a) the supply, sale, transfer or carriage of arms or related materiel to Côte d'Ivoire;
- (b) importation of rough diamonds from Côte d'Ivoire;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Côte d'Ivoire) Regulation 2012

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 May 2012 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2045 of the Security Council of the United Nations, and that the United Nations Sanctions (Côte d'Ivoire) Regulation 2012 was made in pursuance of that instruction.

Dated this 27th day of September 2012

A handwritten signature in black ink, appearing to read 'Carrie Lam', is positioned above the printed name and title.

(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/2045 (2012)



Security Council

Distr.: General
26 April 2012

Resolution 2045 (2012)

**Adopted by the Security Council at its 6761st meeting, on
26 April 2012**

The Security Council,

Recalling its previous resolutions and the statements of its President relating to the situation in Côte d'Ivoire, in particular resolutions 1880 (2009), 1893 (2009), 1911 (2010), 1933 (2010), 1946 (2010), 1962 (2010), 1975 (2011), 1980 (2011), 2000 (2011),

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Taking note of the special report of the Secretary-General dated 29 March 2012 (S/2012/186), of the 2011 midterm report (S/2011/642) and of the Final 2012 report (S/2012/196) of the United Nations Group of Experts,

Recognizing the continued contribution to the stability in Côte d'Ivoire of the measures imposed by resolutions 1572 (2004), 1643 (2005), 1975 (2011) and 1980 (2011) and stressing that these measures aim at supporting the peace process in Côte d'Ivoire,

Welcoming the steady progress and achievements Côte d'Ivoire has made in the past months in returning to stabilization, notably by holding parliamentary elections as certified by the Special Representative of the Secretary-General, addressing immediate security challenges, advancing economic recovery and strengthening international and regional cooperation,

Acknowledging the efforts by all the Ivorians to promote national reconciliation and consolidation of peace through dialogue and consultation, *encouraging* the Dialogue, Truth and Reconciliation Commission to make further progress in this direction and *welcoming* the assistance of the African Union (AU) and the Economic Community of West African States (ECOWAS) in this regard,

Remaining concerned about the unresolved challenge of security sector reform (SSR) and disarmament, demobilization and reintegration (DDR), as well as the circulation of weapons, which continue to be significant risks to the stability of the country, and *welcoming* the creation of a DDR and SSR working group by the Ivorian Government and other efforts to address seriously these challenges,



Welcoming the enhanced cooperation of the Ivorian Government with the Group of Experts, originally established pursuant to paragraph 7 of resolution 1584 (2004), during the course of its last mandate renewed by resolution 1980 (2011),

Acknowledging the urgent need for the Ivorian Government to train and equip its security forces, especially the police and gendarmerie with standard policing weapons and ammunition,

Emphasizing the importance of the Ivorian Government to be able to respond proportionately to threats to the security of all citizens in Côte d'Ivoire and *calling on* the Ivorian Government to ensure that its security forces remain committed to upholding human rights and applicable international law,

Calling on the Ivorian Government to ratify and implement the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Associated Materials,

Expressing concern on the findings of the Group of Experts on the illegal taxations system put in place, increasing criminality throughout the territory and the lack of capacity and resources available for the control of borders,

Recalling its resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009) and 1960 (2010) on women, peace and security, its resolutions 1612 (2005), 1882 (2009) and 1998 (2011) on children and armed conflict and its resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflicts,

Reiterating its firm condemnation of all violations of human rights and international humanitarian law in Côte d'Ivoire, *condemning* all violence committed against civilians, including women, children, internally displaced persons and foreign nationals, and other violations and abuses of human rights, and *stressing* that the perpetrators must be brought to justice, whether in domestic or international courts, and *welcoming* the close cooperation of the Ivorian Government with the International Criminal Court in this regard,

Stressing the importance for the Group of Experts to be provided with the sufficient resources for the implementation of its mandate,

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

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

1. *Decides* that the measures on arms and related materiel, previously imposed by paragraphs 7 and 8 of resolution 1572 (2004), are replaced by paragraphs 2, 3 and 4 below and shall no longer apply to the provision of training, advice and expertise related to security and military activities, as well as to the supplies of civilian vehicles to the Ivorian security forces;

2. *Decides*, for a period ending on 30 April 2013, that all States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer to Côte d'Ivoire, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, whether or not originating in their territories;

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

(a) supplies intended solely for the support of or use by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces who support them;

(b) supplies of non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee established by paragraph 14 of resolution 1572 (2004);

(c) supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Côte d'Ivoire by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

(d) supplies temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, as notified in advance to the Committee established by paragraph 14 of resolution 1572 (2004);

(e) supplies of non-lethal law enforcement equipment intended to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as notified in advance to the Committee established by paragraph 14 of resolution 1572 (2004);

(f) supplies of arms and other related lethal equipment to the Ivorian security forces, intended solely for support of or use in the Ivorian process of SSR, as approved in advance by the Committee established by paragraph 14 of resolution 1572 (2004);

4. *Decides*, for the period referred to in paragraph 2 above, that the Ivorian authorities shall notify in advance to the Committee any shipment of items referred to in paragraph 3 (e) or shall request an approval in advance to the Committee for any shipment of items referred to in paragraph 3 (f) above, *stresses* the importance that such notifications or requests contain all relevant information, including the purpose of the use and end user, the technical specifications and quantity of the equipment to be shipped and, when applicable, the supplier, the proposed date of delivery, mode of transportation and itinerary of shipments;

5. *Urges* the Ivorian Government to allow the Group of Experts and UNOCI access to the exempted materiel at the time of import and before the transfer to the end user takes place, *stresses* that the Ivorian Government shall mark the arms and related materiel when received in the territory of Côte d'Ivoire and maintain a registry of them and *expresses its willingness* to consider an extension of the notification procedure to all embargo exemptions at the midterm review referred to below in paragraph 7, in accordance with progress achieved in relation to DDR and SSR;

6. *Decides* to renew until 30 April 2013 the financial and travel measures imposed by paragraphs 9 to 12 of resolution 1572 (2004) and paragraph 12 of resolution 1975 (2011) and *further decides* to renew until 30 April 2013 the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of resolution 1643 (2005);

7. *Decides* to review the measures decided in paragraphs 2, 3, 4 above, in light of the progress achieved in the stabilization throughout the country, by the end of the period mentioned in paragraph 2, and *decides further* to carry out a midterm review of the measures decided in paragraphs 2, 3, 4 above no later than 31 October 2012, with a view to possibly further modifying all or part of the remaining measures of the sanctions regime, in accordance with progress achieved in relation to DDR and SSR, national reconciliation and the fight against impunity;

8. *Calls upon* all Member States, in particular those in the subregion, to fully implement the measures mentioned in paragraphs 2 and 6 above, *calls also upon* UNOCI to lend its full support within its capacities and mandate and further *calls upon* the French forces to support UNOCI in this regard, within the limits of their deployment and their capabilities;

9. *Urges* all illegal Ivorian armed combatants, including in neighbouring countries, to lay down their arms immediately, *encourages* UNOCI, within its mandate and limits of capabilities and areas of deployment, to continue to assist the Ivorian Government in collecting and storing the arms and registering all relevant information related to those arms and further *calls upon* the Ivorian Government, including the National Commission to fight against the Proliferation and Illicit Traffic of Small Arms and Light Weapons, to ensure that those arms are neutralized or not illegally disseminated, in accordance with the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Associated Materials;

10. *Recalls* that UNOCI, within the monitoring of the arms embargo, is mandated to collect, as appropriate, arms and any related materiel brought into Côte d'Ivoire in violation of the measures imposed by paragraph 7 of resolution 1572 (2004) as amended by paragraphs 1, 2 above, and to dispose of such arms and related materiel as appropriate;

11. *Expresses* its deep concern about the presence of mercenaries in Côte d'Ivoire, notably from neighbouring countries, and *calls upon* the authorities of Côte d'Ivoire and Liberia to coordinate their action to solve this issue, *encourages* UNOCI and the United Nations Mission in Liberia (UNMIL), within their respective mandates, capabilities and areas of deployment, to continue to coordinate closely in assisting respectively the Governments of Côte d'Ivoire and Liberia in monitoring their border, with particular attention to any cross-border movement of combatants or transfer of arms and *welcomes* further cooperation between the Group of Experts and the Panel of Experts on Liberia appointed pursuant to paragraph 4 of resolution 1854 (2008);

12. *Reiterates* the necessity for the Ivorian authorities to provide unhindered access to the Group of Experts, as well as UNOCI and the French forces which support it, to equipment, sites and installations referred to in paragraph 2 (a) of resolution 1584 (2005), and to all weapons, ammunition and related materiel of all armed security forces, regardless of location, including the arms issued from the collection referred to in paragraph 9 above, when appropriate without notice, as set out in its resolutions 1739 (2007), 1880 (2009), 1933 (2010), 1962 (2010) and 1980 (2011);

13. *Reiterating* its commitment to impose targeted measures as expressed in paragraph 10 of resolution 1980 (2011);

14. *Requests* all States concerned, in particular those in the subregion, to cooperate fully with the Committee, and *authorizes* the Committee to request whatever further information it may consider necessary;

15. *Decides* to extend the mandate of the Group of Experts as set out in paragraph 7 of resolution 1727 (2006) until 30 April 2013 and *requests* the Secretary-General to take the necessary measures to support its action;

16. *Requests* the Group of Experts to submit a midterm report to the Committee by 15 October 2012 and to submit a final report as well as recommendations to the Security Council through the Committee 15 days before the end of its mandated period, on the implementation of the measures imposed by paragraphs 2 above, 9 and 11 of resolution 1572 (2004), paragraph 6 of resolution 1643 (2005), paragraph 12 of resolution 1975 (2011) and paragraph 10 of resolution 1980 (2011);

17. *Decides* that the report of the Group of Experts, as referred to in paragraph 7 (e) of resolution 1727 (2006) may include, as appropriate, any information and recommendations relevant to the Committee's possible additional designation of the individuals and entities described in paragraphs 9 and 11 of resolution 1572 (2004) and paragraph 10 of resolution 1980 (2011) and further *recalls* the Informal Working Group on General Issues of Sanctions report (S/2006/997) on best practices and methods, including paragraphs 21, 22 and 23 that discuss possible steps for clarifying methodological standards for monitoring mechanisms;

18. *Requests* the Secretary-General to communicate as appropriate to the Security Council, through the Committee, information gathered by UNOCI and, where possible, reviewed by the Group of Experts, concerning the supply of arms and related materiel to Côte d'Ivoire;

19. *Requests* also the French Government to communicate as appropriate to the Security Council, through the Committee, information gathered by the French forces and, where possible, reviewed by the Group of Experts, concerning the supply of arms and related materiel to Côte d'Ivoire;

20. *Requests* also the Kimberley Process Certification Scheme to communicate as appropriate to the Security Council, through the Committee, information which, where possible, has been reviewed by the Group of Experts, concerning the production and illicit export of diamonds from Côte d'Ivoire and *further decides* to renew the exemptions set out by paragraphs 16 and 17 of resolution 1893 (2009) with regard to the securing of samples of rough diamonds for scientific research purposes coordinated by the Kimberley Process;

21. *Urges* the Ivorian authorities to create and implement an action plan to enforce the Kimberley Process rules in Côte d'Ivoire and *further encourages* them to closely work with the Kimberley Process Certification Scheme to conduct a review and assessment of Côte d'Ivoire's internal controls system for trade in rough diamonds and a comprehensive geologic study of Côte d'Ivoire's potential diamond resources and production capacity, with a view to possibly modifying or lifting, as appropriate, the measures imposed by paragraph 6 of resolution 1643 (2005);

22. *Calls upon* the Ivorian authorities to combat the illegal taxation systems that remain in place, to take the necessary steps to continue to re-establish and

reinforce relevant institutions and to continue to deploy customs and border control officials throughout the country, in the North, West and East of the country, *asks* the Group of Experts to assess the effectiveness of these border measures and control in the region, *encourages* all neighbouring States to be aware of Ivorian efforts in that regard and *encourages* UNOCI, within its mandate, to assist the Ivorian authorities in the re-establishment of normal customs and border control operation;

23. *Urges* all States, relevant United Nations bodies and other organizations and interested parties, to cooperate fully with the Committee, the Group of Experts, UNOCI and the French forces, in particular by supplying any information at their disposal on possible violations of the measures imposed by paragraphs 2 and 5 above, paragraphs 9 and 11 of resolution 1572 (2004), paragraph 6 of resolution 1643 (2005) and paragraph 12 of resolution 1975 (2011), and further *requests* the Group of Experts to coordinate its activities as appropriate with all political actors;

24. *Recalls* paragraph 7 of 1960 (2010) and paragraph 9 of 1998 (2011), regarding sexual and gender-based violence and children in armed conflict and *welcomes* the information-sharing between the Committee and the Special Representative of the Secretary-General for Children and Armed Conflict and for Sexual Violence in Conflict, in accordance with their respective mandates and as appropriate;

25. *Decides* that the Committee should update its guidelines taking into account paragraphs 1, 2, 3, 4, 5 above, within three months from the date of adoption of this resolution, in order to facilitate the implementation of the measures imposed by this resolution, and keep them under active review as may be necessary;

26. *Urges* further in this context that all Ivorian parties and all States, particularly those in the region, ensure:

- the safety of the members of the Group of Experts;
- unhindered access by the Group of Experts, in particular to persons, documents and sites in order for the Group of Experts to execute its mandate;

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

Chapter:	537AV	United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2011	Gazette Number	Version Date
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		Empowering section	L.N. 113 of 2011	30/06/2011
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(Cap 537, section 3)

[30 June 2011]

(Originally L.N. 113 of 2011)

Part:	1	Preliminary	L.N. 113 of 2011	30/06/2011
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Section:	1	Interpretation	L.N. 113 of 2011	30/06/2011
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In this Regulation—

arms or related materiel (軍火或相關的物資) includes military aircraft and equipment;

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 14 of Resolution 1572;

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

funds (資金) includes—

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

licence (特許) means a licence granted under section 11(1)(a) or (b), 12(1)(a) or (b), 13(1) or (2), 14(1) or 15(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 Cote d'Ivoire (有關連人士) means—

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

- (e) any person acting on behalf of—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c) or (d);

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

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

relevant entity (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 35;

relevant person (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 35;

Resolution 1572 (《第1572號決議》) means Resolution 1572 (2004) adopted by the Security Council on 15 November 2004;

Resolution 1893 (《第1893號決議》) means Resolution 1893 (2009) adopted by the Security Council on 29 October 2009;

Resolution 1975 (《第1975號決議》) means Resolution 1975 (2011) adopted by the Security Council on 30 March 2011;

Resolution 1980 (《第1980號決議》) means Resolution 1980 (2011) adopted by the Security Council on 28 April 2011;

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

UNOCI (聯科行動) means the United Nations Operation in Cote d'Ivoire.

Part:	2	Prohibitions	L.N. 113 of 2011	30/06/2011
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Section:	2	Prohibition against supply, sale or transfer of certain goods	L.N. 113 of 2011	30/06/2011
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- (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 11(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to Cote d'Ivoire;
 - (b) to, or to the order of, a person connected with Cote d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to the order of, a person connected with Cote d'Ivoire.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods; or
 - (b) that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to Cote d'Ivoire;
 - (ii) to, or to the order of, a person connected with Cote d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to

the order of, a person connected with Cote d'Ivoire.

Section:	3	Prohibition against carriage of certain goods	L.N. 113 of 2011	30/06/2011
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- (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 11(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 Cote d'Ivoire to a place in Cote d'Ivoire;
 - (b) to, or to the order of, a person connected with Cote d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to the order of, a person connected with Cote d'Ivoire.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 11(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) 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.
- (6) 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; or
 - (b) that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Cote d'Ivoire to a place in Cote d'Ivoire;
 - (ii) to, or to the order of, a person connected with Cote d'Ivoire; or

- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to the order of, a person connected with Cote d'Ivoire.

Section:	4	Prohibition against supply, sale or transfer of certain vehicles	L.N. 113 of 2011	30/06/2011
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- (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 12(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, a vehicle—
- (a) to, or to the order of, the Ivorian security forces; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the vehicle concerned was or was to be supplied, sold or transferred—
- (a) to, or to the order of, the Ivorian security forces; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.

Section:	5	Prohibition against carriage of certain vehicles	L.N. 113 of 2011	30/06/2011
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- (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 4, except under the authority of a licence granted under section 12(1)(b), a ship, aircraft or vehicle must not be used for the carriage of a vehicle if the carriage is, or forms part of, a carriage—
- (a) to, or to the order of, the Ivorian security forces; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the vehicle is performed in the course of the supply, sale or transfer of the vehicle; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 12(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a

- Chinese national;
- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) 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.
- (6) 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 carriage of the vehicle concerned was, or formed part of, a carriage—
- (a) to, or to the order of, the Ivorian security forces; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.

Section:	6	Prohibition against provision of certain advice, assistance or training	L.N. 113 of 2011	30/06/2011
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- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) A person must not provide, directly or indirectly, to a person connected with Cote d'Ivoire any advice related to military activities.
- (3) Except under the authority of a licence granted under section 13(1) or (2), a person must not provide, directly or indirectly, to a person connected with Cote d'Ivoire any assistance or training related to military activities.
- (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 advice, assistance or training concerned was or was to be provided to a person connected with Cote d'Ivoire; or
 - (b) that the advice, assistance or training concerned related to military activities.

Section:	7	Prohibition against importation of rough diamonds	L.N. 113 of 2011	30/06/2011
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- (1) Except under the authority of a licence granted under section 14(1), a person must not import any rough diamond from Cote d'Ivoire into the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe that the rough diamond concerned was imported from Cote d'Ivoire into the HKSAR.

Section:	8	Prohibition against making available funds, etc. or dealing with funds, etc.	L.N. 113 of 2011	30/06/2011
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- (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 15(1)—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (**first-mentioned person**) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

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

Section:	9	Prohibition against entry or transit by certain persons	L.N. 113 of 2011	30/06/2011
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- (1) Subject to section 10, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

paragraph 9 of Resolution 1572 (《第1572號決議》第9段) means paragraph 9 of Resolution 1572 as renewed by the Security Council by paragraph 1 of Resolution 1980;

specified person (指明人士) means—

 - (a) a person designated by the Committee for the purposes of paragraph 9 of Resolution 1572; or
 - (b) a person listed in Annex I to Resolution 1975.

Section:	10	Exceptions to prohibition against entry or transit by certain persons	L.N. 113 of 2011	30/06/2011
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Section 9 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation; or
- (b) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of the resolutions of the Security Council, that is, peace and national reconciliation in Cote d'Ivoire and stability in the region.

Part:	3	Licences	L.N. 113 of 2011	30/06/2011
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Section:	11	Licence for supply, sale, transfer or carriage of certain goods	L.N. 113 of 2011	30/06/2011
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- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to Cote d'Ivoire;
 - (ii) to, or to the order of, a person connected with Cote d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to the order of, a person connected with Cote d'Ivoire; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Cote d'Ivoire to a place in Cote d'Ivoire;
 - (ii) to, or to the order of, a person connected with Cote d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Cote d'Ivoire or to, or to the order of, a person connected with Cote d'Ivoire.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the prohibited goods are intended solely for the support of or use by the UNOCI or the French forces which support the UNOCI;
 - (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 protective clothing, including flak jackets and military helmets, to be temporarily exported to Cote d'Ivoire by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (d) the prohibited goods are to be temporarily exported to Cote d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Cote d'Ivoire;
 - (e) the supply, sale, transfer or carriage of prohibited goods is approved in advance by the Committee on a formal request by the Ivorian Government;
 - (f) the prohibited goods are non-lethal equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as approved in advance by the Committee.
- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(d) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed supply, sale, transfer or carriage of the prohibited goods to which the application for the licence relates.

Section:	12	Licence for supply, sale, transfer or carriage of certain vehicles	L.N. 113 of 2011	30/06/2011
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- (1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must grant, as appropriate—

- (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, a vehicle—
 - (i) to, or to the order of, the Ivorian security forces; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces; or
- (b) a licence for the carriage of a vehicle that is, or forms part of, a carriage—
 - (i) to, or to the order of, the Ivorian security forces; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.
- (2) The requirement referred to in subsection (1) is that the supply, sale, transfer or carriage of the vehicle is approved in advance by the Committee on a formal request by the Ivorian Government.

Section:	13	Licence for provision of certain assistance or training	L.N. 113 of 2011	30/06/2011
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- (1) If satisfied on application that any of the requirements in subsection (3) is met, the Chief Executive must grant a licence to provide to a person connected with Cote d'Ivoire assistance related to military activities.
- (2) If satisfied on application that any of the requirements in subsection (4) is met, the Chief Executive must grant a licence to provide to a person connected with Cote d'Ivoire training related to military activities.
- (3) The requirements referred to in subsection (1) are as follows—
 - (a) the assistance is technical assistance intended solely for the support of or use by the UNOCI or the French forces which support the UNOCI;
 - (b) the assistance is technical assistance related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (c) the assistance is technical assistance in support of the Ivorian process of Security Sector Reform, as approved in advance by the Committee on a formal request by the Ivorian Government.
- (4) The requirements referred to in subsection (2) are as follows—
 - (a) the training is technical training related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (b) the training is technical training in support of the Ivorian process of Security Sector Reform, as approved in advance by the Committee on a formal request by the Ivorian Government.

Section:	14	Licence for importation of rough diamonds	L.N. 113 of 2011	30/06/2011
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- (1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to import rough diamonds from Cote d'Ivoire into the HKSAR.
- (2) The requirement referred to in subsection (1) is that—
 - (a) the proposed import is solely for the purpose of scientific research, and analysis in connection with the research, to facilitate the development of specific technical information concerning Ivorian diamond production; and
 - (b) the research is coordinated by the Kimberley Process and approved by the Committee.
- (3) If the requirement in subsection (2) is met, the Chief Executive—
 - (a) must cause the parties by which a request is required to be submitted under paragraph 17 of Resolution 1893 to be notified of the application; and
 - (b) must not grant the licence unless the Committee has given its approval for the proposed import.
- (4) In subsection (2)(b)—

Kimberley Process (金伯利進程) has the same meaning as in section 6DA of the Import and Export (General) Regulations (Cap 60 sub. leg. A).

Section:	15	Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities	L.N. 113 of 2011	30/06/2011
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- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief

Executive must, subject to subsection (3), grant, as appropriate, a licence for—

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
 - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 15 November 2004 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 2 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.

Section:	16	Provision of false information or documents for purpose of obtaining licences	L.N. 113 of 2011	30/06/2011
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- (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	L.N. 113 of 2011	30/06/2011
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Section:	17	Licence or permission granted by authorities of places outside HKSAR	L.N. 113 of 2011	30/06/2011
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- (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	L.N. 113 of 2011	30/06/2011
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Part:	5	Investigation, etc. of Suspected Ships	L.N. 113 of 2011	30/06/2011
Division:	1			

Section:	18	Investigation of suspected ships	L.N. 113 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies is being or is about to be used in contravention of section 3(2) or 5(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 5(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is so specified;
 - (b) request the charterer, operator or master of the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) if the ship is in the HKSAR, to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iii) if the ship is in any other place, to take the ship and any of its cargo to a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
 - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

Section:	19	Offences by charterer, operator or master of ship	L.N. 113 of 2011	30/06/2011
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- (1) A charterer, operator or master of a ship who disobeys any direction given under section 18(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 18(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 18(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.

Section:	20	Power of authorized officers to enter and detain ships	L.N. 113 of 2011	30/06/2011
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- (1) Without limiting section 19, if an authorized officer has reason to suspect that a request that has been made under section 18(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.

Part:	5	Investigation, etc. of Suspected Aircraft	L.N. 113 of 2011	30/06/2011
Division:	2			

Section:	21	Investigation of suspected aircraft	L.N. 113 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

Section:	22	Offences by charterer, operator or pilot in command of aircraft	L.N. 113 of 2011	30/06/2011
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- (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 21(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 21(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.

Section:	23	Power of authorized officers to enter and detain aircraft	L.N. 113 of 2011	30/06/2011
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- (1) Without limiting section 22, if an authorized officer has reason to suspect that a request that has been made under section 21(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.

Part:	5	Investigation, etc. of Suspected Vehicles	L.N. 113 of 2011	30/06/2011
Division:	3			

Section:	24	Investigation of suspected vehicles	L.N. 113 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
 - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.
- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

Section:	25	Offences by operator or driver of vehicle	L.N. 113 of 2011	30/06/2011
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- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 24(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 24(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.

Section:	26	Power of authorized officers to enter and detain vehicles	L.N. 113 of 2011	30/06/2011
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- (1) Without limiting section 25, if an authorized officer has reason to suspect that a request that has been made under section 24(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.

Part:	5	Proof of Identity	L.N. 113 of 2011	30/06/2011
Division:	4			

Section:	27	Production of proof of identity	L.N. 113 of 2011	30/06/2011
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Before or on exercising a power conferred by section 18, 20, 21, 23, 24 or 26, 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	L.N. 113 of 2011	30/06/2011
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Section:	28	Power of magistrate or judge to grant warrant	L.N. 113 of 2011	30/06/2011
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- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
- (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
- (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
 - (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
- (5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use any force that is reasonably necessary for that purpose.

Section:	29	Detention of documents, cargoes or articles seized	L.N. 113 of 2011	30/06/2011
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- (1) Subject to subsection (2), any document, cargo or article seized under section 28(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	L.N. 113 of 2011	30/06/2011
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Section:	30	Disclosure of information or documents	L.N. 113 of 2011	30/06/2011
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- (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 Cote d'Ivoire 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	L.N. 113 of 2011	30/06/2011
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Section:	31	Liability of persons other than principal offenders	L.N. 113 of 2011	30/06/2011
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- (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.

Section:	32	Offences in relation to obstruction of authorized persons, etc.	L.N. 113 of 2011	30/06/2011
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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.

Section:	33	Offences in relation to evasion of this Regulation	L.N. 113 of 2011	30/06/2011
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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.

Section:	34	Consent and time limit for proceedings	L.N. 113 of 2011	30/06/2011
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- (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.

Section:	35	Specification of relevant person or relevant entity by Chief Executive	L.N. 113 of 2011	30/06/2011
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- (1) The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—
- (a) a person or an entity referred to in the list maintained by the Committee for the purposes of paragraph 11 of Resolution 1572;
- (b) a person listed in Annex I to Resolution 1975.
- (2) In this section—

paragraph 11 of Resolution 1572 (《第1572號決議》第11段) means paragraph 11 of Resolution 1572 as renewed by the Security Council by paragraph 1 of Resolution 1980.

Section:	36	Exercise of powers of Chief Executive	L.N. 113 of 2011	30/06/2011
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- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

Part:	9	Duration	L.N. 113 of 2011	30/06/2011
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Section:	37	Duration	L.N. 113 of 2011	30/06/2011
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This Regulation expires at midnight on 30 April 2012.

United Nations Sanctions (Côte d'Ivoire) (No. 2) Regulation 2012

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United Nations Sanctions (Côte d'Ivoire) ~~(No. 2)~~ Regulation 20112

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

Part 1

Preliminary

1. Interpretation

In this Regulation—

~~**arms or related materiel** (軍火或相關的物資) includes military aircraft and equipment;~~

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 14 of Resolution 1572;

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

funds (資金) includes—

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

licence (特許) means a licence granted under section ~~11~~8(1)(a) or (b), ~~12(1)(a) or (b), 13(1) or (2), 14~~9(1) or ~~15~~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 Côte d'Ivoire (有關連人士) means—

- (a) the Government of Côte d'Ivoire;
- (b) any person in, or resident in, Côte d'Ivoire;
- (c) any body incorporated or constituted under the law of Côte d'Ivoire;
- (d) any body, wherever incorporated or constituted, which is controlled by—
 - (i) the Government mentioned in paragraph (a);

- (ii) a person mentioned in paragraph (b); or
- (iii) a body mentioned in paragraph (c); or
- (e) any person acting on behalf of—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c) or (d);

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

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

relevant entity (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 3530;

relevant person (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 3530;

Resolution 1572 (《第 1572 號決議》) means Resolution 1572 (2004) adopted by the Security Council on 15 November 2004;

Resolution 1893 (《第 1893 號決議》) means Resolution 1893 (2009) adopted by the Security Council on 29 October 2009;

Resolution 1975 (《第 1975 號決議》) means Resolution 1975 (2011) adopted by the Security Council on 30 March 2011;

Resolution ~~1980~~–2045 (《第 ~~1980~~2045 號決議》) means Resolution ~~1980–2045~~ (20112012) adopted by the Security Council on ~~28–26~~ April 20112012;

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

UNOCI (聯科行動) means the United Nations Operation in Côte d'Ivoire.

Part 2

Prohibitions

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 148(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to Côte d'Ivoire;
 - (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

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

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 148(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 Côte d'Ivoire to a place in Côte d'Ivoire;

- (b) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section ~~14~~8(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;

- (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) 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.
- (6) 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; or
 - (b) that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or

- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.

~~4. Prohibition against supply, sale or transfer of certain vehicles~~

- ~~(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 12(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, a vehicle—
 - ~~(a) to, or to the order of, the Ivorian security forces; or~~
 - ~~(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.~~~~
- ~~(3) A person who contravenes subsection (2) commits an offence and is liable—
 - ~~(a) on conviction on indictment to a fine and to imprisonment for 7 years; or~~
 - ~~(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.~~~~
- ~~(4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the vehicle concerned was or was to be supplied, sold or transferred—
 - ~~(a) to, or to the order of, the Ivorian security forces; or~~~~

- ~~(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.~~

~~5. Prohibition against carriage of certain vehicles~~

- ~~(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 4, except under the authority of a licence granted under section 12(1)(b), a ship, aircraft or vehicle must not be used for the carriage of a vehicle if the carriage is, or forms part of, a carriage—~~

- ~~(a) to, or to the order of, the Ivorian security forces; or~~

- ~~(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.~~

- ~~(3) Subsection (2) does not apply if—~~

- ~~(a) the carriage of the vehicle is performed in the course of the supply, sale or transfer of the vehicle; and~~

- ~~(b) the supply, sale or transfer was authorized by a licence granted under section 12(1)(a).~~

- ~~(4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—~~

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

- ~~(e) in the case of a vehicle, the operator and the driver of the vehicle.~~
- ~~(5) A person who commits an offence under subsection (4) 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.~~
- ~~(6) 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 carriage of the vehicle concerned was, or formed part of, a carriage—~~
 - ~~(a) to, or to the order of, the Ivorian security forces; or~~
 - ~~(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.~~
- 6. 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) A person must not provide, directly or indirectly, to a person connected with Côte d'Ivoire any advice related to military activities.~~
 - ~~(3) Except under the authority of a licence granted under section 13(1) or (2), a person must not provide, directly or indirectly,~~

~~to a person connected with Côte d'Ivoire any assistance or training related to military activities.~~

~~(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 advice, assistance or training concerned was or was to be provided to a person connected with Côte d'Ivoire; or~~

~~—(b) that the advice, assistance or training concerned related to military activities.~~

74. Prohibition against importation of rough diamonds

(1) Except under the authority of a licence granted under section 149(1), a person must not import any rough diamond from Côte d'Ivoire into the HKSAR.

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

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

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

(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe that the rough diamond concerned was imported from Côte d'Ivoire into the HKSAR.

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section ~~45~~10(1)—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

- (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

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

96. Prohibition against entry or transit by certain persons

- (1) Subject to section 407, a specified person must not enter or transit through the HKSAR.

- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

paragraph 9 of Resolution 1572 (《第 1572 號決議》第 9 段) means paragraph 9 of Resolution 1572 as renewed by the Security Council by paragraph ~~4~~6 of Resolution ~~1980~~2045;

specified person (指明人士) means—

- (a) a person designated by the Committee for the purposes of paragraph 9 of Resolution 1572; or
- (b) a person listed in Annex I to Resolution 1975.

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

Section ~~9~~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 further the objectives of the resolutions of the Security Council, that is, peace and national reconciliation in Côte d'Ivoire and stability in the region.
-

Part 3

Licences

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

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Côte d'Ivoire to a place in Côte d'Ivoire;
 - (ii) to, or to the order of, a person connected with Côte d'Ivoire; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Côte d'Ivoire or to, or to the order of, a person connected with Côte d'Ivoire.
- (2) The requirements referred to in subsection (1) are as follows—

- (a) the prohibited goods are intended solely for the support of or use by the UNOCI or the French forces which support the UNOCI;
 - (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 protective clothing, including flak jackets and military helmets, to be temporarily exported to Côte d'Ivoire by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (d) the prohibited goods are to be temporarily exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire;
 - ~~(e) the supply, sale, transfer or carriage of prohibited goods is approved in advance by the Committee on a formal request by the Ivorian Government;~~
 - ~~(fe) the prohibited goods are non-lethal law enforcement equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as approved in advance by the Committee.;~~
 - (f) the prohibited goods are arms and other related lethal equipment, the supply, sale, transfer or carriage of which to the Ivorian security forces is intended solely for support of or use in the Ivorian process of Security Sector Reform, as approved in advance by the Committee.
- (3) If the Chief Executive is satisfied that the requirement in subsection (2)(b), (d) or (e) is met, before granting the licence,

the Chief Executive must cause the Committee to be notified of the proposed supply, sale, transfer or carriage of the prohibited goods to which the application for the licence relates.

~~12. Licence for supply, sale, transfer or carriage of certain vehicles~~

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

~~(a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, a vehicle—~~

~~(i) to, or to the order of, the Ivorian security forces; or~~

~~— (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces; or~~

~~(b) a licence for the carriage of a vehicle that is, or forms part of, a carriage—~~

~~(i) to, or to the order of, the Ivorian security forces; or~~

~~— (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, the Ivorian security forces.~~

~~(2) The requirement referred to in subsection (1) is that the supply, sale, transfer or carriage of the vehicle is approved in advance by the Committee on a formal request by the Ivorian Government.~~

~~13. Licence for provision of certain assistance or training~~

~~— (1) If satisfied on application that any of the requirements in subsection (3) is met, the Chief Executive must grant a licence to provide to a person connected with Côte d'Ivoire assistance related to military activities.~~

~~(2) If satisfied on application that any of the requirements in subsection (4) is met, the Chief Executive must grant a licence~~

~~to provide to a person connected with Côte d'Ivoire training related to military activities.~~

~~(3) The requirements referred to in subsection (1) are as follows—~~

~~(a) the assistance is technical assistance intended solely for the support of or use by the UNOCI or the French forces which support the UNOCI;~~

~~— (b) the assistance is technical assistance related to the supply of non lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;~~

~~— (c) the assistance is technical assistance in support of the Ivorian process of Security Sector Reform, as approved in advance by the Committee on a formal request by the Ivorian Government.~~

~~(4) The requirements referred to in subsection (2) are as follows—~~

~~(a) the training is technical training related to the supply of non lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;~~

~~— (b) the training is technical training in support of the Ivorian process of Security Sector Reform, as approved in advance by the Committee on a formal request by the Ivorian Government.~~

149. Licence for importation of rough diamonds

(1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to import rough diamonds from Côte d'Ivoire into the HKSAR.

(2) The requirement referred to in subsection (1) is that—

- (a) the proposed import is solely for the purpose of scientific research, and analysis in connection with the research, to facilitate the development of specific technical information concerning Ivorian diamond production; and
 - (b) the research is coordinated by the Kimberley Process and approved by the Committee.
- (3) If the requirement in subsection (2) is met, the Chief Executive—
 - (a) must cause the parties by which a request is required to be submitted under paragraph 17 of Resolution 1893 to be notified of the application; and
 - (b) must not grant the licence unless the Committee has given its approval for the proposed import.
- (4) In subsection (2)(b)—

Kimberley Process (金伯利進程) has the same meaning as in ~~section-regulation~~ 6DA of the Import and Export (General) Regulations (Cap. 60 sub. leg. A).

1510. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
 - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements referred to in subsection (1) are as follows—

- (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
 - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 15 November 2004 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 2 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.

1611. 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

1712. Licence or permission granted by authorities of places outside HKSAR

- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
 - (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.
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Part 5

Enforcement of Regulation

Division 1—Investigation, etc. of Suspected Ships

~~Investigation, etc. of Suspected Ships~~

1813. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 ~~or 5~~ applies has been, is being or is about to be used in contravention of section 3(2) ~~or 5(2)~~, the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 ~~or 5~~ applies is being or is about to be used in contravention of section 3(2) ~~or 5(2)~~, the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) ~~or 5(2)~~ or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer,

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

1914. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section ~~18~~13(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section ~~18~~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 ~~18~~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.

2015. Power of authorized officers to enter and detain ships

- (1) Without limiting section ~~19~~14, if an authorized officer has reason to suspect that a request that has been made under section ~~18~~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

~~Investigation, etc. of Suspected Aircraft~~

2116. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 ~~or 5~~ applies has been, is being or is about to be used in contravention of section 3(2) ~~or 5(2)~~, the officer may—
- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—

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

2217. 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 ~~24~~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 ~~24~~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.

2318. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section ~~22~~17, if an authorized officer has reason to suspect that a request that has been made under section ~~24~~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

Investigation, etc. of Suspected Vehicles

2419. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2)~~or 5(2)~~, the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
 - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

2520. 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 2419(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 2419(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.

2621. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 2520, if an authorized officer has reason to suspect that a request that has been made under section 2419(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

Proof of Identity

2722. Production of proof of identity

Before or on exercising a power conferred by section ~~1813~~, ~~2015~~, ~~2416~~, ~~2318~~, ~~2419~~ or ~~2621~~, 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

2823. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
 - (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
 - (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

- (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
- (5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use any force that is reasonably necessary for that purpose.

2924. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section ~~28~~23(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
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Part 7

Disclosure of Information or Documents

3025. 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 Côte d'Ivoire 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

3126. Liability of persons other than principal offenders

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

3227. 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.

3328. 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.

3429. 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.

3530. Specification of relevant person or relevant entity by Chief Executive

- (1) The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—
 - (a) a person or an entity referred to in the list maintained by the Committee for the purposes of paragraph 11 of Resolution 1572;
 - (b) a person listed in Annex I to Resolution 1975.
- (2) In this section—

paragraph 11 of Resolution 1572 (《第 1572 號決議》第 11 段) means paragraph 11 of Resolution 1572 as renewed by the Security Council by paragraph ~~4~~6 of Resolution ~~1980~~2045.

3631. 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.

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- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.
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Part 9

Duration

3732. Duration

This Regulation expires at midnight on 30 April 20123.

Chief Executive

20142

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution ~~1975 (2011)~~ and Resolution ~~1980 (2011)~~2045 (2012), as adopted by the Security Council of the United Nations on ~~30 March 2011~~ and ~~28~~6 April 2011~~2~~ respectively, by providing for the prohibition against—

- (a) the supply, sale, transfer or carriage of arms or related materiel to Côte d'Ivoire;
- ~~(b) the supply, sale, transfer or carriage of vehicles to the Ivorian security forces;~~
- ~~(c) the provision of advice, assistance or training related to military activities in certain circumstances;~~
- ~~(d)~~ importation of rough diamonds from Côte d'Ivoire;
- ~~(e)~~ making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- ~~(f)~~ dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- ~~(g)~~ entry into or transit through the HKSAR by certain persons.

**United Nations Sanctions (Côte d'Ivoire) Regulation 2012
Information on Côte d'Ivoire**

Country Background

Côte d'Ivoire is a country in western Africa, bordering the North Atlantic Ocean between Liberia, Ghana and Guinea. With its capital in Yamoussoukro and largest city in Abidjan, Côte d'Ivoire has a total area of 322,463 sq. km. and an estimated population of around 19.7 million in 2010. Côte d'Ivoire has a GDP of US\$22.8 billion (or HK\$177.0 billion) in 2010, supported mainly by its production and export of coffee, cocoa beans, and palm oil.¹ Merchandise imports and exports of Côte d'Ivoire in 2011 amounted to US\$ 6.7 billion (or HK\$52.3 billion) and US\$ 11.1 billion (or HK\$86.6 billion) respectively.² After gaining independence from France, Côte d'Ivoire established its republic government in August 1960.

United Nations Sanctions against Côte d'Ivoire

2. During the 1990s, Côte d'Ivoire was among the most stable and prosperous states in west Africa. However, the country's economy suffered from greater competition and falling prices in agricultural products in the global market, and the economic fallout was exacerbated by social unrest and political crisis. Attempted coup-turned-rebellion in 2002 divided up the country, and there was armed conflict between the Government (concentrated in the south) and the rebel Forces Nouvelles (which controlled much of the country and were primarily in the north). The United Nations peacekeepers maintained a buffer zone in between; the civil war continued for several years.

3. The Linas-Marcoussis Agreement brokered by France was signed in January 2003 by the Government of Côte d'Ivoire and the rebel forces. The Agreement called for the formation of a government of national reconciliation to include representatives of Forces Nouvelles, and the establishment of a United Nations monitoring committee to supervise compliance, followed by a ceasefire deal. With continuing political tension, the Accra II and the Accra III agreements were signed in March 2003 and July 2004 respectively to consolidate the peace process through disarmament of the rebel forces. Notwithstanding,

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://unstats.un.org/unsd/pocketbook/Pocketbook%202011.pdf>

² Source : WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language=E>

hostilities in Côte d'Ivoire resumed and the ceasefire agreement was repeatedly violated.

4. As a major step in restoring stability in the country split by civil war, presidential elections were originally scheduled for as far back as 2005. The elections, however, were repeatedly postponed. The first round of elections was eventually held on 31 October 2010. Since no candidate received a majority in the first round, a run-off poll was held on 28 November 2010, where incumbent President Laurent Gbagbo was pitted against former prime minister, Alassane Ouattara. Laurent Gbagbo's refusal to step down after losing the run-off election resulted in political stand-off and ensuing violence that led to reported deaths of more than 1 000 people. The surrender of Laurent Gbagbo in mid-April 2011 has put an end to the violence and Alassane Ouattara was inaugurated as the president of the country on 21 May 2011.

5. In view of the threat to the regional peace process, the United Nations Security Council (UNSC) adopted Resolution 1572 on 15 November 2004 to impose sanctions on Côte d'Ivoire, including arms embargo, travel ban and assets freeze of certain persons. These sanctions regime were modified by Resolution 1643 in 2005, imposing further prohibition on the import of rough diamonds from Côte d'Ivoire to prevent illicit trading and financing to armed forces through conflict diamonds. The sanctions on Côte d'Ivoire were renewed by subsequent UNSC Resolutions, with the most recent ones being Resolution 2045 adopted on 26 April 2012, which extended and modified the existing sanctions on the country until 30 April 2013.³

Trade Relation between Hong Kong and Côte d'Ivoire

6. In 2011, Côte d'Ivoire ranked 119th among Hong Kong's trading partners in the world, with a total trade of HK\$194 million. Of these, HK\$151 million worth of trade were exports to the Côte d'Ivoire, and HK\$43 million imports. Hong Kong's trade with Côte d'Ivoire are summarised as follows –

³ Source of information contained in paragraphs 2-5: Official Website of World Food Programme at <http://www.wfp.org/countries/c%C3%B4te-divoire>, Official Website of UNICEF at <http://www.unicef.org/infobycountry/cotedivoire.html> and UN News Centre at <http://www.un.org/apps/news/>

Hong Kong's Trade with Côte d'Ivoire [Value in HK\$ (in million)]		
Item	2011	2012 (January – July)
(a) Total Exports to Côte d'Ivoire	151	66
(i) Domestic exports	7 ⁴	11 ⁵
(ii) Re-exports	144 ⁶	55 ⁷
(b) Imports from Côte d'Ivoire	43 ⁸	16 ⁹
Total Trade [(a) + (b)]	194	83

In 2011, HK\$138.7 million worth of goods, or 2.5% of the total trade between Côte d'Ivoire and the Mainland, were routed through Hong Kong. Of these, HK\$0.7 million worth of goods were re-exports from Côte d'Ivoire to the Mainland. The remaining HK\$138 million were re-exports of Mainland origin to Côte d'Ivoire via Hong Kong.

7. The current arms embargo, travel ban, restriction on import of rough diamond and financial sanctions against Côte d'Ivoire imposed by the UNSC would unlikely affect the trade between Hong Kong and Côte d'Ivoire notably, as the major categories of commodities traded are not related to arms and related material. In addition, given the rather small trade volume between the two places, the UNSC sanctions against Côte d'Ivoire would unlikely have any significant effect on the Hong Kong economy.

Commerce and Economic Development Bureau September 2012

⁴ In 2011, domestic export items to Côte d'Ivoire include aluminium (71.6%); plastic articles (26.1%); and clothing (2.1%).

⁵ In January – July 2012, domestic export items to Côte d'Ivoire include aluminium (97.3%); clothing (2.2%); and edible products and preparation (0.2%). Due to limited value of HK's domestic exports to Côte d'Ivoire, small changes in absolute value led to substantial fluctuations in percentage terms. Domestic exports to Côte d'Ivoire decreased in 2011 mainly due to the drop in demand for aluminium. However, domestic exports to Côte d'Ivoire increased sharply in January – July 2012 mainly due to the substantial rise in demand for the same item of product.

⁶ In 2011, re-exports to Côte d'Ivoire include telecommunications equipment (75.5%); automatic data processing machines and units thereof (6.3%); and footwear (3.0%).

⁷ In January – July 2012, re-exports to Côte d'Ivoire include telecommunications equipment (58.3%); nitrogen-function compounds (6.9%); and footwear (5.9%).

⁸ In 2011, imports from Côte d'Ivoire include cotton (96.3%); telecommunications equipment (3.1%); oil seeds and oleaginous fruits of a kind used for the extraction of soft fixed vegetable oils (0.3%).

⁹ In January – July 2012, imports from Côte d'Ivoire include cotton (84.0%); leather (7.3%); and telecommunications equipment (3.6%). The substantial decrease in imports from Côte d'Ivoire in 2011 was largely due to the significant drop in demand for cotton; as well as telecommunications equipment. The decreasing trend continued in January – July 2012 and was mainly caused by the drop in demand for cotton.

**UNITED NATIONS SANCTIONS
(DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA)
(AMENDMENT) REGULATION 2012**

INTRODUCTION

A At the meeting of the Executive Council on 25 September 2012, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Democratic People’s Republic of Korea) (Amendment) Regulation 2012 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Amendment Regulation was gazetted on 28 September 2012 and came into operation on the same day.

BACKGROUND

Obligation and Authority

2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In May 2012, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement in the HKSAR the decisions of the Committee (“the Committee”) established by paragraph 12 of the UNSC Resolution (“UNSCR”) 1718 to expand the scope of sanctions against the Democratic People’s Republic of Korea (“DPRK”) under the UNSCR 1718 to a list of items, materials, equipment, goods and technology related to ballistic missile programmes as set out in the UNSC documents S/2012/235 and INFCIRC/254/Rev.10/Part1. The Amendment Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 1718 are at Annexes B and C respectively.

B & C

Sanctions against DPRK

3. In view of DPRK’s persistent failure to comply fully with its international obligations on non-proliferation of nuclear weapons, the UNSC, in October 2006, adopted UNSCR 1718, which aims to implement the following prohibitions against DPRK –

- (a) the direct or indirect supply, sale or transfer of prohibited items (comprising materials, equipment, goods and technology related to weaponry and luxury goods) to DPRK (*paragraph 8(a) of UNSCR 1718 refers*);
- (b) the procurement of specified items ⁽¹⁾ from the DPRK (*paragraph 8(b) of UNSCR 1718 refers*);
- (c) the transfer of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of prohibited items (other than luxury goods) (*paragraph 8(c) of UNSCR 1718 refers*);
- (d) making available to or for the benefit of certain persons or entities designated by UNSC funds, other financial assets and economic resources (*paragraph 8(d) of UNSCR 1718 refers*); and
- (e) entry into or transit through the HKSAR by certain persons designated by the UNSC (*paragraph 8(e) of UNSCR 1718 refers*).

These sanctions were modified by UNSCR 1874 in June 2009.

4. Pursuant to the instruction of the MFA, the HKSAR implemented the sanctions against DPRK by gazetting the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (as amended by the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2010) (Cap. 537AE) (at Annex D).

D

Notes ⁽¹⁾ Under Cap. 537AE, "specified item" means –

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

S/2012/235 and INFCIRC/254/Rev.10/Part1

5. On 2 May 2012, the Committee, inter alia, determined that the items, materials, equipment, goods and technology related to ballistic missile programmes in document S/2012/235 and the items contained in document INFCIRC/254/Rev.10/Part1 shall be subject to the measures imposed in paragraphs 8(a), (b) and (c) of UNSCR 1718. Similar items that are currently subject to the said measures are included in the definition of the term "specified item" in Cap. 537AE.

THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to amend Cap. 537AE to implement the expanded sanctions against the DPRK as a result of the Committee's decisions in respect of the list of specified item relating to DPRK. The Amendment Regulation mainly expands the scope of "specified item" as defined in section 1 of Cap. 537AE to include all items, materials, equipment, goods and technology as set out in the UNSC documents S/2012/235 and INFCIRC/254/Rev.10/Part1. A mark-up version showing amendments to Cap. 537AE is at Annex E for easy reference by Members.

E

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the UNSO. It has no financial, economic, productivity, environmental or sustainability implications. Additional work arising from the enforcement of Cap. 537AE as amended by the Amendment Regulation will be absorbed by the relevant departments within existing resources.

PUBLICITY

8. A press release was issued on 28 September 2012 when the Amendment Regulation was published in the Gazette.

INFORMATION ON DPRK AND RELATION WITH HKSAR

9. For information on DPRK, background of the sanction regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex F.

F

ADVICE SOUGHT

10. Members are invited to note the implementation of the decisions of the Committee in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau
September 2012**

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2012

L.N. 140 of 2012

Section 1

B6277

L.N. 140 of 2012

**United Nations Sanctions (Democratic People's Republic
of Korea) (Amendment) Regulation 2012**

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

1. United Nations Sanctions (Democratic People's Republic of Korea) Regulation amended

The United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) is amended as set out in sections 2 to 6.

2. Section 1 amended (interpretation)

(1) Section 1, definition of *specified item*, paragraph (h)—

Repeal

“; or”

Substitute a semicolon.

(2) Section 1, definition of *specified item*, after paragraph (i)—

Add

“(j) any item, material, equipment, goods or technology set out in the Security Council document S/2012/235; or

(k) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1;”.

(3) Section 1, Chinese text, definition of 有關連人士, paragraphs (b), (c), (d) and (e)—

Repeal

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2012

L.N. 140 of 2012

Section 3

B6279

“任何”.

3. Section 8 amended (prohibition against making available funds, etc. or dealing with funds, etc.)

Section 8(5)(b), English text—

Repeal

“prior to”

Substitute

“before”.

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

Section 11(2)(c)(i), English text—

Repeal

“prior to”

Substitute

“before”.

5. Section 24B amended (power of magistrate or judge to make order for forfeiture and disposal)

(1) Section 24B(2), Chinese text—

Repeal

“等”.

(2) Section 24B(3), Chinese text, after “須向”—

Add

“任何”.

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2012

L.N. 140 of 2012

Section 6

B6281

6. Section 32 amended (access to Security Council document
S/2006/814, etc.)

(1) Section 32(g)—

Repeal the full stop

Substitute a semicolon.

(2) After section 32(g)—

Add

“(h) the Security Council document S/2012/235;

(i) the International Atomic Energy Agency document
INFCIRC/254/Rev. 10/Part 1.”.

C. Y. LEUNG
Chief Executive

26 September 2012

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2012

Explanatory Note

L.N. 140 of 2012

Paragraph 1

B6283

Explanatory Note

This Regulation amends the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) (*principal Regulation*) to give effect to certain decisions of the Committee (defined in section 1 of the principal Regulation) made on 2 May 2012 by amending the definition of *specified item* in that section to cover additional items set out in the Security Council document S/2012/235 and the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1.

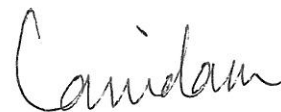
2. The Regulation also amends certain provisions of the principal Regulation to achieve consistency between the English and Chinese texts.

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Democratic People's Republic of Korea)
(Amendment) Regulation 2012**

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 May 2012 which requested the Government of the Hong Kong Special Administrative Region to fully implement the decisions of the Committee established by paragraph 12 of the United Nations Security Council Resolution (UNSCR) 1718 to expand the scope of the sanctions against the Democratic People's Republic of Korea under UNSCR 1718, and that the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2012 was made in pursuance of that instruction.

Dated this 27th day of September 2012



(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/1718 (2006)

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

8. *Decides* that:

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

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

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

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

(iii) Luxury goods;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter:	537AE	UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA) REGULATION	Gazette Number	Version Date
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		Empowering section	L.N. 120 of 2007	15/06/2007
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(Cap 537, section 3)

[15 June 2007]

(Originally L.N. 120 of 2007)

Part:	1	PRELIMINARY	L.N. 120 of 2007	15/06/2007
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Section:	1	Interpretation	L.N. 5 of 2010	15/01/2010
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In this Regulation, unless the context otherwise requires—

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

- (a) designed and equipped to transport a squad of 4 or more infantry personnel; or (L.N. 5 of 2010)
- (b) armed with an integral or organic weapon of at least 12.5 mm calibre or a missile launcher;

“attack helicopter” (攻擊直昇機)—

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

“authorized officer” (獲授權人員) means—

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

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

“combat aircraft” (作戰飛機)—

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

“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; (L.N. 5 of 2010)

“Committee” (委員會) means the Committee of the Security Council established under paragraph 12 of Resolution 1718; (L.N. 5 of 2010)

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

“economic resources” (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services; (L.N. 5 of 2010)

“funds” (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

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

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

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

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

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

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

- (a) any guided or unguided rocket, ballistic or cruise missile or remotely piloted vehicle capable of delivering a warhead or weapon of destruction to a range of at least 25 km;
- (b) any means, other than any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system or warship, designed or modified specifically for launching any rocket or missile described in paragraph (a); or
- (c) any Man-portable Air-Defence Systems (MANPADS),

but does not include any ground-to-air missile;

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

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

- (a) the Government of the DPRK;
- (b) any person in, or resident in, the DPRK;
- (c) any body incorporated or constituted under the law of the DPRK;
- (d) any body, wherever incorporated or constituted, which is controlled by—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c); or (L.N. 5 of 2010)
- (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); (L.N. 5 of 2010)

“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; (L.N. 5 of 2010)

“prohibited item” (禁制項目) means—

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

“relevant entity” (有關實體) means—

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

“relevant person” (有關人士) means—

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

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

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

“small arms” (小型軍火) means any arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap 60 sub. leg. G); (L.N. 5 of 2010)

“specified arms” (指明軍火) means any arms referred to in paragraph (a) of the definition of “specified item” ; (L.N. 5 of 2010)

“specified item” (指明項目) means—

- (a) all arms or related materiel including any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related materiel (including any spare part); (L.N. 5 of 2010)
- (b) any item, material, equipment, goods or technology set out in the Security Council document S/2006/814;
- (c) any item, material, equipment, goods or technology set out in the Security Council document S/2006/815; (L.N. 5 of 2010)
- (d) any item, material, equipment, goods or technology set out in the Security Council document S/2006/853 as rectified by the Security Council document S/2006/853/Corr.1;
- (e) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a; (L.N. 5 of 2010)
- (f) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a; (L.N. 5 of 2010)
- (g) any item, material, equipment, goods or technology set out in the Security Council document S/2009/205; (L.N. 5 of 2010)
- (h) graphite designed or specified for use in Electrical Discharge Machining (EDM) machines; or (L.N. 5 of 2010)
- (i) para-aramid fibre (Kevlar and other Kevlar-like), filament and tape; (L.N. 5 of 2010)

“specified person” (指明人士) means—

- (a) a person connected with the DPRK; or
- (b) a national of the DPRK who is in a place outside the DPRK; (L.N. 5 of 2010)

“warship” (軍艦) means any vessel or submarine armed and equipped for military use with a standard displacement of 500 metric tons or above, or any vessel or submarine with a standard displacement of less than 500 metric tons, equipped for launching missiles with a range of at least 25 km or torpedoes with similar range. (L.N. 5 of 2010)

Part:	2	PROHIBITIONS	L.N. 120 of 2007	15/06/2007
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Section:	2	Prohibition against supply, sale or transfer of certain items*	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

(1A) This section applies to—

- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR. (L.N. 5 of 2010)

(1) Subject to section 3A, a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited item—

- (a) to the DPRK;
- (b) to, or to the order of, a person connected with the DPRK; or
- (c) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK. (L.N. 5 of 2010)

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

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

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe— (L.N. 5 of 2010)
 - (a) that the item concerned was a prohibited item; or
 - (b) that the item concerned was or was to be supplied, sold or transferred—
 - (i) to the DPRK;
 - (ii) to, or to the order of, a person connected with the DPRK; or
 - (iii) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK. (L.N. 5 of 2010)
- (4) (Repealed L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	3	Prohibition against carriage of certain items*	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong; (L.N. 5 of 2010)
 - (b) an aircraft that is registered in the HKSAR;
 - (ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space; (L.N. 5 of 2010)
 - (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) Subject to section 3A, a ship, aircraft or vehicle must not be used for the carriage of any prohibited item if the carriage is, or forms part of, a carriage— (L.N. 5 of 2010)
 - (a) from a place outside the DPRK to a place in the DPRK;
 - (b) to, or to the order of, a person connected with the DPRK; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK. (L.N. 5 of 2010)
- (2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the

- HKSAR; and
- (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle. (L.N. 5 of 2010)
- (3) A person who commits an offence under subsection (2A) is liable— (L.N. 5 of 2010)
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe— (L.N. 5 of 2010)
- (a) that the item concerned was a prohibited item; or
- (b) that the carriage of the item concerned was, or formed part of, a carriage— (L.N. 5 of 2010)
- (i) from a place outside the DPRK to a place in the DPRK;
- (ii) to, or to the order of, a person connected with the DPRK; or
- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK. (L.N. 5 of 2010)
- (5) (Repealed L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	3A	Exceptions to prohibitions under sections 2 and 3	L.N. 5 of 2010	15/01/2010
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- (1) Sections 2 and 3 do not apply if—
- (a) the prohibited item is small arms or their related materiel; and
- (b) the person who intends to perform any act in relation to the prohibited item that, but for this section, would be prohibited under section 2 or 3 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.
- (2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

(L.N. 5 of 2010)

Section:	4	Prohibition against procurement of certain items or services by certain persons*	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

- (1A) This section applies to—
- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
- (i) both a Hong Kong permanent resident and a Chinese national; or
- (ii) a body incorporated or constituted under the law of the HKSAR. (L.N. 5 of 2010)
- (1) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any specified item—
- (a) from the DPRK; or
- (b) from a person connected with the DPRK. (L.N. 5 of 2010)
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe— (L.N. 5 of 2010)
- (a) that the item concerned was a specified item; or
- (b) that the item concerned was—
- (i) from the DPRK; or

(ii) from a person connected with the DPRK.

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

(a) from the DPRK; or

(b) from a person connected with the DPRK. (L.N. 5 of 2010)

(3B) A person who contravenes subsection (3A) commits an offence and is liable—

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

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months. (L.N. 5 of 2010)

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

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

(b) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK. (L.N. 5 of 2010)

(4) (Repealed L.N. 5 of 2010)

Note:

* **(Amended L.N. 5 of 2010)**

Section:	5	Prohibition against procurement of certain items or services using ships, aircraft or vehicles*	L.N. 5 of 2010	15/01/2010
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(1) This section applies to—

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

(aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong; (L.N. 5 of 2010)

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

(ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space; (L.N. 5 of 2010)

(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 4, a ship, aircraft or vehicle must not be used for or in connection with the procurement of—

(a) any specified item—

(i) from the DPRK; or

(ii) from a person connected with the DPRK; or

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

(i) from the DPRK; or

(ii) from a person connected with the DPRK. (L.N. 5 of 2010)

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

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

(b) in the case of any other ship—

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

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

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

- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
- (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle. (L.N. 5 of 2010)
- (3) A person who commits an offence under subsection (2A) is liable— (L.N. 5 of 2010)
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe—
 - (a) that the item concerned was a specified item;
 - (b) that the item concerned was—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK;
 - (c) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or
 - (d) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK. (L.N. 5 of 2010)
- (5) (Repealed L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	5A	Prohibition against engaging in certain financial transactions	L.N. 5 of 2010	15/01/2010
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- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Subject to section 5B, a person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply, sale, transfer or carriage of which is prohibited under section 2 or 3.
- (3) A person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the procurement of which is prohibited under section 4.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) that the financial transaction concerned related to the provision, manufacture, maintenance or use of any specified arms;
 - (b) that the supply, sale, transfer or carriage of the arms concerned was prohibited under section 2 or 3; or
 - (c) that the procurement of the arms concerned was prohibited under section 4.

(L.N. 5 of 2010)

Section:	5B	Exception to prohibition under section 5A(2)	L.N. 5 of 2010	15/01/2010
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(1) Section 5A(2) does not apply if—

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

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

(L.N. 5 of 2010)

Section:	6	Prohibition against provision of technical training, services, etc. to certain persons*	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

(1A) This section applies to—

- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR. (L.N. 5 of 2010)

(1) Subject to section 6A, a person must not provide, directly or indirectly, to a person connected with the DPRK any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified item. (L.N. 5 of 2010)

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

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

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

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
- (b) that the technical training, service, assistance or advice concerned was or was to be provided to a person connected with the DPRK. (L.N. 5 of 2010)

(4) (Repealed L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	6A	Exception to prohibition under section 6	L.N. 5 of 2010	15/01/2010
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(1) Section 6 does not apply if—

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

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

(L.N. 5 of 2010)

Section:	7	Prohibition against acceptance of technical training, services, etc. provided by certain persons*	L.N. 5 of 2010	15/01/2010
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(1A) This section applies to—

- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR. (L.N. 5 of 2010)

(1) A person must not accept, directly or indirectly, any technical training, service, assistance or advice that is provided by a specified person and related to the provision, manufacture, maintenance or use of any specified item. (L.N. 5 of 2010)

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

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

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

- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
- (b) that the technical training, service, assistance or advice concerned was or was to be provided by a specified person. (L.N. 5 of 2010)

(4)-(5) (Repealed L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	8	Prohibition against making available funds, etc. or dealing with funds, etc.*	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

(1A) This section applies to—

- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR. (L.N. 5 of 2010)

(1) Except under the authority of a licence—

- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (including a relevant person and a relevant entity) must not deal with, directly or indirectly, any funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity. (L.N. 5 of 2010)

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

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

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

- (a) the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
- (b) the person was dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity. (L.N. 5 of 2010)

(4) (Repealed L.N. 5 of 2010)

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

- (a) interest or other earnings due on that account; or

- (b) payment due under contracts, agreements or obligations that arose prior to the date on which the person or entity became a relevant person or a relevant entity. (L.N. 5 of 2010)
- (6) In this section, “deal with” (處理) means—
 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources. (L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	9	Prohibition against entry or transit by certain persons	L.N. 5 of 2010	15/01/2010
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(Cross-heading repealed L.N. 5 of 2010)

- (1) Subject to section 10, a person designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718 must not enter or transit through the HKSAR. (L.N. 5 of 2010)
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR. (L.N. 5 of 2010)
- (4) (Repealed L.N. 5 of 2010)

Section:	10	Exceptions to prohibition against entry or transit by certain persons	L.N. 5 of 2010	15/01/2010
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Section 9 does not apply to a case in respect of which—

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

(L.N. 5 of 2010)

Section:	10A	Prohibition against provision of certain services to ships registered in DPRK	L.N. 5 of 2010	15/01/2010
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- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Subject to section 10B, a person must not provide, directly or indirectly, any specified services to a ship registered in the DPRK if the person knows or has reasonable grounds to believe that the ship is carrying a prohibited item.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) In this section, “specified services” (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—
 - (a) the provision of fuel to the ship;
 - (b) the provision of tools or equipment for shipboard maintenance;

- (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;
 - (d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).
- (L.N. 5 of 2010)

Section:	10B	Exception to prohibition under section 10A	L.N. 5 of 2010	15/01/2010
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Section 10A does not apply if the provision of the specified services concerned is necessary for humanitarian purposes.

(L.N. 5 of 2010)

Part:	3	LICENCE	L.N. 120 of 2007	15/06/2007
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Section:	11	Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities*	L.N. 5 of 2010	15/01/2010
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(1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (4), grant, as appropriate, a licence for—

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
- (b) dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity. (L.N. 5 of 2010)

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

- (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity;
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
- (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered prior to 14 October 2006 and is not for the benefit of a relevant person or a relevant entity or an individual or entity identified by the Committee or the Security Council; and
 - (ii) are to be used to satisfy the lien or judgment. (L.N. 5 of 2010)

(3) (Repealed L.N. 5 of 2010)

(4) If the Chief Executive determines that—

- (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification;
- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination. (L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	12	Provision of false information or documents for purpose of obtaining licences	L.N. 5 of 2010	15/01/2010
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(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— (L.N. 5 of 2010)

- (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— (L.N. 5 of 2010)

- (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	L.N. 120 of 2007	15/06/2007
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Section:	13	Licence or permission granted by authorities of places outside HKSAR	L.N. 5 of 2010	15/01/2010
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(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. (L.N. 5 of 2010)

(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. (L.N. 5 of 2010)

Part:	5	ENFORCEMENT OF REGULATION	L.N. 120 of 2007	15/06/2007
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Section:	14	Investigation of suspected ships	L.N. 5 of 2010	15/01/2010
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Division 1—Investigation, etc. of Suspected Ships

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

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

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

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

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

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	15	Offences by charterer, operator or master of ship	L.N. 5 of 2010	15/01/2010
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(1) A charterer, operator or master of a ship who disobeys any direction given under section 14(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 14(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

(Part 5 replaced L.N. 5 of 2010)

Section:	16	Power of authorized officers to enter and detain ships	L.N. 5 of 2010	15/01/2010
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(1) Without limiting section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	17	Investigation of suspected aircraft	L.N. 5 of 2010	15/01/2010
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Division 2—Investigation, etc. of Suspected Aircraft

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

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

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

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	18	Offences by charterer, operator or commander of aircraft	L.N. 5 of 2010	15/01/2010
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(1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

(Part 5 replaced L.N. 5 of 2010)

Section:	19	Power of authorized officers to enter and detain aircraft	L.N. 5 of 2010	15/01/2010
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(1) Without limiting section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	20	Investigation of suspected vehicles	L.N. 5 of 2010	15/01/2010
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Division 3—Investigation, etc. of Suspected Vehicles

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

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

vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	21	Offences by operator or driver of vehicle	L.N. 5 of 2010	15/01/2010
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(1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 20(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

(Part 5 replaced L.N. 5 of 2010)

Section:	22	Power of authorized officers to enter and detain vehicles	L.N. 5 of 2010	15/01/2010
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(1) Without limiting section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

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

(Part 5 replaced L.N. 5 of 2010)

Section:	23	Production of proof of identity	L.N. 5 of 2010	15/01/2010
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Division 4—Proof of Identity

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

(Part 5 replaced L.N. 5 of 2010)

Part:	6	EVIDENCE	L.N. 120 of 2007	15/06/2007
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Section:	24	Power of magistrate or judge to grant warrant	L.N. 5 of 2010	15/01/2010
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(1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that— (L.N. 5 of 2010)

- (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; (L.N. 5 of 2010)
- (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; (L.N. 5 of 2010)
- (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. (L.N. 5 of 2010)

(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. (L.N. 5 of 2010)

Section:	24A	Seized articles, etc. liable to forfeiture	L.N. 5 of 2010	15/01/2010
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(1) If an authorized officer intends to apply to a magistrate or judge under section 24B for an order for forfeiture of any document, cargo or article seized under section 24(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.

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

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

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

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

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

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

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

(L.N. 5 of 2010)

Section:	24B	Power of magistrate or judge to make order for forfeiture and disposal	L.N. 5 of 2010	15/01/2010
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(1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, manufacture, maintenance or use of a prohibited item, or that the seized cargo or article is a prohibited item, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.

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

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

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

(L.N. 5 of 2010)

Section:	25	Detention of documents, cargoes or articles seized	L.N. 5 of 2010	15/01/2010
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(1) Subject to subsection (2) and any order made under section 24B, any document, cargo or article seized under section 24(3) may not be detained for more than 3 months.

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

(L.N. 5 of 2010)

Part:	7	DISCLOSURE OF INFORMATION OR DOCUMENTS	L.N. 120 of 2007	15/06/2007
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Section:	26	Disclosure of information or documents	L.N. 5 of 2010	15/01/2010
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(1) Any information or document provided, produced or seized under Regulation may be disclosed only if—
(L.N. 5 of 2010)

- (a) the person who provided or produced the information or document or from whom the document was seized has given consent to the disclosure; (L.N. 5 of 2010)
- (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 the DPRK decided on by the Security Council; or (L.N. 5 of 2010)
- (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 (L.N. 5 of 2010)

- (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. (L.N. 5 of 2010)

Part:	8	OTHER OFFENCES AND MISCELLANEOUS MATTERS	L.N. 120 of 2007	15/06/2007
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Section:	27	Liability of persons other than principal offenders*	L.N. 5 of 2010	15/01/2010
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(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.

(L.N. 5 of 2010)

Note:

* (Amended L.N. 5 of 2010)

Section:	28	Offences in relation to obstruction of authorized persons, etc.	L.N. 5 of 2010	15/01/2010
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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.

(L.N. 5 of 2010)

Section:	29	Offences in relation to evasion of this Regulation	L.N. 5 of 2010	15/01/2010
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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— (L.N. 5 of 2010)

(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.

Section:	30	Consent and time limit for proceedings*	L.N. 5 of 2010	15/01/2010
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(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. (L.N. 5 of 2010)

Note:

* (Replaced L.N. 5 of 2010)

Section:	31	Specification of relevant person or relevant entity by Chief Executive	L.N. 5 of 2010	15/01/2010
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The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee or the Security Council under paragraph 8(d) of Resolution 1718.

(L.N. 5 of 2010)

Section:	32	Access to Security Council document S/2006/814, etc.	L.N. 5 of 2010	15/01/2010
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The Director-General of Trade and Industry is to make available at his or her office, for inspection by the public during normal office hours, free of charge, an English version and a Chinese version of each of the following documents— (L.N. 5 of 2010)

- (a) the Security Council document S/2006/814;
- (b) the Security Council document S/2006/815;
- (c) the Security Council document S/2006/853;
- (d) the Security Council document S/2006/853/Corr.1; (L.N. 5 of 2010)
- (e) the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a; (L.N. 5 of 2010)
- (f) the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a; (L.N. 5 of 2010)
- (g) the Security Council document S/2009/205. (L.N. 5 of 2010)

Section:	33	Exercise of powers of Chief Executive	L.N. 5 of 2010	15/01/2010
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(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.

(L.N. 5 of 2010)

Schedule:		SCHEDULE	L.N. 120 of 2007	15/06/2007
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[section 1]

LUXURY GOODS

United Nations Sanctions (Democratic People's Republic of Korea) 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—

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

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

attack helicopter (攻擊直昇機)—

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

authorized officer (獲授權人員) means—

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

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

combat aircraft (作戰飛機)—

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

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 12 of Resolution 1718;

DPRK (朝鮮) means the Democratic People's Republic of Korea;

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which

are not funds but can be used to obtain funds, goods or services;

funds (資金) includes—

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

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

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

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

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

missile and missile launcher (導彈及導彈發射器) means—

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

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

person connected with the DPRK (有關連人士) means—

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

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

prohibited item (禁制項目) means—

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

relevant entity (有關實體) means—

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

relevant person (有關人士) means—

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

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

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

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

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

specified item (指明項目) means—

- (a) all arms or related materiel including any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related materiel (including any spare part);
- (b) any item, material, equipment, goods or technology set out in the Security Council document S/2006/814;
- (c) any item, material, equipment, goods or technology set out in the Security Council document S/2006/815;
- (d) any item, material, equipment, goods or technology set out in the Security Council document S/2006/853 as rectified by the Security Council document S/2006/853/Corr.1;
- (e) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) any item, material, equipment, goods or technology set out in the Security Council document S/2009/205;
- (h) graphite designed or specified for use in Electrical Discharge Machining (EDM) machines; ~~or~~;
- (i) para-aramid fibre (Kevlar and other Kevlar-like), filament and tape;
- (j) any item, material, equipment, goods or technology set out in the Security Council document S/2012/235; or

(k) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1;

specified person (指明人士) means—

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

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

Part 2

Prohibitions

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

- (1A) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (1) Subject to section 3A, a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited item—
- (a) to the DPRK;
 - (b) to, or to the order of, a person connected with the DPRK; or
 - (c) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—
 - (a) that the item concerned was a prohibited item; or
 - (b) that the item concerned was or was to be supplied, sold or transferred—
 - (i) to the DPRK;
 - (ii) to, or to the order of, a person connected with the DPRK; or
 - (iii) to a destination or person for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.

3. Prohibition against carriage of certain items

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
 - (b) an aircraft that is registered in the HKSAR;
 - (ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and

- (d) a vehicle in the HKSAR.
- (2) Subject to section 3A, a ship, aircraft or vehicle must not be used for the carriage of any prohibited item if the carriage is, or forms part of, a carriage—
 - (a) from a place outside the DPRK to a place in the DPRK;
 - (b) to, or to the order of, a person connected with the DPRK; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to the DPRK or to, or to the order of, a person connected with the DPRK.
- (2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (3) A person who commits an offence under subsection (2A) is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe—
- (a) that the item concerned was a prohibited item; or
 - (b) that the carriage of the item concerned was, or formed part of, a carriage—

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

3A. Exceptions to prohibitions under sections 2 and 3

- (1) Sections 2 and 3 do not apply if—
 - (a) the prohibited item is small arms or their related materiel; and
 - (b) the person who intends to perform any act in relation to the prohibited item that, but for this section, would be prohibited under section 2 or 3 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.
- (2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

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

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

- (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (1) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any specified item—
 - (a) from the DPRK; or
 - (b) from a person connected with the DPRK.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—
 - (a) that the item concerned was a specified item; or
 - (b) that the item concerned was—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK.
- (3A) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms—
 - (a) from the DPRK; or
 - (b) from a person connected with the DPRK.

- (3B) A person who contravenes subsection (3A) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3C) It is a defence for a person charged with an offence under subsection (3B) to prove that the person did not know and had no reason to believe—
 - (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified arms; or
 - (b) that the technical training, service, assistance or advice concerned was or was to be procured from the DPRK or a person connected with the DPRK.

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

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (aa) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
 - (b) an aircraft that is registered in the HKSAR;
 - (ba) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or

- (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
 - (2) Without limiting section 4, a ship, aircraft or vehicle must not be used for or in connection with the procurement of—
 - (a) any specified item—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK; or
 - (b) any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified arms—
 - (i) from the DPRK; or
 - (ii) from a person connected with the DPRK.
- (2A) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

- (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (3) A person who commits an offence under subsection (2A) is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (2A) to prove that the person did not know and had no reason to believe—

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

5A. Prohibition against engaging in certain financial transactions

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Subject to section 5B, a person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the supply, sale, transfer or carriage of which is prohibited under section 2 or 3.
- (3) A person must not engage, directly or indirectly, in any financial transaction related to the provision, manufacture, maintenance or use of any specified arms the procurement of which is prohibited under section 4.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) that the financial transaction concerned related to the provision, manufacture, maintenance or use of any specified arms;
 - (b) that the supply, sale, transfer or carriage of the arms concerned was prohibited under section 2 or 3; or
 - (c) that the procurement of the arms concerned was prohibited under section 4.

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

- (1) Section 5A(2) does not apply if—
 - (a) the specified arms is small arms or their related materiel; and
 - (b) the person who intends to perform any act in relation to the specified arms that, but for this section, would be prohibited under section 5A(2) notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.
- (2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

6. Prohibition against provision of technical training, services, etc. to certain persons

- (1A) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (1) Subject to section 6A, a person must not provide, directly or indirectly, to a person connected with the DPRK any technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of any specified item.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—
- (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
 - (b) that the technical training, service, assistance or advice concerned was or was to be provided to a person connected with the DPRK.

6A. Exception to prohibition under section 6

- (1) Section 6 does not apply if—
 - (a) the specified item is small arms or their related materiel; and
 - (b) the person who intends to perform any act in relation to the specified item that, but for this section, would be prohibited under section 6 notifies the Chief Executive in writing of their intention to perform the act at least 30 days before the day on which the act is intended to be performed.
- (2) If the Chief Executive receives a notification under subsection (1)(b), the Chief Executive must cause the Committee to be notified of the act to which the notification relates at least 5 days before the day on which the act is intended to be performed.

7. Prohibition against acceptance of technical training, services, etc. provided by certain persons

- (1A) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (1) A person must not accept, directly or indirectly, any technical training, service, assistance or advice that is provided by a specified person and related to the provision, manufacture, maintenance or use of any specified item.
- (2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe—
 - (a) that the technical training, service, assistance or advice concerned related to the provision, manufacture, maintenance or use of any specified item; or
 - (b) that the technical training, service, assistance or advice concerned was or was to be provided by a specified person.

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

- (1A) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (1) Except under the authority of a licence—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (including a relevant person and a relevant entity) must not deal with, directly or indirectly, any

funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.

- (2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person did not know and had no reason to believe that—
 - (a) the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) the person was dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (1) by reason only of having credited an account belonging to, owned or held by a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose ~~prior to~~before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;

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

9. Prohibition against entry or transit by certain persons

- (1) Subject to section 10, a person designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718 must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.

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

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

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

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Subject to section 10B, a person must not provide, directly or indirectly, any specified services to a ship registered in the DPRK if the person knows or has reasonable grounds to believe that the ship is carrying a prohibited item.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) In this section—

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

- (a) the provision of fuel to the ship;
- (b) the provision of tools or equipment for shipboard maintenance;
- (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;

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

10B. Exception to prohibition under section 10A

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

Part 3

Licence

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

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (4), grant, as appropriate, a licence for—
 - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources belonging to, owned or held by a relevant person or a relevant entity.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic

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

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

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

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

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

(4) If the Chief Executive determines that—

(a) the requirement in subsection (2)(a) is met, the Chief Executive—

(i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification;

(b) the requirement in subsection (2)(b) is met, the Chief Executive—

(i) must cause the Committee to be notified of the determination; and

(ii) must not grant the licence unless the Committee approves the determination;

- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

- (1) 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

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

- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation 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

14. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 or 5 applies is being or is about to be used in contravention of section 3(2) or 5(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 5(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer,

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

15. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 14(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 14(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or master of a ship who, in response to a request made under section 14(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

16. Power of authorized officers to enter and detain ships

- (1) Without limiting section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or the ship concerned;
 - (b) detain or authorize the detention of that ship or any of its cargo;
 - (c) use or authorize the use of reasonable force.

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

Division 2—Investigation, etc. of Suspected Aircraft

17. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 or 5 applies has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

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

- (1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 17(1)(b) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

19. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure

compliance with that request including, in particular, any of the following steps—

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

Division 3—Investigation, etc. of Suspected Vehicles

20. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or 5(2), the officer may—
- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and

- (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.
- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

21. Offences by operator or driver of vehicle

- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 20(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) An operator or driver of a vehicle who, in response to a request made under section 20(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in

a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

22. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
 - (b) detain or authorize the detention of that vehicle or any article carried on it;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4—Proof of Identity

23. Production of proof of identity

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

Part 6

Evidence

24. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
 - (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
 - (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in

relation to the commission of an offence under this Regulation;

- (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
- (5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use any force that is reasonably necessary for that purpose.

24A. Seized articles, etc. liable to forfeiture

- (1) If an authorized officer intends to apply to a magistrate or judge under section 24B for an order for forfeiture of any document, cargo or article seized under section 24(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.
- (2) A notice under subsection (1) is to be regarded as having been duly served on a person if—
 - (a) it is delivered personally to the person;
 - (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
 - (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.

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

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

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

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

may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.

25. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2) and any order made under section 24B, any document, cargo or article seized under section 24(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
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Part 7

Disclosure of Information or Documents

26. 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 the DPRK decided on by the Security Council; or
 - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—

- (a) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
 - (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.
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Part 8

Other Offences and Miscellaneous Matters

27. Liability of persons other than principal offenders

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

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

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

29. Offences in relation to evasion of this Regulation

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

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

30. Consent and time limit for proceedings

- (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.

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

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee or the Security Council under paragraph 8(d) of Resolution 1718.

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

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

- (a) the Security Council document S/2006/814;
- (b) the Security Council document S/2006/815;
- (c) the Security Council document S/2006/853;
- (d) the Security Council document S/2006/853/Corr.1;

- (e) the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a;
- (f) the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a;
- (g) the Security Council document S/2009/205;
- (h) the Security Council document S/2012/235;
- (i) the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1.

33. Exercise of powers of Chief Executive

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

Luxury Goods

**United Nations Sanctions (Democratic People's Republic of Korea)
(Amendment) Regulation 2012
Information on the Democratic People's Republic of Korea**

Country Background

The Democratic People's Republic of Korea (DPRK), generally known as North Korea, is a country in eastern Asia. It occupies the northern half of the Korean Peninsula, and is bordered by China and Republic of Korea (South Korea). It has a total area of 120 538 sq. km. and an estimated population of around 24.3 million in 2010. Pyongyang is its capital as well as the largest city in the country. DPRK has been a Member of the United Nations since 17 September 1991. DPRK is currently led by Kim Jong-un and the Korean Workers' Party. As a socialist state operating a state-owned, agriculture-oriented economy, DPRK had a GDP of US\$12.3 billion (or HK\$95.4 billion) in 2010.¹ Merchandise imports and exports of DPRK in 2011 amounted to US\$ 4.5 billion (or HK\$35.0 billion) and US\$ 3.3 billion (or HK\$25.7 billion) respectively.²

United Nations Sanctions against DPRK

2. In response to DPRK's persistent failure to comply fully with its obligations on non-proliferation of nuclear weapons, especially the reported nuclear test in October 2006, the United Nations Security Council (UNSC) passed the Resolution 1718 in October 2006 to impose a range of arms, financial and travel-related sanctions against DPRK. DPRK engaged in constructive steps in 2008 to disable its nuclear facilities, however, its suspension of the disablement process in end 2008 and the reported engagement in another nuclear test in 2009 led to the passage of another UNSC Resolution 1874 in June 2009 to tighten up sanctions against DPRK.³

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://unstats.un.org/unsd/pocketbook/Pocketbook%202011.pdf>

² Source : WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language>

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

3. On 13 April 2012, DPRK authorities launched a so-called “application satellite” to mark the 100th birthday of its late leader, Kim Il-sung. Despite the failure of the launch, the UNSC deplored that such an act had caused serious violation of Resolutions 1718 and 1874 and demanded the country to stop all ballistic missile activities and nuclear tests through the issue of a presidential statement on 16 April 2012. Also as part of the UNSC’s response, the relevant UNSC committee was directed to designate additional entities to be subject to assets freeze, as well as to identify additional proliferation-sensitive technology to be banned for transfer to or from DPRK. On 2 May 2012, action was taken by the committee accordingly to designate additional entities and items to be subject to the measures imposed by Resolution 1718.⁴

Trade Relation between Hong Kong and DPRK

4. In 2011, DPRK ranked 139th among Hong Kong’s trading partners in the world, with a total trade of HK\$116 million. Of these, HK\$91 million worth of trade were exports to DPRK, and HK\$25 million imports. Hong Kong’s trade with DPRK are summarised as follows –

Hong Kong’s Trade with DPRK [Value in HK\$ (in million)]		
Item	2011	2012 (January – July)
(a) Total Exports to DPRK	91	141
<i>(i) Domestic exports</i>	19 ⁵	23 ⁶

⁴ Source of information in paragraph 3: UN News Centre at <http://www.un.org/apps/news/>

⁵ In 2011, domestic export items to DPRK include metalliferous ores and metal scrap (82.3%); textile yarn, fabrics, made-up articles, and related products (10.2%); and professional, scientific and controlling instruments and apparatus (3.1%).

⁶ In January – July 2012, domestic export items to DPRK include metalliferous ores and metal scrap (99.8%). The increase was mainly due to the increase in domestic exports of “ferrous waste and scrap; remelting ingots of iron or steel” to DPRK. Domestic exports of this product item to DPRK amounted to HK\$23 million in January – July 2012, but there was no domestic export of this product item to DPRK during the same period in 2011.

<i>(ii) Re-exports</i>	72 ⁷	118 ⁸
(b) Imports from DPRK	25 ⁹	25 ¹⁰
Total Trade [(a) + (b)]	116	166

In 2011, HK\$121 million worth of goods, or 0.3% of the total trade between DPRK and the Mainland, were routed through Hong Kong. Of these, HK\$86 million worth of goods were re-exports from DPRK to Mainland. The remaining HK\$35 million were re-exports of Mainland origin to the DPRK via Hong Kong.

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

Commerce and Economic Development Bureau September 2012

⁷ In 2011, re-exports to DPRK include telecommunications and sound recording and reproducing apparatus and equipment (29.5%); tobacco and tobacco manufactures (23.7%); and meat and meat preparations (17.4%).

⁸ In January – July 2012, re-exports to DPRK include telecommunications and sound recording and reproducing apparatus and equipment (39.4%); electrical machinery, apparatus and appliances and electrical parts thereof (29.3%); and meat and meat preparations (13.8%). The increase was mainly due to the increase in re-exports of “telecommunications equipment, and parts, and accessories of apparatus falling within the group of telecommunications and sound recording and reproducing apparatus and equipment” to DPRK by 724% in January – July 2012. This product item accounted for 17.2% of re-exports to DPRK during the same period in 2011.

⁹ In 2011, imports from DPRK include non-ferrous metals (78.2%); crude animal and vegetable materials (18.7%); and telecommunications and sound recording and reproducing apparatus and equipment (0.9%).

¹⁰ In January – July 2012, imports from DPRK include office machines and automatic data processing machines (51.7%); non-ferrous metals (14.6%); and tobacco and tobacco manufactures (11.3%). The increase was mainly due to the increase in imports of “office machines” from DPRK. Imports of this product item from DPRK amounted to HK\$13 million in January – July 2012, but there was no import of this product item from DPRK during the same period in 2011.

UNITED NATIONS SANCTIONS (GUINEA-BISSAU) REGULATION

INTRODUCTION

A At the meeting of the Executive Council on 25 September 2012, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Guinea-Bissau) Regulation (“the Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The 2012 Regulation was gazetted on 28 September 2012 and came into operation on the same day.

BACKGROUND

Obligation and Authority

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In June 2012, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Guinea-Bissau in the HKSAR pursuant to the UNSC Resolution (“UNSCR”) 2048. The Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 2048 are at Annexes B and C respectively.

Sanctions against Guinea-Bissau – UNSCR 2048

3. Concerned with the continuing instability and reported human rights violations in Guinea-Bissau caused by the military coup, the UNSC adopted UNSCR 2048 on 18 May 2012 to impose a travel ban on designated persons in relation to Guinea-Bissau. The UNSC, inter alia, decides that –

- (a) all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in the annex of UNSCR 2048 or designated by the Committee established pursuant to paragraph 9 of UNSCR 2048 (“the Committee”), provided that nothing in this paragraph shall oblige a

State to refuse its own nationals entry into its territory (*paragraph 4 of UNSCR 2048 refers*); and

- (b) the measures imposed by paragraph 3(a) above shall not apply (*paragraph 5 of UNSCR 2048 refers*) –
 - (i) where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation;
 - (ii) where any entry or transit is necessary for the fulfilment of a judicial process; and
 - (iii) where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Guinea-Bissau and stability in the region.

THE REGULATION

4. The Regulation, at Annex A, seeks to implement the sanctions against Guinea-Bissau as per UNSCR 2048. The main provisions of the Regulation include -

- (a) **section 2**, which prohibits the entry into or transit through the HKSAR by certain persons; and
- (b) **section 3**, which provides for exceptions to prohibition against entry or transit by certain persons.

IMPLICATIONS OF THE PROPOSAL

5. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the UNSO. It has no financial, economic, productivity, environmental or sustainability implications. Additional workload arising from the enforcement of the Regulation, if any, will be absorbed by the relevant departments within existing resources.

PUBLICITY

6. A press release was issued on 28 September 2012 when the Regulation was published in the Gazette.

INFORMATION ON GUINEA-BISSAU AND RELATION WITH HKSAR

7. For information on Guinea-Bissau, background of the sanction regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex D.

D

ADVICE SOUGHT

8. Members are invited to note the implementation of UNSCR 2048 in the HKSAR by the Regulation.

**Commerce and Economic Development Bureau
September 2012**

United Nations Sanctions (Guinea-Bissau) Regulation

L.N. 141 of 2012
B6285

Section 1

L.N. 141 of 2012

United Nations Sanctions (Guinea-Bissau) 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)

1. Interpretation

In this Regulation—

Committee (委員會) means the Committee of the Security Council established under paragraph 9 of Resolution 2048;

Resolution 2048 (《第2048號決議》) means Resolution 2048 (2012) adopted by the Security Council on 18 May 2012;

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

2. Prohibition against entry or transit by certain persons

- (1) Subject to section 3, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

specified person (指明人士) means—

- (a) a person designated by the Committee for the purposes of paragraph 4 of Resolution 2048; or
- (b) a person listed in the Annex to Resolution 2048.

United Nations Sanctions (Guinea-Bissau) Regulation

L.N. 141 of 2012
B6287

Section 3

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

Section 2 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;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process; or
- (c) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of peace and national reconciliation in Guinea-Bissau and stability in the region.

4. Consent for proceedings

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

C. Y. LEUNG
Chief Executive

26 September 2012

United Nations Sanctions (Guinea-Bissau) Regulation

Explanatory Note
Paragraph 1

L.N. 141 of 2012
B6289

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2048 (2012), as adopted by the Security Council of the United Nations on 18 May 2012, by providing for the prohibition against entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Guinea-Bissau) Regulation

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in June 2012 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2048 of the Security Council of the United Nations, and that the United Nations Sanctions (Guinea-Bissau) Regulation was made in pursuance of that instruction.

Dated this 27th day of September 2012



(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/2048 (2012)

**Security Council**Distr.: General
18 May 2012

Resolution 2048 (2012)**Adopted by the Security Council at its 6774th meeting, on
18 May 2012***The Security Council,**Recalling* the Statement of its President of 21 April 2012 (S/PRST/2012/15) and the press statements of 12 April and 8 May on the situation in Guinea-Bissau,*Reiterating* its strong condemnation of the military coup on 12 April by the military leadership, which undermined the conclusion of the democratic electoral process in Guinea-Bissau, and of the establishment by the coup perpetrators of a “Military Command”,*Recalling* the unanimous condemnation of the military coup by the international community, including by the African Union (AU), the Economic Community of West African States (ECOWAS), the Community of Portuguese Speaking Countries (CPLP), the European Union (EU) and the Peacebuilding Commission (PBC),*Taking note of* the efforts by the AU, ECOWAS, CPLP and the EU in response to the current crisis and the mediation efforts led by ECOWAS in response to the recent military coup,*Underlining* the need for active and close coordination among international partners in order to restore constitutional order and develop a comprehensive strategy of stabilization to support Guinea-Bissau address its political, security and development challenges,*Taking note of* the calls by the Government of Guinea-Bissau for a response of the Security Council to the current crisis,*Taking note of* the release of interim President Raimundo Pereira, Prime Minister Carlos Gomes Júnior and other detained officials,*Deploing* the continued refusal of the “Military Command” to heed the Council’s demands, for the immediate restoration of the constitutional order, the reinstatement of the legitimate democratic Government of Guinea-Bissau and the resumption of the electoral process interrupted by the military coup,

Expressing concern about reports of cases of looting, including of State assets, human rights violations and abuses, including arbitrary detentions, ill treatment during detention, the repression of peaceful demonstrations and the restrictions on the freedom of movement imposed by the “Military Command” on a number of individuals, as noted in the Special Report of the Secretary-General on the situation in Guinea-Bissau (S/2012/280), and underlining that those responsible for such violations and abuses must be held accountable,

Affirming its condemnation of all acts of violence, including against women and children, and stressing the need to prevent violence,

Noting with deep concern the worrying humanitarian situation caused by the coup d’état and its negative impact on the economic activity in the country,

Stressing the importance of Security Sector Reform implementation, including effective and responsible civilian control over the security forces, as a crucial element for long term stability in Guinea-Bissau, as envisaged in the Guinea-Bissau/ECOWAS/CPLP Roadmap and underlining the responsibility of police forces in Guinea-Bissau to protect state institutions and the civilian population,

Deploing the recurrent illegal interference of the military leadership in the political process in Guinea-Bissau and expressing concern that interference of the military in politics and the impact of illicit drug trafficking and organized crime in Guinea-Bissau have significantly hampered efforts to establish rule of law and good governance and tackle impunity and corruption,

Expressing grave concern over the negative impacts of illicit drug trafficking and organized crime on Guinea-Bissau and the subregion,

Expressing deep concern about the possible increase in illicit drug trafficking as a result of the military coup,

Underlining that any lasting solution to instability in Guinea-Bissau should include concrete actions to fight impunity and ensure that those responsible for politically-motivated assassinations and other serious crimes such as illicit drug-trafficking-related activities and breaches of constitutional order are brought to justice,

Further underlining the importance of stability and good governance for durable social and economic development in Guinea-Bissau,

Reaffirming the need to uphold and respect the sovereignty, unity and territorial integrity of Guinea-Bissau,

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

Acting under article 41 of Chapter VII of the Charter of the United Nations,

1. *Demands* that the Military Command takes immediate steps to restore and respect constitutional order, including a democratic electoral process, by ensuring that all soldiers return to the barracks, and that members of the “Military Command” relinquish their positions of authority;

2. *Stresses* the need for all national stakeholders and Guinea-Bissau’s international bilateral and multilateral partners to remain committed to the restoration of constitutional order, as affirmed in paragraph 1 above and, in this

context, encourages ECOWAS to continue its mediation efforts aimed at the restoration of constitutional order, in close coordination with the United Nations, the AU and CPLP;

3. *Requests* the Secretary-General to be actively engaged in this process, in order to harmonize the respective positions of international bilateral and multilateral partners, particularly the AU, ECOWAS, CPLP and the EU, and ensure maximum coordination and complementarity of international efforts, with a view to developing a comprehensive integrated strategy with concrete measures aimed at implementing security sector reform, political and economic reforms, combating drug-trafficking and fighting impunity;

Travel ban

4. *Decides* that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in the annex of this resolution or designated by the Committee established pursuant to paragraph 9 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

5. *Decides* that the measures imposed by paragraph 4 above shall not apply:

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

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

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

Designation criteria

6. *Decides* that the measures contained in paragraph 4 shall apply to the individuals designated by the Committee, pursuant to paragraph 9 (b):

(a) Seeking to prevent the restoration of the constitutional order or taking action that undermines stability in Guinea-Bissau, in particular those who played a leading role in the coup d'état of 12 April 2012 and who aim, through their actions, at undermining the rule of law, curtailing the primacy of civilian power and furthering impunity and instability in the country;

(b) Acting for or on behalf of or at the direction of or otherwise supporting or financing individuals identified in subparagraph (a);

7. *Notes* that such means of support or financing include, but are not limited to, the proceeds from organized crime, including the illicit cultivation, production and trafficking of narcotic drugs and their precursors originating in and transiting through Guinea-Bissau;

8. *Strongly encourages* Member States to submit to the Committee names of individuals who meet the criteria set out in paragraph 6 above;

New Sanctions Committee

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

- (a) To monitor implementation of the measures imposed in paragraph 4;
- (b) To designate those individuals subject to the measures imposed by paragraph 4 and to consider requests for exemptions in accordance with paragraph 5 above;
- (c) To establish such guidelines as may be necessary to facilitate the implementation of the measures imposed above;
- (d) To report within thirty days to the Security Council on its work for the first report and thereafter to report as deemed necessary by the Committee;
- (e) To encourage a dialogue between the Committee and interested Member States and international, regional and subregional organizations, in particular those in the region, including by inviting representatives of such States or organizations to meet with the Committee to discuss implementation of the measures;
- (f) To seek from all States and international, regional and subregional organizations whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed above;
- (g) To examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution;

10. *Calls upon* all Member States to 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 paragraph 4;

11. *Requests* the Secretary-General to submit to the Council an initial report on the implementation of paragraph 1 above within 15 days of the adoption of this resolution, and regular reports, every 90 days thereafter, on the implementation of all its elements, as well as on the humanitarian situation in Guinea-Bissau;

Commitment to review

12. *Affirms* that it shall keep the situation in Guinea-Bissau under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution, including the strengthening through additional measures, such as an embargo on arms and financial measures, modification, suspension or lifting of the measures, as may be needed at any time in light of the progress achieved in the stabilization of the country, the restoration of the constitutional order, in compliance with this resolution;

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

Annex

Travel ban

1. General António INJAI (a.k.a António INDJAI)

Nationality: Guinea-Bissau

Date of birth: 20 January 1955

Place of birth: Encheia, Sector de Bissorá, Região de Oio, Guinea-Bissau

Parentage: Wasna Injai and Quiritché Cofte

Official function: Lieutenant General – Chief of Staff of the Armed Forces

Passport: Diplomatic passport AAID00435

Date of issue: 18.02.2010

Place of issue: Guinea-Bissau

Date of expiry: 18.02.2013

António Injai was personally involved in planning and leading the mutiny of 1 April 2010, culminating with the illegal apprehension of the Prime Minister, Carlo Gomes Junior, and the then Chief of Staff of the Armed Forces, José Zamora Induta; during the 2012 electoral period, in his capacity as Chief of Staff of the Armed Forces, Injai made statements threatening to overthrow the elected authorities and to put an end to the electoral process; António Injai has been involved in the operational planning of the coup d'état of 12 April 2012. In the aftermath of the coup, the first communiqué by the "Military Command" was issued by the Armed Forces General Staff, which is led by General Injai.

2. Major General Mamadu TURE (a.k.a. N'KRUMAH)

Nationality: Guinea-Bissau

Date of birth: 26 April 1947

Official function: Deputy Chief of Staff of the Armed Forces

Passport: Diplomatic passport DA0002186

Date of issue: 30.03.2007

Place of issue: Guinea-Bissau

Date of expiry: 26.08.2013

Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.

3. General Estêvão NA MENA

Nationality: Guinea-Bissau

Date of birth: 07 March 1956

Official function: Inspector-General of the Armed Forces

Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.

4. Brigadier General Ibraima CAMARÁ (a.k.a. “Papa Camará”)
Nationality: Guinea-Bissau
Date of birth: 11 May 1964
Parentage: Suareba Camará and Sale Queita
Official function: Chief of Staff of the Air Force
Passport: Diplomatic passport AAID00437
Date of issue: 18.02.2010
Place of issue: Guinea-Bissau
Date of expiry: 18.02.2013
Member of the “Military Command” which has assumed responsibility for the coup d’état of 12 April 2012.
 5. Lieutenant colonel Daba NAUALNA (a.k.a. Daba Na Walna)
Nationality: Guinea-Bissau
Date of birth: 6 June 1966
Parentage: Samba Nualna and In-Uasne Nanfafa
Official function: Spokesperson of the “Military Command”
Passport: Passport SA000417
Date of issue: 29.10.2003
Place of issue: Guinea-Bissau
Date of expiry: 10.03.2013
Spokesperson of the “Military Command” which has assumed responsibility for the coup d’état of 12 April 2012.
-

**United Nations Sanctions (Guinea-Bissau) Regulation
Information on Guinea-Bissau**

Country Background

Guinea-Bissau is a country in Western Africa, situated between Senegal and Guinea, bordering the North Atlantic Ocean. It has a total area of 36,125 sq. km. and an estimated population of around 1.52 million in 2010. With its capital in Bissau, Guinea-Bissau first achieved independence in 1974. In the aftermath of the military coup in April 2012 that undermined the conclusion of the democratic election process in Guinea-Bissau, an agreement was reached between the Economic Community of West African States (ECOWAS) mediators and the military junta to name Manuel Serifo NHAMADJO as the transitional president since May 2012 with a one year term. Guinea-Bissau had a GDP of US\$817 million (or HK\$6.35 billion) in 2010.¹ Merchandise imports and exports of Guinea-Bissau in 2011 amounted to US\$ 300 million (or HK\$2.34 billion) and US\$ 230 million (or HK\$1.79 billion) respectively.²

United Nations Sanctions against Guinea-Bissau

2. Guinea-Bissau has been beset by military coups, misrule and political instability since it gained independence from Portugal in 1974. The death of the country's president Malam Bacai Sanhá in January 2012 prompted early elections, the first round of which were held on 18 March 2012. Since no candidate received a minimum 50% of the vote in the first round, a runoff between the two leading candidates, former Prime Minister Carlos Gomes Júnior and ex-president Kumba Yala, was scheduled for 22 April 2012. To prevent the second round presidential elections from taking place, some elements of the armed forces in the country seized power and ousted the civilian government on 12 April 2012. Both the interim President, Raimundo Pereira, and Carlos Gomes Júnior were detained during the military coup though they were both released later on intervention by ECOWAS.

3. Deploring the continuing refusal of military leadership in Guinea-Bissau to reinstate legitimate authority in the country, the United Nations Security Council (UNSC) adopted Resolution 2048 on 18 May 2012 to impose a travel ban, with exemptions for humanitarian, judicial or reconciliatory purposes, on Armed Forces Chief of Staff and other members of the so-called "Military Command". In the same resolution, UNSC also demanded that the Guinea-Bissau military leadership take immediate steps to restore and respect constitutional order, including holding

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://unstats.un.org/unsd/pocketbook/Pocketbook%202011.pdf>

² Source: WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language>

democratic elections, ensuring that all soldiers return to barracks, and requiring that members of the “Military Command” relinquish their positions of authority.³

Trade Relation between Hong Kong and Guinea-Bissau

4. In 2011, Guinea-Bissau ranked 185th among Hong Kong’s trading partners in the world, with a total trade of HK\$11.3 million. Of these, HK\$11.3 million worth of trade were exports to Guinea-Bissau, and HK\$0.02 million imports. Hong Kong’s trade with Guinea-Bissau are summarised as follows –

Hong Kong’s Trade with Guinea-Bissau [Value in HK\$ (in million)]		
Item	2011	2012 (January – July)
(a) Total Exports to Guinea-Bissau	11.3	1.7
(i) Domestic exports	0.0	0.0
(ii) Re-exports	11.3 ⁴	1.7 ⁵
(b) Imports from Guinea-Bissau	0.02 ⁶	0.0
Total Trade [(a) + (b)]	11.3	1.7

In 2011, HK\$11.2 million worth of goods between Guinea-Bissau and the Mainland were routed through Hong Kong. Nearly all the goods involved were re-exports of Mainland origin to Guinea-Bissau via Hong Kong.

5. The travel ban against Guinea-Bissau imposed by the UNSC would unlikely have any significant effect on the economy of Hong Kong.

Commerce and Economic Development Bureau September 2012

³ Source of information contained in paragraphs 2-3: UN News Centre at <http://www.un.org/apps/news/>

⁴ In 2011, re-exports to Guinea-Bissau include telecommunications equipment (97.2%); plastic articles (2.0%); and parts and accessories of office machines and computers (0.2%).

⁵ In January – July 2012, re-exports to Guinea-Bissau include telecommunications equipment (99.0%).

⁶ In 2011, all imports from Guinea-Bissau are telecommunications equipment (100.0%).

UNITED NATIONS SANCTIONS (SOMALIA) (AMENDMENT) REGULATION 2012

INTRODUCTION

A At the meeting of the Executive Council on 25 September 2012, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Somalia) (Amendment) Regulation 2012 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Amendment Regulation was gazetted on 28 September 2012 and came into operation on the same day.

BACKGROUND

Obligation and Authority

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In April 2012, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Somalia in the HKSAR pursuant to the UNSC Resolution (“UNSCR”) 2036. The Amendment Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 2036 are at Annexes B and C respectively.

Sanctions against Somalia

3. 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 passed a number of resolutions since 1992 to implement a range of sanctions against Somalia. The core framework for the sanctions was set out in UNSCR 1844 that was adopted in November 2008. They concern travel ban⁽¹⁾, financial

Notes ⁽¹⁾ Paragraph 1 of UNSCR 1844 provides for the prohibition against the entry into or transit through the territory of Member States by persons designated by the Committee established under paragraph 11 of UNSCR 751 (“the Committee”). Exceptions to the measure are set out in paragraph 2 of UNSCR 1844.

restriction⁽²⁾ and arms embargo⁽³⁾ in respect of persons or entities designated by the Committee established under paragraph 11 of UNSCR 751.

4. Pursuant to the instruction of the MFA, the HKSAR implemented the sanctions against Somalia by gazetting the United Nations Sanctions (Somalia) Regulation (Cap. 537AN) (at Annex D) on 27 March 2009.

D

UNSCR 2036

5. Noting that the situation in Somalia continues to pose a threat to international peace and security in the region, the UNSC adopted UNSCR 2036 on 22 February 2012. The UNSC, inter alia, decides that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia (*paragraph 22 of UNSCR 2036 refers*).

THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to implement the sanctions against Somalia as per UNSCR 2036. The main provisions of the Amendment Regulation include -

- (a) **section 6 which adds new section 4A to Cap. 537AN** to prohibit the importation of charcoal from Somalia; and
- (b) **sections 7 and 11 which amend sections 5 and 10 of Cap. 537AN** to provide for the prohibition against making available funds, other financial assets or economic resources to or for the benefit of certain persons and entities or dealing with funds of certain persons or entities, and the granting of licence for such activities. The amendments aim to bring the structure and style of relevant provisions under Cap. 537AN in line with

Notes

⁽²⁾ Paragraph 3 of UNSCR 1844 provides for the freezing of funds, other financial assets and economic resources owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, or by the individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and the prohibition against making available any funds, financial assets or economic resources to or for the benefit of such individuals or entities. Exceptions to the measure are set out in paragraph 4 of UNSCR 1844.

⁽³⁾ Paragraph 7 of UNSCR 1844 provides for the prohibition against the direct or indirect supply, sale or transfer of weapons and military equipment to individuals or entities designated by the Committee, as well as the direct or indirect supply of technical assistance or training, financial and other assistance related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment.

that of similar provisions in other regulations recently made under the Ordinance.

A mark-up version showing amendments to Cap. 537AN is at Annex E for easy reference by Members.

E

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the UNSO. It has no financial, economic, productivity, environmental or sustainability implications. Additional workload arising from the enforcement of Cap. 537AN as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments within existing resources.

PUBLICITY

8. A press release was issued on 28 September 2012 when the Amendment Regulation was published in the Gazette.

INFORMATION ON SOMALIA AND RELATION WITH HKSAR

9. For information on Somalia, background of the sanction regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex F.

F

ADVICE SOUGHT

9. Members are invited to note the implementation of UNSCR 2036 in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau
September 2012**

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

L.N. 142 of 2012
B6291

L.N. 142 of 2012

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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

L.N. 142 of 2012
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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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

1. United Nations Sanctions (Somalia) Regulation amended

The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) is amended as set out in sections 2 to 14.

2. Section 1 amended (interpretation)

(1) Section 1—

Repeal

“, unless the context otherwise requires”.

(2) Section 1—

Repeal the definition of *relevant entity*

Substitute

“*relevant entity* (有關實體) means—

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

(3) Section 1—

Repeal the definition of *relevant person*

Substitute

“*relevant person* (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 30; or
- (b) a person acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30;”.

(4) Section 1, definition of *Security Council*—

Repeal

“(安理會)”

Substitute

“(安全理事會)”.

(5) Section 1, Chinese text, definition of 有關連人士, paragraphs (b), (c), (d) and (e)—

Repeal

“任何”.

(6) Section 1, Chinese text, definition of 委員會—

Repeal

“安理會”

Substitute

“安全理事會”.

(7) Section 1, Chinese text, definition of 《第751號決議》—

Repeal

“安理會”

Substitute

“安全理事會”.

Section 3

- (8) Section 1, Chinese text, definition of 《第1744號決議》—

Repeal

“安理會”

Substitute

“安全理事會”.

- (9) Section 1, Chinese text, definition of 《第1772號決議》—

Repeal

“安理會”

Substitute

“安全理事會”.

- (10) Section 1, Chinese text, definition of 《第1844號決議》—

Repeal

“安理會”

Substitute

“安全理事會”.

- (11) Section 1—

Add in alphabetical order

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

3. **Section 2 amended (prohibition against supply or delivery of certain goods)**

- (1) Section 2, heading—

Repeal

“or delivery”

Section 3

Substitute

“, sale or transfer”.

- (2) Section 2—

Repeal subsection (2)**Substitute**

- “(2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—

(a) to Somalia;

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

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

- (3) Section 2—

Repeal subsection (3)**Substitute**

- “(3) A person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—

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

(4) Section 2(5)—

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

- “(b) if the person is charged with contravening subsection (2), that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or 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, sold or transferred—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.”.

4. Section 3 amended (prohibition against carriage of certain goods)

(1) Section 3(2)(c), after “delivery”—

Add

“or transfer”.

(2) Section 3—

Repeal subsection (3)**Substitute**

“(3) Subsection (2) does not apply if—

- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
- (b) the supply, sale or transfer was authorized by a licence granted under section 8(1)(a).”.

(3) Section 3(4)(b), after “delivery”—

Add

“or transfer”.

(4) Section 3(5)(b)—

Repeal subparagraph (i)**Substitute**

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

(5) Section 3(5)(d)—

Repeal subparagraph (i)

Section 5

Substitute

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

(6) Section 3(7)(b)(iii), after “delivery”—

Add

“or transfer”.

(7) Section 3(7)(c)(ii), after “delivery”—

Add

“or transfer”.

5. Section 4 amended (prohibition against provision of certain advice, assistance or training)

(1) Section 4(3)—

Repeal

“delivery”

Substitute

“sale, transfer”.

(2) Section 4—

Repeal subsection (5)**Substitute**

“(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—

Section 6

(a) if the person is charged with contravening subsection (2)—

(i) that the advice, assistance or training concerned was or was to be provided to a person connected with Somalia; or

(ii) that the advice, assistance or training concerned related to military activities; or

(b) if the person is charged with contravening subsection (3)—

(i) that the assistance or training concerned was or was to be provided to a designated person; or

(ii) that the assistance or training concerned related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of any prohibited goods.”.

6. Section 4A added

After section 4—

Add**“4A. Prohibition against importation of charcoal**

(1) A person must not import, directly or indirectly, any charcoal from Somalia into the HKSAR.

(2) Subsection (1) applies whether or not the charcoal concerned was originated in Somalia.

(3) A person who contravenes subsection (1) commits an offence and is liable—

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

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

- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the charcoal concerned was imported, directly or indirectly, from Somalia into the HKSAR.”.

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

- (1) Section 5, heading, after “etc.”—

Add

“or dealing with funds, etc.”.

- (2) Section 5—

Repeal subsection (2)

Substitute

- “(2) Except under the authority of a licence granted under section 10(1)—

- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.”.

- (3) Section 5—

Repeal subsection (3).

- (4) Section 5—

Repeal subsection (5)

Substitute

- “(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 funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
- (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.”.

- (5) After section 5(5)—

Add

- “(6) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—

- (a) interest or other earnings due on that account; or
- (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.

- (7) In this section—

deal with (處理) means—

- (a) in respect of funds—
- (i) use, alter, move, allow access to or transfer;

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

8. Section 6 amended (prohibition against entry or transit by certain persons)

Section 6—

Repeal subsection (3)

Substitute

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

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

(1) Section 8, heading—

Repeal

“delivery”

Substitute

“sale, transfer”.

(2) Section 8—

Repeal subsection (1)

Substitute

- “(1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
- (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.”.

(3) Section 8(2)(d)—

Repeal

everything after “5 of Resolution 1772”

Substitute a full stop.

Section 10

- (4) After section 8(2)—

Add

- “(3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.”.

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

- (1) Section 9(1), after “must”—

Add

“, subject to subsection (3),”.

- (2) Section 9(2)(b)—

Repeal

everything after “5 of Resolution 1772”

Substitute a full stop.

- (3) After section 9(2)—

Add

- “(3) If the Chief Executive determines that the requirement in subsection (2)(b) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.”.

Section 11

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

- (1) Section 10, heading, after “entities”—

Add

“or dealing with funds, etc. of certain persons or entities”.

- (2) Section 10—

Repeal subsection (1)**Substitute**

- “(1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
- (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.”.

- (3) Section 10(2)—

Repeal paragraph (a)**Substitute**

- “(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;

Section 12

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
- (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;”.

(4) Section 10(2)(c)(i), English text—

Repeal

“prior to”

Substitute

“before”.

(5) Section 10(3)(a)(ii), before “the notification”—

Add

“receiving”.

12. Section 13 amended (investigation of suspected ships)

Section 13(2)—

Repeal

“that section”

Substitute

“section 3(2) or (4)”.

13. Section 23 amended (power of magistrate or judge to grant warrant)

Section 23(1), English text—

Section 14

Repeal

“the magistrate or judge is”.

14. Section 26 heading amended (liability of person other than principal offender)

Section 26, English text, heading—

Repeal

“person other than principal offender”

Substitute

“persons other than principal offenders”.

C. Y. LEUNG
Chief Executive

26 September 2012

Explanatory Note

The main purpose of this Regulation is to give effect to a decision in Resolution 2036 (2012) as adopted by the Security Council of the United Nations (*Security Council*) on 22 February 2012. The decision seeks to impose a new sanction against the import of charcoal from Somalia.

2. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN), as amended by this Regulation, also gives effect to previous Resolutions of the Security Council by providing for the prohibition against—
- (a) the supply, sale, transfer or carriage of weapons or military equipment;
 - (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;
 - (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
 - (e) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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 April 2012 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2036 of the Security Council of the United Nations, and that the United Nations Sanctions (Somalia) (Amendment) Regulation 2012 was made in pursuance of that instruction.

Dated this 27th day of September 2012

A handwritten signature in cursive script, appearing to read 'Carrie Lam'.

(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/2036 (2012)

**Security Council**Distr.: General
22 February 2012

Resolution 2036 (2012)**Adopted by the Security Council at its 6718th meeting, on
22 February 2012***The Security Council,*

Recalling all previous resolutions on the situation in Somalia, in particular resolution 2010 (2011), as well as other relevant Presidential Statements and resolutions on protection of civilians in armed conflict, women and peace and security, and children and armed conflict,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, and *reiterating* its commitment to a comprehensive and lasting settlement of the situation in Somalia,

Reiterating its full support for the Djibouti Peace Process and the Transitional Federal Charter which provide the framework for reaching a lasting political solution in Somalia, *reiterating* its support for the Kampala Accord and the Roadmap to End the Transition (the “Roadmap”), and *stressing* the need for reconciliation, dialogue and broad-based, inclusive and representative Somali institutions,

Stressing the primary responsibility of the Transitional Federal Institutions to implement the Roadmap, *welcoming* the progress to date, including the commitment shown by the Garowe Principles, but *expressing concern* that many of the deadlines for the completion of the tasks in the Roadmap have been missed which may delay the full implementation of the Roadmap,

Urging the Transitional Federal Institutions and all Roadmap signatories to redouble their efforts to fully implement the Roadmap with the support of United Nations Political Office for Somalia (UNPOS) and the international community, and *noting* that future support to the Transitional Federal Institutions for the remainder of the transitional period, would be contingent upon progress in completing the tasks in the Roadmap,

Stressing the need for the Transitional Federal Government, with the support of the African Union Mission to Somalia (AMISOM), and as a matter of urgency, to build an enhanced level of security in areas secured by AMISOM and the Somali security forces, and to build sustainable administrative structures in these areas,



Noting that the transitional period in Somalia will end on 20 August 2012, *emphasising* that any further extension of the transitional period would be untenable and *calling upon* Somali parties to agree inclusive and representative post-transitional arrangements, in line with the Djibouti Agreement,

Stressing the need for further efforts to fight corruption, promote transparency and increase mutual accountability in Somalia, and in this regard *welcoming* initiatives aimed at the more transparent and accountable management of Somali assets and internal and external financial resources to maximise public revenues for the benefit of the Somali people,

Stressing the need for a comprehensive strategy in Somalia to address the political, economic, humanitarian and security problems in Somalia and the problem of piracy, including hostage taking, off the coast of Somalia through the collaborative efforts of all stakeholders, *reiterating* their full support to the Secretary-General and his Special Representative, Augustine P. Mahiga in this regard, and for their work with the African Union and international and regional partners,

Recognising that peace and stability in Somalia depend on reconciliation and effective governance across the whole of Somalia and *urging* all Somali parties to renounce violence and to work together to build peace and stability,

Welcoming the London Conference on Somalia, to be held on 23 February 2012, where coordinated international action to address the political, security, justice, stability, and piracy problems in Somalia, as well as humanitarian issues, will be further enhanced, and *welcoming* the upcoming Istanbul Conference on Somalia,

Expressing grave concern at the dire humanitarian situation in Somalia, and its impact on the people of Somalia, in particular on women and children, and *calling on* all parties to ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law,

Reiterating its condemnation of all attacks on the Transitional Federal Government, the African Union Mission in Somalia (AMISOM), United Nations personnel and facilities, and the civilian population by armed opposition groups, and foreign fighters, particularly Al Shabaab, and *stressing* that Somali armed opposition groups and foreign fighters, particularly Al Shabaab, constitute a terrorist threat to Somalia, and the international community,

Noting the announcement that Al Shabaab has joined Al Qaeda, *stressing* that there should be no place for terrorism or violent extremism in Somalia and *reiterating* its call upon all opposition groups to lay down their arms,

Commending the contribution of AMISOM to lasting peace and stability in Somalia and efforts to bring stability and security to Mogadishu, *expressing* its appreciation for the continued commitment of troops and equipment to AMISOM by the Governments of Burundi and Uganda, and for the newly deployed troops from the Government of Djibouti and *recognising* the significant sacrifices made by AMISOM forces,

Welcoming the willingness of the Government of Kenya for Kenyan forces to be incorporated into AMISOM and so to contribute to the implementation of

AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution, *stressing* the importance of the prompt deployment of new AMISOM forces to reach its mandated level, and *calling* on other African Union Member States to consider contributing troops and provide support to AMISOM,

Welcoming the work of the joint African Union and United Nations Technical Assessment Mission on AMISOM, *noting* the agreement by the African Union Peace and Security Council on a AMISOM Strategic Concept of 5 January 2012, and *welcoming* the Secretary-General's Special Report on Somalia (S/2012/74),

Recalling its authorisation in paragraph 1 of resolution 2010 (2011) that the Member States of the African Union maintain the deployment of AMISOM until 31 October 2012, and that AMISOM is authorised to take all necessary measures to carry out its existing mandate as set out in paragraph 9 of resolution 1772 (2007),

Recalling paragraph 5 of resolution 2010 (2011) and noting its intention to review the force level of AMISOM when the mission reaches its mandated level of 12,000,

Expressing concern that charcoal exports from Somalia are a significant revenue source for Al Shabaab and also exacerbate the humanitarian crisis,

Recalling its resolutions 1950 (2010), 1976 (2011), and 2020 (2011) *expressing* its grave concern at the threat posed by piracy and armed robbery off the coast of Somalia, *recognising* that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, *stressing* the need for a comprehensive response to tackle piracy, and hostage taking, and its underlying causes by the international community and the Transitional Federal Institutions and *welcoming* the efforts of the Contact Group for Piracy off the Coast of Somalia, States and international and regional organisations,

Stressing the need to investigate, prosecute, and to imprison when duly convicted pirates and those who illicitly finance, plan, organise, or unlawfully profit from pirate attacks,

Welcoming the relocation of the Secretary-General's Special Representative to Somalia and an UNPOS office to Mogadishu and *encouraging* the United Nations to take further steps to achieve a more permanent and full relocation to Somalia, in particular Mogadishu, consistent with the security conditions, as outlined in the Secretary-General's reports (S/2010/447) and (S/2009/210),

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 in addition to the tasks set out in paragraph 9 of resolution 1772 (2007) AMISOM shall include establishing a presence in the four sectors set out in the AMISOM strategic Concept of 5 January, and AMISOM shall be authorised to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia, *further decides* that AMISOM shall act in compliance with applicable international humanitarian and human rights

law, in performance of this mandate and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia;

2. *Requests* the African Union to increase AMISOM's force strength from 12,000 to a maximum of 17,731 uniformed personnel, comprised of troops and personnel of formed police units;

3. *Reiterates* that regional organisations have the responsibility to secure human, financial, logistical and other resources for the work of their organisations, including through contributions by their members and support from partners, *welcomes* the valuable financial support provided by the African Union's partners to AMISOM, including through bilateral support programmes and the African Peace Facility of the European Union, and calls upon all partners, in particular new donors, to support AMISOM through the provision of equipment, technical assistance, funding for troop stipends, and uncaveated funding to AMISOM to the United Nations Trust Fund for AMISOM;

4. *Decides* to expand the logistical support package for AMISOM, referred to in paragraphs 10 and 11 of resolution 2010 (2011), and as described in the Secretary-General's letters (S/2009/60 and S/2011/591) to the President of the Security Council, from a maximum of 12,000 uniformed personnel to a maximum of 17,731 uniformed personnel, until 31 October 2012, ensuring the accountability and transparency of expenditure of United Nations funds as set out in paragraph 4 of resolution 1910 (2010);

5. *Recalls* its request to the Secretary-General in paragraphs 10 and 12 of resolution 1863 (2009) related to transparency and proper accountability for resources provided to AMISOM, and *requests* that equal attention to resource transparency, accountability, and internal controls be applied to the additional UN support measures authorised to be provided to AMISOM and its troop contributing countries in this resolution and the annex of this resolution;

6. *Decides* on an exceptional basis and owing to the unique character of the mission, to expand the logistical support package for AMISOM to include the reimbursement of contingent owned equipment including force enablers and multipliers as described in paragraphs 28 through 36 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74) and as set out in the annex to this resolution;

7. *Stresses* the importance of stabilising areas secured by AMISOM and the Somali security forces, *calls upon* all Somali stakeholders, with the support of the UN, the African Union and the international community, to promote reconciliation, law and order, the delivery of basic services and strengthen governance at district, regional, state and federal levels, including by supporting the delivery of Stabilisation Plans developed by Intergovernmental Authority on Development (IGAD) and the Transitional Federal Government;

8. *Requests* the Secretary-General to continue to provide technical and expert advice to the African Union in the planning, deployment and management of AMISOM, through the United Nations Office to the African Union, including on the implementation of the AMISOM Strategic Concept and the AMISOM Concept of Operations;

9. *Reiterates* its request to the United Nations to work with the African Union to develop a guard force of an appropriate size, within AMISOM's mandated troop levels, to provide security, escort and protection services to personnel from the international community, including the United Nations, as appropriate and without further delay;

10. *Welcomes* the intention of new troop contributing countries to contribute to AMISOM and *stresses* that all new troops shall be integrated fully into the AMISOM command and control structures, and shall operate in accordance with AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution;

11. *Stresses* that coordinated action by all contributors is critical for the peace, security and stability of Somalia and the region, and calls on other African Union Member States to consider contributing troops to AMISOM in order to help create the conditions when Somalia can be responsible for its own security;

12. *Recognizes* the importance of strengthening the capacity of regional and sub-regional organizations in conflict prevention, crisis management and post-conflict stabilization, and *calls upon* the African Union and donors to continue to work together to further enhance the effectiveness of African peacekeeping;

13. *Recalls* paragraph 13 of resolution 2010 (2011);

14. *Emphasises* that the development of the Somali security forces is vital to ensure Somalia's long term security and stability, *requests* AMISOM to continue to expand its efforts to help develop the capacity and effectiveness of the Somali security forces, *urges* Member States, regional, and international organisations to work with in coordination with AMISOM to provide coordinated assistance, training and support and *welcomes* in this regard the training of Somalia security forces through the bilateral support programmes of Member States and the European Union Training Mission for Somalia (EUTM);

15. *Notes* the important role an effective police presence can play in the stabilisation of Mogadishu, *stresses* the need to continue to develop an effective Somali police force and *welcomes* the desire of the African Union to develop an operational police component within AMISOM;

16. *Demands* that all parties and armed groups take appropriate steps to ensure the safety and security of humanitarian personnel and supplies, and further *demands* that all parties ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law;

17. *Recalling* its resolutions 1674 (2006), 1738 (2006) and 1894 (2009) on the protection of civilians in armed conflict, *welcomes* the progress made by AMISOM in reducing civilian casualties during its operations, *urges* AMISOM to continue to undertake enhanced efforts in this regard, *commends* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC), as referenced in the Secretary-General's Report on Somalia (S/2011/759) of 9 December 2011, and *calls on* international donors and partners to further support the establishment of a CCTARC;

18. *Welcomes* the endorsement by AMISOM of the 2011 indirect fire policy and *encourages* AMISOM to adapt and implement this policy for all new troops and assets;

19. *Recalls* the Council's decision in resolution 1844 (2008) and *welcomes* the determination by the international community, including the African Union, to take measures against both internal and external actors engaged in actions aimed at undermining the peace and reconciliation process in Somalia, including the Roadmap, as well as the efforts of AMISOM and the Somali security forces;

20. *Underlines* its intention to keep the situation on the ground under review and to take into account in its future decisions progress by AMISOM in meeting the following objectives:

(a) Consolidation of security and stability throughout south central Somalia, including key towns, by the Somali security forces and AMISOM, on the basis of clear military objectives integrated into a political strategy;

(b) Effective regional coordination and cooperation on security issues by AMISOM;

(c) Assistance in the development of effective Somali security forces, with integrated units under a clear command and control structure and in coordination with the international community;

21. *Requests* the African Union to keep the Security Council regularly informed, through the Secretary-General, on the implementation of AMISOM's mandate, including on the implementation of paragraphs 1 and 2 in this resolution and on the new command and control structure and integration of forces under this structure and report to the Council, through the provision of written reports, no later than 30 days after the adoption of this resolution and every 60 days thereafter;

22. *Decides* that Somali authorities shall take the necessary measures to prevent the export of charcoal from Somalia and that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia; further *decides* that all Member States shall report to the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea ("the Committee") within 120 days of the adoption of this resolution on the steps they have taken towards effective implementation of this paragraph; and *requests* the Monitoring Group re-established pursuant to resolution 2002 (2011) to assess the impact of the charcoal ban in its Final Report;

23. *Decides* that the mandate of the Committee shall apply to the measures in paragraph 22 above; *decides* that the Monitoring Group's mandate shall likewise be expanded; and *considers* that such commerce may pose a threat to the peace, security, or stability of Somalia, and therefore that the Committee may designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution 1844 (2008);

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

Annex

In accordance with paragraph 6 of this resolution, on an exceptional basis and due to the unique character of AMISOM, the UN logistical support package for AMISOM shall be extended for a maximum of 17,731 uniformed personnel and 20 AMISOM civilian personnel based in AMISOM headquarters until 31 October 2012, in line with the recommendation in paragraphs 29 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74), which includes the provision of explosive threat management capacity, level II medical facilities and the reimbursement of contingent owned equipment (COE).

Eligible COE will include standard enablers and multipliers within the land component, and an aviation component of up to a maximum of 9 utility helicopters and 3 attack helicopters.

COE reimbursement should conform to UN rates and practices, including the direct transfer of funds to troop contributing countries (TCCs) as appropriate, and periodic reviews to ensure full operational capability. Letters of Assist (LOAs) should be negotiated with TCCs for equipment not covered under the UN COE framework including the aviation specified above.

As noted in paragraph 29 of the Secretary-General's Special Report on Somalia (S/2012/74), only equipment deployed by the TCCs and considered owned by TCCs should be reimbursed. Equipment gifted or donated to TCCs, AMISOM, the African Union or where the ownership still remains with the donor are not eligible for reimbursement.

Chapter:	537AN	UNITED NATIONS SANCTIONS (SOMALIA) REGULATION	Gazette Number	Version Date
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		Empowering section	L.N. 58 of 2009	27/03/2009
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(Cap 537, section 3)

[27 March 2009]

(Originally L.N. 58 of 2009)

Section:	1	Interpretation	L.N. 58 of 2009	27/03/2009
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PART 1

PRELIMINARY

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.

Section:	2	Prohibition against supply or delivery of certain goods	L.N. 58 of 2009	27/03/2009
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PART 2

PROHIBITIONS

(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.

Section:	3	Prohibition against carriage of certain goods	L.N. 58 of 2009	27/03/2009
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- (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.

Section:	4	Prohibition against provision of certain advice, assistance or training	L.N. 58 of 2009	27/03/2009
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- (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.

Section:	5	Prohibition against making available funds, etc.	L.N. 58 of 2009	27/03/2009
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- (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.

Section:	6	Prohibition against entry or transit by certain persons	L.N. 58 of 2009	27/03/2009
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- (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.

Section:	7	Exceptions to prohibition against entry or transit by certain persons	L.N. 58 of 2009	27/03/2009
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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.

Section:	8	Licence for supply, delivery or carriage of certain goods	L.N. 58 of 2009	27/03/2009
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PART 3

LICENCES

- (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;
- (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.

Section:	9	Licence for provision of certain advice, assistance or training	L.N. 58 of 2009	27/03/2009
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(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.

Section:	10	Licence for making available funds, etc. to certain persons or entities	L.N. 58 of 2009	27/03/2009
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(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.

Section:	11	Provision of false information or documents for purpose of obtaining licences	L.N. 58 of 2009	27/03/2009
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- (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.

Section:	12	Licence or permission granted by authorities of places outside HKSAR	L.N. 58 of 2009	27/03/2009
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PART 4

THINGS DONE 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.

Section:	13	Investigation of suspected ships	L.N. 58 of 2009	27/03/2009
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PART 5

ENFORCEMENT OF REGULATION

Division 1—Investigation, etc. 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.

Section:	14	Offences by charterer, operator or master of ship	L.N. 58 of 2009	27/03/2009
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(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.

Section:	15	Power of authorized officers to enter and detain ships	L.N. 58 of 2009	27/03/2009
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(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.

Section:	16	Investigation of suspected aircraft	L.N. 58 of 2009	27/03/2009
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Division 2—Investigation, etc. 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.

Section:	17	Offences by charterer, operator or pilot in command of aircraft	L.N. 58 of 2009	27/03/2009
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(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.

Section:	18	Power of authorized officers to enter and detain aircraft	L.N. 58 of 2009	27/03/2009
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(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.

Section:	19	Investigation of suspected vehicles	L.N. 58 of 2009	27/03/2009
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Division 3—Investigation, etc. 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.

Section:	20	Offences by operator or driver of vehicle	L.N. 58 of 2009	27/03/2009
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(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.

Section:	21	Power of authorized officers to enter and detain vehicles	L.N. 58 of 2009	27/03/2009
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(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.

Section:	22	Production of proof of identity	L.N. 58 of 2009	27/03/2009
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Division 4—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.

Section:	23	Power of magistrate or judge to grant warrant	L.N. 58 of 2009	27/03/2009
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PART 6

EVIDENCE

(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.

Section:	24	Detention of documents, cargoes or articles seized	L.N. 58 of 2009	27/03/2009
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(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.

Section:	25	Disclosure of information or documents	L.N. 58 of 2009	27/03/2009
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PART 7

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.

Section:	26	Liability of person other than principal offender	L.N. 58 of 2009	27/03/2009
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PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

(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.

Section:	27	Offences in relation to obstruction of authorized persons, etc.	L.N. 58 of 2009	27/03/2009
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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.

Section:	28	Offences in relation to evasion of this Regulation	L.N. 58 of 2009	27/03/2009
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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.

Section:	29	Consent and time limit for proceedings	L.N. 58 of 2009	27/03/2009
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(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.

Section:	30	Specification of relevant person or relevant entity by Chief Executive	L.N. 58 of 2009	27/03/2009
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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.

Section:	31	Exercise of powers of Chief Executive	L.N. 58 of 2009	27/03/2009
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(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.

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

(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;

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

funds (資金) includes—

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

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

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

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

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

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

but does not include a designated person;

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

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

relevant entity (有關實體) means—

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

relevant person (有關人士) means—

- _____ (a) a person specified by the Chief Executive as a relevant person in accordance with section 30; or
- _____ (b) a person acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity 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 (安全理事會) means the Security Council of the United Nations.

Part 2

Prohibitions

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or ~~deliver~~ transfer, or agree to supply, sell or ~~deliver~~ transfer, directly or indirectly, or do any act likely to promote the supply, sale or ~~delivery~~ transfer of, any prohibited goods—
 - (a) to Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) A person must not supply, sell or ~~deliver~~ transfer, or agree to supply, sell or ~~deliver~~ transfer, directly or indirectly, or do any act likely to promote the supply, sale or ~~delivery~~ transfer of, any prohibited goods—
 - (a) to, or to the order of, a designated person; or

- (b) to a destination for the purpose of delivery or transfer, directly or 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, sold or ~~delivered~~ transferred—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or 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, sold or ~~delivered~~ transferred—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or 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 or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or ~~delivery~~ transfer of the prohibited goods; and
 - (b) the supply, sale or ~~delivery~~ transfer was authorized by a licence granted under section 8(1)(a).

- (4) Without limiting section 2, a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) to, or to the order of, a designated person; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.
- (5) If a ship, aircraft or vehicle is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—

- (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (6) 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 or transfer, 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 or transfer, directly or indirectly, to, or to the order of, a designated person.

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

(1) This section applies to—

(a) a person acting in the HKSAR; and

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

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

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

(2) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person connected with Somalia any technical advice, financial or other assistance or training related to military activities.

(3) A person must not provide, directly or indirectly, to a designated person any technical assistance or training, or financial or other assistance including investment, brokering or other financial services, related to military activities or to the supply, ~~delivery~~ sale, transfer, manufacture, maintenance or use of any prohibited goods.

- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) if the person is charged with contravening subsection (2)—
 - (i) that the advice, assistance or training concerned was or was to be provided to a person connected with Somalia; or
 - (ii) that the advice, assistance or training concerned related to military activities; or
 - (b) if the person is charged with contravening subsection (3)—
 - (i) that the assistance or training concerned was or was to be provided to a designated person; or
 - (ii) that the assistance or training concerned related to military activities or to the supply, ~~delivery~~ sale, transfer, manufacture, maintenance or use of any prohibited goods.

4A. Prohibition against importation of charcoal

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

- (3) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the charcoal concerned was imported, directly or indirectly, from Somalia into the HKSAR.

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

- (1) This section applies to—
- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
- (i) both a Hong Kong permanent resident and a Chinese national; or
- (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1),—
- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and

if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.

~~(3) 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—

~~(a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or~~

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

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- (6) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
- (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
-
- (7) In this section—
- deal with* (處理) means—
- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

6. Prohibition against entry or transit by certain persons

- (1) Subject to section 7, a designated person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

- (3) This section does not ~~prohibit~~ apply to 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~~ sale, transfer or carriage of certain goods

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
- (a) a licence for the supply, sale or ~~delivery~~ transfer of, or the doing of an act likely to promote the supply, sale or ~~delivery~~ transfer of, prohibited goods—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (2) The requirements 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~~

(3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(ii) ~~the Committee has not made~~ must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

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

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence 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~~

(3) If the Chief Executive determines that the requirement in subsection (2)(b) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(ii) ~~the Committee has not made~~ must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

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

(1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—

(a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or

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

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

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

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

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

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

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

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

(i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered ~~prior to~~ before 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and

- (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of receiving the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
 - (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

-
- (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
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- .

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 3(2) or (4) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer,

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

14. Offences by charterer, operator or master of ship

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

15. Power of authorized officers to enter and detain ships

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

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

Division 2—Investigation, etc. of Suspected Aircraft

16. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

- (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 persons other than principal offenders

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

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

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

28. Offences in relation to evasion of this Regulation

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

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

29. Consent and time limit for proceedings

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

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

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

31. Exercise of powers of Chief Executive

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

Explanatory Note

The main purpose of this Regulation is to give effect to a decision in Resolution 2036 (2012) as adopted by the Security Council of the United Nations (*Security Council*) on 22 February 2012. The decision seeks to impose a new sanction against the import of charcoal from Somalia.

2. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN), as amended by this Regulation, also gives effect to previous Resolutions of the Security Council by providing for the prohibition against—

(a) the supply, sale, transfer or carriage of weapons or military equipment;

(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;

(d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and

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

**United Nations Sanctions (Somalia) Regulation
(Amendment) Regulation 2012
Information on Somalia**

Country Background

Somalia is a country in Eastern Africa, situated in the east of Ethiopia, bordering the Gulf of Aden and the Indian Ocean. It has a total area of 637,657 sq. km. and an estimated population of around 9.33 million in 2010. With its capital in Mogadishu, Somalia first achieved independence in 1960. The inauguration of the new Federal Parliament of Somalia on 20 August 2012 marked the end of transitional period following decades of warfare in the country. Dependent on its agricultural sector, Somalia had a GDP of US\$1.07 billion (or HK\$8.3 billion) in 2010.¹ Merchandise imports and exports of Somalia in 2010 amounted to US\$ 830 million (or HK\$6.4 billion) and US\$ 410 million (or HK\$3.2 billion) respectively.²

United Nations Sanctions against Somalia

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

3. Under the Djibouti Agreement reached in June 2008, Somalia's Transitional Federal Government (TFG) and the opposition Alliance for the Re-liberation of Somalia (ARS) agreed to end their conflict and to establish a unity government. To take measures against those who threatened the peace and the political processes and obstructed humanitarian assistance, UNSC adopted Resolution 1844 on 20 November 2008 to apply travel restrictions

¹ Source: World Statistics Pocket Book published by the United Nations Statistics Division at <http://unstats.un.org/unsd/pocketbook/Pocketbook%202011.pdf>

² Source: International Trade Statistics 2011 published by the World Trade Organisation at http://www.wto.org/english/res_e/statistics_e/its2011_e/its11_toc_e.htm

and an asset freeze to individuals and entities that engaged in such activities, in addition to those that breached the weapons ban, which was put in place by resolution 733 and amended by subsequent resolutions. Given the situation in Somalia continues to constitute a threat to international peace and security in the region, UNSC further tightened up its sanctions on 22 February 2012 by adopting Resolution 2036 to impose a charcoal ban against the country to cut off the main funding of Al-Shabaab, a prominent insurgent group in the country.³

Trade Relation between Hong Kong and Somalia

4. In 2011, Somalia ranked 188th among Hong Kong's trading partners in the world, with a total trade of HK\$8.6 million. Of these, HK\$0.2 million worth of trade were exports to Somalia, and HK\$8.4 million imports. Hong Kong's trade with Somalia are summarised as follows –

Hong Kong's Trade with Somalia [Value in HK\$ (in million)]		
Item	2011	2012 (January – July)
(a) Total Exports to Somalia	0.2	5.2
(i) Domestic exports	0.0	0.0
(ii) Re-exports	0.2 ⁴	5.2 ⁵
(b) Imports from Somalia	8.4 ⁶	10.2 ⁷
Total Trade [(a) + (b)]	8.6	15.4

In 2011, HK\$1.8 million worth of goods, or 0.2% of the total trade between Somalia and the Mainland, were routed through Hong Kong. Of these,

³ Source of information contained in paragraphs 2-3: UN Peacekeeping Operation Webpage at <http://www.un.org/en/peacekeeping/>, UN News Centre at <http://www.un.org/apps/news/>, Webpage of Security Council Committee pursuant to Resolutions 751 and 1907 concerning Somalia and Eritrea at <http://www.un.org/sc/committees/751/index.shtml>.

⁴ In 2011, re-exports to Somalia include rotating electric plant and parts (55.5%); plastic articles (13.5%); and musical instruments and sound recordings (8.7%).

⁵ In January – July 2012, re-exports to Somalia include telecommunications equipment (63.4%); musical instruments and sound recordings (22.3%); and printed matter (6.8%). Due to limited value of HK's re-exports to Somalia, small changes in absolute value led to substantial fluctuations in percentage terms. Decrease in re-exports to Somalia in 2011 was mainly due to the drop in demand for manufactures of base metal; as well as telecommunications equipment. However, significant rise in demand for telecommunications equipment; as well as musical instruments and sound recordings resulted in the sharp increase in re-exports to Somalia in January – July 2012.

⁶ In 2011, imports from Somalia include leather (81.4%); raw hides and skins (except furskins) (17.7%); and crude animal materials (0.9%).

⁷ In January – July 2012, imports from Somalia include leather (99.9%). Due to limited value of HK's imports from Somalia, small changes in absolute value led to substantial fluctuations in percentage terms. Imports from Somalia increased sharply during January – July 2012 due to the rise in demand for leather.

HK\$1.6 million worth of goods were re-exports from Somalia to Mainland. The remaining HK\$0.2 million were re-exports of Mainland origin to the Somalia via Hong Kong.

5. The additional ban on charcoal against Somalia imposed by the UNSC would unlikely affect the trade between Hong Kong and Somalia notably, as the major categories of commodities traded are not related to charcoal or other related products. In addition, given the rather small trade volume between the two places, the United Nations sanctions against Somalia would unlikely have any significant effect on the Hong Kong economy.

**Commerce and Economic Development Bureau
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