

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance
(Chapter 537)

UNITED NATIONS SANCTIONS (DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA) (AMENDMENT) REGULATION 2013

INTRODUCTION

A At the meeting of the Executive Council on 9 April 2013, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Democratic People’s Republic of Korea) (Amendment) Regulation 2013 (“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 12 April 2013 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 February 2013, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against the Democratic People’s Republic of Korea (“DPRK”) in the HKSAR pursuant to the UNSC Resolution (“UNSCR”) 2087. 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 2087 are at Annexes B and C respectively.

Sanctions against DPRK

D 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 (at Annex D), 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*);
- (b) the procurement of specified items ⁽¹⁾ from the DPRK (*paragraph 8(b) of UNSCR 1718*);
- (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*);
- (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*); and
- (e) entry into or transit through territories of Member States by certain persons designated by the UNSC (*paragraph 8(e) of UNSCR 1718*).

These sanctions were modified by UNSCR 1874 in June 2009. In May 2012, the Committee established by paragraph 12 of UNSCR 1718 expanded the scope of sanctions under UNSCR 1718 to a list of items, materials, equipment, goods and technology related to ballistic missile programmes as

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;
- (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/Part1.

set out in the UNSC document S/2012/235 and the International Atomic Energy Agency document INFCIRC/254/Rev.10/Part1.

4. Pursuant to the instructions 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 and the United Nations Sanctions (Democratic People's Republic of Korea)(Amendment) Regulation 2012) (Cap. 537AE) (at Annex E).

E

UNSCR 2087

5. In view of the launch using ballistic missile technology by DPRK on 12 December 2012, the UNSC adopted UNSCR 2087 on 22 January 2013. UNSCR 2087, inter alia, determined that the measures imposed in paragraphs 8(a), (b) and (c) of UNSCR 1718 shall apply to the items in INFCIRC/254/Rev.11/Part1 and INFCIRC/254/Rev.8/Part2 and S/2012/947 (*paragraph 5(b) of UNSCR 2087*). 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 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 International Atomic Energy Agency documents INFCIRC/254/Rev.11/Part1, INFCIRC/254/Rev.8/Part2 and the UNSC document S/2012/947. A mark-up version showing amendments to Cap. 537AE is at Annex F for easy reference by Members.

F

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Regulation will not affect the binding effect of the UNSO. It has no financial, economic, productivity, environmental, sustainability or family 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 12 April 2013 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 G.

G

ADVICE SOUGHT

10. Members are invited to note the implementation of UNSCR 2087 in the HKSAR by the Amendment Regulation.

Commerce and Economic Development Bureau
April 2013

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2013

L.N. 54 of 2013

B837

Section 1

L.N. 54 of 2013

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013

(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 (j)—

Repeal

“; or”

Substitute a semicolon.

- (2) Section 1, definition of *specified item*, after paragraph (k)—

Add

- “(l) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 11/Part 1;
- (m) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 8/Part 2; or
- (n) any item, material, equipment, goods or technology set out in the Security Council document S/2012/947;”.

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2013

L.N. 54 of 2013

B839

Section 3

3. Section 3 amended (prohibition against carriage of certain items)

Section 3(2A)(a), (b), (c), (d) and (e), English text—

Repeal

“in the case of”

Substitute

“for”.

4. Section 5 amended (prohibition against procurement of certain items or services using ships, aircraft or vehicles)

Section 5(2A)(a), (b), (c), (d) and (e), English text—

Repeal

“in the case of”

Substitute

“for”.

5. 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)—

Repeal

“referred to in subsection (1)”.

6. Section 32 amended (access to Security Council document S/2006/814, etc.)

- (1) Section 32(i)—

Repeal the full stop

Substitute a semicolon.

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2013

L.N. 54 of 2013

B841

Section 6

(2) After section 32(i)—

Add

- “(j) the International Atomic Energy Agency document INFCIRC/254/Rev. 11/Part 1;
- (k) the International Atomic Energy Agency document INFCIRC/254/Rev. 8/Part 2;
- (l) the Security Council document S/2012/947.”.

C. Y. LEUNG
Chief Executive

10 April 2013

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment)
Regulation 2013

Explanatory Note

L.N. 54 of 2013

Paragraph 1

B843

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 in Resolution 2087 (2013), as adopted by the Security Council of the United Nations on 22 January 2013, by amending the definition of *specified item* in section 1 of the principal Regulation to cover additional items set out in the International Atomic Energy Agency documents INFCIRC/254/Rev. 11/Part 1 and INFCIRC/254/Rev. 8/Part 2 and the Security Council document S/2012/947.

2. The Regulation also makes certain minor amendments.

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Democratic People's Republic of Korea)
(Amendment) Regulation 2013**

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 February 2013 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2087 of the Security Council of the United Nations, and that the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2013 was made in pursuance of that instruction.

Dated this 10th day of April 2013



(Mrs Carrie Lam)
Chief Secretary for Administration



Security Council

Distr.: General
22 January 2013

Resolution 2087 (2013)

**Adopted by the Security Council at its 6904th meeting, on
22 January 2013**

The Security Council,

Recalling its previous relevant resolutions, including resolution 825 (1993), resolution 1540 (2004), resolution 1695 (2006), resolution 1718 (2006), resolution 1874 (2009), resolution 1887 (2009), as well as the statements of its President of 6 October 2006 (S/PRST/2006/41), 13 April 2009 (S/PRST/2009/7) and 16 April 2012 (S/PRST/2012/13),

Recognizing the freedom of all States to explore and use outer space in accordance with international law, including restrictions imposed by relevant Security Council resolutions,

1. *Condemns* the DPRK's launch of 12 December 2012, which used ballistic missile technology and was in violation of resolutions 1718 (2006) and 1874 (2009);

2. *Demands* that the DPRK not proceed with any further launches using ballistic missile technology, and comply with resolutions 1718 (2006) and 1874 (2009) by suspending all activities related to its ballistic missile program and in this context re-establish its pre-existing commitments to a moratorium on missile launches;

3. *Demands* that the DPRK immediately comply fully with its obligations under resolutions 1718 (2006) and 1874 (2009), including that it: abandon all nuclear weapons and existing nuclear programs in a complete, verifiable and irreversible manner; immediately cease all related activities; and not conduct any further launches that use ballistic missile technology, nuclear test or any further provocation;

4. *Reaffirms* its current sanctions measures contained in resolutions 1718 (2006) and 1874 (2009);

5. *Recalls* the measures imposed by paragraph 8 of resolution 1718 (2006), as modified by resolution 1874 (2009), and *determines* that:

(a) The measures specified in paragraph 8 (d) of resolution 1718 (2006) shall apply to the individuals and entities listed in Annex I and II, and the measures



specified in paragraph 8 (e) of resolution 1718 (2006) shall apply to the individuals listed in Annex I; and,

(b) The measures imposed in paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006) shall apply to the items in INFCIRC/254/Rev.11/Part 1 and INFCIRC/254/Rev.8/Part 2 and S/2012/947;

6. *Recalls* paragraph 18 of resolution 1874 (2009), and *calls upon* Member States to exercise enhanced vigilance in this regard, including monitoring the activities of their nationals, persons in their territories, financial institutions, and other entities organized under their laws (including branches abroad) with or on behalf of financial institutions in the DPRK, or of those that act on behalf or at the direction of DPRK financial institutions, including their branches, representatives, agents and subsidiaries abroad;

7. *Directs* the Committee established pursuant to resolution 1718 (2006) to issue an Implementation Assistance Notice regarding situations where a vessel has refused to allow an inspection after such an inspection has been authorized by the vessel's Flag State or if any DPRK-flagged vessel has refused to be inspected pursuant to paragraph 12 of resolution 1874 (2009);

8. *Recalls* paragraph 14 of resolution 1874 (2009), *recalls* further that States may seize and dispose of items consistent with the provisions of resolutions 1718 (2006), 1874 (2009) and this resolution, and further *clarifies* that methods for States to dispose include, but are not limited to, destruction, rendering inoperable, storage or transferring to another State other than the originating or destination States for disposal;

9. *Clarifies* that the measures imposed in resolutions 1718 (2006) and 1874 (2009) prohibit the transfer of any items if a State relevant to a transaction has information that provides reasonable grounds to believe that a designated individual or entity is the originator, intended recipient or facilitator of the item's transfer;

10. *Calls upon* Member States which have not yet done so to report on the measures they have taken to implement the provisions of resolutions 1718 (2006) and 1874 (2009), *encourages* other Member States to submit, if any, additional information on implementing the provisions of resolutions 1718 (2006) and 1874 (2009);

11. *Encourages* international agencies to take necessary steps to ensure that all their activities with respect to the DPRK are consistent with the provisions of resolutions 1718 (2006) and 1874 (2009), and further *encourages* relevant agencies to engage with the Committee regarding their activities with respect to the DPRK that may relate to provisions of these resolutions;

12. *Deplores* the violations of the measures imposed in resolution 1718 (2006) and 1874 (2009), including the use of bulk cash to evade sanctions, *underscores* its concern over the supply, sale or transfer to or from the DPRK or through States' territories of any item that could contribute to activities prohibited by resolutions 1718 (2006) or 1874 (2009) and the importance of appropriate action by States in this regard, *calls on* States to exercise vigilance and restraint regarding the entry into or transit through their territories of individuals working on behalf or at the direction of a designated individual or entity, *directs* the Committee to review reported violations and take action as appropriate, including through designating

entities and individuals that have assisted the evasion of sanctions or in violating the provisions of resolutions 1718 (2006) and 1874 (2009);

13. *Emphasizes* the importance of all States, including the DPRK, taking the necessary measures to ensure that no claim shall lie at the instance of the DPRK, or of any person or entity in the DPRK, or of persons or entities designated pursuant to resolutions 1718 (2006) and 1874 (2009), or any person claiming through or for the benefit of any such person or entity, in connection with any contract or other transaction where its performance was prevented by reason of the measures imposed by resolutions 1718 (2006) and 1874 (2009);

14. *Reaffirms* its desire for a peaceful, diplomatic and political solution to the situation, welcomes efforts by Council members as well as other States to facilitate a peaceful and comprehensive solution through dialogue, and *underlines* the need to refrain from any action that might aggravate tensions;

15. *Reaffirms* its support to the Six Party Talks, *calls* for their resumption, *urges* all the participants to intensify their efforts on the full and expeditious implementation of the 19 September 2005 Joint Statement issued by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States, with a view to achieving the verifiable denuclearization of the Korean Peninsula in a peaceful manner and to maintaining peace and stability on the Korean Peninsula and in northeast Asia;

16. *Calls upon* all Member States to implement fully their obligations pursuant to resolutions 1718 (2006) and 1874 (2009);

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

18. *Underlines* that measures imposed by resolutions 1718 (2006) and 1874 (2009) are not intended to have adverse humanitarian consequences for the civilian population of the DPRK;

19. *Affirms* that it shall keep the DPRK's actions under continuous review and is prepared to strengthen, modify, suspend or lift the measures as may be needed in light of the DPRK's compliance, and, in this regard, *expresses its determination* to take significant action in the event of a further DPRK launch or nuclear test;

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

Annex I

Travel Ban/Asset Freeze

1. PAEK CHANG-HO
 - a. *Description:* senior official and head of the satellite control center of Korean Committee for Space Technology.
 - b. *AKA:* Pak Chang-Ho; Paek Ch'ang-Ho
 - c. *Identifiers:* Passport: 381420754; Passport Date of Issue: 7 December 2011; Passport Date of Expiration: 7 December 2016; D.O.B. 18 June 1964; P.O.B. Kaesong, DPRK
2. CHANG MYONG-CHIN
 - a. *Description:* General Manager of the Sohae Satellite Launching Station and head of launch center at which the 13 April and 12 December 2012 launches took place.
 - b. *AKA:* Jang Myong-Jin
 - c. *Identifiers:* D.O.B. 1966; Alt. D.O.B. 1965
3. RA KY'ONG-SU
 - a. *Description:* Ra Ky'ong-Su is a Tanchon Commercial Bank (TCB) official. In this capacity he has facilitated transactions for TCB. Tanchon was designated by the Committee in April 2009 as the main DPRK financial entity responsible for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons.
4. KIM KWANG-IL
 - a. *Description:* Kim Kwang-il is a Tanchon Commercial Bank (TCB) official. In this capacity, he has facilitated transactions for TCB and the Korea Mining Development Trading Corporation (KOMID). Tanchon was designated by the Committee in April 2009 as the main DPRK financial entity responsible for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons. KOMID was designated by the Committee in April 2009 and is the DPRK's primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons.

Annex II

Asset Freeze

1. KOREAN COMMITTEE FOR SPACE TECHNOLOGY
 - a. *Description:* The Korean Committee for Space Technology (KCST) orchestrated the DPRK's launches on 13 April 2012 and 12 December 2012 via the satellite control center and Sohae launch area.
 - b. *AKA:* DPRK Committee for Space Technology; Department of Space Technology of the DPRK; Committee for Space Technology; KCST
 - c. *Location:* Pyongyang, DPRK
2. BANK OF EAST LAND
 - a. *Description:* DPRK financial institution Bank of East Land facilitates weapons-related transactions for, and other support to, arms manufacturer and exporter Green Pine Associated Corporation (Green Pine). Bank of East Land has actively worked with Green Pine to transfer funds in a manner that circumvents sanctions. In 2007 and 2008, Bank of East Land facilitated transactions involving Green Pine and Iranian financial institutions, including Bank Melli and Bank Sepah. The Security Council designated Bank Sepah in resolution 1747 (2007) for providing support to Iran's ballistic missile program. Green Pine was designated by the Committee in April 2012.
 - b. *AKA:* Dongbang BANK; TONGBANG U'NHAENG; TONGBANG BANK
 - c. *Location:* P.O. Box 32, BEL Building, Jonseung-Dung, Moranbong District, Pyongyang, DPRK
3. KOREA KUMRYONG TRADING CORPORATION
 - a. *Description:* Used as an alias by the Korea Mining Development Trading Corporation (KOMID) to carry out procurement activities. KOMID was designated by the Committee in April 2009 and is the DPRK's primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons.
4. TOSONG TECHNOLOGY TRADING CORPORATION
 - a. *Description:* The Korea Mining Development Corporation (KOMID) is the parent company of Tosong Technology Trading Corporation. KOMID was designated by the Committee in April 2009 and is the DPRK's primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons.
 - b. *Location:* Pyongyang, DPRK
5. KOREA RYONHA MACHINERY JOINT VENTURE CORPORATION
 - a. *Description:* Korea Ryonbong General Corporation is the parent company of Korea Ryonha Machinery Joint Venture Corporation. Korea Ryonbong General Corporation was designated by the Committee in April 2009 and is a defence conglomerate specializing in acquisition for

DPRK defence industries and support to that country's military-related sales.

- b. AKA: CHOSUN YUNHA MACHINERY JOINT OPERATION COMPANY; KOREA RYENHA MACHINERY J/V CORPORATION; RYONHA MACHINERY JOINT VENTURE CORPORATION
 - c. *Location:* Central District, Pyongyang, DPRK; Mangungdae-gu, Pyongyang, DPRK; Mangyongdae District, Pyongyang, DPRK
6. LEADER (HONG KONG) INTERNATIONAL
- a. *Description:* Facilitates shipments on behalf of the Korea Mining Development Trading Corporation (KOMID). KOMID was designated by the Committee in April 2009 and is the DPRK's primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons.
 - b. AKA: Leader International Trading Limited
 - c. *Location:* Room 1610 Nan Fung Tower, 173 Des Voeux Road, Hong Kong
-

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
----------	-------	--	----------------	--------------

		Empowering section	L.N. 120 of 2007	15/06/2007
--	--	---------------------------	------------------	------------

(Cap 537, section 3)

[15 June 2007]

(Originally L.N. 120 of 2007)

Part:	1	PRELIMINARY	L.N. 120 of 2007	15/06/2007
-------	---	--------------------	------------------	------------

Section:	1	Interpretation	L.N. 140 of 2012	28/09/2012
----------	---	-----------------------	------------------	------------

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; (L.N. 5 of 2010; L.N. 140 of 2012)
- (i) para-aramid fibre (Kevlar and other Kevlar-like), filament and tape; (L.N. 5 of 2010)
- (j) any item, material, equipment, goods or technology set out in the Security Council document S/2012/235; or (L.N. 140 of 2012)
- (k) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1; (L.N. 140 of 2012)

“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
-------	---	---------------------	------------------	------------

Section:	2	Prohibition against supply, sale or transfer of certain items*	L.N. 5 of 2010	15/01/2010
----------	---	---	----------------	------------

(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
----------	---	---	----------------	------------

(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
----------	----	--	----------------	------------

- (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
----------	---	---	----------------	------------

(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
----------	---	--	----------------	------------

(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
----------	----	---	----------------	------------

- (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
----------	----	---	----------------	------------

(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
----------	---	--	----------------	------------

(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
----------	----	---	----------------	------------

(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
----------	---	--	----------------	------------

(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. 140 of 2012	28/09/2012
----------	---	--	------------------	------------

(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 before the date on which the person or entity became a relevant person or a relevant entity. (L.N. 5 of 2010; L.N. 140 of 2012)
- (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:

* (L.N. 5 of 2010)

Section:	9	Prohibition against entry or transit by certain persons	L.N. 5 of 2010	15/01/2010
----------	---	--	----------------	------------

(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
----------	----	--	----------------	------------

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
----------	-----	--	----------------	------------

(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
----------	-----	---	----------------	------------

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
-------	---	----------------	------------------	------------

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. 140 of 2012	28/09/2012
----------	----	--	------------------	------------

(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 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 (L.N. 140 of 2012)
 - (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
----------	----	--	----------------	------------

(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
-------	---	----------------------------------	------------------	------------

Section:	13	Licence or permission granted by authorities of places outside HKSAR	L.N. 5 of 2010	15/01/2010
----------	----	---	----------------	------------

(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
-------	---	----------------------------------	------------------	------------

Section:	14	Investigation of suspected ships	L.N. 5 of 2010	15/01/2010
----------	----	---	----------------	------------

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
----------	----	--	----------------	------------

(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
----------	----	---	----------------	------------

(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
----------	----	--	----------------	------------

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
----------	----	---	----------------	------------

(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
----------	----	--	----------------	------------

(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
----------	----	--	----------------	------------

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
----------	----	--	----------------	------------

(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
----------	----	--	----------------	------------

(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
----------	----	--	----------------	------------

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
-------	---	-----------------	------------------	------------

Section:	24	Power of magistrate or judge to grant warrant	L.N. 5 of 2010	15/01/2010
----------	----	--	----------------	------------

(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
----------	-----	---	----------------	------------

(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
----------	-----	---	----------------	------------

(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
----------	----	---	----------------	------------

(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
-------	---	---	------------------	------------

Section:	26	Disclosure of information or documents	L.N. 5 of 2010	15/01/2010
----------	----	---	----------------	------------

(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
-------	---	---	------------------	------------

Section:	27	Liability of persons other than principal offenders*	L.N. 5 of 2010	15/01/2010
----------	----	---	----------------	------------

(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
----------	----	--	----------------	------------

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
----------	----	---	----------------	------------

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
----------	----	--	----------------	------------

(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
----------	----	---	----------------	------------

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. 140 of 2012	28/09/2012
----------	----	---	------------------	------------

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; L.N. 140 of 2012)
- (h) the Security Council document S/2012/235; (L.N. 140 of 2012)
- (i) the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1. (L.N. 140 of 2012)

Section:	33	Exercise of powers of Chief Executive	L.N. 5 of 2010	15/01/2010
----------	----	--	----------------	------------

(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
-----------	--	-----------------	------------------	------------

[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;
- (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;

(l) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 11/Part 1;

(m) any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 8/Part 2; or

(n) any item, material, equipment, goods or technology set out in the Security Council document S/2012/947;

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

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

(d) ~~in the case of~~for any other aircraft—

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

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

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

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

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

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.
-

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;
- (j) the International Atomic Energy Agency document INFCIRC/254/Rev. 11/Part 1;
- (k) the International Atomic Energy Agency document INFCIRC/254/Rev. 8/Part 2;
- (l) the Security Council document S/2012/947.

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.
-

Schedule [s. 1]

Luxury Goods

**United Nations Sanctions (Democratic People's Republic of Korea)
(Amendment) Regulation 2013
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 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

3. In 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. In May 2012, the relevant UNSC committee designated additional entities to be subject to assets freeze,

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

as well as identified additional proliferation-sensitive technology to be banned for transfer to or from DPRK.

4. On 12 December 2012, DPRK authorities successfully launched a rocket. The UNSC condemned the launch by DPRK, which used ballistic missile technology in violation of the sanctions imposed on it. On 22 January 2013, the UNSC adopted Resolution 2087, which designated more persons and entities to be subject to travel ban and assets freeze, as well as expanded the list of prohibited items as per documents INFCIRC/254/Rev.11/Part1, INFCIRC/254/Rev.8/Part2 and S/2012/947.⁴

Trade Relation between Hong Kong and DPRK

5. In 2012, DPRK ranked 95th among Hong Kong's trading partners in the world, with a total trade of HK\$492 million. Of these, HK\$442 million worth of trade were exports to DPRK, and HK\$50 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
(a) Total Exports to DPRK	91	442
(i) Domestic exports	19 ⁵	75 ⁶
(ii) Re-exports	72 ⁷	367 ⁸
(b) Imports from DPRK	25 ⁹	50 ¹⁰
Total Trade [(a) + (b)]	116	492

⁴ Source of information in paragraphs 3 and 4: UN News Centre at <http://www.un.org/sc/committees/1718/pressrelease.shtml>

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 2012, domestic export items to DPRK include office machines and automatic data processing machines (68.4%), and metalliferous ores and metal scrap (31.1%). The increase in 2012 was mainly due to the increase in domestic exports of "office machines and automatic data processing machines" to DPRK. Domestic exports of this product item to DPRK amounted to HK\$51.1 million in 2012, a sharp rise of HK\$51 million from 2011.

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 2012, re-exports to DPRK include meat and meat preparations (28.3%); electrical machinery, apparatus and appliances and electrical parts thereof (27.0%); and telecommunications and sound recording and reproducing apparatus and equipment (15.1%). The increase in 2012 was mainly due to the increase in re-exports of meat and meat preparations; and electrical machinery, apparatus and appliances and electrical parts thereof to DPRK. Re-exports of the two items to DPRK rose sharply by HK\$91 million and HK\$90 million respectively between 2011 and 2012.

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 2012, imports from DPRK include office machines and automatic data processing machines (59.9%); and non-ferrous metals (18.4%). The increase in 2012 was mainly due to the increase in imports of "office machines and automatic data processing machines" from DPRK. Imports of this product item from DPRK amounted to HK\$30 million in 2012, but there was no import of this product item from DPRK in 2011.

In 2012, HK\$171 million worth of goods, or 0.4% of the total trade between DPRK and the Mainland, were routed through Hong Kong. Of these, HK\$84 million worth of goods were re-exports from DPRK to Mainland.¹¹ The remaining HK\$87 million were re-exports of Mainland origin to the DPRK via Hong Kong.

6. 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
April 2013**

¹¹ This re-export figure refers to goods produced in DPRK (i.e. the country of origin is DPRK) and re-exported through Hong Kong to the Mainland. These goods are not necessarily consigned from DPRK. It is possible that some goods produced in DPRK are sold to a third country before consigning to Hong Kong. Meanwhile, imports statistics reported in this Annex are based on country of consignment, but not country of origin.