

UNITED NATIONS SANCTIONS (SOMALIA) (AMENDMENT) REGULATION 2012

INTRODUCTION

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

BACKGROUND

Obligation and Authority

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In April 2012, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Somalia in the HKSAR pursuant to the UNSC Resolution (“UNSCR”) 2036. The Amendment Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 2036 are at Annexes B and C respectively.

Sanctions against Somalia

3. Having regard to the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country, the UNSC passed a number of resolutions since 1992 to implement a range of sanctions against Somalia. The core framework for the sanctions was set out in UNSCR 1844 that was adopted in November 2008. They concern travel ban⁽¹⁾, financial

Notes ⁽¹⁾ Paragraph 1 of UNSCR 1844 provides for the prohibition against the entry into or transit through the territory of Member States by persons designated by the Committee established under paragraph 11 of UNSCR 751 (“the Committee”). Exceptions to the measure are set out in paragraph 2 of UNSCR 1844.

restriction⁽²⁾ and arms embargo⁽³⁾ in respect of persons or entities designated by the Committee established under paragraph 11 of UNSCR 751.

4. Pursuant to the instruction of the MFA, the HKSAR implemented the sanctions against Somalia by gazetting the United Nations Sanctions (Somalia) Regulation (Cap. 537AN) (at Annex D) on 27 March 2009.

D

UNSCR 2036

5. Noting that the situation in Somalia continues to pose a threat to international peace and security in the region, the UNSC adopted UNSCR 2036 on 22 February 2012. The UNSC, inter alia, decides that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia (*paragraph 22 of UNSCR 2036 refers*).

THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to implement the sanctions against Somalia as per UNSCR 2036. The main provisions of the Amendment Regulation include -

- (a) **section 6 which adds new section 4A to Cap. 537AN** to prohibit the importation of charcoal from Somalia; and
- (b) **sections 7 and 11 which amend sections 5 and 10 of Cap. 537AN** to provide for the prohibition against making available funds, other financial assets or economic resources to or for the benefit of certain persons and entities or dealing with funds of certain persons or entities, and the granting of licence for such activities. The amendments aim to bring the structure and style of relevant provisions under Cap. 537AN in line with

Notes

(2) Paragraph 3 of UNSCR 1844 provides for the freezing of funds, other financial assets and economic resources owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, or by the individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and the prohibition against making available any funds, financial assets or economic resources to or for the benefit of such individuals or entities. Exceptions to the measure are set out in paragraph 4 of UNSCR 1844.

(3) Paragraph 7 of UNSCR 1844 provides for the prohibition against the direct or indirect supply, sale or transfer of weapons and military equipment to individuals or entities designated by the Committee, as well as the direct or indirect supply of technical assistance or training, financial and other assistance related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment.

that of similar provisions in other regulations recently made under the Ordinance.

A mark-up version showing amendments to Cap. 537AN is at Annex E for easy reference by Members.

E

IMPLICATIONS OF THE PROPOSAL

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

PUBLICITY

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

INFORMATION ON SOMALIA AND RELATION WITH HKSAR

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

F

ADVICE SOUGHT

9. Members are invited to note the implementation of UNSCR 2036 in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau
September 2012**

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

L.N. 142 of 2012
B6291

L.N. 142 of 2012

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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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

1. United Nations Sanctions (Somalia) Regulation amended

The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) is amended as set out in sections 2 to 14.

2. Section 1 amended (interpretation)

(1) Section 1—

Repeal

“, unless the context otherwise requires”.

(2) Section 1—

Repeal the definition of *relevant entity*

Substitute

“*relevant entity* (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 30; or
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30;”.

(3) Section 1—

Repeal the definition of *relevant person*

Substitute

“*relevant person* (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 30; or
- (b) a person acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30;”.

(4) Section 1, definition of *Security Council*—

Repeal

“(安理會)”

Substitute

“(安全理事會)”.

(5) Section 1, Chinese text, definition of 有關連人士, paragraphs (b), (c), (d) and (e)—

Repeal

“任何”.

(6) Section 1, Chinese text, definition of 委員會—

Repeal

“安理會”

Substitute

“安全理事會”.

(7) Section 1, Chinese text, definition of 《第751號決議》—

Repeal

“安理會”

Substitute

“安全理事會”.

Section 3

- (8) Section 1, Chinese text, definition of 《第1744號決議》 —

Repeal

“安理會”

Substitute

“安全理事會”.

- (9) Section 1, Chinese text, definition of 《第1772號決議》 —

Repeal

“安理會”

Substitute

“安全理事會”.

- (10) Section 1, Chinese text, definition of 《第1844號決議》 —

Repeal

“安理會”

Substitute

“安全理事會”.

- (11) Section 1—

Add in alphabetical order

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

3. **Section 2 amended (prohibition against supply or delivery of certain goods)**

- (1) Section 2, heading—

Repeal

“or delivery”

Section 3

Substitute

“, sale or transfer”.

- (2) Section 2—

Repeal subsection (2)**Substitute**

- “(2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—

(a) to Somalia;

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

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

- (3) Section 2—

Repeal subsection (3)**Substitute**

- “(3) A person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—

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

(4) Section 2(5)—

Repeal paragraphs (b) and (c)**Substitute**

- “(b) if the person is charged with contravening subsection (2), that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
- (c) if the person is charged with contravening subsection (3), that the goods concerned were or were to be supplied, sold or transferred—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.”.

4. Section 3 amended (prohibition against carriage of certain goods)

(1) Section 3(2)(c), after “delivery”—

Add

“or transfer”.

(2) Section 3—

Repeal subsection (3)**Substitute**

“(3) Subsection (2) does not apply if—

- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
- (b) the supply, sale or transfer was authorized by a licence granted under section 8(1)(a).”.

(3) Section 3(4)(b), after “delivery”—

Add

“or transfer”.

(4) Section 3(5)(b)—

Repeal subparagraph (i)**Substitute**

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

(5) Section 3(5)(d)—

Repeal subparagraph (i)

Section 5

Substitute

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

(6) Section 3(7)(b)(iii), after “delivery”—

Add

“or transfer”.

(7) Section 3(7)(c)(ii), after “delivery”—

Add

“or transfer”.

5. Section 4 amended (prohibition against provision of certain advice, assistance or training)

(1) Section 4(3)—

Repeal

“delivery”

Substitute

“sale, transfer”.

(2) Section 4—

Repeal subsection (5)**Substitute**

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

Section 6

(a) if the person is charged with contravening subsection (2)—

(i) that the advice, assistance or training concerned was or was to be provided to a person connected with Somalia; or

(ii) that the advice, assistance or training concerned related to military activities; or

(b) if the person is charged with contravening subsection (3)—

(i) that the assistance or training concerned was or was to be provided to a designated person; or

(ii) that the assistance or training concerned related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of any prohibited goods.”.

6. Section 4A added

After section 4—

Add**“4A. Prohibition against importation of charcoal**

(1) A person must not import, directly or indirectly, any charcoal from Somalia into the HKSAR.

(2) Subsection (1) applies whether or not the charcoal concerned was originated in Somalia.

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

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

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

Section 7

- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the charcoal concerned was imported, directly or indirectly, from Somalia into the HKSAR.”.

7. **Section 5 amended (prohibition against making available funds, etc.)**

- (1) Section 5, heading, after “etc.”—

Add

“or dealing with funds, etc.”.

- (2) Section 5—

Repeal subsection (2)

Substitute

- “(2) Except under the authority of a licence granted under section 10(1)—

- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.”.

- (3) Section 5—

Repeal subsection (3).

Section 7

- (4) Section 5—

Repeal subsection (5)

Substitute

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

- (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
- (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.”.

- (5) After section 5(5)—

Add

- “(6) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—

- (a) interest or other earnings due on that account; or
- (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.

- (7) In this section—

deal with (處理) means—

- (a) in respect of funds—
- (i) use, alter, move, allow access to or transfer;

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

8. Section 6 amended (prohibition against entry or transit by certain persons)

Section 6—

Repeal subsection (3)

Substitute

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

9. Section 8 amended (licence for supply, delivery or carriage of certain goods)

(1) Section 8, heading—

Repeal

“delivery”

Substitute

“sale, transfer”.

(2) Section 8—

Repeal subsection (1)

Substitute

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

(3) Section 8(2)(d)—

Repeal

everything after “5 of Resolution 1772”

Substitute a full stop.

Section 10

- (4) After section 8(2)—

Add

- “(3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.”.

10. Section 9 amended (licence for provision of certain advice, assistance or training)

- (1) Section 9(1), after “must”—

Add

“, subject to subsection (3),”.

- (2) Section 9(2)(b)—

Repeal

everything after “5 of Resolution 1772”

Substitute a full stop.

- (3) After section 9(2)—

Add

- “(3) If the Chief Executive determines that the requirement in subsection (2)(b) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.”.

Section 11

11. Section 10 amended (licence for making available funds, etc. to certain persons or entities)

- (1) Section 10, heading, after “entities”—

Add

“or dealing with funds, etc. of certain persons or entities”.

- (2) Section 10—

Repeal subsection (1)**Substitute**

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

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
- (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.”.

- (3) Section 10(2)—

Repeal paragraph (a)**Substitute**

- “(a) the funds or other financial assets or economic resources are—
- (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

Section 12

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
- (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity”.

(4) Section 10(2)(c)(i), English text—

Repeal

“prior to”

Substitute

“before”.

(5) Section 10(3)(a)(ii), before “the notification”—

Add

“receiving”.

12. Section 13 amended (investigation of suspected ships)

Section 13(2)—

Repeal

“that section”

Substitute

“section 3(2) or (4)”.

13. Section 23 amended (power of magistrate or judge to grant warrant)

Section 23(1), English text—

Section 14

Repeal

“the magistrate or judge is”.

14. Section 26 heading amended (liability of person other than principal offender)

Section 26, English text, heading—

Repeal

“person other than principal offender”

Substitute

“persons other than principal offenders”.

C. Y. LEUNG
Chief Executive

26 September 2012

Explanatory Note

The main purpose of this Regulation is to give effect to a decision in Resolution 2036 (2012) as adopted by the Security Council of the United Nations (*Security Council*) on 22 February 2012. The decision seeks to impose a new sanction against the import of charcoal from Somalia.

2. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN), as amended by this Regulation, also gives effect to previous Resolutions of the Security Council by providing for the prohibition against—
- (a) the supply, sale, transfer or carriage of weapons or military equipment;
 - (b) the provision of advice, assistance or training in certain circumstances;
 - (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
 - (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
 - (e) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in April 2012 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2036 of the Security Council of the United Nations, and that the United Nations Sanctions (Somalia) (Amendment) Regulation 2012 was made in pursuance of that instruction.

Dated this 27th day of September 2012



(Mrs Carrie Lam)
Chief Secretary for Administration

United Nations

S/RES/2036 (2012)

**Security Council**Distr.: General
22 February 2012

Resolution 2036 (2012)**Adopted by the Security Council at its 6718th meeting, on
22 February 2012***The Security Council,*

Recalling all previous resolutions on the situation in Somalia, in particular resolution 2010 (2011), as well as other relevant Presidential Statements and resolutions on protection of civilians in armed conflict, women and peace and security, and children and armed conflict,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, and *reiterating* its commitment to a comprehensive and lasting settlement of the situation in Somalia,

Reiterating its full support for the Djibouti Peace Process and the Transitional Federal Charter which provide the framework for reaching a lasting political solution in Somalia, *reiterating* its support for the Kampala Accord and the Roadmap to End the Transition (the “Roadmap”), and *stressing* the need for reconciliation, dialogue and broad-based, inclusive and representative Somali institutions,

Stressing the primary responsibility of the Transitional Federal Institutions to implement the Roadmap, *welcoming* the progress to date, including the commitment shown by the Garowe Principles, but *expressing concern* that many of the deadlines for the completion of the tasks in the Roadmap have been missed which may delay the full implementation of the Roadmap,

Urging the Transitional Federal Institutions and all Roadmap signatories to redouble their efforts to fully implement the Roadmap with the support of United Nations Political Office for Somalia (UNPOS) and the international community, and *noting* that future support to the Transitional Federal Institutions for the remainder of the transitional period, would be contingent upon progress in completing the tasks in the Roadmap,

Stressing the need for the Transitional Federal Government, with the support of the African Union Mission to Somalia (AMISOM), and as a matter of urgency, to build an enhanced level of security in areas secured by AMISOM and the Somali security forces, and to build sustainable administrative structures in these areas,



Noting that the transitional period in Somalia will end on 20 August 2012, *emphasising* that any further extension of the transitional period would be untenable and *calling upon* Somali parties to agree inclusive and representative post-transitional arrangements, in line with the Djibouti Agreement,

Stressing the need for further efforts to fight corruption, promote transparency and increase mutual accountability in Somalia, and in this regard *welcoming* initiatives aimed at the more transparent and accountable management of Somali assets and internal and external financial resources to maximise public revenues for the benefit of the Somali people,

Stressing the need for a comprehensive strategy in Somalia to address the political, economic, humanitarian and security problems in Somalia and the problem of piracy, including hostage taking, off the coast of Somalia through the collaborative efforts of all stakeholders, *reiterating* their full support to the Secretary-General and his Special Representative, Augustine P. Mahiga in this regard, and for their work with the African Union and international and regional partners,

Recognising that peace and stability in Somalia depend on reconciliation and effective governance across the whole of Somalia and *urging* all Somali parties to renounce violence and to work together to build peace and stability,

Welcoming the London Conference on Somalia, to be held on 23 February 2012, where coordinated international action to address the political, security, justice, stability, and piracy problems in Somalia, as well as humanitarian issues, will be further enhanced, and *welcoming* the upcoming Istanbul Conference on Somalia,

Expressing grave concern at the dire humanitarian situation in Somalia, and its impact on the people of Somalia, in particular on women and children, and *calling on* all parties to ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law,

Reiterating its condemnation of all attacks on the Transitional Federal Government, the African Union Mission in Somalia (AMISOM), United Nations personnel and facilities, and the civilian population by armed opposition groups, and foreign fighters, particularly Al Shabaab, and *stressing* that Somali armed opposition groups and foreign fighters, particularly Al Shabaab, constitute a terrorist threat to Somalia, and the international community,

Noting the announcement that Al Shabaab has joined Al Qaeda, *stressing* that there should be no place for terrorism or violent extremism in Somalia and *reiterating* its call upon all opposition groups to lay down their arms,

Commending the contribution of AMISOM to lasting peace and stability in Somalia and efforts to bring stability and security to Mogadishu, *expressing* its appreciation for the continued commitment of troops and equipment to AMISOM by the Governments of Burundi and Uganda, and for the newly deployed troops from the Government of Djibouti and *recognising* the significant sacrifices made by AMISOM forces,

Welcoming the willingness of the Government of Kenya for Kenyan forces to be incorporated into AMISOM and so to contribute to the implementation of

AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution, *stressing* the importance of the prompt deployment of new AMISOM forces to reach its mandated level, and *calling* on other African Union Member States to consider contributing troops and provide support to AMISOM,

Welcoming the work of the joint African Union and United Nations Technical Assessment Mission on AMISOM, *noting* the agreement by the African Union Peace and Security Council on a AMISOM Strategic Concept of 5 January 2012, and *welcoming* the Secretary-General's Special Report on Somalia (S/2012/74),

Recalling its authorisation in paragraph 1 of resolution 2010 (2011) that the Member States of the African Union maintain the deployment of AMISOM until 31 October 2012, and that AMISOM is authorised to take all necessary measures to carry out its existing mandate as set out in paragraph 9 of resolution 1772 (2007),

Recalling paragraph 5 of resolution 2010 (2011) and noting its intention to review the force level of AMISOM when the mission reaches its mandated level of 12,000,

Expressing concern that charcoal exports from Somalia are a significant revenue source for Al Shabaab and also exacerbate the humanitarian crisis,

Recalling its resolutions 1950 (2010), 1976 (2011), and 2020 (2011) *expressing* its grave concern at the threat posed by piracy and armed robbery off the coast of Somalia, *recognising* that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, *stressing* the need for a comprehensive response to tackle piracy, and hostage taking, and its underlying causes by the international community and the Transitional Federal Institutions and *welcoming* the efforts of the Contact Group for Piracy off the Coast of Somalia, States and international and regional organisations,

Stressing the need to investigate, prosecute, and to imprison when duly convicted pirates and those who illicitly finance, plan, organise, or unlawfully profit from pirate attacks,

Welcoming the relocation of the Secretary-General's Special Representative to Somalia and an UNPOS office to Mogadishu and *encouraging* the United Nations to take further steps to achieve a more permanent and full relocation to Somalia, in particular Mogadishu, consistent with the security conditions, as outlined in the Secretary-General's reports (S/2010/447) and (S/2009/210),

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

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

1. *Decides* that in addition to the tasks set out in paragraph 9 of resolution 1772 (2007) AMISOM shall include establishing a presence in the four sectors set out in the AMISOM strategic Concept of 5 January, and AMISOM shall be authorised to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia, *further decides* that AMISOM shall act in compliance with applicable international humanitarian and human rights

law, in performance of this mandate and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia;

2. *Requests* the African Union to increase AMISOM's force strength from 12,000 to a maximum of 17,731 uniformed personnel, comprised of troops and personnel of formed police units;

3. *Reiterates* that regional organisations have the responsibility to secure human, financial, logistical and other resources for the work of their organisations, including through contributions by their members and support from partners, *welcomes* the valuable financial support provided by the African Union's partners to AMISOM, including through bilateral support programmes and the African Peace Facility of the European Union, and calls upon all partners, in particular new donors, to support AMISOM through the provision of equipment, technical assistance, funding for troop stipends, and uncaveated funding to AMISOM to the United Nations Trust Fund for AMISOM;

4. *Decides* to expand the logistical support package for AMISOM, referred to in paragraphs 10 and 11 of resolution 2010 (2011), and as described in the Secretary-General's letters (S/2009/60 and S/2011/591) to the President of the Security Council, from a maximum of 12,000 uniformed personnel to a maximum of 17,731 uniformed personnel, until 31 October 2012, ensuring the accountability and transparency of expenditure of United Nations funds as set out in paragraph 4 of resolution 1910 (2010);

5. *Recalls* its request to the Secretary-General in paragraphs 10 and 12 of resolution 1863 (2009) related to transparency and proper accountability for resources provided to AMISOM, and *requests* that equal attention to resource transparency, accountability, and internal controls be applied to the additional UN support measures authorised to be provided to AMISOM and its troop contributing countries in this resolution and the annex of this resolution;

6. *Decides* on an exceptional basis and owing to the unique character of the mission, to expand the logistical support package for AMISOM to include the reimbursement of contingent owned equipment including force enablers and multipliers as described in paragraphs 28 through 36 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74) and as set out in the annex to this resolution;

7. *Stresses* the importance of stabilising areas secured by AMISOM and the Somali security forces, *calls upon* all Somali stakeholders, with the support of the UN, the African Union and the international community, to promote reconciliation, law and order, the delivery of basic services and strengthen governance at district, regional, state and federal levels, including by supporting the delivery of Stabilisation Plans developed by Intergovernmental Authority on Development (IGAD) and the Transitional Federal Government;

8. *Requests* the Secretary-General to continue to provide technical and expert advice to the African Union in the planning, deployment and management of AMISOM, through the United Nations Office to the African Union, including on the implementation of the AMISOM Strategic Concept and the AMISOM Concept of Operations;

9. *Reiterates* its request to the United Nations to work with the African Union to develop a guard force of an appropriate size, within AMISOM's mandated troop levels, to provide security, escort and protection services to personnel from the international community, including the United Nations, as appropriate and without further delay;

10. *Welcomes* the intention of new troop contributing countries to contribute to AMISOM and *stresses* that all new troops shall be integrated fully into the AMISOM command and control structures, and shall operate in accordance with AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution;

11. *Stresses* that coordinated action by all contributors is critical for the peace, security and stability of Somalia and the region, and calls on other African Union Member States to consider contributing troops to AMISOM in order to help create the conditions when Somalia can be responsible for its own security;

12. *Recognizes* the importance of strengthening the capacity of regional and sub-regional organizations in conflict prevention, crisis management and post-conflict stabilization, and *calls upon* the African Union and donors to continue to work together to further enhance the effectiveness of African peacekeeping;

13. *Recalls* paragraph 13 of resolution 2010 (2011);

14. *Emphasises* that the development of the Somali security forces is vital to ensure Somalia's long term security and stability, *requests* AMISOM to continue to expand its efforts to help develop the capacity and effectiveness of the Somali security forces, *urges* Member States, regional, and international organisations to work with in coordination with AMISOM to provide coordinated assistance, training and support and *welcomes* in this regard the training of Somalia security forces through the bilateral support programmes of Member States and the European Union Training Mission for Somalia (EUTM);

15. *Notes* the important role an effective police presence can play in the stabilisation of Mogadishu, *stresses* the need to continue to develop an effective Somali police force and *welcomes* the desire of the African Union to develop an operational police component within AMISOM;

16. *Demands* that all parties and armed groups take appropriate steps to ensure the safety and security of humanitarian personnel and supplies, and further *demands* that all parties ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law;

17. *Recalling* its resolutions 1674 (2006), 1738 (2006) and 1894 (2009) on the protection of civilians in armed conflict, *welcomes* the progress made by AMISOM in reducing civilian casualties during its operations, *urges* AMISOM to continue to undertake enhanced efforts in this regard, *commends* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC), as referenced in the Secretary-General's Report on Somalia (S/2011/759) of 9 December 2011, and *calls on* international donors and partners to further support the establishment of a CCTARC;

18. *Welcomes* the endorsement by AMISOM of the 2011 indirect fire policy and *encourages* AMISOM to adapt and implement this policy for all new troops and assets;

19. *Recalls* the Council's decision in resolution 1844 (2008) and *welcomes* the determination by the international community, including the African Union, to take measures against both internal and external actors engaged in actions aimed at undermining the peace and reconciliation process in Somalia, including the Roadmap, as well as the efforts of AMISOM and the Somali security forces;

20. *Underlines* its intention to keep the situation on the ground under review and to take into account in its future decisions progress by AMISOM in meeting the following objectives:

(a) Consolidation of security and stability throughout south central Somalia, including key towns, by the Somali security forces and AMISOM, on the basis of clear military objectives integrated into a political strategy;

(b) Effective regional coordination and cooperation on security issues by AMISOM;

(c) Assistance in the development of effective Somali security forces, with integrated units under a clear command and control structure and in coordination with the international community;

21. *Requests* the African Union to keep the Security Council regularly informed, through the Secretary-General, on the implementation of AMISOM's mandate, including on the implementation of paragraphs 1 and 2 in this resolution and on the new command and control structure and integration of forces under this structure and report to the Council, through the provision of written reports, no later than 30 days after the adoption of this resolution and every 60 days thereafter;

22. *Decides* that Somali authorities shall take the necessary measures to prevent the export of charcoal from Somalia and that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia; further *decides* that all Member States shall report to the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea ("the Committee") within 120 days of the adoption of this resolution on the steps they have taken towards effective implementation of this paragraph; and *requests* the Monitoring Group re-established pursuant to resolution 2002 (2011) to assess the impact of the charcoal ban in its Final Report;

23. *Decides* that the mandate of the Committee shall apply to the measures in paragraph 22 above; *decides* that the Monitoring Group's mandate shall likewise be expanded; and *considers* that such commerce may pose a threat to the peace, security, or stability of Somalia, and therefore that the Committee may designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution 1844 (2008);

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

Annex

In accordance with paragraph 6 of this resolution, on an exceptional basis and due to the unique character of AMISOM, the UN logistical support package for AMISOM shall be extended for a maximum of 17,731 uniformed personnel and 20 AMISOM civilian personnel based in AMISOM headquarters until 31 October 2012, in line with the recommendation in paragraphs 29 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74), which includes the provision of explosive threat management capacity, level II medical facilities and the reimbursement of contingent owned equipment (COE).

Eligible COE will include standard enablers and multipliers within the land component, and an aviation component of up to a maximum of 9 utility helicopters and 3 attack helicopters.

COE reimbursement should conform to UN rates and practices, including the direct transfer of funds to troop contributing countries (TCCs) as appropriate, and periodic reviews to ensure full operational capability. Letters of Assist (LOAs) should be negotiated with TCCs for equipment not covered under the UN COE framework including the aviation specified above.

As noted in paragraph 29 of the Secretary-General's Special Report on Somalia (S/2012/74), only equipment deployed by the TCCs and considered owned by TCCs should be reimbursed. Equipment gifted or donated to TCCs, AMISOM, the African Union or where the ownership still remains with the donor are not eligible for reimbursement.

Chapter:	537AN	UNITED NATIONS SANCTIONS (SOMALIA) REGULATION	Gazette Number	Version Date
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		Empowering section	L.N. 58 of 2009	27/03/2009
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(Cap 537, section 3)

[27 March 2009]

(Originally L.N. 58 of 2009)

Section:	1	Interpretation	L.N. 58 of 2009	27/03/2009
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PART 1

PRELIMINARY

In this Regulation, unless the context otherwise requires—

“authorized officer” (獲授權人員) means—

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

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

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

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

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

“funds” (資金) includes—

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

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

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

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

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

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

but does not include a designated person;

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

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

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

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

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

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

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

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

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

Section:	2	Prohibition against supply or delivery of certain goods	L.N. 58 of 2009	27/03/2009
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PART 2

PROHIBITIONS

(1) This section applies to—

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

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

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

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

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

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

Section:	3	Prohibition against carriage of certain goods	L.N. 58 of 2009	27/03/2009
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- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 8(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) from a place outside Somalia to a place in Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
 - (b) the supply or delivery was authorized by a licence granted under section 8(1)(a).
- (4) Without limiting section 2, a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) to, or to the order of, a designated person; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a designated person.
- (5) If a ship, aircraft or vehicle is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
 - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident

- and a Chinese national;
- (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
- (d) in the case of any other aircraft—
 - (i) the charterer of the aircraft;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (6) A person who commits an offence under subsection (5) is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods;
 - (b) if the person is charged with contravening subsection (2), that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or
 - (iii) to a destination for the purpose of delivery, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia; or
 - (c) if the person is charged with contravening subsection (4), that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) to, or to the order of, a designated person; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a designated person.

Section:	4	Prohibition against provision of certain advice, assistance or training	L.N. 58 of 2009	27/03/2009
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- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person connected with Somalia any technical advice, financial or other assistance or training related to military activities.
- (3) A person must not provide, directly or indirectly, to a designated person any technical assistance or training, or financial or other assistance including investment, brokering or other financial services, related to military activities or to the supply, delivery, manufacture, maintenance or use of any prohibited goods.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) if the person is charged with contravening subsection (2)—
 - (i) that the advice, assistance or training concerned was to be provided to a person connected with Somalia; or
 - (ii) that the advice, assistance or training concerned related to military activities; or
 - (b) if the person is charged with contravening subsection (3)—

- (i) that the assistance or training concerned was to be provided to a designated person; or
- (ii) that the assistance or training concerned related to military activities or to the supply, delivery, manufacture, maintenance or use of any prohibited goods.

Section:	5	Prohibition against making available funds, etc.	L.N. 58 of 2009	27/03/2009
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- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1), a person must not make available any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity.
- (3) The addition to an account owned or controlled, directly or indirectly, by a relevant person or a relevant entity of—
- (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose prior to the date on which the person or entity became a relevant person or a relevant entity,
- does not constitute making available funds or other financial assets or economic resources to, or for the benefit of, the relevant person or the relevant entity.
- (4) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe that the funds or other financial assets or economic resources concerned were to be made available to, or for the benefit of, a relevant person or a relevant entity.

Section:	6	Prohibition against entry or transit by certain persons	L.N. 58 of 2009	27/03/2009
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- (1) Subject to section 7, a designated person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not prohibit a person having the right of abode or the right to land in the HKSAR from entry into the HKSAR.

Section:	7	Exceptions to prohibition against entry or transit by certain persons	L.N. 58 of 2009	27/03/2009
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Section 6 does not apply to a case in respect of which—

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

Section:	8	Licence for supply, delivery or carriage of certain goods	L.N. 58 of 2009	27/03/2009
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PART 3

LICENCES

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant, as appropriate—
- (a) a licence for the supply or delivery of, or the doing of an act likely to promote the supply or delivery

of, prohibited goods—

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

Section:	9	Licence for provision of certain advice, assistance or training	L.N. 58 of 2009	27/03/2009
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(1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence to provide to a person connected with Somalia technical advice, financial or other assistance or training related to military activities.

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

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

Section:	10	Licence for making available funds, etc. to certain persons or entities	L.N. 58 of 2009	27/03/2009
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(1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence for making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity.

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

- (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges; or
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services;

- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
- (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered prior to 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and
 - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
 - (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

Section:	11	Provision of false information or documents for purpose of obtaining licences	L.N. 58 of 2009	27/03/2009
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- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	12	Licence or permission granted by authorities of places outside HKSAR	L.N. 58 of 2009	27/03/2009
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PART 4

THINGS DONE OUTSIDE HKSAR

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

Section:	13	Investigation of suspected ships	L.N. 58 of 2009	27/03/2009
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PART 5

ENFORCEMENT OF REGULATION

Division 1—Investigation, etc. of Suspected Ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 applies has been, is being or is

about to be used in contravention of section 3(2) or (4), the officer may—

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

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

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

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

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

Section:	14	Offences by charterer, operator or master of ship	L.N. 58 of 2009	27/03/2009
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(1) A charterer, operator or master of a ship who disobeys any direction given under section 13(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 13(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

Section:	15	Power of authorized officers to enter and detain ships	L.N. 58 of 2009	27/03/2009
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(1) Without limiting section 14, if an authorized officer has reason to suspect that a request that has been made under section 13(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

- (a) enter or authorize the entry on any land or the ship concerned;
 - (b) detain or authorize the detention of that ship or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for

further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Section:	16	Investigation of suspected aircraft	L.N. 58 of 2009	27/03/2009
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Division 2—Investigation, etc. of Suspected Aircraft

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

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

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

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

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

Section:	17	Offences by charterer, operator or pilot in command of aircraft	L.N. 58 of 2009	27/03/2009
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(1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 16(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

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

Section:	18	Power of authorized officers to enter and detain aircraft	L.N. 58 of 2009	27/03/2009
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(1) Without limiting section 17, if an authorized officer has reason to suspect that a request that has been made under section 16(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

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

Section:	19	Investigation of suspected vehicles	L.N. 58 of 2009	27/03/2009
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Division 3—Investigation, etc. of Suspected Vehicles

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

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

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

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

Section:	20	Offences by operator or driver of vehicle	L.N. 58 of 2009	27/03/2009
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(1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) An operator or driver of a vehicle who, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	21	Power of authorized officers to enter and detain vehicles	L.N. 58 of 2009	27/03/2009
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(1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—

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

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

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

Section:	22	Production of proof of identity	L.N. 58 of 2009	27/03/2009
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Division 4—Proof of Identity

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

Section:	23	Power of magistrate or judge to grant warrant	L.N. 58 of 2009	27/03/2009
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PART 6

EVIDENCE

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

- (a) an offence under this Regulation has been committed or is being committed; and
- (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.

(3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—

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

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

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

Section:	24	Detention of documents, cargoes or articles seized	L.N. 58 of 2009	27/03/2009
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(1) Subject to subsection (2), any document, cargo or article seized under section 23(3) may not be detained for more than 3 months.

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

Section:	25	Disclosure of information or documents	L.N. 58 of 2009	27/03/2009
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PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

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

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

- detecting evasion of, measures in relation to Somalia decided on by the Security Council; or
- (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—
- (a) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
- (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.

Section:	26	Liability of person other than principal offender	L.N. 58 of 2009	27/03/2009
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PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

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

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

Section:	27	Offences in relation to obstruction of authorized persons, etc.	L.N. 58 of 2009	27/03/2009
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A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of the powers of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	28	Offences in relation to evasion of this Regulation	L.N. 58 of 2009	27/03/2009
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A person who destroys, mutilates, defaces, secretes or removes any document, cargo or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

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

Section:	29	Consent and time limit for proceedings	L.N. 58 of 2009	27/03/2009
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(1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.

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

Section:	30	Specification of relevant person or relevant entity by Chief Executive	L.N. 58 of 2009	27/03/2009
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The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee for the purposes of paragraph 3 of Resolution 1844.

Section:	31	Exercise of powers of Chief Executive	L.N. 58 of 2009	27/03/2009
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(1) The Chief Executive may delegate any of the Chief Executive' s powers or functions under this Regulation to any person or class or description of person.

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

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

United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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United Nations Sanctions (Somalia) (Amendment) Regulation 2012

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

Part 1

Preliminary

1. Interpretation

In this Regulation, ~~unless the context otherwise requires—~~

authorized officer (獲授權人員) means—

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

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

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

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

- (a) as engaging in or providing support for acts that threaten the peace, security or stability of Somalia, including acts

that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the Transitional Federal Institutions or African Union Mission in Somalia by force;

- (b) as having acted in violation of the general and complete arms embargo reaffirmed in paragraph 6 of Resolution 1844; or
- (c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

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

funds (資金) includes—

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

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

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

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

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

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

but does not include a designated person;

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

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

relevant entity (有關實體) means—

- _____ (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 30; or
- _____ (b) an entity acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30;

relevant person (有關人士) means—

- _____ (a) a person specified by the Chief Executive as a relevant person in accordance with section 30; or
- _____ (b) a person acting on behalf of, or at the direction of, or owned or controlled directly or indirectly by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30;

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

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

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

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

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

Part 2

Prohibitions

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

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 8(1)(a), a person must not supply, sell or ~~deliver~~ transfer, or agree to supply, sell or ~~deliver~~ transfer, directly or indirectly, or do any act likely to promote the supply, sale or ~~delivery~~ transfer of, any prohibited goods—
 - (a) to Somalia;
 - (b) to, or to the order of, a person connected with Somalia; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia.
- (3) A person must not supply, sell or ~~deliver~~ transfer, or agree to supply, sell or ~~deliver~~ transfer, directly or indirectly, or do any act likely to promote the supply, sale or ~~delivery~~ transfer of, any prohibited goods—
 - (a) to, or to the order of, a designated person; or

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

3. **Prohibition against carriage of certain goods**

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

- (4) Without limiting section 2, a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) to, or to the order of, a designated person; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to, or to the order of, a designated person.
- (5) If a ship, aircraft or vehicle is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of any other aircraft—

- (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (6) A person who commits an offence under subsection (5) is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods;
 - (b) if the person is charged with contravening subsection (2), that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to, or to the order of, a person connected with Somalia; or

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

(c) if the person is charged with contravening subsection (4), that the carriage of the goods concerned was, or formed part of, a carriage—

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

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

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

(1) This section applies to—

(a) a person acting in the HKSAR; and

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

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

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

(2) Except under the authority of a licence granted under section 9(1), a person must not provide, directly or indirectly, to a person connected with Somalia any technical advice, financial or other assistance or training related to military activities.

(3) A person must not provide, directly or indirectly, to a designated person any technical assistance or training, or financial or other assistance including investment, brokering or other financial services, related to military activities or to the supply, ~~delivery~~ sale, transfer, manufacture, maintenance or use of any prohibited goods.

- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) if the person is charged with contravening subsection (2)—
 - (i) that the advice, assistance or training concerned was or was to be provided to a person connected with Somalia; or
 - (ii) that the advice, assistance or training concerned related to military activities; or
 - (b) if the person is charged with contravening subsection (3)—
 - (i) that the assistance or training concerned was or was to be provided to a designated person; or
 - (ii) that the assistance or training concerned related to military activities or to the supply, ~~delivery~~ sale, transfer, manufacture, maintenance or use of any prohibited goods.

4A. Prohibition against importation of charcoal

- (1) A person must not import, directly or indirectly, any charcoal from Somalia into the HKSAR.
- (2) Subsection (1) applies whether or not the charcoal concerned was originated in Somalia.

- (3) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the charcoal concerned was imported, directly or indirectly, from Somalia into the HKSAR.

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

- (1) This section applies to—
- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—
- (i) both a Hong Kong permanent resident and a Chinese national; or
- (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1),—
- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and

if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.

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

~~(a) interest or other earnings due on that account; or~~

~~(b) payment due under contracts, agreements or obligations that arose prior to the date on which the person or entity became a relevant person or a relevant entity,~~

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

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

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

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

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

~~(a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or~~

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

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

6. Prohibition against entry or transit by certain persons

- (1) Subject to section 7, a designated person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

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

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

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

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

Part 3

Licences

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

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

- (a) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Somalia by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
- (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
- (c) the prohibited goods are intended solely for the support of or use by the mission established under paragraph 4 of Resolution 1744;
- (d) the prohibited goods are intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1, 2, 3, 4 and 5 of Resolution 1772, ~~and—~~.

~~— (i) the Committee has been notified of the proposed supply or delivery of the prohibited goods to which the application for the licence relates under paragraph 12 of Resolution 1772; and~~

(3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(ii) ~~the Committee has not made~~ must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

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

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to provide to a person

connected with Somalia technical advice, financial or other assistance or training related to military activities.

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

(a) the assistance or training is technical training or assistance intended solely for the support of or use by the mission established under paragraph 4 of Resolution 1744;

(b) the assistance is technical assistance intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1, 2, 3, 4 and 5 of Resolution 1772, ~~and—~~

~~— (i) the Committee has been notified of the proposed provision of the assistance to which the application for the licence relates under paragraph 12 of Resolution 1772; and~~

(3) If the Chief Executive determines that the requirement in subsection (2)(b) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(~~ii~~b) ~~the Committee has not made~~ must grant the licence in the absence of a negative decision by the Committee within 5 working days of receiving the notification.

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

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

(a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or

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

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

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

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

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

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

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

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

(i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered ~~prior to~~ before 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and

- (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of receiving the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
 - (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

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- (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
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Part 4

Things Done outside HKSAR

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

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

Part 5

Enforcement of Regulation

Division 1—Investigation, etc. of Suspected Ships

13. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 applies is being or is about to be used in contravention of section 3(2) or (4), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of ~~that~~ section 3(2) or (4) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer,

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

14. Offences by charterer, operator or master of ship

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

15. Power of authorized officers to enter and detain ships

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

- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 2—Investigation, etc. of Suspected Aircraft

16. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer may specify.
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

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

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

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

18. Power of authorized officers to enter and detain aircraft

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

compliance with that request including, in particular, any of the following steps—

- (a) enter or authorize the entry on any land or the aircraft concerned;
 - (b) detain or authorize the detention of that aircraft or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3—Investigation, etc. of Suspected Vehicles

19. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or (4), the officer may—
- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
 - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and

- (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.
- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

20. Offences by operator or driver of vehicle

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

a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
 - (b) detain or authorize the detention of that vehicle or any article carried on it;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 4—Proof of Identity

22. Production of proof of identity

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

Part 6

Evidence

23. Power of magistrate or judge to grant warrant

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

has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

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

24. Detention of documents, cargoes or articles seized

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

Part 7

Disclosure of Information or Documents

25. Disclosure of information or documents

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

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

Part 8

Other Offences and Miscellaneous Matters

26. Liability of persons other than principal offenders

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

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

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

28. Offences in relation to evasion of this Regulation

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

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

29. Consent and time limit for proceedings

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

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

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

31. Exercise of powers of Chief Executive

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

Explanatory Note

The main purpose of this Regulation is to give effect to a decision in Resolution 2036 (2012) as adopted by the Security Council of the United Nations (*Security Council*) on 22 February 2012. The decision seeks to impose a new sanction against the import of charcoal from Somalia.

2. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN), as amended by this Regulation, also gives effect to previous Resolutions of the Security Council by providing for the prohibition against—

(a) the supply, sale, transfer or carriage of weapons or military equipment;

(b) the provision of advice, assistance or training in certain circumstances;

(c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;

(d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and

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

**United Nations Sanctions (Somalia) Regulation
(Amendment) Regulation 2012
Information on Somalia**

Country Background

Somalia is a country in Eastern Africa, situated in the east of Ethiopia, bordering the Gulf of Aden and the Indian Ocean. It has a total area of 637,657 sq. km. and an estimated population of around 9.33 million in 2010. With its capital in Mogadishu, Somalia first achieved independence in 1960. The inauguration of the new Federal Parliament of Somalia on 20 August 2012 marked the end of transitional period following decades of warfare in the country. Dependent on its agricultural sector, Somalia had a GDP of US\$1.07 billion (or HK\$8.3 billion) in 2010.¹ Merchandise imports and exports of Somalia in 2010 amounted to US\$ 830 million (or HK\$6.4 billion) and US\$ 410 million (or HK\$3.2 billion) respectively.²

United Nations Sanctions against Somalia

2. The overthrow of Somali President Siad Barre in January 1991 left Somalia without a viable government. Fighting broke out, mainly between two major clans, with the support of a number of clan-based militias. By early 1992, the country's humanitarian situation was dire with more than 300,000 people estimated to have died of hunger and disease and another 1.5 million in danger of starvation. Against this background, in January 1992, the United Nations Security Council (UNSC) adopted Resolution 733 to impose an arms embargo against the country. Since then, the sanctions regime against Somalia was further expanded and amended by Resolutions 1356, 1725, 1744, 1772, etc.

3. Under the Djibouti Agreement reached in June 2008, Somalia's Transitional Federal Government (TFG) and the opposition Alliance for the Re-liberation of Somalia (ARS) agreed to end their conflict and to establish a unity government. To take measures against those who threatened the peace and the political processes and obstructed humanitarian assistance, UNSC adopted Resolution 1844 on 20 November 2008 to apply travel restrictions

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

² Source: International Trade Statistics 2011 published by the World Trade Organisation at http://www.wto.org/english/res_e/statistics_e/its2011_e/its11_toc_e.htm

and an asset freeze to individuals and entities that engaged in such activities, in addition to those that breached the weapons ban, which was put in place by resolution 733 and amended by subsequent resolutions. Given the situation in Somalia continues to constitute a threat to international peace and security in the region, UNSC further tightened up its sanctions on 22 February 2012 by adopting Resolution 2036 to impose a charcoal ban against the country to cut off the main funding of Al-Shabaab, a prominent insurgent group in the country.³

Trade Relation between Hong Kong and Somalia

4. In 2011, Somalia ranked 188th among Hong Kong's trading partners in the world, with a total trade of HK\$8.6 million. Of these, HK\$0.2 million worth of trade were exports to Somalia, and HK\$8.4 million imports. Hong Kong's trade with Somalia are summarised as follows –

Hong Kong's Trade with Somalia [Value in HK\$ (in million)]		
Item	2011	2012 (January – July)
(a) Total Exports to Somalia	0.2	5.2
(i) Domestic exports	0.0	0.0
(ii) Re-exports	0.2 ⁴	5.2 ⁵
(b) Imports from Somalia	8.4 ⁶	10.2 ⁷
Total Trade [(a) + (b)]	8.6	15.4

In 2011, HK\$1.8 million worth of goods, or 0.2% of the total trade between Somalia and the Mainland, were routed through Hong Kong. Of these,

³ Source of information contained in paragraphs 2-3: UN Peacekeeping Operation Webpage at <http://www.un.org/en/peacekeeping/>, UN News Centre at <http://www.un.org/apps/news/>, Webpage of Security Council Committee pursuant to Resolutions 751 and 1907 concerning Somalia and Eritrea at <http://www.un.org/sc/committees/751/index.shtml>.

⁴ In 2011, re-exports to Somalia include rotating electric plant and parts (55.5%); plastic articles (13.5%); and musical instruments and sound recordings (8.7%).

⁵ In January – July 2012, re-exports to Somalia include telecommunications equipment (63.4%); musical instruments and sound recordings (22.3%); and printed matter (6.8%). Due to limited value of HK's re-exports to Somalia, small changes in absolute value led to substantial fluctuations in percentage terms. Decrease in re-exports to Somalia in 2011 was mainly due to the drop in demand for manufactures of base metal; as well as telecommunications equipment. However, significant rise in demand for telecommunications equipment; as well as musical instruments and sound recordings resulted in the sharp increase in re-exports to Somalia in January – July 2012.

⁶ In 2011, imports from Somalia include leather (81.4%); raw hides and skins (except furskins) (17.7%); and crude animal materials (0.9%).

⁷ In January – July 2012, imports from Somalia include leather (99.9%). Due to limited value of HK's imports from Somalia, small changes in absolute value led to substantial fluctuations in percentage terms. Imports from Somalia increased sharply during January – July 2012 due to the rise in demand for leather.

HK\$1.6 million worth of goods were re-exports from Somalia to Mainland. The remaining HK\$0.2 million were re-exports of Mainland origin to the Somalia via Hong Kong.

5. The additional ban on charcoal against Somalia imposed by the UNSC would unlikely affect the trade between Hong Kong and Somalia notably, as the major categories of commodities traded are not related to charcoal or other related products. In addition, given the rather small trade volume between the two places, the United Nations sanctions against Somalia would unlikely have any significant effect on the Hong Kong economy.

**Commerce and Economic Development Bureau
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