

## **LEGISLATIVE COUNCIL BRIEF**

United Nations Sanctions Ordinance  
(Chapter 537)

### **UNITED NATIONS SANCTIONS (SOMALIA) (AMENDMENT) REGULATION 2013**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 23 July 2013, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Somalia) (Amendment) Regulation 2013 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Amendment Regulation was gazetted on 26 July 2013 and came into operation on the same day.

#### **BACKGROUND**

##### **Obligation and Authority**

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In April 2013, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2093 in respect of Somalia. 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 2093 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 current framework for the sanctions was set out in UNSCR 1844 adopted in November 2008 and UNSCR 2036 adopted in February 2012.

They concern travel ban<sup>(1)</sup>, financial restriction<sup>(2)</sup> and arms embargo<sup>(3)</sup> in respect of persons or entities designated by the Committee established under paragraph 11 of UNSCR 751 (“the Committee”), and charcoal ban<sup>(4)</sup>.

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4. Pursuant to the instruction of the MFA, the United Nations Sanctions (Somalia) Regulation (Cap. 537AN) (at Annex D) was first made in March 2009 and subsequently amended in September 2012 to implement sanctions against Somalia in the relevant UNSCRs.

## UNSCR 2093

5. Recognising the significant progress that has been made in Somalia over the past year while noting that the situation in Somalia continues to pose a threat to international peace and security in the region, the UNSC adopted UNSCR 2093 on 6 March 2013. The UNSC, inter alia, decided that –

- (a) the arms embargo measures imposed in paragraph 5 of UNSCR 733, and further elaborated by paragraphs 1 and 2 of UNSCR 1425, shall not apply to –
  - (i) for a period of 12 months from 6 March 2013, deliveries of weapons or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people, except in relation to deliveries of the items set out in the annex to UNSCR 2093 (*paragraph 33 of UNSCR 2093 refers*);

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**Notes** <sup>(1)</sup> 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. Exceptions to the measure are set out in paragraph 2 of UNSCR 1844.

<sup>(2)</sup> 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.

<sup>(3)</sup> 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.

<sup>(4)</sup> Paragraph 22 of UNSCR 2036 provides for the prohibition against the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia.

- (ii) deliveries of weapons or military equipment or the provision of assistance, intended solely for the support of, or use by, strategic partners of the African Union Mission in Somalia (“AMISOM”), operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM (*paragraph 36 of UNSCR 2093 refers*); and
  - (iii) supplies of weapons or military equipment or the provision of assistance, intended solely for the support of or use by United Nations personnel, including the United Nations Political Office for Somalia or its successor mission (*paragraph 37 of UNSCR 2093 refers*); and
- (b) the travel ban, financial restriction and arms embargo measures in paragraphs 1, 3 and 7 of UNSCR 1844 shall apply to individuals, and that the provision of paragraphs 3 and 7 of UNSCR 1844 shall apply to entities, designated by the Committee (*paragraph 43 of UNSCR 2093 refers*) –
  - (i) as engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, including acts that threaten the peace and reconciliation process in Somalia, or threaten the Federal Government of Somalia or AMISOM by force;
  - (ii) as having acted in violation of the arms embargo imposed by paragraph 5 of UNSCR 733, further elaborated upon by paragraphs 1 and 2 of UNSCR 1425, and as amended by paragraphs 33 to 38 of UNSCR 2093 or as having acted in violation of the arms resale and transfer restrictions set out in paragraph 34 of UNSCR 2093;
  - (iii) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
  - (iv) as being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law; or
  - (v) as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including

killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement.

## **THE AMENDMENT REGULATION**

6. The Amendment Regulation, at Annex A, seeks to implement the sanctions against Somalia as per UNSCR 2093. The main provisions of the Amendment Regulation include -

- (a) **section 2 which amends the definition of “designated person” under section 1 of Cap. 537AN** to expand the criteria for designation by the Committee as per paragraph 43 of UNSCR 2093;
- (b) **sections 6 and 7 which amend sections 8(2) and 9(2) of Cap. 537AN** to reflect new exceptions to the arms embargo measures against Somalia as per paragraphs 33, 36 and 37 of UNSCR 2093; and
- (c) **section 9 which adds a new section 32 to Cap. 537AN** to specify that the exceptions to the arms embargo measures against Somalia expire at midnight on 5 March 2014.

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

## **IMPLICATIONS OF THE PROPOSAL**

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

## **PUBLICITY**

8. A press release was issued on 26 July 2013 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.

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## **ADVICE SOUGHT**

10. Members are invited to note the implementation of UNSCR 2093 in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau**  
**July 2013**

## United Nations Sanctions (Somalia) (Amendment) Regulation 2013

## Section 1

L.N. 137 of 2013

B3407

L.N. 137 of 2013

## United Nations Sanctions (Somalia) (Amendment) Regulation 2013

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

### 1. United Nations Sanctions (Somalia) Regulation amended

The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) is amended as set out in sections 2 to 9.

### 2. Section 1 amended (interpretation)

#### (1) Section 1, definition of *designated person*—

##### Repeal paragraph (a)

##### Substitute

“(a) as engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, including acts that threaten the peace and reconciliation process in Somalia, or threaten the Federal Government of Somalia or AMISOM by force;”.

#### (2) Section 1, definition of *designated person*, paragraph (b)—

##### Repeal

everything after “in violation”

##### Substitute

“of—

## United Nations Sanctions (Somalia) (Amendment) Regulation 2013

## Section 2

L.N. 137 of 2013

B3409

- (i) the arms embargo imposed by paragraph 5 of Resolution 733, as further elaborated upon by paragraphs 1 and 2 of Resolution 1425, and as amended by paragraphs 33 to 38 of Resolution 2093;
- (ii) the arms resale and transfer restrictions set out in paragraph 34 of Resolution 2093;”.
- (3) Section 1, definition of *designated person*, after paragraph (c)—  
**Add**  
 “(d) as being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law; or  
 (e) as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;”.
- (4) Section 1, definition of *relevant person*, paragraph (b)—  
**Repeal**  
 “or owned or controlled directly or indirectly by;”.
- (5) Section 1—  
**Add in alphabetical order**  
 “*AMISOM* (非索特派團) means the African Union Mission in Somalia;  
*Resolution 733* (《第733號決議》) means Resolution 733 (1992) adopted by the Security Council on 23 January 1992;  
*Resolution 1425* (《第1425號決議》) means Resolution 1425 (2002) adopted by the Security Council on 22 July 2002;

Section 3

**Resolution 2093** (《第2093號決議》) means Resolution 2093 (2013) adopted by the Security Council on 6 March 2013;”.

3. **Section 2 amended (prohibition against supply, sale or transfer of certain goods)**

Section 2(5)(b) and (c)—

**Repeal**

“if the person is charged with contravening”

**Substitute**

“for a contravention of”.

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

(1) Section 3(5)(a), (b), (c), (d) and (e), English text—

**Repeal**

“in the case of”

**Substitute**

“for”.

(2) Section 3(7)(b) and (c)—

**Repeal**

“if the person is charged with contravening”

Section 5

**Substitute**

“for a contravention of”.

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

Section 4(5)(a) and (b)—

**Repeal**

“if the person is charged with contravening”

**Substitute**

“for a contravention of”.

6. **Section 8 amended (licence for supply, sale, transfer or carriage of certain goods)**

(1) Section 8(2)—

**Repeal**

“referred to in subsection (1)”.

- (2) Section 8(2), Chinese text—

**Repeal paragraph (a)**

**Substitute**

- “(a) 有關禁制物品，是由聯合國人員、媒體代表、人道主義或發展工作人員或有關人員暫時出口至索馬里專供其個人使用的防護服用品(包括防彈衣及軍用頭盔)；”。

- (3) Section 8(2)(b), Chinese text, after “禁制物品”—

**Add a comma.**

- (4) Section 8(2)(d)—

**Repeal the full stop**

**Substitute a semicolon.**

- (5) After section 8(2)(d)—

**Add**

- “(e) the prohibited goods do not include any item covered by the Annex to Resolution 2093, and are intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somalia people;
- (f) the prohibited goods are intended solely for the support of or use by AMISOM’s strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;
- (g) the prohibited goods are intended solely for the support of or use by the personnel of the United Nations, including the United Nations Political Office for Somalia or its successor mission.”.

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

- (1) Section 9(2)—

**Repeal**

“referred to in subsection (1)”.

- (2) Section 9(2)(b)—

**Repeal the full stop**

**Substitute a semicolon.**

- (3) After section 9(2)(b)—

**Add**

- “(c) the advice, assistance or training is intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somalia people;
- (d) the assistance is intended solely for the support of or use by AMISOM’s strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;
- (e) the assistance is intended solely for the support of or use by the personnel of the United Nations, including the United Nations Political Office for Somalia or its successor mission.”.

8. **Section 10 amended (licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities)**

**Section 10(2)—**

**Repeal**

“referred to in subsection (1)”.



Section 9

9. Section 32 added

After section 31—

**Add**

**“32. Duration**

Sections 8(2)(e) and 9(2)(c) expire at midnight on 5 March 2014.”.

C. Y. LEUNG  
Chief Executive

23 July 2013

**Explanatory Note**

The main purpose of this Regulation is to give effect to certain decisions in Resolution 2093 (2013) as adopted by the Security Council of the United Nations (*Security Council*) on 6 March 2013. The Regulation—

- (a) amends the definition of *designated person*;
- (b) provides for additional exceptions to the prohibition against—
  - (i) the supply, sale, transfer or carriage of weapons or military equipment to certain persons; and
  - (ii) the provision of certain advice, assistance or training to certain persons.

- 2. This Regulation also makes certain minor amendments.

**United Nations Sanctions Ordinance (Cap. 537)**

**United Nations Sanctions (Somalia) (Amendment) Regulation 2013**

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in April 2013 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2093 of the Security Council of the United Nations, and that the United Nations Sanctions (Somalia) (Amendment) Regulation 2013 was made in pursuance of that instruction.

Dated this 24<sup>th</sup> day of July 2013



( Mrs Carrie Lam )  
Chief Secretary for Administration

United Nations

S/RES/2093 (2013)

**Security Council**Distr.: General  
6 March 2013

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**Resolution 2093 (2013)****Adopted by the Security Council at its 6929th meeting, on  
6 March 2013***The Security Council,*

*Recalling* its previous resolutions on the situation in Somalia, as well as other relevant Presidential Statements on the situation in Somalia, in particular resolutions 733 (1992), 1425 (2002), 1772 (2007), 2036 (2012), and 2073 (2012),

*Reiterating* its full support to the Secretary-General and his Special Representative, and for their work with the African Union (AU), including the Chairperson of the AU Commission and her Special Representative, as well as other international and regional partners,

*Reaffirming* its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, *recognizing* the significant progress that has been made in Somalia over the past year, and *reiterating* its commitment to a comprehensive and lasting settlement of the situation in Somalia,

*Commending* the contribution of the African Union Mission to Somalia (AMISOM) to lasting peace and stability in Somalia, *noting* its critical role in improving the security situation in Mogadishu (particularly in the military and policing roles) and other areas of south-central Somalia, including Kismayo, *expressing* its appreciation for the continued commitment of troops, police and equipment to AMISOM by the Governments of Burundi, Djibouti, Kenya, Nigeria, Sierra Leone and Uganda, and *recognizing* the significant sacrifices made by AMISOM forces,

*Calling on* the Federal Government of Somalia, with the support of AMISOM and international partners, to consolidate security and establish the rule of law in areas secured by AMISOM and the Security Forces of the Federal Government of Somalia, *underlining* the importance of building sustainable, legitimate and representative local governance and security structures in both Mogadishu and areas recovered from Al-Shabaab control, *encouraging* all relevant authorities to uphold high standards in resource management, and *reiterating* the need for rapid and increased United Nations support to the Federal Government of Somalia in these areas,

*Underlining* the importance of capacity-building of the Security Forces of the Federal Government of Somalia and in this regard, *reaffirming* the importance of the

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re-establishment, training, equipping and retention of Somali security forces, which is vital for the long-term stability and security of Somalia, *expressing* support for the ongoing European Union Training Mission and other capacity-building programmes, and *emphasizing* the importance of increased coordinated, timely and sustained support from the international community,

*Reiterating* its strong condemnation of all attacks on Somali institutions, AMISOM, United Nations personnel and facilities, journalists, and the civilian population by armed opposition groups, and foreign fighters, particularly Al-Shabaab, *stressing* that such groups, including foreign fighters engaged in destabilizing Somalia, constitute a continuing terrorist threat to Somalia, the region and the international community, *stressing* that there should be no place for terrorism or violent extremism in Somalia, and *reiterating* its call to all opposition groups to lay down their arms,

*Expressing* concern at the ongoing humanitarian crisis in Somalia and its impact on the people of Somalia, *commending* the efforts of the United Nations humanitarian agencies and other humanitarian actors to deliver life-saving assistance to vulnerable populations, *condemning* any misuse or obstruction of humanitarian assistance, *underlining* the importance of the full, safe, independent, timely and unimpeded access of all humanitarian actors to all those in need of assistance, and *underlining further* the importance of proper accounting in international humanitarian support,

*Recalling* its resolutions 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006) and 1894 (2009) on the protection of civilians in armed conflict, its resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009) and 1960 (2010) on women, peace and security, its resolution 1738 (2006) on the protection of journalists in armed conflicts, and its resolutions 1612 (2005), 1882 (2009), 1998 (2011) and 2068 (2012) on children and armed conflict, and *taking note* of the report of the Secretary-General on Children and Armed Conflict, and its conclusions, as endorsed by the Security Council Working Group on Children and Armed Conflict,

*Welcoming* the Strategic Reviews of both the United Nations and the African Union on their presence and engagement in Somalia, and the decisions taken by both organizations to enhance collaboration on the basis of comparative advantage and a clear division of labour, and *underlining* the importance of both organizations improving their coordination with one another, as well as with the Federal Government of Somalia, other regional organizations, and Member States,

*Welcoming* the Federal Government of Somalia's development of a new national security strategy, *calling on* the Federal Government of Somalia to accelerate its implementation in view of the remaining threat posed by Al-Shabaab and other destabilizing actors, *underlining* the importance of further defining the composition of Somalia's national security forces, identifying capability gaps in order to guide AMISOM and donors' security sector assistance priorities and signalling areas of cooperation with the international donor community, and *noting* the international community's intention to support the Federal Government of Somalia in security sector reform,

*Recognizing* that the Federal Government of Somalia has a responsibility to protect its citizens and build its own national security forces, *noting* that these forces should be inclusive and representative of Somalia and act in full compliance

with their obligations under international humanitarian law and human rights law, and *reaffirming* the intent of international partners to support the Federal Government of Somalia in achieving this,

*Recognizing* that a more stable Somalia is of vital importance to ensuring regional security,

*Welcoming* the Federal Government of Somalia's commitment to peace, stability and reconciliation across Somalia, including at the regional level,

*Welcoming* the Federal Government of Somalia's commitment to improving human rights in Somalia, *expressing* its concern at the reports of violations of human rights, including extrajudicial killings, violence against women, children and journalists, arbitrary detention and pervasive sexual violence in camps for internally displaced persons, and *underscoring* the need to end impunity, uphold human rights and to hold accountable those who commit such crimes,

*Expressing* concern at reports of continuous violations of the Somali and United Nations ban on charcoal exports, *welcoming* the President of Somalia's task force on this issue, and *recognizing* the need to assess urgently, and provide recommendations on, resolving the charcoal issue,

*Underlining* its full support for the Somalia and Eritrea Monitoring Group (SEMG), and *recalling* the importance of the SEMG being given full support in carrying out its mandate by all Member States and all appropriate United Nations bodies supporting the Group,

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

*Acting* under Chapter VII of the charter of the United Nations,

## AMISOM

1. *Decides* to authorize the Member States of the African Union (AU) to maintain the deployment of AMISOM until 28 February 2014, which shall be authorised to take all necessary measures, in full compliance with its obligations under international humanitarian law and human rights law, and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia, to carry out the following tasks:

(a) To maintain a presence in the four sectors set out in the AMISOM Strategic Concept of 5 January 2012, and in those sectors, in coordination with the Security Forces of the Federal Government of Somalia, reduce the threat posed by Al-Shabaab and other armed opposition groups, including receiving, on a transitory basis, defectors, as appropriate, and in coordination with the United Nations, in order to establish conditions for effective and legitimate governance across Somalia;

(b) To support dialogue and reconciliation in Somalia by assisting with the free movement, safe passage and protection of all those involved with the peace and reconciliation process in Somalia;

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

(d) To assist, within its capabilities, and in coordination with other parties, with implementation of the Somali national security plans, through training and mentoring of the Security Forces of the Federal Government of Somalia, including through joint operations;

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

(f) To assist, within its existing civilian capability, the Federal Government of Somalia, in collaboration with the United Nations, to extend state authority in areas recovered from Al-Shabaab;

(g) To protect its personnel, facilities, installations, equipment and mission, and to ensure the security and freedom of movement of its personnel, as well as of United Nations personnel carrying out functions mandated by the Security Council;

2. *Reiterates* its request in paragraph 9 of resolution 2036 (2012) for the establishment without any further delay of a guard force of an appropriate size and within AMISOM's mandated troop levels to provide security, escort and protection services to personnel from the international community, including the United Nations, and *requests* the AU to provide details in its next report to the Security Council on progress towards, and the timetable for, its establishment;

3. *Requests* the Secretary-General to continue to provide technical, management and expert advice to the AU in the planning and deployment 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;

4. *Requests* the Secretary-General to continue to provide a logistical support package for AMISOM, referred to in paragraphs 10, 11 and 12 of resolution 2010 (2011), paragraphs 4 and 6 of resolution 2036 (2012) and paragraph 2 of resolution 2073 (2012) for a maximum of 17,731 uniformed personnel until 28 February 2014, ensuring the accountability and transparency of expenditure of the United Nations funds as set out in paragraph 4 of resolution 1910 (2010), and consistent with the requirements of the Secretary-General's Human Rights Due Diligence Policy;

5. *Reiterates* paragraph 6 of resolution 2036 (2012) and paragraph 2 of resolution 2073 (2012) regarding logistical support to AMISOM;

6. *Recalls* its request in paragraph 5 of resolution 2036 related to transparency and proper accountability for resources provided to AMISOM, in particular the number of troops, civilian personnel and equipment, and *requests* UNSOA, in cooperation with the AU, to verify the number of troops, civilian personnel and equipment deployed as part of AMISOM;

7. *Calls upon* new and existing donors to support AMISOM through the provision of additional funding for troop stipends, equipment, technical assistance, and uncaveated funding for AMISOM to the United Nations Trust Fund for AMISOM, and *calls upon* the AU to consider providing funding to AMISOM through its own assessed costs as it has recently done for the African-led International Support Mission in Mali;



8. *Requests* the AU to keep the Security Council regularly informed on the implementation of AMISOM's mandate through the provision of written reports to the Secretary-General every 90 days after the adoption of this resolution;

9. *Welcomes* the progress made by AMISOM in reducing civilian casualties during its operations, and *urges* AMISOM to enhance its efforts to prevent civilian casualties;

10. *Encourages* AMISOM to develop further an effective approach to the protection of civilians, as requested by the AU Peace and Security Council;

11. *Recalls* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC), *underlines* the importance of its establishment, *requests* AMISOM to report on the progress made in establishing the CCTARC and *calls on* international donors and partners to further support the establishment of a CCTARC;

12. *Requests* AMISOM to ensure that any detainees in their custody are treated in strict compliance with AMISOM's obligations under international humanitarian law and human rights law;

13. *Requests* AMISOM to strengthen child and women's protection in its activities and operations, including through the deployment of a child protection adviser and a women's protection adviser, within its existing civilian component to mainstream child and women's protection within AMISOM;

14. *Requests* AMISOM to take adequate measures to prevent sexual violence, and sexual exploitation and abuse, by applying policies consistent with the United Nations zero-tolerance policy on sexual exploitation and abuse in the context of peacekeeping;

15. *Requests* the AU to establish a system to address systematically allegations of misconduct, which includes clear mechanisms for receiving and tracking allegations, as well as for following up with troop-contributing countries on the results of investigations and disciplinary actions taken as applicable, and *requests* the United Nations to advise and provide guidance to the AU in this endeavour;

16. *Welcomes* the development of the Government of Somalia's National Programme for Handling Disengaged Combatants in Somalia, notes the need for appropriate human rights safeguards, and *encourages* Member States to support the plan through the provision of funds;

#### **United Nations Strategic Review**

17. *Welcomes* the review by the Secretary-General of the United Nations' presence and engagement in Somalia;

18. *Agrees* with the Secretary-General that UNPOS has fulfilled its mandate and should now be dissolved, and *further agrees* that UNPOS should be replaced by a new expanded Special Political Mission as soon as possible;

19. *Agrees* with the Secretary-General that the conditions in Somalia are not yet appropriate for the deployment of a United Nations Peacekeeping Operation, and *requests* that he keeps this under review, including through the setting of benchmarks for when it might be appropriate to deploy a United Nations

peacekeeping operation and *looks forward* to receiving this information as part of his regular reporting to the Security Council;

20. *Decides* that UNSOA shall be integrated within the framework of the new United Nations Mission, with the head of UNSOA continuing to report to the Department of Field Support on the delivery of the AMISOM logistical support package, and reporting to the Special Representative of the Secretary-General on logistical support to the new United Nations Mission and on policy or political questions arising from the functions of UNSOA relevant to the mandate of the new United Nations Mission;

21. *Requests* that by 1st January 2014 the post of Deputy Special Representative of the Secretary-General/Resident and Humanitarian Coordinator (DSRSG/RC/HC) will have been established and structurally integrated into the new United Nations Mission, which will operate alongside AMISOM, *requests* in the meantime that the Secretary-General ensure that, with immediate effect, all appropriate activities of the United Nations Country Team are fully coordinated with the new United Nations Mission, including through joint teams and joint strategies, while ensuring the humanity, impartiality, neutrality, and independence of humanitarian assistance, and *further requests* the Secretary-General to keep the Security Council regularly informed about the steps he is taking to integrate the work of the United Nations Country Team and the new United Nations Mission, through the provision of written reports every 90 days;

22. *Requests* the Secretary-General to conduct a Technical Assessment Mission on the implementation of the new United Nations mission, in full cooperation with the Federal Government of Somalia, AU, regional bodies and Member States, on the basis of the guiding principles as set out below:

(a) Empowering Somali ownership of the statebuilding and peacebuilding agenda;

(b) Providing the traditional United Nations good offices function and support to the government, including on reconciliation, elections and the effective implementation of a federal system;

(c) Providing strategic and policy advice on security, stabilisation, peacebuilding and state-building, including through the mission having a substantially strengthened security and rule of law capacity;

(d) Monitoring, reporting and helping build capacity on human rights, including on sexual, gender-based and conflict-related violence and on violations against children — supporting the implementation of the two action plans on children and armed conflict signed by the Federal Government of Somalia;

(e) Supporting the Federal Government of Somalia's efforts to manage and specifically coordinate international assistance, particularly on security sector reform;

(f) Providing integrated policy advice and support to the Federal Government of Somalia, in cooperation with the United Nations Country Team, and in accordance with the arrangements set out in paragraph 21;



23. *Underlines* that the new mission should be headquartered in Mogadishu and should deploy further across Somalia as security conditions allow, and *requests* advice from the Secretary-General on how the Mission will be protected;

24. *Requests* the Secretary-General to report to the Council no later than 19 April 2013 on the results of his Technical Assessment Mission, including on the United Nations division of labour with the AU, after which the Council will formally mandate a new Special Political Mission, and *underlines* that the new United Nations Mission should deploy by 3 June 2013;

#### **Human Rights and Protection of Civilians**

25. *Recalls* its previous resolutions 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006), and 1894 (2009), as well as all its resolutions on Women, Peace and Security, Children and Armed Conflict and peacekeeping, and all relevant statements of its President;

26. *Condemns* all attacks against civilians in Somalia, *calls for* the immediate cessation of all acts of violence, including sexual and gender based violence, or abuses committed against civilians, including women and children, and humanitarian personnel in violation of international humanitarian law and human rights law, *stresses* the responsibility of all parties in Somalia to comply with their obligations to protect the civilian population from the effects of hostilities, in particular by avoiding any indiscriminate attacks or excessive use of force, and *underscores* the need to end impunity, uphold human rights and hold those who commit crimes accountable;

27. *Welcomes* the commitment made by the President of Somalia to hold the Somali National Security Forces accountable for allegations of sexual violence, *urges* the Federal Government of Somalia, in cooperation with the United Nations, to initiate its Task Force on Sexual Violence, and to develop and implement a comprehensive strategy to prevent and respond to sexual violence, and *stresses* the need for the Federal Government of Somalia to take all appropriate measures to bring to justice any perpetrator of such acts;

28. *Expresses* concern at the security situation in camps for internally displaced persons (IDPs) and settlements, *condemns* all human rights violations and abuses, including sexual violence, committed against IDPs by all parties, including armed groups and militias, and *calls for* the strengthening of protection of IDP camps;

29. *Recalls* the relevant prohibition of the forced displacement of civilians in armed conflict, and *stresses* the importance of fully complying with international humanitarian law and other applicable international law in this context;

30. *Recalls* the obligation of the Federal Government of Somalia with respect to the protection of journalists, the prevention of violence against them, and the fight against impunity for perpetrators of such acts;

31. *Reaffirms* the important role of women in the prevention and resolution of conflicts and in peacebuilding, *stresses* the importance of their participation in all efforts for the maintenance and promotion of peace and security, and *urges* the Federal Government of Somalia to continue to promote increased representation of women at all decision-making levels in Somali institutions;

32. *Strongly condemns* reports of grave violations against children, *urges* the Government of Somalia, as a matter of priority, to implement the action plan signed on 6 August 2012 to eliminate the killing and maiming of children, and the 3 July 2012 action plan to end the recruitment and use of child soldiers, and *stresses* the need for the Federal Government of Somalia to take appropriate measures to bring to justice any perpetrator of such acts;

#### **Arms Embargo**

33. *Decides* that for a period of twelve months from the date of this resolution the measures imposed in paragraph 5 of resolution 733 (1992), and further elaborated by paragraphs 1 and 2 of resolution 1425 (2002), shall not apply to deliveries of weapons or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people, except in relation to deliveries of the items set out in the annex to this resolution;

34. *Decides* that weapons or military equipment sold or supplied solely for the development of the Security Forces of the Federal Government of Somalia may not be resold to, transferred to, or made available for use by, any individual or entity not in the service of the Security Forces of the Federal Government of Somalia;

35. *Calls upon* States to exercise vigilance over the direct or indirect supply, sale or transfer to Somalia of items not subject to the measures imposed in paragraph 5 of resolution 733 (1992) and further elaborated by paragraphs 1 and 2 of resolution 1425 (2002);

36. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated by paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to deliveries of weapons or military equipment or the provision of assistance intended solely for the support of, or use by, AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;

37. *Decides* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) shall not apply to supplies of weapons or military equipment or the provision of assistance, intended solely for the support of or use by United Nations personnel, including the United Nations Political Office for Somalia or its successor mission;

38. *Decides* that the Federal Government of Somalia shall notify the Committee established pursuant to resolutions 751 (1992) and 1907 (2009), for its information, at least five days in advance, of any deliveries of weapons or military equipment or the provision of assistance intended solely for the Security Forces of the Federal Government of Somalia, as permitted in paragraph 33 of this resolution, providing details of such deliveries or assistance and the specific place of delivery in Somalia, *further decides* that the Member State delivering assistance may, in the alternative, make this notification after informing the Federal Government of Somalia that it intends to do so, and *stresses* the importance that such notifications contain all relevant information, including, where applicable, the type and quantity of weapons, ammunitions, military equipment and materiel to be delivered, and the proposed date of delivery;

39. *Requests* the Federal Government of Somalia to report to the Security Council no later than one month after the adoption of this resolution, and every six months thereafter, on:

(a) The structure of the Security Forces of the Federal Government of Somalia;

(b) The infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Security Forces of the Federal Government of Somalia;

(c) The procedures and codes of conduct in place for the registration, distribution, use and storage of weapons by the Security Forces of the Federal Government of Somalia, and on training needs in this regard;

40. *Calls upon* States and regional organizations that have the capacity to do so, to provide assistance to the Federal Government of Somalia to achieve improvements in the areas set out in (b) and (c) of paragraph 39 of this resolution, in full coordination with the Federal Government of Somalia;

41. *Requests* the SEMG to include, in its reporting to the Committee, both an assessment of the progress made in the areas set out in (b) and (c) of paragraph 39, and an assessment of any misappropriation or sale to other groups including militias, in order to assist the Council in any review of the appropriateness of the provisions outlined in paragraph 33 of this resolution, which are for the purpose of building the capacity of the Security Forces of the Federal Government of Somalia, and providing security for the people of Somalia, and *further requests* the Monitoring Group to report on its own ability to monitor delivery of weapons, military equipment and assistance to Somalia;

42. *Decides* to review the effects of paragraphs 33 to 41 of this resolution within twelve months of the date of this resolution;

43. *Decides* that the measures in paragraphs 1, 3, and 7 of resolution 1844 (2008) shall apply to individuals, and that the provisions of paragraphs 3 and 7 of that resolution shall apply to entities, designated by the Committee:

(a) As engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, including acts that threaten the peace and reconciliation process in Somalia, or threaten the Federal Government of Somalia or AMISOM by force;

(b) As having acted in violation of the arms embargo imposed by paragraph 5 of resolution 733 (1992), further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002), and as amended by paragraphs 33 to 38 of this resolution or as having acted in violation of the arms resale and transfer restrictions set out in paragraph 34 of this resolution;

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

(d) As being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law;

(e) As being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in

situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;

44. *Underlines* its support for the President of Somalia's task force charged with providing solutions on the issue of charcoal in Somalia, *demand*s that all appropriate actors cooperate in full with the task force, and *looks forward* to receiving recommendations and options from the Federal Government of Somalia in this regard;

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

## **Annex**

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS);
  2. Guns, howitzers, and cannons with a calibre greater than 12.7 mm, and ammunition and components specially designed for these. (This does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers.);
  3. Mortars with a calibre greater than 82 mm;
  4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items;
  5. Charges and devices intended for military use containing energetic materials; mines and related materiel;
  6. Weapon sights with a night vision capability.
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Chapter:	537AN	<b>UNITED NATIONS SANCTIONS (SOMALIA) REGULATION</b>	Gazette Number	Version Date
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		<b>Empowering section</b>	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	<b>Interpretation</b>	L.N. 142 of 2012	28/09/2012
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## PART 1

### PRELIMINARY

In this Regulation— (L.N. 142 of 2012)

“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; (L.N. 142 of 2012)

“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; (L.N. 142 of 2012)

**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; (L.N. 142 of 2012)

“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. (L.N. 142 of 2012)

Section:	2	<b>Prohibition against supply, sale or transfer of certain goods*</b>	L.N. 142 of 2012	28/09/2012
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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, 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. (L.N. 142 of 2012)
- (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. (L.N. 142 of 2012)
- (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 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 (L.N. 142 of 2012)
  - (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. (L.N. 142 of 2012)

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**Note:**

\* (L.N. 142 of 2012)

Section:	3	<b>Prohibition against carriage of certain goods</b>	L.N. 142 of 2012	28/09/2012
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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 or transfer, directly or indirectly, to Somalia or to, or to the order of, a person connected with Somalia. (L.N. 142 of 2012)
- (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). (L.N. 142 of 2012)
- (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. (L.N. 142 of 2012)
- (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; (L.N. 142 of 2012)
    - (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; (L.N. 142 of 2012)
    - (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. (L.N. 142 of 2012)

Section:	4	<b>Prohibition against provision of certain advice, assistance or training</b>	L.N. 142 of 2012	28/09/2012
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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, sale, transfer, manufacture, maintenance or use of any prohibited goods. (L.N. 142 of 2012)

(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, sale, transfer, manufacture, maintenance or use of any prohibited goods. (L.N. 142 of 2012)

Section:	4A	<b>Prohibition against importation of charcoal</b>	L.N. 142 of 2012	28/09/2012
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(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.

(L.N. 142 of 2012)

Section:	5	<b>Prohibition against making available funds, etc. or dealing with funds, etc.*</b>	L.N. 142 of 2012	28/09/2012
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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) 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. (L.N. 142 of 2012)

(3) (Repealed L.N. 142 of 2012)

(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. (L.N. 142 of 2012)
- (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. (L.N. 142 of 2012)
- (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. (L.N. 142 of 2012)

**Note:**

\* (L.N. 142 of 2012)

Section:	6	<b>Prohibition against entry or transit by certain persons</b>	L.N. 142 of 2012	28/09/2012
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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 apply to a person having the right of abode or the right to land in the HKSAR. (L.N. 142 of 2012)

Section:	7	<b>Exceptions to prohibition against entry or transit by certain persons</b>	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	<b>Licence for supply, sale, transfer or carriage of certain goods*</b>	L.N. 142 of 2012	28/09/2012
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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, 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. (L.N 142 of 2012)
  - (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. (L.N. 142 of 2012)
  - (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. (L.N. 142 of 2012)

**Note:**

\* (L.N. 142 of 2012)

Section:	9	<b>Licence for provision of certain advice, assistance or training</b>	L.N. 142 of 2012	28/09/2012
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- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant 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.
- (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. (L.N. 142 of 2012)

(L.N. 142 of 2012)

Section:	10	<b>Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities*</b>	L.N. 142 of 2012	28/09/2012
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- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
  - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity. (L.N. 142 of 2012)
- (2) The requirements referred to in subsection (1) are as follows—

- (a) the funds or other financial assets or economic resources are—
  - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
  - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
  - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity; (L.N. 142 of 2012)
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
- (c) the funds or other financial assets or economic resources—
  - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 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.

(L.N. 142 of 2012)

**Note:**

\* (L.N. 142 of 2012)

Section:	11	<b>Provision of false information or documents for purpose of obtaining licences</b>	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	<b>Licence or permission granted by authorities of places outside HKSAR</b>	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	<b>Investigation of suspected ships</b>	L.N. 142 of 2012	28/09/2012
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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 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— (L.N. 142 of 2012)

- (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	<b>Offences by charterer, operator or master of ship</b>	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	<b>Power of authorized officers to enter and detain ships</b>	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	<b>Investigation of suspected aircraft</b>	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	<b>Offences by charterer, operator or pilot in command of aircraft</b>	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	<b>Power of authorized officers to enter and detain aircraft</b>	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	<b>Investigation of suspected vehicles</b>	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	<b>Offences by operator or driver of vehicle</b>	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	<b>Power of authorized officers to enter and detain vehicles</b>	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	<b>Production of proof of identity</b>	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	<b>Power of magistrate or judge to grant warrant</b>	L.N. 142 of 2012	28/09/2012
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#### **PART 6**

#### **EVIDENCE**

(1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that— (L.N. 142 of 2012)

- (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	<b>Detention of documents, cargoes or articles seized</b>	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	<b>Disclosure of information or documents</b>	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	<b>Liability of persons other than principal offenders*</b>	L.N. 142 of 2012	28/09/2012
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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.

#### **Note:**

**\* (L.N. 142 of 2012)**

Section:	27	<b>Offences in relation to obstruction of authorized persons, etc.</b>	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	<b>Offences in relation to evasion of this Regulation</b>	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	<b>Consent and time limit for proceedings</b>	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	<b>Specification of relevant person or relevant entity by Chief Executive</b>	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	<b>Exercise of powers of Chief Executive</b>	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 2013

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## United Nations Sanctions (Somalia) (Amendment) Regulation 2013

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

### Part 1

#### Preliminary

##### 1. Interpretation

In this Regulation—

***AMISOM*** (非索特派團) means the African Union Mission in Somalia;

***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 peace and reconciliation process in Somalia, Djibouti Agreement of 18 August 2008 or the political process, or threaten the Federal Government of Somalia Transitional Federal Institutions or African Union Mission in Somalia AMISOM by force;

(b) as having acted in violation of—

(i) the general and complete arms embargo reaffirmed in paragraph 6 of Resolution 1844 imposed by paragraph 5 of Resolution 733, as further elaborated upon by paragraphs 1 and 2 of Resolution 1425, and as amended by paragraphs 33 to 38 of Resolution 2093;

(ii) the arms resale and transfer restrictions set out in paragraph 34 of Resolution 2093; or

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

(d) as being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law; or

(e) as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;

***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 733** (《第 733 號決議》) means Resolution 733 (1992) adopted by the Security Council on 23 January 1992;

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

**Resolution 1425** (《第 1425 號決議》) means Resolution 1425 (2002) adopted by the Security Council on 22 July 2002;

**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;

**Resolution 2093** (《第 2093 號決議》) means Resolution 2093 (2013) adopted by the Security Council on 6 March 2013;

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

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## **Part 2**

### **Prohibitions**

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

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

### **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 transfer of the prohibited goods; and

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



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

#### **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.
- (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 apply to a person having the right of abode or the right to land in 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.
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## Part 3

### Licences

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

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

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

(i) to 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;

(e) the prohibited goods do not include any item covered by the Annex to Resolution 2093, and are intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people;

(f) the prohibited goods are intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;

(g) the prohibited goods are intended solely for the support of or use by the personnel of the United Nations, including the United Nations Political Office for Somalia or its successor mission.

(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.

**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;
  - (c) the advice, assistance or training is intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people;-
  - (d) the assistance is intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;
  - (e) the assistance is intended solely for the support of or use by the personnel of the United Nations, including the

United Nations Political Office for Somalia or its  
successor mission.

- (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.

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

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements ~~referred to in subsection (1)~~ are as follows—
- (a) the funds or other financial assets or economic resources are—
    - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
    - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
  - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
  - (c) the funds or other financial assets or economic resources—
    - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and
    - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—
  - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
    - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
    - (ii) must grant the licence in the absence of a negative decision by the Committee within 3 working days of receiving the notification;
  - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
    - (i) must cause the Committee to be notified of the determination; and

- (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

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

## **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 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.

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## **Part 6**

### **Evidence**

#### **23. Power of magistrate or judge to grant warrant**

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

relation to the commission of an offence under this Regulation;

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

#### **24. Detention of documents, cargoes or articles seized**

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



## **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.
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## **Part 8**

### **Other Offences and Miscellaneous Matters**

#### **26. Liability of persons other than principal offenders**

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

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

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

#### **28. Offences in relation to evasion of this Regulation**

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

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

**32. Duration**

Sections 8(2)(e) and 9(2)(c) expire at midnight on 5 March 2014.

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### **Explanatory Note**

The main purpose of this Regulation is to give effect to certain decisions in Resolution 2093 (2013) as adopted by the Security Council of the United Nations (*Security Council*) on 6 March 2013. The Regulation—

- (a) amends the definition of *designated person*;
- (b) provides for additional exceptions to the prohibition against—
  - (i) the supply, sale, transfer or carriage of weapons or military equipment to certain persons; and
  - (ii) the provision of certain advice, assistance or training to certain persons.

**United Nations Sanctions (Somalia) (Amendment) Regulation 2013  
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 9.56 million in 2011. 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 2011.<sup>Note 1</sup> Merchandise imports and exports of Somalia in 2011 amounted to US\$ 1.1 billion (or HK\$8.6 billion) and US\$ 450 million (or HK\$3.5 billion) respectively.<sup>Note 2</sup>

**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 and an asset freeze to individuals and entities that engaged in such activities,

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Note 1 Source: World Statistics Pocket Book published by the United Nations Statistics Division at [http://unstats.un.org/unsd/pocketbook/World\\_Statistics\\_Pocketbook\\_2013\\_edition.pdf](http://unstats.un.org/unsd/pocketbook/World_Statistics_Pocketbook_2013_edition.pdf)

Note 2 Source: International Trade Statistics 2012 published by the World Trade Organisation at [http://www.wto.org/english/res\\_e/statistics\\_e/its2012\\_e/its12\\_toc\\_e.htm](http://www.wto.org/english/res_e/statistics_e/its2012_e/its12_toc_e.htm)

in addition to those that breached the weapons ban, which was put in place by resolution 733 and amended by subsequent resolutions. On 22 February 2012, UNSC further tightened up sanctions in relation to Somalia 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.<sup>Note 3</sup>

Recognising the significant progress that has been made in Somalia over the past year while noting that the situation in Somalia continues to pose a threat to international peace and security in the region, UNSC adopted Resolution 2093 on 6 March 2013 to provide for additional exceptions to the arms embargo measures against Somalia as well as to expand the criteria for designation by the Committee.

### **Trade Relation between Hong Kong and Somalia**

4. In 2012, Somalia ranked 152<sup>nd</sup> among Hong Kong's trading partners in the world, with a total trade of HK\$64.3 million. Of these, HK\$38.9 million worth of trade were exports to Somalia, and HK\$25.4 million imports. Hong Kong's trade with Somalia are summarised as follows –

<b>Hong Kong's Trade with Somalia [Value in HK\$ (in million)]</b>		
<b>Item</b>	<b>2012</b>	<b>2013 (January –April)</b>
(a) Total Exports to Somalia	38.9	9.1
(i) Domestic exports	0.0	0.0
(ii) Re-exports	38.9 <sup>Note 4</sup>	9.1 <sup>Note 5</sup>
(b) Imports from Somalia	25.4 <sup>Note 6</sup>	7.0 <sup>Note 7</sup>
<b>Total Trade [(a) + (b)]</b>	<b>64.3</b>	<b>16.1</b>

<sup>Note 3</sup> 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>.

<sup>Note 4</sup> In 2012, re-exports to Somalia include telecommunications equipment (95.1%); musical instruments and sound recordings (3.0%); and printed matter (0.9%).

<sup>Note 5</sup> In January – April 2013, re-exports to Somalia include telecommunications equipment (77.4%); and electric power machinery and parts (22.4%). The increase in the re-exports to Somalia in January – April 2013 was due to the rise in demand for telecommunications equipment, as well as electric power machinery and parts.

<sup>Note 6</sup> In 2012, imports from Somalia include leather (98.7%); and crude vegetable materials (1.2%).

<sup>Note 7</sup> In January – April 2013, imports from Somalia include Leather (100%). The increase in imports from Somalia in January-April 2013 was due to the rise in demand for leather.



In 2012, HK\$40.1 million worth of goods, or 5.0% <sup>Note 8</sup> of the total trade between Somalia and the Mainland, were routed through Hong Kong. Of these, HK\$1.2 million worth of goods were re-exports from Somalia to Mainland. <sup>Note 9</sup> The remaining HK\$38.9 million were re-exports of Mainland origin to the Somalia via Hong Kong.

5. The modified sanctions against Somalia imposed by UNSC would unlikely affect the trade between Hong Kong and Somalia notably, as the major categories of commodities traded are not related to arms, 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**

### **July 2013**

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Note 8 The percentage is an estimate with reference to China's Customs Statistics and Hong Kong Trade Statistics.

Note 9 This re-export figure refers to goods produced in Somalia and re-exported through Hong Kong to the Mainland. These goods are not necessarily consigned from Somalia. It is possible that some goods produced in Somalia are sold to a third country before consigning to Hong Kong. Meanwhile, imports statistics reported in this Annex are based on country of consignment, but not country of origin.