

立法會
Legislative Council

LC Paper No. LS79/13-14

**Paper for the House Committee Meeting
on 3 October 2014**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 26 September 2014**

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

United Nations Sanctions (Côte d'Ivoire) Regulation 2014 (L.N. 114)

**United Nations Sanctions (Democratic People's Republic of
Korea) (Amendment) Regulation 2014 (L.N. 115)**

L.N. 114 and L.N. 115 are 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.

L.N. 114

2. Since 2004, the United Nations Security Council (UNSC) has passed a number of resolutions imposing sanctions against Côte d'Ivoire or renewing certain of these sanctions upon their expiry in view of the persistent human rights violations against civilians which threaten the peace process in the region. These resolutions have been implemented by regulations made under Cap. 537. The last one, United Nations Sanctions (Côte d'Ivoire) Regulation 2013 (Cap. 537BE) (L.N. 123 of 2013), expired at midnight on 30 April 2014.

3. L.N. 114 is made to implement UNSC Resolution 2153 (2014), as adopted by the UNSC on 29 April 2014, by providing for the prohibition against —

- (a) the supply, sale, transfer or carriage of arms or related lethal materiel to Côte d'Ivoire;
- (b) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;

- (c) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (d) entry into or transit through the Hong Kong Special Administrative Region (HKSAR) by certain persons.

4. The provisions of L.N. 114 which renew the sanctions against Côte d'Ivoire are essentially the same as those in the expired Cap. 537BE, except for the modifications of certain arms embargo measures and certain exceptions to them, and termination of the measures preventing the importation of rough diamonds from Côte d'Ivoire.

5. L.N. 114 has come into operation when it was published in the Gazette on 26 September 2014 and will expire at midnight on 30 April 2015. Members may refer to the LegCo Brief issued by the Commerce and Economic Development Bureau (CEDB) in September 2014 (File Ref: CITB CR 136/53/1) for further information. The amendments made by L.N. 114 to the expired Cap. 537BE is shown in Annex E to the LegCo Brief for Members' easy reference.

L.N. 115

6. The United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537AE) was enacted in 2007 to implement certain sanctions against the Democratic People's Republic of Korea (DPRK). Cap. 537AE, which was previously amended in 2010, 2012 and 2013, prohibits, among other matters, the direct or indirect supply, sale or transfer of specified items and luxury goods to DPRK, the procurement of specified items from DPRK, and the provision of technical training, service, assistance or advice related to the provision, manufacture, maintenance or use of specified items to a person connected with DPRK.

7. L.N. 115 amends Cap. 537AE to give effect to certain decisions of the UNSC in Resolution 2094 (2013) as adopted by the UNSC on 7 March 2013 by —

- (a) expanding the list of specified items in a new Schedule 2 to Cap. 537AE;
- (b) providing for the prohibition against the supply, sale, transfer or carriage of luxury goods in certain circumstances;
- (c) providing for the prohibition against the provision of financial services or the transfer of funds or other financial assets or economic resources that could contribute to DPRK's nuclear or ballistic missile programme; and
- (d) providing for the prohibition against certain ships from entering the waters of HKSAR.

8. A committee was established by UNSC under paragraph 12 of Resolution 1718 (2006) (the Committee). One of the functions of the Committee is to determine additional items, materials, equipment, goods and technology to be specified for the purpose of the sanctions against DPRK. L.N. 115 also amends the list of specified items to give effect to the decision of the Committee of the UNSC on 2 April 2014.

9. L.N. 115, except those provisions relating to the prohibition on luxury goods against DPRK, has come into operation when it was published in the Gazette on 26 September 2014. The provisions relating to the prohibition on luxury goods against DPRK (sections 5, 7, 9, 19, 20, 21 and 24(2)) will come into operation on 26 December 2014 so as to allow a three-month transitional period for the public and the business sector to familiarise themselves with the new legal requirements and make necessary adjustments. Members may refer to the LegCo Brief issued by CEDB in September 2014 (File Ref: CITB CR 106/53/1) for further information. The amendments made by L.N. 115 to Cap. 537AE is shown in Annex G to the LegCo Brief for Members' easy reference.

Other information and remarks

10. Under section 3(5) of Cap. 537, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under section 3 of Cap. 537. Accordingly, L.N. 114 and L.N. 115 are not required to be tabled in the Legislative Council and are not subject to amendment by the Legislative Council. However, since they come within the terms of reference of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee), Members may consider referring them to the Subcommittee for its consideration.

11. As advised by the Clerk to the Subcommittee, the LegCo Briefs on L.N. 114 and L.N. 115 have been circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)2041/13-14 on 29 September 2014. Members may wish to refer to the paper for further information.

Concluding Observations

12. The Legal Service Division is still scrutinizing the legal and drafting aspects of L.N. 114 and L.N. 115. A further report will be made, if necessary.

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