

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance
(Chapter 537)

UNITED NATIONS SANCTIONS (SOUTH SUDAN) REGULATION 2016

INTRODUCTION

A At the meeting of the Executive Council on 11 October 2016, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (South Sudan) Regulation 2016 (“the 2016 Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The 2016 Regulation was gazetted on 14 October 2016 and came into operation on the same day.

BACKGROUND

Obligation and Authority

B 2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”) to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In July 2016, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2290. The 2016 Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction is at Annex B.

Sanctions against South Sudan

UNSCR 2206

C

3. The UNSC adopted UNSCR 2206, at Annex C, on 3 March 2015, imposing sanctions against South Sudan. The UNSC decided, *inter alia*, that –

- (a) for an initial period of one year from the date of the adoption of UNSCR 2206, all Member States shall take the necessary measures to prevent the entry into or transit through their territories of any individuals who may be designated by the Committee established pursuant to paragraph 16 of UNSCR 2206 (“the Committee”), provided that nothing in paragraph 9 of UNSCR 2206 shall oblige a State to refuse its own nationals entry into its territory and subject to the exceptions set out in paragraph 11 of UNSCR 2206 (*paragraphs 9 and 11 of UNSCR 2206 refer*); and
- (b) for an initial period of one year from the date of the adoption of UNSCR 2206, all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by any individuals or entities that may be designated by the Committee, or by any individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them; and all Member States shall ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons’ benefit, by their nationals or by persons within their territory, subject to the exceptions set out in paragraphs 13, 14 and 15 of UNSCR 2206 (*paragraphs 12, 13, 14 and 15 of UNSCR 2206 refer*).

4. Pursuant to the instruction of the MFA, the HKSAR implemented the above sanction measures through making the United Nations Sanctions (South Sudan) Regulation (Cap. 537BO) (“the 2015 Regulation”) under the Ordinance in May 2015. The 2015 Regulation expired at midnight on 2 March 2016.

UNSCR 2290

D

5. Determining that the situation in South Sudan continues to constitute a threat to international peace and security in the region, the UNSC adopted UNSCR 2290, at Annex D, on 31 May 2016, which decided, inter alia, to renew until 31 May 2017 the travel and financial measures imposed by paragraphs 9 and 12 of UNSCR 2206, and reaffirmed the provisions of paragraphs 11, 13, 14 and 15 of UNSCR 2206 (*paragraph 7 of UNSCR 2290 refers*).

6. The implementation of UNSCR 2290 is relevant to the HKSAR's compliance with the relevant recommendation promulgated by the Financial Action Task Force on combating the financing of terrorism.

THE 2016 REGULATION

7. The 2016 Regulation, at Annex A, seeks to implement the sanctions against South Sudan as renewed by UNSCR 2290. The main provisions of the 2016 Regulation include -

- (a) **section 2**, which provides for the prohibition against making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;
- (b) **section 3**, which prohibits the entry into or transit through the HKSAR by certain persons;
- (c) **section 4**, which provides for the exceptions to the prohibition against the entry into or transit through the HKSAR by certain persons;
- (d) **section 5**, which provides for the granting of licence for making available to certain persons or entities funds or other financial assets or economic resources, or dealing with funds or other financial assets or economic resources of certain persons or entities;

- (e) **section 15**, which provides that the Chief Executive may, by notice published in the Gazette, specify a person or an entity designated by the Committee as a relevant person or a relevant entity for the purpose of the financial sanctions under the 2016 Regulation; and
- (f) **section 17**, which provides that the 2016 Regulation would expire at midnight on 31 May 2017.

A marked-up version showing changes when compared against the 2015 Regulation is at Annex E for easy reference by Members.

E

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The 2016 Regulation will not affect the current binding effect of the Ordinance. It has no financial, economic, productivity, environmental, sustainability, family or gender implications. Additional work arising from the enforcement of the 2016 Regulation, if any, will be absorbed by the relevant departments with existing resources.

PUBLICITY

9. A press release was issued on 14 October 2016 when the 2016 Regulation was published in the Gazette.

INFORMATION ON SOUTH SUDAN AND RELATIONS WITH THE HKSAR

10. For information on South Sudan, background of the sanctions imposed against the country by the UNSC as well as its bilateral trade relations with the HKSAR, please refer to Annex F.

F

ADVICE SOUGHT

11. Members are invited to note the implementation of the UNSCR 2290 in the HKSAR by the 2016 Regulation.

Commerce and Economic Development Bureau
October 2016

United Nations Sanctions (South Sudan) Regulation 2016

L.N. 158 of 2016
B3117

L.N. 158 of 2016

United Nations Sanctions (South Sudan) Regulation 2016**Contents**

Section	Page
Part 1	
Preliminary	
1. Interpretation	B3123
Part 2	
Prohibitions	
2. Prohibition against making available funds, etc. or dealing with funds, etc.	B3129
3. Prohibition against entry or transit by certain persons	B3133
4. Exceptions to prohibition against entry or transit by certain persons	B3133
Part 3	
Licence	
5. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities	B3137
6. Provision of false information or documents for purpose of obtaining licence	B3141

United Nations Sanctions (South Sudan) Regulation 2016

L.N. 158 of 2016
B3119

Section	Page
Part 4	
Things Done outside HKSAR	
7. Licence or permission granted by authorities of places outside HKSAR	B3143
Part 5	
Evidence	
8. Power of magistrate or judge to grant warrant	B3145
9. Detention of documents, cargoes or articles seized	B3147
Part 6	
Disclosure of Information or Documents	
10. Disclosure of information or documents	B3149
Part 7	
Other Offences and Miscellaneous Matters	
11. Liability of persons other than principal offenders	B3153
12. Offences in relation to obstruction of authorized persons, etc.	B3153
13. Offences in relation to evasion of this Regulation	B3153
14. Consent and time limit for proceedings	B3155
15. Specification of relevant person or relevant entity by Chief Executive	B3155
16. Exercise of powers of Chief Executive	B3155

Section

Page

Part 8**Duration**

17. DurationB3159

United Nations Sanctions (South Sudan) Regulation 2016

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

Part 1**Preliminary****1. Interpretation**

In this Regulation—

authorized officer (獲授權人員) means—

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

Committee (委員會) means the Committee of the Security Council established under paragraph 16 of Resolution 2206;

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 5(1);

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity under section 15;
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person under section 15; or
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity under section 15;

Resolution 2206 (《第2206號決議》) means Resolution 2206 (2015) adopted by the Security Council on 3 March 2015;

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

Part 2**Prohibitions****2. 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—

- (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 belonging to, or owned or controlled 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 belonging to, or owned or controlled by, the first-mentioned person.

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

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

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

(4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

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

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

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

(6) In this section—

deal with (處理) means—

- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

- (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

3. Prohibition against entry or transit by certain persons

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

specified person (指明人士) means a person designated by the Committee for the purposes of paragraph 9 of Resolution 2206.

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

Section 3 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process; or

- (c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in South Sudan and stability in the region.

Part 3**Licence****5. 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 belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources belonging to, or owned

or controlled 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 3 March 2015 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;
 - (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.
- (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 5 working days of the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and

- (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

6. Provision of false information or documents for purpose of obtaining licence

- (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

7. 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**Evidence****8. 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.

9. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 8(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 6**Disclosure of Information or Documents****10. 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 South Sudan decided on by the Security Council; or

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

Part 7**Other Offences and Miscellaneous Matters****11. 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.

12. 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.

13. 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.

14. 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.

15. 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 12 of Resolution 2206.

16. 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.
-

Part 8

Duration

17. Duration

This Regulation expires at midnight on 31 May 2017. -

C. Y. LEUNG
Chief Executive

11 October 2016

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2290 (2016) as adopted by the Security Council of the United Nations on 31 May 2016 by providing for the prohibition against—

- (a) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (c) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (South Sudan) Regulation 2016

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 July 2016 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution 2290 of the Security Council of the United Nations, and that the United Nations Sanctions (South Sudan) Regulation 2016 was made in pursuance of that instruction.

Dated this 11th day of October 2016



(Mrs Carrie Lam)
Chief Secretary for Administration



Security Council

Distr.: General
3 March 2015

Resolution 2206 (2015)

**Adopted by the Security Council at its 7396th meeting, on
3 March 2015**

The Security Council,

Recalling its previous resolutions and statements on South Sudan, in particular resolutions 2057 (2012), 2109 (2013), 2132 (2013), 2155 (2014) and 2187 (2014),

Expressing grave alarm and concern regarding the conflict between the Government of the Republic of South Sudan and opposition forces since December 2013 which emanated from internal political disputes among the country's political and military leaders,

Deeply concerned that the conflict has resulted in great human suffering, including significant loss of life, displacement of two million people, and the loss of property, further impoverishing and disadvantaging the people of South Sudan,

Strongly condemning past and ongoing human rights violations and abuses and violations of international humanitarian law, including those involving targeted killings of civilians, ethnically-targeted violence, extrajudicial killings, rape, and other forms of sexual and gender-based violence, recruitment and use of children in armed conflict, abductions, enforced disappearances, arbitrary arrests and detention, violence aimed at spreading terror among the civilian population, and attacks on schools, places of worship and hospitals, as well as United Nations and associated peacekeeping personnel and objects, by all parties, including armed groups and national security forces, as well as the incitement to commit such abuses and violations, *further condemning* harassment and targeting of civil society, humanitarian personnel and journalists, and *emphasizing* that those responsible for violations of international humanitarian law and violations and abuses of human rights must be held accountable, and that the Government of South Sudan bears the primary responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity,

Expressing deep concern over the large-scale displacement of persons and deepening humanitarian crisis, *stressing* the responsibility borne by all parties to the conflict for the suffering of the people of South Sudan, and the necessity of ensuring that the basic needs of the population are met, *commending* United Nations humanitarian agencies and partners for their efforts to provide urgent and coordinated support to the population, *calling upon* all parties to the conflict to



allow and facilitate, in accordance with relevant provisions of international law and United Nations guiding principles of humanitarian assistance, the full, safe, and unhindered access of relief personnel, equipment and supplies to all those in need and the timely delivery of humanitarian assistance, in particular to internally displaced persons and refugees, *condemning* all attacks against humanitarian personnel and facilities and *recalling* that attacks against humanitarian personnel and depriving civilians of objects indispensable to their survival may amount to violations of international humanitarian law,

Commending the Intergovernmental Authority on Development (IGAD) Ministerial Group's initiative, as supported by the United Nations and African Union, in establishing a forum for political and security dialogue, and *expecting* all parties to participate in this process and respect the decisions reached by IGAD Assembly of Heads of State and Government on 13 March 2014,

Welcoming the IGAD-mediated commitments made to resolve the crisis in South Sudan, namely the 23 January 2014 Cessation of Hostilities Agreement; 9 May 2014 Agreement to Resolve the Crisis in South Sudan; and the 1 February 2015 Areas of Agreement of the Establishment of the Transitional Government of National Unity (TGoNU) in the Republic of South Sudan,

Welcoming the resolve indicated in the IGAD Assembly of Heads of State and Government Communiqué of 10 June 2014 and 25 August 2014 that IGAD Member States will take further collective action, including through the imposition of punitive measures, to pressure any party that fails to honour its commitments to date or acts contrary to the Communiqué of that Assembly,

Welcoming the Communiqué of the African Union Peace and Security Council (AU PSC) of 12 June 2014, which, inter alia, reiterated the readiness of that Council, upon recommendation by IGAD, to immediately pursue targeted sanctions and other measures against any party that continues to undermine the search for a solution to the conflict and fails to honour its commitments,

Welcoming further the Communiqué of the AU PSC of 17 September 2014 which, inter alia, reiterated its determination, in coordination with IGAD, to take the necessary measures against any party that fails to honour its commitments and continues to undermine the search for a negotiated solution to the current crisis,

Strongly condemning the Government of the Republic of South Sudan and the Sudan People's Liberation Movement (SPLM) — in Opposition for failing to reach agreement to form a transitional government within the 60-day period outlined in the 26th Communiqué of 10 June 2014,

Taking note of the Communiqué of the 27th Extraordinary Session of the IGAD Assembly of Heads of State and Government in Addis Ababa on 25 August 2014, which inter alia: deplored the numerous violations of the agreements signed by the Parties to date, reiterated the need for an inclusive and broad-based approach to negotiations; expressed serious concerns over the worsening humanitarian situation in South Sudan; and called upon the stakeholders to negotiate and complete the agreement on a Transitional Government of National Unity within 45 days,

Taking note of the Communiqué of the 28th Extraordinary Session of the IGAD Assembly of Heads of State and Government in Addis Ababa on 7 November

2014, which inter alia: resolved that the Government of South Sudan and opposition forces commit to an unconditional, complete and immediate end to all hostilities; invited collective action by the States of the IGAD region to enact asset freezes and travel bans within the region, and denied the supply of arms and ammunition and any other materiel that could be used in war if the Government of South Sudan and opposition forces commit any violation of the cessation of hostilities; and called on the AU PSC, the United Nations Security Council, and the international community to render all possible assistance in the implementation of these measures, should it be necessary to implement these measures,

Taking note of the 21 January 2015 Agreement on the Reunification of the SPLM, agreed under the aegis of the Government of the United Republic of Tanzania, and 16 February 2015 Communiqué of the Meeting of the SPLM Tripartite Committee on the Implementation of Phase I of the Arusha SPLM Reunification Agreement,

Taking note of the AU PSC Communiqués dated 5 December 2014 and 29 January 2015 which, inter alia, stressed that sanctions will be imposed against all parties that continue to obstruct the political process and undermine the Cessation of Hostilities Agreement of 23 January 2014,

Welcoming the China-mediated “Five-Point Plan” agreed upon by the representatives of the GRSS and the SPLM/A- in Opposition during the Special Consultation in Support of IGAD-led South Sudan Peace Process convened on 12 January in Khartoum, namely: (i) earnestly commit to the full implementation of all signed agreements; (ii) speed up the pace of negotiations towards the formation of a transitional government at an early date; (iii) take concrete steps to relieve the humanitarian situation in conflict-affected areas, and facilitate access of international humanitarian assistance; (iv) ensure the safety of all personnel and assets of all countries and international entities operating in South Sudan; and (v) provide strong support for and take active part in the IGAD-led mediation efforts, and, in this regard, *strongly urging* both parties to immediately implement the Five-Point Plan,

Expressing its deep appreciation for the actions taken by the United Nations Mission in South Sudan (UNMISS) peacekeepers and troop- and police-contributing countries to protect civilians, including foreign nationals, under threat of physical violence and to stabilize the security situation,

Recognizing the importance of independent and public human rights monitoring, investigation and reporting for its useful role in laying the groundwork for justice, accountability, reconciliation and healing among all South Sudanese communities,

Taking note with interest of the 21 February 2014 UNMISS Interim Human Rights report, and 8 May 2014 UNMISS “Conflict in South Sudan: A Human Rights Report,” and the 19 December 2014 UNMISS “Special Report: Attack on Bentiu, Unity State, 29 October 2014,” 29 October 2014 UNMISS “Special Report: Attack on Bentiu, Unity State” and the 9 January 2015 UNMISS Report on “Attacks on Civilians in Bentiu & Bor”,

Expressing grave concern that, according to the UNMISS 8 May 2014 “Conflict in South Sudan: A Human Rights Report” there are reasonable grounds to believe that crimes against humanity, including extrajudicial killings, rape and other

acts of sexual violence, enforced disappearances, and arbitrary detention have been committed by both government and opposition forces, and that war crimes have been committed, and, stressing the urgent and imperative need to end impunity in South Sudan and to bring to justice perpetrators of such crimes,

Stressing the importance of accountability, reconciliation, and healing as prominent elements of a transitional agenda while taking note of the important role international investigations, and where appropriate, prosecutions can play with respect to holding those responsible for war crimes and crimes against humanity,

Recognizing the work of the African Union Commission of Inquiry (AU COI) in investigating and documenting violations as well as abuses of international human rights law and international humanitarian law in South Sudan, *anticipating with interest* its findings and recommendations, *encouraging* the public release of its final report as soon as possible, and *welcoming* the further engagement of the African Union to ensure justice and accountability, as well as healing and reconciliation for South Sudan,

Strongly condemning the use of media to broadcast hate speech and transmit messages instigating sexual violence against a particular ethnic group, which has the potential to play a significant role in promoting mass violence and exacerbating conflict, and *calling on* the Government of the Republic of South Sudan to take appropriate measures to address such activity, and further *urging* all parties to desist from these actions and instead contribute to promoting peace and reconciliation among the communities,

Recognizing the important role played by civil society organizations, faith leaders, women, and youth in South Sudan, *underscoring* the importance of their participation — along with the former SPLM detainees and other political parties — to finding a sustainable solution to the crisis in the country, and *concerned* by efforts by the government to limit such participation including by preventing individuals from travelling to join the talks and by increased restrictions of freedom of expression,

Reaffirming all its relevant resolutions on women, peace, and security, on children and armed conflict, and the protection of civilians in armed conflict, as well as resolutions 1502 (2003) on the protection of humanitarian and United Nations personnel, resolution 2150 (2014) on the Prevention and Fight against Genocide, and resolution 2151 (2014) on security sector reform,

Recalling resolutions 1209 (1998) and 2117 (2013) and *expressing grave concern* at the threat to peace and security in South Sudan arising from the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons and *emphasizing* the importance of strengthening efforts to combat the illicit circulation of such weapons,

Expressing deep concern at persistent restrictions placed upon the movement and operations of UNMISS, *strongly condemning* the attacks by government and opposition forces and other groups on United Nations and IGAD personnel and facilities, the detentions and kidnappings of United Nations and associated personnel and *calling upon* the Government of South Sudan to complete its investigations of these attacks in a swift and thorough manner and to hold those responsible to account,

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

Acting under Article 41 of Chapter VII of the Charter of the United Nations,

1. *Endorses* the Cessation of Hostilities Agreements (“CoH Agreements”) accepted and signed by the Government of the Republic of South Sudan and SPLM — in Opposition on 23 January 2014, 6 May 2014 and 9 May 2014;

2. *Expresses deep concern* at the failures of both parties to honour their commitments to date, to engage the peace process meaningfully toward political resolution of the crisis and to bring an end to the violence and, in particular, *condemns* the continued and flagrant violations of the CoH Agreements as documented by the IGAD Monitoring and Verification Mechanism;

3. *Demands* that the parties respect all aspects of the CoH Agreements and immediately implement the necessary modalities in accordance with the 9 May 2014 Agreement and other relevant Agreements, including the progressive withdrawal of foreign forces deployed in South Sudan since 15 December 2013, *calls upon* all parties to armed conflict in South Sudan to issue clear orders prohibiting all violations of international humanitarian law and human rights violations and abuses, and *underscores* the necessity for all parties to ensure immediate access to humanitarian agencies and further *demands* that the parties commit to finding a comprehensive agreement without further delay;

4. *Reiterates* that there is no military solution to the conflict;

Sanctions Designation Criteria

5. *Underscores* its willingness to impose targeted sanctions in order to support the search for an inclusive and sustainable peace in South Sudan;

6. *Decides* that the provisions of paragraph 9 shall apply to individuals, and that the provisions of paragraph 12 shall apply to individuals and entities, as designated for such measures by the Committee established pursuant to paragraph 16 of this resolution (“the Committee”) pursuant to paragraphs 16 (c) and 16 (d), respectively, as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan;

7. *Underscores* that such actions or policies as described in paragraph 6 above may include, but are not limited to:

(a) Actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes, including breaches of the Cessation of Hostilities Agreement;

(b) Actions or policies that threaten transitional agreements or undermine the political process in South Sudan;

(c) Planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in South Sudan;

(d) The targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other

sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(e) The use or recruitment of children by armed groups or armed forces in the context of the armed conflict in South Sudan;

(f) The obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, including IGAD's Monitoring and Verification Mechanism or of the delivery or distribution of, or access to, humanitarian assistance;

(g) Attacks against United Nations missions, international security presences, or other peacekeeping operations, or humanitarian personnel; or

(h) Acting for or on behalf of, directly or indirectly, an individual or entity designated by the Committee;

8. *Decides* that the provisions of paragraphs 9 and 12 shall apply to individuals, as designated for such measures by the Committee who are leaders of any entity, including any South Sudanese government, opposition, militia, or other group, that has, or whose members have, engaged in any of the activities described in paragraphs 6 and 7 above;

Travel Ban

9. *Decides* that, for an initial period of one year from the date of adoption of this resolution, all Member States shall take the necessary measures to prevent the entry into or transit through their territories of any individuals who may be designated by the Committee, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

10. *Notes* that designated individuals may have multiple nationalities or passports, *expresses* its concern that travel between the two States of which a designated individual has nationality or a passport may undermine the objectives of the travel ban imposed in paragraph 9, and *requests* that the Panel of Experts established in paragraph 18 of this resolution (the "Panel of Experts") report to the Committee information about such travel;

11. *Decides* that the measures imposed by paragraph 9 above shall not apply:

(a) Where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation;

(b) Where entry or transit is necessary for the fulfilment of a judicial process;

(c) Where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in South Sudan and stability in the region;

Asset Freeze

12. *Decides* that, for an initial period of one year from the date of adoption of this resolution, all Member States shall freeze without delay all funds, other

financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by any individuals or entities that may be designated by the Committee, or by any individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and *decides* further that all Member States shall for this initial period ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons' benefit, by their nationals or by persons within their territory;

13. *Decides* that the measures imposed by paragraph 12 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

(a) To be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services in accordance with national laws, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant State to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets or economic resources and in the absence of a negative decision by the Committee within five working days of such notification;

(b) To be necessary for extraordinary expenses, provided that such determination has been notified by the relevant State or Member States to the Committee and has been approved by the Committee;

(c) To be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to the date of the present resolution, is not for the benefit of a person designated by the Committee, and has been notified by the relevant State or Member States to the Committee;

14. *Decides* that Member States may permit the addition to the accounts frozen pursuant to the provisions of paragraph 12 above of interest or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen;

15. *Decides* that the measures in paragraph 12 above shall not prevent a designated person from making payment due under a contract entered into prior to the listing of such a person, provided that the relevant States have determined that the payment is not directly or indirectly received by a person designated pursuant to paragraph 12 above, and after notification by the relevant States to the Committee of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten working days prior to such authorization;

Sanctions Committee/Panel of Experts

16. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council (herein “the Committee”), to undertake the following tasks:

(a) To monitor implementation of the measures imposed by paragraphs 9 and 12 of this resolution with a view to strengthening, facilitating and improving implementation of these measures by Member States;

(b) To seek and review information regarding those individuals and entities who may be engaging in the acts described in paragraph 6 and 7 above;

(c) To designate individuals subject to the measures imposed by paragraph 9 above and to consider requests for exemptions in accordance with paragraph 11 above;

(d) To designate individuals and entities subject to the measures imposed by paragraph 12 above, and to consider requests for exemptions in paragraph 13 above;

(e) To establish such guidelines as may be necessary to facilitate the implementation of the measures imposed above;

(f) To report within 60 days to the Security Council on its work and thereafter to report as deemed necessary by the Committee;

(g) To encourage a dialogue between the Committee and interested Member States, in particular those in the region, including by inviting representatives of such States to meet with the Committee to discuss implementation of the measures;

(h) To seek from all States whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed; and,

(i) To examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution;

17. *Calls upon* all Member States to report to the Committee ninety days from the adoption of this resolution on the steps they have taken to implement effectively paragraphs 9 and 12 of this resolution;

18. *Requests* the Secretary-General to create for an initial period, thirteen months from the adoption of this resolution, in consultation with the Committee, a group of up to five experts (“Panel of Experts”), under the direction of the Committee, and to make the necessary financial and security arrangements to support the work of the Panel, *expresses* its intent to consider the renewal of this mandate no later than March 2, 2016, and *decides* that the Panel shall carry out the following tasks:

(a) Assist the Committee in carrying out its mandate as specified in this resolution, including through providing the Committee with information relevant to the potential designation of individuals and entities who may be engaging in the activities described in paragraphs 6 and 7 above;

(b) Gather, examine and analyse information regarding the implementation of the measures decided in this resolution, in particular incidents of

non-compliance, with particular focus on the benchmarks outlined in paragraphs 21 and 22 below;

(c) Gather, examine and analyse information regarding the supply, sale or transfer of arms and related materiel and related military or other assistance, including through illicit trafficking networks, to individuals and entities undermining political processes to reach a final peace agreement or participating in acts that violate international human rights law or international humanitarian law, as applicable;

(d) Provide to the Council, after discussion with the Committee, an interim report by September 1, 2015, a final report by February 1, 2016, and except in the months when these reports are due, updates each month; and,

(e) Assist the Committee in refining and updating information on the list of individuals and entities subject to the measures imposed by this resolution, including through the provision of identifying information and additional information for the publicly-available narrative summary of reasons for listing;

19. *Urges* all parties and all Member States, as well as international, regional and subregional organizations to ensure cooperation with the Panel of Experts and *further urges* all Member States involved to ensure the safety of the members of the Panel of Experts and unhindered access, in particular to persons, documents and sites in order for the Panel of Experts to execute its mandate;

20. *Requests* the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative for Sexual Violence in Conflict to share relevant information with the Committee in accordance with paragraph 7 of resolution 1960 (2010) and paragraph 9 of resolution 1998 (2011);

Review

21. *Expresses* its intent to review the situation after the IGAD-agreed deadline of March 5, 2015, and again after the envisioned start of the Pre-Transition Period on April 1, 2015, and at 60-day intervals thereafter or more frequently, as needed, and also expresses its intent to impose any sanctions that may then be appropriate to respond to the situation, which may include an arms embargo and the designation of senior individuals responsible for actions or policies that threaten the peace, security or stability of South Sudan, so as to encourage the Government of South Sudan and opposition forces to form a transitional government of national unity, take effective and comprehensive steps to cause forces under direct or indirect control to cease military operations, acts of violence, as well as violations of human rights, and enable full access for humanitarian assistance;

22. *Affirms* also that it shall be prepared to adjust the measures contained in this resolution, including by strengthening through additional measures, as well as modification, suspension or lifting of the measures, as may be needed at any time in light of the progress achieved in the peace, accountability, and reconciliation process, and in light of the implementation of the parties' commitments, including the Cessation of Hostilities Agreement and other commitments specified in the preamble of this resolution, and compliance with this resolution;

23. *Decides* to remain seized of the matter.



Security Council

Distr.: General
31 May 2016

Resolution 2290 (2016)

**Adopted by the Security Council at its 7702nd meeting, on
31 May 2016**

The Security Council,

Recalling its previous resolutions and statements on South Sudan, in particular resolutions 2057 (2012), 2109 (2013), 2132 (2013), 2155 (2014), 2187 (2014), 2206 (2015), 2241 (2015), 2252 (2015), 2271 (2016) and 2280 (2016),

Expressing grave alarm and concern regarding the conflict between the Government of the Republic of South Sudan and opposition forces which emanated from internal political disputes among the country's political and military leaders that has resulted in great human suffering, including significant loss of life, displacement of more than two million people, and the loss of property, further impoverishing and disadvantaging the people of South Sudan,

Welcoming the signing of the "Agreement on the Resolution of the Conflict in the Republic of South Sudan" ("the Agreement") as contained in [S/2016/654](#) and *further welcoming* the formation of the Transitional Government of National Unity (TGNU) on 29 April 2016 as a vital step towards the full implementation of the Agreement and *also welcoming* the remarks of both President Salva Kiir and First Vice President Riek Machar on the need to ensure reconciliation and a spirit of cooperation,

Urging the TGNU to fully and unconditionally implement all parts of the Agreement, uphold the permanent ceasefire and address the economic crisis and dire humanitarian situation,

Welcoming the establishment of the Joint Military Ceasefire Commission and its work towards implementing ceasefire and transitional security arrangements, and the commencement of the Strategic Defence and Security Review, and *noting* the positive meeting and dialogue of military and police representatives in Juba at the conference held on 12-14 May 2016,

Welcoming the support of the Joint Monitoring and Evaluation Commission (JMEC) and the African Union through its High Representative for South Sudan, former President Alpha Oumar Konaré, for the formation of the TGNU and *calling upon* the TGNU to extend its full cooperation and support to the JMEC Chair, former President Festus Mogae, for implementation of the Agreement,



Strongly condemning past and ongoing human rights violations and abuses and violations of international humanitarian law, including those involving targeted killings of civilians, ethnically-targeted violence, extrajudicial killings, rape, and other forms of sexual and gender-based violence, recruitment and use of children in armed conflict, abductions, enforced disappearances, arbitrary arrests and detention, violence aimed at spreading terror among the civilian population, and attacks on schools, places of worship and hospitals, as well as United Nations and associated peacekeeping personnel and objects, by all parties, including armed groups and national security forces, as well as the incitement to commit such abuses and violations, *further condemning* harassment and targeting of civil society, humanitarian personnel and journalists, and *emphasizing* that those responsible for violations of international humanitarian law and violations and abuses of human rights must be held accountable, and that South Sudan's TGNU bears the primary responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity,

Expressing deep concern over the large-scale displacement of persons and deepening humanitarian crisis, *noting* the finding in the final report of the South Sudan Panel of Experts (S/2016/70), established pursuant to paragraph 18 of resolution 2206 (2015), that obstruction of humanitarian access is widespread and that parts of numerous states of South Sudan are entirely blocked from humanitarian relief, *stressing* the responsibility borne by all parties to the conflict for the suffering of the people of South Sudan, and in this regard, *recognizes* that in accordance with the Agreement, the TGNU shall review the Non-Governmental Organizations Bill, and submit the legislation to a process of public consultation to ensure that such legislation is consistent with international best practice and with its commitment to create an enabling political, administrative, operational and legal environment for the delivery of humanitarian assistance and protection,

Commending United Nations humanitarian agencies and partners for their efforts to provide urgent and coordinated support to the population, *calling upon* all parties to the conflict to allow and facilitate, in accordance with relevant provisions of international law and United Nations guiding principles of humanitarian assistance, the full, safe, and unhindered access of relief personnel, equipment and supplies to all those in need and the timely delivery of humanitarian assistance, in particular to internally displaced persons and refugees, *condemning* all attacks against humanitarian personnel and facilities and *recalling* that attacks against humanitarian personnel and depriving civilians of objects indispensable to their survival may amount to violations of international humanitarian law,

Taking note of the December 2015 UN Panel of Experts' Report (S/2016/70), which, inter alia, notes violations of the Agreement's permanent ceasefire by the parties, including after the signing of the Agreement, the ever-worsening humanitarian catastrophe, widespread human rights violations and abuses, and government violations of the United Nations Mission in South Sudan (UNMISS) status-of-forces agreement, and *noting* the finding in the Panel of Experts Final Report that, while it is not a violation of the sanctions measures established pursuant to resolution 2206 (2015), both sides have continued to acquire arms and military equipment after the signing of the Agreement and *noting* that such acquisitions undermine the implementation of the Agreement by facilitating violations of the permanent ceasefire,

Welcoming the resolve indicated in the IGAD Council of Ministers Communiqué of 31 January 2016, *urging* the TGNU to abide by and take no action inconsistent with the Intergovernmental Authority on Development (IGAD) 30-31 January 2016 communiqué, which was subsequently endorsed by the parties and JMEC, on the issue of the Presidential Decree on the creation of 28 new states and calling on the United Nations Security Council to support consequences in the event the South Sudanese parties fail or refuse to implement the Peace Agreement, and *further welcoming* its demand that the parties to the conflict take immediate action to ensure unconditional humanitarian access across the country,

Welcoming also the 29 January 2016 AU PSC communiqué which, inter alia, called on all South Sudanese parties to abide scrupulously by the terms of the Agreement and implement faithfully its provisions, called on all African Union (AU) Member States and partners to fully support the implementation of the Agreement, and urged the international community to lend support towards the implementation of the Agreement in a coordinated manner,

Welcoming the 26 September 2015 AU PSC communiqué, which, inter alia, expressed the AU's commitment, both through the High Representative for South Sudan and the AU High Level ad hoc Committee on South Sudan, to fully play its role in the implementation process, together with IGAD, the United Nations and other concerned international stakeholders,

Also welcoming the 22 May 2015 AU PSC press statement, which, inter alia, underlined the particular relevance of resolution 2206 (2015), in order to support the search for an inclusive and sustainable peace in South Sudan,

Recalling the AU PSC Communiqués dated 12 June 2014, 5 December 2014 and 29 January 2015 which, inter alia, stressed that sanctions will be imposed against all parties that continue to obstruct the political process and undermine the Cessation of Hostilities Agreement of 23 January 2014, and *further recalling* the AU PSC Communiqué dated 26 September 2015 expressing determination to impose measures against all those who would impede the implementation of the Agreement and the AU PSC Communiqué dated 29 January 2016 which recalls previous AU PSC Communiqués and press statements on South Sudan,

Further recalling the communiqué of the 28th Extraordinary Session of the IGAD Assembly of Heads of State and Government, which inter alia, invited collective action as appropriate by the States of IGAD to enact asset freezes and travel bans, and deny the supply of arms and ammunition and any other material that could be used in war and called on the AU PSC and United Nations Security Council, and the international community to render all possible assistance in the implementation of such action,

Welcoming the China-mediated "Five-Point Plan" that was agreed upon during the Special Consultation in Support of IGAD-led South Sudan Peace Process convened on 12 January 2015 in Khartoum, and *strongly urging* the TGNU to immediately implement the Five-Point Plan,

Expressing its deep appreciation for the actions taken by UNMISS peacekeepers and troop- and police-contributing countries to protect civilians, including foreign nationals, under threat of physical violence and to stabilize the security situation,

Recognizing the importance of independent and public human rights monitoring, investigation and reporting for its useful role in laying the groundwork for justice, accountability, reconciliation and healing among all South Sudanese communities,

Taking note with interest of the reports on the human rights situation in South Sudan issued by UNMISS, the Secretary-General, and the Office of the High Commissioner for Human Rights (OHCHR),

Expressing grave concern that, according to the 11 March 2016 “Report of Office of the High Commissioner for Human Rights Assessment Mission to Improve Human Rights, Accountability, Reconciliations and Capacity in South Sudan” and the UNMISS/OHCHR 4 December 2015 report “The State of Human Rights in the Protracted Conflict in South Sudan”, the scale, intensity and severity of human rights violations and abuses have increased with the continuation of hostilities, that there continue to be reasonable grounds to believe that violations and abuses of human rights, including those involving extrajudicial killings, rape and other acts of sexual and gender-based violence, enforced disappearances, and arbitrary detention, as well as violations of international humanitarian law have been committed, which may amount to war crimes and/or crimes against humanity, and *stressing* the urgent and imperative need to end impunity in South Sudan and to bring to justice perpetrators of such crimes,

Welcoming the release of the AU Commission of Inquiry (AU COI) report on South Sudan and the Separate Opinion, and *recognizing* the AU COI’s work in investigating and documenting violations and abuses of international human rights law and violations of international humanitarian law in South Sudan and *expressing grave concern* at the AU COI’s finding that it has reasonable grounds to believe that war crimes such as murder, outrages upon personal dignity such as rape and other acts of sexual violence, and cruel and degrading treatment, targeting of civilian objects and protected property have occurred and that violations were carried out by both sides to the conflict,

Emphasizing its hope that this and other reporting will be considered, as appropriate, by the mechanisms on transitional justice, accountability, reconciliation and healing as called for in Chapter V of the Agreement, including the hybrid court and the Commission for Truth, Healing, and Reconciliation, *stressing* the importance of accountability, reconciliation, and healing among all South Sudanese communities as prominent elements of a transitional agenda, while also *taking note* of the important role international investigations, and where appropriate, prosecutions can play with respect to holding those responsible for war crimes and crimes against humanity,

Strongly condemning the use of media to broadcast hate speech and transmit messages instigating sexual violence against a particular ethnic group, which has the potential to play a significant role in promoting mass violence and exacerbating conflict, and *calling on* the TGNU to take appropriate measures to address such activity, and further *urging* all parties to desist from these actions and instead contribute to promoting peace and reconciliation among the communities,

Recognizing the important role played by civil society organizations, faith leaders, women, and youth in South Sudan, *underscoring* the importance of their participation — along with the former SPLM detainees and other political parties —

to finding a sustainable solution to the crisis in the country, and concerned by efforts of some TGNU officials to limit such participation including by increased restrictions of freedom of expression,

Reaffirming all its relevant resolutions on women, peace, and security, on children and armed conflict, and the protection of civilians in armed conflict, as well as resolutions 1502 (2003) on the protection of humanitarian and United Nations personnel, resolution 2150 (2014) on the Prevention and Fight against Genocide, resolution 2151 (2014) on security sector reform, and resolution 2286 (2016) on protection of humanitarian and health-care personnel and facilities,

Recalling resolutions 1209 (1998) and 2117 (2013), and 2220 (2015) and *expressing grave concern* at the threat to peace and security in South Sudan arising from the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons and *emphasizing* the importance of strengthening efforts to combat the illicit circulation of such weapons,

Recalling the Informal Working Group on General Issues of Sanctions report (S/2006/997) on best practices and methods, including paragraphs 21, 22, 23, 24 and 25 that discuss possible steps for clarifying methodological standards for monitoring mechanisms,

Noting the Agreement's call for South Sudan's political leaders to establish effective leadership and to commit themselves to the fight against corruption,

Reiterating its concern at persistent restrictions placed upon the movement and operations of UNMISS, *strongly condemning* the attacks by government and opposition forces and other groups on United Nations and IGAD personnel and facilities, and the detentions and kidnappings of United Nations and associated personnel and *calling upon* the Government of South Sudan to complete its investigations of these attacks in a swift and thorough manner and to hold those responsible to account,

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

Acting under Article 41 of Chapter VII of the Charter of the United Nations,

1. *Endorses* the "Agreement on the Resolution of the Conflict in the Republic of South Sudan" (the "Agreement");

2. *Welcomes* the formation of the TGNU on 29 April 2016 as a vital step in towards the full implementation of the Agreement;

3. *Expresses deep concern* at the failures of South Sudan's leaders to fully implement their commitments pursuant to the Agreement, and to bring an end to the hostilities and, further, *condemns* the continued and flagrant violations of the ceasefire provisions of the Agreement, including violations as documented by the Ceasefire and Transitional Security Arrangements Mechanism;

4. *Demands* that South Sudan's leaders fully and immediately adhere to the permanent ceasefire in accordance with their obligations under the Agreement, and allow in accordance with relevant provisions of international law and the UN guiding principles of humanitarian assistance, full, safe and unhindered humanitarian access to help ensure timely delivery of humanitarian assistance to all those in need;

5. *Reiterates* that there is no military solution to the conflict;

Targeted Sanctions

6. *Underscores* its willingness to impose targeted sanctions in order to support the search for an inclusive and sustainable peace in South Sudan, including through the timely and full implementation of the Agreement;

7. *Decides* to renew until 31 May 2017 the travel and financial measures imposed by paragraphs 9 and 12 of resolution 2206 (2015), and *reaffirms* the provisions of paragraphs 10, 11, 13, 14 and 15 of resolution 2206 (2015);

8. *Reaffirms* that the provisions of paragraph 9 of resolution 2206 (2015) apply to individuals, and that the provisions of paragraph 12 of resolution 2206 (2015) apply to individuals and entities, as designated for such measures by the Committee established pursuant to paragraph 16 of resolution 2206 (2015) (“the Committee”), as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan;

9. *Underscores* that such actions or policies as described in paragraph 8 above may include, but are not limited to:

(a) Actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes, including breaches of the Agreement;

(b) Actions or policies that threaten transitional agreements or undermine the political process in South Sudan;

(c) Planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in South Sudan;

(d) The targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual and gender-based violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(e) The use or recruitment of children by armed groups or armed forces in the context of the armed conflict in South Sudan;

(f) The obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, including the Ceasefire and Transitional Security Arrangements Monitoring Mechanism or of the delivery or distribution of, or access to, humanitarian assistance;

(g) Attacks against United Nations missions, international security presences, or other peacekeeping operations, or humanitarian personnel; or

(h) Acting for or on behalf of, directly or indirectly, an individual or entity designated by the Committee;

10. *Reaffirms* that the provisions of paragraphs 9 and 12 of resolution 2206 (2015) apply to individuals, as designated for such measures by the Committee, who

are leaders of any entity, including any South Sudanese government, opposition, militia, or other group, that has, or whose members have, engaged in any of the activities described in paragraphs 8 and 9 above;

Sanctions Committee/Panel of Experts

11. *Emphasizes* the importance of holding regular consultations with concerned Member States, international and regional and subregional organizations, as well as UNMISS, as may be necessary, in particular neighbouring and regional States, in order to ensure the full implementation of the measures in this resolution, and in that regard encourages the Committee to consider, where and when appropriate, visits to selected countries by the Chair and/or Committee members;

12. *Decides* to extend until 1 July 2017 the mandate of the Panel of Experts as set out in paragraph 18 of resolution 2206 (2015) and this paragraph, *expresses its intention* to review the mandate and take appropriate action regarding the further extension no later than 31 May 2017, and *decides* that the Panel should carry out the following tasks:

(a) Assist the Committee in carrying out its mandate as specified in this resolution, including through providing the Committee with information relevant to the potential designation of individuals and entities who may be engaging in the activities described in paragraphs 8 and 9 above;

(b) Gather, examine and analyse information regarding the implementation of the measures decided in this resolution, in particular incidents of non-compliance, with particular focus on the benchmarks outlined in paragraphs 15 and 16 below;

(c) Gather, examine and analyse information regarding the supply, sale or transfer of arms and related materiel and related military or other assistance, including through illicit trafficking networks, to individuals and entities undermining implementation of the Agreement or participating in acts that violate international human rights law or international humanitarian law, as applicable;

(d) Provide to the Council, after discussion with the Committee, an interim report by 1 December 2016, a final report by 1 May 2017, and except in the months when these reports are due, updates each month;

(e) Also to provide to the Council a report within 120 days providing analysis of the current security threats facing the TGNU, and its needs to maintain law and order in South Sudan, as well as further analysis on the role of transfers of arms and related materiel coming into South Sudan since the formation of the TGNU with respect to implementation of the Agreement and threats to UNMISS and other UN and international humanitarian personnel;

(f) Assist the Committee in refining and updating information on the list of individuals and entities subject to the measures imposed by this resolution, including through the provision of identifying information and additional information for the publicly available narrative summary of reasons for listing;

13. *Calls upon* all parties and all Member States, as well as international, regional and subregional organizations to ensure cooperation with the Panel of Experts and *further urges* all Member States involved to ensure the safety of the members of the Panel of Experts and unhindered access, in particular to persons, documents and sites in order for the Panel of Experts to execute its mandate;

14. *Requests* the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative for Sexual Violence in Conflict to share relevant information with the Committee in accordance with paragraph 7 of resolution 1960 (2010) and paragraph 9 of resolution 1998 (2011);

Review

15. *Expresses* its intent to monitor and review the situation at 90-day intervals from the adoption of this resolution or more frequently, as needed, and *invites* the JMEC to share relevant information with the Council, as appropriate, on its assessment of the parties' implementation of the Agreement, adherence to the permanent ceasefire, and facilitation of humanitarian access, also *expresses* its intent to impose any sanctions that may be appropriate to respond to the situation, which may include an arms embargo and the designation of senior individuals responsible for actions or policies that threaten the peace, security or stability of South Sudan, including by impeding the implementation of the Agreement, or by failing to take effective and comprehensive steps to cause forces under direct or indirect control to cease military operations, acts of violence, as well as human rights violations or abuses or violations of international humanitarian law, and to enable full access for humanitarian assistance;

16. *Affirms* also that it shall be prepared to adjust the measures contained in this resolution, including by strengthening through additional measures, as well as modification, suspension or lifting of the measures, as may be needed at any time in light of the progress achieved in the peace, accountability, and reconciliation process, and in light of the implementation of the Agreement and the parties' commitments, including the ceasefire, and compliance with this and other applicable resolutions;

17. *Decides* to remain seized of the matter.

United Nations Sanctions (South Sudan) Regulation 2016

Contents

Section	Page
Part 1	
Preliminary	
1. Interpretation.....	1
Part 2	
Prohibitions	
2. Prohibition against making available funds, etc. or dealing with funds, etc.....	4
3. Prohibition against entry or transit by certain persons	6
4. Exceptions to prohibition against entry or transit by certain persons	6
Part 3	
Licence	
5. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities.....	8
6. Provision of false information or documents for purpose of obtaining licence	10

Part 4

Section	Page
Things Done outside HKSAR	
7. Licence or permission granted by authorities of places outside HKSAR	11
Part 5	
Evidence	
8. Power of magistrate or judge to grant warrant	12
9. Detention of documents, cargoes or articles seized	13
Part 6	
Disclosure of Information or Documents	
10. Disclosure of information or documents	14
Part 7	
Other Offences and Miscellaneous Matters	
11. Liability of persons other than principal offenders	16
12. Offences in relation to obstruction of authorized persons, etc.	16
13. Offences in relation to evasion of this Regulation	16
14. Consent and time limit for proceedings	17
15. Specification of relevant person or relevant entity by Chief Executive	17
16. Exercise of powers of Chief Executive	17
Part 8	
Duration	

Section	Page
17. Duration	18

United Nations Sanctions (South Sudan) Regulation 2016

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

Part 1

Preliminary

1. Interpretation

In this Regulation—

authorized officer (獲授權人員) means—

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

Committee (委員會) means the Committee of the Security Council established under paragraph 16 of Resolution 2206;

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 5(1);

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity ~~in accordance with~~ under section 15;
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity ~~in accordance with~~ under section 15; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity ~~in accordance with~~ under section 15;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person ~~in accordance with~~ under section 15; or

- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity ~~in—accordance with~~under section 15;

Resolution 2206 (《第 2206 號決議》) means Resolution 2206 (2015) adopted by the Security Council on 3 March 2015;

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

Part 2

Prohibitions

2. 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 5(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 belonging to, or owned or controlled 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 belonging to, or owned or controlled by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) that the person was dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account belonging to, or owned or controlled by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

- (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

3. Prohibition against entry or transit by certain persons

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

specified person (指明人士) means a person designated by the Committee for the purposes of paragraph 9 of Resolution 2206.

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

Section 3 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process; or

- (c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in South Sudan and stability in the region.
-

Part 3

Licence

5. 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 belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic

resources belonging to, or owned or controlled 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 3 March 2015 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;
- (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person **or entity** before the date on which the person **or entity** became a relevant person **or a relevant entity**, and the payment is not received, directly or indirectly, by a relevant person **or a relevant entity**.

(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 5 working days of the notification;
- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and

- (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

6. Provision of false information or documents for purpose of obtaining licence

- (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

7. 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

Evidence

8. 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.

9. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 8(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 6

Disclosure of Information or Documents

10. 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 South Sudan decided on by the Security Council; or
 - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—

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

Part 7

Other Offences and Miscellaneous Matters

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 12 of Resolution 2206.

16. 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.
-

Part 8

Duration

17. Duration

This Regulation expires at midnight on ~~2 March 2016~~ 31 May 2017.

Chief Executive

2016

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution ~~2206–2290~~ (201~~65~~) as adopted by the Security Council of the United Nations on ~~3–March–2015~~^{31 May 2016} by providing for the prohibition against—

- (a) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (c) entry into or transit through the HKSAR by certain persons.

United Nations Sanctions (South Sudan) Regulation 2016

Information on South Sudan

Country Background

South Sudan is a country in East-Central Africa, situated south of Sudan, north of Uganda and Kenya, and west of Ethiopia¹. It has a total area of 644,329 sq. km. and an estimated population of around 12 million. With its capital in Juba, South Sudan attained independence in July 2011 following a referendum held in January 2011. It is an oil-dependent economy and had an estimated GDP of US\$23.7 billion (or HK\$183.6 billion) in 2015.²

Sanctions imposed by the United Nations Security Council

2. Modern Sudan emerged during the Anglo-Egyptian Condominium (1898-1955). During this time, Britain and Egypt occupied Sudan, with separate administrative arrangements for the north and south. Sudan became independent at the beginning of 1956 and faced long civil wars in the decades that followed. Between 1955 and 2005, north and south Sudan experienced prolonged period of conflict and war.

3. On 9 January 2005, the Comprehensive Peace Agreement was signed by the leaders of the north and south. It granted partial-autonomy to Southerners, and a new Interim Constitution. On 9 January 2011, Southerners voted on whether to become an independent nation or to remain part of greater Sudan. This referendum was provided for by the peace agreement, and Southerners opted to separate from the north by more than 98 percent of the vote. The Republic of South Sudan was then established on 9 July 2011.³

4. The security situation in South Sudan has deteriorated steadily since December 2013. The conflict between the Government of the Republic of South Sudan and opposition forces which emanated from internal political disputes among the country's political and military leaders has resulted in great human suffering, including significant loss of life, displacement of more than two million people, and the loss of property, further impoverishing and disadvantaging the people of South Sudan.

¹ At present, there is not a definite list of Belt and Road countries, but South Sudan is usually not regarded as one of the countries along the Belt and Road.

² Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/od.html>

³ Source of information in paragraphs 2-3: United Nations in South Sudan at <http://ss.one.un.org/>

5. Determining that the situation in South Sudan continues to constitute a threat to international peace and security in the region, the Security Council of the United Nations (“UNSC”) adopted Resolution 2206 on 3 March 2015, imposing a travel ban and asset freeze against individuals or entities engaging in or providing support for acts that threaten the peace, security and stability of South Sudan.⁴ On 31 May 2016, the UNSC adopted Resolution 2290 to extend the sanction measures imposed on South Sudan until 31 May 2017.

Trade Relation between Hong Kong and South Sudan

6. In 2015, South Sudan ranked 160th among Hong Kong’s trading partners in the world, with a total trade of HK\$71.9 million. Of these, HK\$71.9 million worth of trade were re-exports to South Sudan while HK\$0.01 million were imports from South Sudan. Hong Kong’s trade with South Sudan are summarised as follows –

Hong Kong’s Trade with South Sudan [Value in HK\$ (in million)]		
Item	2015	2016 (January – June)
(a) Total Exports to South Sudan	71.9	16.4
(i) Domestic exports	- ⁵	- ⁶
(ii) Re-exports	71.9 ⁷	16.4 ⁸
(b) Imports from South Sudan	0.01 ⁹	0.1 ¹⁰
Total Trade [(a) + (b)]	71.9	16.5

In 2015, HK\$71.6 million worth of goods, or 0.4%¹¹ of the total trade between South Sudan and the Mainland, were routed through Hong Kong. All these goods were re-exports of Mainland origin to South Sudan via Hong Kong.

7. Given the extremely small trade volume between the two places, the sanctions imposed by the UNSC against South Sudan would unlikely have any significant effect on Hong Kong’s economy.

Commerce and Economic Development Bureau September 2016

⁴ Source of information: Webpage of the Committee established pursuant to resolution 2206 at <http://www.un.org/sc/committees/2206/index.shtml>

⁵ In 2015, there was no domestic export to South Sudan.

⁶ In the first six months of 2016, there was no domestic export to South Sudan.

⁷ In 2015, the main re-export item to South Sudan is telecommunications and sound recording and reproducing apparatus and equipment (96.7%).

⁸ In the first six months of 2016, the main re-export item to South Sudan is telecommunications and sound recording and reproducing apparatus and equipment (94.5%).

⁹ In 2015, the main import item from South Sudan is baby carriages, toys, games and sporting goods (94.0%).

¹⁰ In the first six months of 2016, the main import item from South Sudan is electrical machinery, apparatus and appliances, and electrical parts thereof (92.3%).

¹¹ The percentage is an estimate with reference to China’s Customs Statistics and Hong Kong Trade Statistics. Since two different sets of data are involved, the calculated percentage is solely indicative.