

## **LEGISLATIVE COUNCIL BRIEF**

### **United Nations Sanctions Ordinance (Chapter 537)**

### **UNITED NATIONS SANCTIONS (SOMALIA) REGULATION 2019 (AMENDMENT) REGULATION 2021**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 9 February 2021, the Council ADVISED and the Chief Executive (“the CE”) ORDERED that the United Nations Sanctions (Somalia) Regulation 2019 (Amendment) Regulation 2021 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The Amendment Regulation was gazetted on 11 February 2021 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 the instructions of 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”). The MFA issued instructions in November 2020 for the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2551 (at Annex B) in respect of Somalia<sup>1</sup>. The Amendment Regulation was made pursuant to the instructions.

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<sup>1</sup> [https://www.mfa.gov.cn/web/wjb\\_673085/zfxxgk\\_674865/gknrlb/jytz/t1833360.shtml](https://www.mfa.gov.cn/web/wjb_673085/zfxxgk_674865/gknrlb/jytz/t1833360.shtml)

## **Sanctions against Somalia**

3. Having regard to the heavy loss of human lives and widespread material damage resulting from the conflict in Somalia, the UNSC has passed a number of resolutions since 1992 to implement a range of sanctions against Somalia, including arms embargo, travel ban, financial sanctions and charcoal ban. The UNSC subsequently allowed exemptions to such sanctions through adopting various UNSCRs. No time limits have been prescribed for the sanctions, while certain exemptions to arms embargo (as set out in UNSCR 2142<sup>2</sup>) and to financial sanctions (as set out in UNSCR 2182<sup>3</sup>) have time limits and have been renewed several times. Such exemptions were last renewed in November 2019 and expired at midnight on 15 November 2020.

4. Pursuant to the instructions of the MFA, the HKSAR implemented the sanction measures and the relevant exemptions in respect of Somalia through making regulations under the Ordinance. The regulation currently in force is the United Nations Sanctions (Somalia) Regulation 2019 (Cap. 537CG) (“the 2019 Regulation”).

## **UNSCR 2551**

5. Determining that the situation in Somalia continued to constitute a threat to international peace and security in the region, the UNSC adopted UNSCR 2551 on 12 November 2020 reaffirming the various sanctions imposed, and decided, inter alia, that –

- (a) the arms embargo on Somalia shall not apply to deliveries of weapons and military equipment or the provision of technical advice, financial and other assistance, and training related to

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<sup>2</sup> Paragraph 2 of UNSCR 2142 provides that until 25 October 2014 the arms embargo on Somalia shall not apply to deliveries of weapons, ammunition or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, to provide security for the Somali people, except in relation to deliveries of the items set out in the annex of UNSCR 2111.

<sup>3</sup> Paragraph 41 of UNSCR 2182 provides that until 30 October 2015 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of UNSCR 1844 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the UN, its specialized agencies or programmes, humanitarian organizations having observer status with the UN General Assembly that provide humanitarian assistance and their implementing partners including bilaterally or multilaterally funded NGOs participating in the UN Consolidated Appeal for Somalia.

military activities, intended solely for the development of the Somali National Security Forces or Somalia security sector institutions other than those of the Federal Government of Somalia (“FGS”) to provide security for the Somali people, except in relation to items set out in Annex A and Annex B to UNSCR 2551 (*paragraph 9 of UNSCR 2551 refers*);

- (b) deliveries of items in Annex B to UNSCR 2551 intended solely for the development of the Somali National Security Forces, to provide security for the Somali people are subject to notifications to the Committee for information submitted at least five working days in advance by the FGS or the State or international, regional or subregional organisation delivering assistance (*paragraph 11 of UNSCR 2551 refers*);
- (c) deliveries of items in Annex B to UNSCR 2551 or the delivery of technical advice, financial and other assistance, and training related to military activities, intended solely for the purposes of helping develop Somali security sector institutions other than those of the FGS, to provide security for the Somali people, may be provided in the absence of a negative decision by the Committee within five working days of receiving a notification from the supplying State or international, regional and subregional organisation, and that States or international, regional and subregional organisations are requested to inform the FGS in parallel of any such deliveries at least five working days in advance (*paragraph 12 of UNSCR 2551 refers*); and
- (d) without prejudice to humanitarian assistance programmes conducted elsewhere, the financial sanctions imposed by paragraph 3 of UNSCR 1844 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations (“UN”), its specialised agencies or programmes, humanitarian organisations having observer status with the UN General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental

organisations participating in the UN Humanitarian Response Plan for Somalia (*paragraph 22 of UNSCR 2551 refers*).

## THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to implement the decisions of the UNSC as set out in paragraphs 9, 11, 12 and 22 of UNSCR 2551. The main provisions of the Amendment Regulation include –

- (a) **sections 8(6) and 8(7)**, which repeal section 9(2)(k) of and add section 9(2)(ka) to the 2019 Regulation to reflect that certain exemption requirements for supply or carriage of goods will take effect from the commencement of the Amendment Regulation, as set out in paragraph 9 of UNSCR 2551;
- (b) **sections 9(1) and 9(2)**, which repeal section 10(2)(g) of and add section 10(2)(ga) to the 2019 Regulation to reflect that certain exemption requirements for provision of assistance will take effect from the commencement of the Amendment Regulation, as set out in paragraph 9 of UNSCR 2551;
- (c) **section 11**, which repeals section 11(2)(d) of and adds section 11(2)(e) to the 2019 Regulation to reflect that certain exemption requirements for making available or dealing with economic assets will take effect from the commencement of the Amendment Regulation, as set out in paragraph 22 of UNSCR 2551; and
- (d) **sections 8(9), 9(3), 9(4) and 9(5)**, which amend the relevant subsections of sections 9 and 10 of the 2019 Regulation to reflect the latest exemption requirements, approval and notification arrangements in relation to the supply or carriage of weapons or military equipment to Somalia, and the provision of assistance related to military activities to certain persons, as set out in paragraphs 11 and 12 of UNSCR 2551.

A marked-up version showing the amendments made to the 2019 Regulation is at Annex C for easy reference by Members.

## **IMPLICATIONS OF THE PROPOSAL**

7. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. It has no financial, civil service, economic, productivity, environmental, sustainability, family or gender implications. Additional work arising from the enforcement of the 2019 Regulation as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments with existing resources.

## **PUBLICITY**

8. A press release was issued on 11 February 2021 when the Amendment Regulation was published in the Gazette. A spokesperson is available to answer media and public enquiries.

## **INFORMATION ON SOMALIA AND RELATIONS WITH THE HKSAR**

9. For information on Somalia, 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 D.

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**Commerce and Economic Development Bureau  
February 2021**

## L.N. 19 of 2021

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## United Nations Sanctions (Somalia) Regulation 2019 (Amendment) Regulation 2021

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

1. **United Nations Sanctions (Somalia) Regulation 2019 amended**  
The United Nations Sanctions (Somalia) Regulation 2019 (Cap. 537 sub. leg. CG) is amended as set out in sections 2 to 14.
2. **Section 1 amended (interpretation)**
  - (1) Section 1, definition of *prohibited IED components*—  
**Repeal**  
“Resolution 2498;”  
**Substitute**  
“Resolution 2551;”.
  - (2) Section 1—  
**Repeal the definition of *Resolution 2498*.**
  - (3) Section 1—  
**Add in alphabetical order**  
“*Resolution 2551* (《第2551號決議》) means Resolution 2551 (2020) adopted by the Security Council on 12 November 2020;”.
3. **Section 2 amended (supply of goods prohibited)**
  - (1) Section 2(2)(b) and (c)(ii) and (3)(a) and (b), English text, after “person or”—

- Add**  
“to”.
  - (2) Section 2(5)(b), English text, after “person or” (wherever appearing)—  
**Add**  
“to”.
  - (3) Section 2(5)(b)(i), (ii) and (iii)(A) and (B), Chinese text, before the semicolon—  
**Add**  
“的”.
  - (4) Section 2(5)(c), English text, after “person or” (wherever appearing)—  
**Add**  
“to”.
  - (5) Section 2(5)(c), Chinese text, after “對象” (wherever appearing)—  
**Add**  
“的”.
4. **Section 3 amended (carriage of goods prohibited)**
    - (1) Section 3(2)(b) and (c)(ii), English text, after “person or”—  
**Add**  
“to”.
    - (2) Section 3(3)(b), Chinese text—  
**Repeal**  
“有關的”

Section 5

**Substitute**

“該項”。

- (3) Section 3(4)(a) and (b) and (7)(b)(ii) and (iii)(B) and (c)(i) and (ii), English text, after “person or”—

**Add**

“to”。

**5. Section 4A amended (supply of IED components prohibited)**

- (1) Section 4A(2)(b) and (c)(ii), English text, after “person or”—

**Add**

“to”。

- (2) Section 4A(4)(b), English text, after “person or” (wherever appearing)—

**Add**

“to”。

- (3) Section 4A(4)(b)(i) and (ii), Chinese text, before the semicolon—

**Add**

“的”。

- (4) Section 4A(4)(b)(iii)(A), Chinese text, before the semicolon—

**Add**

“的”。

- (5) Section 4A(4)(b)(iii)(B), Chinese text, after “對象”—

**Add**

“的”。

Section 6

**6. Section 4B amended (carriage of IED components prohibited)**

- (1) Section 4B(2)(b) and (c)(ii), English text, after “person or”—

**Add**

“to”。

- (2) Section 4B(3)(b), Chinese text—

**Repeal**

“有關的”

**Substitute**

“該項”。

- (3) Section 4B(6)(b)(ii) and (iii)(B), English text, after “person or”—

**Add**

“to”。

**7. Section 7 amended (entry or transit of persons prohibited)**

Section 7(2)(b), Chinese text—

**Repeal**

“有關區域”

**Substitute**

“該區域”。

**8. Section 9 amended (licence for supply or carriage of goods)**

- (1) Section 9(1)(a)(ii) and (iii)(B), English text, after “person or”—

**Add**

“to”。



Section 8

- (2) Section 9(1)(a), Chinese text, before “下述作為”—  
**Add**  
“批予特許，准許”.
- (3) Section 9(1)(b)(ii) and (iii)(B), English text, after “person or”—  
**Add**  
“to”.
- (4) Section 9(1)(b), Chinese text, before “屬下述”—  
**Add**  
“批予特許，准許”.
- (5) Section 9(1), Chinese text—  
**Repeal**  
“批予特許，准許(視)”  
**Substitute**  
“(視下述”.
- (6) Section 9(2)—  
**Repeal paragraph (k).**
- (7) Before section 9(2)(l)—  
**Add**  
“(ka) the prohibited goods are not any of the items covered by Annex A or B to Resolution 2551 and are intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;”.

Section 9

- (8) Section 9(2)(l) and (m)—  
**Repeal**  
“Resolution 2498”  
**Substitute**  
“Resolution 2551”.
- (9) Section 9(2)(n)—  
**Repeal**  
everything after “Resolution”  
**Substitute**  
“2551 and are intended solely for the purposes of helping develop Somali security sector institutions other than those of the Federal Government of Somalia to provide security for the Somali people.”.

9. Section 10 amended (licence for provision of assistance)

- (1) Section 10(2)—  
**Repeal paragraph (g).**
- (2) Before section 10(2)(h)—  
**Add**  
“(ga) the assistance is not related to any of the items covered by Annex A or B to Resolution 2551 and is intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;”.
- (3) Section 10(2)—  
**Repeal paragraph (h).**

Section 10

- (4) Section 10(2)(i)—

**Repeal**

everything after “Resolution”

**Substitute**

“2551 and is intended solely for the purposes of helping develop Somali security sector institutions other than those of the Federal Government of Somalia to provide security for the Somali people.”.

- (5) Section 10—

**Repeal subsection (3).**

- (6) Section 10(4)—

**Repeal**

“Also,”

**Substitute**

“However,”.

**10. Section 10A amended (licence for supply or carriage of IED components)**

- (1) Section 10A(1)(a)(ii) and (iii)(B), English text, after “person or”—

**Add**

“to”.

- (2) Section 10A(1)(a), Chinese text, before “下述作為”—

**Add**

“批予特許，准許”.

- (3) Section 10A(1)(b)(ii) and (iii)(B), English text, after “person or”—

Section 11

**Add**

“to”.

- (4) Section 10A(1)(b), Chinese text, before “屬下述”—

**Add**

“批予特許，准許”.

- (5) Section 10A(1), Chinese text—

**Repeal**

“批予特許，准許(視”

**Substitute**

“(視下述”.

**11. Section 11 amended (licence for making available or dealing with economic assets)**

- (1) Section 11(2)—

**Repeal paragraph (d).**

- (2) At the end of section 11(2)—

**Add**

“(e) the economic assets are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—

- (i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or
- (ii) their implementing partners, including bilaterally or multilaterally funded non-governmental organizations participating in the

United Nations Humanitarian Response Plan  
for Somalia.”.

**12. Section 15 amended (power to require information and production  
of document, cargo or article)**

Section 15(1)(b) and (c), Chinese text, after “交出”—

**Add**

“該人員指明的、”。

**13. Section 18 amended (provision of false or misleading information  
or documents)**

Section 18(1), Chinese text—

**Repeal**

everything after “要求時”

**Substitute**

“——

- (a) 向獲授權人員提供或交出該負責人知道在要項上屬虛假或具誤導性的任何資料或文件；或
- (b) 罔顧實情地向獲授權人員提供或交出在要項上屬虛假或具誤導性的任何資料或文件，  
即屬犯罪。”。

**14. Section 30 amended (exercise of powers of Chief Executive)**

Section 30(2), English text—

**Repeal**

“sub-delegate”

**Substitute**

“subdelegate”。

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Carrie LAM  
Chief Executive

10 February 2021

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### Explanatory Note

This Regulation amends the United Nations Sanctions (Somalia) Regulation 2019 (Cap. 537 sub. leg. CG) to give effect to certain decisions in Resolution 2551 (2020) adopted by the Security Council of the United Nations on 12 November 2020 in respect of Somalia.

2. The amendments mainly relate to the requirements of the licences for—
  - (a) the supply, sale, transfer or carriage of weapons or military equipment to Somalia;
  - (b) the provision of technical advice, financial or other assistance, or training, related to military activities;
  - (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
  - (d) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities.
3. The Regulation also makes certain minor textual amendments.

United Nations

**Security Council**Distr.: General  
12 November 2020

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**Resolution 2551 (2020)****Adopted by the Security Council at its 8775th meeting, on  
12 November 2020**

*The Security Council,*

*Recalling* all its previous resolutions and statements of its President on the situation in Somalia,

*Reaffirming* its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, and *underscoring* the importance of working to prevent destabilising effects of regional disputes from spilling over into Somalia,

*Recalling* paragraphs 1 to 8 of resolution [2444 \(2018\)](#), and *reaffirming* that it will continue to follow developments towards the normalisation of relations between Eritrea and Djibouti and will support the two countries in the resolution of these matters in good faith,

*Expressing* its support for the Federal Government of Somalia (FGS) in its efforts to reconstruct the country, counter the threat of terrorism, and stop the movement of illegal arms and armed groups, *further expressing* its intention to ensure the measures in this resolution will enable the FGS in the realisation of these objectives, *noting* that the security situation in Somalia continues to necessitate these measures, including strict controls on the movement of arms but *affirming* that it shall keep the situation in Somalia under constant review and that it shall be prepared to review the appropriateness of the measures contained in this resolution, including any modification, possible benchmarks, suspension or lifting of the measures, as may be needed in light of the progress achieved and compliance with this resolution,

*Welcoming* the recent increased dialogue between leaders of the FGS and the Federal Member States (FMS), *emphasising* the importance of co-operation and coordination between the FGS and the FMS and implementation of the National Security Architecture, *recalling* resolution 2520 and *reiterating* the importance of further progress on updating, reviewing and implementing the Somalia Transition Plan (STP), and *noting* that a successful transition to Somali-led security from the African Union Mission in Somalia (AMISOM), as set out under the Transition Plan, is fundamental to the maintenance of peace and stability in the region,

*Condemning* Al-Shabaab attacks in Somalia and beyond, *expressing* grave concern that Al-Shabaab continues to pose a serious threat to the peace, security and stability of Somalia and the region, particularly through its increased use of improvised explosive devices (IEDs), and *further expressing* grave concern at the



continued presence in Somalia of affiliates linked to Islamic State in Iraq and the Levant (ISIL also known as Da'esh),

*Reaffirming* the need to combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights law, international refugee law, and international humanitarian law, threats to international peace and security caused by terrorist acts,

*Welcoming* progress made by the FGS on weapons and ammunition management (WAM), including the adoption of the National WAM Strategy, *urging* continued work codifying and implementing weapons and ammunition management policies including developing an accountable weapons tracing system for all Somali security forces, *recognising* that effective weapons and ammunition management is the responsibility of the FGS and FMS, and *encouraging* Somalia's partners to support the FGS and FMS with this, and in line with Somalia's National Security Architecture and Transition Plan,

*Encouraging* the FGS to coordinate with international and regional partners regarding its needs in developing its National Security Forces, *noting* that these forces require access to weapons and specialist equipment, in accordance with the measures in this resolution, in order to perform their functions effectively,

*Condemning* the supply of weapons and ammunition supplies to and through Somalia in violation of the arms embargo, especially when they reach Al-Shabaab and affiliates linked to ISIL, and when they undermine the sovereignty and territorial integrity of Somalia, as a serious threat to peace and stability in the region, and *further condemning* continued illegal supply of weapons, ammunition and IED components from Yemen to Somalia,

*Recognising* that the threat posed by Al-Shabaab to peace, security and stability in Somalia and the region goes beyond the group's conventional military action and asymmetric warfare, *expressing serious concern* at Al-Shabaab's ability to generate revenue as documented in the final report of the Panel of Experts (the Panel) on Somalia (S/2020/949) *welcoming* the FGS' efforts to strengthen the Somali Financial Sector to identify and monitor money laundering risks and combat terrorist financing, *noting* the steps set out by the FGS in the Somalia Transition Plan on institutional capacity building, which seek to develop these capabilities, *noting* the importance of financial services in enabling Somalia's economic future, *further welcoming* efforts by the FGS, United Nations Office on Drugs and Crime (UNODC) and the Panel to develop a plan to disrupt Al-Shabaab finances, and *urging* engagement from the FGS, FMS, Somali financial institutions, the private sector and the international community to support this process,

*Welcoming* measures taken by the FGS, FMS and United Nations Member States with charcoal destination markets to reduce the export of charcoal, *urging* monitoring and control of existing charcoal stockpiles at export points, *encouraging* further development of Somalia's National Policy on Charcoal which aims to develop the sustainable management of domestic charcoal use *expressing* concern at continued reports of illegal and unregulated fishing in waters where Somalia has jurisdiction, *noting* the link between illegal fishing and Al-Shabaab's ability to generate revenue, *encouraging* the Somali authorities, with support from the international community, to ensure fishing licenses are issued in accordance with the appropriate Somali legislation, and *further encouraging* the FGS, FMS and Somali authorities to work with the UNODC, their international partners and other stakeholders to improve maritime domain awareness.

*Expressing* concern at the continued reports of corruption and diversion of public resources in Somalia, *welcoming* efforts made by the FGS to reduce corruption

including the enactment of the Anti-Corruption Law on 21 September 2019 and establishment of the Anti-Corruption Commission, *welcoming* progress made by the FGS and FMS in strengthening public financial management and the positive work of the Financial Reporting Centre, and *calling* for the FGS to continue its efforts to address corruption, to ratify the United Nations Convention Against Corruption and to continue to accelerate the pace of reform,

*Expressing* serious concern at the humanitarian situation in Somalia, noting the combined threat posed by flooding, locust infestation and COVID-19 and *condemning in the strongest terms* any party obstructing the safe delivery of humanitarian assistance, any misappropriation or diversion of any humanitarian funds or supplies, and acts of violence against or harassment of humanitarian workers,

*Noting* the adoption of conclusions on Children and Armed Conflict in Somalia on 11 August 2020 by the Security Council Working Group on Children and Armed Conflict, *further noting with concern* reports, including from the Secretary General of the United Nations, which document worrying levels of sexual and gender based violence in Somalia, and *urging* the Somali authorities to further strengthen efforts to address this, including by implementing measures in line with resolution [2467 \(2019\)](#).

*Taking note with appreciation* of the final report of the Panel and the technical assessment mission report of the Secretary-General ([S/2019/616](#)), *welcoming* the increased cooperation between the Panel and the FGS, *regretting*, due to the COVID-19 pandemic, the reduced ability of the Panel to visit Somalia and the wider impact of the pandemic on the Panel's work in 2020, and *urging* all parties to find a way forward which will enable the Security Council to better assess and monitor compliance with the sanctions regime, and *recalling* that panels of experts operate pursuant to mandates from the Security Council,

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

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

1. *Notes with concern* Al-Shabaab's ability to generate revenue and launder, store and transfer resources, *calls upon* the FGS to continue working with Somali financial authorities, private sector financial institutions and the international community to identify, assess and mitigate money laundering and terrorist financing risks, improve compliance (including enhanced Know Your Customer and due diligence procedures) and strengthen supervision and enforcement, including through increased reporting to the Central Bank of Somalia and Financial Reporting Centre in line with the Anti-Money Laundering and Counter the Financing of Terrorism Act (2016) as well as the Mobile Money Regulations (2019), *encourages* the FGS to consider implementing a national ID programme to help mitigate terrorist financing risks, *further encourages* support from the international community in addressing these risks and *requests* the FGS, UNODC and the Panel to continue exchanging information about Al-Shabaab's finances and to continue working with stakeholders to develop a plan to disrupt Al-Shabaab's finances;

2. *Requests* the FGS to strengthen cooperation and coordination with other United Nations Member States, particularly other Member States in the region, and with international partners to prevent and counter the financing of terrorism, including compliance with resolution [1373 \(2001\)](#), resolution [2178 \(2014\)](#), resolution [2462 \(2019\)](#), and relevant domestic and international law, and *requests* the FGS to submit, in its regular reporting to the Council, an update on specific actions taken by the Somali authorities to counter the financing of terrorism;

3. *Calls upon* the FGS, in coordination with the FMS, to accelerate the implementation of the National Security Architecture, including decisions around the

composition, distribution and command and control of the security forces, *welcomes* progress on the STP and *urges* the FGS and FMS to take further steps to update and implement the STP, *welcomes* progress on weapons and ammunition management and *underlines* the responsibility of the FGS and FMS to ensure the safe and effective management, storage and security of their stockpiles of weapons, ammunition and other military equipment and their distribution, including implementation of a system which allows tracking of all such military equipment and supplies to the unit level;

4. *Calls upon* the FGS and FMS to enhance civilian oversight of their security apparatus, to continue to adopt and implement appropriate vetting procedures of all defence and security personnel, including human rights vetting, and to investigate and as appropriate prosecute individuals responsible for violations of international law, including international humanitarian law and human rights law, and sexual and gender-based violence in conflict and post-conflict situations, and in this context recalls the importance of the Secretary-General's Human Rights and Due Diligence Policy in relation to the support provided by the United Nations to Somali security forces and AMISOM;

5. *Calls upon* the international community to support implementation of the STP to help develop credible, professional and representative Somali security forces, including providing additional and coordinated support to continue to develop the weapons and ammunition management capacity of the FGS and FMS, with a particular focus on training, storage, support for infrastructure and distribution, technical assistance and capacity building with regard to countering financing of terrorism, and support in tackling the threat of IEDs;

#### **Arms Embargo**

6. *Reaffirms* that all States shall, for the purposes of establishing peace and stability in Somalia, implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia, including prohibiting the financing of all acquisitions and deliveries of weapons and military equipment and the direct or indirect supply of technical advice, financial and other assistance, and training related to military activities, until the Council decides otherwise (as initially imposed by paragraph 5 of its resolution [733 \(1992\)](#) and paragraphs 1 and 2 of resolution [1425 \(2002\)](#));

7. *Decides* that weapons and military equipment sold or supplied solely for the development of the Somali National Security Forces or Somali security sector institutions other than those of the FGS in accordance with paragraph 9 of this resolution shall not be resold to, transferred to, or made available for use by any individual or entity not in the service of the Somali National Security Forces or Somali security sector institution to which it was originally sold or supplied or the selling or supplying State or international, regional or subregional organisation;

8. *Reaffirms* that the FGS, in cooperation with the FMS and AMISOM, shall document and register all weapons and military equipment captured as part of offensive operations or in the course of carrying out their mandates, including recording the type and serial number of the weapon and/or ammunition, photographing all items and relevant markings and facilitating inspection by the Panel of all military items before their redistribution or destruction;

#### **(i) Exemptions, advance approvals and notifications**

9. *Decides* that the arms embargo on Somalia shall not apply to deliveries of weapons and military equipment or the provision of technical advice, financial and other assistance, and training related to military activities, intended solely for the development of the Somali National Security Forces, or Somalia security sector



institutions other than those of the FGS, to provide security for the Somali people, except in relation to items in Annex A and B to this resolution and the delivery of technical advice, financial and other assistance, and training related to military activities to Somali security sector institutions other than those of the FGS, which are subject to the relevant advance approvals and notification procedures as set out in paragraphs 10–17;

10. *Decides* that deliveries of items in Annex A to this resolution intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the FGS, to provide security for the Somali people, require an advance approval by the Committee on a case-by-case basis, submitted at least five working days in advance by the FGS or the State or international, regional or subregional organisation delivering assistance;

11. *Decides* that deliveries of items in Annex B to this resolution intended solely for the development of the Somali National Security Forces, to provide security for the Somali people are subject to notifications to the Committee for information submitted at least five working days in advance by the FGS or the State or international, regional or subregional organisation delivering assistance;

12. *Decides* that deliveries of items in Annex B to this resolution or the delivery of technical advice, financial and other assistance, and training related to military activities, intended solely for the purposes of helping develop Somali security sector institutions other than those of the FGS, to provide security for the Somali people, may be provided in the absence of a negative decision by the Committee within five working days of receiving a notification from the supplying State or international, regional and sub-regional organisation, and *requests* States or international, regional and sub-regional organisations to inform the FGS in parallel of any such deliveries at least five working days in advance;

13. *Decides* that the FGS has the primary responsibility to seek approval from or notify the Committee pursuant to paragraph 10 or 11, as applicable of any deliveries of weapons and military equipment to the Somali National Security Forces, at least five days in advance, and that all requests for approvals and notifications should include: details of the manufacturer and supplier of the weapons and military equipment, a description of the arms and ammunition including the type, calibre and ammunition, proposed date and place of delivery, and all relevant information concerning the intended destination unit in the Somali National Security Forces, or the intended place of storage;

14. *Decides* that the State or international, regional or subregional organisation delivering weapons and military equipment to the Somali National Security Forces pursuant to paragraph 10 or 11, may alternatively, make an advance request for approval or notification, as applicable, in consultation with the FGS, *decides* that a State or international, regional or subregional organisation choosing to do so should inform the appropriate national coordinating body within the FGS of the advance request for approval or notification and provide the FGS with technical support with notification procedures where appropriate, and *requests* the Committee to transmit advance requests for approval and notifications from States or international, regional or subregional organisations to the appropriate national coordinating body in the FGS;

15. *Decides* that a State or international, regional or subregional organisation delivering any weapon and military equipment, technical advice, financial and other assistance, and training related to military activities to Somali security sector institutions other than those of the FGS, pursuant to paragraph 10 or 12, has responsibility for seeking approval from or notifying the Committee, as applicable,

for any deliveries of those items, advice, assistance or training, and informing the FGS in parallel at least five working days in advance;

16. *Decides* that where paragraphs 10 or 11 apply, the FGS shall no later than 30 days after the delivery of weapons and military equipment, submit to the Committee a post-delivery notification in the form of written confirmation of the completion of any delivery to the Somali National Security Forces, including the serial numbers for the weapons and military equipment delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage, and recognises the value of the supplying State or international, regional or subregional organisation doing the same, in cooperation with the FGS;

17. *Reaffirms* that the delivery of non-lethal military equipment intended solely for humanitarian or protective use shall be notified to the Committee five days in advance for its information only, by the supplying State or international, regional or subregional organisation;

18. *Notes with concern* reports that States were not adequately following the notification procedures set out in prior resolutions, *reminds* States of their obligations pursuant to the notification procedures, set out in paragraph 10–17, and *further urges* States to follow strictly the notification procedures for providing assistance to develop Somali security sector institutions other than those of the FGS;

## (ii) Exceptions

19. *Reaffirms* that the embargo shall not apply to:

(a) Supplies of weapons or military equipment or the provision of technical advice, financial and other assistance, and training related to military activities intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM), the African Union Mission in Somalia (AMISOM); AMISOM's strategic partners, operating solely under the latest African Union Strategic Concept of Operations, and in cooperation and coordination with AMISOM; and the European Union Training Mission (EUTM) in Somalia, all as per paragraph 10 (a)–(d) of resolution [2111 \(2013\)](#);

(b) Supplies of weapons and military equipment destined for the sole use of States or international, regional and subregional organisations undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia, upon the request of the FGS and for which the FGS has notified the Secretary-General, and provided that any measures undertaken shall be consistent with applicable international humanitarian and international human rights law;

(c) Supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;

(d) Entry into Somali ports for temporary visits of vessels carrying weapons and military equipment for defensive purposes provided that such items remain at all times aboard such vessels (as previously affirmed by paragraph 3 of resolution [2244 \(2015\)](#));

### Targeted sanctions in Somalia

20. *Recalls* its decisions in its resolution [1844 \(2008\)](#) which imposed targeted sanctions and its resolutions [2002 \(2011\)](#), and [2093 \(2013\)](#) which expanded the listing criteria, and recalls its decisions in its resolutions [2060 \(2012\)](#) and [2444 \(2018\)](#), and *further recalls* that the listing criteria includes, but is not limited to, planning,

directing or committing acts involving sexual and gender based violence and *reiterates* its request for Member States to assist the Panel of Experts in its investigations, and for the FGS, FMS and AMISOM and partners to share information with the Panel of Experts regarding Al-Shabaab activities especially where covered by listing criteria;

21. *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), and *invites* the Office of the United Nations High Commissioner for Human Rights to share relevant information with the Committee, as appropriate;

22. *Decides* that without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of its resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Somalia;

#### **Somalia Charcoal ban**

23. *Condemns any* exports of charcoal from Somalia in violation of the total ban on the export of charcoal, *reaffirms* its decision regarding the ban on the import and export of Somali charcoal, as set out in paragraph 22 of its resolution 2036 (2012) (“the charcoal ban”), and paragraphs 11 to 21 of resolution 2182 (2014), and *decides* to renew the provisions set out in paragraph 15 of resolution 2182 (2014) until 15 November 2021;

24. *Welcomes* measures taken by the FGS, FMS and Member States to reduce the export of charcoal from Somalia, *reiterates* its requests that AMISOM support and assist the FGS and FMSs in implementing the total ban on the export of charcoal from Somalia, *encourages* further development of Somalia’s National Policy on Charcoal to develop the sustainable management of domestic charcoal use, *encourages* the Food and Agriculture Organization (FAO) to provide the FGS with data and enhanced analysis on domestic charcoal production to inform the development of the FGS National Policy on Charcoal and *calls upon* AMISOM to facilitate regular access for the Panel to charcoal exporting ports;

25. *Reaffirms* the importance of the efforts of the UNODC and its international partners to monitor and disrupt the export and import of charcoal to and from Somalia, and *encourages* the UNODC, within its current mandate, under the Indian Ocean Forum on Maritime Crime, to bring together relevant States and international organisations, including European Naval Force Operation Atalanta, Combined Maritime Forces (CMF) and other naval forces in the region to enhance regional cooperation on responding to illicit maritime flows and disrupt all forms of trafficking in licit and illicit goods that may finance terrorist activities in Somalia, and supporting the FGS and FMS to improve their maritime domain awareness, including the role of fishing vessels in trafficking and illicit trade;

#### **IED components ban**

26. *Noting* the increase in IED attacks undertaken by Al-Shabaab, *decides* that all States shall prevent the direct or indirect sale, supply or transfer of the items in part I of Annex C to this resolution to Somalia from their territories or by their

nationals outside their territories, or using their flag vessels or aircraft if there is sufficient evidence to demonstrate that the item(s) will be used, or a significant risk they may be used, in the manufacture in Somalia of improvised explosive devices;

27. *Further decides* that, where an item in part I of Annex C to this resolution is directly or indirectly sold, supplied or transferred to Somalia consistent with paragraph 26, the State shall notify the Committee of the sale, supply or transfer no more than 15 working days after the sale, supply or transfer takes place, and *stresses* the importance that notifications pursuant to this paragraph contain all relevant information, including the purpose of the use of the item(s), the end user, the technical specifications and the quantity of the item(s) to be shipped;

28. *Calls upon* Member States to undertake appropriate measures to promote the exercise of vigilance by their nationals, persons subject to their jurisdiction and firms incorporated in their territory or subject to their jurisdiction that are involved in the sale, supply, or transfer of explosive precursors and materials to Somalia that may be used in the manufacture of improvised explosive devices, including inter alia items in part II of Annex C, to keep records of transactions and share information with the FGS, the Committee and the Panel regarding suspicious purchases of or enquiries into these chemicals by individuals in Somalia and to ensure that the FGS and FMS are provided with adequate financial and technical assistance to establish appropriate safeguards for the storage and distribution of materials;

29. *Encourages* international and regional partners of Somalia to implement continued specialist training of FGS Explosive Ordnance Disposal teams and to provide appropriate equipment and coordinate support to reinforce Somali capacity in the analysis of explosives;

#### **Panel of Experts on Somalia**

30. *Decides* to renew, with effect from the date of adoption of this resolution, until 15 December 2021, the Panel on Somalia and that the mandate of the Panel shall include the tasks referred to in paragraph 11 of resolution 2444 (2018) and paragraph 1 of this resolution, *requests* the Secretary-General to include dedicated gender expertise, in line with paragraph 11 of its resolution 2467 (2019), and *expresses* its intention to review the mandate of the Panel and take appropriate action regarding any extension to the mandate no later than 15 November 2021;

31. *Recalls* the importance of full co-operation between the FGS and the Panel, *requests* the FGS to facilitate for the Panel interviews of suspected members of Al-Shabaab and ISIL held in custody, *encourages* the FGS to facilitate a visit to Somalia by the Panel as soon as practicable, *notes* the importance of the Panel carrying out their mandate in line with document S/2006/997, and *requests* the Panel to give recommendations to the Committee on how to support the FGS in weapons and ammunition management, including efforts towards establishing a National Small Arms and Light Weapons Commission;

32. *Reiterates its request* for States, the FGS, the FMS and AMISOM to provide information to the Panel, and assist them in their investigations, *urges* the FGS and the FMS to facilitate access for the Panel, on the basis of written requests to the FGS by the Panel, to all FGS armouries in Mogadishu, all FGS-imported weapons and ammunition prior to distribution, all FGS military storage facilities in Somalia National Army (SNA) sectors and all captured weaponry in FGS and FMS custody, and to allow photographs of weapons and ammunition in FGS and FMS custody and access to all FGS and FMS logbooks and distribution records, in order to enable the Security Council to monitor and assess implementation of this resolution;

## Reporting

33. *Requests* the Secretary-General to provide the Security Council with an update, no later than the 31 July 2021 on any further developments towards the normalisation of relations between Eritrea and Djibouti;

34. *Requests* the Panel to provide regular updates to the Committee, including a minimum of four different thematic reports, a comprehensive mid-term update and, for the Security Council's consideration, through the Committee, a final report by 15 October 2021 and *urges* the Panel to seek feedback from the Committee on the findings of their reporting;

35. *Requests* the Secretary-General to provide to the Council, no later than 15 September 2021 a technical assessment of Somalia's weapons and ammunition management capability and recommendations to improve it further;

36. *Requests* the Emergency Relief Coordinator to report to the Security Council by 15 October 2021 on the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia;

37. *Requests* the FGS to report to the Security Council in accordance with paragraph 9 of resolution [2182 \(2014\)](#) and as requested in paragraph 7 of resolution [2244 \(2015\)](#), by 1 February 2021 and then by 1 August 2021, on the structure, composition, strength and disposition of its security forces, and the status of regional and militia forces, including as annexes the reports of the Joint Verification Team (JVT) requested in paragraph 7 of resolution [2182 \(2014\)](#), and incorporating the notifications regarding the destination unit in the Somali National Security Forces or the place of storage of military equipment upon distribution of imported arms and ammunition, and *requests* future reports of the JVT to cross-reference serial numbers of weapons documented by the JVT with available records detailing the distribution of arms to the security forces;

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

## Annex A

### Items subject to the Committee's advance approval

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS);

2. Weapons with a calibre greater than 12.7 mm, and components specially designed for these, and associated ammunition;

Note: (This does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs (light anti-tank weapon), rifle grenades, or grenade launchers.);

3. Mortars with a calibre greater than 82 mm and associated ammunition;

4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items;

5. Charges and devices specifically designed or modified for military use; mines and related materiel;

6. Weapon sights with a night vision capability;

7. Aircraft, specifically designed or modified for military use;

Note: 'Aircraft' means fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle, or helicopter.

8. 'Vessels' and amphibious vehicles specifically designed or modified for military use;

Note: 'Vessel' includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil and the hull or part of the hull of a vessel.

9. Unmanned combat aerial vehicles (listed as Category IV in the UN Register of Conventional Arms).

## Annex B

### **Equipment requiring a notification with regard to deliveries to the Somali National Security Forces and Committee approval for Somalia security sector institutions other than those of the FGS**

- All types of weapons with a calibre up to 12.7mm: and associated ammunition;
- RPG-7 and recoilless rifles, and associated ammunition;
- Helmets manufactured according to military standards or specification, or comparable national standards;
- Body armour or protective garments, as follows:
  - o Soft body armour or protective garments, manufactured to military standards or specifications, or their equivalents;  
*Note: military standards or specifications include, as a minimum, specifications for fragmentation protection.*
  - o Hard body armour plates providing ballistic protection equal to or greater than level III (NIJ 0101.06 July 2008) or national equivalents;
- Ground vehicles specifically designed or modified for military use;
- Communication equipment specifically designed or modified for military use;
- Global Navigation Satellite Systems (GNSS) positioning equipment, specifically designed or modified for military use.

## Annex C

### Improvised Explosive Devices (IED) Components

#### Explosive materials, explosives precursors, explosive-related equipment, and related technology

##### Part I

1. Explosive materials, as follows, and mixtures containing one or more thereof:
  - a. Nitrocellulose (containing more than 12.5% nitrogen w/w);
  - b. Trinitrophenylmethylnitramine (tetryl);
  - c. Nitroglycerin (except when packaged/prepared in individual medicinal doses)
2. Explosive-related goods:
  - a. Equipment and devices specially designed to initiate explosives by electrical or non-electrical means (e.g. firing sets, detonators, igniters, detonating chord).
3. “Technology” required for the “production” or “use” of the items listed at paras. 1 & 2.

##### Part II

1. Explosive materials, as follows, and mixtures containing one or more thereof:
    - a. Ammonium Nitrate Fuel Oil (ANFO);
    - b. Nitroglycol;
    - c. Pentaerythritol tetranitrate (PETN);
    - d. Picryl chloride;
    - e. 2,4,6-Trinitrotoluene (TNT).
  2. Explosives precursors:
    - a. Ammonium nitrate;
    - b. Potassium nitrate;
    - c. Sodium chlorate;
    - d. Nitric acid;
    - e. Sulphuric acid.
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# United Nations Sanctions (Somalia) Regulation 2019

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# United Nations Sanctions (Somalia) Regulation 2019

## Part 1

### Preliminary

#### 1. Interpretation

In this Regulation—

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

**assistance** (協助) means technical advice, financial or other assistance, or training;

**authorized officer** (獲授權人員) means—

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

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

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

**connected person** (有關連人士) means—

- (a) the Federal Government of Somalia;
- (b) any person in, or resident in, Somalia;
- (c) any body incorporated or constituted under the law of Somalia;

- (d) any body, wherever incorporated or constituted, which is controlled by—
  - (i) the Government mentioned in paragraph (a);
  - (ii) a person mentioned in paragraph (b); or
  - (iii) a body mentioned in paragraph (c); or
- (e) any person acting on behalf of—
  - (i) the Government mentioned in paragraph (a);
  - (ii) a person mentioned in paragraph (b); or
  - (iii) a body mentioned in paragraph (c) or (d),but does not include a designated person;

***designated person*** (指認人士) means a person or an entity designated by the Committee for the purposes of paragraph 7 of Resolution 1844;

***economic assets*** (經濟資產) means any funds or other financial assets or economic resources;

***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;
- (g) documents evidencing an interest in funds or financial resources; and
- (h) any other instrument of export financing;

***Hong Kong person*** (香港人) means—

- (a) a person who is both a Hong Kong permanent resident and a Chinese national; or
- (b) a body incorporated or constituted under the law of the HKSAR;

***IED*** (簡爆裝置) means improvised explosive devices;

***IED technology*** (簡爆裝置技術) means the technology required for the production or use of any prohibited IED components;

***licence*** (特許) means a licence granted under Part 3;

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

***mode of transport*** (運輸工具) means a ship, aircraft or vehicle;

***operator*** (營運人), in relation to a mode of transport, means the person for the time being having the management of the mode of transport;

***pilot in command*** (機長), in relation to an aircraft, means the pilot designated by the operator or owner, as appropriate, as being—

- (a) in charge of the aircraft (without being under the direction of any other pilot in the aircraft); and
- (b) charged with the safe conduct of a flight;

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

***prohibited IED components*** (禁制簡爆裝置組件) means any of the items covered by paragraph 1 or 2 of Part I of Annex C to Resolution ~~2498~~**2551**;

***relevant entity*** (有關實體) means—

- (a) an entity named in the list published under section 29(1);
- (b) an entity—
  - (i) acting on behalf of;
  - (ii) acting at the direction of; or
  - (iii) owned or controlled by, an individual or entity named in that list; or
- (c) an entity owned or controlled by an individual or entity—
  - (i) acting on behalf of; or
  - (ii) acting at the direction of, an individual or entity named in that list;

***relevant person*** (有關人士) means—

- (a) an individual named in the list published under section 29(1); or
- (b) an individual—
  - (i) acting on behalf of; or
  - (ii) acting at the direction of, an individual or entity named in that list;

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

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

~~***Resolution 2498*** (《第 2498 號決議》) means Resolution 2498 (2019) adopted by the Security Council on 15 November 2019;~~

**Resolution 2551 (《第 2551 號決議》)** means **Resolution 2551 (2020) adopted by the Security Council on 12 November 2020;**

***responsible person*** (負責人) means—

- (a) for a ship—the charterer, operator or master of the ship;
- (b) for an aircraft—the charterer, operator or pilot in command of the aircraft; or
- (c) for a vehicle—the operator or driver of the vehicle;

***Secretary*** (局長) means the Secretary for Commerce and Economic Development;

***Security Council*** (安理會) means the Security Council of the United Nations;

***supply*** (供應) means supply, sale or transfer.

#### **1A. Limited duration of certain provisions**

- (1) A reference to a provision in a subsection of this section is a reference to the provision as in force from time to time during the period mentioned in the subsection.
  - (2) Sections 9(2)(k), 10(2)(g) and 11(2)(d) are in force during the period from the commencement of the United Nations Sanctions (Somalia) Regulation 2019 (Amendment) Regulation 2020 (L.N. 27 of 2020) until midnight on 15 November 2020.
-



## Part 2

### Prohibitions

#### 2. Supply of goods prohibited

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 9(1)(a), a person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited goods—
  - (a) to Somalia;
  - (b) to a connected person or to the order of a connected person; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
    - (i) to Somalia; or
    - (ii) to a connected person or to the order of a connected person.
- (3) A person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited goods—
  - (a) to a designated person or to the order of a designated person; or
  - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or to the order of a designated person.

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

### 3. Carriage of goods prohibited

- (1) This section applies to—

- 
- (a) a ship that is registered in the HKSAR, or is in the HKSAR;
  - (b) an aircraft that is registered in the HKSAR, or is in the HKSAR;
  - (c) any other ship or aircraft that is for the time being chartered to a Hong Kong person or a person who is in the HKSAR; and
  - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 9(1)(b), a mode of transport must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) from a place outside Somalia to a place in Somalia;
  - (b) to a connected person or to the order of a connected person; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
    - (i) to Somalia; or
    - (ii) to a connected person or to the order of a connected person.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply of the prohibited goods; and
  - (b) the supply is authorized by a licence granted under section 9(1)(a).
- (4) Without limiting section 2, a mode of transport must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) to a designated person or to the order of a designated person; or

- (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or to the order of a designated person.
- (5) If a mode of transport is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
- (a) for a ship registered in the HKSAR—the responsible persons for the ship;
  - (b) for any other ship—
    - (i) the charterer of the ship if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the ship if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the master of the ship if the master is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (c) for an aircraft registered in the HKSAR—the responsible persons for the aircraft;
  - (d) for any other aircraft—
    - (i) the charterer of the aircraft if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the aircraft if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the pilot in command of the aircraft if the pilot in command is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (e) for a vehicle—the responsible persons for the vehicle.
- (6) A person who commits an offence under subsection (5) is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or

- (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods;
  - (b) for a contravention of subsection (2)—that the carriage of the goods concerned was, or formed part of, a carriage—
    - (i) from a place outside Somalia to a place in Somalia;
    - (ii) to a connected person or to the order of a connected person; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
      - (A) to Somalia; or
      - (B) to a connected person or to the order of a connected person; or
  - (c) for a contravention of subsection (4)—that the carriage of the goods concerned was, or formed part of, a carriage—
    - (i) to a designated person or to the order of a designated person; or
    - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or to the order of a designated person.

#### 4. **Provision of assistance prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.

- (2) Except under the authority of a licence granted under section 10(1), a person must not directly or indirectly provide to a connected person any assistance related to military activities.
- (3) A person must not directly or indirectly provide to a designated person any assistance, including investment, brokering or other financial services, related to military activities or to the supply, manufacture, maintenance or use of any prohibited goods.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
  - (a) for a contravention of subsection (2)—
    - (i) that the assistance was, or was to be, provided to a connected person; or
    - (ii) that the assistance related to military activities; or
  - (b) for a contravention of subsection (3)—
    - (i) that the assistance was, or was to be, provided to a designated person; or
    - (ii) that the assistance related to military activities or to the supply, manufacture, maintenance or use of any prohibited goods.

#### **4A. Supply of IED components prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and

- (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 10A(1)(a), a person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited IED components—
- (a) to Somalia;
  - (b) to a connected person or to the order of a connected person; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
    - (i) to Somalia; or
    - (ii) to a connected person or to the order of a connected person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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 components concerned were prohibited IED components; or
  - (b) that the components concerned were, or were to be, supplied—
    - (i) to Somalia;
    - (ii) to a connected person or to the order of a connected person; or

- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
  - (A) to Somalia; or
  - (B) to a connected person or to the order of a connected person.

#### **4B. Carriage of IED components prohibited**

- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR, or is in the HKSAR;
  - (b) an aircraft that is registered in the HKSAR, or is in the HKSAR;
  - (c) any other ship or aircraft that is for the time being chartered to a Hong Kong person or a person who is in the HKSAR; and
  - (d) a vehicle in the HKSAR.
- (2) Without limiting section 4A, except under the authority of a licence granted under section 10A(1)(b), a mode of transport must not be used for the carriage of any prohibited IED components if the carriage is, or forms part of, a carriage—
  - (a) from a place outside Somalia to a place in Somalia;
  - (b) to a connected person or to the order of a connected person; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
    - (i) to Somalia; or
    - (ii) to a connected person or to the order of a connected person.
- (3) Subsection (2) does not apply if—



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- (a) the carriage of the prohibited IED components is performed in the course of the supply of the prohibited IED components; and
  - (b) the supply is authorized by a licence granted under section 10A(1)(a).
- (4) If a mode of transport is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) for a ship registered in the HKSAR—the responsible persons for the ship;
  - (b) for any other ship—
    - (i) the charterer of the ship if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the ship if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the master of the ship if the master is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (c) for an aircraft registered in the HKSAR—the responsible persons for the aircraft;
  - (d) for any other aircraft—
    - (i) the charterer of the aircraft if the charterer is a Hong Kong person, or is in the HKSAR;
    - (ii) the operator of the aircraft if the operator is a Hong Kong person, or is in the HKSAR; and
    - (iii) the pilot in command of the aircraft if the pilot in command is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
  - (e) for a vehicle—the responsible persons for the vehicle.
- (5) A person who commits an offence under subsection (4) is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (6) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) that the components concerned were prohibited IED components; or
  - (b) that the carriage of the components concerned was, or formed part of, a carriage—
    - (i) from a place outside Somalia to a place in Somalia;
    - (ii) to a connected person or to the order of a connected person; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
      - (A) to Somalia; or
      - (B) to a connected person or to the order of a connected person.

#### **4C. Provision of IED technology prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 10B(1), a person must not directly or indirectly provide to a connected person any IED technology.
- (3) A person who contravenes subsection (2) commits an offence and is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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 IED technology was, or was to be, provided to a connected person; or
  - (b) that the technology concerned was IED technology.

## **5. Importation of charcoal prohibited**

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

## **6. Making available or dealing with economic assets prohibited**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and

- 
- (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 11(1)—
- (a) a person must not directly or indirectly make available any economic assets to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person must not directly or indirectly deal with any economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity (including, if the person is a relevant person or a relevant entity, the economic assets belonging to, or directly or indirectly owned or controlled by, the person).
- (3) A person who contravenes subsection (2) commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (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) for a contravention of subsection (2)(a)—that the economic assets were, or were to be, made available to, or for the benefit of, a relevant person or a relevant entity; or
- (b) for a contravention of subsection (2)(b)—that the person was dealing with economic assets belonging to, or directly or indirectly 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 directly or indirectly 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.

## 7. **Entry or transit of persons prohibited**

- (1) A designated person must not enter or transit through the HKSAR.
- (2) However, subsection (1) does not apply to a case in respect of which—
  - (a) the Committee has determined that the relevant entry or transit is justified on the ground of humanitarian need, including religious obligation; or

- (b) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in Somalia and stability in the region.
- (3) 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.
- (4) This section does not apply to a person having the right of abode or the right to land in the HKSAR.

**8. Acts done outside HKSAR with permission granted outside HKSAR not prohibited**

This Part does not apply if—

- (a) it otherwise prohibits a person from doing an act in a place outside the HKSAR except under the authority of a licence; and
  - (b) the person does the act in the place with permission granted in accordance with a law in force in the place (being a law substantially corresponding to the relevant provisions of this Regulation).
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## Part 3

### Licences

#### 9. Licence for supply or carriage of goods

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

- (a) the prohibited goods are protective clothing (including flak jackets and military helmets) to be temporarily exported to Somalia by United Nations personnel, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
- (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
- (c) the prohibited goods are intended solely for the support of or use by AMISOM;
- (d) *(Repealed L.N. 27 of 2020)*
- (e) the prohibited goods are intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in co-operation and co-ordination with AMISOM;
- (f) the prohibited goods are intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia;
- (g) *(Repealed L.N. 27 of 2020)*
- (h) the prohibited goods are intended solely for the support of or use by the European Union Training Mission in Somalia;
- (i) the prohibited goods are intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;



- (j) the prohibited goods are intended for defensive purposes and are—
  - (i) to be carried by a ship that enters a Somali port for a temporary visit; and
  - (ii) to remain aboard the ship at all times while the ship is in Somalia;

~~(k) the prohibited goods are not any of the items covered by Annex A or B to Resolution 2498 and are intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;~~

(ka) the prohibited goods are not any of the items covered by Annex A or B to Resolution 2551 and are intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;

- (l) the prohibited goods are any of the items covered by Annex A to Resolution ~~2498-2551~~ and are intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;
- (m) the prohibited goods are any of the items covered by Annex B to Resolution ~~2498-2551~~ and are intended solely for the development of the Somali National Security Forces to provide security for the Somali people;
- (n) the prohibited goods are any of the items covered by Annex B to Resolution ~~2498-2551~~ and are intended solely for the purposes of helping develop Somali security sector

institutions other than those of the Federal Government of Somalia to provide security for the Somali people.

- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive must cause the Committee to be notified of the intention to grant the licence 5 days before granting it.
- (4) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(l) is met, the Chief Executive—
  - (a) must cause a request for approval of the proposed supply or carriage to be submitted to the Committee not less than 5 working days before granting the licence; and
  - (b) may grant the licence only if the Committee approves the proposed supply or carriage.
- (5) Further, if the Chief Executive is satisfied that the requirement in subsection (2)(m) is met, the Chief Executive must cause the Committee to be notified of the intention to grant the licence not less than 5 working days before granting it.
- (6) Moreover, if the Chief Executive is satisfied that the requirement in subsection (2)(n) is met, the Chief Executive—
  - (a) must cause the Committee to be notified of the intention to grant the licence;
  - (b) may grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification; and
  - (c) must cause the Federal Government of Somalia to be informed of the intention to grant the licence not less than 5 working days before granting it.

## 10. Licence for provision of assistance

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief

Executive must grant a licence for the provision, to a connected person, of assistance related to military activities.

- (2) The requirements are as follows—
- (a) the assistance is technical training or assistance intended solely for the support of or use by AMISOM;
  - (b) *(Repealed L.N. 27 of 2020)*
  - (c) the assistance is intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in co-operation and co-ordination with AMISOM;
  - (d) the assistance is intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia;
  - (e) the assistance is technical training or assistance intended solely for the support of or use by the European Union Training Mission in Somalia;
  - (f) the assistance is intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;
  - ~~(g) the assistance is not related to any of the items covered by Annex A or B to Resolution 2498 and is intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people;~~
  - ~~(ga) the assistance is not related to any of the items covered by Annex A or B to Resolution 2551 and is intended solely~~

for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people:

~~(h) the assistance is related to any of the items covered by Annex B to Resolution 2498 and is intended solely for the development of the Somali National Security Forces to provide security for the Somali people;~~

(i) the assistance is related to any of the items covered by Annex B to Resolution 2498-2551 and is intended solely for the purposes of helping develop Somali security sector institutions other than those of the Federal Government of Somalia to provide security for the Somali people.

~~(3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(h) is met, the Chief Executive must cause the Committee to be notified of the intention to grant the licence not less than 5 working days before granting it.~~

(4) Also, However, if the Chief Executive is satisfied that the requirement in subsection (2)(i) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant the licence;

(b) may grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification; and

(c) must cause the Federal Government of Somalia to be informed of the intention to grant the licence not less than 5 working days before granting it.

**10A. Licence for supply or carriage of IED components**

- (1) If, on application, the Chief Executive is satisfied that the requirement in subsection (2) is met, the Chief Executive must grant, as appropriate—
  - (a) a licence for the supply of, or the doing of an act likely to promote the supply of, prohibited IED components—
    - (i) to Somalia;
    - (ii) to a connected person or to the order of a connected person; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
      - (A) to Somalia; or
      - (B) to a connected person or to the order of a connected person; or
  - (b) a licence for the carriage of prohibited IED components that is, or forms part of, a carriage—
    - (i) from a place outside Somalia to a place in Somalia;
    - (ii) to a connected person or to the order of a connected person; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
      - (A) to Somalia; or
      - (B) to a connected person or to the order of a connected person.
- (2) The requirement is that the prohibited IED components will not be used, or that there is not a significant risk that they may be used, in the manufacture in Somalia of IED.

**10B. Licence for provision of IED technology**

- (1) If, on application, the Chief Executive is satisfied that the requirement in subsection (2) is met, the Chief Executive must grant a licence for the provision, to a connected person, of IED technology.
- (2) The requirement is that the IED technology will not be used, or that there is not a significant risk that it may be used, in the manufacture in Somalia of IED.

**11. Licence for making available or dealing with economic assets**

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant, as appropriate, a licence for—
  - (a) making available economic assets to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) dealing with economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
  - (a) the economic assets 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 under the law of the HKSAR; or
    - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of economic assets belonging to, or directly or

indirectly owned or controlled by, a relevant person or a relevant entity;

- (b) the economic assets are necessary for extraordinary expenses;
- (c) the economic assets are—
  - (i) the subject of a judicial, administrative or arbitral lien or judgment that was entered before 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and
  - (ii) to be used to satisfy the lien or judgment;

~~(d) the economic assets are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—~~

~~(i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or~~

~~(ii) their implementing partners, including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia.~~

(e) the economic assets are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—

(i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or

(ii) their implementing partners, including bilaterally or multilaterally funded non-governmental

organizations participating in the United Nations Humanitarian Response Plan for Somalia.

- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(a) is met, the Chief Executive—
  - (a) must cause the Committee to be notified of the intention to grant the licence; and
  - (b) must grant the licence in the absence of a negative decision by the Committee within 3 working days of the notification.
- (4) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive—
  - (a) must cause the Committee to be notified of the intention to grant the licence; and
  - (b) must not, unless the Committee approves, grant the licence.
- (5) Further, if the Chief Executive is satisfied that the requirement in subsection (2)(c) is met, the Chief Executive must cause the Committee to be notified of the intention to grant the licence before granting it.

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

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



- (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 or misleading in a material particular commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
-

## **Part 4**

### **Enforcement**

#### **13. Application of Part 4**

This Part applies if an authorized officer has reason to suspect that a mode of transport to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4).

#### **14. Power to board and search modes of transport**

The authorized officer may—

- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the mode of transport and search it; and
- (b) for the purposes of paragraph (a), use or authorize the use of reasonable force.

#### **15. Power to require information and production of document, cargo or article**

- (1) The authorized officer may require a responsible person for the mode of transport to—
  - (a) provide any information, or produce for inspection any document, relating to the mode of transport, that the officer may specify;
  - (b) for a ship or aircraft—provide any information, or produce for inspection any document, relating to its cargo, that the officer may specify;
  - (c) for a vehicle—provide any information, or produce for inspection any document, relating to any article on it, that the officer may specify; or

- (d) produce for inspection any of its cargo or articles that the officer may specify.
- (2) The power under subsection (1) includes a power to—
  - (a) specify whether the information should be provided orally or in writing and in what form; and
  - (b) specify the time by which, and the place at which, the information should be provided or the document, cargo or article should be produced for inspection.

## **16. Power to direct movement**

- (1) If the mode of transport is a ship, the authorized officer may do one or more of the following—
  - (a) direct a responsible person for the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is specified;
  - (b) require a responsible person for the ship to take any of the following steps—
    - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the responsible person is notified by an authorized officer that the ship and its cargo may proceed;
    - (ii) if the ship is in the HKSAR—to cause the ship and any of its cargo to remain in the HKSAR until the responsible person is notified by an authorized officer that the ship and its cargo may depart;
    - (iii) if the ship is in another place—
      - (A) to take the ship and any of its cargo to a port specified by an authorized officer; and

- (B) to cause the ship and its cargo to remain in that place until the responsible person is notified by an authorized officer that the ship and its cargo may depart;
  - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer by agreement with the responsible person.
- (2) If the mode of transport is an aircraft and the aircraft is in the HKSAR, the authorized officer may require a responsible person for the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the responsible person is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) If the mode of transport is a vehicle, the authorized officer may require a responsible person for the vehicle to—
  - (a) take the vehicle and any article on it to a place specified by an authorized officer; and
  - (b) cause the vehicle and the article to remain in that place until the responsible person is notified by an authorized officer that the vehicle and the article may depart.

## **17. Failure to comply with direction or requirement**

- (1) A responsible person for a mode of transport commits an offence if, without reasonable excuse, the person—
  - (a) disobeys a direction given under section 16(1)(a); or
  - (b) refuses or fails to comply with a requirement made under section 15(1) or 16(1)(b), (2) or (3)—
    - (i) within the time specified by an authorized officer; or
    - (ii) if no time is specified—within a reasonable time.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

### **18. Provision of false or misleading information or documents**

- (1) A responsible person for a mode of transport commits an offence if the person, in response to a requirement made under section 15(1)—
  - (a) provides or produces to an authorized officer any information or document that the person knows to be false or misleading in a material particular; or
  - (b) recklessly provides or produces to an authorized officer any information or document that is false or misleading in a material particular.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

### **19. Power to enter and detain modes of transport**

- (1) Without limiting sections 17 and 18, this section applies if an authorized officer has reason to suspect that a requirement made under section 16(1)(b), (2) or (3) may not be complied with.
- (2) The officer may take any steps that appear to the officer to be necessary to secure compliance with that requirement including, in particular, steps to—
  - (a) enter or authorize the entry on any land or the mode of transport concerned;
  - (b) detain or authorize the detention of the mode of transport, or of (for a ship or aircraft) any of its cargo or (for a vehicle) any article on it; or

- (c) use or authorize the use of reasonable force.
- (3) Subject to subsections (4) and (5), subsection (2) does not authorize the detention of a ship or vehicle for more than 12 hours, or of an aircraft for more than 6 hours.
- (4) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, or of an aircraft for further periods of not more than 6 hours each.
- (5) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each.
- (6) An order under subsection (4) or (5) must state the time from which, and period for which, the order is effective.

## **20. Production of proof of identity**

Before or on exercising a power conferred by this Part, an authorized officer must, if requested by any person, produce proof of the officer's identity to the person for inspection.

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## Part 5

### Evidence

#### 21. Interpretation of Part 5

In this Part—

*premises* (處所) includes any place and, in particular, includes—

- (a) any mode of transport or offshore structure; and
- (b) any tent or movable structure;

*seized property* (被檢取財產) means anything seized under section 22(3).

#### 22. 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, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize an authorized officer, together with any other person named in the warrant, at any time within 1 month from the date of the warrant, to—
  - (a) enter the premises specified in the information; and
  - (b) search the premises.
- (3) A person authorized by a warrant to search any premises may exercise any or all of the following powers—

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- (a) the power to 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;
  - (b) the power to seize and detain anything found—
    - (i) on the premises; or
    - (ii) 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) the power to take in relation to anything seized under paragraph (b) any other steps that may appear necessary for preserving the thing 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, the person may use any force that is reasonably necessary for the purpose.

### **23. Detention of seized property**

- (1) Seized property may not be detained for more than 3 months.
  - (2) However, if seized property is relevant to an offence under this Regulation, and proceedings for the offence have begun, it may be detained until the completion of those proceedings.
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## Part 6

### Disclosure of Information or Documents

#### 24. 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 require that it be provided or produced;
  - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to—
    - (i) any organ of the United Nations;
    - (ii) any person in the service of the United Nations; or
    - (iii) the Government of any place outside the People's Republic of China,  
for the purpose of assisting the United Nations or that Government in securing compliance with, or detecting evasion of, measures in relation to Somalia decided on by the Security Council; or
  - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—

- (a) a person may 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; and
  - (b) 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.
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## Part 7

### Other Offences and Miscellaneous Matters

#### 25. Liability of persons other than principal offenders

- (1) If—
  - (a) the person convicted of an offence under this Regulation is a body corporate; and
  - (b) 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 also guilty of the offence.
- (2) If—
  - (a) the person convicted of an offence under this Regulation is a firm; and
  - (b) 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 other person concerned in the management of the firm,  
the partner or other person is also guilty of the offence.

#### 26. 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.

**27. Offences in relation to evasion of this Regulation**

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

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

**28. Consent and deadline for prosecution**

- (1) A prosecution for an offence under this Regulation may only be started by or with the consent of the Secretary for Justice.
- (2) A prosecution for a summary offence under this Regulation that is alleged to have been committed by a person outside the HKSAR may only be started before the end of 12 months beginning on the date on which the person first enters the HKSAR after the alleged commission of the offence.

**Note—**

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (3) In this section—

*summary offence* (簡易程序罪行) means an offence triable summarily only.

**29. Publication of list of individuals and entities by Secretary**

- (1) The Secretary may publish on the website of the Commerce and Economic Development Bureau (*CEDB*) a list of individuals and entities for the purposes of the definitions of *relevant person* and *relevant entity* in section 1.

- (2) The Secretary may include in the list the name of an individual or entity designated by the Committee for the purposes of paragraph 3 of Resolution 1844.
- (3) The list may also contain other information that the Secretary considers appropriate.
- (4) The Secretary may remove the name of an individual or entity from the list if the individual or entity is no longer designated by the Committee for the purposes of paragraph 3 of Resolution 1844.
- (5) If a list is published under subsection (1), the Secretary is to make a copy of the list available for inspection by the public free of charge at the office of the Secretary during normal office hours.
- (6) In any legal proceedings, a document purporting to be a copy of a list referred to in subsection (1) printed from the website of the CEDB—
  - (a) is admissible in evidence on production without further proof; and
  - (b) unless the contrary is proved, is evidence of the information contained in the list.

### **30. 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~~subdelegate it to another person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restriction or condition the Chief Executive considers appropriate.

**31. Exercise of powers of Secretary**

- (1) The Secretary may delegate any of the Secretary's powers or functions under this Regulation to any person or class or description of person.
  - (2) A delegation under subsection (1) may be subject to any restriction or condition the Secretary considers appropriate.
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## **United Nations Sanctions (Somalia) Regulation 2019 (Amendment) Regulation 2021**

### **Information on Somalia**

#### **Country Background**

Somalia is a country in Eastern Africa, situated in the east of Ethiopia, bordering the Gulf of Aden and the Indian Ocean <sup>Note 1</sup>. It has a total area of 637,657 sq. km. and had an estimated population of around 15.89 million in 2020 <sup>Note 2</sup>. With its capital in Mogadishu, Somalia achieved independence in 1960. It is an agriculture dependent economy and had a GDP of US\$1.49 billion <sup>Note 2</sup> (or HK\$11.55 billion) in 2018. The inauguration of the new Federal Parliament of Somalia on 20 August 2012 marked the end of the transitional period following decades of warfare in the country.

#### **Sanctions imposed by the United Nations Security Council**

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

3. Under the Djibouti Agreement reached in June 2008, the Transitional Federal Government of Somalia and the opposition Alliance for the Re-liberation of Somalia agreed to end their conflict and to establish a unity government. To take measures against those who sought to prevent or block a peaceful political process, or take action to undermine stability in Somalia or the region, the UNSC adopted Resolution 1844 on 20 November 2008 to apply travel ban and financial sanctions to individuals and entities that engaged in such activities, as well as those who violated the arms embargo. On 22 February 2012, the UNSC further strengthened sanctions in respect of Somalia by adopting Resolution 2036 to impose charcoal ban against the country to cut off the main funding of Al-Shabaab, a prominent insurgent group in the country.

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

Note 2 Source: World Statistics Pocket Book published by the United Nations Statistics Division at <https://unstats.un.org/unsd/publications/pocketbook/files/world-stats-pocketbook-2020.pdf>

4. Recognising the significant progress made in Somalia while noting that the situation in Somalia continued to pose a threat to international peace and security in the region, the UNSC adopted Resolutions 2060 and 2093 in 2012 and 2013 respectively to provide for exemptions to the financial sanctions for the delivery of humanitarian assistance in Somalia and to partially lift the arms embargo for the purpose of building the capacity of the Security Forces of the Federal Government of Somalia, for a certain period. The partial lift of the arms-related sanctions and the humanitarian exemptions to the financial sanctions were renewed for a number of times by the UNSC since then. On 12 November 2020, the UNSC adopted Resolution 2551 to renew such exemptions indefinitely<sup>Note 3</sup>.

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

5. In 2019, Somalia ranked 149<sup>th</sup> among Hong Kong's trading partners in the world, with a total trade of HK\$64.8 million. Of these, HK\$46.0 million worth of trade were exports to Somalia, and HK\$18.7 million imports. Hong Kong's trade with Somalia are summarised as follows –

<b>Hong Kong's Trade with Somalia [Value in HK\$ (in million)]</b> <sup>Note 4</sup>		
<b>Item</b>	<b>2019</b>	<b>2020 (January – September)</b>
(a) Total Exports to Somalia	46.0	41.7
(i) Domestic exports	0	0
(ii) Re-exports	46.0 <sup>Note 5</sup>	41.7 <sup>Note 6</sup>
(b) Imports from Somalia	18.7 <sup>Note 7</sup>	8.2 <sup>Note 8</sup>
<b>Total Trade [(a) + (b)]</b>	<b>64.8</b>	<b>49.9</b>

6. In 2019, HK\$4.7 million worth of goods were re-exports of Somalia origin to the Mainland via Hong Kong and HK\$46 million were re-exports of Mainland origin to Somalia via Hong Kong. The total of HK\$50.7 million worth of goods were equivalent to 0.9%<sup>Note 9</sup> of the total trade between Somalia and the Mainland.

Note 3 Webpage of Security Council Committee pursuant to Resolutions 751 concerning Somalia at <https://www.un.org/securitycouncil/sanctions/751>.

Note 4 Due to rounding of figures, the sub-items may not add up to the total.

Note 5 In 2019, Hong Kong's major re-export items to Somalia were telecommunications and sound recording and reproducing apparatus and equipment (80.7%).

Note 6 In the first nine months of 2020, Hong Kong's major re-export items to Somalia were telecommunications and sound recording and reproducing apparatus and equipment (75.7%).

Note 7 In 2019, Hong Kong's major import items from Somalia were fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (73.3%).

Note 8 In the first nine months of 2020, Hong Kong's major import items from Somalia were fish, crustaceans, molluscs and aquatic invertebrates, and preparations thereof (98.8%).

Note 9 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.



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

**Commerce and Economic Development Bureau  
February 2021**