

L.N. 115 of 2014

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

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United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2014

(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. Commencement

Sections 5, 7, 9, 19, 20, 21 and 24(2) come into operation on 26 December 2014.

2. United Nations Sanctions (Democratic People's Republic of Korea) Regulation amended

The United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) is amended as set out in sections 3 to 25.

3. Section 1 amended (interpretation)

(1) Section 1, definition of *luxury goods*—

Repeal

“as specified in the Schedule”

Substitute

“specified in Schedule 1”.

(2) Section 1, definition of *relevant entity*, paragraph (a)—

Repeal

“or”.

(3) Section 1, definition of *relevant entity*—

Repeal paragraph (b)

Substitute

- “(b) an entity acting on behalf of, or at the direction of, or owned or controlled by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31;”.
- (4) Section 1, definition of *specified arms*—

Repeal

“paragraph (a) of the definition of *specified item*”

Substitute

“item 1 of Schedule 2”.

- (5) Section 1, definition of *specified item*—

Repeal

everything after “means”

Substitute

“an item specified in Schedule 2;”.

- (6) Section 1—

Repeal the definition of *specified person*.

- (7) Section 1—

Add in alphabetical order

“**Resolution 2094** (《第2094號決議》) means Resolution 2094 (2013) adopted by the Security Council on 7 March 2013;”.

4. Section 2 amended (prohibition against supply, sale or transfer of certain items)

(1) Section 2, heading—

Repeal

“certain”

Substitute

“specified”.

(2) Section 2(1)—

Repeal

“prohibited”

Substitute

“specified”.

(3) Section 2(3)(a)—

Repeal

“prohibited”

Substitute

“specified”.

(4) Section 2(3)(b)(iii), Chinese text—

Repeal

“該等項目”

Substitute

“該項目”.

5. Section 2A added

After section 2—

Add

“2A. Prohibition against supply, sale or transfer of luxury goods

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Subject to section 3B, if a person knows or has reason to believe that—
 - (a) an item is luxury goods; and
 - (b) the item is to be supplied, sold or transferred to a place in the DPRK,
the person must not, directly or indirectly, supply, sell or transfer the item.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

6. Section 3 amended (prohibition against carriage of certain items)

- (1) Section 3, heading—

Repeal

“certain”

Substitute

“specified”.

- (2) Section 3(2)—

Repeal

“prohibited”

Substitute

“specified”.

- (3) Section 3(4)(a)—

Repeal

“prohibited”

Substitute

“specified”.

- (4) Section 3(4)(b)(iii), Chinese text—

Repeal

“該等項目”

Substitute

“該項目”.

7. Section 3AA added

After section 3—

Add

“3AA. Prohibition against carriage of luxury goods

- (1) This section applies to—

- (a) a ship that is registered in the HKSAR;
- (b) a ship that is not registered in the HKSAR and is within the waters of Hong Kong;
- (c) an aircraft that is registered in the HKSAR;
- (d) an aircraft that is not registered in the HKSAR and is within Hong Kong air space;

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- (e) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (f) a vehicle in the HKSAR.
- (2) Subject to section 3B, a person specified in subsection (4) commits an offence if—
- (a) a ship, aircraft or vehicle is used for the carriage of luxury goods;
 - (b) the carriage is, or forms part of, a carriage referred to in subsection (3); and
 - (c) at the time when the ship, aircraft or vehicle is so used, the person knows or has reason to believe that—
 - (i) the item concerned is luxury goods; and
 - (ii) the carriage of the item concerned is, or forms part of, a carriage referred to in subsection (3).
- (3) The carriage is a carriage of the item concerned—
- (a) from a place outside the DPRK to a place in the DPRK; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a place in the DPRK.
- (4) The person is—
- (a) for a ship registered in the HKSAR, the charterer, the operator or the master of the ship;
 - (b) for any other ship—

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

- (5) A person who commits an offence under subsection (2) is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

8. Section 3A amended (exceptions to prohibitions under sections 2 and 3)

Section 3A(1)(a) and (b)—

Repeal

“prohibited item”

Substitute

“specified item”.

9. Section 3B added

After section 3A—

Add

“3B. Exceptions to prohibitions under sections 2A and 3AA

- (1) Section 2A does not apply if the luxury goods is supplied, sold or transferred for the purposes of the activities of a diplomatic mission in the DPRK pursuant to the Vienna Convention on Diplomatic Relations of 18 April 1961.
- (2) Section 3AA does not apply if the carriage of the luxury goods is made for the purposes of the activities of a diplomatic mission in the DPRK pursuant to the Vienna Convention on Diplomatic Relations of 18 April 1961.”.

10. Section 4 amended (prohibition against procurement of certain items or services by certain persons)

Section 4(3A), after “service”—

Add

“(including brokering or other intermediary service)”.

11. Section 5 amended (prohibition against procurement of certain items or services using ships, aircraft or vehicles)

Section 5(2)(b), after “service”—

Add

“(including brokering or other intermediary service)”.

12. Section 5C added

After section 5B—

Add

“5C. Prohibition against provision of financial services or transfer of funds, etc.

- (1) A regulated person must not provide, directly or indirectly, any financial services that could contribute to a prohibited programme or activity.
- (2) A regulated person must not transfer, directly or indirectly, any funds or other financial assets or economic resources that could contribute to a prohibited programme or activity.
- (3) A regulated person must not accept, directly or indirectly, the transfer of any funds or other financial assets or economic resources that could contribute to a prohibited programme or activity.

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- (4) A regulated person must not make available, or deal with, directly or indirectly, any funds or other financial assets or economic resources if the funds, financial assets or economic resources are associated with a prohibited programme or activity.
 - (5) A person who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
 - (6) 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) for a contravention of subsection (1), that the financial services concerned could contribute to a prohibited programme or activity;
 - (b) for a contravention of subsection (2), that the funds or other financial assets or economic resources concerned could contribute to a prohibited programme or activity;
 - (c) for a contravention of subsection (3), that the funds or other financial assets or economic resources concerned could contribute to a prohibited programme or activity;
 - (d) for a contravention of subsection (4), that the funds or other financial assets or economic resources concerned were associated with a prohibited programme or activity.
 - (7) A person is not to be regarded as having contravened subsection (1), (2), (3) or (4) by reason only of having credited an account described in subsection (8) 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 this section comes into operation.

(8) The account is an account in which the funds or other financial assets or economic resources are kept.

(9) In this section—

prohibited programme or activity (禁制計劃或活動) means—

(a) DPRK's nuclear or ballistic missile programme;
or

(b) any other activity that is prohibited by this Regulation;

regulated person (受規管人士) means—

(a) a person acting in the HKSAR; or

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

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

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

13. Section 6 amended (prohibition against provision of technical training, services, etc. to certain persons)

Section 6(1), after “service”—

Add

“(including brokering or other intermediary service)”.

14. Section 7 amended (prohibition against acceptance of technical training, services, etc. provided by certain persons)

(1) Section 7(1), after “service”—

Add

“(including brokering or other intermediary service)”.

- (2) Section 7(1)—

Repeal

“specified person”

Substitute

“DPRK-related person”.

- (3) Section 7(3)(b)—

Repeal

“specified”

Substitute

“DPRK-related”.

- (4) At the end of section 7—

Add

“(6) In this section—

DPRK-related person (關乎朝鮮人士) means—

- (a) a person connected with the DPRK; or
- (b) a national of the DPRK who is in a place outside the DPRK.”.

15. Section 8 amended (prohibition against making available funds, etc. or dealing with funds, etc.)

- (1) Section 8(1)—

Repeal paragraph (b)

Substitute

“(b) a person (***first-mentioned person***) must not deal with, directly or indirectly, any funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other

financial assets or economic resources belonging to, or owned or controlled by, the first-mentioned person.”.

- (2) Section 8(3)(b)—

Repeal

“owned or held by”

Substitute

“or owned or controlled by,”.

- (3) Section 8(5)—

Repeal

“owned or held by”

Substitute

“or owned or controlled by,”.

16. Section 9 amended (prohibition against entry or transit by certain persons)

- (1) Section 9(1)—

Repeal

“person designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718”

Substitute

“specified person”.

- (2) At the end of section 9—

Add

- “(5) In this section—

specified person (指明人士) means—

- (a) a person designated by the Committee or the Security Council under paragraph 8(e) of Resolution 1718;
- (b) a person listed in Annex I to Resolution 2094; or

- (c) a person acting on behalf of, or at the direction of, a person mentioned in paragraph (b).”.

17. Section 10C added

Part 2, after section 10B—

Add

“10C. Prohibition against certain ships from entering waters of Hong Kong

- (1) This section applies to a ship—
 - (a) which is outside the waters of Hong Kong; and
 - (b) which has refused to be inspected pursuant to paragraph 12 of Resolution 1874.
- (2) Except in the circumstances specified in subsection (3), if the Director of Marine has information that provides reasonable grounds for the Director to believe that a ship is one to which this section applies, the Director must deny permission for the ship to enter the waters of Hong Kong.
- (3) A ship to which this section applies may enter the waters of Hong Kong—
 - (a) for the purpose of an inspection under section 14;
 - (b) in the case of an emergency; or
 - (c) for the ship to return to its port of origination.
- (4) The charterer, operator or master of a ship to which permission is denied under subsection (2) must not cause the ship to enter the waters of Hong Kong.
- (5) A charterer, operator or master of a ship who, without reasonable excuse, contravenes subsection (4) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or

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

(6) In this section—

Resolution 1874 (《第1874號決議》) means Resolution 1874 (2009) adopted by the Security Council on 12 June 2009.”.

18. Section 11 amended (licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities)

(1) Section 11(1)(b)—

Repeal

“owned or held by”

Substitute

“or owned or controlled by,”.

(2) Section 11(2)(a)(iii)—

Repeal

“owned or held by”

Substitute

“or owned or controlled by,”.

19. Section 14 amended (investigation of suspected ships)

(1) Section 14(1), after “or 5(2),”—

Add

“or that a ship to which section 3AA applies has been, is being or is about to be used as described in section 3AA(2)(a) and (b),”.

(2) Section 14(2), before “the officer may”—

Add

“or that a ship to which section 3AA applies is being or is about to be used as described in section 3AA(2)(a) and (b),”.

(3) Section 14(2), before “or to pursue enquiries”—

Add

“or as described in section 3AA(2)(a) and (b)”.

20. Section 17 amended (investigation of suspected aircraft)

Section 17(1), after “or 5(2),”—

Add

“or that an aircraft to which section 3AA applies has been, is being or is about to be used as described in section 3AA(2)(a) and (b),”.

21. Section 20 amended (investigation of suspected vehicles)

Section 20(1), after “or 5(2),”—

Add

“or as described in section 3AA(2)(a) and (b),”.

22. Section 31 amended (specification of relevant person or relevant entity by Chief Executive)

Section 31—

Repeal

everything after “a relevant person or”

Substitute

“a relevant entity—

- (a) a person or an entity designated by the Committee or the Security Council under paragraph 8(d) of Resolution 1718; or

(b) a person or an entity listed in Annex I or II to Resolution 2094.”.

23. Section 32 amended (access to Security Council document S/2006/814, etc.)

(1) Section 32—

Repeal paragraph (j)

Substitute

“(j) the International Atomic Energy Agency document INFCIRC/254/Rev. 12/Part 1;”.

(2) Section 32—

Repeal paragraph (k)

Substitute

“(k) the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 2;”.

(3) Section 32—

Repeal paragraph (l)

Substitute

“(l) the Security Council document S/2014/253.”.

24. Schedule amended (luxury goods)

(1) The Schedule—

Renumber the Schedule as Schedule 1.

(2) Schedule 1—

Add

“1. Jewelry

(1) Jewelry which contains any, or any combination of, the following materials—

(a) pearl;

- (b) diamond;
- (c) sapphire;
- (d) ruby;
- (e) emerald;
- (f) silver;
- (g) gold;
- (h) platinum.

(2) In this section—

jewelry (首飾) means—

- (a) a small object of personal adornment; or
- (b) an article of personal use of a kind carried in the pocket, in the handbag or on a person.

2. Transportation item

- (1) A yacht.
- (2) A motor vehicle constructed or adapted for the carriage of not more than 8 persons (including a driver).”.

25. Schedule 2 added

After Schedule 1—

Add

“Schedule 2

[s. 1]

Specified Item

- 1. All arms or related materiel including any armoured combat vehicle, attack helicopter, battle tank, combat aircraft, large-calibre artillery system, missile and missile launcher, warship, or related materiel (including any spare part).

2. Any item, material, equipment, goods or technology set out in the Security Council document S/2006/814.
3. Any item, material, equipment, goods or technology set out in the Security Council document S/2006/815.
4. Any item, material, equipment, goods or technology set out in the Security Council document S/2006/853 as rectified by the Security Council document S/2006/853/Corr.1.
5. Any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 1a.
6. Any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 7/Part 2a.
7. Any item, material, equipment, goods or technology set out in the Security Council document S/2009/205.
8. Graphite designed or specified for use in Electrical Discharge Machining (EDM) machines.
9. Para-aramid fibre (Kevlar and other Kevlar-like), filament and tape.
10. Any item, material, equipment, goods or technology set out in the Security Council document S/2012/235.
11. Any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 10/Part 1.

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12. Any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 12/Part 1.
 13. Any item, material, equipment, goods or technology set out in the International Atomic Energy Agency document INFCIRC/254/Rev. 9/Part 2.
 14. Any item, material, equipment, goods or technology set out in the Security Council document S/2014/253.
 15. Perfluorinated lubricant that can be used for lubricating a vacuum pump and compressor bearing and—
 - (a) has a low vapour pressure;
 - (b) is resistant to uranium hexafluoride (UF₆), the gaseous uranium compound used in the gas centrifuge process; and
 - (c) is used for pumping fluorine.
 16. UF₆ corrosion resistant bellow-sealed valve that can be used in any uranium enrichment facility (such as a gas centrifuge and gaseous diffusion plant), in any facility that produces uranium hexafluoride (UF₆), the gaseous uranium compound used in the gas centrifuge process, in any fuel fabrication facility and in any facility handling tritium.
 17. Special corrosion resistant steel—limited to any steel resistant to Inhibited Red Fuming Nitric Acid (IRFNA) or nitric acid, such as nitrogen stabilized duplex stainless steel (N-DSS).
 18. Ultra high-temperature ceramic composite material in solid form (i.e. a block, cylinder, tube or ingot) in any of the following form factors—

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- (a) a cylinder having a diameter of 120 mm or greater and a length of 50 mm or greater;
 - (b) a tube having an inner diameter of 65 mm or greater and a wall thickness of 25 mm or greater and a length of 50 mm or greater;
 - (c) a block having a size of 120 mm × 120 mm × 50 mm or greater.
19. Pyrotechnically actuated valve.
20. Measurement and control equipment usable for wind tunnel (balance, thermal stream measurement, flow control).
21. Sodium perchlorate.
22. Vacuum pump with a manufacturer's specified maximum flow-rate greater than 1 m³/h (under standard temperature and pressure condition), casing (pump body), preformed casing-liner, impeller, rotor, and jet pump nozzle designed for the pump, in which all surfaces that come into direct contact with the chemical being processed are made from controlled material.”.

C. Y. LEUNG
Chief Executive

24 September 2014

Explanatory Note

This Regulation amends the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537 sub. leg. AE) (*principal Regulation*) to give effect to certain decisions of the Security Council of the United Nations (*Security Council*) in Resolution 2094 (2013) as adopted by the Security Council on 7 March 2013 by—

- (a) expanding the list of specified items in a new Schedule 2 to the principal Regulation;
 - (b) providing for the prohibition against the supply, sale, transfer or carriage of luxury goods in certain circumstances;
 - (c) providing for the prohibition against the provision of financial services or the transfer of funds or other financial assets or economic resources that could contribute to DPRK's nuclear or ballistic missile programme; and
 - (d) providing for the prohibition against certain ships from entering the waters of Hong Kong.
2. The Regulation also amends the list of specified items to give effect to the decision of the Committee of the Security Council established under paragraph 12 of Resolution 1718 (2006) on 2 April 2014.