

L.N. 17 of 2008**UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC
OF THE CONGO) REGULATION 2008****CONTENTS**

Section	Page
1. Duration	B133

PART 1**PRELIMINARY**

2. Interpretation	B133
-------------------------	------

PART 2**PROHIBITIONS*****Supply and delivery of goods***

3. Prohibition against supply and delivery of certain goods to persons in Congo	B137
---	------

Carriage of goods

4. Prohibition against carriage of certain goods to persons in Congo	B139
--	------

Provision of advice, assistance or training

5. Prohibition against provision of certain advice, assistance or training to persons in Congo	B141
--	------

Making available funds, etc. to certain persons or entities

6. Prohibition against making available funds, etc. to certain persons or entities	B143
--	------

Section	Page
---------	------

Entry into or transit through HKSAR

7.	Prohibition against entry or transit by certain persons	B145
8.	Exceptions to prohibition against entry or transit by certain persons	B145

PART 3

LICENCE

9.	Licence for supply, delivery or carriage of certain goods	B147
10.	Licence for provision of certain assistance or training	B149
11.	Licence for making available funds, etc. to certain persons or entities	B151
12.	Provision of false information or documents for purpose of obtaining licences	B153

PART 4

THINGS DONE OUTSIDE HKSAR

13.	Licence or permission granted by authorities of places outside HKSAR	B153
-----	--	------

PART 5

ENFORCEMENT OF REGULATION

Investigation, etc. of suspected ships

14.	Investigation of suspected ships	B155
15.	Offences by charterer, operator or master of ship	B157
16.	Power of authorized officers to enter and detain ships	B157

Investigation, etc. of suspected aircraft

17.	Investigation of suspected aircraft	B159
18.	Offences by charterer, operator or commander of aircraft	B161

Section	Page
19. Power of authorized officers to enter and detain aircraft	B161

Investigation, etc. of suspected vehicles

20. Investigation of suspected vehicles	B163
21. Offences by operator or driver of vehicle	B163
22. Power of authorized officers to enter and detain vehicles	B165

Proof of identity

23. Production of proof of identity	B165
---	------

PART 6

EVIDENCE

24. Power of magistrate or judge to grant warrant	B165
25. Detention of documents or articles seized	B167

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

26. Disclosure of information or documents	B167
--	------

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

27. Liability of person other than principal offender	B169
28. Offences in relation to obstruction of authorized persons, etc.	B171
29. Offences in relation to evasion of this Regulation	B171
30. Proceedings to be instituted	B171
31. Specification of relevant person or relevant entity by Chief Executive	B171
32. Exercise of powers of Chief Executive	B173

UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC OF THE CONGO) REGULATION 2008

(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. Duration

This Regulation expires at midnight on 15 February 2008.

PART 1

PRELIMINARY

2. Interpretation

In this Regulation, unless the context otherwise requires—
“assistance” (協助), in relation to military activities, includes financing and financial assistance;

“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;

“commander” (機長), in relation to an aircraft, means the member of the flight crew designated as the commander of the aircraft by the operator of the aircraft, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“Commissioner” (關長) means the Commissioner of Customs and Excise, the 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 pursuant to paragraph 8 of Resolution 1533;

“funds” (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and
- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“licence” (特許) means a licence granted under section 9(1)(a) or (b), 10(1) or 11(1);

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

“operator” (營運人), in relation to a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;

“prohibited goods” (禁制物品) means any arms or related material;

“relevant entity” (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 31;

“relevant person” (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 31;

“Resolution 1533” (《第 1533 號決議》) means Resolution 1533 (2004) adopted by the Security Council on 12 March 2004;

“Resolution 1596” (《第 1596 號決議》) means Resolution 1596 (2005) adopted by the Security Council on 18 April 2005;

“Resolution 1649” (《第 1649 號決議》) means Resolution 1649 (2005) adopted by the Security Council on 21 December 2005;

“Resolution 1698” (《第 1698 號決議》) means Resolution 1698 (2006) adopted by the Security Council on 31 July 2006;

“Resolution 1771” (《第 1771 號決議》) means Resolution 1771 (2007) adopted by the Security Council on 10 August 2007;

“Security Council” (安全理事會) means the Security Council of the United Nations;

“ship” (船舶) includes every description of vessel used in navigation not propelled by oars.

PART 2

PROHIBITIONS

*Supply and delivery of goods***3. Prohibition against supply and delivery of certain goods to persons in Congo**

(1) Except under the authority of a licence granted under section 9(1)(a), a person shall not supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, any prohibited goods—

- (a) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
- (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo.

(2) A person who contravenes subsection (1) 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.

(3) In any proceedings for an offence under subsection (2), it is a defence for a person charged to prove that he did not know and had no reason to believe—

- (a) that the goods concerned were prohibited goods; or
- (b) that the goods concerned were to be supplied or delivered—
 - (i) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo.

(4) This section applies to—

- (a) a person in the HKSAR; and
- (b) a person acting elsewhere 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.

*Carriage of goods***4. Prohibition against carriage of certain goods to persons in Congo**

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without prejudice to the generality of section 3, a ship, aircraft or vehicle shall not, except under the authority of a licence granted under section 9(1)(b), be used for the carriage of any prohibited goods if the carriage is, or forms part of, carriage—
 - (a) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
 - (b) the supply or delivery was authorized by a licence granted under section 9(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each specified person commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) In any proceedings for an offence under subsection (4), it is a defence for a person charged to prove that he did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods; or
 - (b) that the carriage of the goods concerned was, or formed part of, carriage—

- (i) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo.
- (6) In this section, “specified person” (指明人士) means—
- (a) in relation to a ship registered in the HKSAR, the charterer, operator or master of the ship;
 - (b) in relation to any other ship—
 - (i) the charterer of the ship;
 - (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) in relation to an aircraft registered in the HKSAR, the charterer, operator or commander of the aircraft;
 - (d) in relation to any other aircraft—
 - (i) the charterer of the aircraft;
 - (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 commander of the aircraft, if the commander is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or
 - (e) in relation to a vehicle, the operator or driver of the vehicle.

Provision of advice, assistance or training

5. Prohibition against provision of certain advice, assistance or training to persons in Congo

(1) A person shall not provide to a person in the territory of the Democratic Republic of the Congo any advice related to military activities.

(2) Except under the authority of a licence granted under section 10(1), a person shall not provide to a person in the territory of the Democratic Republic of the Congo any assistance or training related to military activities.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable—

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

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

(4) In any proceedings for an offence under subsection (3), it is a defence for a person charged to prove that he did not know and had no reason to believe—

(a) that the advice, assistance or training concerned was to be provided to a person in the territory of the Democratic Republic of the Congo; or

(b) that the advice, assistance or training concerned related to military activities.

(5) This section applies to—

(a) a person in the HKSAR; and

(b) a person acting elsewhere 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.

Making available funds, etc. to certain persons or entities

6. Prohibition against making available funds, etc. to certain persons or entities

(1) Except under the authority of a licence granted under section 11(1), a person shall not make available any funds or other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity.

(2) The addition to an account owned or controlled by a relevant person or a relevant entity of interest or other earnings due on that account does not constitute making available funds or other financial assets or economic resources to or for the benefit of the relevant person or the relevant entity; but the interest or earnings so added shall be subject to subsection (1).

(3) A person who contravenes subsection (1) commits an offence and is liable—

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

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

(4) In any proceedings for an offence under subsection (3), it is a defence for a person charged to prove that he did not know and had no reason to believe that the funds or other financial assets or economic resources concerned were to be made available to or for the benefit of a relevant person or a relevant entity.

(5) This section applies to—

(a) a person in the HKSAR; and

(b) a person acting elsewhere 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.

Entry into or transit through HKSAR

7. Prohibition against entry or transit by certain persons

(1) Subject to section 8, a specified person shall not enter or transit through the HKSAR.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

(3) This section shall not prohibit a person having the right of abode or the right to land in the HKSAR from entry into the HKSAR.

(4) In this section—

“paragraph 13 of Resolution 1596” (《第 1596 號決議》第 13 段) means paragraph 13 of Resolution 1596 as read with paragraph 2 of Resolution 1649 and paragraph 13 of Resolution 1698 and renewed by the Security Council by paragraph 6 of Resolution 1771;

“specified person” (指明人士) means a person designated by the Committee pursuant to paragraph 13 of Resolution 1596.

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

Section 7 does not apply if—

(a) the Committee determines in advance and on a case-by-case basis that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;

- (b) the Committee concludes that the relevant entry into or transit through the HKSAR would further the objectives of the resolutions of the Security Council, that is peace and national reconciliation in the Democratic Republic of the Congo and stability in the region;
- (c) the Committee authorizes in advance and on a case-by-case basis the relevant transit through the HKSAR of a person returning to the territory of the State of his nationality; or
- (d) the Committee authorizes in advance and on a case-by-case basis the relevant transit through the HKSAR of a person participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law.

PART 3

LICENCE

9. Licence for supply, delivery or carriage of certain goods

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant, as appropriate—

- (a) a licence for the supply or delivery of, or the doing of an act likely to promote the supply or delivery of, prohibited goods—
 - (i) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (b) a licence for the carriage of prohibited goods which is, or forms part of, carriage—
 - (i) to, or to the order of, a person in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person in the territory of the Democratic Republic of the Congo.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are intended solely for support of or use by such units of the army and police of the Democratic Republic of the Congo that—
 - (i) have completed the process of their integration;

- (ii) operate under the command, respectively, of the état-major intégré of the Armed Forces or of the National Police of the Democratic Republic of the Congo; or
- (iii) are in the process of their integration in the territory of the Democratic Republic of the Congo outside the provinces of North and South Kivu and the Ituri district;
- (b) the prohibited goods are intended solely for support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;
- (c) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee.

10. Licence for provision of certain assistance or training

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant a licence for the provision to a person in the territory of the Democratic Republic of the Congo of assistance or training related to military activities.

(2) The requirements referred to in subsection (1) are as follows—

- (a) the assistance or training is technical assistance or training intended solely for support of or use by such units of the army and police of the Democratic Republic of the Congo that—
 - (i) have completed the process of their integration;
 - (ii) operate under the command, respectively, of the état-major intégré of the Armed Forces or of the National Police of the Democratic Republic of the Congo; or
 - (iii) are in the process of their integration in the territory of the Democratic Republic of the Congo outside the provinces of North and South Kivu and the Ituri district;
- (b) the assistance or training is technical assistance or training agreed by the Government of the Democratic Republic of the Congo and intended solely for support of such units of the army and police of the Democratic Republic of the Congo that are in the process of their integration in the provinces of North and South Kivu and the Ituri district;
- (c) the assistance or training is technical assistance or training intended solely for support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;

- (d) the assistance or training is technical assistance or training related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee.

**11. Licence for making available funds, etc.
to certain persons or entities**

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant a licence for making available funds or other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity.

(2) The requirements referred to in subsection (1) are as follows—

- (a) the funds or other financial assets or economic resources have been determined by the Chief Executive to be—
- (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines and medical treatments, taxes, insurance premiums, and public utility charges; or
 - (ii) for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services,
- and the Committee has been notified by the Chief Executive of the intention to authorize, where appropriate, access to such funds or other financial assets or economic resources, and the Committee has not made a negative decision within 4 working days of such notification;
- (b) the funds or other financial assets or economic resources have been determined by the Chief Executive to be necessary for extraordinary expenses, and the Committee has been notified by the Chief Executive of the determination, and the Committee has approved the determination;
- (c) the funds or other financial assets or economic resources have been determined by the Chief Executive to be the subject of a judicial, administrative or arbitration lien or judgment, and the lien or judgment—
- (i) was entered prior to 18 April 2005;
 - (ii) is not for the benefit of a relevant person or a relevant entity; and
 - (iii) has been notified by the Chief Executive to the Committee.

(3) A licence granted by the Chief Executive under subsection (1), on his being satisfied that the requirements in subsection (2)(c) are met, shall only authorize that the funds or other financial assets or economic resources be used to satisfy the relevant lien or judgment.

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

(1) If, for the purpose of obtaining a licence, a person makes any statement or provides or produces any information or document that he knows to be false in a material particular, the person commits an offence and is liable—

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

(2) If, for the purpose of obtaining a licence, a person recklessly makes any statement or provides or produces any information or document that is false in a material particular, the person commits an offence and is liable—

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

PART 4

THINGS DONE OUTSIDE HKSAR

13. Licence or permission granted by authorities of places outside HKSAR

(1) If the circumstances described in subsection (2) apply, a provision of this Regulation which prohibits the doing of a thing except under the authority of a licence shall not have effect in relation to any such thing done in a place outside the HKSAR by—

- (a) a person who is ordinarily resident in that place; or
- (b) a body corporate incorporated or constituted under the law of that place.

(2) For the purposes of subsection (1), the circumstances are that the thing is done under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.

PART 5

ENFORCEMENT OF REGULATION

*Investigation, etc. of suspected ships***14. Investigation of suspected ships**

(1) If an authorized officer has reason to suspect that a ship to which section 4 applies has been, is being or is about to be used in contravention of section 4(2), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the charterer, operator or master of the ship to provide such information relating to the ship and its cargo, and produce for his inspection such documents so relating and such cargo carried on it, as he may specify.

(2) If an authorized officer has reason to suspect that a ship is being or is about to be used in contravention of section 4(2), he may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)), with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued, do one or more of the following—

- (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing at any port specified by the authorized officer any part of the ship's cargo that is so specified;
- (b) request the charterer, operator or master of the ship to take one or more of the following steps—
 - (i) to cause the ship, including any of its cargo, not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
 - (ii) (if the ship is in the HKSAR) to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;

- (iii) (if the ship is in any other place) to take the ship and any of its cargo to such port as is specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
- (iv) to take the ship and any of its cargo to such other destination as may be specified by an authorized officer in agreement with the charterer, operator or master.

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

15. Offences by charterer, operator or master of ship

(1) If a charterer, operator or master of a ship disobeys any direction given under section 14(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 14(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the charterer, operator or master commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a charterer, operator or master of a ship, in response to a request made under section 14(1)(b) or (2)(b), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the charterer, operator or master commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

16. Power of authorized officers to enter and detain ships

(1) Without prejudice to section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(2)(b) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and the ship concerned;

(b) detain, or authorize the detention of, that ship and any of its cargo; and

(c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any ship for more than 12 hours.

(3) The Chief Secretary for Administration may, by order in writing signed by him, authorize the detention of a ship referred to in subsection (1) for further periods of not more than 12 hours each, and any such order shall state the times from which and for which the order shall be effective.

Investigation, etc. of suspected aircraft

17. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which section 4 applies has been, is being or is about to be used in contravention of section 4(2), he may—

(a) either alone or accompanied and assisted by any person acting under his authority, board the aircraft and search it and, for that purpose, use or authorize the use of reasonable force; and

(b) request the charterer, operator or commander of the aircraft, or all of them, to provide such information relating to the aircraft and its cargo, and produce for his inspection such documents so relating and such cargo carried on it, as he may specify.

(2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)) further request the charterer, operator or commander, or all of them, to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or commander is, or (if the further request is made to all of them) all of them are, notified by an authorized officer that the aircraft and its cargo may depart.

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

(a) specify whether the information should be provided orally or in writing and in what form; and

(b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

18. Offences by charterer, operator or commander of aircraft

(1) If a charterer, operator or commander of an aircraft, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a charterer, operator or commander of an aircraft, in response to a request made under section 17(1)(b) or (2), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

19. Power of authorized officers to enter and detain aircraft

(1) Without prejudice to section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(2) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and the aircraft concerned;
- (b) detain, or authorize the detention of, that aircraft and any of its cargo; and
- (c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any aircraft for more than 6 hours.

(3) The Chief Secretary for Administration may, by order in writing signed by him, authorize the detention of an aircraft referred to in subsection (1) for further periods of not more than 6 hours each, and any such order shall state the times from which and for which the order shall be effective.

Investigation, etc. of suspected vehicles

20. Investigation of suspected vehicles

(1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 4(2), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
- (b) request the operator or driver of the vehicle to provide such information relating to the vehicle and any article carried on it, and produce for his inspection such documents so relating and such articles carried on it, as he may specify; and
- (c) (either there and then or on consideration of any information provided or document or article produced in response to a request made under paragraph (b)) further request the operator or driver to take the vehicle and any article carried on it to such place as is specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

(2) A power conferred by this section to request the provision of any information or the production of any document or article for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or article should be produced for inspection.

21. Offences by operator or driver of vehicle

(1) If an operator or driver of a vehicle, without reasonable excuse, refuses or fails to comply with a request made under section 20(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If an operator or driver of a vehicle, in response to a request made under section 20(1)(b) or (c), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the

operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

22. Power of authorized officers to enter and detain vehicles

(1) Without prejudice to section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize the entry on, any land and enter, or authorize the entry into, the vehicle concerned;
- (b) detain, or authorize the detention of, that vehicle and any article carried on it; and
- (c) use, or authorize the use of, reasonable force.

(2) Subject to subsection (3), subsection (1) does not authorize the detention of any vehicle for more than 12 hours.

(3) The Commissioner may, by order in writing signed by him, authorize the detention of a vehicle referred to in subsection (1) for further periods of not more than 12 hours each, and any such order shall state the times from which and for which the order shall be effective.

Proof of identity

23. Production of proof of identity

Before or on exercising a power conferred by section 14, 16, 17, 19, 20 or 22, an authorized officer shall, if requested so to do, produce evidence of his identity.

PART 6

EVIDENCE

24. Power of magistrate or judge to grant warrant

(1) A magistrate or judge may grant a warrant if he is satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—

- (a) an offence under this Regulation has been committed or is being committed; and

- (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.

(3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—

- (a) to search any person who is found on, or whom he has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
- (b) to seize and detain any document or article found on the premises, ship, aircraft or vehicle or on such person that he has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
- (c) to take in relation to any such document or article any other steps that may appear necessary for preserving the document or article seized and preventing interference with it.

(4) A person may only be searched under this section by a person who is of the same sex.

(5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, he may use such force as is reasonably necessary for that purpose.

25. Detention of documents or articles seized

(1) Subject to subsection (2), any document or article seized under section 24(3) may not be detained for a period of more than 3 months.

(2) If the document or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document or article may be detained until the completion of those proceedings.

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

26. Disclosure of information or documents

(1) Any information or document provided, produced or seized in pursuance of this Regulation may be disclosed only if—

- (a) the person who provided or produced the information or document or the person from whom the document was seized has given consent to the disclosure;
 - (b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;
 - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to any organ of the United Nations or to any person in the service of the United Nations or to 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 the Democratic Republic of the Congo decided on by the Security Council; or
 - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—
- (a) a person may not give consent to the disclosure if he has obtained the information or possessed the document only in his capacity as servant or agent of another person; and
 - (b) a person may give consent to the disclosure if he is entitled to the information or to the possession of the document in his own right.

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

27. Liability of person other than principal offender

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

(2) Where the person convicted of an offence under this Regulation is a firm and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any person concerned in the management of the firm, the partner or the person concerned in the management of the firm is guilty of the like offence.

28. 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 his powers under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

29. Offences in relation to evasion of this Regulation

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

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

30. Proceedings to be instituted

(1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.

(2) Summary proceedings for an offence under this Regulation, being an offence alleged to have been committed outside the HKSAR, may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after the alleged commission of the offence.

31. Specification of relevant person or relevant entity by Chief Executive

(1) The Chief Executive may, by notice published in the Gazette, specify a person or an entity designated by the Committee pursuant to paragraph 15 of Resolution 1596 as a relevant person or a relevant entity.

(2) In this section, “paragraph 15 of Resolution 1596” (《第 1596 號決議》第 15 段) means paragraph 15 of Resolution 1596 as read with paragraph 2 of Resolution 1649 and paragraph 13 of Resolution 1698 and renewed by the Security Council by paragraph 6 of Resolution 1771.

32. Exercise of powers of Chief Executive

The Chief Executive may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorize the delegation of any of his powers or functions under this Regulation to any person, or class or description of persons, approved by him, and references in this Regulation to the Chief Executive shall be construed accordingly.

Donald TSANG
Chief Executive

23 January 2008

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 1771 (2007) adopted by the Security Council of the United Nations (“the Security Council”) on 10 August 2007.

2. The Regulation provides for the further implementation of the following sanctions imposed by the Security Council—

- (a) prohibition against the direct or indirect supply, sale or transfer of arms and related materials to persons in the territory of the Democratic Republic of the Congo;
- (b) prohibition against the provision to such persons of assistance, advice or training related to military activities;
- (c) prohibition against making available to or for the benefit of certain persons or entities any funds or other financial assets or economic resources; and
- (d) prohibition against entry into or transit through the HKSAR of certain persons.