

LN211E

United Nations Sanctions (Afghanistan)

(Arms Embargoes) Regulation

(Made 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 shall expire on 18 January 2002.

2. Interpretation

In this Regulation, unless the context otherwise requires---

"authorized officer" (獲授權人員) means a person authorized under section 18(1)(b);

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

"Committee" (委員會) means the Committee of the Security Council of the United Nations established pursuant to Resolution 1267;

"customs officer" (海關人員) means any member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342);

"export" (出口) includes shipment as stores and, in relation to any vessel, submersible vehicle, aircraft or vehicle, includes the taking out of the HKSAR of the vessel, submersible vehicle, aircraft or vehicle notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power;

"gold" (黃金) means gold coin or gold bullion;

"licence" (特許) means a licence granted under section 18(1)(a);

"make any payment" (作出任何付款) means make payment by any method, including but not restricted to the grant, or any agreement to the exercise, of any right to set off, accord and satisfaction and adjustment of any account and any other similar means;

"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 an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner" (擁有人), in relation to a ship, where the owner of the ship is not the operator, means the operator and any person to whom it is chartered;

"person connected with Usama bin Laden" (與烏薩馬·本·拉丹有關連的人) means---

(a) any person who is a member of the Al-Qaida Organization unless otherwise designated by the Committee;

(b) any person designated as such by the Committee; or

(c) any person acting on behalf of a person covered by paragraph (a) or (b);

"prohibited goods" (禁制物品) means the goods specified in Schedule 1;

"Resolution 1267" (《第1267號決議》) means Resolution 1267 (1999) adopted by the Security Council of the United Nations on 15 October 1999;

"Resolution 1333" (《第1333號決議》) means Resolution 1333 (2000) adopted by the Security Council of the United Nations on 19 December 2000;

"securities" (證券) includes---

(a) shares, stocks, bonds, notes, debentures and debenture stocks;

(b) a deposit receipt in respect of the deposit of securities;

(c) a negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money;

(d) a promissory note;

(e) a unit or a sub-unit of a unit trust;

(f) an annuity or a life insurance policy or other contract entered into with an insurance company for securing a payment in the future of any capital sum or of an annuity;

(g) a warrant conferring an option to acquire securities;

(h) a share in an oil royalty;

"ship" (船舶) includes every description of vessel used in navigation not propelled by oars;

"shipment" (付運) includes loading into a vessel, an aircraft or a vehicle;

"Taliban" (塔利班) means the Afghan faction known as the Taliban, also known as the Islamic Emirate of Afghanistan;

"Taliban territory" (塔利班地區) means the territory of Afghanistan under the control of the Taliban as designated by the Committee.

3. Application of certain provisions

Sections 4, 5, 6, 8 and 10 shall apply to any person within the HKSAR and to any person acting elsewhere who is---

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

4. Supplies and deliveries of prohibited goods to Taliban territory

(1) Except under the authority of a licence granted for the purpose of this section, no person shall---

- (a) supply or deliver;
- (b) agree to supply or deliver; or

(c) do any act likely to promote the supply or delivery of,
any prohibited goods---

(i) to any destination in Taliban territory;

(ii) to, or to the order of, any person in Taliban territory; or

(iii) to any destination for the purpose of delivery, directly or indirectly,
to Taliban territory or to, or to the order of, any person in Taliban territory.

(2) Any person to whom this section applies and contravenes subsection (1) shall
be guilty of an offence.

(3) In the case of proceedings for an offence in contravention of this section,
it is a defence for the accused person to prove that---

(a) he did not know and had no reason to suppose that the goods in question were
prohibited goods; or

(b) he did not know and had no reason to suppose that the goods were supplied or
delivered---

(i) to any destination in Taliban territory;

(ii) to, or to the order of, any person in Taliban territory; or

(iii) to any destination for the purpose of delivery, directly or indirectly,
to Taliban territory or to, or to the order of, any person in Taliban territory.

(4) Nothing in subsection (1)(b) or (c) shall apply where the supply or delivery
of the goods to Taliban territory or to the person concerned is authorized by a licence
granted for the purpose of this section.

5. Exportation of prohibited goods to Taliban territory

(1) Except under the authority of a licence granted for the purpose of this
section, the prohibited goods are prohibited to be exported from the HKSAR---

(a) to any destination in Taliban territory;

(b) to, or to the order of, any person in Taliban territory; or

(c) to any destination for the purpose of delivery, directly or indirectly, to Taliban
territory or to, or to the order of, any person in Taliban territory.

(2) Any person to whom this section applies and contravenes subsection (1) shall
be guilty of an offence.

(3) In the case of proceedings for an offence in contravention of this section,
it is a defence for the accused person to prove that---

(a) he did not know and had no reason to suppose that the goods in question were
prohibited goods; or

(b) he did not know and had no reason to suppose that the goods are to be exported
from the HKSAR---

(i) to any destination in Taliban territory;

(ii) to, or to the order of, any person in Taliban territory; or

(iii) to any destination for the purpose of delivery, directly or indirectly, to Taliban territory or to, or to the order of, any person in Taliban territory.

(4) Nothing in this section shall be construed so as to prejudice any other law prohibiting or restricting the exportation of goods from the HKSAR.

6. Provision of certain technical advice, assistance or training

(1) Except under the authority of a licence granted for the purpose of this section, no person shall provide, directly or indirectly, to a person in Taliban territory any technical advice, assistance or training related to the military activities of the armed personnel of the Taliban.

(2) Any person to whom this section applies and contravenes subsection (1) shall be guilty of an offence.

(3) In the case of proceedings for an offence in contravention of this section, it is a defence for the accused person to prove that he did not know and had no reason to suppose that the advice, assistance or training was being provided to a person in Taliban territory or that it related to the military activities of the armed personnel of the Taliban.

7. Carriage of prohibited goods destined for Taliban territory

(1) Except under the authority of a licence granted for the purpose of this section, and without prejudice to the generality of section 4, no ship or aircraft to which this section applies, and no vehicle within the HKSAR, shall be used for the carriage of prohibited goods if the carriage is, or forms part of, carriage--

- (a) from any place outside Taliban territory to any destination therein;
- (b) to, or to the order of, any person in Taliban territory; or
- (c) to any destination for the purpose of delivery, directly or indirectly, to Taliban territory or to, or to the order of, any person in Taliban territory.

(2) This section applies to ships registered in the HKSAR, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is---

- (a) within the HKSAR;
- (b) both a Hong Kong permanent resident and a Chinese national; or
- (c) a body incorporated or constituted under the law of the HKSAR.

(3) If any ship, aircraft or vehicle is used in contravention of subsection (1), then---

- (a) in the case of a ship registered in the HKSAR or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft

is for the time being chartered and, if he is such a person as is referred to in subsection (2)(a), (b) or (c), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,
shall be guilty of an offence.

(4) In the case of proceedings for an offence in contravention of this section, it is a defence for the accused person to prove that---

(a) he did not know and had no reason to suppose that the goods in question were prohibited goods; or

(b) he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage---

(i) from any place outside Taliban territory to any destination therein;

(ii) to, or to the order of, any person in Taliban territory; or

(iii) to any destination for the purpose of delivery, directly or indirectly, to Taliban territory or to, or to the order of, any person in Taliban territory.

(5) Nothing in subsection (1) shall apply where the supply or delivery or exportation from the HKSAR of the goods concerned to Taliban territory was authorized by a licence granted for the purpose of section 4 or 5.

(6) Nothing in this section shall be construed so as to prejudice any other law prohibiting or restricting the use of ships, aircraft or vehicles.

8. Freezing of funds of and making funds available to Usama bin Laden

(1) Except under the authority of a licence granted for the purpose of this section, no person shall---

(a) make any payment or dispose of any gold, securities or investments; or

(b) make any change in the persons to whose credit any sum is to stand or to whose order any gold, securities or investments are to be held,

where any such action is an action to which this section applies.

(2) This section applies to any action which is likely to make available directly or indirectly, or otherwise to result in the remittance or transfer of, to or for the benefit of Usama bin Laden or any person connected with Usama bin Laden, any funds or other financial resources, whether by their removal from the HKSAR or otherwise.

(3) The provisions of this section shall apply to---

(a) any funds or other financial resources that are derived or generated from property owned or controlled directly or indirectly by Usama bin Laden or any person connected with Usama bin Laden; and

(b) any funds or other financial resources which are otherwise made available to Usama bin Laden or any person connected with Usama bin Laden.

(4) Any person to whom this section applies and contravenes subsection (1) shall

be guilty of an offence.

9. Prohibition of flights

(1) Notwithstanding any licence, operating permit or permit granted under regulation 5, 20A or 23 of the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg.), no aircraft, wherever registered, shall take off from, land in or fly over the HKSAR if its destination is, or if it has taken off from, Taliban territory except under the authority of a licence granted for the purpose of this section.

(2) Where an aircraft is used in contravention of subsection (1), the operator and the commander of the aircraft shall be guilty of an offence.

10. Closure of offices

(1) No person shall establish or maintain any office or other premises under the name of---

(a) "Taliban", "塔利班", "Islamic Emirate of Afghanistan" or "阿富汗伊斯蘭酋長國"; or

(b) "Ariana Afghan Airlines" or "阿里亞納阿富汗航空公司".

(2) In determining whether an office or other premises is established or maintained as a Taliban or Islamic Emirate of Afghanistan or Ariana Afghan Airlines office, a magistrate shall have regard to---

(a) any connection any person in control of the office or premises may have with the Taliban or Ariana Afghan Airlines;

(b) activities undertaken at the office or premises;

(c) any other circumstances which are relevant having regard to the objectives of Resolution 1333 and any other resolution of the Security Council of the United Nations imposing a sanction on a Taliban or Ariana Afghan Airlines office.

(3) Where a magistrate is satisfied by information on oath given by any police officer or authorized officer that any office or premises is used as a Taliban or Islamic Emirate of Afghanistan or Ariana Afghan Airlines office and whether or not any person has been charged with or convicted of an offence in respect of the office or premises under this section, the magistrate may make a closure order directing---

(a) that the office or premises shall close under the direction and supervision of a police officer or an authorized officer; and

(b) that no person other than a police officer or an authorized officer in the course of his duty shall enter or remain in the office or premises during the continuance in force of the order.

(4) A closure order under subsection (3) shall continue in force in so far as the sanction requiring closure of Taliban or Ariana Afghan Airlines offices imposed by the Security Council of the United Nations is in force unless declared revoked

under subsection (6).

(5) A copy of an order under subsection (3) shall be---

(a) served on the owner of the office or premises and any person who appears to have an interest in the office or premises; and

(b) posted in a conspicuous place upon the office or premises.

(6) A magistrate, if satisfied that any office or premises in respect of which a closure order is in force will not be used in contravention of subsection (1), may declare that he is so satisfied and revoke the closure order.

(7) Any person who contravenes subsection (1) or fails to comply with an order under subsection (3) commits an offence.

11. Powers to demand evidence of destination which goods reach

(1) Any exporter or any shipper of prohibited goods which have been exported from the HKSAR shall, if so required by the Chief Executive, furnish within such time as he may allow proof to his satisfaction that the goods have reached either---

(a) a destination to which they were authorized to be exported by a licence granted under this Regulation; or

(b) a destination to which their exportation was not prohibited by this Regulation, and, if he fails to do so, he shall be guilty of an offence.

(2) In the case of proceedings for an offence in contravention of this section, it is a defence for the accused person to prove that he did not consent to or connive at the goods reaching any destination other than such a destination as mentioned in subsection (1)(a) or (b).

12. Offences in connection with application for licences, conditions attaching to licences, etc.

(1) If for the purposes of obtaining any licence under this Regulation, any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence.

(2) Any person who has done any act under the authority of a licence granted under this Regulation and who fails to comply with any conditions attaching to that licence shall be guilty of an offence.

(3) In the case of proceedings for an offence in contravention of this section, it is a defence for the accused person to prove that the condition with which he failed to comply was modified, otherwise than with his consent, by the Chief Executive after the doing of the act authorized by the licence.

13. Declaration as to goods: powers of search

(1) Any person who is about to leave the HKSAR shall, if he is required to do

so by an authorized officer---

(a) declare whether or not he has with him any prohibited goods which are destined for Taliban territory or for delivery, directly or indirectly, to or to the order of, any person in Taliban territory;

(b) produce any such goods which he has with him, and such authorized officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods:

Provided that no person shall be searched in pursuance of this subsection except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods or refuses to allow himself to be searched in accordance with subsection (1) shall be guilty of an offence.

(3) Any person who under this section makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence.

14. Investigations, etc. of suspected ships, aircraft and vehicles

(1) Where any authorized officer has reason to suspect that any ship to which section 7 applies has been or is being or is about to be used in contravention of subsection (1) of that section---

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search it and, for that purpose, may use or authorize the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of section 7(1), any authorized officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under paragraph (b)), with a view to preventing the commission (or the continued commission) of such contravention, or in order that enquiries into the matter may be pursued, may take the following further action--

(i) to direct the master 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; or

(ii) to request the master to take any one or more of the following steps---
(A) to cause the ship not to proceed with the voyage on which it is then engaged or about to engage until the master is notified by an authorized officer that the ship

may so proceed;

(B) if the ship is then in the HKSAR, to cause it to remain there until the master is notified by an authorized officer that the ship may depart;

(C) if the ship is then in any other place, to take it to any such port specified by the authorized officer and to cause it to remain there until the master is notified as mentioned in sub-subparagraph (B); and

(D) to take it to any other destination that may be specified by the authorized officer in agreement with the master.

(2) Without prejudice to subsection (10), where---

(a) a master refuses or fails to comply with a request made under subsection (1)(c)(ii); or

(b) an authorized officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such authorized officer 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 enter upon, or authorize entry upon, that ship and use, or authorize the use of, reasonable force.

(3) Where any authorized officer has reason to suspect that any aircraft to which section 7 applies has been or is being or is about to be used in contravention of subsection (1) of that section---

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

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the HKSAR, any authorized officer may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under paragraph (b)) further request the charterer, the operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the HKSAR until notified that the aircraft and its cargo may depart.

(4) Without prejudice to subsection (10), where any authorized officer has reason to suspect that any request that has been made under subsection (3)(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 entry, upon any land and upon that aircraft;
- (b) detain, or authorize the detention of, that aircraft and any of its cargo; and
- (c) use, or authorize the use of, reasonable force.

(5) Where any authorized officer has reason to suspect that any vehicle in the HKSAR has been or is being or is about to be used in contravention of section 7(1)---

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use, or authorize the use of, reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and

(c) any authorized officer may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the HKSAR until notified that the vehicle and the goods may depart.

(6) Without prejudice to subsection (10), where any authorized officer has reason to suspect that any request that has been made under subsection (5)(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 entry, upon any land and enter, or authorize entry of, that vehicle;

(b) detain, or authorize the detention of, that vehicle and any goods contained in it; and

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

(7) Before or on exercising any power conferred by this section, an authorized officer shall, if requested so to do, produce evidence of his identity and authority.

(8) No information furnished or document produced by any person in pursuance of a request made under this section shall be disclosed except---

(a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or the possession of that document in his own right;

(b) to any person who would have been empowered under this section to request that it be furnished or produced;

(c) 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 Taliban decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.

(9) Any power conferred by this section to request the furnishing of information or the production of a document or of cargo or of goods for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo or goods produced for inspection.

(10) Each of the following persons shall be guilty of an offence, that is to say---

(a) a master of a ship who disobeys any direction given under subsection (1)(c)(i);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who---

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this section by any authorized officer; or

(ii) intentionally or recklessly furnishes any information, explanation or document which is false in a material particular to that authorized officer in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who intentionally obstructs any authorized officer (or any person acting under the authority of any authorized officer) in the exercise of his powers under this section.

(11) Nothing in this section shall be construed so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

15. Obtaining of evidence and information

Schedule 2 shall have effect in order to---

(a) facilitate the obtaining, by or on behalf of the Chief Executive, of evidence and information for the purpose of securing compliance with or detecting evasion of this Regulation;

(b) facilitate the obtaining, by or on behalf of the Chief Executive, of evidence in relation to the commission of an offence under this Regulation.

16. Penalties and proceedings

(1) Any person guilty of an offence under section 4(2), 5(2), 6(2), 7(3) or 8(4) shall be liable---

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

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

(2) Any person guilty of an offence under section 9(2) or 14(10)(b)(ii), or section 3(b) or (d) of Schedule 2, shall be liable---

(a) on conviction on indictment to a fine and to imprisonment for 2 years;

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

(3) Any person guilty of an offence under section 10(7) shall be liable on summary conviction to a fine at level 5.

(4) Any person guilty of an offence under section 11(1) or 13(2) shall be liable on conviction to a fine at level 6.

(5) Any person guilty of an offence under section 12(1) or (2) or 13(3) shall be liable---

(a) on conviction on indictment to a fine and to imprisonment for 2 years;

(b) on summary conviction to a fine at level 6.

(6) Any person guilty of an offence under section 14(10)(a), (b)(i) or (c), or section 3(a) or (c) of Schedule 2, shall be liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(7) Where any body corporate is guilty of an offence under this Regulation, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(8) 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 committing the offence.

(9) No proceedings for an offence under this Regulation shall be instituted in the HKSAR except by or with the consent of the Secretary for Justice.

17. Exceptions

(1) Nothing in section 4 shall apply to the supply, delivery or any act likely to promote the supply or delivery of---

(a) non-lethal military equipment intended solely for humanitarian or protective use

that has been approved in advance under Resolution 1333 by the Committee; and
(b) protective clothing intended to be worn only by a member of the personnel of the United Nations, a representative of the media or a humanitarian worker.

(2) Nothing in section 5 shall apply to the exportation of---

(a) non-lethal military equipment intended solely for humanitarian or protective use that has been approved in advance under Resolution 1333 by the Committee; and

(b) protective clothing intended to be worn only by a member of the personnel of the United Nations, a representative of the media or a humanitarian worker.

(3) Nothing in section 6 shall apply to the provision of technical advice, assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use that has been approved in advance under Resolution 1333 by the Committee.

(4) Nothing in section 7 shall apply to the carriage of---

(a) non-lethal military equipment intended solely for humanitarian or protective use that has been approved in advance under Resolution 1333 by the Committee; and

(b) protective clothing intended to be worn only by a member of the personnel of the United Nations, a representative of the media or a humanitarian worker.

(5) Nothing in section 9 shall apply to---

(a) any flight that has been approved in advance under Resolution 1333 by the Committee on the grounds of humanitarian need, including religious obligations such as the performance of the Hajj, or on the grounds that the flight promotes discussion of a peaceful resolution of the conflict in Afghanistan, or is likely to promote Taliban compliance with Resolution 1267 and Resolution 1333; and

(b) any humanitarian flights operated by, or on behalf of, organizations and governmental relief agencies as approved under Resolution 1333 by the Committee.

(6) A person who claims that subsection (1), (2), (3), (4) or (5) applies shall produce evidence in advance to prove that fact to the satisfaction of the Chief Executive.

18. Powers of Chief Executive

(1) The Chief Executive may---

(a) with the approval of the instructing authority given generally or in a particular case, grant the licences mentioned in this Regulation;

(b) authorize in writing any person to be an authorized officer for the purposes of this Regulation.

(2) Any licence granted under this section shall be in writing and may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Chief Executive.

(3) 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 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.

19. Publication of matters designated by the Committee

The particulars of any designation by the Committee referred to in this Regulation shall be published in the Gazette by the authority of the Chief Executive.

SCHEDULE 1 [s. 2]

Prohibited Goods

(1) Any arms and related material (including weapons, ammunition, military vehicles, military equipment and paramilitary equipment).

(2) Any component for any goods specified in subsection (1).

(3) Acetic anhydride.

SCHEDULE 2 [ss. 15 & 16]

Evidence and Information

1. (1) Without prejudice to any other provision of this Regulation or any other law, an authorized officer may request any person in or resident in the HKSAR to furnish to him any information, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Regulation, and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in subsection (1) shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this section, the magistrate or court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this section to request any person to produce documents shall include the power to take copies of or extracts from any document so produced and to request that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of such document.

2. (1) If any magistrate or judge is satisfied by information on oath given by any police officer, customs officer or authorized officer that---

(a) there is reasonable ground for suspecting that an offence under this Regulation has been or is being committed and that evidence in relation to the commission of

the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) any document that ought to have been produced under section 1 and has not been so produced is to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorizing any police officer, customs officer or authorized officer, together with any other persons named in the warrant and any other police or customs officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises or, as the case may be, the vehicle, ship or aircraft.

(2) Before or on exercising any power conferred by subsection (1), a person authorized by any such warrant shall, if requested so to do, produce evidence of his identity and authority.

(3) A person authorized by any such warrant to search any premises or any vehicle, ship or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, ship or aircraft and may seize any document or article found on the premises or in the vehicle, ship or aircraft or on such person that he has reasonable ground to believe to be evidence in relation to the commission of an offence referred to in subsection (1) or any other document that he has reasonable ground to believe ought to have been produced under section 1 and may take in relation to any such document or article any other steps that may appear necessary for preserving it and preventing interference with it:

Provided that no person shall in pursuance of any warrant issued under subsection (1) be searched except by a person of the same sex.

(4) Where, by virtue of this section, a person is empowered to enter any premises, vehicle, ship or aircraft, he may use such force as is reasonably necessary for that purpose.

(5) Any document or article of which possession is taken under this section may be retained for a period of 3 months or, if within that period there are commenced any proceedings for an offence referred to in subsection (1)(a) to which it is relevant, until the conclusion of those proceedings.

(6) No information furnished or document produced (including any copy of or extract made from any document produced) by any person in pursuance of a request made under this Schedule, and no document seized under subsection (3) shall be disclosed except---

(a) with the consent of the person by whom the information was furnished or the

document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or the possession of that document in his own right;

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced;

(c) 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 Taliban decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.

3. Any person who---

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it;

(b) intentionally or recklessly furnishes any information, explanation or document which is false in a material particular to any person exercising his powers under this Schedule;

(c) intentionally obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade this Schedule, destroys, mutilates, defaces, secretes or removes any document or article,

shall be guilty of an offence.

TUNG Chee-hwa

Chief Executive

11 October 2001

Explanatory Note

This Regulation, made under the United Nations Sanctions Ordinance (Cap. 537), implements a decision of the Security Council of the United Nations in its Resolution 1333 of 19 December 2000. Its objects are---

(a) to impose restrictions on the supply or delivery of arms and related material, the provision of related technical advice, assistance and training, and the supply

of acetic anhydride to the territory of Afghanistan under Taliban control;

(b) to impose restrictions on flights taking off from, landing in or flying over the HKSAR if they are destined for or have taken off from the territory of Afghanistan under Taliban control;

(c) to freeze assets of Usama bin Laden and any person connected with him;

(d) to prohibit the making of funds available to Usama bin Laden and any person connected with him; and

(e) to prohibit the establishment and maintenance of Taliban or Islamic Emirate of Afghanistan or Ariana Afghan Airlines offices.