

**Legislative Council**  
**Subcommittee to Examine the Implementation**  
**in Hong Kong of Resolutions of the United Nations**  
**Security Council in relation to Sanctions**

**UNITED NATIONS SANCTIONS**  
**(SUDAN) (AMENDMENT) REGULATION 2005**

**INTRODUCTION**

A At the meeting of the Executive Council on 28 June 2005, the Council advised and the Chief Executive (“CE”) ordered that the United Nations Sanctions (Sudan) (Amendment) Regulation 2005 (“the Amendment Regulation”) (at Annex A) should be made under section 3 of the United Nations Sanctions Ordinance (“the Ordinance”) (Cap. 537). The Amendment Regulation was gazetted on 8 July 2005 and came into effect on the same day.

**BACKGROUND**

**Obligation and Authority**

B 2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In May 2005, the CE received specific instruction from MFA which requested the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement United Nations Security Council Resolution (“UNSCR”) 1591. The Amendment Regulation was made in pursuance of that instruction. A copy of the document issued by the Acting Chief Secretary for Administration confirming MFA’s instruction is at Annex B.

## **UNSCR 1591**

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3. In May 2005, we received an instruction from the MFA to implement UNSCR 1591 in the HKSAR. A copy of the Resolution is at Annex C. UNSCR 1591 was adopted on 29 March 2005 by the UNSC which decided, inter alia -

- (a) that those individuals, as designated by the Committee established under paragraph 3(a) of UNSCR 1591 (“the Committee”), who -
  - (i) impede the peace process;
  - (ii) constitute a threat to stability in Darfur and the region;
  - (iii) commit violations of international humanitarian or human rights law or other atrocities;
  - (iv) violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of UNSCR 1556 and paragraph 7 of UNSCR 1591 as implemented by a state; or
  - (v) are responsible for offensive military overflights described in paragraph 6 of UNSCR 1591,shall be subject to the measures identified in paragraphs 3(d) and 3(e) of UNSCR 1591 (paragraph 3(c) of UNSCR 1591);
  
- (b) that all States shall, subject to certain exceptions, take the necessary measures to prevent entry into or transit through their territories of all persons as designated by the Committee pursuant to paragraph 3(c) of UNSCR 1591, provided that these measures shall not oblige a State to refuse entry into its territory to its own nationals (paragraphs 3(d) and 3(f) of UNSCR 1591);
  
- (c) that all States shall, subject to certain exceptions, freeze all funds, financial assets and economic resources that are on their territories on the date of adoption of UNSCR 1591 or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons designated by the Committee pursuant to paragraph 3(c) of UNSCR 1591, or that are held

by entities owned or controlled, directly or indirectly, by such persons or by persons acting on their behalf or at their direction, and decides further that all States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any persons within their territories to or for the benefit of such persons or entities (paragraphs 3(e) and 3(g) of UNSCR 1591); and

- (d) that the measures imposed by paragraphs 7<sup>1</sup> and 8<sup>2</sup> of UNSCR 1556 shall immediately upon adoption of UNSCR 1591 and subject to certain exceptions, also apply to all the parties to the N'djamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur and West Darfur (paragraph 7 of UNSCR 1591).

## **THE AMENDMENT REGULATION**

D 4. The Amendment Regulation, at Annex A, amends the United Nations Sanctions (Sudan) Regulation (L.N. 45 of 2005) at Annex D to implement sanctions decided under UNSCR 1591. The main amendments are -

- (a) to expand the scope of the sanctions in respect of arms and related material (“prohibited goods”) and certain technical assistance or training by replacing the definition of “person connected with Darfur” with the new definition of “person connected with Sudan” which includes all the parties to the N'djamena Ceasefire Agreement and other belligerents in the states of North Darfur, South Darfur and West Darfur;
- (b) to add a new section 6A to provide for prohibition against

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<sup>1</sup> Paragraph 7 of UNSCR 1556 provides that all Member States shall take the necessary measures to prevent the sale or supply of arms and related materials by their nationals or from their territories or using their flag vessels or aircraft to all non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur.

<sup>2</sup> Paragraph 8 of UNSCR 1556 provides that all Member States shall take the necessary measures to prevent any provision by their nationals or from their territories of technical training or assistance related to the provision, manufacture, maintenance or use of arms and related materials to all non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur.

making available funds, other financial assets or economic resources to or for the benefit of a person specified by the CE in accordance with the new section 23A (“relevant person”), or to or for the benefit of an entity specified by the CE in accordance with the new section 23A (“relevant entity”);

- (c) to add new sections 6B and 6C to provide for prohibition against entry into or transit through the HKSAR by certain persons specified by the Committee and exceptions to such prohibition;
- (d) to amend the requirements (in sections 7 and 8 of the Regulation) to be met for granting of licences for supply, delivery or carriage of prohibited goods and provision of certain technical assistance;
- (e) to add a new section 8A to provide for the granting of a licence for making available funds, other financial assets or economic resources to or for the benefit of a relevant person or a relevant entity; and
- (f) to add a new section 23A to provide that the CE may by notice published in the Gazette specify a person or an entity designated by the Committee with respect to the measures set out in paragraph 3(e) of UNSCR 1591 as a relevant person or a relevant entity.

## **IMPLICATIONS OF THE AMENDMENT REGULATION**

5. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, civil service, productivity, environmental or sustainability implications.

## **PUBLICITY**

6. A press release was issued on 8 July 2005 when the Amendment Regulation was published in the Gazette.

### **RELATED MATTER**

7. Between receipt of MFA's instruction and gazettal of the Amendment Regulation, the sanctions in respect of arms and related material (paragraph 3(d) above), were implemented through Regulation 2 of the Import and Export (Strategic Commodities) Regulations (Cap. 60G) which provides that no one shall import or export an article specified in Schedule 1 to the Regulations except under and in accordance with an import or export licence issued by the Director-General of Trade and Industry. The Trade and Industry Department maintains import and export control on strategic commodities, including munition items, chemical and biological weapons and their precursors, nuclear materials and equipment, and dual-use goods that are capable to be developed into weapons of mass destruction.

8. In respect of paragraph 3(b) and 3(c) above, we are not aware of the Committee having yet designated any individuals or entities who would be subject to the relevant measures.

### **ADVICE SOUGHT**

9. Members are invited to note the implementation of UNSCR 1591 by the Amendment Regulation.

**Commerce, Industry and Technology Bureau**  
**July 2005**

**L.N. 124 of 2005****UNITED NATIONS SANCTIONS (SUDAN) (AMENDMENT)  
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**UNITED NATIONS SANCTIONS (SUDAN) (AMENDMENT)  
REGULATION 2005**

(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. Interpretation**

Section 1 of the United Nations Sanctions (Sudan) Regulation (L.N. 45 of 2005) is amended—

(a) in the definition of “licence”, by repealing “or 8(1)” and substituting “, 8(1) or 8A(1)”;

(b) by repealing the definition of “person connected with Darfur”;

(c) by adding—

““Committee” (委員會) means the Committee of the Security Council of the United Nations established pursuant to paragraph 3(a) of Resolution 1591;

“Comprehensive Peace Agreement” (《全面和平協定》) means the agreement known as the Comprehensive Peace Agreement, signed in Nairobi, Kenya on 9 January 2005 by the Government of Sudan and the Sudan People's Liberation Movement/Army;

“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;
- “N’djamena Ceasefire Agreement” (《恩賈梅納停火協定》) means the agreement known as the N’djamena Ceasefire Agreement, signed in N’djamena on 8 April 2004 by the Government of Sudan, the Sudan Liberation Movement/Army and the Justice and Equality Movement;
- “person connected with Sudan” (有關連人士) means—
- (a) any non-governmental entity or individual, including the Janjaweed, operating in Darfur;
  - (b) all the parties to the N’djamena Ceasefire Agreement; or
  - (c) any other belligerents in Darfur;
- “relevant entity” (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section 23A;
- “relevant person” (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 23A;
- “Resolution 1556” (《第 1556 號決議》) means Resolution 1556 (2004) adopted by the Security Council of the United Nations on 30 July 2004;
- “Resolution 1591” (《第 1591 號決議》) means Resolution 1591 (2005) adopted by the Security Council of the United Nations on 29 March 2005;”.

## **2. Prohibition against supply and delivery of certain goods to persons connected with Sudan**

Section 2(1) and (3) is amended, by repealing “Darfur” wherever it appears and substituting “Sudan”.

## **3. Prohibition against carriage of certain goods to persons connected with Sudan**

Section 4(1) is amended, by repealing “Darfur” where it twice appears and substituting “Sudan”.

**4. Offences in respect of carriage of certain goods to persons connected with Sudan**

Section 5(3)(b) is amended, by repealing “Darfur” where it twice appears and substituting “Sudan”.

**5. Prohibition against provision of certain technical assistance or training to persons connected with Sudan**

Section 6(1) and (3)(a) is amended, by repealing “Darfur” and substituting “Sudan”.

**6. Sections added**

The following are added immediately after section 6—

**“Making available funds, etc. to certain persons or entities**

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

(1) Except under the authority of a licence granted under section 8A(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) 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 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.

(4) This section applies to—

(a) a person within 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**

#### **6B. Prohibition against entry or transit by certain persons**

(1) Subject to the exception in section 6C, 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, “specified person” (指明人士) means a person designated by the Committee, for the purposes of paragraph 3(d) of Resolution 1591, as—

- (a) a person who impedes the peace process;
- (b) a person who constitutes a threat to stability in Darfur and the region;
- (c) a person who commits violations of international humanitarian or human rights law or other atrocities;
- (d) a person who violates the measures implemented in accordance with paragraphs 7 and 8 of Resolution 1556 and paragraph 7 of Resolution 1591; or
- (e) a person who is responsible for offensive military flights in or over the Darfur region.

#### **6C. Exception to prohibition against entry or transit by certain persons**

Section 6B shall not apply if—

- (a) the Committee determines 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; or
- (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 of the United Nations for the creation of peace and stability in Sudan and the region.”.

**7. Licence for supply, delivery or carriage of certain goods**

Section 7 is amended—

- (a) in subsection (1), by repealing “Darfur” wherever it appears and substituting “Sudan”;
- (b) in subsection (2)—
  - (i) in paragraph (c), by repealing the full stop and substituting a semicolon;
  - (ii) by adding—
    - “(d) the prohibited goods are supplied in support of implementation of the Comprehensive Peace Agreement;
    - (e) the prohibited goods are military equipment and supplies into the Darfur region that are approved in advance by the Committee upon a request by the Government of Sudan.”.

**8. Licence for provision of certain technical assistance or training**

Section 8 is amended—

- (a) in subsection (1), by repealing “Darfur” and substituting “Sudan”;
- (b) in subsection (2)—
  - (i) in paragraph (b), by repealing the full stop and substituting a semicolon;
  - (ii) by adding—
    - “(c) the technical assistance is provided in support of implementation of the Comprehensive Peace Agreement.”.

**9. Section added**

The following is added after section 8—

**“8A. 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) necessary for payment of reasonable professional fees and 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 2 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 arbitral lien or judgment, and the lien or judgment—
    - (i) was entered prior to 29 March 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.”.

## 10. Section added

The following is added immediately before section 23—

**“23A. Specification of relevant person or relevant entity by Chief Executive**

The Chief Executive may by notice published in the Gazette specify a person or an entity designated by the Committee with respect to the measures set out in paragraph 3(e) of Resolution 1591 as a relevant person or a relevant entity.”.

Donald TSANG  
Chief Executive

2 July 2005

**Explanatory Note**

This Regulation amends the United Nations Sanctions (Sudan) Regulation (L.N. 45 of 2005) to give effect to a decision of the Security Council of the United Nations (“the Security Council”) in Resolution 1591 of 29 March 2005 by—

- (a) replacing the definition of “person connected with Darfur” by “person connected with Sudan” to include all the parties to the N’djamena Ceasefire Agreement and other belligerents in Darfur;
- (b) amending the requirements to be met for granting of licences for supply, delivery or carriage of prohibited goods and provision of certain assistance; and
- (c) providing for the implementation of the following new sanctions imposed by the Security Council—
  - (i) prohibition against making available to or for the benefit of certain persons or entities any funds or other financial assets or economic resources; and
  - (ii) prohibition against entry into or transit through the HKSAR of certain persons.

**United Nations Sanctions Ordinance (Cap. 537)**

**United Nations Sanctions (Sudan) (Amendment) Regulation 2005**

This is to confirm that the Acting Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in May 2005 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1591 of the Security Council of the United Nations, and that the United Nations Sanctions (Sudan) (Amendment) Regulation 2005 was made in pursuance of that instruction.

Dated this 29<sup>th</sup> day of June 2005



(Michael M Y SUEN)

Acting Chief Secretary for Administration

United Nations

S/RES/1591 (2005)



## Security Council

Distr.: General  
29 March 2005

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### Resolution 1591 (2005)

Adopted by the Security Council at its 5153rd meeting, on  
29 March 2005

*The Security Council,*

*Recalling* its resolutions 1547 (2004) of 11 June 2004, 1556 (2004) of 30 July 2004, 1564 (2004) of 18 September 2004, 1574 (2004) of 19 November 2004, 1585 (2005) of 10 March 2005, 1588 (2005) of 17 March 2005, and 1590 of 24 March 2005, and statements of its President concerning Sudan,

*Reaffirming* its commitment to the sovereignty, unity, independence and territorial integrity of Sudan, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation,

*Recalling* the commitments made by the parties in the 8 April N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Humanitarian and Security Protocols between the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), and recalling the commitments made in the Joint Communiqué of 3 July 2004 between the Government of Sudan and the Secretary-General,

*Welcoming* the signing of the Comprehensive Peace Agreement between the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya on 9 January 2005,

*Recognizing* that the parties to the Comprehensive Peace Agreement must build on the Agreement to bring peace and stability to the entire country, and calling on all Sudanese parties, in particular those party to the Comprehensive Peace Agreement, to take immediate steps to achieve a peaceful settlement to the conflict in Darfur and to take all necessary action to prevent further violations of human rights and international humanitarian law and to put an end to impunity, including in the Darfur region,

*Expressing* its utmost concern over the dire consequences of the prolonged conflict for the civilian population in the Darfur region as well as throughout Sudan, in particular the increase in the number of refugees and internally displaced persons,

*Considering* that the voluntary and sustainable return of refugees and internally displaced persons will be a critical factor for the consolidation of the peace process,



*Expressing* also its deep concern for the security of humanitarian workers and their access to populations in need, including refugees, internally displaced persons and other war-affected populations,

*Condemning* the continued violations of the N'djamena Ceasefire Agreement of 8 April 2004 and the Abuja Protocols of 9 November 2004 by all sides in Darfur and the deterioration of the security situation and negative impact this has had on humanitarian assistance efforts,

*Strongly condemning* all violations of human rights and international humanitarian law in the Darfur region, in particular the continuation of violence against civilians and sexual violence against women and girls since the adoption of resolution 1574 (2004), urging all parties to take necessary steps to prevent further violations, and expressing its determination to ensure that those responsible for all such violations are identified and brought to justice without delay,

*Recognizing* that international support for implementation of the Comprehensive Peace Agreement is critically important to its success, emphasizing that progress towards resolution of the conflict in Darfur would create conditions conducive for delivery of such assistance, and alarmed that the violence in Darfur nonetheless continues,

*Recalling* the demands, in resolutions 1556 (2004), 1564 (2004), and 1574 (2004), that all parties to the conflict in Darfur refrain from any violence against civilians and cooperate fully with the African Union Mission in Darfur,

*Welcoming* the 16 February 2005 N'djamena Summit on Darfur and the continued commitment of the African Union to play a key role in facilitating a resolution to the conflict in Darfur in all respects, and the announcement by the Government of Sudan on 16 February 2005 that it would take immediate steps, including withdrawal of its forces from Labado, Qarifa, and Marla in Darfur, and the withdrawal of its Antonov aircraft from Darfur,

*Commending* the efforts of the African Union, in particular its Chairman, acknowledging the progress made by the African Union in the deployment of an international protection force, police, and military observers, and calling on all member states to contribute generously and urgently to the African Union Mission in Darfur,

*Reaffirming* its resolutions 1325 (2000) on women, peace, and security, 1379 (2001) and 1460 (2003) on children in armed conflicts, as well as resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflicts and resolution 1502 (2003) on the protection of humanitarian and UN personnel,

*Taking note* of the Secretary-General's reports of 31 January 2005 (S/2005/57 and Add.1), 3 December 2004 (S/2004/947), 4 February 2005 (S/2005/68), and 4 March 2005 (S/2005/140), as well as the report of 25 January 2005 of the International Commission of Inquiry (S/2005/60),

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

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

1. *Deplores strongly* that the Government of Sudan and rebel forces and all other armed groups in Darfur have failed to comply fully with their commitments

and the demands of the Council referred to in resolutions 1556 (2004), 1564 (2004), and 1574 (2004), condemns the continued violations of the 8 April 2004 N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Protocols, including air strikes by the Government of Sudan in December 2004 and January 2005 and rebel attacks on Darfur villages in January 2005, and the failure of the Government of Sudan to disarm Janjaweed militiamen and apprehend and bring to justice Janjaweed leaders and their associates who have carried out human rights and international humanitarian law violations and other atrocities, and demands that all parties take immediate steps to fulfil all their commitments to respect the N'djamena Ceasefire Agreement and the Abuja Protocols, including notification of force positions, to facilitate humanitarian assistance, and to cooperate fully with the African Union Mission;

2. *Emphasizes* that there can be no military solution to the conflict in Darfur, and calls upon the Government of Sudan and the rebel groups, particularly the Justice and Equality Movement and the Sudanese Liberation Movement/Army to resume the Abuja talks rapidly without preconditions and negotiate in good faith to speedily reach agreement, and urges the parties to the Comprehensive Peace Agreement to play an active and constructive role in support of the Abuja talks and take immediate steps to support a peaceful settlement to the conflict in Darfur;

3. *Decides*, in light of the failure of all parties to the conflict in Darfur to fulfil their commitments,

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

- i. to monitor implementation of the measures referred to in subparagraphs (d) and (e) of this paragraph and paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 below;
- ii. to designate those individuals subject to the measures imposed by subparagraphs (d) and (e) of this paragraph and to consider requests for exemptions in accordance with subparagraphs (f) and (g);
- iii. to establish such guidelines as may be necessary to facilitate the implementation of the measures imposed by subparagraphs (d) and (e);
- iv. to report at least every 90 days to the Security Council on its work;
- v. to consider requests from and, as appropriate, provide prior approval to the Government of Sudan for the movement of military equipment and supplies into the Darfur region in accordance with paragraph 7 below;
- vi. to assess reports from the Panel of Experts established under subparagraph (b) of this paragraph, and Member States, in particular those in the region, on specific steps they are taking to implement the measures imposed by subparagraphs (d) and (e) and paragraph 7 below;
- vii. to encourage a dialogue between the Committee and interested Member States, in particular those in the region, including by inviting representatives of such States to meet with the Committee to discuss implementation of the measures;

(b) to request the Secretary-General, in consultation with the Committee, to appoint for a period of six months, within 30 days of adoption of this resolution, a Panel of Experts comprised of four members and based in Addis Ababa, Ethiopia, to travel regularly to El-Fasher, Sudan and other locations in Sudan, and to operate under the direction of the Committee to undertake the following tasks:

- i. to assist the Committee in monitoring implementation of the measures in subparagraphs (d) and (e), paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 of this resolution, and to make recommendations to the Committee on actions the Council may want to consider;
- ii. to provide a mid-term briefing on its work to the Committee, and an interim report no later than 90 days after adoption of this resolution, and a final report no later than 30 days prior to termination of its mandate to the Council through the Committee with its findings and recommendations; and
- iii. to coordinate its activities as appropriate with ongoing operations of the African Union Mission in Sudan (AMIS);

(c) that those individuals, as designated by the Committee established by subparagraph (a) above, based on the information provided by Member States, the Secretary-General, the High Commissioner for Human Rights or the Panel of Experts established under subparagraph (b) of this paragraph above, and other relevant sources, who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of this resolution as implemented by a state, or are responsible for offensive military overflights described in paragraph 6 of this resolution, shall be subject to the measures identified in subparagraphs (d) and (e) below;

(d) that all States shall take the necessary measures to prevent entry into or transit through their territories of all persons as designated by the Committee pursuant to subparagraph (c) above, provided that nothing in this paragraph shall obligate a State to refuse entry into its territory to its own nationals;

(e) that all States shall freeze all funds, financial assets and economic resources that are on their territories on the date of adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons designated by the Committee pursuant to subparagraph (c) above, or that are held by entities owned or controlled, directly or indirectly, by such persons or by persons acting on their behalf or at their direction, and decides further that all States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any persons within their territories to or for the benefit of such persons or entities;

(f) that the measures imposed by subparagraph (d) above shall not apply where the Committee established by subparagraph (a) above determines on a case by case basis that such travel is justified on the ground of humanitarian need, including religious obligation, or where the Committee concludes that an exemption would otherwise further the objectives of the Council's resolutions for the creation of peace and stability in Sudan and the region;

(g) that the measures imposed by subparagraph (e) of this resolution do not apply to funds, other financial assets and economic resources that:

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

ii. have been determined by relevant States to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee, or

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

4. *Decides* that the measures referred to in subparagraphs 3 (d) and (e) shall enter into force 30 days from the date of adoption of this resolution, unless the Security Council determines before then that the parties to the conflict in Darfur have complied with all the commitments and demands referred to in paragraph 1 above and paragraph 6 below;

5. *Expresses* its readiness to consider the modification or termination of the measures under paragraph 3, on the recommendation of the Committee or at the end of a period of 12 months from the date of adoption of this resolution, or earlier if the Security Council determines before then that the parties to the conflict in Darfur have complied with all the commitments and demands referred to in paragraph 1 above and paragraph 6 below;

6. *Demands* that the Government of Sudan, in accordance with its commitments under the 8 April 2004 N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Security Protocol, immediately cease conducting offensive military flights in and over the Darfur region, and invites the African Union Ceasefire Commission to share pertinent information as appropriate in this regard with the Secretary-General, the Committee, or the Panel of Experts established under paragraph 3 (b);

7. *Reaffirms* the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004), and decides that these measures shall immediately upon adoption of this resolution, also apply to all the parties to the N'djamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur and West Darfur; decides that these measures shall not apply to the supplies and related technical training and assistance listed in paragraph 9 of resolution 1556 (2004);

decides that these measures shall not apply with respect to assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement; further decides that these measures shall not apply to movements of military equipment and supplies into the Darfur region that are approved in advance by the Committee established under paragraph 3 (a) upon a request by the Government of Sudan; and invites the African Union Ceasefire Commission to share pertinent information as appropriate in this regard with the Secretary-General, the Committee, or the Panel of Experts established under paragraph 3 (b);

8. *Reiterates* that, in the event the parties fail to fulfil their commitments and demands as outlined in paragraphs 1 and 6, and the situation in Darfur continues to deteriorate, the Council will consider further measures as provided for in Article 41 of the Charter of the United Nations;

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

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## UNITED NATIONS SANCTIONS (SUDAN) 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)

### PART 1

#### PRELIMINARY

#### 1. Interpretation

In this Regulation, unless the context otherwise requires—  
“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;

“Darfur” (達爾富爾) means the states of North Darfur, South Darfur and West Darfur of Sudan;

“licence” (特許) means a licence granted under section 7(1)(a) or (b) or 8(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 an aircraft or a vehicle, means the person for the time being having the management of the aircraft or the 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 Darfur” (有關連人士) means any non-governmental entity or individual, including the Janjaweed, operating in Darfur;

“prohibited goods” (禁制物品) means any goods specified in the Schedule;

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

## PART 2

## PROHIBITIONS

**Supply and delivery of goods****2. Prohibition against supply and delivery of certain goods to persons connected with Darfur**

(1) Except under the authority of a licence granted under section 7(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 connected with Darfur; or

(b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

(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 in relation to a contravention of subsection (1), 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 connected with Darfur; or

(ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

(4) This section applies to—

(a) a person within 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

### 3. Application of sections 4 and 5

Sections 4 and 5 apply 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) within 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 within the HKSAR.

### 4. Prohibition against carriage of certain goods to persons connected with Darfur

(1) Except under the authority of a licence granted under section 7(1)(b), and without prejudice to the generality of section 2, a ship, aircraft or vehicle to which this section and section 5 apply shall not 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 connected with Darfur; or
- (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

(2) Subsection (1) 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 7(1)(a).

(3) This section does not operate so as to prejudice any other law prohibiting or restricting the use of ships, aircraft or vehicles.

### 5. Offences in respect of carriage of certain goods to persons connected with Darfur

(1) For the purposes of subsection (2), “specified person” (指明人士), means—

- (a) in relation to a ship registered in the HKSAR, the owner or master of the ship;
- (b) in relation to any other ship—
  - (i) the person to whom the ship is for the time being chartered;
  - or

- (ii) the master of the ship, if the master is within 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 operator or commander of the aircraft;
  - (d) in relation to any other aircraft—
    - (i) the person to whom the aircraft is for the time being chartered;
    - (ii) the operator of the aircraft, if the operator is within the HKSAR, 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 within 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.
- (2) If a ship, aircraft or vehicle is used in contravention of section 4(1), 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.
- (3) In any proceedings for an offence in relation to a contravention of section 4(1), 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 connected with Darfur; or
    - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

### **Provision of technical assistance or training**

#### **6. Prohibition against provision of certain technical assistance or training to persons connected with Darfur**

(1) Except under the authority of a licence granted under section 8(1), a person shall not provide to a person connected with Darfur any technical assistance or training related to the supply, delivery, manufacture, maintenance or use of any prohibited goods.

- (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 in relation to a contravention of subsection (1), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the assistance or training concerned was being provided to a person connected with Darfur; or
  - (b) that the assistance or training concerned related to the supply, delivery, manufacture, maintenance or use of any prohibited goods.
- (4) This section applies to—
- (a) a person within 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.

### PART 3

#### LICENCE

#### **7. 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 prohibited goods, 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 connected with Darfur; or
    - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur; 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 connected with Darfur; or

- (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are for monitoring, verification or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;
  - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use;
  - (c) the prohibited goods are protective clothing including flak jackets and military helmets, for the personal use of the personnel of the United Nations, human rights monitors, representatives of the media, humanitarian and development workers and associated personnel.

#### **8. Licence for provision of certain technical 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 connected with Darfur of technical assistance or training related to the supply, delivery, manufacture, maintenance or use of prohibited goods.

- (2) The requirements referred to in subsection (1) are as follows—
- (a) the technical assistance or training is related to the supply, delivery, manufacture, maintenance or use of prohibited goods which are for monitoring, verification or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;
  - (b) the technical assistance or training is related to the supply, delivery, manufacture, maintenance or use of non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use.

#### **9. 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, that 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, that 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

#### **10. 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**

#### **11. Investigation of suspected ships**

(1) If an authorized officer has reason to suspect that a ship to which sections 4 and 5 apply has been, is being or is about to be used in contravention of section 4(1), 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 master or charterer 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(1), 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 master or charterer 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 master or charterer 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 master or charterer 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 master or charterer 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 master or charterer 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 master or charterer.

(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.



## **12. Offences by master or charterer of ship**

(1) If a master or charterer of a ship disobeys any direction given under section 11(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 11(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a master or charterer of a ship, in response to a request made under section 11(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 master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

## **13. Power of authorized officers to enter and detain ships**

(1) Without prejudice to section 12, if an authorized officer has reason to suspect that a request that has been made under section 11(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 under his hand, 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.

## **14. Sections 11, 12 and 13 not to prejudice other laws**

Sections 11, 12 and 13 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a ship.

## **Investigation, etc. of suspected aircraft**

### **15. Investigation of suspected aircraft**

(1) If an authorized officer has reason to suspect that an aircraft to which sections 4 and 5 apply has been, is being or is about to be used in contravention of section 4(1), 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.

### **16. 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 15(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 15(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.

### **17. Power of authorized officers to enter and detain aircraft**

(1) Without prejudice to section 16, if an authorized officer has reason to suspect that a request that has been made under section 15(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 under his hand, 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.

### **18. Sections 15, 16 and 17 not to prejudice other laws**

Sections 15, 16 and 17 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of an aircraft.

## **Investigation, etc. of suspected vehicles**

### **19. Investigation of suspected vehicles**

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

## **20. 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 19(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 19(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.

## **21. Power of authorized officers to enter and detain vehicles**

(1) Without prejudice to section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(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 under his hand, 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.

## **22. Sections 19, 20 and 21 not to prejudice other laws**

Sections 19, 20 and 21 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a vehicle.

### **General**

## **23. 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.

## **24. Production of proof of identity**

Before or on exercising a power conferred by section 11, 13, 15, 17, 19 or 21, an authorized officer shall, if requested so to do, produce evidence of his identity.

## PART 6

### EVIDENCE

#### **25. Power of magistrate or judge to grant warrant**

(1) A magistrate or judge may grant a warrant under this section 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 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.

#### **26. Detention of documents or articles seized**

(1) Subject to subsection (2), any document or article seized under section 25(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

#### **27. 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 Sudan decided on by the Security Council of the United Nations; 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

#### **28. Liability of person other than principal offender**

(1) Where the person convicted of an offence against 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 shall be guilty of the like offence.

(2) Where the person convicted of an offence against 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 shall be guilty of the like offence.

#### **29. 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.

#### **30. 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.

#### **31. 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 committing the offence.

## SCHEDULE

[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 section 1.

Donald TSANG  
Acting Chief Executive

24 March 2005

### Explanatory Note

This Regulation gives effect to a decision of the Security Council of the United Nations in Resolution 1556 of 30 July 2004 to implement the following sanctions—

- (a) prohibitions against sale or supply of arms and related materials to non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur of Sudan (“Darfur”);
- (b) prohibitions against provision of certain technical assistance or training to non-governmental entities and individuals operating in Darfur.