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REGULATION 2004****CONTENTS**

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**UNITED NATIONS SANCTIONS (IRAQ) (AMENDMENT)  
REGULATION 2004**

(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**

(1) Section 1(1) of the United Nations Sanctions (Iraq) Regulation (Cap. 537 sub. leg. B) is amended—

(a) by repealing the definition of “authorized officer” and substituting—

““authorized officer” (獲授權人員) means—

(a) a police officer;

(b) any person 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;”;

(b) in the definition of “commander”, by repealing everything after “means” and substituting “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;”;

(c) in the definition of “operator”, by repealing “land transport”;

(d) by repealing the definitions of “customs officer”, “land transport vehicle”, “petroleum”, “petroleum products” and “Security Council Committee”;

(e) by adding—

““Authority” (管理當局) means the occupying powers of Iraq under unified command and referred to as “the Authority” in the Preamble to Resolution 1483;

“Commissioner” (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise;

“licence” (特許) means a licence granted under section 3A;

“prohibited goods” (禁制物品) means—

(a) arms and related material of all types, including all forms of conventional military equipment (including equipment for paramilitary forces); and

(b) any spare parts, components or their means of production for such equipment;

“Resolution 1483” (《第 1483 號決議》) means Resolution 1483 (2003) adopted by the Security Council of the United Nations on 22 May 2003;

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

(2) Section 1(2) is repealed.

## **2. Importation of goods into the HKSAR**

Section 2 is repealed.

## **3. Exportation of goods from Iraq**

Section 3 is repealed.

## **4. Sections added**

The following are added—

### **“3A. Power of Chief Executive to grant licences**

The Chief Executive shall grant a licence for the supply, delivery or carriage of prohibited goods or the doing of an act calculated to promote the supply or delivery of prohibited goods if it is proved to the satisfaction of the Chief Executive that the goods is required by the Authority to serve the purposes of Resolution 1483 and other resolutions of the Security Council of the United Nations related to it.

### **3B. Provision of false information or documents for purposes of obtaining licences**

(1) No person shall—

(a) make any statement or provide or produce any information or document that he knows to be false in a material particular; or

(b) recklessly make any statement or provide or produce any information or document that is false in a material particular,

for the purposes of obtaining a licence.

(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 2 years; or

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

## 5. Supply or delivery of prohibited goods to Iraq

(1) Section 4(1) is amended—

(a) by repealing “Subject to subsection (2), except under the authority of a licence granted by the Chief Executive” and substituting “Except under the authority of a licence”;

(b) in paragraph (a), by adding “prohibited” before “goods”;

(c) in paragraph (b), by repealing “such” and substituting “prohibited”;

(d) in paragraph (c)—

(i) by adding “prohibited” before “goods”;

(ii) by adding “or operated from” before “Iraq in”.

(2) Section 4(2) and (3) is repealed.

(3) Section 4 is amended by adding—

“(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.

(5) 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.

(6) In any proceedings for an offence under this section, 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 were prohibited goods; or

(b) that the goods were to be supplied or delivered—

(i) to, or to the order of, a person in Iraq; or

(ii) for the purposes of any business carried on in or operated from Iraq.”.

**6. Application of sections 3 and 4**

Section 5 is repealed.

**7. Exportation of certain goods from the HKSAR**

Section 6 is repealed.

**8. Carriage of prohibited goods destined for Iraq**

(1) Section 7(1) is repealed.

(2) Section 7(2) is amended—

(a) by repealing everything before “goods” and substituting—

“(2) Without prejudice to the generality of section 4, no ship, aircraft or vehicle to which this section applies shall, except under the authority of a licence, be used for the carriage of any prohibited”;

(b) by repealing “destination therein” and substituting “place in Iraq”.

(3) Section 7 is amended by adding—

“(2A) This section 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.”.

(4) Section 7(3) is amended by repealing everything after “applies” and substituting—

“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.”.

(5) Section 7(4) is repealed.

(6) Section 7(5) is amended by repealing everything after “aircraft or” and substituting—

“vehicle is used in contravention of subsection (2), each specified person commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.
- (7) Section 7 is amended by adding—
- “(5A) For the purposes of subsection (5), “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 a person who is—
      - (A) within the HKSAR; or
      - (B) 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 a 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; or
    - (iii) the commander of the aircraft if the commander is a person who is—
      - (A) within the HKSAR; or
      - (B) both a Hong Kong permanent resident and a Chinese national; or
  - (e) in relation to a vehicle, the operator or driver of the vehicle.
- (5B) In any proceedings for an offence under this section, 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 were prohibited goods; or
  - (b) that the carriage of the goods was, or formed part of, carriage from any place outside Iraq to any place in Iraq or to any person for the purposes of any business carried on in or operated from Iraq.”.
- (8) Section 7(6) is repealed.

(9) Section 7(7) is amended by repealing “land transport”.

**9. Investigation, etc. of suspected ships, aircraft and vehicles**

(1) Section 8(1) is repealed and the following substituted—

“(1) If an authorized officer has reason to suspect that a ship has been, is being or is about to be used in contravention of section 7(2), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
- (b) request the master or charterer 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.

(1A) If an authorized officer has reason to suspect that a ship is being or is about to be used in contravention of section 7(2), he may (either there and then or on consideration of any information furnished or document or cargo produced in pursuance of 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, take one or more of the following actions—

- (a) direct the master or charterer of the ship to refrain, except with the consent of an authorized officer, from unloading such part of the ship’s cargo at such port as the authorized officer may specify;
- (b) request the master or charterer of the ship to take one or more of the following steps—
  - (i) to cause the ship and any of its cargo not to proceed with the voyage on which it is then engaged or about to engage 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 port 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.”.

(2) Section 8(2) is repealed and the following substituted—

“(2) Without prejudice to subsection (8), if an authorized officer has reason to suspect that a request that has been made under subsection (1A)(b) in respect of a ship 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, on any land and on that ship;  
(b) detain, or authorize the detention of, that ship and any of its cargo; and  
(c) use, or authorize the use of, reasonable force.”.

(3) Section 8(3) is amended—

- (a) by repealing “Where the Chief Executive or any” and substituting “If an”;  
(b) by repealing everything after “that any aircraft” and before “has been”;  
(c) by repealing “7(1) or (2), then the Chief Executive or” and substituting “7(2),”;  
(d) by repealing “and the Chief Executive or” and substituting “and”;  
(e) by repealing “, the Chief Executive or” and substituting a comma;  
(f) by repealing “to remain in the HKSAR until notified that the aircraft” and substituting “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”.

(4) Section 8(4) is amended—

- (a) by repealing “where the Chief Executive or any” and substituting “if an”;  
(b) by adding “and any of its cargo” after “an aircraft”;  
(c) by repealing “with the Chief Executive or” and substituting “with,”;  
(d) in paragraph (a), by repealing “進入任何土地，以及登上或授權” and substituting “他人進入任何土地，以及登上或授權他人”;  
(e) in paragraph (b), by repealing the semicolon and substituting “and any of its cargo; and”;  
(f) in paragraph (c), by adding “他人” after “權”.



(5) Section 8 is amended by adding—

“(4A) If an authorized officer has reason to suspect that a vehicle has been, is being or is about to be used in contravention of section 7(2), he may—

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

(4B) Without prejudice to subsection (8), if an authorized officer has reason to suspect that a request that has been made under subsection (4A)(c) in respect of a vehicle 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 on, any land and enter, or authorize entry of, that vehicle;
- (b) detain, or authorize the detention of, that vehicle and any articles carried on it; and
- (c) use, or authorize the use of, reasonable force.

(4C) Subject to subsections (4D) and (4E), subsections (2), (4) and (4B) do not authorize—

- (a) the detention for more than 12 hours of any ship;
- (b) the detention for more than 6 hours of any aircraft; or
- (c) the detention for more than 12 hours of any vehicle.

(4D) The Chief Secretary for Administration may, by order in writing under his hand, authorize the detention of a ship referred to in subsection (4C)(a) for further periods of not more than 12 hours each or authorize the detention of an aircraft referred to in subsection (4C)(b) 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.

(4E) The Commissioner may, by order in writing under his hand, authorize the detention of a vehicle referred to in subsection (4C)(c) 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.”.

(6) Section 8(5) is repealed.

(7) Section 8(6) is amended—

- (a) by repealing “提交” wherever it appears and substituting “交出”;
- (b) in paragraph (d), by repealing everything after “under this Regulation” and substituting a full stop.

(8) Section 8(7) is amended—

- (a) by adding “or of articles” after “of cargo”;
- (b) by adding “or articles should be” after “or cargo”.

(9) Section 8(8) is repealed and the following substituted—

“(8) A person who—

- (a) fails to comply with any direction given to him under subsection (1A);
- (b) without reasonable excuse, refuses or fails to comply with a request made of him under subsection (1), (1A), (3) or (4A) within a reasonable time; or
- (c) obstructs an authorized officer (or any person acting under the authority of an authorized officer) in the exercise of his powers under subsection (1), (1A), (2), (3), (4), (4A) or (4B),

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

(10) Section 8 is amended by adding—

“(8A) A person who, in response to a request made of him under subsection (1), (3) or (4A), furnishes or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly furnishes or produces to the officer any information, explanation or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

(11) Section 8(9) is amended by repealing “or aircraft” and substituting “, aircraft or vehicles”.

## 10. Section added

The following is added—

**“8A. 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.”.

**11. Section substituted**

Section 9 is repealed and the following substituted—

**“9. Obtaining of evidence**

The provisions of the Schedule shall have effect in order to facilitate the obtaining of evidence relating to an offence under this Regulation.”.

**12. Offences committed by body corporate and proceedings**

Section 10(1) is repealed.

**13. Exercise of powers of the Chief Executive**

Section 11(2) is repealed.

**14. Section added**

The following is added—

**“11A. Production of proof of identity and authority**

Before or on exercising a power conferred by this Regulation, an authorized officer shall, on request, produce evidence of his identity and authority.”.

**15. Miscellaneous**

(1) Section 12(1) is repealed.

(2) Section 12(2) is amended by repealing “granted by the Chief Executive”.

**16. Evidence and information**

The Schedule is amended—

- (a) in the heading, by repealing “AND INFORMATION”;
- (b) by repealing section 1;
- (c) in section 2(1)—
  - (i) by repealing “a police officer, customs officer or” and substituting “an”;
  - (ii) in paragraph (a)—
    - (A) by repealing everything after “under this Regulation” and before “the offence” and substituting “has been or is being committed and that evidence relating to”;
    - (B) by repealing “; or” at the end and substituting a comma;
  - (iii) by repealing paragraph (b);
  - (iv) by repealing “vessel” wherever it appears and substituting “ship”;
  - (v) by repealing “any police or customs officer” and substituting “an authorized officer”;
  - (vi) by repealing “and any other police or customs officers”;
- (d) in section 2(2)—
  - (i) by repealing “vessel” wherever it appears and substituting “ship”;
  - (ii) by repealing everything after “evidence” and before “or to take” and substituting “relating to an offence under this Regulation,”;
- (e) in section 2(3), by repealing “vessel” and substituting “ship”;
- (f) in section 2(5)—
  - (i) by repealing everything after “No” and before “document seized”;
  - (ii) in paragraph (a)—
    - (A) by repealing “the person by whom the information was furnished or the document was produced or”;
    - (B) in the proviso, by repealing “has obtained information or”;
    - (C) in the proviso, by repealing “that information or to”;
  - (iii) by repealing paragraph (b);
  - (iv) in paragraph (c), by repealing “information or”;
  - (v) in paragraph (d), by repealing everything after “under this Regulation” and substituting a full stop;

(g) by repealing section 3 and substituting—

“3. A person who obstructs another person in the exercise of his powers under this Schedule commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

TUNG Chee-hwa  
Chief Executive

2 July 2004

### **Explanatory Note**

This Regulation is made under the United Nations Sanctions Ordinance (Cap. 537). It gives effect to a decision of the Security Council of the United Nations to lift all prohibitions related to trade with Iraq that is set out in paragraph 10 of Resolution 1483 adopted by the Security Council on 22 May 2003. Under that decision, however, the prohibitions related to the sale or supply to Iraq of arms and related material, save for arms and related material required by the United States of America and the United Kingdom of Great Britain and Northern Ireland as occupying powers under unified command (referred to as “the Authority” in the Resolution), shall continue to apply. Textual amendments have also been made to certain provisions of the Chinese text of the United Nations Sanctions (Iraq) Regulation (Cap. 537 sub. leg. B) so as to achieve consistency with the corresponding provisions in the English text.