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UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC OF THE CONGO) 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 expires at midnight on 31 July 2005.

PART 1

PRELIMINARY

2. 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;

“Global and All Inclusive Agreement” (《包容各方的全面協定》) means the Global and All Inclusive Agreement on the Transition in the Democratic Republic of the Congo signed in Pretoria on 17 December 2002;

“licence” (特許) means a licence granted under section 8(1)(a), 8(1)(b), 9(1) or 9(2);

“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 Congo” (有關連人士) means—
- (a) any foreign or Congolese armed group or militia operating in the territory of North Kivu, South Kivu or Ituri in the Democratic Republic of the Congo; or
 - (b) any group in the Democratic Republic of the Congo, not being a party to the Global and All Inclusive Agreement;
- “prohibited goods” (禁制物品) means any arms or related material;
- “Secretary-General” (秘書長) means the Secretary-General of the United Nations;
- “ship” (船舶) includes every description of vessel used in navigation not propelled by oars;
- “Special Representative” (特別代表) means the Special Representative of the Secretary-General for the Democratic Republic of the Congo.

PART 2

PROHIBITIONS

Supply and delivery of goods

3. Prohibition against supply and delivery of certain goods to persons connected with Congo

- (1) Except under the authority of a licence granted under section 8(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 Congo; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) In any proceedings for an offence 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 Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo.
- (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

4. Application of sections 5 and 6

Sections 5 and 6 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.

5. Prohibition against carriage of certain goods to persons connected with Congo

(1) Except under the authority of a licence granted under section 8(1)(b), and without prejudice to the generality of section 3, a ship, aircraft or vehicle to which this section and section 6 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 Congo; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo.
- (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 8(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.

6. Offences in respect of carriage of certain goods to persons connected with Congo

(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 5(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 5(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 Congo; or
- (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo.

Provision of advice, assistance or training

7. Prohibition against provision of certain advice, assistance or training to persons connected with Congo

(1) Except under the authority of a licence granted under section 9(1) or (2), a person shall not provide to a person connected with Congo any advice, assistance or training related to military activities.

(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 advice, assistance or training concerned was being provided to a person connected with Congo; or
- (b) that the advice, assistance or training concerned related to military activities.

(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

8. 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 Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo; or
 - (b) a licence for the carriage of prohibited goods which is, or forms part of, carriage—
 - (i) to, or to the order of, a person connected with Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Congo.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are to be supplied to the United Nations Organization Mission in the Democratic Republic of the Congo, the Interim Emergency Multinational Force deployed in Bunia in the Democratic Republic of the Congo or the integrated Congolese national army or police force;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, and the Secretary-General has been notified in advance, through the Special Representative, of the supply of the goods.

9. Licence for provision of certain advice, assistance or training

(1) If it is proved to the satisfaction of the Chief Executive that the requirement in subsection (3)(a) is met, the Chief Executive shall, on application, grant a licence for the provision to a person connected with Congo of advice, assistance or training related to military activities.

(2) If it is proved to the satisfaction of the Chief Executive that the requirement in subsection (3)(b) is met, the Chief Executive shall, on application, grant a licence for the provision to a person connected with Congo of assistance or training related to military activities.

(3) The requirements referred to in subsections (1) and (2) are as follows—

- (a) the advice, assistance or training is to be provided to the United Nations Organization Mission in the Democratic Republic of the Congo, the Interim Emergency Multinational Force deployed in Bunia in the Democratic Republic of the Congo or the integrated Congolese national army or police force;
- (b) the assistance or training is technical assistance or training related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, and the Secretary-General has been notified in advance, through the Special Representative, of the provision of the assistance or training.

10. 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

11. 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

12. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which sections 5 and 6 apply has been, is being or is about to be used in contravention of section 5(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 5(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.

13. Offences by master or charterer of ship

(1) If a master or charterer of a ship disobeys any direction given under section 12(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 12(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 12(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.

14. Power of authorized officers to enter and detain ships

(1) Without prejudice to section 13, if an authorized officer has reason to suspect that a request that has been made under section 12(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.

15. Sections 12, 13 and 14 not to prejudice other laws

Sections 12, 13 and 14 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

16. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which sections 5 and 6 apply has been, is being or is about to be used in contravention of section 5(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.

17. 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 16(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 16(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.

18. Power of authorized officers to enter and detain aircraft

(1) Without prejudice to section 17, if an authorized officer has reason to suspect that a request that has been made under section 16(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.

19. Sections 16, 17 and 18 not to prejudice other laws

Sections 16, 17 and 18 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

20. 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 5(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.

21. Offences by operator or driver of vehicle

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

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

particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

22. Power of authorized officers to enter and detain vehicles

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

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

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

(3) The Commissioner may, by order in writing 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.

23. Sections 20, 21 and 22 not to prejudice other laws

Sections 20, 21 and 22 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

24. 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.

25. Production of proof of identity

Before or on exercising a power conferred by section 12, 14, 16, 18, 20 or 22, an authorized officer shall, if requested so to do, produce evidence of his identity.

PART 6

EVIDENCE

26. 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.

27. Detention of documents or articles seized

(1) Subject to subsection (2), any document or article seized under section 26(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****28. Disclosure of information or documents**

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

- (a) the person who provided or produced the information or document or the person from whom the document was seized has given consent to the disclosure;
 - (b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;
 - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any place outside the People's Republic of China for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to the Democratic Republic of the Congo decided on by the Security Council 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

29. 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.

30. 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.

31. 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.

32. 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.

TUNG Chee-hwa
Chief Executive

24 February 2005

Explanatory Note

This Regulation gives effect to a decision of the Security Council of the United Nations (“the Security Council”) in Resolution 1552 of 27 July 2004 and provides for the implementation of the following sanctions imposed by the Security Council in Resolution 1493 (2003)—

- (a) prohibitions against direct and indirect sale, supply and transfer of arms and related materials to foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not being party to the Global and All Inclusive Agreement on the Transition in the Democratic Republic of the Congo signed in Pretoria on 17 December 2002;
- (b) prohibitions against provision to such groups and militias of advice, assistance or training related to military activities.