

UNITED NATIONS SANCTIONS (DEMOCRATIC REPUBLIC
OF THE CONGO)~~(NO. 2)~~ REGULATION ~~2008~~2009

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**UNITED NATIONS SANCTIONS (DEMOCRATIC
REPUBLIC OF THE CONGO)(~~NO. 2~~) REGULATION
20082009**

(Made by the Chief Executive under section 3 of the United Nations
Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of
Foreign Affairs of the People's Republic of China and after
consultation with the Executive Council)

~~1.~~—Duration

~~This Regulation expires at midnight on 31 December 2008.~~

PART 1

PRELIMINARY

~~2~~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~~any Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;

“Committee” (委員會) means the Committee of the Security Council established pursuant to ~~under~~ paragraph 8 of Resolution 1533;

“funds” (資金) includes –

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and
- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“licence” (特許) means a licence granted under section 98(1)(a) or (b), ~~109~~(1) or 110(1);

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

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

“pilot in command” (機長), in relation to an aircraft, means the pilot designated by the operator or the owner, as appropriate, as being in charge of the aircraft without being under the direction of any other pilot in the aircraft and charged with the safe conduct of a flight;

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

“relevant entity” (有關實體) means an entity specified by the Chief Executive as a relevant entity in accordance with section [3130](#);

“relevant person” (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section [3130](#);

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

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

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

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

“Resolution 1807” (《第 1807 號決議》) means Resolution 1807 (2008) adopted by the Security Council on 31 March 2008;

[“Resolution 1857” \(《第 1857 號決議》\) means Resolution 1857 \(2008\) adopted by the Security Council on 22 December 2008;](#)

“Security Council” (安理會) means the Security Council of the United Nations.

PART 2

PROHIBITIONS

Supply or delivery of goods

32. Prohibition against supply or delivery of certain goods ~~to persons in Congo~~

(1) This section applies to –

(a) a person [acting](#) in the HKSAR; and

- (b) a person acting outside the HKSAR 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.

(2) Except under the authority of a licence granted under section 98(1)(a), a person ~~shall~~must 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 operating in the territory of the Democratic Republic of the Congo; or
- (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.

(3) A person who contravenes subsection (2) commits an offence and is liable –

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

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

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

person operating in the territory of the Democratic Republic of the Congo.

Carriage of goods

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

- (1) This section applies to –
 - (a) a ship that is registered in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is –
 - (i) in the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section ~~32~~, ~~a ship, aircraft or vehicle shall not~~, except under the authority of a licence granted under section ~~98(1)(b)~~, ~~a ship, aircraft or vehicle must not~~ be used for the carriage of any prohibited goods if the carriage is, or forms part of, ~~a~~ carriage –
 - (a) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (b) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- (3) Subsection (2) does not apply if –
 - (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and

(b) the supply or delivery was authorized by a licence granted under section 98(1)(a).

(4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence –

(a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;

(b) in the case of any other ship –

(i) the charterer of the ship;

(ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;

(d) in the case of any other aircraft –

(i) the charterer of the aircraft;

(ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(e) in the case of a vehicle, the operator and the driver of the vehicle.

(45) If a ship, aircraft or vehicle is used in contravention of subsection (2), each specified person commits an offence and a person who commits an offence under subsection (4) 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.

(56) In any proceedings for an offence under subsection (4), it is a defence for a person charged with an offence under subsection (4) to prove that the person 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, a carriage –
 - (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.

(6) In this section, “specified person” (指明人士) means –

- (a) in relation to a ship registered in the HKSAR, the charterer, operator or master of the ship;
- (b) in relation to any other ship –
 - (i) the charterer of the ship;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent

- ~~resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; or~~
- ~~(iii) — the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;~~
- ~~(c) — in relation to an aircraft registered in the HKSAR, the charterer, operator or commander of the aircraft;~~
- ~~(d) — in relation to any other aircraft —~~
- ~~(i) — the charterer of the aircraft;~~
- ~~(ii) — the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; or~~
- ~~(iii) — the commander of the aircraft, if the commander is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or~~
- ~~(e) — in relation to a vehicle, the operator or driver of the vehicle.~~

~~*Provision of assistance, advice or training*~~

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

- (1) This section applies to –
- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR 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.

(2) Except under the authority of a licence granted under section ~~109~~(1), a person ~~shall~~must not provide to a person operating in the territory of the Democratic Republic of the Congo any assistance, advice or training related to military activities, including financing and financial assistance.

(3) A person who contravenes subsection (2) commits an offence and is liable –

- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

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

- (a) that the assistance, advice or training concerned was to be provided to a person operating in the territory of the Democratic Republic of the Congo; or
- (b) that the assistance, advice or training concerned related to military activities.

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

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

(1) This section applies to –

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

(2) Except under the authority of a licence granted under section ~~41~~10(1), a person ~~shall~~must 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.

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

(4) A person who contravenes subsection (2) commits an offence and is liable –

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

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

(5) ~~In any proceedings for an offence under subsection (4), it~~ It is a defence for a person charged with an offence under subsection (4) to prove that ~~he~~the person 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.

~~*Entry into or transit through HKSAR*~~

76. Prohibition against entry or transit by certain persons

(1) Subject to section 87, a specified person ~~shall~~must 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~~does 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) a person –
 - (i) designated by the Committee ~~pursuant to~~under paragraph 13 of Resolution 1596, ~~as read with~~ paragraph 2 of Resolution 1649, ~~and~~ paragraph 13 of Resolution 1698 and paragraph 9 of Resolution 1807; and
 - (ii) in respect of whom paragraph 9 of Resolution 1807 applies by virtue of paragraphs 443 and 5 of ~~that~~ Resolution 1857; or
- (b) a person designated by the Committee ~~pursuant to~~under paragraph 134 of Resolution ~~180~~1857.

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

Section 76 does not apply ~~if to a case in respect of which~~ –

- (a) the Committee ~~determines in advance and on a case-by-case basis~~ has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the Committee ~~concludes~~ has determined that the relevant entry into or transit through the HKSAR would further the objectives of the resolutions of the Security Council, that is, peace and national reconciliation in the Democratic Republic of the Congo and stability in the region;
- (c) the Committee ~~authorizes in advance and on a case-by-case basis~~ has authorized the relevant transit through the

- HKSAR ~~of~~by a person returning to the territory of the State of his or her nationality; or
- (d) the Committee ~~authorizes in advance and on a case-by-case basis~~ has authorized the relevant transit through the HKSAR ~~of~~by a person participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law.

PART 3

LICENCES

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

(1) ~~If it is proved to the satisfaction of the Chief Executive~~ If satisfied on application that any ~~one~~ of the requirements in subsection (2) is met, the Chief Executive ~~shall~~ must, subject to subsection (3), ~~on application,~~ grant, as appropriate –

- (a) a licence for the supply or delivery of, or the doing of an act likely to promote the supply or delivery of, prohibited goods –
- (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
- (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
- (b) a licence for the carriage of prohibited goods ~~which~~that is, or forms part of, a carriage –

- (i) to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person operating in the territory of the Democratic Republic of the Congo.
- (2) The requirements referred to in subsection (1) are as follows –
- (a) it is a supply, delivery or carriage of prohibited goods to the Government of the Democratic Republic of the Congo;
 - (b) the prohibited goods are intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;
 - (c) the prohibited goods are protective clothing, including flack jackets and military helmets, to be temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media, ~~and~~ humanitarian ~~and~~or development workers ~~and~~or associated personnel, for their personal use only;
 - (d) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use.

(3) ~~Where~~ If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (d) is met, before granting the licence, ~~he~~ the Chief Executive shall ~~must cause~~ notify the Committee to be notified of the proposed supply, delivery or carriage of the prohibited goods to which the application for the licence relates.

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

(1) ~~If it is proved to the satisfaction of the Chief Executive~~ If satisfied on application that any ~~one~~ of the requirements in subsection (2) is met, the

Chief Executive ~~shall~~ must, subject to subsection (3), ~~on application,~~ grant a licence ~~for the provision to provide~~ to a person operating in the territory of the Democratic Republic of the Congo ~~of~~ assistance, advice or training related to military activities, including financing and financial assistance.

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

- (a) the assistance, advice or training is provided to the Government of the Democratic Republic of the Congo;
- (b) the assistance, advice or training is related to protective clothing, including flack jackets and military helmets, to be temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media, ~~and~~ humanitarian ~~and/or~~ development workers ~~and~~ or associated personnel, for their personal use only;
- (c) the assistance or training is technical assistance or training intended solely for the support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo;
- (d) the assistance or training is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use.

(3) ~~Where~~If the Chief Executive is satisfied that the requirement in subsection (2)(a) or (d) is met, before granting the licence, ~~the Chief Executive shall~~ the Chief Executive ~~must cause~~ notify the Committee to be notified of the proposed provision of the assistance, advice or training to which the application for the licence relates.

1110. Licence for making available funds, etc. to certain persons or entities

(1) If ~~it is proved to the satisfaction of~~ on application the Chief Executive determines that any ~~one~~ of the requirements in subsection (2) is met, the Chief Executive ~~shall~~ must, subject to subsection (3), ~~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 ~~are~~ have been determined by the Chief Executive to be –

(i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, ~~and~~ medical treatments, taxes, insurance premiums, and public utility charges; or

(ii) for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services;

(b) the funds or other financial assets or economic resources ~~have been determined by the Chief Executive to be~~ are necessary for extraordinary expenses;

(c) the funds or other financial assets or economic resources –

(i) ~~_____ have been determined by the Chief Executive to be~~ are the subject of a judicial, administrative or arbitration lien or judgment, ~~and the lien or judgment~~ that was entered prior to 31 March 2008 and is not for the benefit of a person designated by the Committee under paragraph 13 of Resolution 1807; and

(ii) ~~_____ are to be used to satisfy the lien or judgment.~~

(i) ~~_____ was entered prior to 31 March 2008; and~~

(ii) ~~_____ is not for the benefit of a person designated by the Committee pursuant to paragraph 13 of Resolution 1807.~~

(3) ~~Where~~ If the Chief Executive ~~is satisfied~~ determines that –

- (a) the requirement in subsection (2)(a) is met, ~~he~~the Chief Executive –
- (i) ~~shall notify~~must cause the Committee to be notified of the intention to grant a licence under subsection (1) ~~authorize access to the funds or other financial assets or economic resources to which the application for the licence relates;~~ and
 - (ii) ~~shall not~~must grant the licence ~~if the Committee makes in the absence of~~ a negative decision by the Committee within 4 working days of the notification;
- (b) the requirement in subsection (2)(b) is met, ~~he~~the Chief Executive –
- (i) ~~shall notify~~must cause the Committee to be notified of the determination~~that the funds or other financial assets or economic resources to which the application for the licence relates have been determined by him to be necessary for extraordinary expenses;~~ and
 - (ii) ~~shall~~must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, ~~he~~the Chief Executive shall notifymust cause the Committee to be notified of the determination.~~that the funds or other financial assets or economic resources to which the application for the licence relates have been determined by him to be the subject of a judicial, administrative or arbitration lien or judgment described in that subsection.~~

~~(4) — A licence granted by the Chief Executive under subsection (1), on his being satisfied that the requirement in subsection (2)(c) is met, shall only authorize that the funds or other financial assets or economic resources be used to satisfy the relevant lien or judgment.~~

1211. Provision of false information or documents for purpose of obtaining licences

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

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

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

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

PART 4

THINGS DONE ~~TO~~ OUTSIDE HKSAR

1312. 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~~that prohibits the doing of a thing by a person except

under the authority of a licence ~~shall~~does not have effect in relation to any such thing done in a place outside the HKSAR by the person.—

- ~~(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 by the person 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

Division 1 – Investigation, etc. of sSuspected sShips

1413. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which section 43 applies has been, is being or is about to be used in contravention of section 43(2), ~~he~~the officer may –

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

(2) If an authorized officer has reason to suspect that a ship to which section 43 applies is being or is about to be used in contravention of section 43(2), ~~the officer~~ may, for the purpose of stopping or preventing the use of the ship in contravention of that section or to pursue enquiries, (either there and then or on consideration of any information provided or ~~document or cargo or document~~ produced in response to a request made under subsection (1)(b)), ~~with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued,~~ do one or more of the following –

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

operator or master is notified by an authorized officer that the ship and its cargo may depart;

- (iv) to take the ship and any of its cargo to ~~such~~ either another destination ~~as may be~~ specified by an authorized officer in agreement with the charterer, operator or master.

(3) A power conferred by this section to request ~~the provision of a person to provide~~ any information or ~~the production of~~ produce any ~~document or cargo or document~~ 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 or document~~ should be produced for inspection.

1514. Offences by charterer, operator or master of ship

(1) ~~If a~~ A charterer, operator or master of a ship who disobeys any direction given under section 1413(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 1413(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, ~~the charterer, operator or master~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) ~~If a~~ A charterer, operator or master of a ship who, in response to a request made under section 1413(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that ~~he~~ the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, ~~the charterer, operator or master~~ commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

1615. Power of authorized officers to enter and detain ships

(1) Without ~~prejudice to~~limiting section ~~1514~~, if an authorized officer has reason to suspect that a request that has been made under section ~~1413~~(2)(b) may not be complied with, ~~he~~the officer may take ~~such~~any steps ~~as~~that appear to ~~him~~the officer to be necessary to secure compliance with that request, including, in particular, any of the following steps –

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

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

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

Division 2 – Investigation, etc. of sSuspected aAircraft

1716. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which section ~~43~~ applies has been, is being or is about to be used in contravention of section ~~43~~(2), ~~he~~the officer may –

- (a) either alone or accompanied and assisted by any person acting under ~~his~~the officer's 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~~pilot in command of the aircraft to provide ~~such~~any 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~~ any of its cargo or any document relating to the aircraft or its cargo, that the officer 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~~ or document produced in response to a request made under subsection (1)(b)), further request the charterer, operator or ~~commander~~ pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or ~~commander~~ pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.

(3) A power conferred by this section to request a person to provide ~~the provision of~~ any information or ~~the production of~~ produce any ~~document or~~ cargo or document 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 or document should be produced for inspection.

1817. Offences by charterer, operator or ~~commander~~ pilot in command of aircraft

(1) ~~If a~~ A charterer, operator or ~~commander~~ pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section ~~4716~~ 1716(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~~pilot in command of an aircraft who, in response to a request made under section ~~4716~~(1)(b) or (2), provides or produces to an authorized officer any information or document that ~~he~~the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information 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.

1918. Power of authorized officers to enter and detain aircraft

(1) Without ~~prejudice to limiting~~ section ~~4817~~, if an authorized officer has reason to suspect that a request that has been made under section ~~4716~~(2) may not be complied with, ~~he~~the officer may take ~~such~~any steps ~~as that~~ appear to ~~him~~the officer to be necessary to secure compliance with that request; including, in particular, any of the following steps –

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

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

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

Division 3 – Investigation, etc. of ~~s~~Suspected ~~v~~Vehicles

2019. Investigation of suspected vehicles

(1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 43(2), ~~he~~the officer may –

- (a) either alone or accompanied and assisted by any person acting under ~~his~~the officer's 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~~any information relating to the vehicle ~~and~~or any article carried on it, ~~and~~or produce for ~~his~~inspection ~~such documents so relating and such articles carried on it, as he~~any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
- (c) further request, ~~(either there and then or on consideration of any information provided or ~~document or~~ article or document 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~~a 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 a~~person to provide any information or ~~the production of~~produce any ~~document or~~ article or document 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 or document should be produced for inspection.

2120. Offences by operator or driver of vehicle

(1) ~~If an~~An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 2019(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~~An operator or driver of a vehicle who, in response to a request made under section 2019(1)(b) or (c), provides or produces to an authorized officer any information or document that ~~he~~the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information 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.

2221. Power of authorized officers to enter and detain vehicles

(1) Without ~~prejudice to limiting~~ section 2120, if an authorized officer has reason to suspect that a request that has been made under section 2019(1)(c) may not be complied with, ~~he~~the officer may take ~~such any~~ steps ~~as that~~ appear to ~~him~~the officer to be necessary to secure compliance with that request, including, in particular, any of the following steps –

- (a) ~~to enter,~~ or authorize the entry on, any land ~~and~~or enter, or authorize the entry into, the vehicle concerned;
- (b) ~~to detain,~~ or authorize the detention of, that vehicle ~~and~~or any article carried on it; ~~and~~

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

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

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

Division 4 – Proof of ~~identity~~Identity

2322. Production of proof of identity

Before or on exercising a power conferred by section ~~14, 16, 17, 19, 20 or 22~~ 13, 15, 16, 18, 19 or 21, an authorized officer ~~shall~~ must, if requested ~~by any person~~ so to do, produce ~~evidence of his proof of the officer's~~ identity ~~to the person for inspection.~~

PART 6

EVIDENCE

2423. Power of magistrate or judge to grant warrant

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

- (a) an offence under this Regulation has been committed or is being committed; and
- (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter

the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.

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

(a) ~~to~~ search any person who is found on, or whom ~~he~~the authorized person 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, cargo or article found on the premises, ship, aircraft or vehicle or on ~~such~~any person ~~that he~~ referred to in paragraph (a) that the authorized person 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, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo 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~~the person may use ~~such~~any force ~~as~~that is reasonably necessary for that purpose.

2524. Detention of documents, cargoes or articles seized

(1) Subject to subsection (2), any document, cargo or article seized under section 2423(3) may not be detained for ~~a period of~~ more than 3 months.

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

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

2625. Disclosure of information or documents

(1) Any information or document provided, produced or seized ~~in~~ pursuance of~~under~~ 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 –
 - (i) any organ of the United Nations; ~~or to~~
 - (ii) any person in the service of the United Nations; or
 - (iii) ~~to~~ the Government of any place outside the People's Republic of China,
for the purpose of assisting the United Nations or that Government in securing compliance with, or detecting evasion of, measures in relation to the Democratic Republic of the Congo decided on by the Security Council;
- or

- (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a) –
- (a) a person may not give consent to the disclosure if ~~he~~the person has obtained the information or possessed the document only in ~~his~~the person's capacity as servant or agent of another person; and
- (b) a person may give consent to the disclosure if ~~he~~the person is entitled to the information or to the possession of the document in ~~his~~the person's own right.

PART 8

OTHER OFFENCES AND MISCELLANEOUS MATTERS

2726. Liability of person other than principal offender

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

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

2827. 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 of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

2928. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document, cargo 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.

3029. Consent and time limit for 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 that is alleged to have been committed outside the HKSAR may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after the alleged commission of the offence.

3130. Specification of relevant person or relevant entity by Chief Executive

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities ~~as a relevant person or a relevant entity~~—

- (a) a person or entity –

- (i) designated by the Committee ~~pursuant to~~ under paragraph 15 of Resolution 1596, ~~as read with~~ paragraph 2 of Resolution 1649, ~~and~~ paragraph 13 of Resolution 1698 and paragraph 11 of Resolution 1807; and
 - (ii) in respect of whom paragraph 11 of Resolution 1807 applies by virtue of paragraphs 3 and 5-14 of ~~that~~ Resolution 1857;
- (b) a person or entity designated by the Committee ~~pursuant to~~ under paragraph ~~134~~ of Resolution ~~1805~~7.

3231. 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.~~

(1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.

(2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.

(3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

PART 9

DURATION

32. Duration

This Regulation expires at midnight on 30 November 2009.

Chief Executive

2009~~8~~

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution [1807/1857](#) (2008) as adopted by the Security Council of the United Nations on ~~31 March~~[22 December](#) 2008 by providing for the prohibition against –

- (a) the supply, delivery ~~and~~[or](#) carriage of arms ~~and~~[or](#) related materials to certain persons;
- (b) the provision to certain persons of assistance, advice or training related to military activities;
- (c) making available to₂ or for the benefit of₂ certain persons or entities any funds or other financial assets or economic resources; and

(d) entry into or transit through the HKSAR [by](#) certain persons.