

L.N. 166 of 1999

UNITED NATIONS SANCTIONS (ANGOLA)

(AMENDMENT) REGULATION 1999

(Made under section 3 of the United Nations Sanctions Ordinance

(Cap. 537) by the Chief Executive on the instruction of

the Ministry of Foreign Affairs of the People's

Republic of China and after consultation

with the Executive Council)

1. Interpretation

Section 1 of the United Nations Sanctions (Angola) Regulation (Cap. 537 sub. leg.) is amended---

(a) in subsection (1), by adding---

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

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

"property" (財產) includes both movable and immovable property within the meaning of section 3 of the Interpretation and General Clauses Ordinance

(Cap. 1);

"Resolution 1173" (第1173號決議) means Resolution 1173 adopted by the Security Council of the United Nations on 12 June 1998;

"security" (證券) includes---

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

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

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

(d) a promissory note;

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

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

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

(h) a share in an oil royalty;"

(b) by adding---

"(3) In this Regulation, a reference to an area of Angola to which State administration has not been extended is a reference to an area so designated in accordance with Resolution 1173."

2. Supply of certain goods or services to Angola

Section 2 is amended---

(a) by adding---

"(1B) Except under the authority of a licence granted by the Chief Executive under this section, no person shall---

(a) supply or deliver; or

(b) agree to supply or deliver,

any goods specified in Part 3 of Schedule 1 to any person in any area of Angola to which State administration has not been extended.

(1C) Except under the authority of a licence granted by the Chief Executive under this section, no person shall---

(a) supply; or

(b) agree to supply,

any services specified in Part 4 of Schedule 1 to any person in any area of Angola to which State administration has not been extended.";

(b) in subsection (2), by repealing "or (1A)(b)" and substituting ", (1A)(b) or (1B)(b)";

(c) by adding---

"(3) Nothing in subsection (1C)(b) shall apply where the supply of services to the person concerned is authorized by a licence granted by the Chief Executive under this section.".

3. Exportation of certain goods to Angola

Section 3 is amended---

(a) by adding---

"(2A) Except under the authority of a licence granted by the Chief Executive under this section, the goods specified in Part 3 of Schedule 1 are prohibited from being exported from the HKSAR to any area of Angola to which State administration has not been extended, or to any such area for the purpose of delivery directly or indirectly to or to the order of a person in Angola.";

(b) in subsection (3), by repealing "or (2)" and substituting ", (2) or (2A)".

4. Carriage of goods destined for Angola

Section 4 is amended---

(a) in subsection (1)---

(i) in paragraph (a), by repealing "or" at the end;

(ii) in paragraph (b), by repealing the full stop and substituting "; or";

(iii) by adding---

"(c) the carriage of any goods specified in Part 3 of Schedule 1 if the carriage is, or forms part of, carriage from any place outside Angola to any area of Angola to which State administration has not been extended.";

(b) in subsection (3), by repealing everything after "part of, carriage" and substituting---

"---

(i) in the case of subsection (1)(a), from any place outside Angola to any destination therein and that the goods would be used by, or for any purpose of, UNITA;

(ii) in the case of subsection (1)(b), from any place outside Angola to any destination therein; or

(iii) in the case of subsection (1)(c), from any place outside Angola to any area of Angola to which State administration has not been extended."

5. Sections added

The following are added---

"4G. Importation of diamonds into the HKSAR

(1) Except under the authority of a licence granted by the Chief Executive under this section, any diamonds exported directly or indirectly from Angola are prohibited from being imported into the HKSAR.

(2) Subject to subsection (3), any person who imports any diamond into the HKSAR in contravention of subsection (1) shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (2) to show that the diamonds the subject of the alleged offence are controlled through the Certificate of Origin regime of the Government of Unity and National Reconciliation within the meaning of Resolution 1173.

(4) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the importation of diamond into the HKSAR.

4H. Freezing of fund and financial resources

(1) Except with permission granted by the Chief Executive under this section, no person shall---

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

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

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

(2) This section applies to any action which is likely to make available directly or indirectly, or otherwise to result in the remittance or transfer, to or for the benefit of any of the following persons---

(a) UNITA;

(b) any senior official of UNITA;

(c) any adult member of the immediate family of any senior official of UNITA; or

(d) any person or body acting on behalf of a person described in paragraph (b) or (c),

any funds or other financial resources, whether by their removal from the HKSAR or otherwise.

(3) The provisions of this section shall apply to any funds or other financial resources derived from or are otherwise attributable to the property of---

- (a) UNITA;
- (b) any senior official of UNITA;
- (c) any adult member of the immediate family of any senior official of UNITA; or
- (d) any person or body acting on behalf of a person described in paragraph (b) or (c).

(4) Any permission granted by the Chief Executive under this section may be granted either absolutely or subject to conditions and may be varied or revoked at any time by the Chief Executive."

6. Application of certain provisions

Section 5 is amended---

(a) in subsection (1)---

(i) by repealing "and 4F" and substituting ", 4F, 4G and 4H";

(ii) by repealing "and 4B" and substituting ", 4B and 4G";

(b) by repealing subsection (2) and substituting---

"(2) Subject to the provisions of subsections (3), (4), (5), (5A), (5B), (6), (6A), (7) and (8), any person specified in subsection (1) who contravenes the provisions of section 2(1), (1A)(a) or (b), (1B) or (1C), section 3(2) or (2A), section 4A, 4B or 4H shall be guilty of an offence.";

(c) by adding---

"(5A) In the case of proceedings for an offence in contravention of section 2(1B), it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the goods in question were to be supplied or delivered to a person in an area of Angola to which State administration has not been extended.

(5B) In the case of proceedings for an offence in contravention of section 2(1C), it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the services in question were to be supplied to a person in an area of Angola to which State administration has not been extended.";

(d) by adding---

"(6A) In the case of proceedings for an offence in contravention of section 3(2A), it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the goods in question were to be exported to an area of Angola to which State administration has not been extended, or to any such area for the purpose of delivery directly or indirectly to or to the order of a person in Angola.".

7. Declaration as to goods: powers of search

Section 8(1)(a) is amended by repealing "or 2" and substituting ", 2 or 3".

8. Penalties and proceedings

Section 11(2) is amended by adding ", 4G(2)" after "4C(2)".

9. Cases of medical emergency, etc. excepted

from certain provisions

Section 11B(1) is amended by repealing "2(1A), 3(2), 4(1)(b), 4A, 4B, 4C, 4D, 4E or 4F" and substituting "2(1A), (1B) or (1C), 3(2) or (2A), 4(1)(b), 4A, 4B, 4C, 4D, 4E, 4F, 4G or 4H".

10. Prohibited goods

Schedule 1 is amended by adding---

"PART 3

(1) Equipment used in mining or mining services.

(2) Motorized vehicle or watercraft or their spare parts.

PART 4

Ground or waterborne transportation services."

TUNG Chee-hwa

Chief Executive

21 June 1999

Explanatory Note

This Regulation amends the United Nations Sanctions (Angola) Regulation (Cap. 537 sub. leg.) to implement the decisions of the Security Council of the United Nations in Resolution No. 1173 of 12 June 1998 applicable to areas of Angola to which State administration has not been extended. (See section 1(b)). In particular, the Regulation prohibits---

(a) the supply or delivery of certain goods, or the supply of certain services, to those areas (section 2);

(b) the export of certain goods to those areas (section 3);

(c) the carriage of certain goods to those areas (section 4);

(d) the import into Hong Kong of diamonds exported from Angola unless the diamonds are the subject of a specified certificate of origin (new section 4G at section 5);

(e) certain actions in respect of gold, securities or investments which may benefit, inter alia, the National Union for the Total Independence of Angola ("UNITA") or any senior official of UNITA (new section 4H at section 5).