

UNITED NATIONS SANCTIONS (ANGOLA)

(AMENDMENT) REGULATION 1998

(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 (L.N. 424 of 1997) is amended---

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

" "Angolan aircraft" (安哥拉飛機) means an aircraft registered in Angola or an aircraft which is in the territory of Angola;

"Committee" (委員會) means the Committee of the Security Council of the United Nations established pursuant to Resolution 864;

"Director" (處長) means the Director of Immigration, the Deputy Director of Immigration, any assistant director of immigration and any member of the Immigration Service of the rank of senior principal immigration officer;

"Resolution 864" (第 864 號決議) means Resolution 864 adopted by the Security Council of the United Nations on 15 September 1993;

"Resolution 1127" (第 1127 號決議) means Resolution 1127 adopted by the Security Council of the United Nations on 28 August 1997;"

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

"(2) In this Regulation, a reference to a person designated as a senior official of UNITA or an adult member of his immediate family is a reference to a person designated as such by the Committee in accordance with Resolution 1127."

2. Supply or delivery of certain goods to Angola

Section 2 is amended---

(a) in subsection (1), by adding "Part 1 of" after "specified in";

(b) by adding---

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

(a) supply or deliver, or agree to supply or deliver, to any person in Angola; or

(b) enter into or extend, or agree to enter into or extend, any contract or other arrangement for the purpose of making available for operation in Angola, any goods specified in Part 2 of Schedule 1.";

(c) in subsection (2)---

(i) by adding "or (1A)(b)" after "(1)(b)";

(ii) by repealing "supply or delivery" and substituting "supply, delivery or making available".

### 3. Exportation of certain goods to Angola

Section 3 is amended---

(a) by renumbering it as section 3(1);

(b) in subsection (1), by adding "Part 1 of" after "specified in";

(c) by adding---

"(2) Except under the authority of a licence granted by the Chief Executive under this section, the goods specified in Part 2 of Schedule 1 are prohibited from being exported from the HKSAR to any destination in Angola, or to any destination for the purpose of delivery directly or indirectly to or to the order of a person in Angola.

(3) Any person who exports any goods from the HKSAR in contravention of subsection (1) or (2) shall be guilty of an offence.

(4) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from the HKSAR."

### 4. Carriage of goods destined for Angola

Section 4 is amended---

(a) by repealing subsection (1) and substituting---

"(1) Without prejudice to the generality of section 2, and except under the authority of a licence granted by the Chief Executive under this section, no ship or aircraft to which this section applies, and no vehicle within the HKSAR, shall be used for---

(a) the carriage of any goods specified in Part 1 of Schedule 1 if the carriage is, or forms part of, carriage from any place outside Angola to any destination therein where it is known, or where there is reasonable cause to believe, that the goods will be used by, or for any purpose of, UNITA; or

(b) the carriage of any goods specified in Part 2 of Schedule 1 if the carriage is, or forms part of, carriage from any place outside Angola to any destination therein.";

(b) in subsection (2)---

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

(ii) by adding---

"(aa) a permanent resident of the HKSAR; or";

(c) in subsection (3)---

(i) in paragraph (b), by adding ", (aa)" after "(2)(a)";

(ii) by repealing "for use by, or for any purpose of, UNITA" and substituting "and, in the case of paragraph (a) of subsection (1), that the goods would be used by, or for any purpose of, UNITA".

### 5. Sections added

The following are added---

"4A. Servicing of Angolan aircraft

Except under the authority of a licence granted by the Chief Executive under this section, no person shall provide engineering or maintenance servicing for any Angolan aircraft or provide any certification of airworthiness for such aircraft.

4B. Insurance of Angolan aircraft

(1) This section applies to any contract of insurance, other than a contract of re-insurance, upon any Angolan aircraft or upon the machinery, tackle, furniture or equipment of any such aircraft.

(2) Except under the authority of a licence granted by the Chief Executive under this section---

(a) no person shall make payment in full or partial settlement of any claim under a contract of insurance to which this section applies unless the claim is in respect of an incident occurring before the coming into force of this section;

(b) no person shall effect any new contract of insurance, or agree to any variation or extension of any existing contract of insurance, to which this section applies.

4C. Prohibition of flights

(1) Notwithstanding any licence, operating permit or permit granted under regulation 5, 20A or 23, as the case may be, of the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg.), no aircraft, wherever registered, shall take off from, land in or fly over the HKSAR if its destination is, or if it has taken off from, Angola except with the permission of the Chief Executive granted under this section.

(2) When any aircraft is used in contravention of the provisions of this section, then the operator and the commander of the aircraft shall be guilty of an offence.

4D. Entry or transit by UNITA officials, etc.

(1) A person who is designated as a senior official of UNITA or an adult member of his immediate family shall not enter or transit through the HKSAR.

(2) Any person who contravenes subsection (1) commits an offence.

(3) Subsection (1) shall not apply to an official necessary for the full functioning of the Government of Unity and National Reconciliation, the National Assembly, or the Joint Commission within the meaning of Resolution 1127.

(4) Nothing in this section shall prohibit a person having the right of abode or the right to land in the HKSAR from entry into the HKSAR.

(5) Any person who claims that he is a person referred to in subsection (3) shall, prior to his arrival in the HKSAR, produce evidence to prove that fact to the satisfaction of the Chief Executive.

4E. Cancellation of travel documents, etc.

(1) Where a person to whom any travel document is issued by the Director is designated as a senior official of UNITA or an adult member of his immediate family, the Director shall by notice in writing cancel the travel document and may take possession of it.

(2) Where a person whose travel document bears a visa issued under the Immigration Ordinance (Cap. 115) is designated as a senior official of UNITA or an adult member of his immediate family, the Director shall by notice in writing cancel the visa.

(3) Where a person to whom permission to land or permission to remain in the HKSAR is given under the Immigration Ordinance (Cap. 115) is designated as a senior official of UNITA or an adult member of his immediate family, the Director---

(a) shall by notice in writing cancel the permission; and

(b) may require that person to leave the HKSAR,

and provisions of the Immigration Ordinance (Cap. 115) shall apply to that person as if a removal order were made against him under section 19 of that Ordinance. Nothing in this subsection shall render any person liable to a penalty higher than the penalty specified in section 3(3) of the Ordinance.

(4) This section shall not apply to an official necessary for the full functioning of the Government of Unity and National Reconciliation, the National Assembly, or the Joint Commission within the meaning of Resolution 1127.

(5) Any person who objects to cancellation of his travel document, visa or permission to land or permission to remain in the HKSAR on the ground that he is a person referred to in subsection (4) shall produce evidence to prove that fact to the satisfaction of the Chief Executive.

#### 4F. Closure of UNITA offices

(1) No person shall establish or maintain---

(a) any office or other premises under the name of "Uniao Nacional para a Independencia Total de Angola", "National Union for the Total Independence of Angola" or "安哥拉徹底獨立全國聯盟";

(b) any office or other premises as a UNITA office.

(2) In determining whether an office or other premises is established or maintained as a UNITA office, a magistrate shall have regard to---

(a) any connection any person in control of the office or premises may have with UNITA;

(b) activities undertaken at the office or premises;

(c) any other circumstances which are relevant having regard to the objectives of Resolution 1127 and any other resolution of the Security Council of the United Nations imposing a sanction on UNITA offices.

(3) Where a magistrate is satisfied by information on oath given by any police

officer that any office or premises is used as a UNITA office and whether or not any person has been charged with or convicted of an offence in respect of the office or premises under this section, the magistrate may make a closure order directing--

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(a) that the office or premises shall close under the direction and supervision of a police officer or an authorized officer; and

(b) that no person other than a police officer in the course of his duty shall enter or remain in the office or premises during the continuance in force of the order.

(4) A closure order under subsection (3) shall continue in force in so far as the sanction requiring closure of UNITA offices imposed by the Security Council of the United Nations is in force unless declared revoked under subsection (6).

(5) A copy of an order under subsection (3) shall be---

(a) served on the owner of the office or premises and any person who appears to have an interest in the office or premises; and

(b) posted in a conspicuous place upon the office or premises.

(6) A magistrate, if satisfied that any office or premises in respect of which a closure order is in force will not be used in contravention of subsection (1), may declare that he is so satisfied and revoke the closure order.

(7) Any person who contravenes subsection (1) or fails to comply with an order under subsection (3) commits an offence."

## 6. Application of certain provisions

Section 5 is amended---

(a) by repealing subsection (1) and substituting---

"(1) The provisions of sections 2, 4A, 4B and 4F shall apply to any person within the HKSAR, and the provisions of sections 2, 4A and 4B shall apply to any person elsewhere who is---

(a) a permanent resident of the HKSAR; or

(b) a body incorporated or constituted under the law of the HKSAR.";

(b) in subsection (2)---

(i) by repealing "subsection (3)" and substituting "subsections (3), (4), (5), (6), (7) and (8)";

(ii) by repealing "2" and substituting "2(1) or (1A)(a) or (b), 3, 4A or 4B";

(c) in subsection (3), by repealing "2" and substituting "2(1)";

(d) by adding---

"(4) In the case of proceedings for an offence in contravention of section 2(1A)(a), 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 Angola.

(5) In the case of proceedings for an offence in contravention of section 2(1A)(b), it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the purpose was to make available the goods in question for operation in Angola.

(6) In the case of proceedings for an offence in contravention of section 3(2), 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 a destination in Angola, or to a destination for the purpose of delivery directly or indirectly to or to the order of a person in Angola.

(7) In the case of proceedings for an offence in contravention of section 4A in relation to an Angolan aircraft, it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the aircraft was an Angolan aircraft.

(8) In the case of proceedings for an offence in contravention of section 4B, it shall be a defence for the accused person to prove that he did not know and had no reason to believe that the aircraft was an Angolan aircraft or that the machinery, tackle, furniture or equipment was part of such an aircraft."

7. Offences in connection with applications for licences or permission, conditions attached to licences or permission, etc.

Section 7 is amended by repealing "licence" wherever it appears and substituting "licence or permission".

8. Declaration as to goods: powers of search

Section 8(1)(a) is amended by adding "Part 1 or 2 of" after "specified in".

9. Penalties and proceedings

Section 11 is amended---

(a) in subsection (1), by adding "3(3)," after "section";

(b) by adding---

"(1A) Any person guilty of an offence under section 4D(2) shall be liable on summary conviction to a fine of \$500,000 and to imprisonment for 2 years.

(1B) Any person guilty of an offence under section 4F(7) shall be liable on summary conviction to a fine at level 5.";

(c) in subsection (2), by adding "4C(2) or" after "under section".

10. Sections added

The following are added---

"11A. Grant of licence or permission

(1) No licence or permission shall be granted under this Regulation except--

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(a) with the approval of the instructing authority given generally or in a particular case; and

(b) in accordance with this section.

(2) No licence shall be granted under section 2(1A), 3(2) or 4(1)(b) in respect of any aircraft or aircraft component unless it is to be supplied, delivered or made available to Angola through named points of entry on a list supplied by the Government of Angola to the Committee, of which the Committee notifies the Central People's Government of the People's Republic of China.

(3) No licence shall be granted under section 4A or 4B except for---

(a) an aircraft registered in Angola which is on a list provided by the Government of Angola to the Committee, of which the Committee notifies the Central People's Government of the People's Republic of China; or

(b) an aircraft which entered the territory of Angola through a point of entry included in a list supplied by the Government of Angola to the Committee, of which the Committee notifies the Central People's Government of the People's Republic of China.

(4) No permission shall be granted under section 4C(1) except for an aircraft which has taken off from or is destined to land at a place in the territory of Angola on a list referred to in subsection (3)(b).

11B. Cases of medical emergency, etc. excepted from certain provisions

(1) Nothing in section 2(1A), 3(2), 4(1)(b), 4A, 4B, 4C, 4D, 4E or 4F shall apply to any case of medical emergency or to any flight of aircraft carrying food, medicine, or supplies for essential humanitarian needs, as approved in advance by the Committee.

(2) Any person who claims that subsection (1) applies shall produce evidence in advance to prove that fact to the satisfaction of the Chief Executive.

11C. Non-derogation from other Ordinance

Nothing in this Regulation shall affect the operation of the Immigration Ordinance (Cap. 115)."

11. Exercise of powers of the Chief Executive

Section 12(2) is amended by adding "or permissions" after "licences".

12. Miscellaneous

Section 13 is amended by---

(a) adding "or permission" before "granted";

(b) repealing everything from and including "by a person" to and including "under the law of, that place";

(c) repealing "licence," and substituting "licence or otherwise with the permission

given".

13. Prohibited goods

Schedule 1 is amended---

(a) by adding immediately before paragraph (1)---

"PART 1

Arms and petroleum products";

(b) by adding---

"PART 2

Aircraft

Any aircraft and any component specially designed for aircraft.".

TUNG Chee-hwa

Chief Executive

15 September 1998

Explanatory Note

This Regulation amends the United Nations Sanctions (Angola) Regulation (L.N. 424 of 1997) to implement decisions of the Security Council of the United Nations in Resolution No. 1127 of 28th August 1997 by---

(a) prohibiting the export to Angola and the supply to persons in Angola of aircraft and aircraft components;

(b) restricting certain related activities including the carriage of aircraft and aircraft components destined for Angola in ships, aircraft and vehicles and the servicing and insurance of Angolan aircraft;

(c) prohibiting aircraft from taking off from, landing in or overflying the HKSAR, if they are destined for, or have taken off from, Angola; and

(d) restricting entry into or transit through the HKSAR by senior officials of the National Union for the Total Independence of Angola ("UNITA") and adult members of their immediate families and providing for cancellation of their travel documents and for the closure of UNITA offices.