

立法會
Legislative Council

LC Paper No. LS36/03-04

**Paper for the Subcommittee on
United Nations Sanctions (Liberia) Regulation 2003**

**Implementation of resolutions of the Security Council of the
United Nations in relation to sanctions in Hong Kong**

Background

At the Subcommittee meeting on 11 December 2003, members asked the Legislative Council Secretariat to research on how resolutions of the Security Council of the United Nations in relation to sanctions (U.N. resolutions) had been implemented in Hong Kong prior to 1997 so as to facilitate discussion on the implementation of such resolutions under the United Nations Sanctions Ordinance (Cap. 537) ("the Ordinance").

Orders in Council prior to 1 July 1997

2. The United Nations Act 1946 of the United Kingdom provides that if the Security Council of the United Nations has called upon His Majesty's Government in the United Kingdom to apply any measures to give effect to any decision of that Council, "His Majesty may by Order in Council make such provision as appears to Him necessary or expedient for enabling those measures to be effectively applied". These Orders in Council may extend to any part of His Majesty's dominions and to any other territory under His jurisdiction. A copy of the Act is enclosed at **Annex A**.

3. From 1990 to 30 June 1997, more than 20 such Orders in Council were made and extended to Hong Kong. A list of these Orders in Council is enclosed at **Annex B**. An example of one of these Orders, i.e. The United Nations Arms Embargoes (Dependent Territories) Order 1995 (L.N. 249 of 1995), which is an Order to give effect to decisions of the Security Council in relation to Liberia, Somalia, the former Yugoslavia and Rwanda is enclosed at **Annex C**. The Order was made by Her Majesty in Council on 11 April 1995. It was laid before Parliament on 25 April 1995 and came into force on 16 May 1995. The relevant Order was published in the Hong Kong Gazette on 16 June 1995.

4. As to how U.N. resolutions were implemented in Hong Kong before 1 July 1997, Members may refer to the letter from the Administration to the Clerk to this Subcommittee dated 9 January 2004 (LC Paper No. CB(2)966/03-04(01)). According to the Administration, after the Foreign and Commonwealth Office of the United Kingdom Government had prepared the final draft Order in Council, the Hong Kong Government would publish the Order in the Gazette and issue a press release to announce the implementation of sanctions.

5. All such Orders in Council as applicable to Hong Kong lapsed at midnight on 30 June 1997.

Regulations under the United Nations Sanctions Ordinance from 1 July 1997

6. To avoid the legal vacuum arising from the lapse of the Orders in Council, the Ordinance was urgently passed on 16 July 1997 by the Legislative Council and came into effect on 18 July 1997 (see **Annex D**). Regulations made by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China ("MFA of PRC") to continue implementing United Nations sanctions against Iraq, Libya, Liberia, Somalia, Rwanda and Angola in Hong Kong were published in the Gazette (L.N. 419 - 424 of 1997) and came into effect on 22 August 1997. A list of Regulations made after 1 July 1997 up to the present is enclosed at **Annex E**. For ease of comparison, the United Nations Sanctions (Arms Embargoes) Regulation (L.N. 423 of 1997) is enclosed at **Annex F**.

Observations

7. On reviewing the Orders in Council, the regulations made under the Ordinance and other related legislation, it is observed that :

- (a) Prior to 1 July 1997, the text of a relevant Order in Council was prepared in the United Kingdom. Hong Kong was required to publish the Order in the Gazette. After 1 July 1997, the regulation concerned is made by the Chief Executive to give effect to a relevant instruction from the MFA of PRC. The text is prepared in Hong Kong.
- (b) The U.K. Act does not specify that measures are to be implemented against a "place". The Ordinance stipulates that sanctions are to be imposed against a "place" outside the People's Republic of China. It has been pointed out in the report of the Subcommittee on United Nations Sanctions (Afghanistan) (Amendment) Regulation 2002 that the amending regulation may not be within the scope of the Ordinance.
- (c) Under section 1(4) of the U.K. Act, an Order in Council made under the Act will have to be laid before Parliament before its coming into force. Whereas in Hong Kong, section 3(5) of the Ordinance provides that sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made by the Chief Executive under the Ordinance. The regulations are therefore not required to be laid on the table of the Legislative Council.
- (d) Clause 3(2) of the International Organizations (Privileges and Immunities) Bill stated that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to an Order made by the Chief Executive in Council. After members of that Bills Committee had expressed concern that it would deprive LegCo of the right to scrutinize such order as subsidiary legislation, the Administration deleted that clause during Committee Stage.
- (e) Prior to 1 July 1997, Orders in Council giving effect to U. N. sanctions were made quite promptly. In paragraph (c) of the letter to the Chairman of the House Committee dated 13 November 2003 (see CB(2)338/03-04 issued on 14 November 2003 by the Clerk to the House Committee), the Chief Secretary for Administration stated that the U. N. resolutions are "time-limited".

Nonetheless, there is usually a long time gap before a regulation is made in Hong Kong. For instance, the U.N. Resolution 1343 (2001) against Liberia was adopted by the Security Council on 7 March 2001. The United Nations Sanctions (Liberia) Regulation 2001 (L.N. 280 of 2001) was enacted in Hong Kong on 14 December 2001 and expired on 5 May 2002. Another U.N. Resolution 1408 to extend the duration of sanctions for a further period of 12 months against Liberia was adopted by the Security Council on 6 May 2002. "The HKSARG was instructed in May by the MFA of PRC to give effect to Resolution 1408 in the HKSAR" (see the paragraph under the heading - UN Security Council 1408 in the Administration's letter to the Assistant Legal Adviser of the Legal Service Division dated 8 October 2002 enclosed at **Annex G**). The United Nations Sanctions (Liberia) Regulation 2002 (L.N. 141 of 2002) was not enacted in Hong Kong until 4 October 2002. On 6 May 2003, the Security Council adopted Resolution 1478, which extended the duration of sanctions against Liberia for another 12 months. Again, the United Nations Sanctions (Liberia) Regulation 2003 (L.N. 245 of 2003) was not enacted in Hong Kong until some time later, i.e. on 7 November 2003. As a result, there have been long time gaps when the relevant sanctions were not implemented by local legislation.

- (f) In comparing **Annex C** with **Annex F**, which give effect pre-1997 and post-1997 to the same U. N. resolutions on arms embargoes, they are substantially similar to each other except that:
 - (i) there are a preamble and a Schedule 1 to the Order in Council;
 - (ii) terms such as the Governor, the British citizen, Her Majesty's Government in the United Kingdom which appear in the Order in Council have been adapted in the Regulation; and
 - (iii) definitions on "authorized officer", "customs officer" have been added to the interpretation section in the Regulation.
- (g) The text of the 2001 Liberia Regulation is modelled largely on the 1995 Order in Council on arms embargoes. But some changes are introduced in the 2002 and 2003 United Nations Sanctions (Liberia) Regulations. For example, the 2003 Regulation is now divided into different Parts. Sections 3, 4, 5, 16, 17, 22 and 30 of the Regulation are sections not found in the U.K. Order in Council. Most of these sections relate to the exercise of the Chief Executive's powers such as in granting licences, or in authorizing persons to be authorized officers.
- (h) In the Regulations made under the Ordinance, law enforcement agencies are empowered to request any person to furnish information or produce materials, or to seize property in the absence of a court order. This differs from the enabling powers stipulated in the Organized and Serious Crimes Ordinance (Cap. 455), Dangerous Drugs Ordinance (Cap. 134) and Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 whereby court orders are required.

Encl.

Prepared by
Legal Service Division
Legislative Council Secretariat
12 January 2004

Annex A

UNITED NATIONS ACT 1946

(9 & 10 Geo 6 c 45)

An Act to enable effect to be given to certain provisions of the Charter of the United Nations
[15 April 1946]

Northern Ireland This Act applies.

1 Measures under Article 41

(1) If, under Article forty-one of the Charter of the United Nations signed at San Francisco on the twenty-sixth day of June, nineteen hundred and forty-five, (being the Article which relates to measures not involving the use of armed force) the Security Council of the United Nations call upon His Majesty's Government in the United Kingdom to apply any measures to give effect to any decision of that Council, His Majesty may by Order in Council make such provision as appears to Him necessary or expedient for enabling those measures to be effectively applied, including (without prejudice to the generality of the preceding words) provision for the apprehension, trial and punishment of persons offending against the Order.

(2) Orders in Council made under this section may be so made as to extend to any part of His Majesty's dominions (other than Dominions within the meaning of the Statute of Westminster 1931 territories administered by the Government of any such Dominion, . . . , . . .) and, to the extent that His Majesty has jurisdiction therein, to any other territory in which His Majesty has from time to time jurisdiction (other than territories which are being administered by the Government of such a Dominion as aforesaid, . . .).

(3) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

(4) Every Order in Council made under this section shall [forthwith after it is made be laid—

(a) before Parliament; and

(b) if any provision made by the Order would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament, before that Parliament] . . .

(5) Any expenses incurred by His Majesty's Government in the United Kingdom in applying any such measures as are mentioned in this section shall be defrayed out of moneys provided by Parliament.

2 Short title

This Act may be cited as the United Nations Act 1946.

Before 1.7.1997

Item	Legal Notice No.	Orders in Council	Date of Gazette
1.	281 of 1990	The Iraq and Kuwait (United Nations Sanctions)(Dependent Territories) Order 1990	28.8.1990
2.	282 of 1990	The Iraq and Kuwait (United Nations Sanctions) Order 1990	28.8.1990
3.	120 of 1992	The Libya (United Nations Prohibition of Flights)(Dependent Territories) Order 1992	1.5.1992
4.	121 of 1992	The Libya (United Nations Sanctions)(Dependent Territories) Order 1992	1.5.1992
5.	208 of 1992	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992	26.6.1992
6.	209 of 1992	The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992	26.6.1992
7.	168 of 1993	The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993	21.5.1993
8.	186 of 1993	The Iraq (United Nations)(Sequestration of Assets)(Dependent Territories) Order 1993	28.5.1993
9.	322 of 1993	The Haiti (United Nations Sanctions)(Dependent Territories) Order 1993	6.8.1993
10.	391 of 1993	The Angola (United Nations Sanctions)(Dependent Territories) Order 1993	8.10.1993
11.	462 of 1993	The Libya (United Nations Sanctions)(Dependent Territories) Order 1993	3.12.1993
12.	404 of 1994	The Haiti (United Nations Sanctions)(Dependent Territories) Order 1994	1.7.1994
13.	432 of 1994	The South Africa (United Nations Arms Embargo)(Prohibited Transactions) Revocations Order 1994	15.7.1994
14.	550 of 1994	The Haiti (United Nations Sanctions)(Dependent Territories) Order 1994 (S.I.1994/1324)	21.10.1994
15.	574 of 1994	The Former Yugoslavia (United Nations Sanctions)(Dependent Territories) Order 1994	4.11.1994

Item	Legal Notice No.	Orders in Council	Date of Gazette
16.	575 of 1994	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993) — (Suspension) Order 1994	4.11.1994
17.	29 of 1995	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993) — (Suspension) Order 1995	27.1.1995
18.	183 of 1995	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993) — (Suspension)(No.2) Notice 1995	19.5.1995
19.	249 of 1995	The United Nations Arms Embargoes (Dependent Territories) Order 1995	16.6.1995
20.	446 of 1995	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993) — (Suspension)(No.3) Notice 1995	29.9.1995
21.	22 of 1996	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993);The Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1994 (L.N.574 of 1994) — (Suspension) Notice 1996	5.1.1996
22.	138 of 1996	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993);The Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1994 (L.N.574 of 1994) — (Suspension)(No.2) Notice 1996	15.3.1996
23.	451 of 1996	The Serbia and Montenegro (United Nations Prohibition of Flights)(Dependent Territories) Order 1992 (L.N.208 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1992 (L.N.209 of 1992); The Serbia and Montenegro (United Nations Sanctions)(Dependent Territories) Order 1993 (L.N.168 of 1993);The Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1994 (L.N.574 of 1994) — (Cancellation) Notice 1996	25.10.1996

L.N. 249 of 1995

The following Order is published for general information—

1995 No. 1032

UNITED NATIONS

THE UNITED NATIONS ARMS EMBARGOES (DEPENDENT TERRITORIES) ORDER 1995

Made - - - - - 11th April 1995

Laid before Parliament - - - - - 25th April 1995

Coming into force - - - - - 16th May 1995

At the Court at Windsor Castle, the 11th day of April 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by certain resolutions adopted on 25th September 1991, 23rd January 1992, 19th November 1992 and 17th May 1994, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Liberia, Somalia, the former Yugoslavia and Rwanda:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. Citation, commencement and extent

(1) This Order may be cited as the United Nations Arms Embargoes (Dependent Territories) Order 1995 and shall come into force on 16th May 1995.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending in whole or in part the operation of any of the resolutions adopted by it on 25th September 1991, 23rd January 1992, 19th November 1992 or 17th May 1994,

(a) 1946 c. 45.

this Order shall cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the Gazette.

- (3) (a) This Order shall extend, as part of the law thereof, to each of the territories listed in Schedule 1 to this Order.
- (b) In this application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

2. Interpretation

In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being in charge or command of the aircraft;

"export" includes shipment as stores and, in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"the former Yugoslavia" means all territories which Her Majesty's Government in the United Kingdom recognise as having been comprised within the Socialist Federal Republic of Yugoslavia on 25th September 1991, and a certificate issued by or on behalf of the Governor shall be conclusive evidence as to whether any territory was so comprised on that date;

"Gazette" means the official Gazette of the Territory;

"Governor" means the Governor or other officer administering the Government of the Territory;

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

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"person connected with a prohibited destination" means—

- (i) the Government of any territory comprised within a prohibited destination;
- (ii) any other person in, or resident in, a prohibited destination;
- (iii) any body incorporated or constituted under the law of any part of a prohibited destination;
- (iv) any body, wherever incorporated or constituted, which is controlled by the Government of any territory comprised within a

prohibited destination, any other person in, or resident in, a prohibited destination, or any body incorporated in or constituted under the law of any part of a prohibited destination; and

- (v) any person acting on behalf of any of the above mentioned persons;

"prohibited destination" means Liberia, Somalia, the former Yugoslavia or Rwanda;

"ship" has the meaning it bears in section 742 of the Merchant Shipping Act 1894(a);

"shipment" includes loading into an aircraft.

3. Deliveries and supplies of certain goods to a prohibited destination

(1) Except under the authority of a licence granted by the Governor under this article, the Serbia and Montenegro (United Nations Sanctions) (Dependent Territories) Order 1992(b), the Serbia and Montenegro (United Nations Sanctions) (Dependent Territories) Order 1993(c) or the Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1994(d), no person shall

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act likely to promote the supply or delivery of,

any goods specified in Schedule 2 to this Order to a prohibited destination, or to, or to the order of, a person connected with a prohibited destination, or to any destination for the purpose of delivery, directly or indirectly, to a prohibited destination or to, or to the order of, any person connected with a prohibited destination.

(2) The provisions of this article shall apply to any person within the Territory and to any person elsewhere who—

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person, and is ordinarily resident in the Territory;
- (b) is a body incorporated or constituted under the law of the Territory.

(3) Subject to the provisions of paragraph (4) of this article, any person specified in paragraph (2) of this article who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

(a) 1894 c. 60.
(b) S.I. 1992/1303.
(c) S.I. 1993/1195.
(d) S.I. 1994/2674.

(4) In the case of proceedings for an offence in contravention of paragraph (1) of this article it shall be a defence for the accused person to prove, (i) that he did not know and had no reason to suppose that the goods in question were prohibited goods, or (ii) that he did not know and had no reason to suppose that the goods were to be delivered or supplied to a prohibited destination or to, or to the order of, a person connected with a prohibited destination.

(5) Paragraph (1) of this article shall not apply to goods delivered or supplied to a prohibited destination by or on behalf of the United Nations, the United Nations Protection Force, the European Community Monitor Mission, the International Conference on the Former Yugoslavia or the peacekeeping forces of the Economic Community of West African States.

(6) Nothing in paragraph (1)(b) or (c) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

4. Exportation of certain goods to a prohibited destination

Except under the authority of a licence granted by the Governor under this article, the Serbia and Montenegro (United Nations Sanctions) (Dependent Territories) Order 1992, the Serbia and Montenegro (United Nations Sanctions) (Dependent Territories) Order 1993 or the Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1994, the goods specified in Schedule 2 to this Order are prohibited to be exported from the Territory to any prohibited destination or to any destination for the purpose of delivery, directly or indirectly, to any prohibited destination or to, or to the order of, any person connected with a prohibited destination.

5. Powers to demand evidence of destination which goods reach

Any exporter or any shipper of goods specified in Schedule 2 to this Order which have been exported from the Territory shall, if so required by the Governor, furnish within such time as he may allow proof to his satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be supplied or delivered by a licence granted under this Order; or
- (ii) a destination to which their supply or delivery was not prohibited by this Order,

and, if he fails to do so, he shall be liable to a customs penalty not exceeding £5,000 or its equivalent unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

6. Offences in connection with applications for licences, conditions attaching to licences, etc.

(1) If for the purpose of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order.

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

7. Declaration as to goods: powers of search

(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not he has with him any goods specified in Schedule 2 to this Order; and
- (b) produce any goods specified in Schedule 2 to this Order which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

8. Carriage of certain goods destined for a prohibited destination

(1) Except under the authority of a licence granted by the Governor under this article, and without prejudice to the generality of article 3 of this Order, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of goods specified in Schedule 2 to this Order if the carriage is or forms part of carriage from any place outside a prohibited destination to any place therein, or to, or to the order of, a person connected with a prohibited destination.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person, and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) of this article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside a prohibited destination to any place therein or to, or to the order of, any person connected with a prohibited destination.

(4) In the case of proceedings for an offence in contravention of paragraph (3) above, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were goods specified in Schedule 2 to this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibited or restricting the use of ships, aircraft or vehicles.

(6) Nothing in this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor as referred to in paragraph (1) of article 3 of this Order.

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

(1) Where any authorised officer, that is to say, any such officer as is referred to in section 692(1) of the Merchant Shipping Act 1894(a), has reason to suspect that any ship in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 8 of this Order, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of article 8 of this Order, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of an authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps—

- (a) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by any authorised officer that the ship may so proceed;
- (b) if the ship is then in a port in the Territory to cause her to remain there until the master is notified by any authorised officer that the ship may depart;
- (c) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (b) of this paragraph; and
- (d) to take her to any other destination that may be specified by the officer in agreement with the master,

and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of paragraph (10) of this article, where a master refuses or fails to comply with a request made under this article that his ship shall or shall not proceed to or from any place or where an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer 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 enter

(a) 1894 c. 60.

upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(3) Where the Governor or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any aircraft in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 8 of this Order, the Governor or that authorised person may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and the Governor or that authorised person may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and, if the aircraft is then in the Territory, the Governor or any such authorised person (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the Territory until notified that the aircraft may depart; and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid has reason to suspect that any request that an aircraft should remain in the Territory that has been made under paragraph (3) of this article may not be complied with, that authorised person 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 authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(5) Where the Governor or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 8 of this Order, the Governor or that authorised person may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify, and the Governor or that authorised person may (either alone or accompanied and assisted by persons under his authority) board the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and the Governor or any such authorised person (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the Territory until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of paragraph (10) of this article, where the Governor or any person authorised as aforesaid has reason to suspect that any request that a vehicle should remain in the Territory that has been made under paragraph (5) of this article may not be complied with, the Governor or that authorised person 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 authorise entry, upon any land and upon that vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) Before or on exercising any power conferred by paragraph (3), (4), (5) or (6) of this article, such an authorised person as is referred to in paragraph (3) or (5) shall, if requested so to do, produce evidence of his authority.

(8) No information furnished or document produced by any person in pursuance of a request made under this article shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under this article to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of any territory to which this Order extends;
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia, Somalia, the former Yugoslavia or Rwanda decided upon the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs or for an offence against any provision of law with respect to similar matters that is for the time being in force in the Territory.

(9) Any power conferred by this article to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of ship who disobeys any direction given under paragraph (1) of this article with respect to the landing of any cargo;
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this article by any person empowered to make it; or
 - (ii) wilfully furnishes false information or produces false documents to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) Nothing in this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

10. Obtaining of evidence and information

The provisions of Schedule 3 to the Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor, of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

11. Penalties and proceedings

(1) Any person guilty of an offence under article 3(3) or article 8(3) of this Order shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 9(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 3 to this Order shall be liable—

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 6(1) or (2) or article 7(3) of this Order shall be liable—

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 7(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 9(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 3 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than twelve months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an

offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

12. Exercise of powers of the Governor

(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

13. Miscellaneous

(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

N. H. NICHOLLS,
Clerk of the Privy Council.

SCHEDULE 1

Article 1(3)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands

Falkland Islands
 Gibraltar
 Hong Kong
 Montserrat
 Pitcairn, Henderson, Ducie and Oeno Islands
 St. Helena and its Dependencies
 South Georgia and South Sandwich Islands
 Sovereign Base Areas of Akrotiri and Dhekelia
 Turks and Caicos Islands
 Virgin Islands

SCHEDULE 2

Articles 3 to 8

PROHIBITED GOODS

PART A

- (1) Any arms and related material (including weapons, ammunition, military vehicles, military equipment and paramilitary police equipment).
 (2) Any component for any goods specified in paragraph (1) of this Part of this Schedule.
 (3) Any goods specially designed or prepared for use, or normally used, in the manufacture or maintenance of any goods specified in paragraph (1) or (2) of this Part of this Schedule.

PART B

In relation to Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia:

- (1) All wheel drive utility vehicles capable of off road use that have a ground clearance of greater than 175 millimetres;
 (2) Heavy duty recovery vehicles capable of towing suspended a load of more than 6 tonnes or winching a load of more than 10 tonnes;
 (3) Drop sided trucks that have a load carrying capacity of more than 5 tonnes.

SCHEDULE 3

Article 10

EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Territory to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order, and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any documents so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2. (1) If any justice of the peace is satisfied by information on oath given by any police officer, customs officer or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case—

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
 (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or customs officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, ship or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, ship or aircraft and may seize any document or article found on the premises or in the vehicle, ship or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid or any documents which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it.

Provided that no person shall, in pursuance of any warrant issued under this paragraph, be searched except by a person of the same sex.

(3) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any document or article of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which it is relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before or on exercising that power.

4. No information furnished or document produced (including any copy of or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized;

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of any territory to which this Order extends; or

- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia, Somalia, the former Yugoslavia or Rwanda decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs or for an offence against any provision of law with respect to similar matters that is for the time being in force in the Territory.

5. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

Explanatory Note

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It imposes restrictions pursuant to decisions of the Security Council of the United Nations in resolution 713 (1991) of 25th September 1991, which provided for States to “implement a general and complete embargo on all deliveries of weapons and military equipment” to the former Yugoslavia, and in resolution 733 (1992) of 23rd January 1992, resolution 788 (1992) of 19th November 1992 and resolution 918 (1994) of 17th May 1994, which made similar provision in relation to Somalia, Liberia and Rwanda respectively.

第 537 章

聯合國制裁條例

本條例旨在就《聯合國憲章》第七章所引起而對中華人民共和國以外地方施加制裁而訂定條文，並就其附帶或與其有關連的事宜訂定條文。

[1997 年 7 月 18 日]

1. 簡稱

本條例可引稱為《聯合國制裁條例》。

2. 釋義

(1) 在本條例中，除文意另有所指外——

“作出指示的機關”(instructing authority) 指中華人民共和國外交部；

“制裁”(sanction) 包括由聯合國安全理事會決定針對中華人民共和國以外地方而實施的全面或局部經濟及貿易禁運、武器禁運以及其他強制性措施。

(2) 凡根據《聯合國憲章》第七章，聯合國安全理事會已決定須採取某項措施以執行其任何決定，而聯合國安全理事會亦已要求中華人民共和國實行該項措施，則以下由作出指示的機關向行政長官所作的指示就本條例而言屬有關指示——

- (a) 為中華人民共和國香港特別行政區實行該項措施的目的而針對中華人民共和國以外地方實施制裁的指示(該地方和制裁為該指示所指明者)；或
- (b) 在該等制裁已實施的情況下採取以下行動的指示——
 - (i) 停止實施該等制裁；

CHAPTER 537

UNITED NATIONS SANCTIONS

An Ordinance to provide for the imposition of sanctions against places outside the People's Republic of China arising from Chapter 7 of the Charter of the United Nations, and to provide for matters incidental thereto or connected therewith.

[18 July 1997]

1. Short title

This Ordinance may be cited as the United Nations Sanctions Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

“instructing authority” (作出指示的機關) means the Ministry of Foreign Affairs of the People's Republic of China;

“sanction” (制裁) includes complete or partial economic and trade embargoes, arms embargoes, and other mandatory measures decided by the Security Council of the United Nations, implemented against a place outside the People's Republic of China.

(2) Where, under Chapter 7 of the Charter of the United Nations, the Security Council of the United Nations has decided on a measure to be employed to give effect to any of its decisions and has called on the People's Republic of China to apply the measure, then any instruction given by the instructing authority to the Chief Executive—

- (a) to implement the sanctions specified in the instruction against the place outside the People's Republic of China specified in the instruction for the purposes of the Hong Kong Special Administrative Region of the People's Republic of China applying that measure; or
- (b) where such sanctions have been so implemented—
 - (i) to cease implementing such sanctions;

- (ii) 按指示所指明修改該等制裁或該等制裁的實施；或
- (iii) 以該指示所指明的其他制裁完全或局部取代該等制裁。

3. 規例須使有關指示得以執行

- (1) 行政長官須訂立規例，以執行有關指示。
- (2) 除第 (3) 款另有規定外，根據本條訂立的規例可規定違反任何該等規例即屬犯罪，並可就此訂明罰則。
- (3) 根據本條訂立的規例可訂明凡違反或觸犯該等規例——
 - (a) 一經循簡易程序定罪，可處不超過 \$500,000 的罰款及不超過 2 年的監禁；
 - (b) 一經循公訴程序定罪，可處無限額的罰款及不超過 7 年的監禁。
- (4) 根據本條訂立的規例可將任何或任何類別的人、財產、物品、技術資料、服務、交易、船舶、鐵路列車或飛機摒除於該等規例的適用範圍之外。
- (5) 《釋義及通則條例》(第 1 章) 第 34 及 35 條不適用於根據本條訂立的規例。
- (6) 為免生疑問，現宣布凡由某項有關指示引起並根據本條而訂立的規例已停止有效，則即使有另一項有關指示作出，而該有關指示的條款與前述的指示的條款相同，該規例亦不恢復生效。

- (ii) to modify such sanctions, or the implementation of such sanctions, as are specified in the instruction; or
- (iii) to replace such sanctions (whether in whole or in part) with other sanctions specified in the instruction,

is a relevant instruction for the purposes of this Ordinance.

3. Regulations shall give effect to relevant instructions

- (1) The Chief Executive shall make regulations to give effect to a relevant instruction.
- (2) Subject to subsection (3), regulations made under this section may provide that a contravention of any such regulation shall be an offence and may prescribe penalties therefor.
- (3) Regulations made under this section may prescribe that a contravention or breach thereof shall be punishable—
 - (a) on summary conviction by a fine not exceeding \$500,000 and imprisonment for a term not exceeding 2 years;
 - (b) on conviction on indictment by an unlimited fine and imprisonment for a term not exceeding 7 years.
- (4) Any regulations made under this section may exclude any person, property, goods, technical data, services, transaction, ship, train or aircraft or any class thereof from the application of the regulations.
- (5) Sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under this section.
- (6) For the avoidance of doubt, it is hereby declared that any regulations made under this section do not revive, after they have ceased to have effect, if a relevant instruction is given in the same terms as the relevant instruction which gave rise to those regulations.

Annex E

After 1.7.1997

Item	Legal Notice No.	Regulations	Date of Gazette
1.	419 of 1997	United Nations Sanctions (Iraq)(Control of Gold, Securities, Payments and Credits) Regulation	22.8.1997
2.	420 of 1997	United Nations Sanctions (Iraq) Regulation	22.8.1997
3.	421 of 1997	United Nations Sanctions (Libya) Regulation	22.8.1997
4.	422 of 1997	United Nations Sanctions (Libya)(Prohibition of Flights) Regulation	22.8.1997
5.	423 of 1997	United Nations Sanctions (Arms Embargoes) Regulation	22.8.1997
6.	424 of 1997	United Nations Sanctions (Angola) Regulation	22.8.1997
7.	314 of 1998	United Nations Sanctions (Angola)(Amendment) Regulation 1998	18.9.1998
8.	365 of 1998	United Nations Sanctions (Sierra Leone)(Immigration Control) Regulation	4.12.1998
9.	366 of 1998	United Nations Sanctions (Federal Republic of Yugoslavia)(Prohibition on Terrorist Activity) Regulation	4.12.1998
10.	367 of 1998	United Nations Sanctions (Arms Embargoes)(Amendment) Regulation 1998	4.12.1998
11.	166 of 1999	United Nations Sanctions (Angola)(Amendment) Regulation 1999	25.6.1999
12.	173 of 1999	United Nations Sanctions (Libya)(Suspension of Operation) Regulation 1999	2.7.1999
13.	174 of 1999	United Nations Sanctions (Libya)(Prohibition of Flights)(Suspension of Operation) Regulation 1999	2.7.1999
14.	229 of 2000	United Nations Sanctions (Afghanistan) Regulation	23.6.2000

Item	Legal Notice No.	Regulations	Date of Gazette
15.	68 of 2001	United Nations Sanctions (Eritrea and Ethiopia) Regulation	16.3.2001
16.	194 of 2001	United Nations Sanctions (Sierra Leone)(Prohibition Against Importation of Diamonds) Regulation	28.9.2001
17.	211 of 2001	United Nations Sanctions (Afghanistan)(Arms Embargoes) Regulation	12.10.2001
18.	280 of 2001	United Nations Sanctions (Liberia) Regulation	14.12.2001
19.	281 of 2001	United Nations Sanctions (Arms Embargoes)(Amendment) Regulation	14.12.2001
20.	64 of 2002	United Nations Sanctions (Sierra Leone)(Prohibition Against Importation of Diamonds) Regulation	10.5.2002
21.	134 of 2002	United Nations Sanctions (Afghanistan)(Amendment) Regulation 2002	19.7. 2002
22.	137 of 2002	United Nations (Anti-Terrorism Measures) Ordinance (27 of 2002)(Commencement) Notice 2002	23.8.2002
23.	141 of 2002	United Nations Sanctions (Liberia) Regulation 2002	4.10.2002
24.	151 of 2002	United Nations Sanctions (Angola)(Suspension of Operation) Regulation 2002	18.10.2002
25.	95 of 2003	United Nations Sanctions (Angola)(Repeal) Regulation 2003	4.4.2003
26.	96 of 2003	United Nations Sanctions (Sierra Leone)(Prohibition Against Importation of Diamonds) Regulation 2003	4.4.2003
27.	245 of 2003	United Nations Sanctions (Liberia) Regulation 2003	7.11.2003

1997 年第 423 號法律公告

L.N. 423 of 1997

聯合國制裁 (武器禁運) 規例

UNITED NATIONS SANCTIONS (ARMS EMBARGOES)
REGULATION

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聯合國制裁(武器禁運)規例

(由行政長官按中華人民共和國外交部的指示並根據《聯合國制裁條例》
(1997 年第 125 號) 第 3 條訂立)

1. 釋義及適用範圍

(1) 在本規例中，除文意另有所指外——

“出口”(export) 包括補給品付運及就任何船隻、可潛航載具或飛機而言，包括將該船隻、可潛航載具或飛機帶出特區，儘管該船隻、載具或飛機正在運送物品或乘客，亦不論是否以其本身動力推動；

“付運”(shipment) 包括裝上飛機；

“受禁制目的地”(prohibited destination) 指利比亞、索馬里或盧旺達；

“特區”(HKSAR) 指中華人民共和國香港特別行政區；

“海關人員”(customs officer) 指出任《香港海關條例》(第 342 章) 附表 1 內指明職位的香港海關人員；

“船長”(master) 就船舶而言，包括在當其時掌管該船舶的人(領港員除外)；

“船舶”(ship) 包括並非由槳驅動的，用於航行的船隻；

“與受禁制目的地有關連的人”(person connected with a prohibited destination) 指——

- (a) 組成受禁制目的地的任何地區的政府；
- (b) 在受禁制目的地內或通常居於該目的地內的任何其他人士；
- (c) 根據受禁制目的地內任何地方的法律而成立為法團或組成的團體；
- (d) 任何團體(不論該團體是在何處成立為法團或組成的)而該團體是由組成受禁制目的地的任何地區的政府、在受禁制目的地內或通常居於該目的地的任何其他人士、或根據受禁制目的地內任何地方的法律而成立為法團或組成的團體所控制的；
- (e) 代任何以上所述的人行事的人；

“擁有人”(owner)，(如船舶的擁有人並非營運人)指營運人及租用有關船舶的人；

“機長”(commander) 就飛機而言，指由有關飛機的營運人指定為該飛機的機長的空勤人員，或如無該人，則指當其時掌管或指揮該飛機的機師的人；

UNITED NATIONS SANCTIONS (ARMS EMBARGOES)
REGULATION

(Made under section 3 of the United Nations Sanctions Ordinance (125 of 1997) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China)

1. Interpretation and application

(1) In this Regulation, unless the context otherwise requires—

“authorized officer” (獲授權人員) means a person authorized in writing by the Chief Executive for the purposes of this Regulation;

“commander” (機長), in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being in charge or command of the aircraft;

“customs officer” (海關人員) means any member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342);

“export” (出口) includes shipment as stores and, in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the HKSAR of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power;

“HKSAR” (特區) means the Hong Kong Special Administrative Region of the People's Republic of China;

“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 vehicle, means the person for the time being having the management of the aircraft or vehicle;

“owner” (擁有人), where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“person connected with a prohibited destination” (與受禁制目的地有關連的人) means—

- (a) the Government of any territory comprised within a prohibited destination;
- (b) any other person in, or resident in, a prohibited destination;
- (c) any body incorporated or constituted under the law of any part of a prohibited destination;
- (d) any body, wherever incorporated or constituted, which is controlled by the Government of any territory comprised within a prohibited destination, any other person in, or resident in, a

“獲授權人員”(authorized officer) 指由行政長官為施行本規例而以書面授權的人；

“營運人”(operator) 就飛機或陸上運輸載具而言，指在當其時管理有關飛機或載具的人。

(2) 除獲作出指示的機關就一般情況或個別情況給予的批准外，不得根據本規例批予任何特許。

(3) 在本規例對盧旺達及就盧旺達適用的範圍內，本規例不適用於盧旺達政府，而本規例的條文須據此解釋。

2. 向受禁制目的地交付及供應某些物品

(1) 除根據行政長官根據本條批予的特許的授權外，任何人不得——

(a) 供應或交付附表1指明的物品；

(b) 同意供應或交付附表1指明的物品；或

(c) 作出任何作為，而該作為相當可能會促進附表1指明的物品的供應或交付，

而該等供應或交付——

(i) 是向受禁制目的地作出的；

(ii) 是向與受禁制目的地有關連的人，或按該人的要求而作出的；

(iii) 是向任何目的地作出的，以將該等物品直接或間接交付至受禁制目的地或交付任何與受禁制目的地有關連的人，或以將該等物品直接或間接地按該人的要求而交付；

(iv) 是向在布隆迪、坦桑尼亞、烏干達或扎伊爾的人作出的，而作出該供應或交付的人知道或懷疑所涉物品是擬在盧旺達使用的；或

(v) 是向任何目的地作出的，以將該等物品直接或間接交付在布隆迪、坦桑尼亞、烏干達或扎伊爾的人，而作出該供應或交付的人知道或懷疑所涉物品是擬在盧旺達使用的。

(2) 本條適用於——

(a) 在特區的人；或

(b) 根據特區的法律成立為法團或組成的團體。

(3) 除第(4)款另有規定外，第(2)款指明的人如違反第(1)款的條文，即屬犯罪。

prohibited destination, or any body incorporated or constituted under the law of any part of a prohibited destination;

(e) any person acting on behalf of any of the above mentioned persons;

“prohibited destination”(受禁制目的地) means Liberia, Somalia or Rwanda;

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

“shipment”(付運) includes loading into an aircraft.

(2) No licence shall be granted under this Regulation except with the approval of the instructing authority given generally or in a particular case.

(3) To the extent that this Regulation applies to and in relation to Rwanda, it shall not apply to the Government of Rwanda, and the provisions of this Regulation shall be construed accordingly.

2. Supplies and deliveries of certain goods to a prohibited destination

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

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act likely to promote the supply or delivery of, any goods specified in Schedule 1—

(i) to a prohibited destination;

(ii) to or to the order of, any person connected with a prohibited destination;

(iii) to any destination for the purpose of delivery, directly or indirectly, to a prohibited destination or to, or to the order of, any person connected with a prohibited destination;

(iv) to any person in Burundi, Tanzania, Uganda or Zaire, knowing or suspecting that the goods in question are intended for use within Rwanda; or

(v) to any destination for the purpose of delivery, directly or indirectly, to any person in Burundi, Tanzania, Uganda or Zaire, knowing or suspecting that the goods in question are intended for use within Rwanda.

(2) The provisions of this section shall apply to any person who is—

(a) within the HKSAR; or

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

(3) Subject to the provisions of subsection (4), any person specified in subsection (2) who contravenes the provisions of subsection (1) shall be guilty of an offence.

(4) 就屬違反第(1)款的罪行而進行的法律程序而言，被控人如證明其本人既不知道亦無理由假定——

(a) 有關物品是禁制物品；或

(b) 有關物品是擬交付或供應至受禁制目的地或予與受禁制目的地有關連的人，或是按與受禁制目的地有關連的人的要求而交付或供應的，

即可作為免責辯護。

(5) 第(1)款不適用於由聯合國或代聯合國交付或供應至受禁制目的地的物品。

(6) 如向有關的人供應或交付物品是由行政長官根據本條批予的特許所授權的，則第(1)(b)或(c)款並不適用。

3. 輸出某些物品至受禁制目的地

除根據行政長官根據本條所批予的特許的授權外，附表 1 指明的物品——

(a) 均被禁止自特區出口至受禁制目的地；

(b) 均被禁止自特區出口予與受禁制目的地有關連的人，或按該人的要求而自特區出口；

(c) 均被禁止自特區出口至任何目的地，以將該等物品直接或間接交付至受禁制目的地或交付予任何與受禁制目的地有關連的人，或以將該等物品直接或間接地按該人的要求而交付；

(d) 均被禁止在知道或懷疑有關物品是擬在盧旺達使用的情況下自特區出口予在布隆迪、坦桑尼亞、烏干達或扎伊爾的人；或

(e) 均被禁止自特區出口至任何目的地，以將該等物品直接或間接交付予在布隆迪、坦桑尼亞、烏干達或扎伊爾的人，而供應或交付該等物品的人知道或懷疑有關物品是擬在盧旺達使用的。

4. 索取有關物品所抵達的目的地的證據的權力

已自特區出口的附表 1 指明的物品的出口人或付運人，在行政長官要求下，須在行政長官所容許的時限內，提供令其信納的證明，證明有關物品已抵達下述目的地——

(4) In the case of proceedings for an offence in contravention of subsection (1) it shall be a defence for the accused person to prove—

(a) that he did not know and had no reason to suppose that the goods in question were prohibited goods; or

(b) that he did not know and had no reason to suppose that the goods were to be supplied or delivered to a prohibited destination or to, or to the order of, a person connected with a prohibited destination.

(5) Subsection (1) shall not apply to goods supplied or delivered to a prohibited destination by or on behalf of the United Nations.

(6) Nothing in subsection (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorized by a licence granted by the Chief Executive under this section.

3. Exportation of certain goods to a prohibited destination

Except under the authority of a licence granted by the Chief Executive under this section, the goods specified in Schedule 1 are prohibited to be exported from the HKSAR—

(a) to a prohibited destination;

(b) to, or to the order of, any person connected with a prohibited destination;

(c) to any destination for the purpose of delivery, directly or indirectly, to a prohibited destination or to, or to the order of, any person connected with a prohibited destination;

(d) to any person in Burundi, Tanzania, Uganda or Zaire in the knowledge or suspicion that the goods in question are intended for use within Rwanda; or

(e) to any destination for the purpose of delivery, directly or indirectly, to any person in Burundi, Tanzania, Uganda or Zaire in the knowledge or suspicion that the goods in question are intended for use within Rwanda.

4. Powers to demand evidence of destination which goods reach

Any exporter or any shipper of goods specified in Schedule 1 which have been exported from the HKSAR shall, if so required by the Chief Executive, furnish within such time as he may allow proof to his satisfaction that the goods have reached—

(a) 有關物品藉根據本規例批予的特許而獲准供應或交付的目的地；或

(b) 本規例並不禁止有關物品予以供應或交付的目的地，

如該人沒有如此遵行，即屬犯罪，並可處第6級罰款，除非他證明他並沒有同意或縱容該等物品抵達(a)或(b)段所述的目的地以外的目的地。

5. 與特許的申請、附加於特許的條件等 有關連的罪行

(1) 任何人如為了取得在本規例下的特許，作出他知道在要項上屬虛假的陳述或提供他知道在要項上屬虛假的文件或資料，或罔顧後果地作出在要項上屬虛假的陳述或提供在要項上屬虛假的文件或資料，即屬犯罪。

(2) 任何人根據行政長官根據本規例批予的特許的授權而作出了任何作為，而該人沒有遵從附加於該特許的條件，即屬犯罪：

但如該人證明他所沒有遵從的條件，是在他作出經上述特許授權的作為後，在未經他同意下被行政長官修改，則不屬犯本款所訂的罪行。

6. 有關物品的聲明：搜查的權力

(1) 任何即將離開特區的人須應獲授權人員的要求——

(a) 聲明他是否攜有附表1指明的物品；

(b) 交出他所攜有的附表1指明的物品，

而該獲授權人員及在他指示下行事的人可搜查該人，以確定該人是否攜有任何該等物品：

但依據本款對任何人作搜查，只可由與該人性別相同的人進行。

(2) 任何人無合理辯解而拒絕按照本條的條文作出聲明，或沒有按照本條的條文交出物品，或拒絕按照本條的條文容許對他作搜查，即屬犯罪。

(a) a destination to which they were authorized to be supplied or delivered by a licence granted under this Regulation; or

(b) a destination to which their supply or delivery was not prohibited by this Regulation,

and, if he fails to do so, he shall be guilty of an offence and liable to a fine at level 6 unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination mentioned in paragraph (a) or (b).

5. Offences in connection with applications for licences, conditions attaching to licences, etc.

(1) If for the purpose of obtaining any licence under this Regulation any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence.

(2) Any person who has done any act under the authority of a licence granted by the Chief Executive under this Regulation and who fails to comply with any condition attaching to that licence shall be guilty of an offence:

Provided that no person shall be guilty of an offence under this subsection where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Chief Executive after the doing of the act authorized by the licence.

6. Declaration as to goods: powers of search

(1) Any person who is about to leave the HKSAR shall if he is required to do so by an authorized officer—

(a) declare whether or not he has with him any goods specified in Schedule 1;

(b) produce any goods specified in Schedule 1 which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods:

Provided that no person shall be searched in pursuance of this subsection except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the provisions of this section shall be guilty of an offence.

(3) 任何人根據本條的條文作出他知道在要項上屬虛假的聲明或罔顧後果地作出在要項上屬虛假的聲明，即屬犯罪。

7. 以受禁制目的地為目的地的 某些物品的載運

(1) 除根據行政長官根據本條批予的特許的授權外，以及在不損害第 2 條的一般性的原則下，本條適用的船舶或飛機不得用以作下述情況的附表 1 指明的物品的載運：自受禁制目的地以外的地方至受禁制目的地內的任何地方的，或是構成該載運的部分的、或是向與受禁制目的地有關連的人或按該人的要求而作出的，或構成該載運的部分的。

(2) 除根據行政長官根據本條批予的特許的授權外，且在不損害第 2 條的一般性的原則下，如就任何本條適用的船舶或飛機或任何在特區的載具而在第 (4)(a)、(b) 或 (c) 款中指明的人知道或懷疑該船舶、飛機或載具所進行的載運是從布隆迪、坦桑尼亞、烏干達或扎伊爾以外任何地方向在該等國家的任何人載運的或構成該載運的部分、且有關物品是擬在盧旺達使用的，則該船舶、飛機或載具不得被用作載運附表 1 指明的物品。

(3) 本條適用於在特區註冊的船舶及飛機，以及任何在當其時租予下述的人的其他船舶或飛機——

- (a) 在特區的人；或
- (b) 根據特區的法律成立為法團或組成的團體。

(4) 如在違反第 (1) 款的情況下使用任何船舶、飛機或載具，下述的人即屬犯罪——

- (a) 如屬在特區註冊的船舶或飛機，有關船舶的擁有人及船長或有關飛機的營運人及機長（視屬何情況而定）；
- (b) 如屬任何其他船舶或飛機，在當其時租用船舶或飛機的人，及（如他屬第 (3)(a) 或 (b) 款提述的人）有關船舶的船長或有關飛機的營運人及機長（視屬何情況而定）；或
- (c) 如屬載具、有關載具的營運人，

7. Carriage of certain goods destined for a prohibited destination

(1) Except under the authority of a licence granted by the Chief Executive under this section, and without prejudice to the generality of section 2, no ship or aircraft to which this section applies, and no vehicle within the HKSAR, shall be used for the carriage of goods specified in Schedule 1 if the carriage is or forms part of carriage from any place outside a prohibited destination to any place therein, or to, or to the order of, a person connected with a prohibited destination.

(2) Except under the authority of a licence granted by the Chief Executive under this section, and without prejudice to the generality of section 2, no ship or aircraft to which this section applies, and no vehicle within the HKSAR, shall be used for the carriage of goods specified in Schedule 1 if the person specified in subsection (4)(a), (b) or (c) in relation to the ship, aircraft or vehicle in question knows or suspects that the carriage is or forms part of carriage from any place outside Burundi, Tanzania, Uganda or Zaire to any person therein and that the goods in question are intended for use within Rwanda.

(3) This section applies to ships registered in the HKSAR, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

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

(4) If any ship, aircraft or vehicle is used in contravention of subsection (1), then—

- (a) in the case of a ship registered in the HKSAR or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft;
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in subsection (3)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

除非他證明他既不知道亦無理由假定有關物品是自受禁制的目的地以外任何地方載運至受禁制目的地的任何地方的或是構成該等載運的部分的。

(5) 如船舶、飛機或載具在違反第(2)款的情況下被使用，在第(4)(a)、(b)或(c)款中就有關船舶、飛機或載具而指明的人即屬犯罪。

(6) 就屬違反第(4)款的罪行的法律程序而言，被控人如證明他不知道亦無理由假定有關物品屬附表1指明的貨品，即可作為免責辯護。

(7) 本條不得解釋為損害禁制或限制使用船舶、飛機或載具的其他法律的條文。

(8) 如向有關的人供應或交付物品是第2(1)條所述由行政長官批予的特許所授權的，則本條並不適用。

8. 調查可疑船舶、飛機及載具等

(1) 如獲授權人員有理由懷疑在特區的船舶已經、正在或行將在違反第7(1)或(2)條的情況下被使用，他可單獨或在由他授權的人陪同及協助下，登上並搜查有關船舶，並且可為上述目的而使用或授權使用合理武力，獲授權人員亦可要求有關船舶的船長提供他所指明的與該船舶及其貨物有關的資料，和提交他所指明的與此有關的文件以及交出他所指明的貨物，以供其檢查；而獲授權人員(在當場及當時，或經考慮依據有關要求提供的資料或提交的文件或交出的貨物)可就合理懷疑正在或行將在違反第7條的情況下被使用的船舶，為了防止犯(或繼續犯)任何該等違反事項或就上述事宜進行調查而行使進一步權力，即他可指示船長除非取得獲授權人員的同意，否則不得於獲授權人員指明的港口卸下列出的屬有關船舶的任何部分貨物，或要求船長採取下述任何一項或多於一項步驟——

(a) 促使有關船舶不繼續該船舶在當時已進行或行將進行的航程，直至船長獲得獲授權人員通知該船舶可如此航行；

shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside a prohibited destination to any place therein or to, or to the order of, any person connected with a prohibited destination.

(5) If any ship, aircraft or vehicle is used in contravention of subsection (2), the person specified in subsection (4)(a), (b) or (c) in relation to the ship, aircraft or vehicle in question shall be guilty of an offence.

(6) In the case of proceedings for an offence in contravention of subsection (4), it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were goods specified in Schedule 1.

(7) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

(8) Nothing in this section shall apply where the supply or delivery of the goods to the person concerned is authorized by a licence granted by the Chief Executive as referred to in section 2(1).

8. Investigation, etc. of suspected ships, aircraft and vehicles

(1) Where any authorized officer has reason to suspect that any ship in the HKSAR has been or is being or is about to be used in contravention of section 7(1) or (2), he may (either alone or accompanied and assisted by persons under his authority) board the ship and search it and, for that purpose, may use or authorize the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and an authorized officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of section 7, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of such contravention or in order that inquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of an authorized officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps—

(a) to cause the ship not to proceed with the voyage on which it is then engaged or about to engage until the master is notified by any authorized officer that the ship may so proceed;

(b) (如有關船舶當時在特區境內) 促使該船舶逗留留在特區, 直至船長獲得獲授權人員通知該船舶可離境;

(c) (如有關船舶當時在其他地方) 將該船舶開往該人員指明的任何該等港口和促使該船舶逗留留在該港口, 直至船長獲得 (b) 段所述的通知;

(d) 將該船舶開往該人員在與船長協議下所指明的任何其他目的地, 而船長須遵從該等要求或指示。

(2) 在不損害第 (10) 款的條文下, 如有關的船長拒絕或沒有遵從根據本條作出的其船舶須或不得開往任何地方或自任何地方啟航的要求, 或獲授權人員在其他方面有理由懷疑已作的上述要求可能不會獲遵從, 該人員可採取他認為為確保該要求獲遵從而屬必要的步驟; 在不損害上述的一般性的原則下, 獲授權人員可為上述目的登上, 或授權登上有關船舶, 並可使用或授權使用合理武力。

(3) 如行政長官或獲授權人員有理由懷疑在特區的任何飛機已經、正在或行將在違反第 7(1) 或 (2) 條的情況下被使用, 行政長官或有關的獲授權人員可要求該飛機的出租人、營運人及機長, 或他們任何一人提供他所指明的與該飛機及其貨物有關的資料, 和提交他所指明的與此有關的文件以及交出他所指明的貨物, 以供其檢查; 而行政長官或該獲授權人員可單獨或在由他授權的人陪同及協助下, 登上並搜查有關飛機, 並且可為上述目的而使用或授權使用合理武力; 而如飛機在當時在特區境內, 行政長官或該獲授權人員 (在當場及當時, 或經考慮依據有關要求提供的資料或提交的文件或交出的貨物) 可進一步要求出租人、營運人及機長或他們任何一人促使飛機逗留留在特區境內, 直至獲通知有關飛機可離境, 而出租人、營運人及機長須遵從該等要求。

(4) 在不損害第 (10) 款的條文下, 如獲授權人員有理由懷疑已根據本條作出的某飛機須逗留留在特區境內的要求可能不會獲遵從, 該獲授權人員可採取他認為為確保該要求獲遵從而屬必要的步驟; 在不損害上述的一般性的原則下, 獲授權人員可為上述目的——

- (a) 進入或授權進入任何土地, 以及登上或授權登上該飛機;
- (b) 扣留或授權扣留該飛機; 及

(b) if the ship is then in the HKSAR to cause it to remain there until the master is notified by any authorized officer that the ship may depart;

(c) if the ship is then in any other place, to take it to any such port specified by the officer and to cause it to remain there until the master is notified as mentioned in paragraph (b);

(d) to take it to any other destination that may be specified by the officer in agreement with the master,

and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of subsection (10), where a master refuses or fails to comply with a request made under this section that his ship shall or shall not proceed to or from any place or where an authorized officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer 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 enter upon, or authorize entry upon, that ship and use, or authorize the use of, reasonable force.

(3) Where the Chief Executive or any authorized officer has reason to suspect that any aircraft in the HKSAR has been or is being or is about to be used in contravention of section 7(1) or (2), the Chief Executive or that authorized officer may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and the Chief Executive or that authorized officer may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorize the use of reasonable force; and, if the aircraft is then in the HKSAR, the Chief Executive or any such authorized officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, the operator and the commander or any of them to cause the aircraft to remain in the HKSAR until notified that the aircraft may depart; and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of subsection (10), where any authorized officer has reason to suspect that any request that an aircraft should remain in the HKSAR that has been made under this section may not be complied with, that authorized officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorize entry, upon any land and upon that aircraft;
- (b) detain, or authorize the detention of, that aircraft; and

(c) 使用或授權使用合理武力。

(5) 如行政長官或獲授權人員有理由懷疑在特區境內的任何載具已經、正在或行將在違反第 7(1) 或 (2) 條的情況下被使用，行政長官或有關的獲授權人員可要求該載具的營運人及其駕駛人或他們其中一人提供他所指明的與該載具及其所載的物品有關的資料，和提交他所指明的與此有關的文件以及交出他所指明的物品，以供其檢查；而行政長官或該獲授權人員可單獨或在由他授權的人陪同下協助下，登上並搜查有關載具，並且可為上述目的而使用或授權使用合理武力；而行政長官或該獲授權人員（在當場及當時，或經考慮依據有關要求提供的資料或提交的文件或交出的物品）可進一步要求營運人或駕駛人促使有關載具逗留在特區境內，直至獲通知該載具可離境；而營運人及駕駛人須遵從該等要求。

(6) 在不損害第 (10) 款的條文下，如行政長官或獲授權人員有理由懷疑已根據本條作出的某載具逗留在特區境內的要求可能不會獲遵從，行政長官或該獲授權人員可採取他認為為確保該要求獲遵從而屬必要的步驟；在不損害上述的一般性的原則下，獲授權人員可為上述目的——

(a) 進入或授權進入任何土地，以及登上或授權登上該載具；

(b) 扣留或授權扣留該載具；

(c) 使用或授權使用合理武力。

(7) 獲授權人員在根據第 (1)、(2)、(3)、(4)、(5) 或 (6) 款行使任何權力前，須應要求提供他已獲授權的證據。

(8) 任何人依據根據本條提出的要求而提供的資料或提交的文件，不得予以披露，但以下情況下則除外——

(a) 在提供有關資料或提交有關文件的人同意下作出披露；

但僅以另一人的受僱人或代理人的身分取得資料或管有文件的人不得給予本段所指的同意，但該項同意卻可由本身有權享有該資料或管有該文件的人給予；

(b) 向任何本可根據本條獲賦權要求該資料或文件向其提供或提交的人作出披露；

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

(5) Where the Chief Executive or any authorized officer has reason to suspect that any vehicle in the HKSAR has been or is being or is about to be used in contravention of section 7(1) or (2), the Chief Executive or that authorized officer may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify, and the Chief Executive or that authorized officer may (either alone or accompanied and assisted by persons under his authority) board the vehicle and search it and, for the purpose, may use or authorize the use of reasonable force; and the Chief Executive or any such authorized officer (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the HKSAR until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of subsection (10), where the Chief Executive or any authorized officer has reason to suspect that any request that a vehicle should remain in the HKSAR that has been made under this section may not be complied with, the Chief Executive or that authorized officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

(a) enter, or authorize entry, upon any land and upon that vehicle;

(b) detain, or authorize the detention of, that vehicle;

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

(7) Before or on exercising any power conferred by subsection (1), (2), (3), (4), (5) or (6), an authorized officer shall, if requested so to do, produce evidence of his authority.

(8) No information furnished or document produced by any person in pursuance of a request made under this section shall be disclosed except—

(a) with the consent of the person by whom the information was furnished or the document was produced;

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under this section to request that it be furnished or produced;

- (c) 在行政長官授權下向聯合國的任何機關或向任何任職於聯合國的人或向中華人民共和國以外任何地方的政府作出披露，而目的是協助聯合國或該政府確保由聯合國安全理事會就利比亞、索馬里或盧旺達而決定的措施獲遵從或偵查規避該等措施的情況，但該資料或文件須是在獲作出指示的機關批准的情況下經由作出指示的機關轉交的；或
- (d) 為了就本規例所訂的罪行，或在本規例規管的任何事宜方面就任何與海關有關的成文法則所訂的罪行，而提起任何法律程序而作出披露，或為了該等法律程序的目的而作出披露。
- (9) 本條所賦予就要求提供資料或提交文件或交出貨物以作檢查的權力，包括以下權力：指明有關資料是否須以口頭或書面提供並須以何種表格或格式提供的權力，指明須提供資料、提交文件或交出貨物以供檢查的時間及地點的權力。
- (10) 下述的每一人均屬犯罪——
- (a) 不服從就貨物的卸下而根據第(1)款作出的指示的船舶船長；
- (b) 船舶船長，或飛機的出租人、營運人或機長，或載具的營運人或駕駛人，而該人——
- (i) 在沒有合理辯解下，拒絕或沒有在合理時間內遵從由獲賦權根據本條作出要求的人根據本條作出的要求；或
- (ii) 在對有關要求作出回應時蓄意向作出要求的人提供虛假資料或提交虛假文件；
- (c) 蓄意妨礙任何該等人(或獲任何該等人授權行事的人)行使其在本條下的權力的船舶船長或船員，或飛機的出租人、營運人、機長或機員，或載具的營運人或駕駛人。
- (11) 本條不得解釋為損害任何就船舶、飛機或載具而賦予權力或施加限制或使限制得以施加的其他法律條文。

- (c) 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 Liberia, Somalia or Rwanda decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, for an offence against any enactment relating to customs.
- (9) Any power conferred by this section to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.
- (10) Each of the following persons shall be guilty of an offence, that is to say—
- (a) a master of a ship who disobeys any direction given under subsection (1) with respect to the landing of any cargo;
- (b) a master of a ship or charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
- (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this section by any person empowered to make it; or
- (ii) intentionally furnishes false information or produces false documents to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who intentionally obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this section.
- (11) Nothing in this section shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

9. 證據及資料的取得

附表 2 的條文須為便利由行政長官或由他人代表行政長官取得證據及資料而具有效力，以確保本規例獲遵從或偵查規避本規例的情況，該等條文亦須為便利由行政長官或由他人代表行政長官取得任何人犯本規例所訂的罪行的證據，或為就本規例所規管的任何事宜而言，取得任何人犯關乎海關的罪行的證據而具有效力。

10. 罰則及法律程序

- (1) 任何人犯第 2(3) 或 7(4) 或 (5) 條所訂的罪行——
 - (a) 一經循公訴程序定罪，可處罰款及監禁 7 年；
 - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (2) 任何人犯第 8(10)(b)(ii) 條或附表 2 第 3(b) 或 (d) 條所訂的罪行——
 - (a) 一經循公訴程序定罪，可處罰款及監禁 2 年；
 - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (3) 任何人犯第 5(1) 或 (2) 或 6(3) 條所訂的罪行——
 - (a) 一經循公訴程序定罪，可處罰款及監禁 2 年；
 - (b) 一經循簡易程序定罪，可處第 6 級罰款。
- (4) 任何人犯第 6(2) 條所訂的罪行，一經循簡易程序定罪，可處第 6 級罰款。
- (5) 任何人犯第 8(10)(a)、(b)(i) 或 (c) 條或附表 2 第 3(a) 或 (c) 條所訂的罪行，一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (6) 凡任何法人團體犯本規例所訂的罪行，而該罪行經證明是在該法人團體的任何董事、經理、秘書或其他相類似職位的高級人員或看來是以任何該等身分行事的人的同意或縱容下所犯的，或是可歸因於任何上述的人本身的疏忽的，則該人以及該法人團體均屬犯該罪行，並可據此而被起訴和受懲罰。

9. Obtaining of evidence and information

The provisions of Schedule 2 shall have effect in order to facilitate the obtaining, by or on behalf of the Chief Executive, of evidence and information for the purpose of securing compliance with or detecting evasion of this Regulation and in order to facilitate the obtaining, by or on behalf of the Chief Executive, of evidence of the commission of an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, of an offence relating to customs.

10. Penalties and proceedings

- (1) Any person guilty of an offence under section 2(3) or 7(4) or (5) shall be liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) Any person guilty of an offence under section 8(10)(b)(ii), or section 3(b) or (d) of Schedule 2, shall be liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) Any person guilty of an offence under section 5(1) or (2) or 6(3) shall be liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years;
 - (b) on summary conviction to a fine at level 6.
- (4) Any person guilty of an offence under section 6(2) shall be liable on summary conviction to a fine at level 6.
- (5) Any person guilty of an offence under section 8(10)(a), (b)(i) or (c), or section 3(a) or (c) of Schedule 2, shall be liable on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) Where any body corporate is guilty of an offence under this Regulation, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(7) 本規例所訂的罪行如被指稱是在特區以外所犯的，則就該罪行而進行的簡易法律程序，可自被控該罪行的人在犯該罪行後首次進入特區的日期起計不遲於 12 個月的任何時間展開。

(8) 除非由律政司司長提起或在律政司司長同意下提起，否則不得在特區就本規例所訂的罪行提起法律程序。

11. 行政長官的權力的行使

(1) 行政長官可按其認為適當的範圍及在其認為適當的限制及條件的規限下，將他根據本規例所具有的任何權力，轉授或授權轉授予獲他批准的人，或獲他批准的類別或種類的人，而本規例中對行政長官的提述須據此解釋。

(2) 根據本規例批予的特許可屬一般特許或特別特許，可附加或不附加條件，可予以限制使其有效期若非獲得續期則會在指明日期屆滿，並可由行政長官更改或撤銷。

12. 雜項

(1) 本規例規定除獲行政長官批予的特許的授權外禁止作出某事情的有關條文，就任何獲妥為授權而在特區以外的地方作出的該等事情而言，並不具有效力。

(2) 就第 (1) 款而言，如該等事情是有關地方的有效法律所訂明的在有關方面的主管當局根據該等法律（該等法律須實質上與本規例的有關條文相應）批予的特許所授權的、有關事情則屬獲妥為授權。

附表 I

[第 2、3、4、6 及 7 條]

禁制物品

- (1) 任何武器及相關的物料（包括軍械、彈藥、軍事載具、軍事設備及准軍事警察設備）。
- (2) 第 (1) 款指明的物品的任何元件。
- (3) 經特別設計或製備以供用於或通常用於製造或維修第 (1) 或 (2) 款指明的物品的物品。

(7) 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.

(8) No proceedings for an offence under this Regulation shall be instituted in the HKSAR except by or with the consent of the Secretary for Justice.

11. Exercise of powers of the Chief Executive

(1) 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 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.

(2) Any licences granted under this Regulation may be general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Chief Executive.

12. Miscellaneous

(1) Any provision of this Regulation which prohibits the doing of a thing except under the authority of a licence granted by the Chief Executive shall not have effect in relation to any such thing done in a place outside the HKSAR provided that it is duly authorized.

(2) A thing is duly authorized for the purpose of subsection (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Regulation) by the authority competent in that behalf under that law.

SCHEDULE I

[ss. 2, 3, 4, 6 & 7]

PROHIBITED GOODS

- (1) Any arms and related material (including weapons, ammunition, military vehicles, military equipment and paramilitary police equipment).
- (2) Any component for any goods specified in subsection (1).
- (3) Any goods specially designed or prepared for use, or normally used, in the manufacture or maintenance of any goods specified in subsection (1) or (2).

附表2

[第9及10條]

證據及資料

1. (1) 在不損害本規例其他條文或其他法律的條文的原則下，行政長官(或獲授權人員)可要求任何在特區或居於特區的人，向行政長官(或該獲授權人員)提供他管有或控制的任何資料，或向行政長官(或該獲授權人員)提交他管有或控制的任何文件，而上述資料或文件是行政長官(或該獲授權人員)為確保本規例獲遵從或為偵查現職本規例的情況而需要的，而被要求的人須在該要求所指定的時間內及按該要求所指定的方式遵從該要求。

(2) 第(1)款不得視為規定代表任何人的大律師或律師將其以該身分所獲得的享有特權的通訊披露。

(3) 凡任何人沒有根據本條應要求提供資料或提交文件而被定罪，裁判官或法庭可作出命令，規定該人在命令中指明的期間內提供有關資料或提交有關文件。

(4) 本條所賦予要求任何人提交文件的權力，包括對如此提交的文件取得副本或摘錄的權力，以及要求該人(如該人是法人團體，則要求是該法人團體的現任或已卸任的高級人員或正受僱於該法人團體的其他人)就任何上述文件提供解釋的權力。

2. (1) 如任何裁判官或法官根據任何警務人員、海關人員或獲授權人員經宣誓而作的告發而信納——

(a) 有合理理由懷疑有人已經或正在犯本規例所訂的罪行，或就本規例所規管的任何事宜而言，犯任何有關海關的成文法則所訂的罪行，以及有合理理由懷疑犯該罪行的證據，可在有關告發所指定的處所或在如此指明的任何載具、船舶或飛機中發現；或

(b) 任何須根據第1條提交但尚未提交的文件，可在任何上述處所或在任何上述載具、船舶或飛機中發現，

則他可批出搜查令授權任何警務人員或海關人員，連同任何其他在搜查令中指名的人及其他警務人員或海關人員，於于令簽發日期起計1個月內，隨時進入有關告發中指明的處所或如此指明的載具、船舶或飛機所在的處所(視屬何情況而定)，以及搜查上述處所或載具、船舶或飛機(視屬何情況而定)。

(2) 任何藉上述手令獲授權搜查處所或載具、船舶或飛機的人，可搜查在有關處所或載具、船舶或飛機中發現的人，或他有合理理由相信不久前曾離開或即將進入該處所或載具、船舶或飛機的人，並可檢取該處所或載具、船舶或飛機中或在有關的人身上發現，而他有合理理由相信是犯任何前述罪行的證據的文件或物件，或他有合理理由相信是根據第1條應已提交的文件，或就上述文件或物件採取看來是必需的其他步驟，以保存上述文件或物件和防止其被干擾。

但依據任何根據本條發出的手令對任何人作搜查，只可由與該人性別相同的人進行。

(3) 任何人憑藉本條獲賦權進入任何處所、載具、船舶或飛機，可為此目的而使用合理所需的武力。

(4) 根據本條管有的文件或物件，可予保留3個月；如在該段期間內就上述罪行有任何與該等文件或物件有關的法律程序展開，則可保留至該等法律程序結束為止。

(5) 任何人依據本附表所指的要求而提供的資料或交出的文件(包括所提交的文件的副本或摘錄)，以及根據第(2)款檢取的物件，不得予以披露，但在以下情況則除外——

(a) 在提供有關資料或提交有關文件或被檢取有關文件的人的同意下；

SCHEDULE 2

[ss. 9 & 10]

EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provision of this Regulation, or any provision of any other law, the Chief Executive (or an authorized officer) may request any person in or resident in the HKSAR to furnish to him (or to that authorized officer) any information in his possession or control, or to produce to him (or to that authorized officer) any document in his possession or control, which he (or that authorized officer) may require for the purpose of securing compliance with or detecting evasion of this Regulation, and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in subsection (1) shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this section, the magistrate or court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this section to request any person to produce documents shall include power to take copies of or extracts from any documents so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2. (1) If any magistrate or judge is satisfied by information on oath given by any police officer, customs officer or authorized officer——

(a) that there is reasonable ground for suspecting that an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under section 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorizing any police or customs officer, together with any other persons named in the warrant and any other police or customs officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) A person authorized by any such warrant to search any premises or any vehicle, ship or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, ship or aircraft and may seize any document or article found on the premises or in the vehicle, ship or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid, or any documents which he has reasonable ground to believe ought to have been produced under section 1, or to take in relation to any such document or article any other steps which may appear necessary for preserving it and preventing interference with it.

Provided that no person shall in pursuance of any warrant issued under this section be searched except by a person of the same sex.

(3) Where, by virtue of this section, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any document or article of which possession is taken under this section may be retained for a period of 3 months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which it is relevant, until the conclusion of those proceedings.

(5) No information furnished or document produced (including any copy of or extract made of any document produced) by any person in pursuance of a request made under this Schedule, and no document seized under subsection (2), shall be disclosed except——

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized;

但僅以另一人的受僱人或代理人的身分取得資料或管有文件的人不得給予本段所指的同意，但該項同意卻可由本身有權享有該資料或管有該文件的人給予；

- (b) 向任何本可根據本附表獲賦權要求該資料或文件向其提供或提交的人作出披露；
- (c) 在行政長官授權下向聯合國的任何機關或向任何任職於聯合國的人或向中華人民共和國以外任何地方的政府作出披露，而目的是協助聯合國或該政府確使由聯合國安全理事會就利比里亞、索馬里或盧旺達而決定的措施獲遵從或偵查規避該等措施的情況，但該資料或文件須是在獲作出指示的機關批准的情況下經由作出指示的機關轉交的；或
- (d) 為了就本規例所訂的罪行，或就本規例規管的任何事宜方面就任何與海關有關的成文法則所訂的罪行而提起任何法律程序而作出披露，或為了該等法律程序的目的而作出披露。

3. 任何人——

- (a) 如無合理辯解而拒絕或沒有在指定的時間內(或如無指定時間，則在一段合理時間內)按指定的方式遵從由任何獲賦權根據本附表提出要求的人所提出的要求；
- (b) 故意向根據本附表行使其權力的人提供虛假資料或虛假解釋；
- (c) 在其他方面故意妨礙任何根據本附表行使其權力的人；或
- (d) 意圖規避本附表的條文而銷毀、破損、毀損、隱藏或移去任何文件，

即屬犯罪。

行政長官
董建華

1997年8月21日

註 釋

本規例乃根據《聯合國制裁條例》(1997年第125號)訂立。本規例依據在1992年1月23日通過的《聯合國安全理事會第733號(1992年)決議》、在1992年11月19日通過的《聯合國安全理事會第788號(1992年)決議》及在1994年5月17日通過的《聯合國安全理事會第918號(1994年)決議》所作出的決定而施加限制，該等決議分別對索馬里、利比里亞及盧旺達實施全面的武器及軍事裝備禁運。本規例亦執行聯合國安全理事會在1995年6月9日通過的《聯合國安全理事會第997號(1995年)決議》及在1995年8月16日通過的《聯合國安全理事會第1011號(1995年)決議》中的決定。該等決議規定如向在毗鄰盧旺達的國家的人出售或供應軍火及相關物料，是為供非政府部隊在盧旺達境內使用的，則各國須禁止向該等人士出售或供應該等軍火或物料。

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;”

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced;
- (c) 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 Liberia, Somalia or Rwanda decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation or, with respect to any of the matters regulated by this Regulation, for an offence against any enactment relating to customs.

3. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it;
 - (b) intentionally furnishes false information or a false explanation to any person exercising his powers under this Schedule;
 - (c) otherwise intentionally obstructs any person in the exercise of his powers under this Schedule; or
 - (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,
- shall be guilty of an offence.

TUNG Chee-hwa
Chief Executive

21 August 1997

Explanatory Note

This Regulation is made under the United Nations Sanctions Ordinance (125 of 1997). It imposes restrictions pursuant to decisions of the Security Council of the United Nations in Resolution 733 (1992) of 23 January 1992, Resolution 788 (1992) of 19 November 1992 and Resolution 918 (1994) of 17 May 1994, which made provision for an embargo on all deliveries of weapons and military equipment to Liberia, Somalia and Rwanda respectively. It also gives effect to decisions of the Security Council in Resolution 997 (1995) of 9 June 1995 and 1011 (1995) of 16 August 1995 which provided for States to prohibit the sale and supply of arms and related material to persons in the States neighboring Rwanda, if such sale or supply is for the purpose of the use of such arms or material by non-governmental forces within Rwanda.

Our Ref : CIB CR/104/53/1 VI

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8 October 2002

Ms Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
Legal Services Division
Legislative Council Building
8 Jackson Road, Central
(Fax No : 2877 5029)

Dear Ms Cheng,

United Nations Sanctions (Liberia) Regulation 2002

I refer to your letter of 8 October 2002 concerning the captioned subject. As requested, I attach below some background information on the captioned Regulation for your reference, please.

Background

Under section 3 of the United Nations Sanctions Ordinance (Cap 537), the Chief Executive is required to make regulations to give effect to an instruction by the Central People's Government to implement sanctions imposed by United Nations (UN) Security Council resolutions.

UN Security Council Resolution 1343 and UN Sanctions (Liberia) Regulation

The UN Security Council adopted Resolution 1343 in March 2001 (**Annex A**) imposing sanctions on Liberia for its active support to armed rebel groups in neighbouring countries and its provision of assistance to the transit of illicit diamond trade that constitutes a threat to international peace and security in the region. The sanctions included the prohibition on the sale or supply to Liberia of arms and related

materials, the provision of military training or assistance, the importation of all rough diamonds from Liberia, as well as the prevention of the entry or transit through the Member States of senior members of the Government of Liberia, its armed forces and other related persons. The sanctions were established for an initial period of 12 or 14 months respectively. Under an instruction from the Ministry of Foreign Affairs (MFA) of the People's Republic of China (PRC), the HKSAR Government gave effect to Resolution 1343 through the enactment of the UN Sanctions (Liberia) Regulation, which came into operation on 14 December 2001. The Regulation subsequently expired on 6 May 2002, in line with Resolution 1343.

UN Security Council 1408

Determining that the active support provided by the Government of Liberia to armed rebel groups in the region still constitutes a threat to international peace and security in the region, and noting that the Government of Liberia has not complied fully with the requirements laid down in Resolution 1343, the UN Security Council in May 2002 passed Resolution 1408 (**Annex B**) to extend the sanctions imposed by Resolution 1343 for a further period of 12 months, with an exception provided to the effect that the rough diamonds controlled by the Government of Liberia through the Certificate of Origin regime shall be exempt from the prohibition of importation of rough diamonds exported from the country when a report has been made to the UN Security Council in accordance with paragraph 8 of Resolution 1408. The HKSARG was instructed in May by the MFA of PRC to give effect to Resolution 1408 in the HKSAR.

UN Sanctions (Liberia) Regulation 2002

The UN Sanctions (Liberia) Regulation 2002 seeks to implement Resolution 1408, which extends the duration of sanctions as stipulated in Resolution 1343 as follows:

- (a) **Sections 4 and 5** prohibit any person within the HKSAR and any person acting elsewhere who is both a Hong Kong permanent resident and a Chinese national, or a body incorporated or constituted under the law of the HKSAR (HKSAR persons and bodies), from supplying, delivering or exporting to Liberia of arms and related materials including weapons, ammunition, military vehicles and equipment, paramilitary equipment, and components for the aforementioned (prohibited goods);

- (b) **Section 6** prohibits HKSAR persons and bodies from providing to a person connected with Liberia any technical advice, assistance, or training related to the supply, delivery, manufacture, maintenance or use of any prohibited goods;
- (c) **Section 7** prohibits any rough diamonds exported directly or indirectly from Liberia from being imported into the HKSAR, unless they are controlled by the Government of Liberia through the Certificate of Origin regime that may be established pursuant to paragraphs 7 and 8 of Resolution 1408 and a report has been made to the Security Council of UN in accordance with paragraph 8 of Resolution 1408; and
- (d) **Section 8** prohibits senior members of the Government of Liberia, senior members of the armed forces of Liberia and the spouses of the above persons, and any individuals providing financial and military support to armed rebel groups in countries neighbouring Liberia, in particular the Revolutionary United Front in Sierra Leone, as designated by the Committee established pursuant to Resolution 1343, from entering or transiting through the HKSAR.

As Resolution 1408 mainly extends the duration of the sanctions of the Resolution 1343, the UN Sanctions (Liberia) Regulation 2002 is largely modelled on the expired UN Sanctions (Liberia) Regulation. In line with Resolution 1408, the new Regulation will expire on 6 May 2003.

I hope the above is helpful. Please do not hesitate to contact me or my colleague Mr Jeffrey Chan (2918 7506) if we can be of further assistance.

Yours sincerely,

(Anita Chan)
for Secretary for Commerce, Industry and Technology