

Legislative Council
Subcommittee to Examine the Implementation
in Hong Kong of Resolutions of the United Nations
Security Council in relation to Sanctions

UNITED NATIONS SANCTIONS (SUDAN) REGULATION

INTRODUCTION

A At the meeting of the Executive Council on 22 March 2005, the Council advised and the Acting Chief Executive ordered that the United Nations Sanctions (Sudan) Regulation (“the Regulation”) (at Annex A) should be made under section 3 of the United Nations Sanctions Ordinance (“the Ordinance”) (Cap. 537). The Regulation was gazetted on 1 April 2005 and came into effect on the same day.

BACKGROUND

Obligation and Authority

B 2. Under section 3(1) of the Ordinance, the Chief Executive (“CE”) is required to make regulations to give effect to an instruction of the Ministry of Foreign Affairs (“MFA”) of the People’s Republic of China to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In August 2004, the CE received specific instruction from MFA which requested the Government of the Hong Kong Special Administrative Region to implement United Nations Security Council Resolution (“UNSCR”) 1556. The Regulation was made in pursuance of that instruction. A copy of the document issued by the Chief Secretary for Administration confirming MFA’s instruction is at Annex B.

UNSCR 1556

C 3. In view of the acts of violence and violations of human rights and international humanitarian law in the Darfur area of Sudan, the UNSC adopted Resolution 1556 (at Annex C) on 30 July 2004 in which it decided, inter alia, that:

- (a) all Member States shall take the necessary measures to prevent the sale or supply of arms and related material by their nationals or from their territories or using their flag vessels or aircraft to all non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur (paragraph 7 of UNSCR 1556);
- (b) all Member States shall take the necessary measures to prevent any provision by their nationals or from their territories of technical training or assistance related to the provision, manufacture, maintenance or use of arms and related material to all non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur (paragraph 8 of UNSCR 1556); and
- (c) the measures imposed by paragraphs 7 and 8 of UNSCR 1556 shall not apply to certain circumstances (paragraph 9 of UNSCR 1556).

THE REGULATION

4. The Regulation implements sanctions decided under UNSCR 1556. The main provisions are –

- (a) sections 2 to 5 which provide for prohibition against supply, delivery and carriage of arms and related material to persons connected with Darfur;
- (b) section 6 which provides for prohibition against provision to persons connected with Darfur of technical assistance or training related to the supply, delivery, manufacture, maintenance or use of arms and related material;
- (c) sections 7 and 8 which provide for the granting of a licence for the supply, delivery or carriage of arms and related material, or provision of the aforesaid technical assistance or

training, where the exceptions provided for in paragraph 9 of UNSCR 1556 are satisfied; and

- (d) sections 11 to 22 which provide for the enforcement powers.

RELATED MATTER

5. Between receipt of MFA's instruction and the making of the Regulation, some of the sanctions imposed under UNSCR 1556 were implemented through existing law. For example, in respect of prohibition against sale or supply of arms and related material (paragraph 3(a) above), Regulation 2 of the Import and Export (Strategic Commodities) Regulations (Cap. 60G) provides that no one should import or export an article specified in Schedule 1 to the Regulations except under and in accordance with an import or export licence issued by the Director-General of Trade and Industry. The Trade and Industry Department maintains import and export control on strategic commodities including munitions items, chemical and biological weapons and their precursors, nuclear materials and equipment, and dual-use goods that are capable to be developed into weapons of mass destruction.

ADVICE SOUGHT

6. Members are invited to note the implementation of UNSCR 1556 by the Regulation.

Commerce, Industry and Technology Bureau
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L.N. 45 of 2005

UNITED NATIONS SANCTIONS (SUDAN) REGULATION

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UNITED NATIONS SANCTIONS (SUDAN) REGULATION

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

PART 1**PRELIMINARY****1. Interpretation**

In this Regulation, unless the context otherwise requires—

“authorized officer” (獲授權人員) means—

- (a) a police officer;
- (b) a member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); or
- (c) a public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade;

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

“Commissioner” (關長) means the Commissioner of Customs and Excise, the Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;

“Darfur” (達爾富爾) means the states of North Darfur, South Darfur and West Darfur of Sudan;

“licence” (特許) means a licence granted under section 7(1)(a) or (b) or 8(1);

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

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

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

“person connected with Darfur” (有關連人士) means any non-governmental entity or individual, including the Janjaweed, operating in Darfur;

“prohibited goods” (禁制物品) means any goods specified in the Schedule;

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

PART 2

PROHIBITIONS

Supply and delivery of goods**2. Prohibition against supply and delivery of certain goods to persons connected with Darfur**

(1) Except under the authority of a licence granted under section 7(1)(a), a person shall not supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, any prohibited goods—

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

(2) A person who contravenes subsection (1) commits an offence and is liable—

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

(3) In any proceedings for an offence in relation to a contravention of subsection (1), it is a defence for a person charged to prove that he did not know and had no reason to believe—

- (a) that the goods concerned were prohibited goods; or
- (b) that the goods concerned were to be supplied or delivered—
 - (i) to, or to the order of, a person connected with Darfur; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

(4) This section applies to—

- (a) a person within the HKSAR; and
- (b) a person acting elsewhere who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

Carriage of goods

3. Application of sections 4 and 5

Sections 4 and 5 apply to—

- (a) a ship that is registered in the HKSAR;
- (b) an aircraft that is registered in the HKSAR;
- (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) within the HKSAR;
 - (ii) both a Hong Kong permanent resident and a Chinese national; or
 - (iii) a body incorporated or constituted under the law of the HKSAR; and
- (d) a vehicle within the HKSAR.

4. Prohibition against carriage of certain goods to persons connected with Darfur

(1) Except under the authority of a licence granted under section 7(1)(b), and without prejudice to the generality of section 2, a ship, aircraft or vehicle to which this section and section 5 apply shall not be used for the carriage of any prohibited goods if the carriage is, or forms part of, carriage—

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

(2) Subsection (1) does not apply if—

- (a) the carriage of the prohibited goods is performed in the course of the supply or delivery of the prohibited goods; and
- (b) the supply or delivery was authorized by a licence granted under section 7(1)(a).

(3) This section does not operate so as to prejudice any other law prohibiting or restricting the use of ships, aircraft or vehicles.

5. Offences in respect of carriage of certain goods to persons connected with Darfur

(1) For the purposes of subsection (2), “specified person” (指明人士), means—

- (a) in relation to a ship registered in the HKSAR, the owner or master of the ship;
- (b) in relation to any other ship—
 - (i) the person to whom the ship is for the time being chartered;
 - or

- (ii) the master of the ship, if the master is within the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) in relation to an aircraft registered in the HKSAR, the operator or commander of the aircraft;
 - (d) in relation to any other aircraft—
 - (i) the person to whom the aircraft is for the time being chartered;
 - (ii) the operator of the aircraft, if the operator is within the HKSAR, is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; or
 - (iii) the commander of the aircraft, if the commander is within the HKSAR or is both a Hong Kong permanent resident and a Chinese national; or
 - (e) in relation to a vehicle, the operator or driver of the vehicle.
- (2) If a ship, aircraft or vehicle is used in contravention of section 4(1), each specified person commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) In any proceedings for an offence in relation to a contravention of section 4(1), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the carriage of the goods concerned was, or formed part of, carriage—
 - (i) to, or to the order of, a person connected with Darfur; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.

Provision of technical assistance or training

6. Prohibition against provision of certain technical assistance or training to persons connected with Darfur

(1) Except under the authority of a licence granted under section 8(1), a person shall not provide to a person connected with Darfur any technical assistance or training related to the supply, delivery, manufacture, maintenance or use of any prohibited goods.

- (2) A person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) In any proceedings for an offence in relation to a contravention of subsection (1), it is a defence for a person charged to prove that he did not know and had no reason to believe—
- (a) that the assistance or training concerned was being provided to a person connected with Darfur; or
 - (b) that the assistance or training concerned related to the supply, delivery, manufacture, maintenance or use of any prohibited goods.
- (4) This section applies to—
- (a) a person within the HKSAR; and
 - (b) a person acting elsewhere who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

PART 3

LICENCE

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

- (1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant, as appropriate—
- (a) a licence for the supply or delivery of prohibited goods, or the doing of an act likely to promote the supply or delivery of prohibited goods—
 - (i) to, or to the order of, a person connected with Darfur; or
 - (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur; or
 - (b) a licence for the carriage of prohibited goods which is, or forms part of, carriage—
 - (i) to, or to the order of, a person connected with Darfur; or

- (ii) to a destination for the purpose of delivery, directly or indirectly, to, or to the order of, a person connected with Darfur.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are for monitoring, verification or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use;
 - (c) the prohibited goods are protective clothing including flak jackets and military helmets, for the personal use of the personnel of the United Nations, human rights monitors, representatives of the media, humanitarian and development workers and associated personnel.

8. Licence for provision of certain technical assistance or training

(1) If it is proved to the satisfaction of the Chief Executive that any one of the requirements in subsection (2) is met, the Chief Executive shall, on application, grant a licence for the provision to a person connected with Darfur of technical assistance or training related to the supply, delivery, manufacture, maintenance or use of prohibited goods.

- (2) The requirements referred to in subsection (1) are as follows—
- (a) the technical assistance or training is related to the supply, delivery, manufacture, maintenance or use of prohibited goods which are for monitoring, verification or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;
 - (b) the technical assistance or training is related to the supply, delivery, manufacture, maintenance or use of non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use.

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

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

- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) If, for the purpose of obtaining a licence, a person recklessly makes any statement or provides or produces any information or document that is false in a material particular, that person commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

PART 4

THINGS DONE OUTSIDE HKSAR

10. Licence or permission granted by authorities of places outside HKSAR

(1) If the circumstances described in subsection (2) apply, a provision of this Regulation which prohibits the doing of a thing except under the authority of a licence shall not have effect in relation to any such thing done in a place outside the HKSAR by—

- (a) a person who is ordinarily resident in that place; or
- (b) a body corporate incorporated or constituted under the law of that place.

(2) For the purposes of subsection (1), the circumstances are that the thing is done under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.

PART 5

ENFORCEMENT OF REGULATION

Investigation, etc. of suspected ships

11. Investigation of suspected ships

(1) If an authorized officer has reason to suspect that a ship to which sections 4 and 5 apply has been, is being or is about to be used in contravention of section 4(1), he may—

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

(2) If an authorized officer has reason to suspect that a ship is being or is about to be used in contravention of section 4(1), he may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)), with a view to preventing the commission, or the continued commission, of such a contravention or in order that enquiries may be pursued, do one or more of the following—

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

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

12. Offences by master or charterer of ship

(1) If a master or charterer of a ship disobeys any direction given under section 11(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 11(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a master or charterer of a ship, in response to a request made under section 11(1)(b) or (2)(b), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the master or charterer commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

13. Power of authorized officers to enter and detain ships

(1) Without prejudice to section 12, if an authorized officer has reason to suspect that a request that has been made under section 11(2)(b) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

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

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

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

14. Sections 11, 12 and 13 not to prejudice other laws

Sections 11, 12 and 13 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a ship.

Investigation, etc. of suspected aircraft

15. Investigation of suspected aircraft

(1) If an authorized officer has reason to suspect that an aircraft to which sections 4 and 5 apply has been, is being or is about to be used in contravention of section 4(1), he may—

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

(2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may (either there and then or on consideration of any information provided or document or cargo produced in response to a request made under subsection (1)(b)) further request the charterer, operator or commander, or all of them, to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or commander is, or (if the further request is made to all of them) all of them are, notified by an authorized officer that the aircraft and its cargo may depart.

(3) A power conferred by this section to request the provision of any information or the production of any document or cargo for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or cargo should be produced for inspection.

16. Offences by charterer, operator or commander of aircraft

(1) If a charterer, operator or commander of an aircraft, without reasonable excuse, refuses or fails to comply with a request made under section 15(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If a charterer, operator or commander of an aircraft, in response to a request made under section 15(1)(b) or (2), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the charterer, operator or commander commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

17. Power of authorized officers to enter and detain aircraft

(1) Without prejudice to section 16, if an authorized officer has reason to suspect that a request that has been made under section 15(2) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

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

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

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

18. Sections 15, 16 and 17 not to prejudice other laws

Sections 15, 16 and 17 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of an aircraft.

Investigation, etc. of suspected vehicles

19. Investigation of suspected vehicles

(1) If an authorized officer has reason to suspect that a vehicle within the HKSAR has been, is being or is about to be used in contravention of section 4(1), he may—

- (a) either alone or accompanied and assisted by any person acting under his authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
- (b) request the operator or driver of the vehicle to provide such information relating to the vehicle and any article carried on it, and produce for his inspection such documents so relating and such articles carried on it, as he may specify; and
- (c) (either there and then or on consideration of any information provided or document or article produced in response to a request made under paragraph (b)) further request the operator or driver to take the vehicle and any article carried on it to such place as is specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.

(2) A power conferred by this section to request the provision of any information or the production of any document or article for inspection includes a power to—

- (a) specify whether the information should be provided orally or in writing and in what form; and
- (b) specify the time by which and the place in which the information should be provided or the document or article should be produced for inspection.

20. Offences by operator or driver of vehicle

(1) If an operator or driver of a vehicle, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(2) If an operator or driver of a vehicle, in response to a request made under section 19(1)(b) or (c), provides or produces to an authorized officer any information, explanation or document that he knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information, explanation or document that is false in a material particular, the operator or driver commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

21. Power of authorized officers to enter and detain vehicles

(1) Without prejudice to section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

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

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

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

22. Sections 19, 20 and 21 not to prejudice other laws

Sections 19, 20 and 21 do not operate so as to prejudice any other law conferring powers or imposing restrictions or enabling restrictions to be imposed in respect of a vehicle.

General**23. Exercise of powers of Chief Executive**

The Chief Executive may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorize the delegation of any of his powers or functions under this Regulation to any person, or class or description of persons, approved by him, and references in this Regulation to the Chief Executive shall be construed accordingly.

24. Production of proof of identity

Before or on exercising a power conferred by section 11, 13, 15, 17, 19 or 21, an authorized officer shall, if requested so to do, produce evidence of his identity.

PART 6

EVIDENCE

25. Power of magistrate or judge to grant warrant

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

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

(2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.

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

- (a) to search any person who is found on, or whom he has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
- (b) to seize and detain any document or article found on the premises, ship, aircraft or vehicle or on such person that he has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
- (c) to take in relation to any such document or article any other steps that may appear necessary for preserving the document or article seized and preventing interference with it.

(4) A person may only be searched under this section by a person who is of the same sex.

(5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, he may use such force as is reasonably necessary for that purpose.

26. Detention of documents or articles seized

(1) Subject to subsection (2), any document or article seized under section 25(3) may not be detained for a period of more than 3 months.

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

PART 7

DISCLOSURE OF INFORMATION OR DOCUMENTS

27. Disclosure of information or documents

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

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

(2) For the purposes of subsection (1)(a)—

- (a) a person may not give consent to the disclosure if he has obtained the information or possessed the document only in his capacity as servant or agent of another person; and
- (b) a person may give consent to the disclosure if he is entitled to the information or to the possession of the document in his own right.

PART 8**OTHER OFFENCES AND MISCELLANEOUS MATTERS****28. Liability of person other than principal offender**

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

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

29. Offences in relation to obstruction of authorized persons, etc.

A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of his powers under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

30. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

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

31. Proceedings to be instituted

(1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.

(2) Summary proceedings for an offence under this Regulation, being an offence alleged to have been committed outside the HKSAR, may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after committing the offence.

SCHEDULE

[s. 2]

PROHIBITED GOODS

1. Any arms and related material (including weapons, ammunition, military vehicles, military equipment and paramilitary equipment).
2. Any component for any goods specified in section 1.

Donald TSANG
Acting Chief Executive

24 March 2005

Explanatory Note

This Regulation gives effect to a decision of the Security Council of the United Nations in Resolution 1556 of 30 July 2004 to implement the following sanctions—

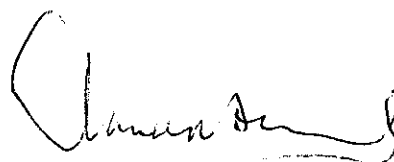
- (a) prohibitions against sale or supply of arms and related materials to non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur of Sudan (“Darfur”);
- (b) prohibitions against provision of certain technical assistance or training to non-governmental entities and individuals operating in Darfur.

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Sudan) Regulation

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in August 2004 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1556 of the Security Council of the United Nations, and that the United Nations Sanctions (Sudan) Regulation was made in pursuance of that instruction.

Dated this 1st day of April 2005



(Donald Tsang)
Chief Secretary for Administration

United Nations

S/RES/1556 (2004)



Security Council

Distr.: General
30 July 2004

Resolution 1556 (2004)

**Adopted by the Security Council at its 5015th meeting, on
30 July 2004**

The Security Council,

Recalling its Statement by its President of 25 May 2004 (S/PRST/2004/16), its resolution 1547 (2004) of 11 June 2004 and its resolution 1502 (2003) of 26 August 2003 on the access of humanitarian workers to populations in need,

Welcoming the leadership role and the engagement of the African Union to address the situation in Darfur and *expressing* its readiness to support fully these efforts,

Further welcoming the communiqué of the African Union Peace and Security Council issued 27 July 2004 (S/2004/603),

Reaffirming its commitment to the sovereignty, unity, territorial integrity, and independence of Sudan as consistent with the Machakos Protocol of 20 July 2002 and subsequent agreements based on this protocol as agreed to by the Government of Sudan,

Welcoming the Joint Communiqué issued by the Government of Sudan and the Secretary-General of the United Nations on 3 July 2004, including the creation of the Joint Implementation Mechanism, and acknowledging steps taken towards improved humanitarian access,

Taking note of the Report of the Secretary-General on Sudan issued 3 June 2004 and welcoming the Secretary-General's appointment of a Special Representative for Sudan and his efforts to date,

Reiterating its grave concern at the ongoing humanitarian crisis and widespread human rights violations, including continued attacks on civilians that are placing the lives of hundreds of thousands at risk,

Condemning all acts of violence and violations of human rights and international humanitarian law by all parties to the crisis, in particular by the Janjaweed, including indiscriminate attacks on civilians, rapes, forced displacements, and acts of violence especially those with an ethnic dimension, and expressing its utmost concern at the consequences of the conflict in Darfur on the civilian population, including women, children, internally displaced persons, and refugees,

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Recalling in this regard that the Government of Sudan bears the primary responsibility to respect human rights while maintaining law and order and protecting its population within its territory and that all parties are obliged to respect international humanitarian law,

Urging all the parties to take the necessary steps to prevent and put an end to violations of human rights and international humanitarian law and underlining that there will be no impunity for violators,

Welcoming the commitment by the Government of Sudan to investigate the atrocities and prosecute those responsible,

Emphasizing the commitment of the Government of Sudan to mobilize the armed forces of Sudan immediately to disarm the Janjaweed militias,

Recalling also in this regard its resolutions 1325 (2000) of 31 October 2000 on women, peace and security, 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003, and 1539 (2004) of 22 April 2004 on children in armed conflict, and 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict,

Expressing concern at reports of violations of the Ceasefire Agreement signed in N'Djamena on 8 April 2004, and reiterating that all parties to the ceasefire must comply with all of the terms contained therein,

Welcoming the donor consultation held in Geneva in June 2004 as well as subsequent briefings highlighting urgent humanitarian needs in Sudan and Chad and reminding donors of the need to fulfil commitments that have been made,

Recalling that over one million people are in need of urgent humanitarian assistance, that with the onset of the rainy season the provision of assistance has become increasingly difficult, and that without urgent action to address the security, access, logistics, capacity and funding requirements the lives of hundreds of thousands of people will be at risk,

Expressing its determination to do everything possible to halt a humanitarian catastrophe, including by taking further action if required,

Welcoming the ongoing international diplomatic efforts to address the situation in Darfur,

Stressing that any return of refugees and displaced persons to their homes must take place voluntarily with adequate assistance and with sufficient security,

Noting with grave concern that up to 200,000 refugees have fled to the neighbouring State of Chad, which constitutes a serious burden upon that country, and expressing grave concern at reported cross-border incursions by Janjaweed militias of the Darfur region of Sudan into Chad and also taking note of the agreement between the Government of Sudan and Chad to establish a joint mechanism to secure the borders,

Determining that the situation in Sudan constitutes a threat to international peace and security and to stability in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Calls on* the Government of Sudan to fulfil immediately all of the commitments it made in the 3 July 2004 Communiqué, including particularly by facilitating international relief for the humanitarian disaster by means of a moratorium on all restrictions that might hinder the provision of humanitarian assistance and access to the affected populations, by advancing independent investigation in cooperation with the United Nations of violations of human rights and international humanitarian law, by the establishment of credible security conditions for the protection of the civilian population and humanitarian actors, and by the resumption of political talks with dissident groups from the Darfur region, specifically the Justice and Equality Movement (JEM) and the Sudan Liberation Movement and Sudan Liberation Army (SLM/A) on Darfur;
2. *Endorses* the deployment of international monitors, including the protection force envisioned by the African Union, to the Darfur region of Sudan under the leadership of the African Union and *urges* the international community to continue to support these efforts, *welcomes* the progress made in deploying monitors, including the offers to provide forces by members of the African Union, and *stresses* the need for the Government of Sudan and all involved parties to facilitate the work of the monitors in accordance with the N'Djamena ceasefire agreement and with the Addis Ababa agreement of 28 May 2004 on the modalities of establishing an observer mission to monitor the ceasefire;
3. *Urges* member states to reinforce the international monitoring team, led by the African Union, including the protection force, by providing personnel and other assistance including financing, supplies, transport, vehicles, command support, communications and headquarters support as needed for the monitoring operation, and *welcomes* the contributions already made by the European Union and the United States to support the African Union led operation;
4. *Welcomes* the work done by the High Commissioner for Human Rights to send human rights observers to Sudan and *calls upon* the Government of Sudan to cooperate with the High Commissioner in the deployment of those observers;
5. *Urges* the parties to the N'Djamena Ceasefire Agreement of 8 April 2004 to conclude a political agreement without delay, notes with regret the failure of senior rebel leaders to participate in the 15 July talks in Addis Ababa, Ethiopia as unhelpful to the process and calls for renewed talks under the sponsorship of the African Union, and its chief mediator Hamid Algabid, to reach a political solution to the tensions in Darfur and *strongly urges* rebel groups to respect the ceasefire, end the violence immediately, engage in peace talks without preconditions, and act in a positive and constructive manner to resolve the conflict;
6. *Demands* that the Government of Sudan fulfil its commitments to disarm the Janjaweed militias and apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities, and *further requests* the Secretary-General to report in 30 days, and monthly thereafter, to the Council on the progress or lack thereof by the Government of Sudan on this matter and *expresses its intention* to consider further actions, including measures as provided for in Article 41 of the Charter of the United Nations on the Government of Sudan, in the event of non-compliance;

7. *Decides* that all states shall take the necessary measures to prevent the sale or supply, to all non-governmental entities and individuals, including the Janjaweed, operating in the states of North Darfur, South Darfur and West Darfur, by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, whether or not originating in their territories;

8. *Decides* that all states shall take the necessary measures to prevent any provision to the non-governmental entities and individuals identified in paragraph 7 operating in the states of North Darfur, South Darfur and West Darfur by their nationals or from their territories of technical training or assistance related to the provision, manufacture, maintenance or use of the items listed in paragraph 7 above;

9. *Decides* that the measures imposed by paragraphs 7 and 8 above shall not apply to:

- supplies and related technical training and assistance to monitoring, verification or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;
- supplies of non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use, and related technical training and assistance; and
- supplies of protective clothing, including flak jackets and military helmets, for the personal use of United Nations personnel, human rights monitors, representatives of the media and humanitarian and development workers and associated personnel;

10. *Expresses* its intention to consider the modification or termination of the measures imposed under paragraphs 7 and 8 when it determines that the Government of Sudan has fulfilled its commitments described in paragraph 6;

11. *Reiterates* its support for the Naivasha agreement signed by the Government of Sudan and the Sudan People's Liberation Movement, and *looks forward to* effective implementation of the agreement and a peaceful, unified Sudan working in harmony with all other States for the development of Sudan, and *calls on* the international community to be prepared for constant engagement including necessary funding in support of peace and economic development in Sudan;

12. *Urges* the international community to make available much needed assistance to mitigate the humanitarian catastrophe now unfolding in the Darfur region and calls upon member states to honour pledges that have been made against needs in Darfur and Chad and underscoring the need to contribute generously towards fulfilling the unmet portion of the United Nations consolidated appeals;

13. *Requests* the Secretary-General to activate inter-agency humanitarian mechanisms to consider what additional measures may be needed to avoid a humanitarian catastrophe and to report regularly to the Council on progress made;

14. *Encourages* the Secretary-General's Special Representative for Sudan and the independent expert of the Commission on Human Rights to work closely

with the Government of Sudan in supporting independent investigation of violations of human rights and international humanitarian law in the Darfur region;

15. *Extends* the special political mission set out in resolution 1547 for an additional 90 days to 10 December 2004 and *requests* the Secretary-General to incorporate into the mission contingency planning for the Darfur region;

16. *Expresses* its full support for the African Union-led ceasefire commission and monitoring mission in Darfur, and *requests* the Secretary-General to assist the African Union with planning and assessments for its mission in Darfur, and in accordance with the Joint Communiqué to prepare to support implementation of a future agreement in Darfur in close cooperation with the African Union and *requests* the Secretary-General to report to the Security Council on progress;

17. *Decides* to remain seized of the matter.
