

香港特別行政區政府
商務及經濟發展局
工商及旅遊科



COMMERCE, INDUSTRY AND TOURISM BRANCH
COMMERCE AND ECONOMIC
DEVELOPMENT BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

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香港中環
昃臣道8號
立法會大樓
立法會秘書處
研究在香港實施聯合國安全理事會
就制裁事宜所作決議的小組委員會秘書
余天寶女士

余女士：

《2008年聯合國制裁(武器禁運)(修訂)規例》

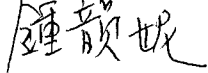
《〈聯合國制裁(南斯拉夫聯盟共和國)(禁止恐怖主義活動)規例〉 (廢除)規例》

我們於2009年2月24日的會議上就上述規例作討論，而閣下2009年2月25日的來函亦已收悉。關於在會議上及閣下信件中提及的事宜，我現附上一份政務司司長所發出確認外交部指示的文件以供參考，確認接獲外交部指示要求香港特別行政區政府全面執行聯合國安全理事會第1367號及第1823號決議。

另外，按研究在香港實施聯合國安全理事會就制裁事宜所作決議的小組委員會主席在會上提出的要求，我現附上《聯合國制裁(武器禁運)規例》的修訂標明文本，標示

根據《2008 聯合國制裁(武器禁運)(修訂)規例》所作的修改，以便各委員參考。

商務及經濟發展局局長

(鍾韻妮  代行)

二零零九年三月五日

副本送

律政司 (經辦人：副首席政府律師李秀江女士)
(經辦人：高級政府律師許行嘉女士)

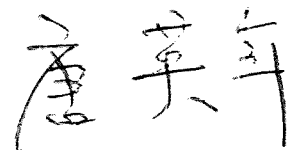
《聯合國制裁條例》(第 537 章)

《2008 年聯合國制裁(武器禁運)(修訂)規例》

《聯合國制裁(南斯拉夫聯盟共和國)
(禁止恐怖主義活動)規例(廢除)規例》

特此確認，行政長官分別在二零零八年八月及九月接獲中華人民共和國外交部的指示，要求香港特別行政區政府全面執行聯合國安全理事會第 1823 和第 1367 號決議。《2008 年聯合國制裁(武器禁運)(修訂)規例》，以及《聯合國制裁(南斯拉夫聯盟共和國)(禁止恐怖主義活動)規例(廢除)規例》是按該指示而訂立的。

政務司司長



日期：二零零八年十一月三日

[附屬法例]

聯合國制裁 (武器禁運) 規例

(第 537 章第 3 條)

[1997 年 8 月 22 日]

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——

(a) (由 2001 年第 281 號法律公告廢除)

(b) 索馬里；或

(c) 盧旺達；

(d) 南斯拉夫聯盟共和國；或

(e) 塞拉利昂；(1998 年第 367 號法律公告)

~~“南斯拉夫聯盟共和國”(Federal Republic of Yugoslavia) 包括科索沃；(1998 年第 367 號法律公告)~~

“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政府；

[Subsidiary]

UNITED NATIONS SANCTIONS (ARMS EMBARGOES) REGULATION

(Cap. 537, section 3)

[22 August 1997]

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;

~~“Federal Republic of Yugoslavia” (南斯拉夫聯盟共和國) includes Kosovo; (L.N. 367 of 1998)~~

“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;

[附屬法例]

- (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；
- “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；或
- (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 予。
- ~~(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~~

[Subsidiary]

- (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 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—
- (a) *(Repealed L.N. 281 of 2001)*
- (b) Somalia; or
- ~~(c) Rwanda;~~
- ~~(d) the Federal Republic of Yugoslavia; or~~
- (e) Sierra Leone; *(L.N. 367 of 1998)*
- “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; or
- (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 予。
- ~~(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~~

[附屬法例]

- ~~(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) 本條適用於在特區的人，亦適用於在其他地方行事的——
- (a) 特區永久性居民；或
- (b) 根據特區法律成立為法團或組成的團體。(1998 年第 367 號法律公告)
- (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。
- (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的，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

- (1) 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——(1998 年第 367 號法律公告)
- (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；~~或~~
- (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 ~~予~~ 予；
- ~~(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~~

[Subsidiary]

- ~~(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 within the HKSAR and to any person acting elsewhere who is—
- (a) a permanent resident of the HKSAR; or
- (b) a body incorporated or constituted under the law of the HKSAR. (L.N. 367 of 1998)
- (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) 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

- (1) 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— (L.N. 367 of 1998)
- (a) to a prohibited destination;
- (b) to, or to the order of, any person connected with a prohibited destination; or
- (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 or;
- ~~(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~~

[附屬法例]

~~(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。~~

(2) 任何人在違反第 (1) 款的情況下自特區出口任何物品，即屬犯罪。 (1998 年第 367 號法律公告)

(3) 本條不得解釋為損害任何禁止或限制自特區輸出物品的其他法律條文。 (1998 年第 367 號法律公告)

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——

(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係的罪行

(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。

[Subsidiary]

~~(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.~~

(2) Any person who exports any goods from the HKSAR in contravention of subsection (1) shall be guilty of an offence. (L.N. 367 of 1998)

(3) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from the HKSAR. (L.N. 367 of 1998)

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) 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.

[附屬法例]

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。

(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。~~

[Subsidiary]

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) Any person who under the provisions of this section 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.

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.~~

[附屬法例]

(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； (1998 年第 367 號法律公告)
- (aa) 特區永久性居民；或 (1998 年第 367 號法律公告)
- (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，

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) 如自特區向受禁制目的地供應、交付或輸出有關物品是獲行政長官根據第 2(1) 或 3(1) 條批予的特許所授權的，則本條並不適用。 (1998 年第 367 號法律公告)

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任何在特區註冊的船舶已經、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

[Subsidiary]

(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; (L.N. 367 of 1998)
- (aa) a permanent resident of the HKSAR; or (L.N. 367 of 1998)
- (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, 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 or exportation from the HKSAR of the goods concerned to the prohibited destination was authorized by a licence granted by the Chief Executive under section 2(1) or 3(1). (L.N. 367 of 1998)

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

(1) Where any authorized officer has reason to suspect that any ship registered 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

[附屬法例]

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指明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——（1998 年第 367 號法律公告）

- (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；
- (b)（如有關船舶當時在特區境內）促使該船舶逗留在特區，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任何在特區註冊的飛機或任何在當其時租予第 7(3) 條指明的人的飛機已經、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

[Subsidiary]

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— (L.N. 367 of 1998)

- (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) 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 registered in the HKSAR or any aircraft for the time being chartered to any person specified in section 7(3) 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

[附屬法例]

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。（1998 年第 367 號法律公告）

(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
- (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及協助下，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——

[Subsidiary]

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. (L.N. 367 of 1998)

(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) 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—

[附屬法例]

- (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) 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索馬里、~~盧旺達~~、南斯拉夫聯盟共和國或塞拉利昂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 (1998 年第 367 號法律公告；2001 年第 281 號法律公告)
 - (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。

[Subsidiary]

- (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) 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 Somalia, ~~Rwanda, the Federal Republic of Yugoslavia~~ or Sierra Leone decided upon by the Security Council of the United Nations; or (L.N. 367 of 1998; L.N. 281 of 2001)
 - (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. (L.N. 367 of 1998)

[附屬法例]

(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。

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)、3(2) 或 7(4) ~~或 (5)~~ 條所訂的罪行—— (1998 年第 367 號法律公告)

- (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。

[Subsidiary]

(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. 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), 3(2) or 7(4) ~~or (5)~~ shall be liable— (L.N. 367 of 1998)

- (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.

[附屬法例]

- (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。
- (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。

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- (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) 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.

11A. 限制批予特許

除非供應、交付或出口至塞拉利昂的物品符合以下說明，否則不得根據本規例就該物品批予特許——

- (a) 該物品是經由塞拉利昂政府向聯合國秘書長提供的清單 (中華人民共和國中央人民政府已獲通知) 所指名的某入境點向塞拉利昂政府供應、交付或出口的；或
- (b) 該物品是純粹供西非國家經濟共同體軍事觀察組或聯合國在塞拉利昂使用的。

(1998 年第 367 號法律公告)

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，或經該主管當局根據該等法律給予准許的，有關事情則屬獲妥為授權。
(1998 年第 367 號法律公告)

附表 1

[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。

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

11A. Restriction on grant of licence

No licence shall be granted under this Regulation in respect of goods to be supplied, delivered or exported to Sierra Leone except—

- (a) to the Government of Sierra Leone through a named point of entry on a list that is supplied by that Government to the Secretary-General of the United Nations and is notified to the Central People's Government of the People's Republic of China; or
- (b) for the sole use in Sierra Leone of the Military Observer Group of the Economic Community of West African States or the United Nations.

(L.N. 367 of 1998)

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 or otherwise with the permission given 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. (L.N. 367 of 1998)

SCHEDULE 1

[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).

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

[附屬法例]

(或該獲授權人員)為確保本規例獲遵從或為偵查規避本規例的情況而需要的,而被要求的人須在該要求所指明的時間內及按該要求所指明的方式遵從該要求。

(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,可在有關告發所指明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條提交但尚未被提交的文件,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,於手令簽發日期起計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條理應已提交的文件,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)款檢取的文件,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;

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

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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;

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

[附屬法例]

[Subsidiary]

國安全理事會就索馬里、~~盧旺達、南斯拉夫聯盟共和國~~或塞拉利昂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 (1998 年第 367 號法律公告；2001 年第 281 號法律公告)

- (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。

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 Somalia/~~Rwanda, the Federal Republic of Yugoslavia~~ or Sierra Leone decided upon by the Security Council of the United Nations; or (L.N. 367 of 1998; L.N. 281 of 2001)

- (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.