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United Nations Sanctions (Sudan) Regulation 2013

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(Made by the Chief Executive 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. Commencement

This Regulation comes into operation on 6 September 2013.

2. Interpretation

In this Regulation—

arms or related materiel (軍火或相關的物資) includes—

- (a) any weapon, ammunition, military vehicle, military equipment or paramilitary equipment; and
- (b) any spare part for any item specified in paragraph (a);

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;

Committee (委員會) means the Committee of the Security Council established under paragraph 3(a) of Resolution 1591;

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

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

funds (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and
- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

licence (特許) means a licence granted under section 9(1)(a) or (b), 10(1) or 11(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;

N'djamena Ceasefire Agreement (《恩賈梅納停火協定》) means the agreement known as the N'djamena Ceasefire Agreement, signed in N'djamena on 8 April 2004 by the

Government of Sudan, the Sudan Liberation Movement/Army and the Justice and Equality Movement;

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

person connected with Sudan (有關連人士) means—

- (a) any non-governmental entity or individual, including the Janjaweed, operating in Darfur;
- (b) all the parties to the N'djamena Ceasefire Agreement; or
- (c) any other belligerents in Darfur;

pilot in command (機長), in relation to an aircraft, means the pilot designated by the operator or the owner, as appropriate, as being in charge of the aircraft without being under the direction of any other pilot in the aircraft and charged with the safe conduct of a flight;

prohibited goods (禁制物品) means any arms or related materiel;

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 31(1);
- (b) an entity owned or controlled, directly or indirectly, by a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31(1); or
- (c) an entity owned or controlled, directly or indirectly, by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 31(1);

relevant person (有關人士) means a person specified by the Chief Executive as a relevant person in accordance with section 31(1);

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Resolution 1591 (《第1591號決議》) means Resolution 1591 (2005) adopted by the Security Council on 29 March 2005;

Security Council (安全理事會) means the Security Council of the United Nations.

Part 2

Prohibitions

3. Prohibition against supply, sale or transfer of certain goods

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR 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.
- (2) Except under the authority of a licence granted under section 9(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
 - (a) to, or to the order of, a person connected with Sudan; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly to, or to the order of, a person connected with Sudan.
- (3) A person who contravenes subsection (2) 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.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

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

4. Prohibition against carriage of certain goods

- (1) This section applies 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) in 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 in the HKSAR.
- (2) Without limiting section 3, except under the authority of a licence granted under section 9(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) to, or to the order of, a person connected with Sudan; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly to, or to the order of, a person connected with Sudan.

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- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
 - (b) the supply, sale or transfer was authorized by a licence granted under section 9(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) for a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) for any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (c) for an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) for any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;

- (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
 - (e) for a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) 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.
- (6) It is a defence for a person charged with an offence under subsection (4) to prove that the person 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, a carriage—
 - (i) to, or to the order of, a person connected with Sudan; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly to, or to the order of, a person connected with Sudan.

5. Prohibition against provision of certain assistance or training

- (1) This section applies to—
- (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—

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- (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
 - (2) Except under the authority of a licence granted under section 10(1), a person must not provide, directly or indirectly, to a person connected with Sudan any technical assistance or training related to the provision, manufacture, maintenance or use of any prohibited goods.
 - (3) A person who contravenes subsection (2) 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.
 - (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the assistance or training concerned was or was to be provided to a person connected with Sudan; or
 - (b) that the assistance or training concerned related to the provision, manufacture, maintenance or use of any prohibited goods.
- 6. Prohibition against making available funds, etc. or dealing with funds, etc.**
- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a person acting outside the HKSAR who is—
 - (i) both a Hong Kong permanent resident and a Chinese national; or

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- (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 11(1)—
- (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
- (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (3) A person who contravenes subsection (2) 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.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or
- (b) that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.

- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
- (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—
- deal with*** (處理) means—
- (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

7. Prohibition against entry or transit by certain persons

- (1) Subject to section 8, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.

(4) In this section—

Resolution 1556 (《第1556號決議》) means Resolution 1556 (2004) adopted by the Security Council on 30 July 2004;

specified person (指明人士) means a person designated by the Committee as—

- (a) a person who impedes the peace process;
- (b) a person who constitutes a threat to stability in Darfur and the region;
- (c) a person who commits violations of international humanitarian or human rights law or other atrocities;
- (d) a person who violates the measures implemented in accordance with paragraphs 7 and 8 of Resolution 1556 and paragraph 7 of Resolution 1591; or
- (e) a person who is responsible for offensive military flights in or over the Darfur region.

8. **Exceptions to prohibition against entry or transit by certain persons**

Section 7 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation; or
 - (b) the Committee has determined that the relevant entry into or transit through the HKSAR would otherwise further the objectives of the resolutions of the Security Council for the creation of peace and stability in Sudan and the region.
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Part 3

Licences

9. Licence for supply, sale, transfer or carriage of certain goods

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant, as appropriate—
 - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
 - (i) to, or to the order of, a person connected with Sudan; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly to, or to the order of, a person connected with Sudan; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) to, or to the order of, a person connected with Sudan; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly to, or to the order of, a person connected with Sudan.
- (2) The requirements are as follows—
 - (a) the prohibited goods are for monitoring, verification or peace support operations, including the 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 or development workers or associated personnel;
- (d) the prohibited goods are military equipment and supplies into the Darfur region that are approved in advance by the Committee on a request by the Government of Sudan.

10. Licence for provision of certain assistance or training

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence for the provision of technical assistance or training related to the provision, manufacture, maintenance or use of prohibited goods to a person connected with Sudan.
- (2) The requirements are as follows—
 - (a) the technical assistance or training is related to the provision, manufacture, maintenance or use of prohibited goods which are for monitoring, verification or peace support operations, including the 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 provision, manufacture, maintenance or use of non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use.

11. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—

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- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
- (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) necessary for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
 - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 29 March 2005 and is not for the benefit of a relevant person or a relevant entity; and
 - (ii) are to be used to satisfy the lien or judgment.
- (3) If the Chief Executive determines that—

- (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 2 working days of receiving the notification;
- (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination.

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

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

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- (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.
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Part 4

Things Done outside HKSAR

- 13. Licence or permission granted by authorities of places outside HKSAR**
- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
 - (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person 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.
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Part 5

Enforcement of Regulation

Division 1—Investigation, etc. of Suspected Ships

14. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 4 applies has been, is being or is about to be used in contravention of section 4(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
 - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 4 applies is being or is about to be used in contravention of section 4(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 4(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
 - (a) direct the charterer, operator or master 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;

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- (b) request the charterer, operator or master of the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master 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 charterer, operator or master 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 a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master 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 another destination specified by an authorized officer in agreement with the charterer, operator or master.
 - (3) A power conferred by this section to request a person to provide any information or produce any cargo or document 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 cargo or document should be produced for inspection.

15. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 14(2)(a), or, without reasonable

excuse, refuses or fails to comply with a request made under section 14(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

- (2) A charterer, operator or master of a ship who, in response to a request made under section 14(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

16. Power of authorized officers to enter and detain ships

- (1) Without limiting section 15, if an authorized officer has reason to suspect that a request that has been made under section 14(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
- (a) enter or authorize the entry on any land or the ship concerned;
 - (b) detain or authorize the detention of that ship or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 2—Investigation, etc. of Suspected Aircraft**17. Investigation of suspected aircraft**

- (1) If an authorized officer has reason to suspect that an aircraft to which section 4 applies has been, is being or is about to be used in contravention of section 4(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's 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 pilot in command of the aircraft to provide any information relating to the aircraft or its cargo, or produce for inspection any of its cargo or any document relating to the aircraft or its cargo, that the officer 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 cargo or document produced in response to a request made under subsection (1)(b), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document 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 cargo or document should be produced for inspection.

18. Offences by charterer, operator or pilot in command of aircraft

- (1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 17(1)(b) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 17(1)(b) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

19. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 18, if an authorized officer has reason to suspect that a request that has been made under section 17(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or the aircraft concerned;
 - (b) detain or authorize the detention of that aircraft or any of its cargo;
 - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.

- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Division 3—Investigation, etc. of Suspected Vehicles

20. Investigation of suspected vehicles

- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 4(2), the officer may—
 - (a) either alone or accompanied and assisted by any person acting under the officer's 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 any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
 - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place 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 a person to provide any information or produce any article or document 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 article or document should be produced for inspection.

21. Offences by operator or driver of vehicle

- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 20(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) An operator or driver of a vehicle who, in response to a request made under section 20(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

22. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 21, if an authorized officer has reason to suspect that a request that has been made under section 20(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
 - (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
 - (b) detain or authorize the detention of that vehicle or any article carried on it;
 - (c) use or authorize the use of reasonable force.

- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.
- (4) In this section—
Commissioner (關長) means the Commissioner of Customs and Excise, any Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise.

Division 4—Proof of Identity

23. Production of proof of identity

Before or on exercising a power conferred by section 14, 16, 17, 19, 20 or 22, an authorized officer must, if requested by any person so to do, produce proof of the officer's identity to the person for inspection.

Part 6

Evidence

24. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if 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, ship, aircraft or vehicle 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) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
 - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;

- (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article 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, the person may use any force that is reasonably necessary for that purpose.

25. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2), any document, cargo or article seized under section 24(3) may not be detained for more than 3 months.
 - (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.
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Part 7

Disclosure of Information or Documents

26. Disclosure of information or documents

- (1) Any information or document provided, produced or seized under this Regulation may be disclosed only if—
 - (a) the person who provided or produced the information or document or 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—
 - (i) any organ of the United Nations;
 - (ii) any person in the service of the United Nations; or
 - (iii) 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; 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 the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
 - (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.
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Part 8

Other Offences and Miscellaneous Matters

27. Liability of persons other than principal offenders

- (1) If the person convicted of an offence under 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 is guilty of the like offence.
- (2) If the person convicted of an offence under 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 is guilty of the like offence.

28. 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 the powers of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

29. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes any document, cargo 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.

30. Consent and time limit for proceedings

- (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 that is 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 the alleged commission of the offence.

31. Specification of relevant person or relevant entity by Chief Executive

- (1) The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity a person or an entity designated by the Committee under paragraph 3 of Resolution 1591, as extended by paragraph 3 of Resolution 2035.
- (2) In this section—
Resolution 2035 (《第2035號決議》) means Resolution 2035 (2012) adopted by the Security Council on 17 February 2012.

32. Exercise of powers of Chief Executive

- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.

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- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

Carrie LAM
Acting Chief Executive

27 August 2013

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2035 (2012) as adopted by the Security Council of the United Nations (*Security Council*) on 17 February 2012. The main decision seeks to remove the exemptions relating to the Comprehensive Peace Agreement set out in Resolution 1591 (2005) of 29 March 2005 (*Resolution 1591*).

2. The Regulation also continues to give effect to certain decisions of the Security Council in Resolution 1556 (2004) of 30 July 2004 and Resolution 1591 by providing for the prohibition against—
 - (a) the supply, sale, transfer or carriage of arms or related materiel to a person connected with Sudan;
 - (b) the provision of certain technical assistance or training to a person connected with Sudan;
 - (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
 - (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
 - (e) entry into or transit through the HKSAR by certain persons.