

**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 (LIBYA) REGULATION 2011
(AMENDMENT) REGULATION 2012**

INTRODUCTION

A

At the meeting of the Executive Council on 13 March 2012, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Amendment Regulation was gazetted on 16 March 2012 and came into effect on the same day.

BACKGROUND

Obligation and Authority

2. Under section 3(1) of the Ordinance, the CE is required to make regulations to give effect to an instruction by the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In October and December 2011, the CE received two instructions from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement sanctions against Libya in the HKSAR pursuant to UNSC Resolutions (“UNSCR”) 2009 and 2016 respectively. The Amendment Regulation was made to give effect to the instructions. A document issued by the Chief Secretary for Administration confirming the MFA’s instructions, and copies of UNSCR 2009 and UNSCR 2016, are at B, C & D Annexes B, C and D respectively.

Sanctions against Libya

3. Concerned with serious violations of human rights and attacks against civilians, the UNSC passed UNSCR 1970 to implement a range of sanctions against Libya on 26 February 2011. The sanctions were further

tightened by the UNSC with the adoption of UNSCR 1973 on 17 March 2011. They concern arms embargoes, prohibition of the provision of certain assistance and training, and the procurement of arms^{Note (1)}, travel ban on certain individuals^{Note(2)}, financial sanctions against certain persons and entities^{Note(3)}, no fly zone^{Note(4)} and ban on flights^{Note(5)}.

4. Pursuant to the instructions of the MFA, the HKSAR implemented the sanctions against Libya through making the United Nations

Note(1) Paragraph 9 of UNSCR 1970 provides for, subject to exceptions, the prohibition against the supply, sale or transfer of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial and other assistance, related to the military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel, to Libya. Paragraph 10 of UNSCR 1970 provides for the prohibition against the procurement of arms and related materiel from Libya.

Note(2) Paragraph 15 of UNSCR 1970 and paragraphs 22 and 23 of UNSCR 1973 provide for the prohibition against the entry into or transit through the territory of Member States by persons listed in Annex I of UNSCR 1970 or in Annex I of UNSCR 1973, those designated by the Committee established pursuant to paragraph 24 of UNSCR 1970 (“the Committee”), or those determined by the UNSC or the Committee to have violated the provisions of UNSCR 1970 or to have assisted others in doing so, subject to exceptions in paragraph 16 of UNSCR 1970.

Note(3) Paragraph 17 of UNSCR 1970, and paragraphs 19 and 23 of UNSCR 1973 provide for the freezing of funds, other financial assets and economic resources owned or controlled directly or indirectly by persons or entities,

- (i) listed in Annex II of UNSCR 1970 or Annex II of UNSCR 1973; or
- (ii) designated by the Committee pursuant to paragraph 24 of UNSCR 1970; or by the Committee pursuant to paragraph 19 of UNSCR 1973; or
- (iii) determined by the UNSC or the Committee to have violated the provisions of UNSCR 1970 or to have assisted others in doing so,

or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and the prohibition against making available to, or for the benefit of, the individuals or entities as described in (i) to (iii), any funds, financial assets or economic resources, subject to exceptions in paragraphs 19, 20 and 21 of UNSCR 1970.

Note(4) Paragraph 6 of UNSCR 1973 provides for the establishment of a ban on all flights in the airspace of Libya, subject to exceptions in paragraph 7 of UNSCR 1973.

Note(5) Paragraph 17 of UNSCR 1973 provides for the denial of permission by all Member States to any aircraft registered in Libya or owned or operated by Libyan nationals or companies to take off from, land in or overfly their territory unless the particular flight has been approved in advance by the Committee, or in the case of an emergency landing. Paragraph 18 of UNSCR 1973 provides for the denial of permission by all Member States to any aircraft to take off from, land in or overfly their territory, if they have information that provides reasonable grounds to believe that the aircraft contains items that are subject to arms embargo under paragraphs 9 and 10 of UNSCR 1970 as modified by UNSCR 1973, including the provision of armed mercenary personnel, except in the case of an emergency landing.

E Sanctions (Libya) Regulation 2011 (Cap. 537 AW) (“the Regulation”) (at Annex E) gazetted on 30 June 2011.

UNSCR 2009

5. In light of the improved situation in Libya, the UNSC passed UNSCR 2009 on 16 September 2011 to relax certain sanctions imposed under UNSCR 1970 and UNSCR 1973. The UNSC, inter alia, decides that –

- (a) the arms embargo measures and the prohibition of the provision of certain assistance and training imposed by paragraph 9 of UNSCR 1970 shall not apply to the supply, sale or transfer to Libya of -
 - (I) arms and related materiel of all types, including technical assistance, training, financial and other assistance, intended solely for security or disarmament assistance to the Libyan authorities and notified to the Committee established pursuant to paragraph 24 of UNSCR 1970 (“the Committee”) in advance and in the absence of a negative decision by the Committee within five working days of such a notification (*paragraph 13(a) of UNSCR 2009 refers*); and
 - (II) small arms, light weapons and related materiel, temporarily exported to Libya for the sole use of United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification (*paragraph 13(b) of UNSCR 2009 refers*);
- (b) the Libyan National Oil Corporation and Zueitina Oil Company shall no longer be subject to the asset freeze and other measures imposed in paragraphs 17, 19, 20 and 21 of UNSCR 1970 and paragraph 19 of UNSCR 1973 (*paragraph 14 of UNSCR 2009 refers*);
- (c) measures imposed in paragraphs 17, 19, 20 and 21 of UNSCR 1970 and paragraph 19 of UNSCR 1973 shall be modified with respect to the Central Bank of Libya, the Libyan Arab Foreign Bank (“LAFB”), the Libyan Investment Authority (“LIA”), and the Libyan Africa

Investment Portfolio (“LAIP”)^{Note(6)} as follows -

- (I) funds, other financial assets and economic resources outside of Libya of the Central Bank of Libya, the LAFB, the LIA and the LAIP that are frozen as of the date of UNSCR 2009 pursuant to measures imposed in paragraph 17 of UNSCR 1970 or paragraph 19 of UNSCR 1973 shall remain frozen by States unless subject to an exemption as set out in paragraphs 19, 20 or 21 of that resolution or paragraph 16 of UNSCR 2009 (*paragraph 15(a) of UNSCR 2009 refers*);
- (II) except as provided in (I), the Central Bank of Libya, the LAFB, the LIA, and the LAIP shall otherwise no longer be subject to the measures imposed in paragraph 17 of UNSCR 1970, including that States are no longer required to ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of these entities (*paragraph 15(b) of UNSCR 2009 refers*);
- (d) in addition to the provisions of paragraph 19 of UNSCR 1970, the measures imposed by paragraph 17 of UNSCR 1970, as modified by paragraph 19 of UNSCR 1973 and paragraph 15 of UNSCR 2009, do not apply to funds, other financial assets or economic resources of the Central Bank of Libya, the LAFB, the LIA and the LAIP provided that -
- (I) a Member State has provided notice to the Committee of its intent to authorize access to funds, other financial assets, or economic resources, for one or more of the following purposes and in the absence of a negative decision by the Committee within five working days of such a notification –
- humanitarian needs;
 - fuel, electricity and water for strictly civilian uses;

^{Note(6)} On 16 December 2011, the Committee decided to remove the Central Bank of Libya and the Libyan Arab Foreign Bank (“LAFB”) from the list of entities subject to travel ban imposed in paragraph 15 of UNSCR 1970 and paragraphs 22 and 23 of UNSCR 1973, and/or assets freeze measures imposed in paragraph 15 of UNSCR 2009.

- resuming Libyan production and sale of hydrocarbons;
 - establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; or
 - facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya ;
(*paragraph 16(a) of UNSCR 2009 refers*)
- (II) a Member State has notified the Committee that those funds, other financial assets or economic resources shall not be made available to or for the benefit of the individuals subject to the measures imposed in paragraph 17 of UNSCR 1970 or paragraph 19 of UNSCR 1973 (*paragraph 16(b) of UNSCR 2009 refers*);
- (III) the Member State has consulted in advance with the Libyan authorities about the use of such funds, other financial assets, or economic resources (*paragraph 16(c) of UNSCR 2009 refers*); and
- (IV) the Member State has shared with the Libyan authorities the notification submitted pursuant to paragraph 16 of UNSCR 2009 and the Libyan authorities have not objected within five working days to the release of such funds, other financial assets, or economic resources (*paragraph 16(d) of UNSCR 2009 refers*); and
- (e) measures concerning ban on flights in paragraph 17 of UNSCR 1973 shall cease to have effect from the date of UNSCR 2009 (*paragraph 21 of UNSCR 2009 refers*).

UNSCR 2016

6. Welcoming the positive development in Libya, the UNSC passed UNSCR 2016 on 27 October 2011 to further relax certain sanctions imposed under UNSCR 1970, UNSCR 1973 and UNSCR 2009. The UNSC, inter alia, decides that the ban on flights measures provided under paragraphs 6 to 12 of UNSCR 1973 shall terminate as from 23:59 Libyan local time on

31 October 2011 (*paragraph 6 of UNSCR 2016 refers*).

THE AMENDMENT REGULATION

7. The Amendment Regulation, at Annex A, seeks to amend the Regulation (Cap 537 AW) to implement the modified sanctions against Libya as decided by UNSCR 2009 and UNSCR 2016. The main provisions of the Amendment Regulation include -

- (a) **section 2** (section 1 of the Regulation), which newly provides a definition for “designated Libyan entity” to cover two Libyan entities specified in paragraph 15 of UNSCR 2009 and as modified by the decision of the Committee on 16 December 2011; and a definition for “small arms” to cover arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G);
- (b) **section 3** (section 7 of the Regulation), which amends the asset freeze measures in section 7 of Cap. 537AW by providing prohibition against dealing with, directly or indirectly, any funds or other financial assets or economic resources, which are frozen as of the date of UNSCR 2009 (i.e. 16 September 2011), and owned by or otherwise belonging to, or held by any of the two Libyan entities;
- (c) **section 5** (section 13 of the Regulation), which provides for two additional requirements for the granting of licence by the CE for the supply, sale, transfer or carriage of prohibited goods;
- (d) **section 6** (section 14 of the Regulation), which provides for an additional requirement for the granting of licence by the CE for the provision of certain assistance or training; and
- (e) **section 7** (section 15 of the Regulation), which provides for the granting of licence by the CE for dealing with funds, other financial assets or economic resources, which are frozen as of 16 September 2011, and owned by or otherwise belonging to, or

held by any of the two Libyan entities, subject to meeting certain requirements.

F

A mark-up version showing amendments to the Regulation is at Annex F for easy reference by Members.

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, economic, productivity, environmental or sustainability implications. Additional workload arising from the enforcement of the Regulation as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments.

PUBLICITY

9. A press release was issued on 16 March 2012 when the Amendment Regulation was published in the Gazette.

INFORMATION ON LIBYA AND RELATION WITH HKSAR

10. For information on Libya, background of the sanctions regime against the country as well as its bilateral trade relation with the HKSAR, please refer to Annex G.

G

ADVICE SOUGHT

11. Members are invited to note the implementation of the UNSCR 2009 and UNSCR 2016 in the HKSAR by the Amendment Regulation.

Commerce and Economic Development Bureau
March 2012

United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012

L.N. 42 of 2012
B1379

Section 1

L.N. 42 of 2012

**United Nations Sanctions (Libya) Regulation 2011
(Amendment) Regulation 2012**

(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)

1. **United Nations Sanctions (Libya) Regulation 2011 amended**
The United Nations Sanctions (Libya) Regulation 2011 (Cap. 537 sub. leg. AW) is amended as set out in sections 2 to 9.
2. **Section 1 amended (interpretation)**
 - (1) Section 1—
Repeal the definition of *licence*
Substitute
“*licence* (特許) means a licence granted under section 13(1)(a) or (b), 14(1) or 15(1) or (1A);”.
 - (2) Section 1, English text, definition of *Security Council*—
Repeal the full stop
Substitute a semicolon.
 - (3) Section 1—
Repeal the definition of *Libya*.

United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012

L.N. 42 of 2012
B1381

Section 3

- (4) Section 1—
Add in alphabetical order
“*designated Libyan entity* (指認利比亞實體) means—
 - (a) the Libyan Investment Authority; or
 - (b) the Libyan Africa Investment Portfolio;*small arms* (小型軍火) means any arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G).”.
3. **Section 7 amended (prohibition against making available funds, etc. or dealing with funds, etc.)**
 - (1) Section 7(2)(b), Chinese text, after “包括”—
Add
“由”.
 - (2) After section 7(2)—
Add
“(2A) Except under the authority of a licence granted under section 15(1A)—
 - (a) a person must not make available, directly or indirectly, any designated funds to, or for the benefit of, a designated Libyan entity; and
 - (b) a person must not deal with, directly or indirectly, any designated funds, and if the person is a designated Libyan entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the person and which were frozen on 16 September 2011.”.

(3) Section 7—

Repeal subsections (3) and (4)

Substitute

- “(3) A person who contravenes subsection (2) or (2A) 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) if the person is charged with contravening subsection (2)—
 - (i) 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
 - (ii) 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; or
 - (b) if the person is charged with contravening subsection (2A)—
 - (i) that the designated funds were or were to be made available to, or for the benefit of, a designated Libyan entity; or
 - (ii) that the funds or other financial assets or economic resources concerned were designated funds.”.

- (4) Section 7(6), English text, definition of *deal with*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

- (5) Section 7(6)—

Add in alphabetical order

“*designated funds* (指認資金) means any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a designated Libyan entity and which were frozen on 16 September 2011.”.

4. **Sections 10 and 12 repealed**

Sections 10 and 12—

Repeal the sections.

5. **Section 13 amended (licence for supply, sale, transfer or carriage of certain goods)**

- (1) Section 13(1), after “the Chief Executive must”—

Add

“, subject to subsection (3),”.

- (2) Section 13—

Repeal subsection (2)

Substitute

“(2) The requirements referred to in subsection (1) are as follows—

- (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;

- (b) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (c) the supply or sale of the prohibited goods is approved in advance by the Committee;
 - (d) the prohibited goods are to be supplied, sold or transferred to the Libyan authorities and intended solely for security or disarmament assistance;
 - (e) the prohibited goods are small arms or related materiel to be temporarily exported to Libya for the sole use of the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel.
- (3) If the Chief Executive determines that the requirement in subsection (2)(d) or (e) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.”.

6. Section 14 substituted

Section 14—

Repeal the section

Substitute

“14. 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, subject to subsection (3), grant a licence to provide to a person connected with Libya technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the assistance or training is related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (b) the assistance or training is related to protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (c) the assistance or provision of personnel is approved in advance by the Committee;
 - (d) the assistance or training is to be provided to the Libyan authorities and intended solely for security or disarmament assistance.
- (3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—
 - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

- (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.”.

7. **Section 15 amended (licence for making available funds, etc. of certain persons or entities or dealing with funds, etc. of certain persons or entities)**

(1) After section 15(1)—

Add

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

- (a) making available designated funds to, or for the benefit of, a designated Libyan entity; or
(b) dealing with designated funds.”.

(2) After section 15(2)—

Add

“(2A) The requirements referred to in subsection (1A) are as follows—

- (a) the designated funds are—
- (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or

- (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of the designated funds;
- (b) the designated funds are necessary for extraordinary expenses;
- (c) the designated funds—
- (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 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;
- (d) the designated funds are to be used for making payment due under a contract entered into by a designated Libyan entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;
- (e) the designated funds—
- (i) are to be used for one or more of the following purposes—
- (A) humanitarian needs;
- (B) fuel, electricity and water for strictly civilian uses;
- (C) resuming Libyan production and sale of hydrocarbons;
- (D) establishing, operating or strengthening institutions of civilian government and civilian public infrastructure;
- (E) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya; and

- (ii) are not to be made available to, or for the benefit of, a relevant person or a relevant entity.”.

(3) Section 15—

Repeal subsection (3)

Substitute

“(3) If the Chief Executive determines that—

- (a) the requirement in subsection (2)(a) or (2A)(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 5 working days of the notification;
- (b) the requirement in subsection (2)(b) or (2A)(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) or (2A)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) or (2A)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence;
- (e) the requirement in subsection (2A)(e) is met—

- (i) the Chief Executive must cause the Libyan authorities to be consulted about the intended use of the designated funds;
- (ii) if the Libyan authorities have no objection to the intended use of the designated funds, the Chief Executive must cause the Committee and the Libyan authorities to be notified of the intention to grant a licence under subsection (1A); and
- (iii) the Chief Executive must grant the licence in the absence of a negative decision by the Committee and an objection from the Libyan authorities within 5 working days of the notification.

(4) In this section—

designated funds (指認資金) has the meaning given by section 7.”.

8. Section 16 repealed (licence for flights into Libya)

Section 16—

Repeal the section.

9. Section 22 amended (investigation of suspected aircraft)

Section 22—

Repeal subsection (1)

Substitute

“(1) If an authorized officer has reason to suspect that an aircraft to which section 3, 6 or 11 applies has been, is being or is about to be used in contravention of section 3(2), 6(2) or 11(3), the officer may—

United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012

L.N. 42 of 2012
B1399

Section 9

- (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;
- (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; and
- (c) (in the case that an authorized officer has reason to suspect that the aircraft carries armed mercenary personnel) request the charterer, operator or pilot in command of the aircraft to provide any information relating to any person on board the aircraft.”.

Donald TSANG
Chief Executive

14 March 2012

United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012

Explanatory Note
Paragraph 1

L.N. 42 of 2012
B1401

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2009 (2011) and Resolution 2016 (2011), as adopted by the Security Council of the United Nations on 16 September 2011 and 27 October 2011 respectively, by—

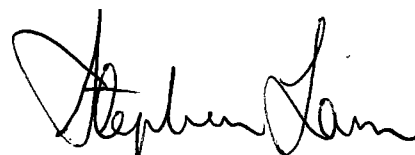
- (a) providing for further exceptions to the prohibition against—
 - (i) the supply, sale, transfer or carriage of arms or related materiel to Libya;
 - (ii) the provision of assistance or training related to military activities, etc. in certain circumstances;
 - (iii) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
 - (iv) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (b) uplifting the prohibition against—
 - (i) HKSAR aircraft flying into Libya; and
 - (ii) Libyan aircraft to take off from or land in the HKSAR, or fly within the HKSAR air space.

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012**

This is to confirm that the Chief Executive received specific instructions from the Ministry of Foreign Affairs of the People's Republic of China in October and December 2011 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolutions No.2009 and No.2016 of the Security Council of the United Nations respectively, and that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012 was made in pursuance of the instructions.

Dated this *14th* day of *March* 2012



(Stephen Lam)

Chief Secretary for Administration

**Security Council**

Distr.: General
16 September 2011

Resolution 2009 (2011)**Adopted by the Security Council at its 6620th meeting, on
16 September 2011**

The Security Council,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya,

Reaffirming its previous resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflict, 1612 (2006), 1882 (2009), 1998 (2011) on children in armed conflict, and 1325 (2000), 1820 (2008), 1888 (2009) 1889 (2009), and 1960 (2010) on women, peace and security,

Recalling its decision to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of cooperation for ensuring that those responsible for violations of human rights and international humanitarian law or complicit in attacks targeting the civilian population are held accountable,

Strongly condemning all violations of applicable human rights and international humanitarian law, including violations that involve unlawful killings, other uses of violence against civilians, or arbitrary arrests and detentions, in particular of African migrants and members of minority communities,

Also strongly condemning sexual violence, particularly against women and girls, and the recruitment and use of children in situations of armed conflict in contravention of applicable international law,

Considering that the voluntary and sustainable return of refugees and internally displaced persons will be a critical factor for the consolidation of peace in Libya,

Stressing that national ownership and national responsibility are key to establishing sustainable peace and the primary responsibility of national authorities in identifying their priorities and strategies for post-conflict peace-building,

Recalling the letter of the Secretary-General of 7 September 2011 (S/2011/542) and *welcoming* his intention to dispatch, at the request of the Libyan authorities, an initial deployment of personnel, to be led by a Special Representative of the Secretary-General,



Taking note of the letter of 14 September 2011 from Dr. Mahmoud Jibril, Prime Minister of the National Transitional Council of Libya, to the Secretary-General,

Expressing its gratitude to the Secretary-General's Special Envoy to Libya, Mr. Abdel-Elah Mohamed Al-Khatib, for his efforts to find a sustainable and peaceful solution in Libya,

Reaffirming that the United Nations should lead the effort of the international community in supporting the Libyan-led transition and rebuilding process aimed at establishing a democratic, independent and united Libya, *welcoming* the contributions in this regard of the Secretary-General's 26 August high-level meeting of regional organisations and the 1 September Paris Conference, and *welcoming also* the efforts of the African Union, Arab League, European Union and the Organization of the Islamic Cooperation,

Expressing concern at the proliferation of arms in Libya and its potential impact on regional peace and security,

Recalling its resolutions 1970 (2011) of 26 February 2011 and 1973 (2011) of 17 March 2011,

Recalling its determination to ensure that assets frozen pursuant to resolutions 1970 (2011) and 1973 (2011) shall as soon as possible be made available to and for the benefit of the people of Libya, *welcoming* steps taken by the Committee established pursuant to resolution 1970 (2011) and Member States in this regard, and *underscoring* the importance of making these assets available in a transparent and responsible manner in conformity with the needs and wishes of the Libyan people,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Takes note* of the developments in Libya, *welcomes* the improved situation there, and *looks forward* to stability in Libya;

2. *Looks forward* to the establishment of an inclusive, representative transitional Government of Libya, and *emphasises* the need for the transitional period to be underpinned by a commitment to democracy, good governance, rule of law and respect for human rights;

3. *Emphasises* the importance of promoting the equal and full participation of women and minority communities in the discussions related to the political process in the post-conflict phase;

4. *Welcomes* the statements of the National Transitional Council appealing for unity, national reconciliation and justice, and its call for Libyans of all beliefs and backgrounds to refrain from reprisals, including arbitrary detentions;

5. *Encourages* the National Transitional Council to implement its plans to:

(a) protect Libya's population, restore government services, and allocate Libya's funds openly and transparently;

(b) prevent further abuses and violations of human rights and international humanitarian law and to put an end to impunity;

(c) ensure a consultative, inclusive political process with a view to agreement on a constitution and the holding of free and fair elections;

(d) ensure the safety of foreign nationals in Libya, particularly those who have been threatened, mistreated and/or detained; and

(e) prevent the proliferation of man-portable surface-to-air missiles, small arms and light weapons, and meet Libya's arms control and non-proliferation obligations under international law;

6. *Notes* the National Transitional Council's calls to avoid acts of reprisals including against migrant workers;

7. *Calls upon* the Libyan authorities to promote and protect human rights, including those of people belonging to vulnerable groups, to comply with their obligations under international law, including international humanitarian law and human rights law, and *calls for* those responsible for violations, including sexual violence, to be held accountable in accordance with international standards;

8. *Strongly urges* the Libyan authorities to ensure the protection of diplomatic personnel and premises in accordance with Vienna Convention on Diplomatic Relations of 1961;

9. *Expresses* its resolve to assist the people of Libya to achieve these goals, and *urges* all Member States to assist the people of Libya as appropriate;

10. *Urges* all Member States to cooperate closely with the Libyan authorities in their efforts to end impunity, in accordance with Libya's international obligations;

11. *Calls upon* the Libyan authorities to comply with the international obligations of Libya, including obligations set forth in the Charter of the United Nations, in accordance with international law, and *further calls upon* the Libyan authorities to honour extant contracts and obligations, in accordance with this and other relevant resolutions, and the law applicable to such contracts and obligations;

UN Mandate

12. *Decides* to establish a United Nations Support Mission in Libya (UNSMIL), under the leadership of a Special Representative of the Secretary-General for an initial period of three months, and *decides further* that the mandate of UNSMIL shall be to assist and support Libyan national efforts to:

(a) restore public security and order and promote the rule of law;

(b) undertake inclusive political dialogue, promote national reconciliation, and embark upon the constitution-making and electoral process;

(c) extend state authority, including through strengthening emerging accountable institutions and the restoration of public services;

(d) promote and protect human rights, particularly for those belonging to vulnerable groups, and support transitional justice;

(e) take the immediate steps required to initiate economic recovery; and

(f) coordinate support that may be requested from other multilateral and bilateral actors as appropriate;

Arms Embargo

13. *Decides* that the measure imposed by paragraph 9 of resolution 1970 (2011) shall also not apply to the supply, sale or transfer to Libya of:

(a) arms and related materiel of all types, including technical assistance, training, financial and other assistance, intended solely for security or disarmament assistance to the Libyan authorities and notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

(b) small arms, light weapons and related materiel, temporarily exported to Libya for the sole use of United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

Asset Freeze

14. *Decides* that the Libyan National Oil Corporation (LNOC) and Zueitina Oil Company shall no longer be subject to the asset freeze and other measures imposed in paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011);

15. *Decides* to modify the measures imposed in paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Central Bank of Libya, the Libyan Arab Foreign Bank (LAFB), the Libyan Investment Authority (LIA), and the Libyan Africa Investment Portfolio (LAIP) as follows:

(a) funds, other financial assets and economic resources outside of Libya of the entities mentioned in this paragraph above that are frozen as of the date of this resolution pursuant to measures imposed in paragraph 17 of resolution 1970 (2011) or paragraph 19 of resolution 1973 (2011) shall remain frozen by States unless subject to an exemption as set out in paragraphs 19, 20 or 21 of that resolution or paragraph 16 below;

(b) except as provided in (a), the Central Bank of Libya, the LAFB, the LIA, and the LAIP shall otherwise no longer be subject to the measures imposed in paragraphs 17 of resolution 1970 (2011), including that States are no longer required to ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of these entities;

16. *Decides* that in addition to the provisions of paragraph 19 of resolution 1970 (2011), the measures imposed by paragraph 17 of that resolution, as modified by paragraph 15 above and paragraph 19 of resolution 1973 (2011), do not apply to funds, other financial assets or economic resources of the Central Bank of Libya, the LAFB, the LIA and the LAIP provided that:

(a) a Member State has provided notice to the Committee of its intent to authorize access to funds, other financial assets, or economic resources, for one or

more of the following purposes and in the absence of a negative decision by the Committee within five working days of such a notification:

- (i) humanitarian needs;
- (ii) fuel, electricity and water for strictly civilian uses;
- (iii) resuming Libyan production and sale of hydrocarbons;
- (iv) establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; or
- (v) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya;

(b) a Member State has notified the Committee that those funds, other financial assets or economic resources shall not be made available to or for the benefit of the individuals subject to the measures imposed in paragraph 17 of resolution 1970 (2011) or paragraph 19 of resolution 1973 (2011);

(c) the Member State has consulted in advance with the Libyan authorities about the use of such funds, other financial assets, or economic resources; and

(d) the Member State has shared with the Libyan authorities the notification submitted pursuant to this paragraph and the Libyan authorities have not objected within five working days to the release of such funds, other financial assets, or economic resources;

17. *Calls upon* States to exercise vigilance when acting pursuant to paragraph 16 above and to give due consideration to the use of international financial mechanisms to promote transparency and prevent misappropriation, in light of the challenges that yet remain for the Libyan authorities;

18. *Requests* the International Monetary Fund and the World Bank to work with the Libyan authorities on an assessment of Libya's public financial management framework, which would recommend steps to be taken by Libya to ensure a system of transparency and accountability with respect to the funds held by Libyan governmental institutions, including the LIA, LNOC, LAFB, LAIP and Libyan Central Bank, and *further requests* that the Committee be informed of the results of that assessment;

19. *Directs* the Committee, in consultation with the Libyan authorities, to review continuously the remaining measures imposed by resolutions 1970 (2011) and 1973 (2011) with respect to the Central Bank of Libya, the LAFB, the LIA and the LAIP, and *decides* that the Committee shall, in consultation with the Libyan authorities, lift the designation of these entities as soon as practical to ensure the assets are made available to and for the benefit of the people of Libya;

No Fly Zone and Ban on Flights

20. *Takes note* of the improved situation in Libya, *emphasises* its intention to keep the measures imposed by paragraphs 6 to 12 of resolution 1973 (2011) under continuous review and *underlines* its readiness, as appropriate and when circumstances permit, to lift those measures and to terminate authorization given to Member States in paragraph 4 of resolution 1973 (2011) in consultation with the Libyan authorities;

21. *Decides* that the measures in paragraph 17 of resolution 1973 (2011) shall cease to have effect from the date of this resolution;

Cooperation and Reporting

22. *Requests* the Secretary-General to report on implementation of this resolution in 14 days from adoption, and every month thereafter, or more frequently as he sees fit;

23. *Decides* to remain actively seized of the matter.



Security Council

Distr.: General
27 October 2011

Resolution 2016 (2011)

**Adopted by the Security Council at its 6640th meeting,
on 27 October 2011**

The Security Council,

Recalling its resolutions 1970 (2011) of 26 February 2011, 1973 (2011) of 17 March 2011, and 2009 (2011) of 16 September 2011,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya,

Taking note of the National Transitional Council's "Declaration of Liberation" of 23 October 2011 in Libya,

Looking forward to a future for Libya based on national reconciliation, justice, respect for human rights and the rule of law,

Reiterating the importance of promoting the full and effective participation of members of all social and ethnic groups, including the equal participation of women and minority communities in the discussions related to the post-conflict phase,

Recalling its decision to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of cooperation for ensuring that those responsible for violations of human rights and international humanitarian law or complicit in attacks targeting the civilian population are held accountable,

Reiterating that the voluntary and sustainable return of refugees and internally displaced persons will be an important factor for the consolidation of peace in Libya,

Expressing concern at the proliferation of arms in Libya and its potential impact on regional peace and security, and also *expressing* its intention expeditiously to address that issue further,

Expressing grave concern about continuing reports of reprisals, arbitrary detentions, wrongful imprisonment and extrajudicial executions in Libya,

Reiterating its call to the Libyan authorities to promote and protect human rights and fundamental freedoms, including those of people belonging to vulnerable groups, to comply with their obligations under international law, including international humanitarian law and human rights law, and *urging* respect for the



human rights of all people in Libya, including former officials and detainees, during and after the transitional period,

Recalling its decisions in resolution 2009 (2011) to:

(a) Modify the provisions of the arms embargo imposed by paragraph 9 of resolution 1970 to provide for additional exemptions,

(b) Terminate the asset freeze imposed by paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Libyan National Oil Corporation and Zueitina Oil Company, and to modify the asset freeze imposed by paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Central Bank of Libya, the Libyan Arab Foreign Bank, the Libyan Investment Authority, and the Libyan Africa Investment Portfolio, and

(c) Cease the measures imposed by paragraph 17 of resolution 1973 (2011),

Recalling also its intention to keep the measures imposed by paragraphs 6 to 12 of resolution 1973 (2011) under continuous review and to lift, as appropriate and when circumstances permit, those measures and to terminate authorization given to Member States in paragraph 4 of resolution 1973 (2011), in consultation with the Libyan authorities,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

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

1. *Welcomes* the positive developments in Libya which will improve the prospects for a democratic, peaceful and prosperous future there;

2. *Looks forward* to the swift establishment of an inclusive, representative transitional Government of Libya, and *reiterates* the need for the transitional period to be underpinned by a commitment to democracy, good governance, rule of law, national reconciliation and respect for human rights and fundamental freedoms of all people in Libya;

3. *Strongly urges* the Libyan authorities to refrain from reprisals, including arbitrary detentions, *calls upon* the Libyan authorities to take all steps necessary to prevent reprisals, wrongful imprisonment and extrajudicial executions, and *underscores* the Libyan authorities' responsibility for the protection of its population, including foreign nationals and African migrants;

4. *Urges* all Member States to cooperate closely with the Libyan authorities in their efforts to end impunity for violations of international human rights and international humanitarian law;

Protection of Civilians

5. *Decides* that the provisions of paragraphs 4 and 5 of resolution 1973 (2011) shall be terminated from 23.59 Libyan local time on 31 October 2011;

No-Fly Zone

6. *Decides also* that the provisions of paragraphs 6 to 12 of resolution 1973 (2011) shall be terminated from 23.59 Libyan local time on 31 October 2011;

7. *Decides* to remain actively seized of the matter.

Chapter:	537AW	United Nations Sanctions (Libya) Regulation 2011	Gazette Number	Version Date
		Empowering section	L.N. 114 of 2011	30/06/2011

(Cap 537, section 3)

[30 June 2011]

(Originally L.N. 114 of 2011)

Part:	1	Preliminary	L.N. 114 of 2011	30/06/2011
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Section:	1	Interpretation	L.N. 114 of 2011	30/06/2011
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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;

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;**Committee** (委員會) means the Committee of the Security Council established under paragraph 24 of Resolution 1970;**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;

Libya (利比亞) means the Libyan Arab Jamahiriya;**licence** (特許) means a licence granted under section 13(1)(a) or (b), 14(1), 15(1) or 16(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 a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;**person connected with Libya** (有關連人士) means—

- (a) the Government of Libya;
- (b) any person in, or resident in, Libya;
- (c) any body incorporated or constituted under the law of Libya;
- (d) any body, wherever incorporated or constituted, which is controlled by—

- (i) the Government mentioned in paragraph (a);
- (ii) a person mentioned in paragraph (b); or
- (iii) a body mentioned in paragraph (c); or
- (e) any person acting on behalf of—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c) or (d);

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 38; or
- (b) an 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 38(a);

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 38; or
- (b) a person 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 38(a);

Resolution 1970 (《第1970號決議》) means Resolution 1970 (2011) adopted by the Security Council on 26 February 2011;

Resolution 1973 (《第1973號決議》) means Resolution 1973 (2011) adopted by the Security Council on 17 March 2011;

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

Part:	2	Prohibitions	L.N. 114 of 2011	30/06/2011
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Section:	2	Prohibition against supply, sale or transfer of certain goods	L.N. 114 of 2011	30/06/2011
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- (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 13(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 Libya;
 - (b) to, or to the order of, a person connected with Libya; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (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 Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the

order of, a person connected with Libya.

Section:	3	Prohibition against carriage of certain goods	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
 - (e) 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 13(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) from a place outside Libya to a place in Libya;
 - (b) to, or to the order of, a person connected with Libya; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (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 13(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) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of 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) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of 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) in the case of 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) from a place outside Libya to a place in Libya;
- (ii) to, or to the order of, a person connected with Libya; or
- (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

Section:	4	Prohibition against provision of certain assistance or training	L.N. 114 of 2011	30/06/2011
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- (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 14(1), a person must not provide, directly or indirectly, to a person connected with Libya any technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (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 Libya; or
 - (b) that the assistance or training concerned related to military activities or to the provision, maintenance or use of any prohibited goods.

Section:	5	Prohibition against procurement of certain items by certain persons	L.N. 114 of 2011	30/06/2011
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- (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) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any prohibited goods—
- (a) from Libya; or
 - (b) from a person connected with Libya.
- (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—
 - (i) from Libya; or
 - (ii) from a person connected with Libya.

Section:	6	Prohibition against procurement of certain items using ships, aircraft or vehicles	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
- (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;

- (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
 - (e) 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 5, a ship, aircraft or vehicle must not be used for or in connection with the procurement of any prohibited goods—
- (a) from Libya; or
 - (b) from a person connected with Libya.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of 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) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of 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) in the case of a vehicle, the operator and the driver of the vehicle.
- (4) A person who commits an offence under subsection (3) 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.
- (5) 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;
 - (b) that the goods concerned were—
 - (i) from Libya; or
 - (ii) from a person connected with Libya.

Section:	7	Prohibition against making available funds, etc. or dealing with funds, etc.	L.N. 114 of 2011	30/06/2011
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- (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 15(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.

Section:	8	Prohibition against entry or transit by certain persons	L.N. 114 of 2011	30/06/2011
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- (1) Subject to section 9, 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—
- specified person** (指明人士) means—
- (a) a person listed in Annex I to Resolution 1970 or Annex I to Resolution 1973;
- (b) a person designated by the Committee for the purposes of paragraph 15 of Resolution 1970; or
- (c) a person determined by the Security Council or the Committee to have violated the provisions of Resolution 1970, or to have assisted another person or entity in violating those provisions.

Section:	9	Exceptions to prohibition against entry or transit by certain persons	L.N. 114 of 2011	30/06/2011
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Section 8 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;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process;
- (c) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of peace and national reconciliation in Libya and stability in the region; or
- (d) the relevant entry or transit is required to advance peace and stability in Libya.

Section:	10	Prohibition against flights into Libya	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
 - (a) an aircraft that is registered in the HKSAR; and
 - (b) any other 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.
- (2) Except under the authority of a licence granted under section 16(1), an aircraft to which this section applies must not fly into Libyan air space.
- (3) If an aircraft is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (b) in the case of 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.
- (4) A person who commits an offence under subsection (3) 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.
- (5) 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 that the aircraft concerned had flown into Libyan air space.

Section:	11	Prohibition against certain aircraft taking off from, landing in etc. HKSAR	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
 - (a) an aircraft that carries prohibited goods from or to Libya; and
 - (b) an aircraft that carries armed mercenary personnel to Libya.
- (2) If the Director-General of Civil Aviation has information that provides reasonable grounds for the Director-General to believe that an aircraft is one to which this section applies, the Director-General must deny permission for the aircraft—
 - (a) to take off from the HKSAR;
 - (b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or
 - (c) to fly within the HKSAR air space.
- (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—
 - (a) in the case of subsection (2)(a), to take off from the HKSAR;
 - (b) in the case of subsection (2)(b), to land in the HKSAR; or
 - (c) in the case of subsection (2)(c), to fly within the HKSAR air space.
- (4) A pilot in command who contravenes subsection (3) 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.

Section:	12	Prohibition against Libyan aircraft taking off from, landing in etc. HKSAR	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
 - (a) an aircraft that is owned or operated by—

- (i) a Libyan national; or
- (ii) a body incorporated or constituted under the law of Libya; and
- (b) an aircraft that is registered in Libya.
- (2) If the Director-General of Civil Aviation has information that provides reasonable grounds for the Director-General to believe that an aircraft is one to which this section applies, the Director-General must, unless the flight concerned has been approved in advance by the Committee, deny permission for the aircraft—
 - (a) to take off from the HKSAR;
 - (b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or
 - (c) to fly within the HKSAR air space.
- (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—
 - (a) in the case of subsection (2)(a), to take off from the HKSAR;
 - (b) in the case of subsection (2)(b), to land in the HKSAR; or
 - (c) in the case of subsection (2)(c), to fly within the HKSAR air space.
- (4) A pilot in command who contravenes subsection (3) 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.

Part:	3	Licences	L.N. 114 of 2011	30/06/2011
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Section:	13	Licence for supply, sale, transfer or carriage of certain goods	L.N. 114 of 2011	30/06/2011
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- (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 Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Libya to a place in Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (b) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (c) the supply or sale of the prohibited goods is approved in advance by the Committee.

Section:	14	Licence for provision of certain assistance or training	L.N. 114 of 2011	30/06/2011
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- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence to provide to a person connected with Libya technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (2) The requirements referred to in subsection (1) are as follows—
 - (a) the assistance or training is related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;

- (b) the assistance or training is related to protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
- (c) the assistance or provision of personnel is approved in advance by the Committee.

Section:	15	Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities	L.N. 114 of 2011	30/06/2011
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- (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—
 - (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 referred to in subsection (1) 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) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; 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 26 February 2011 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;
 - (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.
- (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 5 working days of 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;
 - (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

Section:	16	Licence for flights into Libya	L.N. 114 of 2011	30/06/2011
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- (1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must grant a licence for an aircraft to which section 10 applies to fly into Libyan air space.
- (2) The requirement referred to in subsection (1) is that the sole purpose of the flight is humanitarian, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, or evacuating foreign nationals from Libya.

Section:	17	Provision of false information or documents for purpose of obtaining licences	L.N. 114 of 2011	30/06/2011
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- (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—
 - (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	L.N. 114 of 2011	30/06/2011
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Section:	18	Licence or permission granted by authorities of places outside HKSAR	L.N. 114 of 2011	30/06/2011
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- (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.

Part:	5	Enforcement of Regulation	L.N. 114 of 2011	30/06/2011
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Part:	5	Investigation, etc. of Suspected Ships	L.N. 114 of 2011	30/06/2011
Division:	1			

Section:	19	Investigation of suspected ships	L.N. 114 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(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 3 or 6 applies is being or is about to be used in contravention of section 3(2) or 6(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 6(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;
 - (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.

Section:	20	Offences by charterer, operator or master of ship	L.N. 114 of 2011	30/06/2011
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- (1) A charterer, operator or master of a ship who disobeys any direction given under section 19(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 19(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 19(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.

Section:	21	Power of authorized officers to enter and detain ships	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(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.

Part:	5	Investigation, etc. of Suspected Aircraft	L.N. 114 of 2011	30/06/2011
Division:	2			

Section:	22	Investigation of suspected aircraft	L.N. 114 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that an aircraft to which section 3, 6, 10, 11 or 12 applies has been, is being or is about to be used in contravention of section 3(2), 6(2), 10(2), 11(3) or 12(3), 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;
 - (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; and
 - (c) (in the case that an authorized officer has reason to suspect that the aircraft carries armed mercenary

personnel) request the charterer, operator or pilot in command of the aircraft to provide any information relating to any person on board the aircraft.

- (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) or (c), 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.

Section:	23	Offences by charterer, operator or pilot in command of aircraft	L.N. 114 of 2011	30/06/2011
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- (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 22(1)(b) or (c) 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 22(1)(b) or (c) 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.

Section:	24	Power of authorized officers to enter and detain aircraft	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 23, if an authorized officer has reason to suspect that a request that has been made under section 22(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.

Part:	5	Investigation, etc. of Suspected Vehicles	L.N. 114 of 2011	30/06/2011
Division:	3			

Section:	25	Investigation of suspected vehicles	L.N. 114 of 2011	30/06/2011
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- (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 3(2) or 6(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.

Section:	26	Offences by operator or driver of vehicle	L.N. 114 of 2011	30/06/2011
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- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 25(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 25(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.

Section:	27	Power of authorized officers to enter and detain vehicles	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 26, if an authorized officer has reason to suspect that a request that has been made under section 25(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.

Part:	5	Proof of Identity	L.N. 114 of 2011	30/06/2011
Division:	4			

Section:	28	Production of proof of identity	L.N. 114 of 2011	30/06/2011
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Before or on exercising a power conferred by section 19, 21, 22, 24, 25 or 27, 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	L.N. 114 of 2011	30/06/2011
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Section:	29	Power of magistrate or judge to grant warrant	L.N. 114 of 2011	30/06/2011
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- (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.

Section:	30	Seized articles, etc. liable to forfeiture	L.N. 114 of 2011	30/06/2011
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- (1) If an authorized officer intends to apply to a magistrate or judge under section 31 for an order for forfeiture of any document, cargo or article seized under section 29(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.
- (2) A notice under subsection (1) is to be regarded as having been duly served on a person if—
 - (a) it is delivered personally to the person;
 - (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
 - (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.
- (3) An owner, or the authorized agent of an owner, of the document, cargo or article referred to in a notice served under subsection (1), or a person who was in possession of the document, cargo or article at the time of seizure, or a person who has a legal or equitable interest in the document, cargo or article, may object to the proposed forfeiture by serving a notice in writing on the Commissioner.
- (4) A notice of objection under subsection (3)—
 - (a) must be served on the Commissioner by a person referred to in subsection (3) (**claimant**) within 30 days from—
 - (i) if the notice under subsection (1) is delivered personally to the person named in the notice, the date of delivery;
 - (ii) if the notice under subsection (1) is sent by registered post, 2 days after the date of posting; or
 - (iii) if the notice under subsection (1) is exhibited as described in subsection (2)(c), the first day it is so exhibited;
 - (b) must state the claimant's full name and address for service in Hong Kong; and
 - (c) if the claimant does not have a permanent address in Hong Kong, must state the name and address of a solicitor who is qualified to practise under the Legal Practitioners Ordinance (Cap 159) and is authorized to accept service on behalf of the claimant in relation to any forfeiture proceedings.
- (5) An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized document, cargo or article in respect of which a notice has been served under subsection (1)—
 - (a) after the expiration of the appropriate period of time specified in subsection (4)(a) for the serving of a notice of objection; or
 - (b) if a notice of objection is served in accordance with subsections (3) and (4), after the receipt of the notice.

Section:	31	Power of magistrate or judge to make order for forfeiture and disposal	L.N. 114 of 2011	30/06/2011
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- (1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or

article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, maintenance or use of any prohibited goods, or that the seized cargo or article is prohibited goods, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.

- (2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.
- (3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 30(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.
- (4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.

Section:	32	Detention of documents, cargoes or articles seized	L.N. 114 of 2011	30/06/2011
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- (1) Subject to subsection (2) and any order made under section 31, any document, cargo or article seized under section 29(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.

Part:	7	Disclosure of Information or Documents	L.N. 114 of 2011	30/06/2011
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Section:	33	Disclosure of information or documents	L.N. 114 of 2011	30/06/2011
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- (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 Libya 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.

Part:	8	Other Offences and Miscellaneous Matters	L.N. 114 of 2011	30/06/2011
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Section:	34	Liability of persons other than principal offenders	L.N. 114 of 2011	30/06/2011
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- (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.

Section:	35	Offences in relation to obstruction of authorized persons, etc.	L.N. 114 of 2011	30/06/2011
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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.

Section:	36	Offences in relation to evasion of this Regulation	L.N. 114 of 2011	30/06/2011
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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.

Section:	37	Consent and time limit for proceedings	L.N. 114 of 2011	30/06/2011
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- (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.

Section:	38	Specification of relevant person or relevant entity by Chief Executive	L.N. 114 of 2011	30/06/2011
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The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—

- (a) a person or entity designated by the Committee for the purposes of the measures imposed by paragraph 17 of Resolution 1970, including a person or entity listed in Annex II to Resolution 1970 or Annex II to Resolution 1973;
- (b) a person or entity determined by the Security Council or the Committee to have violated the provisions of Resolution 1970, or to have assisted another person or entity in violating those provisions;
- (c) a person or entity designated by the Committee for the purposes of paragraph 19 of Resolution 1973.

Section:	39	Exercise of powers of Chief Executive	L.N. 114 of 2011	30/06/2011
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- (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.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012

Contents

Section		Page
Part 1		
Preliminary		
1.	Interpretation.....	14
Part 2		
Prohibitions		
2.	Prohibition against supply, sale or transfer of certain goods	54
3.	Prohibition against carriage of certain goods.....	64
4.	Prohibition against provision of certain assistance or training.....	94
5.	Prohibition against procurement of certain items by certain persons	104
6.	Prohibition against procurement of certain items using ships, aircraft or vehicles	104
7.	Prohibition against making available funds, etc. or dealing with funds, etc.....	134
8.	Prohibition against entry or transit by certain persons	164
9.	Exceptions to prohibition against entry or transit by certain	

Section	Page
persons	<u>164</u>
10. Prohibition against flights into Libya.....	17
11. Prohibition against certain aircraft taking off from, landing in etc. HKSAR	<u>184</u>
12. Prohibition against Libyan aircraft taking off from, landing in etc. HKSAR.....	19

Part 3

Licences

13. Licence for supply, sale, transfer or carriage of certain goods.....	<u>214</u>
14. Licence for provision of certain assistance or training	<u>224</u>
15. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities.....	<u>234</u>
16. Licence for flights into Libya.....	29
17. Provision of false information or documents for purpose of obtaining licences	<u>284</u>

Part 4

Things Done outside HKSAR

18. Licence or permission granted by authorities of places outside HKSAR	<u>294</u>
---	------------

Part 5

Section	Page
---------	------

Enforcement of Regulation

Division 1 — Investigation, etc. of Suspected Ships

19.	Investigation of suspected ships.....	<u>304</u>
20.	Offences by charterer, operator or master of ship.....	<u>314</u>
21.	Power of authorized officers to enter and detain ships	<u>324</u>

Division 2 — Investigation, etc. of Suspected Aircraft

22.	Investigation of suspected aircraft	<u>334</u>
23.	Offences by charterer, operator or pilot in command of aircraft.....	<u>344</u>
24.	Power of authorized officers to enter and detain aircraft	<u>344</u>

Division 3 — Investigation, etc. of Suspected Vehicles

25.	Investigation of suspected vehicles.....	<u>354</u>
26.	Offences by operator or driver of vehicle	<u>364</u>
27.	Power of authorized officers to enter and detain vehicles.....	<u>364</u>

Division 4 — Proof of Identity

28.	Production of proof of identity.....	<u>374</u>
-----	--------------------------------------	------------

Part 6

Evidence

29.	Power of magistrate or judge to grant warrant.....	<u>384</u>
30.	Seized articles, etc. liable to forfeiture.....	<u>394</u>
31.	Power of magistrate or judge to make order for forfeiture and	

Section	Page
disposal	<u>414</u>
32. Detention of documents, cargoes or articles seized	<u>414</u>

Part 7

Disclosure of Information or Documents

33. Disclosure of information or documents	<u>424</u>
--	------------

Part 8

Other Offences and Miscellaneous Matters

34. Liability of persons other than principal offenders	<u>424</u>
35. Offences in relation to obstruction of authorized persons, etc.	<u>424</u>
36. Offences in relation to evasion of this Regulation	<u>424</u>
37. Consent and time limit for proceedings	<u>424</u>
38. Specification of relevant person or relevant entity by Chief Executive	<u>424</u>
39. Exercise of powers of Chief Executive	<u>424</u>

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012

(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. 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;

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;

Committee (委員會) means the Committee of the Security Council established under paragraph 24 of Resolution 1970;

designated Libyan entity (指認利比亞實體) means—

(a) the Libyan Investment Authority; or

(b) the Libyan Africa Investment Portfolio;

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;

~~***Libya*** (利比亞) means the Libyan Arab Jamahiriya;~~

~~***licence*** (特許) means a licence granted under section 13(1)(a) or (b), 14(1), or 15(1) or (1A) ~~or 16(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 a ship, aircraft or vehicle, means the person for the time being having the management of the ship, aircraft or vehicle;~~

~~***person connected with Libya*** (有關連人士) means—~~

- (a) the Government of Libya;
- (b) any person in, or resident in, Libya;
- (c) any body incorporated or constituted under the law of Libya;
- (d) any body, wherever incorporated or constituted, which is controlled by—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c); or
- (e) any person acting on behalf of—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c) or (d);

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 38; or
- (b) an 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 38(a);

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 38; or
- (b) a person 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 38(a);

Resolution 1970 (《第 1970 號決議》) means Resolution 1970 (2011) adopted by the Security Council on 26 February 2011;

Resolution 1973 (《第 1973 號決議》) means Resolution 1973 (2011) adopted by the Security Council on 17 March 2011;

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

small arms (小型軍火) means any arms specified in items ML1 and ML2 of the Munitions List in Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G).

Part 2

Prohibitions

2. 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 13(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 Libya;
 - (b) to, or to the order of, a person connected with Libya; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (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 Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

3. Prohibition against carriage of certain goods

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
 - (e) 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 13(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) from a place outside Libya to a place in Libya;

- (b) to, or to the order of, a person connected with Libya; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (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 13(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) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of 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) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of 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) in the case of 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) from a place outside Libya to a place in Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

4. 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—
 - (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 14(1), a person must not provide, directly or indirectly, to a person connected with Libya any technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (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 Libya; or
 - (b) that the assistance or training concerned related to military activities or to the provision, maintenance or use of any prohibited goods.

5. Prohibition against procurement of certain items by certain persons

- (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) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any prohibited goods—
 - (a) from Libya; or
 - (b) from a person connected with Libya.
- (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—
 - (i) from Libya; or
 - (ii) from a person connected with Libya.

6. Prohibition against procurement of certain items using ships, aircraft or vehicles

- (1) This section applies to—

- (a) a ship that is registered in the HKSAR;
 - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
 - (e) 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
 - (f) a vehicle in the HKSAR.
- (2) Without limiting section 5, a ship, aircraft or vehicle must not be used for or in connection with the procurement of any prohibited goods—
- (a) from Libya; or
 - (b) from a person connected with Libya.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) in the case of 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) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
 - (d) in the case of 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) in the case of a vehicle, the operator and the driver of the vehicle.
- (4) A person who commits an offence under subsection (3) 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.

- (5) 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;
 - (b) that the goods concerned were—
 - (i) from Libya; or
 - (ii) from a person connected with Libya.

7. 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
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 15(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.

(2A) Except under the authority of a licence granted under section 15(1A)—

(a) a person must not make available, directly or indirectly, any designated funds to, or for the benefit of, a designated Libyan entity; and

(b) a person must not deal with, directly or indirectly, any designated funds, and if the person is a designated Libyan entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the person and which were frozen on 16 September 2011.

(3) A person who contravenes subsection (2) or (2A) 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) if the person is charged with contravening subsection (2)—

(i) 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)~~(ii) 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; or

(b) if the person is charged with contravening subsection (2A)—

- (i) that the designated funds were or were to be made available to, or for the benefit of, a designated Libyan entity; or
 - (ii) that the funds or other financial assets or economic resources concerned were designated funds.
- (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;

designated funds (指認資金) means any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a designated Libyan entity and which were frozen on 16 September 2011.

8. Prohibition against entry or transit by certain persons

- (1) Subject to section 9, 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—

specified person (指明人士) means—

- (a) a person listed in Annex I to Resolution 1970 or Annex I to Resolution 1973;
- (b) a person designated by the Committee for the purposes of paragraph 15 of Resolution 1970; or
- (c) a person determined by the Security Council or the Committee to have violated the provisions of Resolution 1970, or to have assisted another person or entity in violating those provisions.

9. Exceptions to prohibition against entry or transit by certain persons

Section 8 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;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process;
- (c) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of peace and national reconciliation in Libya and stability in the region; or

- (d) the relevant entry or transit is required to advance peace and stability in Libya.

10. ~~Prohibition against flights into Libya~~

- ~~(1) This section applies to—~~
 - ~~(a) an aircraft that is registered in the HKSAR; and~~
 - ~~(b) any other 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.~~
- ~~(2) Except under the authority of a licence granted under section 16(1), an aircraft to which this section applies must not fly into Libyan air space.~~
- ~~(3) If an aircraft is used in contravention of subsection (2), each of the following persons commits an offence—~~
 - ~~(a) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;~~
 - ~~(b) in the case of 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.~~
- ~~(4) A person who commits an offence under subsection (3) 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.~~
- ~~(5) 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 that the aircraft concerned had flown into Libyan air space.~~

11. Prohibition against certain aircraft taking off from, landing in etc. HKSAR

- (1) This section applies to—
 - (a) an aircraft that carries prohibited goods from or to Libya; and
 - (b) an aircraft that carries armed mercenary personnel to Libya.
- (2) If the Director-General of Civil Aviation has information that provides reasonable grounds for the Director-General to believe that an aircraft is one to which this section applies, the Director-General must deny permission for the aircraft—
 - (a) to take off from the HKSAR;
 - (b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or
 - (c) to fly within the HKSAR air space.
- (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—

- (a) in the case of subsection (2)(a), to take off from the HKSAR;
 - (b) in the case of subsection (2)(b), to land in the HKSAR; or
 - (c) in the case of subsection (2)(c), to fly within the HKSAR air space.
- (4) A pilot in command who contravenes subsection (3) 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.

~~12. Prohibition against Libyan aircraft taking off from, landing in etc. HKSAR~~

- ~~(1) This section applies to—~~
 - ~~(a) an aircraft that is owned or operated by—~~
 - ~~(i) a Libyan national; or~~
 - ~~(ii) a body incorporated or constituted under the law of Libya; and~~
 - ~~(b) an aircraft that is registered in Libya.~~
- ~~(2) If the Director General of Civil Aviation has information that provides reasonable grounds for the Director General to believe that an aircraft is one to which this section applies, the Director General must, unless the flight concerned has been approved in advance by the Committee, deny permission for the aircraft—~~
 - ~~(a) to take off from the HKSAR;~~
 - ~~(b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or~~
 - ~~(c) to fly within the HKSAR air space.~~

- ~~(3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—~~
- ~~(a) in the case of subsection (2)(a), to take off from the HKSAR;~~
 - ~~(b) in the case of subsection (2)(b), to land in the HKSAR; or~~
 - ~~(c) in the case of subsection (2)(c), to fly within the HKSAR air space.~~
- ~~(4) A pilot in command who contravenes subsection (3) 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.~~
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Part 3

Licences

13. 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, subject to subsection (3), 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 Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Libya to a place in Libya;
 - (ii) to, or to the order of, a person connected with Libya; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
 - (b) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily

exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;

(c) the supply or sale of the prohibited goods is approved in advance by the Committee;

(d) the prohibited goods are to be supplied, sold or transferred to the Libyan authorities and intended solely for security or disarmament assistance;

(e) the prohibited goods are small arms or related materiel to be temporarily exported to Libya for the sole use of the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel.

(3) If the Chief Executive determines that the requirement in subsection (2)(d) or (e) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.

14. 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, subject to subsection (3), grant a licence to provide to a person connected with Libya technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.

(2) The requirements referred to in subsection (1) are as follows—

(a) the assistance or training is related to the supply of non-lethal military equipment intended solely for

humanitarian or protective use, as approved in advance by the Committee;

(b) the assistance or training is related to protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;

(c) the assistance or provision of personnel is approved in advance by the Committee;-

(d) the assistance or training is to be provided to the Libyan authorities and intended solely for security or disarmament assistance.

(3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—

(a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and

(b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.

15. 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—

(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.

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

(a) making available designated funds to, or for the benefit of, a designated Libyan entity; or

(b) dealing with designated funds.

(2) The requirements referred to in subsection (1) 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) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; 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 26 February 2011 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;

- (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.

(2A) The requirements referred to in subsection (1A) are as follows—

(a) the designated funds are—

(i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

(ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or

(iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of the designated funds;

(b) the designated funds are necessary for extraordinary expenses;

(c) the designated funds—

(i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 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;

(d) the designated funds are to be used for making payment due under a contract entered into by a designated Libyan entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;

(e) the designated funds—

- (i) are to be used for one or more of the following purposes—
 - (A) humanitarian needs;
 - (B) fuel, electricity and water for strictly civilian uses;
 - (C) resuming Libyan production and sale of hydrocarbons;
 - (D) establishing, operating or strengthening institutions of civilian government and civilian public infrastructure;
 - (E) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya; and
 - (ii) are not to be made available to, or for the benefit of, a relevant person or a relevant entity.
- (3) If the Chief Executive determines that—
- (a) the requirement in subsection (2)(a) or (2A)(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 5 working days of the notification;
 - (b) the requirement in subsection (2)(b) or (2A)(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) or (2A)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) or (2A)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence;-
- (e) the requirement in subsection (2A)(e) is met—
 - (i) the Chief Executive must cause the Libyan authorities to be consulted about the intended use of the designated funds;
 - (ii) if the Libyan authorities have no objection to the intended use of the designated funds, the Chief Executive must cause the Committee and the Libyan authorities to be notified of the intention to grant a licence under subsection (1A); and
 - (iii) the Chief Executive must grant the licence in the absence of a negative decision by the Committee and an objection from the Libyan authorities within 5 working days of the notification.

(4) In this section,—

designated funds (指認資金) has the meaning given by section 7.

16. Licence for flights into Libya

- (1) If satisfied on application that the requirement in subsection (2) is met, the Chief Executive must grant a licence for an aircraft to which section 10 applies to fly into Libyan air space.
- (2) The requirement referred to in subsection (1) is that the sole purpose of the flight is humanitarian, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, or evacuating foreign nationals from Libya.

17. 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—
 - (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

18. 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

19. Investigation of suspected ships

- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(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 3 or 6 applies is being or is about to be used in contravention of section 3(2) or 6(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 6(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;

- (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.

20. Offences by charterer, operator or master of ship

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 19(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under

section 19(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 19(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.

21. Power of authorized officers to enter and detain ships

- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(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

22. Investigation of suspected aircraft

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3, ~~6, 10, or 11~~ or 12 applies has been, is being or is about to be used in contravention of section 3(2), 6(2), ~~10(2), or 11(3) or 12(3)~~, 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;
 - (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; and
 - (c) (in the case that an authorized officer has reason to suspect that the aircraft carries armed mercenary personnel) request the charterer, operator or pilot in command of the aircraft to provide any information relating to any person on board the aircraft.
- (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) or (c), 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.

23. 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 22(1)(b) or (c) 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 22(1)(b) or (c) 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.

24. Power of authorized officers to enter and detain aircraft

- (1) Without limiting section 23, if an authorized officer has reason to suspect that a request that has been made under section 22(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

25. 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 3(2) or 6(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.

26. 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 25(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 25(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.

27. Power of authorized officers to enter and detain vehicles

- (1) Without limiting section 26, if an authorized officer has reason to suspect that a request that has been made under section 25(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.

Division 4 — Proof of Identity

28. Production of proof of identity

Before or on exercising a power conferred by section 19, 21, 22, 24, 25 or 27, 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

29. 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.

30. Seized articles, etc. liable to forfeiture

- (1) If an authorized officer intends to apply to a magistrate or judge under section 31 for an order for forfeiture of any document, cargo or article seized under section 29(3), the officer must, within 30 days from the date of the seizure, serve notice of that intention on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the document, cargo or article.
- (2) A notice under subsection (1) is to be regarded as having been duly served on a person if—
 - (a) it is delivered personally to the person;
 - (b) it is sent by registered post addressed to the person at any place of residence or business of the person known to the authorized officer; or
 - (c) where the notice cannot be served in accordance with paragraph (a) or (b), the notice is exhibited at the offices of the Customs and Excise Department, in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the document, cargo or article.
- (3) An owner, or the authorized agent of an owner, of the document, cargo or article referred to in a notice served under subsection (1), or a person who was in possession of the document, cargo or article at the time of seizure, or a person

who has a legal or equitable interest in the document, cargo or article, may object to the proposed forfeiture by serving a notice in writing on the Commissioner.

- (4) A notice of objection under subsection (3)—
 - (a) must be served on the Commissioner by a person referred to in subsection (3) (claimant) within 30 days from—
 - (i) if the notice under subsection (1) is delivered personally to the person named in the notice, the date of delivery;
 - (ii) if the notice under subsection (1) is sent by registered post, 2 days after the date of posting; or
 - (iii) if the notice under subsection (1) is exhibited as described in subsection (2)(c), the first day it is so exhibited;
 - (b) must state the claimant's full name and address for service in Hong Kong; and
 - (c) if the claimant does not have a permanent address in Hong Kong, must state the name and address of a solicitor who is qualified to practise under the Legal Practitioners Ordinance (Cap. 159) and is authorized to accept service on behalf of the claimant in relation to any forfeiture proceedings.
- (5) An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized document, cargo or article in respect of which a notice has been served under subsection (1)—
 - (a) after the expiration of the appropriate period of time specified in subsection (4)(a) for the serving of a notice of objection; or
 - (b) if a notice of objection is served in accordance with subsections (3) and (4), after the receipt of the notice.

31. Power of magistrate or judge to make order for forfeiture and disposal

- (1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, maintenance or use of any prohibited goods, or that the seized cargo or article is prohibited goods, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.
- (2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.
- (3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 30(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.
- (4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has not been served on that person.

32. Detention of documents, cargoes or articles seized

- (1) Subject to subsection (2) and any order made under section 31, any document, cargo or article seized under section 29(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.

Part 7

Disclosure of Information or Documents

33. 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 Libya 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.

Part 8

Other Offences and Miscellaneous Matters

34. 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.

35. 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.

36. 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.

37. 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.

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

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity any of the following persons or entities—

- (a) a person or entity designated by the Committee for the purposes of the measures imposed by paragraph 17 of Resolution 1970, including a person or entity listed in Annex II to Resolution 1970 or Annex II to Resolution 1973;
- (b) a person or entity determined by the Security Council or the Committee to have violated the provisions of Resolution 1970, or to have assisted another person or entity in violating those provisions;
- (c) a person or entity designated by the Committee for the purposes of paragraph 19 of Resolution 1973.

39. 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.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.

Chief Executive

2012

Explanatory Note

~~The purpose of this Regulation is to give effect to certain decisions in Resolution 1970 (2011) and Resolution 1973 (2011), as adopted by the Security Council of the United Nations on 26 February 2011 and 17 March 2011 respectively, by providing for the prohibition against—~~

- ~~— (a) the supply, sale, transfer or carriage of arms or related materiel to Libya;~~
- ~~— (b) the provision of assistance or training related to military activities, etc. in certain circumstances;~~
- ~~— (c) procurement of arms or related materiel from Libya;~~
- ~~— (d) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;~~
- ~~— (e) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities;~~
- ~~— (f) entry into or transit through the HKSAR by certain persons;~~
- ~~— (g) HKSAR aircraft flying into Libya;~~
- ~~— (h) aircraft carrying arms or related materiel or armed mercenary personnel to take off from or land in the HKSAR, or fly within the HKSAR air space; and~~
- ~~— (i) Libyan aircraft to take off from or land in the HKSAR, or fly within the HKSAR air space.~~

The purpose of this Regulation is to give effect to certain decisions in Resolution 2009 (2011) and Resolution 2016 (2011), as adopted by the Security Council of the United Nations on 16 September 2011 and 27 October 2011 respectively, by—

- (a) providing for further exceptions to the prohibition against—

- (i) the supply, sale, transfer or carriage of arms or related materiel to Libya;
 - (ii) the provision of assistance or training related to military activities, etc. in certain circumstances;
 - (iii) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
 - (iv) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (b) uplifting the prohibition against—
- (i) HKSAR aircraft flying into Libya; and
 - (ii) Libyan aircraft to take off from or land in the HKSAR, or fly within the HKSAR air space.

**United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2012**

Information on Libya

Country Background

Libya is a country in Northern Africa, situated between Tunisia and Egypt, bordering the Mediterranean Sea. It has a total area of 1,759,540 sq. km. and a projected population of around 6.42 million. With its capital in Tripoli, Libya first achieved independence in 1951. More than eight months after the start of the popular uprising against the regime of Colonel Muammar Al-Qadhafi, an interim Government (currently headed by Prime Minister Abdurrahim El-Keib) has been formed in the country since 23 October 2011. Dependent on exports of petroleum oil, Libya had a GDP of US\$58.8 billion (or HK\$455.5 billion) in 2009.¹ Merchandise imports and exports of Libya in 2010 amounted to US\$ 10.5 billion (or HK\$81.6 billion) and US\$ 47.4 billion (or HK\$368.3 billion) respectively.²

United Nations Sanctions against Libya

2. Protests calling for democratic change have erupted in February 2011 in Libya following popular uprisings in Tunisia and Egypt that led to the ouster of long-time rulers there. The situation has quickly spilt out of control as protests against the regime of Muammar Al-Qadhafi turned into a full-fledged conflict between Government forces and the opposition. In response to Al-Qadhafi's regime's military crackdown on protesters, the United Nations Security Council (UNSC) adopted Resolution 1970 on 26 February 2011 to impose sanctions on Libya, including arms embargo, travel ban, and assets freeze on Muammar Al-Qadhafi and his family and certain Government officials.

3. Noting the deteriorating situation and the escalation of violence in the country, the UNSC further adopted Resolution 1973 on 17 March 2011 permitting the use of all necessary measures, including the imposition of a

¹ Source: World Statistics Pocket Book published by United Nations Statistics Division at <http://data.un.org/CountryProfile.aspx?crName=Libyan%20Arab%20Jamahiriya>

² Source: WTO Statistics Database at <http://stat.wto.org/Home/WSDBHome.aspx?Language>

ban on all flight in the country's airspace and authorizing the use of force to protect civilians and civilian areas under threat of attack in Libya. The resolution also tightened measures on arms embargo and assets freeze imposed by Resolution 1970 and decided that all States should deny permission to any Libyan commercial aircraft to take off from, land in or overfly their territory.

4. After several months of fighting in the country, anti-Qadhafi forces captured the capital, Tripoli and took control of most of the country in August 2011. On 16 September 2011, the UNSC adopted Resolution 2009 to establish a mission in the country to support the Libyan transitional authorities in their reconstruction efforts, including restoring the rule of law, drafting a new constitution, promoting reconciliation and preparing for elections. In support of those objectives, Resolution 2009 also partly lifted the arms embargo imposed on Libya and the assets freeze targeting entities connected to the previous regime; and terminated the measures on banning Libyan aircrafts from taking off from, landing in or overflying the territory of all States. Taking note of the declaration of liberation made by the Libyan transitional Government and the formation of a new interim Government following the death of the long-time leader Muammar Al-Qadhafi, the UNSC ordered the end to authorised international military action in Libya and terminated a no-fly zone over Libya that had been imposed in March 2011 through the adoption of Resolution 2016 on 27 October 2011³.

Trade Relation between Hong Kong and Libya

5. In 2011, Libya ranked 171st among Hong Kong's trading partners in the world, with a total trade of HK\$27.7 million. Of these, HK\$23.7 million worth of trade were exports to Libya, and HK\$4.0 million imports. Hong Kong's trade with Libya are summarised as follows –

Hong Kong's Trade with Libya [Value in HK\$ (in million)]		
Item	2010	2011
(a) Total Exports to Libya	71.2	23.7

³ Source of information contained in paragraphs 2-5: UN News Centre at <http://www.un.org/apps/news/>

Hong Kong's Trade with Libya [Value in HK\$ (in million)]		
Item	2010	2011
<i>(i) Domestic exports</i>	0.01 ⁴	0.04 ⁵
<i>(ii) Re-exports</i>	71.2 ⁶	23.7 ⁷
(b) Imports from Libya	1.6 ⁸	4.0 ⁹
Total Trade [(a) + (b)]	72.8	27.7

In 2011, HK\$19.8 million worth of goods between Libya and the Mainland were routed through Hong Kong. All the goods involved were re-exports of Mainland origin to Libya via Hong Kong.

6. The current arms embargo, travel ban and financial sanctions against Libya imposed by the UNSC would unlikely affect the trade between Hong Kong and Libya adversely, as the major categories of commodities traded are not related to arms and related materiel. In addition, given the rather small trade volume between the two places, the United Nations sanctions against Libya would unlikely have any effect on the Hong Kong economy.

Commerce and Economic Development Bureau March 2012

⁴ In 2010, domestic exports to Libya include special transactions and commodities not classified according to kinds (80.0%) and clothing (20.0%).

⁵ In 2011, domestic exports to Libya include musical instruments and sound recordings (75.7%). Due to the limited value of Hong Kong's domestic exports to Libya, small changes in absolute value would lead to substantial fluctuation in percentage term. The increase in domestic exports in 2011 over 2010 was largely attributed to the rise in demand for musical instruments and sound recordings.

⁶ In 2010, re-exports to Libya include telecommunications equipment (38.5%); articles of apparel and clothing accessories (13.7%); and watches and clocks (9.6%).

⁷ In 2011, re-exports to Libya include telecommunications equipment (29.6%); automatic data processing machines and units thereof (19.5%); and footwear (15.5%). The decrease in re-exports in 2011 over 2010 was due to the drop in demand for clothing; watches and clocks; telecommunications equipment as well as toys and games.

⁸ In 2010, imports from Libya include telecommunications equipment (98.2%) and dried or salted fish (1.7%).

⁹ In 2011, imports from Libya include machinery and equipment specialized for particular industry and parts (84.5%); and telecommunications equipment (14.8%). Due to the limited value of Hong Kong's imports from Libya, small changes in absolute value would lead to substantial fluctuation in percentage term. The significant increase in imports from Libya in 2011 over 2010 was due to the sharp rise in demand for machinery and equipment specialized for particular industries and parts.