

LEGISLATIVE COUNCIL BRIEF

United Nations Sanctions Ordinance
(Chapter 537)

UNITED NATIONS SANCTIONS (LIBYA) REGULATION 2011 (AMENDMENT) REGULATION 2016

INTRODUCTION

At the meeting of the Executive Council on 28 June 2016, the Council advised and the Chief Executive (“the CE”) ordered that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“the Ordinance”). The Amendment Regulation was gazetted on 30 June 2016 and came into operation on the same day.

A

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 from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”) to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In April 2016, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2278 in respect of Libya. The Amendment Regulation was made pursuant to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction is at Annex B.

B

Sanctions against Libya

3. Concerned with serious violations of human rights and attacks against civilians, the UNSC adopted UNSCR 1970 to implement a range of sanctions against Libya on 26 February 2011. The sanctions were modified by the UNSC with the adoption of UNSCR 1973 on 17 March 2011, UNSCR 2009 on 16 September 2011, UNSCR 2016 on 27 October 2011 and UNSCR 2095 on 14 March 2013. 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)} and ban on flights^{Note(4)}.

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 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.

UNSCR 2146

4. Determining that the situation in Libya continues to constitute a threat to international peace and security, the UNSC passed UNSCR 2146 on 19 March 2014 to expand the scope of sanctions against Libya. The UNSC, inter alia, decided to impose the following measures on vessels designated under paragraph 11 of UNSCR 2146 by the Committee established pursuant to paragraph 24 of UNSCR 1970 (“the Committee”) (**paragraph 10 of UNSCR 2146 refers**) –

- (a) the flag State of a vessel designated by the Committee shall take the necessary measures to direct the vessel not to load, transport, or discharge crude oil from Libya aboard the vessel, absent direction from the Government of Libya focal point;
- (b) all Member States shall take the necessary measures to prohibit vessels designated by the Committee from entering their ports, unless such entry is necessary for the purpose of an inspection, in the case of emergency or in the case of return to Libya;
- (c) all Member States shall take the necessary measures to prohibit the provision by their nationals or from their territory of bunkering services, such as provision of fuel or supplies, or other servicing of vessels, to vessels designated by the Committee, unless provision of such services is necessary for humanitarian purposes, or in the case of return to Libya; in which case the Member State shall notify the Committee; and
- (d) all Member States shall take the necessary measures to require their nationals and entities and individuals in their territory not to engage in any financial transactions with respect to crude oil from Libya aboard vessels designated by the Committee.

The UNSC further decided that the authorisations provided by and the measures imposed by UNSCR 2146 shall terminate one year from the date of the adoption of UNSCR 2146, unless the UNSC decides to extend them (**paragraph 15 of UNSCR 2146 refers**). The above time-limited sanction measures were renewed for one year until 31 March 2016 by UNSCR 2213 on 27 March 2015.

5. Pursuant to the instructions of the MFA, the United Nations Sanctions (Libya) Regulation 2011 (Cap. 537AW) (“the existing Regulation”) was first made in June 2011 and subsequently amended in March 2012, August 2013, November 2014 and July 2015 to implement sanctions against Libya as imposed by the relevant UNSCRs.

UNSCR 2278

C

6. On 31 March 2016, the UNSC adopted UNSCR 2278 (at Annex C), which decided, inter alia, to extend until 31 July 2017 the authorisations provided by and the measures imposed by UNSCR 2146 in respect of the prevention of illicit oil exports (**paragraph 1 of UNSCR 2278 refers**).

7. The implementation of UNSCR 2278 is also relevant to HKSAR's compliance with the relevant recommendation promulgated by the Financial Action Task Force on combating the financing of terrorism.

THE AMENDMENT REGULATION

8. The Amendment Regulation, at Annex A, seeks to amend the existing Regulation to implement the renewed sanctions against Libya as decided by UNSCR 2278. The main provisions of the Amendment Regulation include –

- (a) **section 5** which **adds sections 3E and 3F to the existing Regulation** to provide for the prohibition against the loading, transport or discharge of crude oil from Libya and relevant exceptions;
- (b) **section 7** which **adds sections 7E and 7F to the existing Regulation** to prohibit engaging in financial transactions related to any crude oil from Libya aboard ships designated by the Committee and to provide for relevant exceptions;
- (c) **section 9** which **adds sections 10G, 10H and 10I to the existing Regulation** to provide for the prohibition against the provision of certain services to ships designated by the Committee and relevant exceptions, and provide for the prohibition against ships designated by the Committee from entering waters of Hong Kong;

- (d) **section 10** which **adds section 15A to the existing Regulation** to provide for the grant of licences for the provision of certain services to ships designated by the Committee, for humanitarian purposes or for the ship to return to Libya; and
- (e) **section 13** which **adds section 42 to the existing Regulation** to specify that sections 3E, 3F, 7E, 7F, 10G to 10I and 15A expire at midnight on 31 July 2017.

D

A marked-up version showing the changes when compared against the existing Regulation is at Annex D for easy reference by Members.

IMPLICATIONS OF THE PROPOSAL

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

PUBLICITY

10. A press release was issued on 30 June 2016 when the Amendment Regulation was published in the Gazette.

INFORMATION ON LIBYA AND RELATION WITH HKSAR

11. 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 E.

E

ADVICE SOUGHT

12. Members are invited to note the implementation of the UNSCR 2278 in the HKSAR by the Amendment Regulation.

Commerce and Economic Development Bureau
June 2016

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016

L.N. 111 of 2016
B2359

L.N. 111 of 2016

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Section 1

**United Nations Sanctions (Libya) Regulation 2011
(Amendment) Regulation 2016**

(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 13.
2. **Section 1 amended (interpretation)**
 - (1) Section 1, definition of *licence*—
Repeal
“or 15(1) or (1A)”
Substitute
“, 15(1) or (1A) or 15A(1)”.
 - (2) Section 1, English text, definition of *pilot in command*—
Repeal
“without being under the direction of any other pilot in the aircraft”
Substitute
“(without being under the direction of any other pilot in the aircraft)”.
 - (3) Section 1, definition of *relevant entity*, paragraphs (a), (b) and (c)—
Repeal
“in accordance with”

Section 3

Substitute

“under”.

- (4) Section 1, definition of *relevant person*, paragraphs (a) and (b)—

Repeal

“in accordance with”

Substitute

“under”.

- (5) Section 1—

Repeal the definition of *Resolution 2146***Substitute**

“*Resolution 2146* (《第2146號決議》) means Resolution 2146 (2014) adopted by the Security Council on 19 March 2014, as extended by Resolution 2278 (2016) adopted by the Security Council on 31 March 2016;”.

3. **Section 3 amended (prohibition against carriage of certain goods)**

- (1) Section 3(4)(a) and (c)—

Repeal

“HKSAR,”

Substitute

“HKSAR—”.

- (2) Section 3(4)(e)—

Repeal

“vehicle,”

Substitute

“vehicle—”.

Section 4

4. Sections 3C and 3D repealed

Sections 3C and 3D—

Repeal the sections.

5. Sections 3E and 3F added

Before section 4—

Add

“3E. Prohibition against loading, transport or discharge of crude oil

(1) This section applies to a ship—

- (a) that is registered in the HKSAR; and
- (b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(a) of the Resolution.

(2) Subject to section 3F, a ship must not be used to load, transport or discharge crude oil from Libya aboard the ship.

(3) If a ship is used in contravention of subsection (2), each of the following persons commits an offence—

- (a) the charterer of the ship;
- (b) the operator of the ship;
- (c) the master of the ship.

(4) A person who commits an offence under subsection (3) 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 6

(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 crude oil was aboard the ship; or
- (b) that the crude oil aboard the ship was from Libya.

3F. Exceptions to prohibition under section 3E

(1) Section 3E does not apply if the loading, transport or discharge of crude oil is directed by the Government of Libya's focal point appointed under paragraph 3 of Resolution 2146.

(2) Section 3E does not apply if the loading, transport or discharge of crude oil is exempted by the Committee under paragraph 12 of Resolution 2146.”.

6. Sections 7C and 7D repealed

Sections 7C and 7D—

Repeal the sections.

7. Sections 7E and 7F added

Before section 8—

Add

“7E. Prohibition against engaging in certain financial transactions

(1) This section applies to—

- (a) a person acting in the HKSAR; and
- (b) a person acting outside the HKSAR who is—

Section 7

- (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) Subject to section 7F, a person must not engage, directly or indirectly, in any financial transaction related to any crude oil from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.
- (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 2 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 that the financial transaction concerned related to any crude oil from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.
- (5) In this section—
financial transaction (金融交易) does not include the payment or acceptance of port dues payable under section 52 of the Shipping and Port Control Ordinance (Cap. 313) in the circumstances specified in section 10I(3).

Section 8

7F. Exception to prohibition under section 7E

Section 7E does not apply if the engagement in the financial transaction concerned is exempted by the Committee under paragraph 12 of Resolution 2146.”.

8. Sections 10D, 10E and 10F repealed

Sections 10D, 10E and 10F—

Repeal the sections.

9. Sections 10G, 10H and 10I added

Before section 11—

Add

“10G. Prohibition against provision of certain services to certain ships

(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) Subject to section 10H, except under the authority of a licence granted under section 15A(1), a person must not provide, directly or indirectly, any specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.

Section 9

- (3) A person who, without reasonable excuse, 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) In this section—
- specified services* (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—
- (a) the provision of fuel to the ship;
 - (b) the provision of tools or equipment for shipboard maintenance;
 - (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;
 - (d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).

10H. Exception to prohibition under section 10G

Section 10G does not apply if the provision of the specified services concerned is exempted by the Committee under paragraph 12 of Resolution 2146.

10I. Prohibition against certain ships from entering waters of Hong Kong

- (1) This section applies to a ship—
- (a) that is outside the waters of Hong Kong; and

Section 10

- (b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(b) of the Resolution.
- (2) Except in the circumstances specified in subsection (3), the Director of Marine must deny permission for the ship to enter the waters of Hong Kong.
- (3) A ship to which this section applies may enter the waters of Hong Kong—
- (a) for the purpose of an inspection under section 19;
 - (b) in the case of an emergency;
 - (c) for the ship to return to Libya; or
 - (d) if the entry is allowed by the Committee under paragraph 12 of Resolution 2146.
- (4) The charterer, operator or master of a ship to which permission is denied under subsection (2) must not cause the ship to enter the waters of Hong Kong.
- (5) A charterer, operator or master of a ship who, without reasonable excuse, contravenes subsection (4) 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.”.

10. Section 15A added

After section 15—

Add

Section 11

"15A. Licence for provision of certain services to certain ships

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence for the provision of specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.
- (2) The requirements are as follows—
- (a) the provision of the specified services concerned is necessary for humanitarian purposes;
 - (b) the provision of the specified services concerned is necessary for the ship to return to Libya.
- (3) In this section—
specified services (指明服務) has the meaning given by section 10G.”.

11. Section 19 amended (investigation of suspected ships)

- (1) Section 19(1)—

Repeal

“3, 3C”

Substitute

“3, 3E”.

- (2) Section 19(1)—

Repeal

“3C(2)”

Substitute

“3E(2)”.

- (3) Section 19(2)—

Section 12

Repeal

“3, 3C”

Substitute

“3, 3E”.

- (4) Section 19(2)—

Repeal

“3C(2)” (wherever appearing)

Substitute

“3E(2)”.

12. Section 41 repealed (duration)

Section 41—

Repeal the section.**13. Section 42 added**

At the end of Part 8—

Add**“42. Duration**

The following provisions expire at midnight on 31 July 2017—

- (a) the definition of *Resolution 2146* in section 1;
- (b) sections 3E, 3F, 7E, 7F, 10G, 10H, 10I and 15A.”.

C. Y. LEUNG
Chief Executive

28 June 2016

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2278 (2016) as adopted by the Security Council of the United Nations on 31 March 2016 by providing for the prohibition against—

- (a) the loading, transport or discharge of crude oil from Libya aboard certain ships;
- (b) engaging in any financial transaction related to any crude oil from Libya aboard certain ships;
- (c) the provision of certain services to ships under certain circumstances; and
- (d) certain ships from entering the waters of Hong Kong.

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Libya) Regulation 2011
(Amendment) Regulation 2016**

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in April 2016 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2278 of the Security Council of the United Nations, and that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016 was made in pursuance of that instruction.

Dated this 28th day of June 2016

A handwritten signature in black ink, appearing to read 'Matthew Cheung', with a long horizontal flourish extending to the right.

(Matthew Cheung Kin-chung)
Acting Chief Secretary for Administration

United Nations

S/RES/2278 (2016)

**Security Council**Distr.: General
31 March 2016

Resolution 2278 (2016)**Adopted by the Security Council at its 7661st meeting, on
31 March 2016***The Security Council,*

Recalling the arms embargo, travel ban, assets freeze and measures concerning illicit oil exports which were imposed and modified by resolutions 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013), 2144 (2014), 2146 (2014), 2174 (2014) and 2213 (2015) (the Measures), and that the mandate of the Panel of Experts established by paragraph 24 of resolution 1973 (2011) and modified by resolutions 2040 (2012), 2146 (2014) and 2174 (2014) was extended until 30 April 2016 by resolution 2213 (2015),

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

Recalling resolution 2259 (2015) which welcomed the signing of the 17 December 2015 Libyan Political Agreement of Skhirat, Morocco and endorsed the Rome Communiqué of 13 December 2015 to support the Government of National Accord as the sole legitimate government of Libya, that should be based in Tripoli, and *further expressing* its determination in this regard to support the Government of National Accord,

Welcoming the meeting of the Libyan Political Dialogue on 10 March 2016, which reaffirmed its commitment to uphold the Libyan Political Agreement,

Underlining the primary responsibility of the Government of National Accord in taking appropriate action to prevent the illicit export of crude oil from Libya and *reaffirming* the importance of international support for Libyan sovereignty over its territory and resources,

Expressing its concern that the illicit export of crude oil from Libya undermines the Government of National Accord and poses a threat to the peace, security and stability of Libya,

Expressing support to Libyan efforts to resolve peacefully the disruptions of Libya's energy exports and reiterating that control of all facilities should be transferred back to the proper authorities,

Further reiterating its concern about activities which could damage the integrity and unity of Libyan State financial institutions and the National Oil

16-05243 (E)



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Corporation, *highlighting* the importance of these institutions continuing to function for the benefit of all Libyans, and *stressing* the need for the Government of National Accord to exercise sole and effective oversight over the National Oil Corporation, the Central Bank of Libya, and the Libyan Investment Authority as a matter of urgency, without prejudice to future constitutional arrangements pursuant to the Libyan Political Agreement,

Further recalling resolution 2259 (2015) which called on Member States to cease support to and official contact with parallel institutions claiming to be the legitimate authority, but which were outside the Libyan Political Agreement, as specified by it,

Recalling that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, sets out the legal framework applicable to activities in the ocean,

Reaffirming the importance of holding accountable those responsible for violations or abuses of human rights or violations of international humanitarian law, including those involved in attacks targeting civilians and *stressing* the need to transfer detainees to State authority,

Reiterating its expression of support for the Government of National Accord, as stated in paragraph 3 of resolution 2259 (2015), and *noting* in this regard the specific requests made to the Government of National Accord in this resolution,

Reiterating its request that all Member States fully support the efforts of the Special Representative of the Secretary-General and work with the Libyan authorities and United Nations Support Mission in Libya (UNSMIL) to develop a coordinated package of support to build the capacity of the Government of National Accord, in line with Libyan priorities and in response to requests for assistance,

Determining that the situation in Libya continues to constitute a threat to international peace and security,

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

Prevention of Illicit Oil Exports

1. *Decides* to extend until 31 July 2017 the authorizations provided by and the measures imposed by resolution 2146 (2014);

2. *Condemns* attempts to illicitly export crude oil from Libya, including by parallel institutions which are not acting under the authority of the Government of National Accord;

3. *Requests* that the Government of National Accord appoint and notify the Committee established pursuant to resolution 1970 (2011) of a focal point responsible for communication with the Committee with respect to the measures in resolution 2146 (2014), and to inform the Committee of any vessels transporting crude oil illicitly exported from Libya, and *urges* the Government of National Accord to provide regular updates to inform the Committee on ports, oil fields, and installations that are under its control, and to inform the Committee about the mechanism used to certify legal exports of crude oil;

4. *Calls on* the Government of National Accord, on the basis of any information regarding such exports or attempted exports, to expeditiously contact

the concerned vessel's flag State, in the first instance, to resolve the issue and *directs* the Committee to immediately inform all relevant Member States about notifications to the Committee from the Government of National Accord's focal point regarding vessels transporting oil illicitly exported from Libya;

Effective Oversight of the Financial Institutions

5. *Requests* that the Government of National Accord confirm to the Committee as soon as it exercises sole and effective oversight over the National Oil Corporation, the Central Bank of Libya, and the Libyan Investment Authority;

Arms Embargo

6. *Requests* the Government of National Accord to appoint a focal point to brief the Committee at its request and provide information relevant to the Committee's work on the structure of the security forces under its control, the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Government security forces, and training needs, and *emphasizes* the importance of the Government of National Accord exercising control over and safely storing arms, with the support of the international community;

7. *Affirms* that the Government of National Accord may submit requests under paragraph 8 of resolution 2174 (2014) for the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, for the use by security forces under its control to combat ISIL (the Islamic State in Iraq and the Levant, also known as Da'esh), groups that have pledged allegiance to ISIL, Ansar Al Sharia, and other, groups associated with Al-Qaida operating in Libya, *calls upon* the Committee established pursuant to paragraph 24 of resolution 1970 (2011) to consider expeditiously such requests, and *affirms* the Security Council's readiness to consider reviewing the arms embargo, when appropriate;

8. *Urges* Member States to assist the Government of National Accord, upon its request, by providing it with the necessary security and capacity-building assistance, in response to threats to Libyan security and in defeating ISIL, groups that have pledged allegiance to ISIL, Ansar Al Sharia, and other groups associated with Al-Qaida operating in Libya;

9. *Urges* the Government of National Accord to improve further the monitoring and control of arms or related materiel that are supplied, sold or transferred to Libya in accordance with paragraph 9 (c) of resolution 1970 (2011) or paragraph 8 of resolution 2174 (2014), including through the use of end user certificates issued by the Government of National Accord, *requests* the Panel of Experts established by paragraph 24 of resolution 1973 (2011) to consult with the Government of National Accord about the safeguards needed to safely procure and secure arms and related materiel, and *urges* Member States and regional organizations to provide assistance to the Government of National Accord upon its request to strengthen the infrastructure and mechanisms currently in place to do so;

10. *Calls upon* the Government of National Accord to improve the implementation of the arms embargo, including at all entry points, as soon as it exercises oversight, and *calls upon* all Member States to cooperate in such efforts;

Asset Freeze

11. *Reaffirms* its intention to ensure that assets frozen pursuant to paragraph 17 of resolution 1970 (2011) shall at a later stage be made available to and for the benefit of the Libyan people and taking note of the letter circulated as document [S/2016/275](#), *affirms* the Security Council's readiness to consider changes, when appropriate, to the asset freeze at the request of the Government of National Accord;

Panel of Experts

12. *Decides* to extend until 31 July 2017 the mandate of the Panel of Experts (the Panel), established by paragraph 24 of resolution 1973 (2011) and modified by resolutions 2040 (2012), 2146 (2014) and 2174 (2014), and *decides* that the Panel's mandated tasks shall remain as defined in resolution 2213 (2015);

13. *Decides* that the Panel shall provide to the Council an interim report on its work no later than 180 days after the Panel's appointment, and a final report to the Council, after discussion with the Committee, no later than 15 June 2017 with its findings and recommendations;

14. *Urges* all States, relevant United Nations bodies, including UNSMIL, and other interested parties, to cooperate fully with the Committee and the Panel, in particular by supplying any information at their disposal on the implementation of the Measures decided in resolutions 1970 (2011), 1973 (2011), 2146 (2014) and 2174 (2014), and modified in resolutions 2009 (2011) and 2040 (2012), 2095 (2013), 2144 (2014) and 2213 (2015) and in this resolution, in particular incidents of non-compliance, and *calls on* UNSMIL and the Government of National Accord to support Panel investigatory work inside Libya, including by sharing information, facilitating transit and granting access to weapons storage facilities, as appropriate;

15. *Calls upon* all parties and all States to ensure the safety of the Panel's members, and *further calls upon* all parties and all States, including Libya and countries of the region, to provide unhindered and immediate access, in particular to persons, documents and sites the Panel deems relevant to the execution of its mandate;

16. *Affirms* its readiness to review the appropriateness of the Measures contained in this resolution, including the strengthening, modification, suspension or lifting of the Measures, and its readiness to review the mandate of UNSMIL and the Panel, as may be needed at any time in light of developments in Libya;

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

United Nations Sanctions (Libya) Regulation 2011

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United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016

(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;

licence (特許) means a licence granted under section 13(1)(a) or (b), 14(1), ~~or~~ 15(1) or (1A) **or 15A(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~~ under section 38;
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled by, a person or entity specified by the Chief Executive as a relevant person or relevant entity ~~in accordance with~~ under section 38(a); or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or

entity specified by the Chief Executive as a relevant person or relevant entity ~~in accordance with~~ under 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~~ under 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~~ under 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;

~~* **Resolution 2146** (《第 2146 號決議》) means Resolution 2146 (2014) adopted by the Security Council on 19 March 2014, as extended by Resolution 2213 (2015) adopted by the Security Council on 27 March 2015;~~

Resolution 2146 (《第 2146 號決議》) means Resolution 2146 (2014) adopted by the Security Council on 19 March 2014, as extended by Resolution 2278 (2016) adopted by the Security Council on 31 March 2016;

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).

* This definition has expired at midnight on 31 March 2016.

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 Hong Kong;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within Hong Kong 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) for a ship registered in the HKSAR, ~~the~~ the charterer, the operator and the master of the ship;
 - (b) for any other ship—
 - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body

incorporated or constituted under the law of the HKSAR; and

(iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(c) for an aircraft registered in the HKSAR, —the charterer, the operator and the pilot in command of the aircraft;

(d) for any other aircraft—

(i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;

(ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

(iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;

(e) for a vehicle, —the operator and the driver of the vehicle.

(5) A person who commits an offence under subsection (4) is liable—

(a) on conviction on indictment to a fine and to imprisonment for 7 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

- (6) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) that the goods concerned were prohibited goods; or
 - (b) that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) 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.

~~*3C.—Prohibition against loading, transport or discharge of crude oil~~

~~—(1) This section applies to a ship—~~

~~—(a) that is registered in the HKSAR; and~~

~~—(b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(a) of the Resolution.~~

~~—(2) Subject to section 3D, a ship must not be used to load, transport or discharge crude oil from Libya aboard the ship.~~

~~—(3) If a ship is used in contravention of subsection (2), each of the following persons commits an offence—~~

~~—(a) the charterer of the ship;~~

~~—(b) the operator of the ship;~~

~~—(c) the master of the ship.~~

* This provision has expired at midnight on 31 March 2016.

- ~~(4) A person who commits an offence under subsection (3) 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.~~
- ~~(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 crude oil was aboard the ship; or~~
 - ~~(b) that the crude oil aboard the ship was from Libya.~~

~~* 3D. Exceptions to prohibition under section 3C~~

- ~~(1) Section 3C does not apply if the loading, transport or discharge of crude oil is directed by the Government of Libya's focal point appointed under paragraph 3 of Resolution 2146.~~
- ~~(2) Section 3C does not apply if the loading, transport or discharge of crude oil is exempted by the Committee under paragraph 12 of Resolution 2146.~~

3E. Prohibition against loading, transport or discharge of crude oil

- (1) This section applies to a ship—
- (a) that is registered in the HKSAR; and
 - (b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(a) of the Resolution.

* This provision has expired at midnight on 31 March 2016.

- (2) Subject to section 3F, a ship must not be used to load, transport or discharge crude oil from Libya aboard the ship.
- (3) If a ship is used in contravention of subsection (2), each of the following persons commits an offence—
 - (a) the charterer of the ship;
 - (b) the operator of the ship;
 - (c) the master of the ship.
- (4) A person who commits an offence under subsection (3) 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.
- (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 crude oil was aboard the ship; or
 - (b) that the crude oil aboard the ship was from Libya.

3F. Exceptions to prohibition under section 3E

- (1) Section 3E does not apply if the loading, transport or discharge of crude oil is directed by the Government of Libya's focal point appointed under paragraph 3 of Resolution 2146.
- (2) Section 3E does not apply if the loading, transport or discharge of crude oil is exempted by the Committee under paragraph 12 of Resolution 2146.

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 Hong Kong;
 - (c) an aircraft that is registered in the HKSAR;
 - (d) an aircraft that is not registered in the HKSAR and is within Hong Kong 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) for a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
 - (b) for any other ship—

- (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (c) for an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
- (d) for any other aircraft—
 - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
 - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
 - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) for a vehicle, the operator and the driver of the vehicle.

- (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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled 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) for a contravention of 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 belonging to, or owned or controlled by, a relevant person or a relevant entity; or

- (b) for a contravention of 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 belonging to, or owned or controlled 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 belonging to, or owned or controlled by, a designated Libyan entity and which were frozen on 16 September 2011.

~~*7C.— Prohibition against engaging in certain financial transactions~~

- ~~(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) Subject to section 7D, a person must not engage, directly or indirectly, in any financial transaction related to any crude oil from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.~~
- ~~(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 2 years; or~~
 - ~~(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.~~

* This provision has expired at midnight on 31 March 2016.

~~(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 that the financial transaction concerned related to any crude oil from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.~~

~~(5) In this section—~~

~~*financial transaction* (金融交易) does not include the payment or acceptance of port dues payable under section 52 of the Shipping and Port Control Ordinance (Cap. 313) in the circumstances specified in section 10F(3).~~

~~***7D. Exception to prohibition under section 7C**~~

~~Section 7C does not apply if the engagement in the financial transaction concerned is exempted by the Committee under paragraph 12 of Resolution 2146.~~

7E. Prohibition against engaging in certain financial transactions

(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) Subject to section 7F, a person must not engage, directly or indirectly, in any financial transaction related to any crude oil from Libya aboard a ship designated by the Committee under

* This provision has expired at midnight on 31 March 2016.

paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.

(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 2 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 that the financial transaction concerned related to any crude oil from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.

(5) In this section—

financial transaction (金融交易) does not include the payment or acceptance of port dues payable under section 52 of the Shipping and Port Control Ordinance (Cap. 313) in the circumstances specified in section 10I(3).

7F. Exception to prohibition under section 7E

Section 7E does not apply if the engagement in the financial transaction concerned is exempted by the Committee under paragraph 12 of Resolution 2146.

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;
- (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; or
- (d) a person determined by the Committee to be engaging in or providing support for acts that threaten the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition.

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 or transit 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.

~~* **10D. Prohibition against provision of certain services to certain ships**~~

- ~~(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) Subject to section 10E, a person must not provide, directly or indirectly, any specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.~~
- ~~(3) A person who, without reasonable excuse, 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) In this section—~~
- ~~*specified services* (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—~~
- ~~(a) the provision of fuel to the ship;~~
 - ~~(b) the provision of tools or equipment for shipboard maintenance;~~

* This provision has expired at midnight on 31 March 2016.

- ~~—— (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;~~
- ~~—— (d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).~~

~~* 10E. Exceptions to prohibition under section 10D~~

- ~~—— (1) Section 10D does not apply if the provision of the specified services concerned is necessary for——~~
 - ~~—— (a) humanitarian purposes; or~~
 - ~~—— (b) the ship to return to Libya.~~
- ~~—— (2) Section 10D does not apply if the provision of the specified services concerned is exempted by the Committee under paragraph 12 of Resolution 2146.~~

~~* 10F. Prohibition against certain ships from entering waters of Hong Kong~~

- ~~—— (1) This section applies to a ship——~~
 - ~~—— (a) that is outside the waters of Hong Kong; and~~
 - ~~—— (b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(b) of the Resolution.~~
- ~~—— (2) Except in the circumstances specified in subsection (3), the Director of Marine must deny permission for the ship to enter the waters of Hong Kong.~~
- ~~—— (3) A ship to which this section applies may enter the waters of Hong Kong——~~

* This provision has expired at midnight on 31 March 2016.

* This provision has expired at midnight on 31 March 2016.

- ~~— (a) for the purpose of an inspection under section 19;~~
- ~~— (b) in the case of an emergency;~~
- ~~— (c) for the ship to return to Libya; or~~
- ~~— (d) if the entry is allowed by the Committee under paragraph 12 of Resolution 2146.~~
- ~~— (4) The charterer, operator or master of a ship to which permission is denied under subsection (2) must not cause the ship to enter the waters of Hong Kong.~~
- ~~— (5) A charterer, operator or master of a ship who, without reasonable excuse, contravenes subsection (4) 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.~~

10G. Prohibition against provision of certain services to certain ships

- (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) Subject to section 10H, except under the authority of a licence granted under section 15A(1), a person must not provide, directly or indirectly, any specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.

- (3) A person who, without reasonable excuse, 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) In this section—

specified services (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—

 - (a) the provision of fuel to the ship;
 - (b) the provision of tools or equipment for shipboard maintenance;
 - (c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;
 - (d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).

10H. Exception to prohibition under section 10G

Section 10G does not apply if the provision of the specified services concerned is exempted by the Committee under paragraph 12 of Resolution 2146.

10I. Prohibition against certain ships from entering waters of Hong Kong

- (1) This section applies to a ship—
 - (a) that is outside the waters of Hong Kong; and

- (b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(b) of the Resolution.
- (2) Except in the circumstances specified in subsection (3), the Director of Marine must deny permission for the ship to enter the waters of Hong Kong.
- (3) A ship to which this section applies may enter the waters of Hong Kong—
 - (a) for the purpose of an inspection under section 19;
 - (b) in the case of an emergency;
 - (c) for the ship to return to Libya; or
 - (d) if the entry is allowed by the Committee under paragraph 12 of Resolution 2146.
- (4) The charterer, operator or master of a ship to which permission is denied under subsection (2) must not cause the ship to enter the waters of Hong Kong.
- (5) A charterer, operator or master of a ship who, without reasonable excuse, contravenes subsection (4) 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.

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 Hong Kong air space.
 - (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—
 - (a) for subsection (2)(a), to take off from the HKSAR;
 - (b) for subsection (2)(b), to land in the HKSAR; or
 - (c) for subsection (2)(c), to fly within Hong Kong 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 are as follows—
 - (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;

- (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, sale or transfer of the prohibited goods is approved in advance by the Committee;
 - (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)(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 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 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;
- (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 Government of Libya and intended solely for security or disarmament assistance.

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 belonging to, or owned or controlled 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 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 belonging to, or owned or controlled 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 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 Government of Libya to be consulted about the intended use of the designated funds;
 - (ii) if the Government of Libya has no objection to the intended use of the designated funds, the Chief Executive must cause the Committee and the Government of Libya 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 Government of Libya within 5 working days of the notification.

(4) In this section—

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

15A. Licence for provision of certain services to certain ships

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence for the provision of specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.
- (2) The requirements are as follows—
 - (a) the provision of the specified services concerned is necessary for humanitarian purposes;
 - (b) the provision of the specified services concerned is necessary for the ship to return to Libya.
- (3) In this section—

specified services (指明服務) has the meaning given by section 10G.

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.
-

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, ~~3C~~3E or 6 applies has been, is being or is about to be used in contravention of section 3(2), ~~3C~~3E(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, ~~3C~~3E or 6 applies is being or is about to be used in contravention of section 3(2), ~~3C~~3E(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), ~~3C~~3E(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 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—
 - (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.
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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;
- (d) a person or entity determined by the Committee to be engaging in or providing support for acts that threaten

the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition.

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.

~~41. Duration~~

~~The following provisions expire at midnight on 31 March 2016—~~

- ~~—(a) the definition of *Resolution 2146* in section 1;~~
- ~~—(b) sections 3C, 3D, 7C, 7D, 10D, 10E and 10F.~~

42. Duration

The following provisions expire at midnight on 31 July 2017—

- (a) the definition of *Resolution 2146* in section 1;
 - (b) sections 3E, 3F, 7E, 7F, 10G, 10H, 10I and 15A.
-

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2278 (2016) as adopted by the Security Council of the United Nations on 31 March 2016 by providing for the prohibition against—

- (a) the loading, transport or discharge of crude oil from Libya aboard certain ships;
- (b) engaging in any financial transaction related to any crude oil from Libya aboard certain ships;
- (c) the provision of certain services to ships under certain circumstances; and
- (d) certain ships from entering the waters of Hong Kong.

**United Nations Sanctions (Libya) Regulation 2011 (Amendment)
Regulation 2016**

Information on Libya

Country Background

Libya is a country in Northern Africa, situated between Tunisia and Egypt, bordering the Mediterranean Sea¹. It has a total area of 1 759 540 sq. km.² and an estimated population of around 6.253 million in 2013. With its capital in Tripoli, Libya first achieved independence in 1951. Libya is embroiled in some of the worst fighting since the 2011 uprising that ousted former leader Muammar al-Qadhafi and set it on a path to democratic transition. The Libyan parliament was elected in June 2014 and convened for the first time in August 2014. Nevertheless, violence between rival armed formations in the country continued. Dependent on exports of petroleum oil, Libya had a GDP of US\$74.6 billion (or HK\$578.6 billion) in 2013. Merchandise imports and exports of Libya in 2014 amounted to US\$ 19 billion (or HK\$147.3 billion) and US\$ 21 billion (or HK\$162.8 billion) respectively.³

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 spun 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.

¹ At present, there is not a definite list of Belt and Road countries, but Libya is usually not regarded as one of the countries along the Belt and Road.

² Source: World Statistics Pocket Book published by United Nations Statistics Division at http://unstats.un.org/unsd/pocketbook/World_Statistics_Pocketbook_2015_edition.pdf

³ Source: WTO Statistics Database at http://stat.wto.org/CountryProfiles/LY_e.htm

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 ban on all flight in the country's airspace and authorising 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 2011⁴. Determining that the situation in Libya continues to constitute a threat to international peace and security, the UNSC passed Resolution 2146 on 19 March 2014 to impose measures, on vessels designated by the Committee, in relation to attempts to illicitly export crude oil from Libya. Expressing deep concern at the threat posed by unsecured arms and ammunition in Libya and their proliferation as well as individuals and entities who threaten the stability in Libya and the region, the UNSC further passed Resolution 2174 on 27 August 2014 to reinforce the arms embargo and expand the criteria for designation of individuals or entities as subject to the travel ban and assets freeze. On 31 March 2016, the UNSC adopted Resolution 2278 to extend until 31 July 2017 the measures imposed by Resolution 2146 in respect of the prevention of illicit oil exports.

⁴ Source of information contained in paragraphs 2-5: UN News Centre at <http://www.un.org/news/>

Trade Relation between Hong Kong and Libya

5. In 2015, Libya ranked 149th among Hong Kong's trading partners in the world, with a total trade of HK\$92.7 million. Of these, HK\$53.8 million worth of trade were exports to Libya, and HK\$38.9 million imports. Hong Kong's trade with Libya are summarised as follows –

Hong Kong's Trade with Libya [Value in HK\$ (in million)]		
Item	2014	2015
(a) Total Exports to Libya	101.1	53.8
(i) Domestic exports	- ⁵	- ⁶
(ii) Re-exports	101.1 ⁷	53.8 ⁸
(b) Imports from Libya	1.8 ⁹	38.9 ¹⁰
Total Trade [(a) + (b)]	102.9	92.7

In 2015, HK\$72.6 million worth of goods, or 0.3¹¹% of the total trade between Libya and the Mainland, were routed through Hong Kong. Of these, HK\$20.1 million worth of goods were re-exports from Libya to the Mainland¹². The remaining HK\$52.5 million were re-exports of Mainland origin to Libya via Hong Kong.

⁵ In 2014, the amount of domestic exports to Libya was insignificant (value less than 0.05 million).

⁶ In 2015, there was no domestic export to Libya.

⁷ In 2014, re-exports to Libya included telecommunications and sound recording and reproducing apparatus and equipment (37.5%); travel goods, handbags and similar containers (10.5%); and professional, scientific and controlling instruments and apparatus (8.2%).

⁸ In 2015, re-exports to Libya included telecommunications and sound recording and reproducing apparatus and equipment (64.3%); travel goods, handbags and similar containers (8.9%); and office machines and automatic data processing machines (5.2%). The decrease was mainly due to the decrease in re-exports of electrical machinery, apparatus and appliances, and electrical parts thereof by 82% in 2015. This product item accounted for 7.9% of re-exports to Libya in 2014.

⁹ In 2014, imports from Libya included crude animal and vegetable materials (31.5%); metalliferous ores and metal scrap (29.6%); and miscellaneous manufactured articles (12.7%).

¹⁰ In 2015, imports from Libya included metalliferous ores and metal scrap (94.9%); crude animal and vegetable materials (2.8%); and telecommunications and sound recording and reproducing apparatus and equipment (1.3%). The increase was mainly due to the increase in imports of metalliferous ores and metal scrap by 67 times in 2015. This product item accounted for 29.6% of imports from Libya in 2014.

¹¹ The percentage is an estimate with reference to China's Customs Statistics and Hong Kong Trade Statistics and the calculated percentage is solely indicative.

¹² This re-export figure refers to goods produced in Libya (i.e. the country of origin is Libya) and re-exported through Hong Kong to the Mainland. These goods are not necessarily consigned from Libya. It is possible that some goods produced in Libya are sold to a third country before consigning to Hong Kong. Meanwhile, imports statistics reported in this Annex are based on country of consignment, but not country of origin.

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 significant effect on the Hong Kong economy.

Commerce and Economic Development Bureau
June 2016