

## **LEGISLATIVE COUNCIL BRIEF**

United Nations Sanctions Ordinance  
(Chapter 537)

### **UNITED NATIONS SANCTIONS (LIBYA) REGULATION 2011 (AMENDMENT) REGULATION 2013**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 27 August 2013, the Council advised and the Acting Chief Executive (“CE”) ordered that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (“UNSO”) to give effect to the instructions from the Ministry of Foreign Affairs of the People's Republic of China (“MFA”). The Amendment Regulation was gazetted on 30 August 2013 and came into operation on the same day.

#### **BACKGROUND**

##### **Obligation and Authority**

B & C 2. Under section 3(1) of the UNSO, the CE is required to make regulations to give effect to an instruction from the MFA to implement sanctions decided by the Security Council of the United Nations (“UNSC”). In June 2013, the CE received an instruction from the MFA requesting the Government of the Hong Kong Special Administrative Region (“HKSAR”) to implement UNSC Resolution (“UNSCR”) 2095 in respect of Libya. The Amendment Regulation was made to give effect to the instruction. A document issued by the Chief Secretary for Administration confirming the MFA’s instruction and a copy of UNSCR 2095 are at Annexes B and C respectively.

##### **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 and UNSCR 2016 on 27 October 2011. They concern arms embargoes, prohibition of the provision of certain

assistance and training, and the procurement of arms<sup>Note (1)</sup>, travel ban on certain individuals<sup>Note(2)</sup>, financial sanctions against certain persons and entities<sup>Note(3)</sup> and ban on flights<sup>Note(4)</sup>.

D

4. Pursuant to the instructions of the MFA, the United Nations Sanctions (Libya) Regulation 2011 (Cap. 537AW) (at Annex D) was first made in June 2011 and subsequently amended in March 2012 to implement sanctions against Libya in the relevant UNSCRs.

## UNSCR 2095

5. Welcoming the positive development in Libya, the UNSC adopted UNSCR 2095 on 14 March 2013 to relax certain sanctions against Libya. The UNSC, inter alia, decided that –

- (a) supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, shall no longer require the approval of the

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<sup>Note (1)</sup> 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.

<sup>Note(2)</sup> 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.

<sup>Note(3)</sup> 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.

<sup>Note(4)</sup> 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.

Committee established pursuant to paragraph 24 of UNSCR 1970 (“the Committee”), as previously provided for in paragraph 9(a) of UNSCR 1970 (*paragraph 9 of UNSCR 2095 refers*); and

- (b) supplies of non-lethal military equipment, and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the Libyan government, shall no longer require notification to, or the absence of a negative decision by, the Committee, as previously provided for in paragraph 13(a) of UNSCR 2009 (*paragraph 10 of UNSCR 2095 refers*).

## THE AMENDMENT REGULATION

6. The Amendment Regulation, at Annex A, seeks to amend Cap. 537AW to implement the modified sanctions against Libya as decided by UNSCR 2095. The main provisions of the Amendment Regulation include –

- (a) **section 6 which amends section 13 of Cap. 537AW** with a view to modifying requirements for the granting of licence by the CE for the supply, sale, transfer or carriage of prohibited goods; and
- (b) **section 7 which amends section 14 of Cap. 537AW** with a view to modifying requirements for the granting of licence by the CE for the provision of certain assistance or training.

E A mark-up version showing amendments to Cap. 537AW is at Annex E for easy reference by Members.

## IMPLICATIONS OF THE PROPOSAL

7. 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 UNSO. It has no financial, economic, productivity, environmental, sustainability or family implications. Additional work arising from the enforcement of Cap. 537AW as amended by the Amendment Regulation, if any, will be absorbed by the relevant departments with existing resources.

## **PUBLICITY**

8. A press release was issued on 30 August 2013 when the Amendment Regulation was published in the Gazette.

## **INFORMATION ON LIBYA AND RELATION WITH HKSAR**

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

F

## **ADVICE SOUGHT**

10. Members are invited to note the implementation of UNSCR 2095 in the HKSAR by the Amendment Regulation.

**Commerce and Economic Development Bureau**  
**August 2013**

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013

L.N. 144 of 2013

Section 1

B3465

L.N. 144 of 2013

## United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013

(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 8.
2. **Section 3 amended (prohibition against carriage of certain goods)**  
Section 3(4)(a), (b), (c), (d) and (e), English text—  

**Repeal**  
“in the case of”  
**Substitute**  
“for”.
3. **Section 6 amended (prohibition against procurement of certain items using ships, aircraft or vehicles)**  
Section 6(3)(a), (b), (c), (d) and (e), English text—  

**Repeal**  
“in the case of”  
**Substitute**  
“for”.

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013

L.N. 144 of 2013

Section 4

B3467

4. **Section 7 amended (prohibition against making available funds, etc. or dealing with funds, etc.)**
  - (1) Section 7(4)(a)—  

**Repeal**  
“if the person is charged with contravening”  
**Substitute**  
“for a contravention of”.
  - (2) Section 7(4)(b)—  

**Repeal**  
“if the person is charged with contravening”  
**Substitute**  
“for a contravention of”.
5. **Section 11 amended (prohibition against certain aircraft taking off from, landing in etc. HKSAR)**  
Section 11(3)(a), (b) and (c), English text—  

**Repeal**  
“in the case of”  
**Substitute**  
“for”.
6. **Section 13 amended (licence for supply, sale, transfer or carriage of certain goods)**
  - (1) Section 13(2)—  

**Repeal**  
“referred to in subsection (1)”.
  - (2) Section 13(2)(a)—

**Repeal**

“, as approved in advance by the Committee”.

- (3) Section 13(2)(b), Chinese text—

**Repeal**

“是聯合國人員、媒體代表、人道主義或發展工作人員或有關人員將會”

**Substitute**

“, 是由聯合國人員、媒體代表、人道主義或發展工作人員或有關人員”.

- (4) After section 13(2)(c)—

**Add**

“(ca) the prohibited goods are non-lethal military equipment to be supplied, sold or transferred to the Government of Libya and intended solely for security or disarmament assistance;”.

- (5) Section 13(2)(d)—

**Repeal**

“the prohibited goods are to be supplied, sold or transferred to the Libyan authorities”

**Substitute**

“the prohibited goods are not non-lethal military equipment and are to be supplied, sold or transferred to the Government of Libya.”.

- (6) Section 13(2)(e), Chinese text—

**Repeal**

“有關禁制物品”

**Substitute**

“有關禁制物品，”.

**7. Section 14 amended (licence for provision of certain assistance or training)**

- (1) Section 14(1)—

**Repeal**

“, subject to subsection (3),”.

- (2) Section 14(2)—

**Repeal**

“referred to in subsection (1)”.

- (3) Section 14(2)(a)—

**Repeal**

“, as approved in advance by the Committee”.

- (4) Section 14(2), Chinese text—

**Repeal paragraph (b)**

**Substitute**

“(b) 有關協助或訓練，是關乎由聯合國人員、媒體代表、人道主義或發展工作人員或有關人員暫時出口至利比亞專供其個人使用的防護服裝(包括防彈背心及軍用頭盔)的；”.

- (5) Section 14(2)(d)—

**Repeal**

“Libyan authorities”

**Substitute**

“Government of Libya”.

(6) Section 14—

**Repeal subsection (3).**

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

(1) Section 15(2)—

**Repeal**

“referred to in subsection (1)”.

(2) Section 15(2A)—

**Repeal**

“referred to in subsection (1A)”.

(3) Section 15(3)(e)(i)—

**Repeal**

“Libyan authorities”

**Substitute**

“Government of Libya”.

(4) Section 15(3)(e)(ii)—

**Repeal**

“Libyan authorities have”

**Substitute**

“Government of Libya has”.

(5) Section 15(3)(e)(ii)—

**Repeal**

“Libyan authorities to be”

**Substitute**

“Government of Libya to be”.

(6) Section 15(3)(e)(iii)—

**Repeal**

“Libyan authorities”

**Substitute**

“Government of Libya”.

Carrie LAM  
Acting Chief Executive

27 August 2013

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**Explanatory Note**

This Regulation amends the United Nations Sanctions (Libya) Regulation 2011 (Cap. 537 sub. leg. AW) to give effect to certain decisions in Resolution 2095 (2013), as adopted by the Security Council of the United Nations on 14 March 2013, by amending the licensing requirements for—

- (a) the supply, sale, transfer or carriage of certain goods;  
and
- (b) the provision of certain assistance or training.

2. The Regulation also makes minor textual amendments.



**United Nations Sanctions Ordinance (Cap. 537)**

**United Nations Sanctions (Libya) Regulation 2011  
(Amendment) Regulation 2013**

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 June 2013 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 2095 of the Security Council of the United Nations, and that the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013 was made in pursuance of that instruction.

Dated this 27<sup>th</sup> day of August 2013



( Mrs Carrie Lam )  
Chief Secretary for Administration

**Security Council**

Distr.: General  
14 March 2013

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**Resolution 2095 (2013)**

**Adopted by the Security Council at its 6934th meeting, on  
14 March 2013**

*The Security Council,*

*Recalling* its resolutions 1970 (2011) of 26 February 2011, 1973 (2011) of 17 March 2011, 2009 (2011) of 16 September 2011, 2016 (2011) of 27 October 2011, 2017 (2011) of 31 October 2011, 2022 (2011) of 2 December 2011, and 2040 of 12 March (2012),

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

*Reaffirming* its resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflict, 1612 (2005), 1882 (2009), 1998 (2011), and 2068 (2012) on children and armed conflict, and 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), and 1960 (2010) on women, peace and security,

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

*Emphasizing* the importance of promoting the equal and full participation of all parts of Libyan society, including women, youth and minorities, in the political process in the post-conflict phase,

*Recalling* its decision in resolution 1970 (2011) to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of cooperation for ensuring that those responsible for violations of human rights and international humanitarian law, including attacks targeting civilians, are held accountable,

*Expressing* deep concern about reports of sexual violence during the conflict in Libya against women, men and children including in prison facilities and detention centres, and the recruitment and use of children in situations of armed conflict in violation of applicable international law,

*Expressing* concern at the lack of judicial process for conflict-related detainees, many of whom continue to be held outside State authority, and *expressing* deep concern at reports of human rights violations and abuses in detention centres, and *taking note* of recent actions by the Ministry of Justice to address these issues,



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

*Expressing* concern at the illicit proliferation of all arms and related materiel of all types, in particular heavy and light weapons, small arms and man-portable surface-to-air missiles, from Libya, in the region and its negative impact on regional and international peace and security,

*Reminding* all Member States of the obligations contained in its resolutions 1970 (2011) and 1973 (2011), as modified in its subsequent resolutions, in particular those obligations relating to arms and related materiel of all types,

*Expressing* concern at an escalating series of security incidents, in particular in the east of Libya and along its southern borders,

*Recalling* the establishment of the United Nations Support Mission in Libya (UNSMIL) on 16 September 2011, and *reaffirming* that the United Nations should lead the coordination of the efforts of the international community in supporting, in accordance with the principles of national ownership and national responsibility, the Libyan-led transition and institution-building process aimed at establishing a peaceful, democratic, independent and united Libya,

*Noting* the centrality of credible elections and an inclusive constitutional drafting process to the democratic transition in Libya, and *reaffirming* UNSMIL's readiness to provide assistance to this process, upon the request of the Libyan government,

*Supporting* the Libyan government's intention to strengthen regional security and *welcoming*, in this regard, the agreement among Libya, Chad, Niger and Sudan to take steps to form a joint committee to address issues related to border security and the 12 January 2013 meeting in Ghadames with the Prime Ministers of Libya, Tunisia and Algeria that agreed joint measures to combat organized crime and illicit flows,

*Taking note* of the Libyan government's priorities for international assistance in the areas of security sector reform, rule of law and transitional justice, and *welcoming* the support of UNSMIL in this regard, including at the meetings convened by the Libyan government with international partners in London on 17 December 2012 and Paris on 12 February 2013,

*Taking note* of the Report of the Secretary-General on UNSMIL (S/2013/104), including the recommendation for the 12 month extension of the UNSMIL mandate,

*Taking note* of the final report of the Panel of Experts submitted pursuant to paragraph 10 (b) of resolution 2040 (2012) and the findings and recommendations contained therein,

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

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

1. *Welcomes* the positive developments in Libya, including the 7 July 2012 national elections, the establishment of the General National Congress and the peaceful transfer of authority from the National Transitional Council to the first

democratically constituted national unity government, which will improve the prospects for a democratic, peaceful and prosperous future for its people;

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

3. *Calls upon* the Libyan government to promote and protect human rights, including those of women, children and people belonging to vulnerable groups, to comply with their obligations under international law, including human rights law, and *calls for* those responsible for serious violations of international humanitarian law and human rights law, including sexual violence and violations and abuses against children, to be held accountable in accordance with international standards, and *urges* all Member States to cooperate closely with the Libyan government in their efforts to end impunity for such violations;

4. *Calls upon* the Libyan government to continue to cooperate fully with and provide any necessary assistance to the International Criminal Court and the Prosecutor as required by resolution 1970 (2011);

5. *Expresses* grave concern at continuing reports of reprisals, arbitrary detentions without access to due process, wrongful imprisonment, mistreatment, torture and extrajudicial executions in Libya, *calls upon* the Libyan government to take all steps necessary to accelerate the judicial process, transfer detainees to State authority and prevent and investigate violations and abuses of human rights, *calls for* the immediate release of all foreign nationals illegally detained in Libya, and *underscores* the Libyan government's primary responsibility for the protection of Libya's population, as well as foreign nationals, including African migrants;

6. *Encourages* Libya and neighbouring States to continue efforts to promote regional cooperation aimed at stabilization of the situation in Libya and to prevent former Libyan regime elements and violent extremist groups from using the territories of such States to plan, fund or carry out violent or other illicit acts to destabilize Libya and the States in the region, and *notes* that such cooperation would benefit stability in the Sahel region;

#### **United Nations Mandate**

7. *Decides* to extend the mandate of the United Nations Support Mission in Libya (UNSMIL) for a further period of 12 months under the leadership of a Special Representative of the Secretary-General, and *decides further* that the mandate of UNSMIL as an integrated special political mission, in full accordance with the principles of national ownership, shall be to assist the Libyan government to define national needs and priorities throughout Libya, and to match these with offers of strategic and technical advice where appropriate, and to support Libyan efforts to:

(a) Manage the process of democratic transition, including through technical advice and assistance to Libyan electoral processes and the process of preparing, drafting and adopting a new Libyan constitution, and assistance that improves institutional capacity, transparency and accountability, promotes the empowerment and political participation of all parts of Libyan society, in particular women and minorities, including in the constitutional drafting process, and supports the further development of Libyan civil society;

(b) Promote the rule of law and monitor and protect human rights, in accordance with Libya's international legal obligations, particularly those of women and people belonging to vulnerable groups, such as children, minorities and migrants, including through assisting the Libyan government to ensure the humane treatment of and due process for detainees and to reform and build transparent and accountable justice and correctional systems, supporting the development and implementation of a comprehensive transitional justice strategy, and providing assistance towards national reconciliation as well as support to ensure the continued identification, separation and reintegration of children affected by armed conflict;

(c) Restore public security, including through the provision of appropriate strategic and technical advice and assistance to the Libyan government to develop capable institutions and effective national security coordination, and implement a coherent national policy for the integration of ex-combatants into Libyan national security forces or their demobilization and reintegration into civilian life, including education and employment opportunities, and to develop defence, police and security institutions that are capable, accountable, respectful of human rights and accessible and responsive to women and vulnerable groups;

(d) Counter illicit proliferation of all arms and related materiel of all types, in particular heavy and light weapons, small arms and man-portable surface-to-air missiles, including through the development of a coordinated strategy in this regard, to clear explosive remnants of war, conduct demining programmes and conventional munitions disposal, secure and manage Libya's borders, and implement international conventions on chemical, biological and nuclear weapons and materials, in coordination with the relevant United Nations agencies, the Organization for the Prohibition of Chemical Weapons, and international and regional partners;

(e) Coordinate international assistance and build government capacity across all relevant sectors set out in relation to paragraphs 7 (a) to (d), including by supporting the appropriate coordination mechanism within the Libyan government, advice to the Libyan government to help identify priority needs for international support, engaging international partners in the process wherever appropriate, facilitation of international assistance to the Libyan government, and establishing a clear division of labour and regular and frequent communication between all those providing assistance to Libya;

8. *Encourages* UNSMIL to continue to support efforts to promote national reconciliation, inclusive political dialogue and political processes aimed at promoting free, fair and credible elections, transitional justice and respect for human rights throughout Libya;

#### **Arms embargo**

9. *Decides* that supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, shall no longer require the approval of the Committee, as previously provided for in paragraph 9 (a) of resolution 1970 (2011);

10. *Decides* that supplies of non-lethal military equipment, and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the Libyan government, shall no longer

require notification to, or the absence of a negative decision by, the Committee, as previously provided for in paragraph 13 (a) of resolution 2009 (2011);

11. *Urges* the Libyan government to improve further the monitoring of arms or related materiel that is supplied, sold or transferred to Libya in accordance with paragraph 9 (c) of resolution 1970 (2011) or paragraph 13 (a) of resolution 2009 (2011), including through the use of end-user certificates, and *urges* Member States and regional organizations to provide assistance to the Libyan government to strengthen the infrastructure and mechanisms currently in place to do so;

12. *Condemns* the reported continuing violations of the measures contained in resolutions 1970 (2011) and 1973 (2011), as modified in its subsequent resolutions, and *recalls* the mandate of the Committee, as defined in paragraph 24 of resolution 1970 (2011), to examine and take appropriate action on information regarding alleged violations or non-compliance with those measures;

#### **Asset freeze**

13. *Directs* the Committee, in consultation with the Libyan government, to review continuously the remaining measures imposed by resolutions 1970 (2011) and 1973 (2011), as modified by resolution 2009 (2011), with respect to the Libyan Investment Authority (LIA) and the Libyan Africa Investment Portfolio (LAIP), and decides that the Committee shall, in consultation with the Libyan government, lift the designation of these entities as soon as practical to ensure the assets are made available to and for the benefit of the people of Libya;

#### **Panel of Experts**

14. *Decides* to extend the mandate of the Panel of Experts, established by paragraph 24 of resolution 1973 (2011) and modified by resolution 2040 (2012), for a period of thirteen months, *expresses its intent* to review the mandate and take appropriate action regarding further extension no later than twelve months from the adoption of this resolution, and *decides* that the Panel shall carry out the following tasks:

(a) Assist the Committee in carrying out its mandate as specified in paragraph 24 of resolution 1970 (2011);

(b) Gather, examine and analyse information from States, relevant United Nations bodies, regional organizations and other interested parties regarding the implementation of the measures decided in resolutions 1970 (2011) and 1973 (2011) and modified in resolutions 2009 (2011) and 2040 (2012) and in this resolution, in particular incidents of non-compliance;

(c) Make recommendations on actions that the Council, the Committee, the Libyan government or other States may consider to improve implementation of the relevant measures;

(d) Provide to the Council an interim report on its work no later than 90 days after the Panel's appointment, and a final report to the Council no later than 60 days prior to the termination of its mandate with its findings and recommendations;

15. *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) and 1973 (2011), and modified in resolutions 2009 (2011) and 2040 (2012) and in this resolution, in particular incidents of non-compliance;

16. *Encourages* the Panel, while mindful of UNSMIL's responsibility for assisting the Libyan government to counter illicit proliferation of all arms and related materiel of all types, in particular heavy and light weapons, small arms and man-portable surface-to-air missiles, and to secure and manage Libya's borders, to continue and expedite its investigations regarding sanctions non-compliance, including illicit transfers of arms and related materiel to and from Libya and the assets of individuals subject to the asset freeze established in resolutions 1970 (2011) and 1973 (2011), and modified in resolutions 2009 (2011), 2040 (2012) and this resolution, and *encourages* UNSMIL and the Libyan government to support Panel investigatory work inside Libya, including by sharing information, facilitating transit and granting access to weapons storage facilities, as appropriate;

#### **Reporting and review**

17. *Expresses* its intent to review the mandate of the Committee in the event that the measures imposed in resolutions 1970 (2011) and 1973 (2011), and modified in resolutions 2009 (2011), 2040(2012) and in this resolution, should be lifted by a future decision of the Security Council;

18. *Requests* the Secretary-General to report to the Security Council on the implementation of this resolution, including all elements of UNSMIL's mandate, every 90 days;

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

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Chapter:	537AW	<b>United Nations Sanctions (Libya) Regulation 2011</b>	Gazette Number	Version Date
		<b>Empowering section</b>	E.R. 2 of 2012	02/08/2012

(Cap 537, section 3)

(Enacting provision omitted—E.R. 2 of 2012)

[30 June 2011]

(Originally L.N. 114 of 2011)

(\*Format changes—E.R. 2 of 2012)

**Note:****\*The format of the whole Regulation has been updated to the current legislative styles.**

Part:	1	<b>Preliminary</b>	L.N. 114 of 2011	30/06/2011
Section:	1	<b>Interpretation</b>	L.N. 42 of 2012	16/03/2012

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; (L.N. 42 of 2012)

**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); (L.N. 42 of 2012)**master** (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;**operator** (營運人), in relation to a ship, aircraft or vehicle, means the person for the time being having the



management of the ship, aircraft or vehicle;

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

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

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

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

**relevant entity** (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 38; or
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 38(a);

**relevant person** (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 38; or
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 38(a);

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

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

**Security Council** (安全理事會) means the Security Council of the United Nations; (L.N. 42 of 2012)

**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). (L.N. 42 of 2012)  
(L.N. 42 of 2012)

Part:	2	<b>Prohibitions</b>	L.N. 114 of 2011	30/06/2011
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Section:	2	<b>Prohibition against supply, sale or transfer of certain goods</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 13(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
  - (a) to Libya;
  - (b) to, or to the order of, a person connected with Libya; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods; or
  - (b) that the goods concerned were or were to be supplied, sold or transferred—
    - (i) to Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

Section:	3	<b>Prohibition against carriage of certain goods</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR;
  - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
  - (c) an aircraft that is registered in the HKSAR;
  - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
  - (e) any other ship or aircraft that is for the time being chartered to a person who is—
    - (i) in the HKSAR;
    - (ii) both a Hong Kong permanent resident and a Chinese national; or
    - (iii) a body incorporated or constituted under the law of the HKSAR; and
  - (f) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 13(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
  - (a) from a place outside Libya to a place in Libya;
  - (b) to, or to the order of, a person connected with Libya; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (3) Subsection (2) does not apply if—
  - (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
  - (b) the supply, sale or transfer was authorized by a licence granted under section 13(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
  - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
  - (b) in the case of any other ship—
    - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
    - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
    - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
  - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
  - (d) in the case of any other aircraft—
    - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
    - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and

- (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
- (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (5) A person who commits an offence under subsection (4) is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods; or
  - (b) that the carriage of the goods concerned was, or formed part of, a carriage—
    - (i) from a place outside Libya to a place in Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

Section:	4	<b>Prohibition against provision of certain assistance or training</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 14(1), a person must not provide, directly or indirectly, to a person connected with Libya any technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the assistance or training concerned was or was to be provided to a person connected with Libya; or
  - (b) that the assistance or training concerned related to military activities or to the provision, maintenance or use of any prohibited goods.

Section:	5	<b>Prohibition against procurement of certain items by certain persons</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any prohibited goods—
  - (a) from Libya; or
  - (b) from a person connected with Libya.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

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

Section:	6	<b>Prohibition against procurement of certain items using ships, aircraft or vehicles</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR;
  - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
  - (c) an aircraft that is registered in the HKSAR;
  - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
  - (e) any other ship or aircraft that is for the time being chartered to a person who is—
    - (i) in the HKSAR;
    - (ii) both a Hong Kong permanent resident and a Chinese national; or
    - (iii) a body incorporated or constituted under the law of the HKSAR; and
  - (f) a vehicle in the HKSAR.
- (2) Without limiting section 5, a ship, aircraft or vehicle must not be used for or in connection with the procurement of any prohibited goods—
  - (a) from Libya; or
  - (b) from a person connected with Libya.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
  - (a) in the case of a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
  - (b) in the case of any other ship—
    - (i) the charterer of the ship, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
    - (ii) the operator of the ship, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
    - (iii) the master of the ship, if the master is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
  - (c) in the case of an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
  - (d) in the case of any other aircraft—
    - (i) the charterer of the aircraft, if the charterer is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR;
    - (ii) the operator of the aircraft, if the operator is in the HKSAR, or is both a Hong Kong permanent resident and a Chinese national, or is a body incorporated or constituted under the law of the HKSAR; and
    - (iii) the pilot in command of the aircraft, if the pilot in command is in the HKSAR or is both a Hong Kong permanent resident and a Chinese national;
  - (e) in the case of a vehicle, the operator and the driver of the vehicle.
- (4) A person who commits an offence under subsection (3) is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (5) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods;
  - (b) that the goods concerned were—
    - (i) from Libya; or
    - (ii) from a person connected with Libya.

Section:	7	<b>Prohibition against making available funds, etc. or dealing with funds, etc.</b>	L.N. 42 of 2012	16/03/2012
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- (1) This section applies to—
- a person acting in the HKSAR; and
  - a person acting outside the HKSAR who is—
    - both a Hong Kong permanent resident and a Chinese national; or
    - 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 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
  - a person (**first-mentioned person**) must not deal with, directly or indirectly, any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (2A) Except under the authority of a licence granted under section 15(1A)—
- a person must not make available, directly or indirectly, any designated funds to, or for the benefit of, a designated Libyan entity; and
  - a person must not deal with, directly or indirectly, any designated funds, and if the person is a designated Libyan entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the person and which were frozen on 16 September 2011. (L.N. 42 of 2012)
- (3) A person who contravenes subsection (2) or (2A) commits an offence and is liable—
- on conviction on indictment to a fine and to imprisonment for 7 years; or
  - on summary conviction to a fine at level 6 and to imprisonment for 6 months. (L.N. 42 of 2012)
- (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—
- if the person is charged with contravening subsection (2)—
    - 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
    - that the person was dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity; or
  - if the person is charged with contravening subsection (2A)—
    - that the designated funds were or were to be made available to, or for the benefit of, a designated Libyan entity; or
    - that the funds or other financial assets or economic resources concerned were designated funds. (L.N. 42 of 2012)
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
- interest or other earnings due on that account; or
  - 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—
- in respect of funds—
    - use, alter, move, allow access to or transfer;
    - deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
    - make any other change that would enable use, including portfolio management; and
  - 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; (L.N. 42 of 2012)
- designated funds** (指認資金) means any funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a designated Libyan entity and which were frozen on 16 September 2011. (L.N. 42 of

2012)

Section:	8	<b>Prohibition against entry or transit by certain persons</b>	L.N. 114 of 2011	30/06/2011
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- (1) Subject to section 9, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

**specified person** (指明人士) means—

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

Section:	9	<b>Exceptions to prohibition against entry or transit by certain persons</b>	L.N. 114 of 2011	30/06/2011
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Section 8 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process;
- (c) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of peace and national reconciliation in Libya and stability in the region; or
- (d) the relevant entry or transit is required to advance peace and stability in Libya.

Section:	10	<b>(Repealed L.N. 42 of 2012)</b>	L.N. 42 of 2012	16/03/2012
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Section:	11	<b>Prohibition against certain aircraft taking off from, landing in etc. HKSAR</b>	L.N. 114 of 2011	30/06/2011
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- (1) This section applies to—
  - (a) an aircraft that carries prohibited goods from or to Libya; and
  - (b) an aircraft that carries armed mercenary personnel to Libya.
- (2) If the Director-General of Civil Aviation has information that provides reasonable grounds for the Director-General to believe that an aircraft is one to which this section applies, the Director-General must deny permission for the aircraft—
  - (a) to take off from the HKSAR;
  - (b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or
  - (c) to fly within the HKSAR air space.
- (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—
  - (a) in the case of subsection (2)(a), to take off from the HKSAR;
  - (b) in the case of subsection (2)(b), to land in the HKSAR; or
  - (c) in the case of subsection (2)(c), to fly within the HKSAR air space.
- (4) A pilot in command who contravenes subsection (3) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	12	<b>(Repealed L.N. 42 of 2012)</b>	L.N. 42 of 2012	16/03/2012
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Part:	3	<b>Licences</b>	L.N. 114 of 2011	30/06/2011
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Section:	13	<b>Licence for supply, sale, transfer or carriage of certain goods</b>	L.N. 42 of 2012	16/03/2012
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- (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— (L.N. 42 of 2012)
  - (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
    - (i) to Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya; or
  - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
    - (i) from a place outside Libya to a place in Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (2) The requirements referred to in subsection (1) are as follows—
  - (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
  - (b) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
  - (c) the supply or sale of the prohibited goods is approved in advance by the Committee;
  - (d) the prohibited goods are to be supplied, sold or transferred to the Libyan authorities and intended solely for security or disarmament assistance;
  - (e) the prohibited goods are small arms or related materiel to be temporarily exported to Libya for the sole use of the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel.
- (3) If the Chief Executive determines that the requirement in subsection (2)(d) or (e) is met, the Chief Executive—
  - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
  - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification. (L.N. 42 of 2012)

Section:	14	<b>Licence for provision of certain assistance or training</b>	L.N. 42 of 2012	16/03/2012
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- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant a licence to provide to a person connected with Libya technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (2) The requirements referred to in subsection (1) are as follows—
  - (a) the assistance or training is related to the supply of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee;
  - (b) the assistance or training is related to protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
  - (c) the assistance or provision of personnel is approved in advance by the Committee;
  - (d) the assistance or training is to be provided to the Libyan authorities and intended solely for security or disarmament assistance.
- (3) If the Chief Executive determines that the requirement in subsection (2)(d) is met, the Chief Executive—
  - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
  - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the

notification.

(L.N. 42 of 2012)

Section:	15	<b>Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities</b>	L.N. 42 of 2012	16/03/2012
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- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
  - (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.
- (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. (L.N. 42 of 2012)
- (2) The requirements referred to in subsection (1) are as follows—
- (a) the funds or other financial assets or economic resources are—
    - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
    - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
    - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
  - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
  - (c) the funds or other financial assets or economic resources—
    - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 and is not for the benefit of a relevant person or a relevant entity; and
    - (ii) are to be used to satisfy the lien or judgment;
  - (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.
- (2A) The requirements referred to in subsection (1A) are as follows—
- (a) the designated funds are—
    - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
    - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
    - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of the designated funds;
  - (b) the designated funds are necessary for extraordinary expenses;
  - (c) the designated funds—
    - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 and is not for the benefit of a relevant person or a relevant entity; and
    - (ii) are to be used to satisfy the lien or judgment;
  - (d) the designated funds are to be used for making payment due under a contract entered into by a designated Libyan entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;
  - (e) the designated funds—
    - (i) are to be used for one or more of the following purposes—



- (A) humanitarian needs;
- (B) fuel, electricity and water for strictly civilian uses;
- (C) resuming Libyan production and sale of hydrocarbons;
- (D) establishing, operating or strengthening institutions of civilian government and civilian public infrastructure;
- (E) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya; and
- (ii) are not to be made available to, or for the benefit of, a relevant person or a relevant entity. (L.N. 42 of 2012)

(3) If the Chief Executive determines that—

- (a) the requirement in subsection (2)(a) or (2A)(a) is met, the Chief Executive—
  - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
  - (ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification;
- (b) the requirement in subsection (2)(b) or (2A)(b) is met, the Chief Executive—
  - (i) must cause the Committee to be notified of the determination; and
  - (ii) must not grant the licence unless the Committee approves the determination;
- (c) the requirement in subsection (2)(c) or (2A)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
- (d) the requirement in subsection (2)(d) or (2A)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence;
- (e) the requirement in subsection (2A)(e) is met—
  - (i) the Chief Executive must cause the Libyan authorities to be consulted about the intended use of the designated funds;
  - (ii) if the Libyan authorities have no objection to the intended use of the designated funds, the Chief Executive must cause the Committee and the Libyan authorities to be notified of the intention to grant a licence under subsection (1A); and
  - (iii) the Chief Executive must grant the licence in the absence of a negative decision by the Committee and an objection from the Libyan authorities within 5 working days of the notification. (L.N. 42 of 2012)

(4) In this section—

**designated funds** (指認資金) has the meaning given by section 7. (L.N. 42 of 2012)

Section:	16	<b>(Repealed L.N. 42 of 2012)</b>	L.N. 42 of 2012	16/03/2012
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Section:	17	<b>Provision of false information or documents for purpose of obtaining licences</b>	L.N. 114 of 2011	30/06/2011
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- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

Part:	4	<b>Things Done outside HKSAR</b>	L.N. 114 of 2011	30/06/2011
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Section:	18	<b>Licence or permission granted by authorities of places outside HKSAR</b>	L.N. 114 of 2011	30/06/2011
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- (1) If the circumstances described in subsection (2) apply, a provision of this Regulation that prohibits the doing of a thing by a person except under the authority of a licence does not have effect in relation to any such thing done in a place outside the HKSAR by the person.
- (2) For the purposes of subsection (1), the circumstances are that the thing is done by the person under the authority of a licence or with permission granted, in accordance with any law in force in that place outside the HKSAR (being a law substantially corresponding to the relevant provision of this Regulation), by the authority competent in that behalf under that law.

Part:	5	<b>Enforcement of Regulation</b>	L.N. 114 of 2011	30/06/2011
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Part:	5	<b>Investigation, etc. of Suspected Ships</b>	E.R. 2 of 2012	02/08/2012
Division:	1			

Section:	19	<b>Investigation of suspected ships</b>	L.N. 114 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
  - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
  - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies is being or is about to be used in contravention of section 3(2) or 6(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 6(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
  - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is so specified;
  - (b) request the charterer, operator or master of the ship to take any of the following steps—
    - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
    - (ii) if the ship is in the HKSAR, to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
    - (iii) if the ship is in any other place, to take the ship and any of its cargo to a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
    - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
  - (a) specify whether the information should be provided orally or in writing and in what form; and
  - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

Section:	20	<b>Offences by charterer, operator or master of ship</b>	L.N. 114 of 2011	30/06/2011
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- (1) A charterer, operator or master of a ship who disobeys any direction given under section 19(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or master of a ship who, in response to a request made under section 19(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	21	<b>Power of authorized officers to enter and detain ships</b>	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
  - (a) enter or authorize the entry on any land or the ship concerned;
  - (b) detain or authorize the detention of that ship or any of its cargo;
  - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Part:	5	<b>Investigation, etc. of Suspected Aircraft</b>	E.R. 2 of 2012	02/08/2012
Division:	2			

Section:	22	<b>Investigation of suspected aircraft</b>	L.N. 42 of 2012	16/03/2012
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- (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. (L.N. 42 of 2012)
- (2) If the aircraft referred to in subsection (1) is in the HKSAR, an authorized officer may, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b) or (c), further request the charterer, operator or pilot in command of the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the charterer, operator or pilot in command is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
  - (a) specify whether the information should be provided orally or in writing and in what form; and
  - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

Section:	23	<b>Offences by charterer, operator or pilot in command of aircraft</b>	L.N. 114 of 2011	30/06/2011
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- (1) A charterer, operator or pilot in command of an aircraft who, without reasonable excuse, refuses or fails to comply with a request made under section 22(1)(b) or (c) or (2) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or pilot in command of an aircraft who, in response to a request made under section 22(1)(b) or (c) or (2), provides or produces to an authorized officer any information or document that the charterer, operator or pilot in command knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	24	<b>Power of authorized officers to enter and detain aircraft</b>	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 23, if an authorized officer has reason to suspect that a request that has been made under section 22(2) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
  - (a) enter or authorize the entry on any land or the aircraft concerned;
  - (b) detain or authorize the detention of that aircraft or any of its cargo;
  - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of an aircraft for more than 6 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of an aircraft for further periods of not more than 6 hours each, and the order must state the time from which, and period for which, the order is effective.

Part:	5	<b>Investigation, etc. of Suspected Vehicles</b>	E.R. 2 of 2012	02/08/2012
Division:	3			

Section:	25	<b>Investigation of suspected vehicles</b>	L.N. 114 of 2011	30/06/2011
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- (1) If an authorized officer has reason to suspect that a vehicle in the HKSAR has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
  - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the vehicle and search it and, for that purpose, use or authorize the use of reasonable force;
  - (b) request the operator or driver of the vehicle to provide any information relating to the vehicle or any article carried on it, or produce for inspection any article carried on it or any document relating to the vehicle or any article carried on it, that the officer may specify; and
  - (c) further request, either there and then or on consideration of any information provided or article or document produced in response to a request made under paragraph (b), the operator or driver to take the vehicle and any article carried on it to a place specified by an authorized officer, and to cause the vehicle and the article to remain in that place until the operator or driver is notified by an authorized officer that the vehicle and the article may depart.
- (2) A power conferred by this section to request a person to provide any information or produce any article or document for inspection includes a power to—
  - (a) specify whether the information should be provided orally or in writing and in what form; and
  - (b) specify the time by which, and the place in which, the information should be provided or the article or document should be produced for inspection.

Section:	26	<b>Offences by operator or driver of vehicle</b>	L.N. 114 of 2011	30/06/2011
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- (1) An operator or driver of a vehicle who, without reasonable excuse, refuses or fails to comply with a request made under section 25(1)(b) or (c) within the time specified by an authorized officer or, if no time is specified,

within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

- (2) An operator or driver of a vehicle who, in response to a request made under section 25(1)(b) or (c), provides or produces to an authorized officer any information or document that the operator or driver knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Section:	27	<b>Power of authorized officers to enter and detain vehicles</b>	L.N. 114 of 2011	30/06/2011
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- (1) Without limiting section 26, if an authorized officer has reason to suspect that a request that has been made under section 25(1)(c) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
  - (a) enter or authorize the entry on any land or enter or authorize the entry into the vehicle concerned;
  - (b) detain or authorize the detention of that vehicle or any article carried on it;
  - (c) use or authorize the use of reasonable force.
- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a vehicle for more than 12 hours.
- (3) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

Part:	5	<b>Proof of Identity</b>	E.R. 2 of 2012	02/08/2012
Division:	4			

Section:	28	<b>Production of proof of identity</b>	L.N. 114 of 2011	30/06/2011
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Before or on exercising a power conferred by section 19, 21, 22, 24, 25 or 27, an authorized officer must, if requested by any person so to do, produce proof of the officer's identity to the person for inspection.

Part:	6	<b>Evidence</b>	L.N. 114 of 2011	30/06/2011
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Section:	29	<b>Power of magistrate or judge to grant warrant</b>	L.N. 114 of 2011	30/06/2011
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- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
  - (a) an offence under this Regulation has been committed or is being committed; and
  - (b) there is on any premises specified in the information, or on any ship, aircraft or vehicle so specified, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize any authorized officer, together with any other person named in the warrant, to enter the premises, ship, aircraft or vehicle specified in the information or any premises on which the ship, aircraft or vehicle so specified may be, at any time within one month from the date of the warrant, and to search the premises, ship, aircraft or vehicle.
- (3) A person authorized by a warrant to search any premises, ship, aircraft or vehicle may exercise any or all of the following powers—
  - (a) search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises, ship, aircraft or vehicle;
  - (b) seize and detain any document, cargo or article found on the premises, ship, aircraft or vehicle or on any person referred to in paragraph (a) that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
  - (c) take in relation to any document, cargo or article seized under paragraph (b) any other steps that may appear necessary for preserving the document, cargo or article and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
- (5) If a person is empowered under this section to enter any premises, ship, aircraft or vehicle, the person may use

any force that is reasonably necessary for that purpose.

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

Section:	31	<b>Power of magistrate or judge to make order for forfeiture and disposal</b>	L.N. 114 of 2011	30/06/2011
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- (1) If an application is made to a magistrate or judge for an order for forfeiture of any seized document, cargo or article, the magistrate or judge may, if satisfied that the seized document is a document relating to the provision, maintenance or use of any prohibited goods, or that the seized cargo or article is prohibited goods, make such order as the magistrate or judge thinks fit for the forfeiture of the document, cargo or article and its subsequent destruction or disposal.
- (2) An order under subsection (1) may be made in respect of any seized document, cargo or article whether or not any person has been convicted of any offence in connection with the document, cargo or article.
- (3) Before making an order for forfeiture of any seized document, cargo or article, a magistrate or judge must issue a summons to any person who serves a notice of objection in accordance with section 30(3) and (4) to appear on a day specified in the summons to show cause why the document, cargo or article should not be forfeited.
- (4) If any summons issued under subsection (3) has not for any reason been served and the magistrate or judge is satisfied that all reasonable efforts have been made to serve the summons on the person named in the summons, the magistrate or judge may make an order for forfeiture under this section despite the fact that the summons has

not been served on that person.

Section:	32	<b>Detention of documents, cargoes or articles seized</b>	L.N. 114 of 2011	30/06/2011
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- (1) Subject to subsection (2) and any order made under section 31, any document, cargo or article seized under section 29(3) may not be detained for more than 3 months.
- (2) If the document, cargo or article is relevant to an offence under this Regulation, and proceedings for the offence have begun, the document, cargo or article may be detained until the completion of those proceedings.

Part:	7	<b>Disclosure of Information or Documents</b>	L.N. 114 of 2011	30/06/2011
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Section:	33	<b>Disclosure of information or documents</b>	L.N. 114 of 2011	30/06/2011
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- (1) Any information or document provided, produced or seized under this Regulation may be disclosed only if—
  - (a) the person who provided or produced the information or document or from whom the document was seized has given consent to the disclosure;
  - (b) the information or document is disclosed to a person who would have been empowered under this Regulation to request that it be provided or produced;
  - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to—
    - (i) any organ of the United Nations;
    - (ii) any person in the service of the United Nations; or
    - (iii) the Government of any place outside the People's Republic of China, for the purpose of assisting the United Nations or that Government in securing compliance with, or detecting evasion of, measures in relation to Libya decided on by the Security Council; or
  - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.
- (2) For the purposes of subsection (1)(a)—
  - (a) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person; and
  - (b) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right.

Part:	8	<b>Other Offences and Miscellaneous Matters</b>	L.N. 114 of 2011	30/06/2011
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Section:	34	<b>Liability of persons other than principal offenders</b>	L.N. 114 of 2011	30/06/2011
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- (1) If the person convicted of an offence under this Regulation is a body corporate and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, the director, manager, secretary or other similar officer is guilty of the like offence.
- (2) If the person convicted of an offence under this Regulation is a firm and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any person concerned in the management of the firm, the partner or the person concerned in the management of the firm is guilty of the like offence.

Section:	35	<b>Offences in relation to obstruction of authorized persons, etc.</b>	L.N. 114 of 2011	30/06/2011
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A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of the powers of that other person under this Regulation commits an offence and is liable on conviction to a

fine at level 6 and to imprisonment for 6 months.

Section:	36	<b>Offences in relation to evasion of this Regulation</b>	L.N. 114 of 2011	30/06/2011
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A person who destroys, mutilates, defaces, secretes or removes any document, cargo or article with intent to evade any of the provisions of this Regulation commits an offence and is liable—

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

Section:	37	<b>Consent and time limit for proceedings</b>	L.N. 114 of 2011	30/06/2011
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- (1) Proceedings for an offence under this Regulation may only be instituted by or with the consent of the Secretary for Justice.
- (2) Summary proceedings for an offence under this Regulation that is alleged to have been committed outside the HKSAR may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after the alleged commission of the offence.

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

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

Section:	39	<b>Exercise of powers of Chief Executive</b>	L.N. 114 of 2011	30/06/2011
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- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to any other person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restrictions or conditions that the Chief Executive thinks fit.



# United Nations Sanctions (Libya) Regulation 2011

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## United Nations Sanctions (Libya) Regulation 2011

(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);

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

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

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

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

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

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

***relevant entity*** (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 38; or
- (b) an entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 38(a);

***relevant person*** (有關人士) means—

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

- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 38(a);

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

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

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

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

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## **Part 2**

### **Prohibitions**

#### **2. Prohibition against supply, sale or transfer of certain goods**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 13(1)(a), a person must not supply, sell or transfer, or agree to supply, sell or transfer, directly or indirectly, or do any act likely to promote the supply, sale or transfer of, any prohibited goods—
  - (a) to Libya;
  - (b) to, or to the order of, a person connected with Libya; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods; or
  - (b) that the goods concerned were or were to be supplied, sold or transferred—
    - (i) to Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.

### **3. Prohibition against carriage of certain goods**

- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR;
  - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
  - (c) an aircraft that is registered in the HKSAR;
  - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
  - (e) any other ship or aircraft that is for the time being chartered to a person who is—
    - (i) in the HKSAR;
    - (ii) both a Hong Kong permanent resident and a Chinese national; or
    - (iii) a body incorporated or constituted under the law of the HKSAR; and
  - (f) a vehicle in the HKSAR.

- (2) Without limiting section 2, except under the authority of a licence granted under section 13(1)(b), a ship, aircraft or vehicle must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
- (a) from a place outside Libya to a place in Libya;
  - (b) to, or to the order of, a person connected with Libya; or
  - (c) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (3) Subsection (2) does not apply if—
- (a) the carriage of the prohibited goods is performed in the course of the supply, sale or transfer of the prohibited goods; and
  - (b) the supply, sale or transfer was authorized by a licence granted under section 13(1)(a).
- (4) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) ~~in the case of~~ for a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
  - (b) ~~in the case of~~ 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) ~~in the case of~~for an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
  - (d) ~~in the case of~~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) ~~in the case of~~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.

#### **4. Prohibition against provision of certain assistance or training**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence granted under section 14(1), a person must not provide, directly or indirectly, to a person connected with Libya any technical assistance, training, financial or other assistance, related to military activities or to the provision, maintenance or use of any prohibited goods, including the provision of armed mercenary personnel.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the assistance or training concerned was or was to be provided to a person connected with Libya; or
  - (b) that the assistance or training concerned related to military activities or to the provision, maintenance or use of any prohibited goods.

**5. Prohibition against procurement of certain items by certain persons**

- (1) This section applies to—
  - (a) a person acting in the HKSAR; and
  - (b) a person acting outside the HKSAR who is—
    - (i) both a Hong Kong permanent resident and a Chinese national; or
    - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) A person must not procure, agree to procure, directly or indirectly, or do any act likely to promote the procurement of any prohibited goods—
  - (a) from Libya; or
  - (b) from a person connected with Libya.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
  - (a) that the goods concerned were prohibited goods; or
  - (b) that the goods concerned were—
    - (i) from Libya; or
    - (ii) from a person connected with Libya.

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

- (1) This section applies to—
  - (a) a ship that is registered in the HKSAR;
  - (b) a ship that is not registered in the HKSAR and is within the waters of the HKSAR;
  - (c) an aircraft that is registered in the HKSAR;
  - (d) an aircraft that is not registered in the HKSAR and is within the HKSAR air space;
  - (e) any other ship or aircraft that is for the time being chartered to a person who is—
    - (i) in the HKSAR;
    - (ii) both a Hong Kong permanent resident and a Chinese national; or
    - (iii) a body incorporated or constituted under the law of the HKSAR; and
  - (f) a vehicle in the HKSAR.

- (2) Without limiting section 5, a ship, aircraft or vehicle must not be used for or in connection with the procurement of any prohibited goods—
- (a) from Libya; or
  - (b) from a person connected with Libya.
- (3) If a ship, aircraft or vehicle is used in contravention of subsection (2), each of the following persons commits an offence—
- (a) ~~in the case of~~for a ship registered in the HKSAR, the charterer, the operator and the master of the ship;
  - (b) ~~in the case of~~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) ~~in the case of~~for an aircraft registered in the HKSAR, the charterer, the operator and the pilot in command of the aircraft;
  - (d) ~~in the case of~~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) ~~in the case of~~ 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 owned by or otherwise belonging to, or held by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the first-mentioned person.
- (2A) Except under the authority of a licence granted under section 15(1A)—
  - (a) a person must not make available, directly or indirectly, any designated funds to, or for the benefit of, a designated Libyan entity; and
  - (b) a person must not deal with, directly or indirectly, any designated funds, and if the person is a designated Libyan entity, including any funds and other financial assets or economic resources owned by or otherwise belonging to, or held by, the person and which were frozen on 16 September 2011.

- (3) A person who contravenes subsection (2) or (2A) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
- (a) ~~if the person is charged with contravening~~ 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 owned by or otherwise belonging to, or held by, a relevant person or a relevant entity; or
  - (b) ~~if the person is charged with contravening~~ 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 owned by or otherwise belonging to, or held by, a relevant person or a relevant entity with—
- (a) interest or other earnings due on that account; or

- (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.

(6) In this section—

***deal with*** (處理) means—

- (a) in respect of funds—
  - (i) use, alter, move, allow access to or transfer;
  - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
  - (iii) make any other change that would enable use, including portfolio management; and
- (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources;

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

## **8. Prohibition against entry or transit by certain persons**

- (1) Subject to section 9, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

*specified person* (指明人士) means—

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

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

Section 8 does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process;
- (c) the Committee has determined that the relevant entry into or transit through the HKSAR would further the objectives of peace and national reconciliation in Libya and stability in the region; or
- (d) the relevant entry or transit is required to advance peace and stability in Libya.

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

(1) This section applies to—

- (a) an aircraft that carries prohibited goods from or to Libya; and

- (b) an aircraft that carries armed mercenary personnel to Libya.
- (2) If the Director-General of Civil Aviation has information that provides reasonable grounds for the Director-General to believe that an aircraft is one to which this section applies, the Director-General must deny permission for the aircraft—
- (a) to take off from the HKSAR;
  - (b) to land in the HKSAR, unless the aircraft needs to make an emergency landing; or
  - (c) to fly within the HKSAR air space.
- (3) The pilot in command of an aircraft to which permission is denied under subsection (2) must not cause the aircraft—
- (a) ~~in the case of~~for subsection (2)(a), to take off from the HKSAR;
  - (b) ~~in the case of~~for subsection (2)(b), to land in the HKSAR; or
  - (c) ~~in the case of~~for subsection (2)(c), to fly within the HKSAR air space.
- (4) A pilot in command who contravenes subsection (3) commits an offence and is liable—
- (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
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## Part 3

### Licences

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

- (1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate—
- (a) a licence for the supply, sale or transfer of, or the doing of an act likely to promote the supply, sale or transfer of, prohibited goods—
    - (i) to Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya; or
  - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
    - (i) from a place outside Libya to a place in Libya;
    - (ii) to, or to the order of, a person connected with Libya; or
    - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly, to Libya or to, or to the order of, a person connected with Libya.
- (2) The requirements ~~referred to in subsection (1)~~ are as follows—
- (a) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use, ~~as approved in advance by the Committee;~~

- (b) the prohibited goods are protective clothing, including flak jackets and military helmets, to be temporarily exported to Libya by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
  - (c) the supply or sale of the prohibited goods is approved in advance by the Committee;
  - ~~(ca) the prohibited goods are non-lethal military equipment to be supplied, sold or transferred to the Government of Libya and intended solely for security or disarmament assistance;~~
  - ~~(d) the prohibited goods are to be supplied, sold or transferred to the Libyan authorities~~ the prohibited goods are not non-lethal military equipment and are to be supplied, sold or transferred to the Government of Libya, and intended solely for security or disarmament assistance;
  - (e) the prohibited goods are small arms or related materiel to be temporarily exported to Libya for the sole use of the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel.
- (3) If the Chief Executive determines that the requirement in subsection (2)(d) or (e) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
  - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.



**14. Licence for provision of certain assistance or training**

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

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

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

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

- (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
- (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity.

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

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

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

- (a) the funds or other financial assets or economic resources are—
  - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
  - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, a relevant person or a relevant entity;
- (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
- (c) the funds or other financial assets or economic resources—
  - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 and is not for the benefit of a relevant person or a relevant entity; and
  - (ii) are to be used to satisfy the lien or judgment;
- (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.

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

- (a) the designated funds are—
  - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
  - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of the designated funds;
- (b) the designated funds are necessary for extraordinary expenses;
- (c) the designated funds—
  - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2011 and is not for the benefit of a relevant person or a relevant entity; and
  - (ii) are to be used to satisfy the lien or judgment;
- (d) the designated funds are to be used for making payment due under a contract entered into by a designated Libyan entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity;
- (e) the designated funds—
  - (i) are to be used for one or more of the following purposes—
    - (A) humanitarian needs;
    - (B) fuel, electricity and water for strictly civilian uses;
    - (C) resuming Libyan production and sale of hydrocarbons;
    - (D) establishing, operating or strengthening institutions of civilian government and civilian public infrastructure;

- (E) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya; and
  - (ii) are not to be made available to, or for the benefit of, a relevant person or a relevant entity.
- (3) If the Chief Executive determines that—
- (a) the requirement in subsection (2)(a) or (2A)(a) is met, the Chief Executive—
    - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
    - (ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification;
  - (b) the requirement in subsection (2)(b) or (2A)(b) is met, the Chief Executive—
    - (i) must cause the Committee to be notified of the determination; and
    - (ii) must not grant the licence unless the Committee approves the determination;
  - (c) the requirement in subsection (2)(c) or (2A)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;
  - (d) the requirement in subsection (2)(d) or (2A)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence;
  - (e) the requirement in subsection (2A)(e) is met—

- (i) the Chief Executive must cause the ~~Libyan authorities~~Government of Libya to be consulted about the intended use of the designated funds;
- (ii) if the ~~Libyan authorities~~Government of Libya ~~has~~have no objection to the intended use of the designated funds, the Chief Executive must cause the Committee and the ~~Libyan authorities to be~~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 ~~Libyan authorities~~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.

## **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.
-



## **Part 5**

### **Enforcement of Regulation**

#### **Division 1—Investigation, etc. of Suspected Ships**

##### **19. Investigation of suspected ships**

- (1) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies has been, is being or is about to be used in contravention of section 3(2) or 6(2), the officer may—
  - (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the ship and search it and, for that purpose, use or authorize the use of reasonable force; and
  - (b) request the charterer, operator or master of the ship to provide any information relating to the ship or its cargo, or produce for inspection any of its cargo or any document relating to the ship or its cargo, that the officer may specify.
- (2) If an authorized officer has reason to suspect that a ship to which section 3 or 6 applies is being or is about to be used in contravention of section 3(2) or 6(2), the officer may, for the purpose of stopping or preventing the use of the ship in contravention of section 3(2) or 6(2) or to pursue enquiries, either there and then or on consideration of any information provided or cargo or document produced in response to a request made under subsection (1)(b), do one or more of the following—
  - (a) direct the charterer, operator or master of the ship to refrain, except with the consent of an authorized officer,

- from landing, at any port specified by the authorized officer, any part of the ship's cargo that is so specified;
- (b) request the charterer, operator or master of the ship to take any of the following steps—
- (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may so proceed;
  - (ii) if the ship is in the HKSAR, to cause the ship and any of its cargo to remain in the HKSAR until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
  - (iii) if the ship is in any other place, to take the ship and any of its cargo to a port specified by an authorized officer, and to cause the ship and its cargo to remain in that place until the charterer, operator or master is notified by an authorized officer that the ship and its cargo may depart;
  - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer in agreement with the charterer, operator or master.
- (3) A power conferred by this section to request a person to provide any information or produce any cargo or document for inspection includes a power to—
- (a) specify whether the information should be provided orally or in writing and in what form; and
  - (b) specify the time by which, and the place in which, the information should be provided or the cargo or document should be produced for inspection.

**20. Offences by charterer, operator or master of ship**

- (1) A charterer, operator or master of a ship who disobeys any direction given under section 19(2)(a), or, without reasonable excuse, refuses or fails to comply with a request made under section 19(1)(b) or (2)(b) within the time specified by an authorized officer or, if no time is specified, within a reasonable time, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A charterer, operator or master of a ship who, in response to a request made under section 19(1)(b) or (2)(b), provides or produces to an authorized officer any information or document that the charterer, operator or master knows to be false in a material particular, or recklessly provides or produces to an authorized officer any information or document that is false in a material particular, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

**21. Power of authorized officers to enter and detain ships**

- (1) Without limiting section 20, if an authorized officer has reason to suspect that a request that has been made under section 19(2)(b) may not be complied with, the officer may take any steps that appear to the officer to be necessary to secure compliance with that request including, in particular, any of the following steps—
  - (a) enter or authorize the entry on any land or the ship concerned;
  - (b) detain or authorize the detention of that ship or any of its cargo;
  - (c) use or authorize the use of reasonable force.

- (2) Subject to subsection (3), subsection (1) does not authorize the detention of a ship for more than 12 hours.
- (3) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, and the order must state the time from which, and period for which, the order is effective.

## **Division 2—Investigation, etc. of Suspected Aircraft**

### **22. Investigation of suspected aircraft**

- (1) If an authorized officer has reason to suspect that an aircraft to which section 3, 6 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.

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## **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.

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- (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.
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## **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.

**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.

**United Nations Sanctions (Libya) Regulation 2011 (Amendment)  
Regulation 2013  
Information on Libya**

**Country Background**

Libya is a country in Northern Africa, situated between Tunisia and Egypt, bordering the Mediterranean Sea. It has a total area of 1,759,540 sq. km. and an estimated population of around 6.42 million in 2011. With its capital in Tripoli, Libya first achieved independence in 1951. More than eight months after the start of the popular uprising against the regime of Colonel Muammar Al-Qadhafi, the National Transitional Council representing the main opposition group declared the full liberation of Libya on 23 October 2011. Elections for the General National Congress were held in July 2012 and Ali Zeidan was appointed as the new Prime Minister in October 2012. Dependent on exports of petroleum oil, Libya had a GDP of US\$31.4 billion (or HK\$244.2 billion) in 2011.<sup>1</sup> Merchandise imports and exports of Libya in 2012 amounted to US\$ 23.0 billion (or HK\$178.4 billion) and US\$ 59.0 billion (or HK\$457.6 billion) respectively.<sup>2</sup>

**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.

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<sup>1</sup> Source: World Statistics Pocket Book published by United Nations Statistics Division at [http://unstats.un.org/unsd/pocketbook/World\\_Statistics\\_Pocketbook\\_2013\\_edition.pdf](http://unstats.un.org/unsd/pocketbook/World_Statistics_Pocketbook_2013_edition.pdf)

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

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

5. 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 2011<sup>3</sup>. Welcoming the positive development in Libya, the UNSC adopted UNSCR 2095 on 14 March 2013 to lift the requirement of the Sanctions Committee's approval on the supplies of non-lethal military equipment and assistance for humanitarian or protective use and the need for notification to the Sanctions Committee of non-lethal military equipment supplied to the Libya Government for security or disarmament assistance.

### **Trade Relation between Hong Kong and Libya**

6. In 2012, Libya ranked 147<sup>th</sup> among Hong Kong's trading partners in the world, with a total trade of HK\$88.3 million. Of these, HK\$87.0 million worth of trade were exports to Libya, and HK\$1.3 million imports. Hong Kong's trade with Libya are summarised as follows –

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

<b>Hong Kong's Trade with Libya [Value in HK\$ (in million)]</b>		
<b>Item</b>	<b>2012</b>	<b>2013 (January – May)</b>
(a) Total Exports to Libya	87.0	70.5
(i) Domestic exports	0.005 <sup>4</sup>	-
(ii) Re-exports	87.0 <sup>5</sup>	70.5 <sup>6</sup>
(b) Imports from Libya	1.3 <sup>7</sup>	0.8 <sup>8</sup>
<b>Total Trade [(a) + (b)]</b>	<b>88.3</b>	<b>71.4</b>

In 2012, HK\$79.2 million worth of goods, or 0.1% of the total trade between Libya and the Mainland, were routed through Hong Kong. All the goods involved were re-exports of Mainland origin to Libya via Hong Kong.

7. 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 August 2013**

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<sup>4</sup> In 2012, domestic exports to Libya include special transactions and commodities not classified according to kinds (100%).

<sup>5</sup> In 2012, re-exports to Libya include telecommunications equipment and parts (41.4%); watches and clocks (6.6%); and furniture and parts (5.9%).

<sup>6</sup> In January – May 2013, re-exports to Libya include telecommunications equipment and parts (39.7%); footwear (9.5%); measuring and checking instruments (7.5%); and electro-diagnostic apparatus for medical, surgical, dental or veterinary sciences and radiological apparatus (7.2%). The increase in re-exports in January – May 2013 was due to the rise in demand for telecommunications equipment and parts; footwear; measuring and checking instruments; as well as electro-diagnostic apparatus for medical, surgical, dental or veterinary sciences and radiological apparatus.

<sup>7</sup> In 2012, imports from Libya include footwear (61.3%); plastic waste and scrap (36.4%); and telecommunications equipment and parts (0.2%).

<sup>8</sup> In January – May 2013, imports from Libya include telecommunications equipment and parts (100%). The increase in imports from Libya in January – May 2013 was due to the rise in demand for telecommunications equipment and parts.