
STATUTORY INSTRUMENTS

2020 No. 1665

The Libya (Sanctions) (EU Exit) Regulations 2020

PART 5

Trade

CHAPTER 3

Interpretation, circumvention and defences

Interpretation of this Part

32.—(1) In this Part—

“arms and related materiel” means—

- (a) military goods, and
- (b) any thing which is, or would be, classified under chapter 93 of the Goods Classification Table, other than military goods;

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including but not limited to—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;

“the Goods Classification Table” has the same meaning as it has in paragraph 1(3) in Part 1 of Schedule 3;

“goods which could be used for migrant smuggling and human trafficking” has the meaning given in paragraph 2 of Schedule 3;

“internal repression goods” means—

- (a) any thing specified in Schedule 2, other than—
 - (i) any thing which is internal repression technology, or
 - (ii) any thing for the time being specified in—
 - (aa) Schedule 2 to the Export Control Order 2008(1), or
 - (bb) Annex # of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, and

(1) [S.I. 2008/3231](#). Schedule 2 was substituted by [S.I. 2017/85](#) and subsequently amended by [S.I. 2017/697](#); [S.I. 2018/165](#); [S.I. 2018/939](#); [S.I. 2019/137](#); and [S.I. 2019/989](#). There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

- (b) any tangible storage medium on which internal repression technology is recorded or from which it can be derived;

“internal repression technology” means any thing which is described in Schedule 2 as software or technology, within the meaning of that Schedule;

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008, other than any thing which is military technology, and
- (b) any tangible storage medium on which military technology is recorded or from which it can be derived;

“military technology” means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology;

“restricted goods” means—

- (a) goods which could be used for migrant smuggling and human trafficking,
- (b) internal repression goods, and
- (c) military goods;

“restricted technology” means—

- (a) internal repression technology, and
- (b) military technology;

“technical assistance”, in relation to goods or technology, means—

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods or technology;

“transfer” has the meaning given by paragraph 37 of Schedule 1 to the Act.

(2) For the purpose of the definition of “arms and related materiel” in paragraph (1), paragraph 1(2) of Schedule 3 (rules of interpretation for the purpose of determining whether or not a thing is “classified”) applies.

(3) Paragraphs 32 to 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(4) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

(5) For the purposes of this Part, a person is to be regarded as “connected with” Libya if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Libya,
- (b) an individual who is, or an association or combination of individuals who are, located in Libya,
- (c) a person, other than an individual, which is incorporated or constituted under the law of Libya, or
- (d) a person, other than an individual, which is domiciled in Libya.

Circumventing etc. prohibitions

33.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in Chapter 1 or 2 of this Part, or

- (b) to enable or facilitate the contravention of any such prohibition.
- (2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Defences

34.—(1) Paragraph (2) applies where a person relies on a defence under Chapter 1 or 2 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.