
STATUTORY INSTRUMENTS

2020 No. 1665

The Libya (Sanctions) (EU Exit) Regulations 2020

PART 5

Trade

CHAPTER 1

Trade prohibitions related to goods and technology

Export of restricted goods

- 23.**—(1) The export of restricted goods to, or for use in, Libya is prohibited.
(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

Import of arms and related materiel and internal repression goods

- 24.**—(1) The import of the following goods which are consigned from Libya is prohibited—
(a) arms and related materiel;
(b) internal repression goods.
(2) The import of goods mentioned in paragraph (1) which originate in Libya, is prohibited.
(3) Paragraphs (1) and (2) are subject to Part 8 (Exceptions and licences).

Supply and delivery of certain goods

- 25.**—(1) A person must not—
(a) directly or indirectly supply or deliver restricted goods from a third country to a place in Libya;
(b) directly or indirectly supply or deliver military goods or internal repression goods from a place in Libya to a third country.
(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but —
(a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Libya.
(b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the supply or delivery was from a place in Libya, whether directly or indirectly.
(4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Libya.

Making available or acquiring certain goods and technology

- 26.—(1) A person must not—
- (a) directly or indirectly make restricted goods or restricted technology available to a person connected with Libya;
 - (b) directly or indirectly make restricted goods or restricted technology available for use in Libya;
 - (c) directly or indirectly acquire military goods, internal repression goods or restricted technology from a person connected with Libya;
 - (d) directly or indirectly acquire military goods, internal repression goods or restricted technology which originate in Libya;
 - (e) directly or indirectly acquire military goods, internal repression goods or restricted technology located in Libya.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) or (c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Libya;
 - (c) it is a defence for a person charged with the offence of contravening paragraph (1)(d) to show that the person did not know and had no reasonable cause to suspect that the goods or technology originated in Libya;
 - (d) it is a defence for a person charged with the offence of contravening paragraph (1)(e) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were located in Libya.

Transfer of restricted technology

- 27.—(1) A person must not—
- (a) transfer restricted technology to a place in Libya;
 - (b) transfer restricted technology to a person connected with Libya;
 - (c) transfer restricted technology to persons outside the United Kingdom or to a place outside the United Kingdom, where the transfer is from a place in Libya.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a place in Libya;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
 - (c) it is a defence for a person charged with the offence of contravening paragraph (1)(c) to show that the person did not know and had no reasonable cause to suspect that the transfer was from a place in Libya.

Technical assistance relating to restricted goods and restricted technology

28.—(1) A person must not directly or indirectly provide technical assistance relating to restricted goods or restricted technology—

- (a) to a person connected with Libya, or
 - (b) for use in Libya.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Libya.

Financial services and funds relating to restricted goods and restricted technology

29.—(1) A person must not directly or indirectly provide, to a person connected with Libya, financial services in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of restricted goods,
 - (b) the direct or indirect supply or delivery of restricted goods,
 - (c) directly or indirectly making restricted goods or restricted technology available to a person,
 - (d) the transfer of restricted technology, or
 - (e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.
- (2) A person must not directly or indirectly make funds available to a person connected with Libya in pursuance of or in connection with an arrangement mentioned in paragraph (1).
- (3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—
- (a) the export of restricted goods to, or for use in, Libya,
 - (b) the direct or indirect supply or delivery of restricted goods to a place in Libya,
 - (c) directly or indirectly making restricted goods or restricted technology available—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya,
 - (d) the transfer of restricted technology—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya, or
 - (e) the direct or indirect provision of technical assistance relating to restricted goods or military technology—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya.
- (4) Paragraphs (1) to (3) are subject to Part 8 (Exceptions and licences).
- (5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
- (b) it is a defence for a person charged with the offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

Brokering services: non-UK activity relating to restricted goods and restricted technology

30.—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of restricted goods from a third country to a place in Libya,
- (b) directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (c) directly or indirectly making restricted technology available in a third country for transfer—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (d) the transfer of restricted technology from a place in a third country—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to restricted goods or restricted technology—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya,
- (f) the direct or indirect provision, in a non-UK country, of financial services—
 - (i) to a person connected with Libya, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(1), or
 - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(3),
- (g) directly or indirectly making funds available, in a non-UK country, to a person connected with Libya, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(1), or
- (h) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(3).

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“third country” means—

- (a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom, the Isle of Man or Libya,
- (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Libya.

CHAPTER 2

Enabling or facilitating the conduct of armed hostilities

Enabling or facilitating the conduct of armed hostilities

31.—(1) A person must not directly or indirectly provide—

- (a) technical assistance,
- (b) armed personnel,
- (c) financial services or funds, or
- (d) brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, anything mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities in Libya.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities in Libya.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“technical assistance” means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 1.

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
- (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.

⁽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.

(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.