

1993 No. 2357

UNITED NATIONS

The Angola (United Nations Sanctions) (Channel Islands) Order 1993

Made 29th September 1993

*Laid before
Parliament* 30th September
1993

Coming into force 1st October 1993

At the Court at Balmoral, the 29th day of September 1993

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 15th September 1993, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Angola;

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946^[1], is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Angola (United Nations Sanctions) (Channel Islands) Order 1993 and shall come into force on 1st October 1993.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 15th September 1993, this Order shall cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the Channel Islands so as to be law, respectively, in the Bailiwick of Guernsey and in the Bailiwick of Jersey only.

Interpretation

2.—(1) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"arms" includes conventional, chemical, biological and nuclear weapons and ballistic missiles;

"Attorney General" means—

(a) in the application of this Order to the Bailiwick of Guernsey, the Attorney General for Guernsey; and

(b) in the application of this Order to the Bailiwick of Jersey, the Attorney General for Jersey;

"Chief Revenue Officer" and "States Revenue Officer" have the meanings they bear in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"enactment" includes an enactment of the States of Guernsey or Alderney or the Chief Pleas of Sark, or the States of Jersey;

"export" includes shipment as stores;

"exportation", in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

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

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of that aircraft or vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"police officer" means—

(a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

(b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney;

(c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey, and

(d) in relation to the Bailiwick of Jersey, a member of the Honorary Police or a member of the States of Jersey Police Force;

"ship" has the meaning it bears in section 742 of the Merchant Shipping Act 1894^[2];

"shipment" (and cognate expressions) and "stores" shall, in the application of this Order to the Bailiwick of Guernsey, have the meanings they bear in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 and, in the application of this Order to the Bailiwick of Jersey, have the meanings they bear in the Customs and Excise (General Provisions) (Jersey) Law 1972;

"vehicle" means land transport vehicle;

"vessel" includes any ship, surface effect vehicle, any small waterplane vessel and hydrofoil, and the hull or part of the hull of a vessel.

(2) Any reference to a provision of an Act of Parliament shall, in the case of a provision which has been extended to any of the Channel Islands, be construed as a reference to that provision as it has effect there and, in any other case, be construed as a reference to that provision as it has effect in the United Kingdom.

Supply of certain goods to Angola

3.—(1) Except under the authority of a licence granted under this article—
(a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
(b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,
no person shall—
(i) supply or deliver; or
(ii) agree to supply or deliver,
any goods specified in Schedule 1 to this Order to any person in Angola.

(2) Nothing in paragraph (1)(ii) above shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted under this article.

Exportation of certain goods to Angola

4. Except under the authority of a licence granted under this article—
(a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
(b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,
the goods specified in Schedule 1 to this Order are prohibited to be exported from any of the Channel Islands to any destination in Angola or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Angola.

Carriage of goods destined for Angola

5.—(1) Without prejudice to the generality of article 3, and except under the authority of a licence granted under this article—
(a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
(b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,
no ship or aircraft to which this article applies and no vehicle within the Bailiwick of Guernsey or the Bailiwick of Jersey shall be used for the carriage

of any goods specified in Schedule 1 to this Order if the carriage is, or forms part of, carriage from any place outside Angola to any destination therein.

(2) This article applies to ships registered in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, to aircraft registered in the United Kingdom and to any other ship or aircraft that is for the time being chartered to any person who is—

(a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person and is ordinarily resident in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, or

(b) a body incorporated or constituted under the law of any part of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) above, then—

(a) in the case of a ship registered in the Bailiwick of Guernsey or the Bailiwick of Jersey, or any aircraft registered in the United Kingdom, the owner and master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or (b) of paragraph (2) above, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Angola to any destination therein.

(4) Nothing in paragraph (1) above shall apply where the supply or delivery or exportation from the Bailiwick of Guernsey or the Bailiwick of Jersey of the goods concerned to Angola was authorised by a licence granted by the relevant authority under article 3 or article 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Application of Article 3

6.—(1) The provisions of article 3 shall apply to any person within the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey and to any person elsewhere who—

(a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person and is ordinarily resident in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey; or

(b) is a body incorporated or constituted under the law of any part of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

(2) Subject to the provisions of paragraph (3) below, any person specified in paragraph (1) above who contravenes the provisions of article 3 shall, in the Bailiwick in question, be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Angola.

Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods specified in Schedule 1 to this Order which have been exported from any of the Channel Islands shall, if so required by, in the case of the Bailiwick of Guernsey, the Chief Revenue Officer or, in the case of the Bailiwick of Jersey, the Agent or Deputy Agent of the Impôts or any person duly authorised by the Agent of the Impôts, furnish within such time as he may allow proof to his satisfaction that the goods have reached either—

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purpose of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Lieutenant Governor or, as the case may be, the Finance and Economics Committee under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Lieutenant Governor or, as the case may be, the Finance and Economics Committee after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

9.—(1) Any person who is about to leave any of the Channel Islands shall, if he is required to do so by, in the case of the Bailiwick of Guernsey, a States Revenue Officer or, in the case of the Bailiwick of Jersey, an officer of the Impôts—

(a) declare whether or not he has with him any goods specified in Schedule 1 to this Order which are destined for Angola or for delivery, directly or indirectly, to any person in Angola; and

(b) produce any such goods as aforesaid which he has with him, and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships, aircraft and vehicles

10.—(1) Where any authorised officer, that is to say, in respect of the Bailiwick of Guernsey any such officer other than an officer of the Board of Trade as is referred to in section 692(1) of the Merchant Shipping Act 1894, or a States Revenue Officer, or, in respect of the Bailiwick of Jersey, the Harbour Master or an officer appointed to deputise for him has reason to suspect that any ship registered in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey has been or is being or is about to be used in contravention of article 5(1), he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of article 5(1), exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps—

(a) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by any authorised officer that the ship may so proceed;

(b) if the ship is then in a port in the Bailiwick of Guernsey or the Bailiwick of Jersey, as the case may be, to cause her to remain there until the master is notified by any authorised officer that the ship may depart;

(c) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (b) above; and
(d) to take her to any other destination that may be specified by the officer in agreement with the master,
and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of paragraph (10) below, where a master refuses or fails to comply with a request made under this article that his ship shall or shall not proceed to or from any place or where an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(3) Where, in the case of the Bailiwick of Guernsey, any States Revenue Officer or, in the case of the Bailiwick of Jersey, any officer of the Impôts, or any person authorised by the Attorney General for that purpose either generally or in a particular case has reason to suspect that any aircraft to which article 5 applies has been or is being or is about to be used in contravention of article 5(1), that officer or authorised person may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and that officer or authorised person may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and, if the aircraft is then in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, any such officer or authorised person (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the Bailiwick of Guernsey or the Bailiwick of Jersey until notified that the aircraft may depart, and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of paragraph (10) below, where any such officer or authorised person as is referred to in paragraph (3) above has reason to suspect that any request that an aircraft should remain in the Bailiwick of Guernsey or the Bailiwick of Jersey that has been made under paragraph (3) above may not be complied with, that authorised person or that officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(5) Where, in the case of the Bailiwick of Guernsey any States Revenue Officer or, in the case of the Bailiwick of Jersey, any officer of the Impôts, or any person authorised by the Attorney General for that purpose either generally or in a particular case has reason to suspect that any vehicle in the Bailiwick of Guernsey or the Bailiwick of Jersey, as the case may be, has been or is being or is about to be used in contravention of article 5(1), that officer or authorised person may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify, and that officer or authorised person may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and for that purpose may use or authorise the use of reasonable force; and any such officer or authorised person (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further request the operator or driver to cause the vehicle to remain in the Bailiwick of Guernsey or the Bailiwick of Jersey until notified that the vehicle may depart, and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of paragraph (10) below, where any such officer or authorised person as is referred to in paragraph (5) above has reason to suspect that any request that a vehicle should remain in the Bailiwick of Guernsey or the Bailiwick of Jersey that has been made under paragraph (5) above may not be complied with, that officer or authorised person may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Attorney General to exercise any power for the purposes of paragraph (3), (4), (5) or (6) above shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) No information furnished or document produced by any person in pursuance of a request made under this article shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purpose of this subparagraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this article to request that it be furnished or produced or to any person holding or

acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the States of Guernsey or Alderney or the Chief Pleas of Sark or, as the case may be, the States of Jersey; or

(c) on the authority of the Attorney General, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Angola decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs, or for an offence under any provision of law with respect to similar matters that is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

(9) Any power conferred by this article to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say—

(a) a master of a ship who disobeys any direction given under paragraph (1) above with respect to the landing of any cargo;

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this article by any person empowered to make it, or

(ii) wilfully furnishes false information or produces false documents to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) Nothing in this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

11. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under

any enactment relating to customs or of an offence against any provision of law with respect to similar matters that is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

Penalties and Proceedings

12.—(1) Any person guilty of an offence under article 5(3) or article 6(2) shall be liable, in the Bailiwick of Guernsey—

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both;

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

(2) Any person guilty of an offence under article 10(10)(b)(ii) or paragraph 5(b) or (d) of Schedule 2 shall be liable, in the Bailiwick of Guernsey—

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(3) Any person guilty of an offence under article 8(1) or (2), or article 9(3), shall be liable, in the Bailiwick of Guernsey—

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to a fine not exceeding the statutory maximum,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(4) Any person guilty of an offence under article 10(10)(a), (b)(i) or (c) or paragraph 5(a) or (c) of Schedule 2 shall be liable—

(a) in the Bailiwick of Guernsey, on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both; and

(b) in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding six months or to a fine or to both.

(5) Any person guilty of an offence under article 7 or article 9(2) shall be liable—

(a) in the Bailiwick of Guernsey, on summary conviction to a fine not exceeding level 5 on the standard scale; and

(b) in the Bailiwick of Jersey, on conviction to a fine.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager,

secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings in the Bailiwick of Guernsey and any proceedings in the Bailiwick of Jersey for an offence under this Order, being an offence alleged to have been committed outside the Bailiwick in question, may be commenced at any time not later than 12 months from the date on which the person charged first enters that Bailiwick after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Bailiwick of Guernsey or the Bailiwick of Jersey having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order, in its application to the Bailiwick of Jersey, shall be instituted except by, or with the consent of, the Attorney General for Jersey:

Provided that this paragraph shall not prevent the arrest of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers

13.—(1) The Lieutenant Governor or, as the case may be, the Finance and Economics Committee, or the Attorney General, may to such extent and subject to such restrictions and conditions as he or it may think proper, delegate or authorise the delegation of any of his or its powers under this Order to any person, or class or description of persons, approved by him or it, and references in this Order to the Lieutenant Governor, Finance and Economics Committee and Attorney General shall be construed accordingly.

(2) Any licence granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority which granted it.

N. H. Nicholls

Clerk of the Privy Council

Notes:

[1] 1946 c. 45.

[2] 1894 c. 60.