

1992 No. 976

UNITED NATIONS

The Libya (United Nations Sanctions) (Dependent Territories) Order 1992

Made 8th April 1992

Coming into force 15th April 1992

To be laid before Parliament

At the Court at Windsor Castle the 8th day of April 1992

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 have, by a resolution adopted on 31st March 1992, 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 Libya;

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 Libya (United Nations Sanctions) (Dependent Territories) Order 1992 and shall come into force on 15th April 1992.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling, suspending or postponing the operation of the resolution adopted by it on 31st March 1992, this Order shall cease to have effect or its operation shall be suspended or postponed, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(3)

(a) This Order shall extend to the territories listed in Schedule III to this Order.

(b) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

Interpretation

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say:

"arms" includes conventional, chemical, biological and nuclear weapons and

ballistic missiles;

"export" includes shipment as stores and, in relation to any aircraft, includes the taking out of the Territory of the 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;

"Governor" means the Governor or other officer administering the government of the Territory;

"Libyan aircraft" means (a) any aircraft registered in Libya; and (b) any other aircraft for the time being chartered to a person connected with Libya;

"person connected with Libya" means

- (i) the Government of Libya;
- (ii) any other person in, or resident in, Libya;
- (iii) any body incorporated or constituted under the law of Libya;
- (iv) any body, wherever incorporated or constituted, which is controlled by the Government of Libya, any other person in, or resident in, Libya or any body incorporated in or constituted under the law of Libya; and
- (v) any person acting on behalf of any of the above mentioned persons;

"shipment" includes loading into an aircraft, and "shipped" and cognate expressions shall be construed accordingly;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

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

Supply of certain goods to Libya

3. Except under the authority of a licence granted by the Governor under this article or article 4 of this Order, no person shall supply or deliver any goods specified in Schedule I to this Order to or to the order of a person connected with Libya.

Exportation of certain goods to Libya

4. Except under the authority of a licence granted by the Governor under this article, the goods specified in Schedule I to this Order are prohibited to be exported from the Territory to any destination in Libya or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person connected with Libya.

Licensing arrangements for arms

5.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall assign or transfer to any person connected with Libya, or enter into any licensing agreement or other arrangement for the use by any person connected with Libya of,—

- (a) any copyright;
- (b) any patent or application for a patent or any right in or under any patent;
- (c) any registered design, industrial design or utility model or a share in a registered design;
- (d) any design right or any document recording the design;
- (e) any trade mark or service mark; or
- (f) any technical information or know-how,

for or in connection with the manufacture or maintenance of any goods specified in Part A of Schedule I to this Order.

Supply of certain technical advice, assistance or training to Libya

6. Except under the authority of a licence granted by the Governor under this article, no person shall provide to a person connected with Libya any technical advice, assistance or training related to the supply, delivery, manufacture, maintenance or use of any goods specified in Part A of Schedule I to this Order.

Servicing of Libyan aircraft

7. Except under the authority of a licence granted by the Governor under this article, no person shall provide engineering or maintenance servicing for any Libyan aircraft or any component of any Libyan aircraft.

Insurance of Libyan aircraft

8.—(1) This article applies to any contract of insurance, other than a contract of re-insurance, upon a Libyan aircraft or upon the machinery, tackle, furniture or equipment of a Libyan aircraft.

(2) Except under the authority of a licence granted by the Governor under this article:

- (a) no person shall make payment in full or partial settlement of any claim under a contract of insurance to which this article applies, unless the claim is in respect of an incident occurring before the coming into force of this Order;
- (b) no person shall effect any new contract of insurance, or agree to any variation or extension of any existing contract of insurance, to which this article applies.

Libyan Arab Airlines

9.—(1) No person shall carry on any business, or establish or maintain any place of business, under the name of "Libyan Arab Airlines".

(2) Except under the authority of a licence granted by the Governor under this paragraph:

- (a) no person shall establish or maintain any place of business in connection with the carriage of persons or goods by air (whether to or from the Territory or elsewhere) by any person connected with Libya;
- (b) no person connected with Libya shall carry on any business of carrying persons or goods by air (whether to or from the Territory or elsewhere).

Bonds and Indemnities

10.—(1) Except under the authority of a licence granted by the Governor under this article:

(a) no person shall make any payment to or to the order of any person connected with Libya under or in respect of a bond to which this article applies;

(b) no person shall do any act for the purpose of obtaining payment, or make any payment, in respect of any right to indemnity in respect of any bond to which this article applies, where payment under the bond is, or would if payment were to be made by a person referred to in Article 10(1) of this Order be, unlawful by virtue of sub-paragraph (a) of this paragraph.

(2) A bond to which this article applies is a bond given in respect of a contract the performance of which is unlawful, wholly or in part, by virtue of this Order.

(3) In this article:

(a) "bond" means an agreement under which a person ("the obligor") agrees that, if called upon to do so, or if a third party fails to fulfil contractual obligations owed to another, the obligor will make payment to or to the order of the other party to the agreement; and

(b) "make any payment" means make payment by any method, including but not restricted to the grant, or any agreement to the exercise, of any right to set off, accord and satisfaction and adjustment of any account, or any similar means.

Application of Articles 3, 5, 6, 7, 8, 9 and 10

11.—(1) The provisions of articles 3, 5, 6, 7, 8, 9 and 10 of this Order shall apply to any person within the Territory 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 Territory; or

(b) is a body corporate incorporated or constituted under the law of the Territory.

(2) Subject to the provisions of paragraphs (3) to (9) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3, 5, 6, 7, 8, 9 or 10 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order 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 goods specified in Schedule I to this Order or that the goods were to be supplied or delivered to or to the order of a person connected with Libya.

(4) In the case of proceedings for an offence in contravention of article 5 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the transaction in question was for the

transfer to, or the use of the right in question by, a person connected with Libya or that the right in question was to be transferred or used for or in connection with the manufacture or maintenance of goods specified in Part A of Schedule I to this Order.

(5) In the case of proceedings for an offence in contravention of article 6 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the advice, assistance or training was being provided to a person connected with Libya or that it related to the supply, delivery, manufacture, maintenance or use of any goods specified in Part A of Schedule I to this Order.

(6) In the case of proceedings for an offence in contravention of articles 7 or 8 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was a Libyan aircraft or that the component or the machinery, tackle, furniture or equipment was part of a Libyan aircraft, as the case may be.

(7) In the case of proceedings for an offence in contravention of article 9(2)(a) of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the carriage of persons or goods was by a person connected with Libya.

(8) In the case of proceedings for an offence in contravention of article 10(1)(a) of this Order, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment was made to or to the order of a person connected with Libya; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which was unlawful by virtue of this Order; and

(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract.

(9) In the case of proceedings for an offence in contravention of article 10(1)(b) of this Order, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment under the bond was or would be to or to the order of a person connected with Libya; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which was unlawful by virtue of this Order; and

(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract:

Provided that sub-paragraph (b) shall not apply where the accused person is a party to the contract in respect of which the bond was given.

Customs powers to demand evidence of destination which goods reach

12. Any exporter or any shipper of goods specified in Schedule I to this Order which have been exported from the Territory shall, if so required by the Governor, furnish within such time as he may allow proof to his satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order, or
- (ii) 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 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.

13.—(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.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence:

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 Governor after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

14.—(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

(a) declare whether or not he has with him any goods specified in Schedule I to this Order; 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.

(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.

Obtaining of Evidence and Information

15. The provisions of Schedule II to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor, of evidence of the commission of an offence against this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

Penalties and Proceedings

16.—(1) Any person guilty of an offence against article 11(2) of this Order shall be liable:

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence against paragraph 5(b) or (d) of Schedule II to this Order shall be liable:

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence against article 13(1) or (2) or article 14(3) of this Order shall be liable:

(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 £5,000 or its equivalent.

(4) Any person guilty of an offence against article 12 or 14(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence against paragraph 5(a) or (c) of Schedule II to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Where any body corporate is guilty of an offence against 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 for an offence against this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than twelve months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence against this Order may be taken before the appropriate court in the Territory or in any territory to which this Order extends, having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence against this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for 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 of the Governor

17.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule II to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences 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 that granted them.

Miscellaneous

18.—(1) This Order applies to or in relation to any body corporate that purports to be incorporated or constituted under the law of any particular place as it applies to or in relation to any body corporate that is so incorporated or constituted.

(2) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done in a country or place other than the Territory to which this Order extends or done elsewhere outside the Territory by a person who is ordinarily resident in, or by a body corporate incorporated or constituted under the law of, that country or place, provided that it is so done under the authority of a licence or with permission granted, in accordance with any law in force in that country or place (being a law substantially corresponding to the relevant provision of this Order), by the authority competent in that behalf under that law.

G. I. de Deney

Clerk of the Privy Council

Notes:

[1] 1946 c. 45.