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STATUTORY INSTRUMENTS

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**2020 No. 642**

**The Somalia (Sanctions) (EU Exit) Regulations 2020**

**PART 5**

Trade

**CHAPTER 1**

Interpretation

**Definitions relating to goods and technology prohibited under Part 5**

**19.**—(1) In this Part—

“charcoal” has the meaning given to it in Part 2 of Schedule 2;

“IED component goods” means—

- (a) any thing described as an IED component in Part 3 of Schedule 2 other than—
  - (i) any thing which is IED component technology, or
  - (ii) any thing for the time being specified in Schedule 2 to the Export Control Order 2008<sup>(1)</sup>, and
- (b) any tangible storage medium on which IED component technology is recorded or from which it can be derived;

“IED component technology” means any thing described in Part 3 of Schedule 2 as software or technology;

“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;

**Interpretation of other expressions used in this Part**

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

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

(3) In this Part—

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

“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;

“designated person” means a person—

- (a) who is designated under regulation 5(1)(c) for the purposes of regulations 28 to 35, or
- (b) who is a designated person by reason of regulation 10(2);

except in regulations 35 and 36, “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.

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

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

## CHAPTER 2

### Trade prohibitions relating to military goods, military technology, IED component goods and IED component technology

#### **Export of goods**

**21.**—(1) The export of military goods or IED component goods to, or for use in, Somalia is prohibited.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

#### **Supply and delivery of goods**

**22.**—(1) A person must not directly or indirectly supply or deliver military goods or IED component goods from a third country to a place in Somalia.

(2) Paragraph (1) is subject to Part 6 (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 goods were destined (or ultimately destined) for Somalia.

(4) In this regulation, “third country” means a country that is not the United Kingdom, the Isle of Man or Somalia.

### **Making goods and technology available**

- 23.**—(1) A person must not—
- (a) directly or indirectly make military goods, IED component goods, military technology or IED component technology available to a person connected with Somalia;
  - (b) directly or indirectly make military goods, IED component goods, military technology or IED component technology available for use in Somalia.
- (2) Paragraph (1) is subject to Part 6 (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 Somalia;
  - (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 Somalia.

### **Transfer of technology**

- 24.**—(1) A person must not—
- (a) transfer military technology or IED component technology to a place in Somalia;
  - (b) transfer military technology or IED component technology to a person connected with Somalia.
- (2) Paragraph (1) is subject to Part 6 (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 Somalia.
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that the person did not know and had no reasonable cause to suspect that the person was connected with Somalia.

### **Technical assistance relating to military goods and military technology**

- 25.**—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology—
- (a) to a person connected with Somalia, or
  - (b) for use in Somalia.
- (2) Paragraph (1) is subject to Part 6 (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 Somalia.
  - (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 Somalia.

**Financial services and funds relating to military goods and military technology**

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

- (a) the export of military goods,
- (b) the direct or indirect supply or delivery of military goods,
- (c) directly or indirectly making military goods or military technology available to a person,
- (d) the transfer of military technology, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.

(2) A person must not directly or indirectly make funds available to a person connected with Somalia 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 military goods to, or for use in, Somalia,
- (b) the direct or indirect supply or delivery of military goods to a place in Somalia,
- (c) directly or indirectly making military goods or military technology available—
  - (i) to a person connected with Somalia, or
  - (ii) for use in Somalia,
- (d) the transfer of military technology—
  - (i) to a person connected with Somalia, or
  - (ii) to a place in Somalia, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology—
  - (i) to a person connected with Somalia, or
  - (ii) for use in Somalia.

(4) Paragraphs (1) to (3) are subject to Part 6 (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 an 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 Somalia;
- (b) it is a defence for a person charged with an 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 military goods and military technology**

**27.—(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 military goods from a third country to a place in Somalia,
- (b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery—

- (i) to a person connected with Somalia, or
  - (ii) to a place in Somalia,
  - (c) directly or indirectly making military technology available in a third country for transfer—
    - (i) to a person connected with Somalia, or
    - (ii) to a place in Somalia,
  - (d) the transfer of military technology from a place in a third country—
    - (i) to a person connected with Somalia,
    - (ii) to a place in Somalia,
  - (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology—
    - (i) to a person connected with Somalia,
    - (ii) to a place in Somalia,
  - (f) the direct or indirect provision, in a non-UK country, of financial services—
    - (i) to a person connected with Somalia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(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 26(3),
  - (g) directly or indirectly making funds available, in a non-UK country, to a person connected with Somalia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(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 26(3).
- (2) Paragraph (1) is subject to Part 6 (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 Somalia, and
    - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Somalia.

## CHAPTER 3

### Targeted arms embargo

#### Export of military goods

- 28.**—(1) The export of military goods to a designated person is prohibited.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

### **Supply and delivery of military goods**

**29.**—(1) A person must not directly or indirectly supply or deliver military goods from a third country to a designated person.

(2) Paragraph (1) is subject to Part 6 (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 (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the goods were supplied or delivered was a designated person.

(4) In this regulation “third country” means a country that is not the United Kingdom or the Isle of Man.

### **Making military goods and military technology available**

**30.**—(1) A person must not directly or indirectly make military goods or military technology available to a designated person.

(2) Paragraph (1) is subject to Part 6 (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 (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the goods or technology were made available was a designated person.

### **Transfer of military technology**

**31.**—(1) A person must not transfer military technology to a designated person.

(2) Paragraph (1) is subject to Part 6 (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 (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the technology was transferred was a designated person.

### **Technical assistance relating to military goods and military technology**

**32.**—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology to a designated person.

(2) Paragraph (1) is subject to Part 6 (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 (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the technical assistance was provided was a designated person.

### **Financial services and funds relating to military goods and military technology**

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

- (a) the export of military goods,
- (b) the direct or indirect supply or delivery of military goods,
- (c) directly or indirectly making military goods or military technology available to a person,
- (d) the transfer of military technology, or

- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.
- (2) A person must not directly or indirectly make funds available to a designated person 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 military goods to a designated person,
  - (b) the direct or indirect supply or delivery of military goods to a designated person,
  - (c) directly or indirectly making military goods or military technology available to a designated person,
  - (d) the transfer of military technology to a designated person, or
  - (e) the direct or indirect provision of technical assistance relating to military goods or military technology to a designated person.
- (4) Paragraphs (1) to (3) are subject to Part 6 (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) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the financial services were provided was a designated person;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the funds were made available was a designated person;
  - (c) it is a defence for a person charged with the offence of contravening 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 military goods and military technology**

- 34.—**(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 military goods from a non-UK country to a designated person;
  - (b) directly or indirectly making military goods available in a non-UK country for direct or indirect supply or delivery to a designated person;
  - (c) directly or indirectly making military technology available in a non-UK country for transfer to a designated person;
  - (d) the transfer of military technology from a place in a non-UK country to a designated person;
  - (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology to a designated person;
  - (f) the direct or indirect provision, in a non-UK country, of financial services—
    - (i) to a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 33(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 33(3);
  - (g) directly or indirectly making funds available in a non-UK country to, or for the benefit of, a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 33(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 33(3).
- (2) Paragraph (1) is subject to Part 6 (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) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom or the Isle of Man; and
  - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom.

## CHAPTER 4

### Enabling or facilitating the conduct of armed hostilities

#### **Enabling or facilitating the conduct of armed hostilities: designated persons**

- 35.—**(1) A person must not directly or indirectly provide to a designated person—
- (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 Somalia.
- (2) Paragraph (1) is subject to Part 6 (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 (“P”) to show that—
- (a) P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance, armed personnel, financial services or funds or brokering services were provided was a designated person, or
  - (b) P 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 Somalia.
- (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 2 or 3 of this Part.

### **Enabling or facilitating the conduct of armed hostilities**

**36.—**(1) A person must not directly or indirectly provide to a person other than a designated person—

- (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, any of the services mentioned in sub-paragraphs (a) to (c).

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

(2) Paragraph (1) is subject to Part 6 (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 Somalia.

(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 2 or 3 of this Part.

## **CHAPTER 5**

### **Trade prohibitions relating to import, purchase and transportation**

#### **Import of charcoal**

**37.—**(1) The import of charcoal consigned from Somalia is prohibited.

(2) The import of charcoal originating from Somalia is prohibited.

(3) Paragraphs (1) and (2) are subject to Part 6 (Exceptions and licences).

#### **Purchase etc. of charcoal**

**38.—**(1) A person must not—

(a) directly or indirectly acquire charcoal which originates in Somalia;

(b) directly or indirectly acquire charcoal which is located in Somalia.

(2) Paragraph (1) is subject to Part 6 (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 charcoal originated in Somalia;

(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 charcoal was located in Somalia.

**Transport of charcoal**

**39.**—(1) A person must not directly or indirectly supply or deliver charcoal from a place in Somalia to a third country where the charcoal—

- (a) originates in Somalia, or
- (b) is consigned from Somalia.

(2) A person must not directly or indirectly supply or deliver charcoal from a place in a non-UK country to a place in a different non-UK country where the charcoal originates in Somalia.

(3) Paragraphs (1) and (2) are subject to Part 6 (Exceptions and licences).

(4) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) or (2) to show that the person did not know and had no reasonable cause to suspect that the charcoal originated in Somalia;
- (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 charcoal was consigned from Somalia.

(5) In this regulation—

“non-UK country” means a country that is not the United Kingdom or the Isle of Man;

“third country” means a country that is not the United Kingdom, the Isle of Man or Somalia.

**Prohibitions relating to the associated provision of financial services and funds**

**40.**—(1) 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 import of charcoal which—
  - (i) originates in Somalia, or
  - (ii) is consigned from Somalia;
- (b) the direct or indirect acquisition of charcoal which—
  - (i) originates in Somalia, or
  - (ii) is consigned from Somalia;
- (c) the direct or indirect supply or delivery of charcoal from a place in Somalia to a third country, where the charcoal—
  - (i) originates in Somalia, or
  - (ii) is consigned from Somalia;
- (d) the direct or indirect supply or delivery of charcoal from a place in a non-UK country to a place in a different non-UK country where the charcoal originates in Somalia.

(2) Paragraph (1) is subject to Part 6 (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 an offence of contravening a prohibition in paragraph (1) 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.

(4) For the purposes of paragraph (1)(c), the term “third country” has the same meaning as in regulation 39(5).

(5) For the purposes of paragraph (1)(d), the term “non-UK country” has the same meaning as in regulation 39(5).

## CHAPTER 6

### Further provision

#### **Circumventing etc. prohibitions**

**41.**—(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 Chapters 2 to 5 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**

**42.**—(1) Paragraph (2) applies where a person relies on a defence under Chapters 2 to 5 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.