
STATUTORY INSTRUMENTS

2011 No. 1080

**The Libya (Restrictive Measures)
(Overseas Territories) Order 2011**

Interpretation

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

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“assistance” means any form of assistance including training, technical assistance, financing and financial assistance, investment, brokering or other services, and the transfer of financial resources and services;

“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;

“Council Regulations” means Council Regulation (EU) No. 204/2011 adopted by the Council of the European Union on 2nd March 2011⁽¹⁾, Council Implementing Regulation (EU) No. 233/2011 adopted by the Council of the European Union on 10th March 2011⁽²⁾ Council Implementing Regulation (EU) No. 272/2011 adopted by the Council of the European Union on 21st March 2011⁽³⁾, Council Implementing Regulation (EU) No 288/2011 adopted by the Council of the European Union on 23rd March 2011⁽⁴⁾ and Council Regulation (EU) No. 296/2011 adopted by the Council of the European Union on 25th March 2011⁽⁵⁾;

“designated person” means any person listed in Annex II of Security Council resolution 1970 (2011) or listed in Annex II of Security Council resolution 1973 (2011) or designated under either of those resolutions;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

“EU listed person” means any person included in Council Regulation (EU) No. 204/2011, Annex III, as amended from time to time, being persons not listed in Annex II of the Security Council resolution 1970 (2011) or Annex II of Security Council resolution 1973 (2011);

“export” includes shipment as stores;

“exportation” in relation to any ship or aircraft, includes the taking out of the Territory of the ship 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;

(1) O.J. L.58 3.3.2011, p.1.

(2) O.J. L.64 11.3.2011, p.13.

(3) O.J. L. 76 22.3.2011, p. 32.

(4) O.J. L. 78 24.3.2011, p.13.

(5) O.J. L.80 26.3.2011, p. 2.

“financing and financial assistance” in relation to the provision of assistance related to restricted goods includes financing or financial assistance for any sale, supply, transfer or export of restricted goods;

“funds” means financial assets and benefits of every kind, including (but not limited to)—

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with relevant institutions or other persons, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative contracts;
- (d) interest, dividends or other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading, bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources; and
- (h) any other instrument of export financing;

“frozen account” means an account with a relevant institution which is held or controlled by a designated person;

“Gazette” means the official gazette of a Territory or any other form in which official information is normally made available in that Territory;

“Governor” means the Governor or other officer administering the Government of the Territory;

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

“officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate or any person who has purported to act in any such capacity;

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

“owner”, in relation to a ship, where the owner is not the operator, means the operator and any person to whom it is chartered;

“person” means any natural or legal person, entity or body;

“procurement” means procurement by whatever means, including but not limited to by purchase, import or transport, and including by using any ship, aircraft or vehicle to which article 7 of this Order applies;

“relevant institution” means—

- (a) the person responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business;
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“restricted goods” means the goods, software and technology specified in Schedule 2 to the Export Control Order 2008(6).

“Sanctions Committee” means the Sanctions Committee established under paragraph 24 of the Security Council resolution 1970 (2011);

“ship” includes every description of vessel used in navigation;

“shipment” includes loading into an aircraft;

“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;

“Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings.

“vehicle” means land transport vehicle.

- (2) For the purpose of the definition of “relevant institution” in paragraph (1)—
- (a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(7); and
 - (b) a person is not regarded as accepting deposits by way of business if—
 - (i) the person does not hold himself or herself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which they accept are accepted only on particular occasions, whether or not involving the issue of any securities.
- (3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.