

**SECURITY COUNCIL COMMITTEE ESTABLISHED
PURSUANT TO RESOLUTION 1970 (2011)
CONCERNING LIBYA**

Implementation Assistance Notice # 3

(as updated on 18 August 2016)

This note contains information aimed at assisting Member States in the implementation of the arms embargo on Libya and focuses particularly on the reporting of detections of attempts or actual violations¹ of the embargo to the Committee, and the disposal of embargoed materiel. The arms embargo covers arms and related materiel both to and from Libya, with provisions for exemptions as described in the relevant UN Security Council resolutions.

1. Reporting violations or attempted violations of the arms embargo

In relevant resolutions, the Security Council urges all States, relevant United Nations bodies, including UNSMIL, and other interested parties, to cooperate fully with the Committee and the Panel, in particular by supplying any information at their disposal on the implementation of the arms embargo on Libya (described in Implementation Assistance Notice #2), in particular incidents of non-compliance.

To this end, Member States should report any discovery of sanctions violations committed within their territory, or outside, to the Committee as soon as possible.

Paragraph 9 of resolution 2174 (2014), calls upon all States, in particular States neighbouring Libya, to inspect in their territory, including seaports and airports, all cargo to and from Libya, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer or export of which is prohibited under the arms embargo.

Paragraphs 3 and 4 of resolution 2292 (2016) adopted on 14 June 2016 further authorized for a period of 12 months inspections on the high seas off the coast of Libya by Member States (acting nationally or through regional organizations), with appropriate consultations with Libya's Government of National Accord, of vessels bound to or from Libya which they have reasonable grounds to believe are carrying arms or related material to or from Libya, directly or indirectly in violation of the arms embargo, provided that the Member States make good-faith efforts to first obtain the consent of the vessel's flag State prior to the inspection. The flag State in turn is called upon to cooperate with such inspections.

¹ Sanctions violations may occur when activities or transactions proscribed by Security Council resolutions are undertaken or attempts are made to engage in proscribed transactions, whether or not the transaction has been completed.

The relevant resolutions require any Member State, when it undertakes an inspection, to submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspections, the results of such inspections, and whether or not cooperation was provided, and, if prohibited items for transfer are found. Member States are also required, at a later stage, to submit a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including date, location, means of transport of cargo, details of the carrier, the perpetrators of the violation, the intended end-user, the exact type and quantity of materiel,² documents related to the transfer of the cargo.

Paragraph 10 of resolution 2292 (2016) decides that, with regard to inspections on the high seas, Member States are also required to report on the efforts made to seek the consent of the vessel's Flag state as well as on the origin and intended destination of any prohibited items found. Paragraph 6 of resolution 2292 (2016) affirms that inspections on the high seas can only be carried out by warships and ships owned or operated and duly authorized by a State and used only on government non-commercial service, and which are clearly marked and identifiable as such. Paragraph 7 of resolution 2292 (2016) underscores that the authorizations provided in resolution 2292 (2016) do not apply with respect to vessels entitled to sovereign immunity under international law. Paragraph 8 of the same resolution affirms that the authorization provided in paragraph 4 of the resolution includes the authority to use all measures commensurate to the specific circumstances, in full compliance with, international humanitarian law and international human rights law, as applicable, to seize arms and related materiel in the course of inspections.

2. Examination and action taken by the Committee pursuant to reporting of violations by States; assistance provided by the Panel of Experts

After learning of a sanctions violation the Committee, and/or its Panel of Experts which provides assistance in compiling and analyzing the facts and circumstances of sanctions violations, may write letters to all States involved in the incident to request additional information. These letters are strictly intended to determine or clarify the facts of the case and to assist the Committee in the formulation of recommendations for all Member States. All States are asked to respond promptly to requests from the Committee or its Panel of Experts for information.

Following the submission of their report, States are asked to invite the Panel to visit and inspect any items that may have been seized by their national authorities. Such visits should be made only with consent of the concerned state.

With regard to inspections on the high seas, the Committee will – following the receipt of an inspection report – notify the flag State of inspected vessels that an inspection has been undertaken.

² Paragraph 5 of resolution 2292 (2016) authorizes Member States to collect evidence directly related to the carriage of such items in the course of such inspections.

3. Disposal of prohibited materiel

Member States are authorized and required, upon discovery of prohibited items, to seize and dispose of such items, preferably after the Panel's inspection, through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal. Member States are asked to inform the Committee of imminent destruction or transfer of materiel. Under paragraph 5 of resolution 2292 (2016), Member States are urged to avoid causing harm to the marine environment or the safety of navigation with regard to materiel seized on the high seas. Member States, according to paragraph 8 of resolution 2292 (2016), are authorized to divert the vessel with its crew to a suitable port for the disposal of the seized materiel. Member States need the consent of the port State to do so.