



Security Council

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Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya

Note verbale dated 10 August 2011 from the Permanent Mission of Brunei Darussalam to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Brunei Darussalam to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya and has the honour to submit the report of the Government of Brunei Darussalam on resolutions 1970 (2011) and 1973 (2011) (see annex).



**Annex to the note verbale dated 10 August 2011 from the
Permanent Mission of Brunei Darussalam to the United Nations
addressed to the Chair of the Committee**

**National report of Brunei Darussalam on the implementation of
Security Council resolutions 1970 (2011) and 1973 (2011)**

1. The Government of Brunei Darussalam has taken note of the adoption of Security Council resolutions 1970 (2011) and 1973 (2011) on 26 February 2011 and 17 March 2011, respectively.

2. In accordance with paragraphs 9, 10, 15 and 17 of resolution 1970 (2011) and paragraphs 13 and 19 of resolution 1973 (2011):

(a) An inter-agency meeting was convened to inform all relevant national agencies in Brunei Darussalam of their obligations and to consider implementing the relevant paragraphs of resolutions 1970 (2011) and 1973 (2011). The national agencies were also informed about the list of individuals and entities subjected to the sanctions imposed by the Security Council in the resolutions;

(b) The Royal Brunei Police Force also received an international notice from INTERPOL on 4 March 2011, pertaining to an “alert concerning possible movement of dangerous individuals and assets”. The listed individuals are subject to the United Nations travel ban and assets freeze sanctions, pursuant to resolution 1970 (2011). Subsequently, appropriate departments and units under police force have been notified;

(c) Trade activities and the exchange of goods between Brunei Darussalam and the Libyan Arab Jamahiriya are minimal;

(d) The Government of Brunei Darussalam has not established relations with the Government of the Libyan Arab Jamahiriya on defence matters; hence, it does not provide technical assistance, training or any other assistance related to military activities.

3. In addition, the Government of Brunei Darussalam has in place the following legislative framework to meet its obligations under resolutions 1970 (2011) and 1973 (2011):

Arms and Explosives Act (chapter 58)

The *Arms and Explosives Act* (chapter 58) regulates the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives. Section 3(g) of the Act gives His Majesty the Sultan the power to regulate or prohibit the manufacture, possession, use, sale, purchase, storage, transport, importation and exportation of explosives or any specified class of explosives.

Section 3(q) of the Act also gives His Majesty the power to authorize any officer, either by name or in virtue of his office:

(i) To enter, inspect and examine any place, vehicle, aircraft or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a licence granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed,

used, sold, transported or imported in contravention of this Act or of the rules made thereunder;

- (ii) To search for explosives therein;
- (iii) To take samples of any explosive found therein, on payment of the value thereof; and
- (iv) To seize, detain, remove and, if necessary, destroy any explosive found therein.

The penalty for any breach of provisions of rules under this Act shall not exceed imprisonment for a term of 15 years, a fine of \$10,000 and 12 strokes of whipping.

Arms and Explosives Rules (chapter 58, R1)

The *Arms and Explosives Rules*, which is a subsidiary legislation by virtue of section 3 of the Arms and Explosives Act (chapter 58), provides for the rules regulating the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives.

Rule 2 of the *Arms and Explosives Rules* prohibit the possession, import or export of any guns or arms except under a licence issued by the Licensing Officer. The Licensing Officer for the purpose under these Rules is the Commissioner of Police (rule 14). Any application for the importation of guns or arms must give a description of the arms, from whom it is obtained and to whom it is to be consigned (rule 7). For exportation of guns or arms or naval, military or air force stores from Brunei Darussalam, certain particulars must be given to the Licensing Officer prior to the issuance of licence, including the nature and calibre of such guns or arms; the description and quantity; the country of destination; the name of the ship or aircraft flight in which it is intended to export; and the probable date of departure of such ship or aircraft (rule 8). For landing of any guns or arms for the purposes of trans-shipment on board of any vessel, vehicle or aircraft arriving in Brunei Darussalam must be with a Permit issued by the Licensing Officer (rule 9).

Rules 10 and 11 prohibit the manufacture etc. of guns or arms and the manufacture, possession etc. of explosives except with a licence issued by the Licensing Officer. Rule 17 provides the general penalty for the breach of any of the rules, other than rules 9, 15 or 16, with imprisonment not less than 5 years and not more than 15 years and with whipping not less than 3 strokes but not more than 12 strokes.

On the exception to arms embargo, as listed in paragraph 9 (a), (b) and (c) of resolution 1970 (2011), section 3(t) of the *Arms and Explosives Act* (chapter 58) states that it is within the power of His Majesty the Sultan to exempt any person or classes of persons from the provisions of any rules made under this Act.

Criminal Procedure Code (chapter 7)

Section 26 of the *Criminal Procedure Code* (chapter 7) provides that the officer or other person making an arrest under this Code may take from the person arrested any offensive weapons which he has about his person and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested.

Section 390 of the same Code also provides that any member of the Royal Brunei Police Force may seize any property which is alleged or may be suspected to have been stolen, or which is found under circumstances which create suspicion that an offence has been committed, and such member, if subordinate to the officer in charge of the nearest police station, shall forthwith report such seizure to such officer.

Internal Security Act (chapter 133)

The *Internal Security Act* (chapter 133) provides for the internal security of Brunei Darussalam; the prevention of subversion; the suppression of organized violence against persons and property in specific areas of Brunei Darussalam and for matters incidental thereto.

Section 40 provides that any person, in any “security area” who carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority shall be guilty of an offence, which carries the death penalty.

Section 41 provides that any person who in any “security area” consorts with or is found in the company of another person who is carrying or has in his possession or under his control any firearm, ammunition or explosive in contravention of the provisions of section 40, in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence, which carries the death penalty or imprisonment for life or imprisonment for 15 years.

Section 42 provides that any person who whether within or outside a security area demands, collects, receives, provides, whether directly or indirectly any supplies (including firearms, ammunition and explosives) or is in possession of any supplies from any other person in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence, which carries the penalty of life imprisonment.

Public Order Act (chapter 148)

The *Public Order Act* (chapter 148) provides for the re-enactment of the law relating to the preservation of public order. Section 28 provides that any person, in any “special area” who carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority shall be guilty of an offence, which carries the death penalty.

Customs Order 2006

The *Customs Order 2006* provides a comprehensive law on matters relating to customs including the importation and exportation. Section 24 of the *Customs Order* prohibits landing of imported goods by sea (a) except at a legal landing place or sufferance wharf; (b) until permission to land has been received from the proper officer of customs; and (c) on days and times as may be prescribed or on other days

and times as may be granted by the proper officer of customs. It further prohibits such imported goods to be trans-shipped after having been landed or unshipped; or to be removed into any other boat or craft previously to their being landed after such goods have been put into any boat or craft to be landed. Sections 25 and 29 provide that the landing of imported goods and exportation of goods, by air, must be at and from a customs airport, respectively.

Section 31 of the *Customs Order* provides that the Minister of Finance may, by order, provide for (a) the prohibition of the importation into, or the exportation from Brunei Darussalam, either absolutely or conditionally, or from or to any specified country or place outside Brunei Darussalam, or the removal from one place to another place in Brunei Darussalam of any goods or class of goods; (b) the prohibition of importation into, or the exportation from Brunei Darussalam, or removal from one place to another place in Brunei Darussalam of any goods or class of goods, except at specified ports or places. It further provides that if any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under this section, such question shall be decided by the Controller.

Section 107 of the *Customs Order* also gives the power to a proper officer of customs to search vessels and aircraft. The master of any vessel or the pilot of any aircraft refusing to allow such officer to board or search such vessel or aircraft or refuse to give information or produce documents on demand shall be guilty of an offence.

Section 115 of the *Customs Order* provides that an officer of customs may, in any place either on land or in territorial waters, seize all goods in respect of which there has been or there is a reasonable cause to suspect that an offence has been committed against this Order or any breach of provision of the Order, or of any restriction or condition imposed on any licence or permit which has been granted, together with any receptacle, package, conveyance, vessel not exceeding 200 tons net registered tonnage, or aircraft, in which the same may have been found or which has been used in connection with such offence or breach, and any book or document which may reasonably be believed to have a bearing on the case.

Section 118 of the *Customs Order* provides that any officer of customs may arrest without warrant:

- (a) Any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence against the Order;
- (b) Any person whom he may reasonably suspect to have in his possession any uncustomed or prohibited goods or any goods liable to seizure under the Order; and
- (c) Any person against whom a reasonable suspicion exists that he has been guilty of an offence against the Order.

Merchant Shipping Order 2002

Section 43 (1) provides that the Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein)

and cancel its certificate of registry for any contravention of any of the provisions of this Order or any international convention applicable to Brunei Darussalam.

The Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein) and cancel its certificate of registry if the Registrar is satisfied that it is not in the public interest for the ship to continue to be registered as a Brunei Darussalam ship.

Where the registry of a ship is closed under this section, the registered owner of the ship at the time of the closure shall, within 30 days of the closure, deliver up the certificate of registry to the Registrar for cancellation and if he fails to deliver up the certificate of registry within the specified period, he shall be guilty of an offence and liable on conviction to a fine not exceeding BND\$ 10,000.

Under section 201(1) of the *Merchant Shipping Order 2005*, a person so authorized by the Order may, at any time, for the purposes of this Order:

- (a) Go on board any ship and inspect and examine the ship or any part thereof or its equipment;
- (b) Enter and inspect any premises;
- (c) Require and enforce the production of any book, certificate or document relating to any ship or persons on board the ship;
- (d) Muster the crew and passengers of any ship;
- (e) Summon any person before him and require him to answer questions; and
- (f) Require any ship to be taken into a dock for the purpose of surveying the hull.

Immigration Act (chapter 17)

The *Immigration Act* (chapter 17), which regulates immigration into Brunei Darussalam, provides the Controller of Immigration the power to prohibit the entry of certain classes of persons into Brunei Darussalam, such as any person who, in consequence of information received from any source deemed by the Controller to be reliable, or from any government, through official or diplomatic channels, is deemed by the Controller to be an undesirable immigrant (section 8(2)(k)).

The Immigration and National Registration Department, with the recommendation from the Government agencies, identifies any foreign party, who has been confirmed to be involved in such acts to be put on a list of foreign nationals prohibited from entering the territory of Brunei Darussalam.

Section 9 of the *Immigration Act* provides that the Minister of Home Affairs with the approval of His Majesty, may, by order where he deems expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or order conditions in Brunei Darussalam to:

- (a) Prohibit, either for a stated period or permanently, the entry or re-entry into Brunei Darussalam of any person or class or persons;
- (b) Limit the number of persons of any class who may enter Brunei Darussalam within any period specified in the order; and

(c) Limit the period during which any person or class or persons entering or re-entering Brunei Darussalam may remain therein:

Provided always that no order made under the provisions of these paragraphs, except an order made in the interests of public security, shall apply to any person outside Brunei Darussalam at the time when such order is made and who is in possession of valid residence or re-entry permit lawfully issued to him.

Section 28 of the *Immigration Act* provides that any person who arrives in Brunei Darussalam from any place outside Brunei Darussalam or who is about to leave Brunei Darussalam by sea, land or air for any place outside Brunei Darussalam, shall fully and truthfully answer all questions and enquiries put to him by a Senior Immigration Officer tending directly or indirectly to establish his identity, nationality or occupation or bearing on any of the restrictions contained in this Act or in any regulations made thereunder or any absolute or conditional liability on his part to any military, naval or air force service under any state or country whatsoever, and shall disclose and produce to any such officer on demand all documents in his possession relating to such matters.

Section 28(3) provides that any such person shall be guilty of an offence if he:

- (a) Refuses to answer any question or enquiry put to him under this section;
- (b) Knowingly gives any false or misleading answer to any such question or enquiry or knowingly makes a false or misleading statement to a Senior Immigration Officer;
- (c) Refuses or fails to produce any document in his possession when required to do so under this section; or
- (d) Knowingly produces any false or misleading document.

Section 31 of the *Immigration Act* further provides for the removal of prohibited immigrants from Brunei Darussalam, where it states that, if during the examination of any person arriving in Brunei Darussalam or after such enquiry as may be necessary such person is found to be a prohibited immigrant the Controller shall, subject to the provisions of any regulations made under this Act, prohibit such person from disembarking or may in his discretion detain him at an immigration depot or other place designated by the Controller until an opportunity arises to return him to his place of embarkation or to the country of his birth or citizenship.

Autoriti Monetari Brunei Darussalam Order 2010

The Autoriti Monetari Brunei Darussalam Order 2010 which establishes the Autoriti Monetari Brunei Darussalam (“the Authority”) acts as a central bank of Brunei Darussalam and is established to formulate and implement monetary policy, to advise the government of monetary arrangements and to supervise financial institutions and to provide for the transfer to it certain other functions and assets of the Government.

Section 56 of the Order gives the Authority the power to exercise and perform all the functions and duties conferred or imposed on the Authority under the written laws set out in the First Schedule of the Order including:

The Anti-Terrorism (Financial and Other Measures) Act (chapter 197)

The Banking Order 2006

The Criminal Conduct (Recovery of Proceeds) Order 2000

The Finance Companies Act (chapter 89)

The Islamic Banking Order 2008

Finance Companies Act (chapter 89)

Section 26 of the *Finance Companies Act* (chapter 89) states that the Authority may inspect under conditions of secrecy, the books, accounts and transactions of any finance company and of any branch, agency or office outside Brunei Darussalam opened by a finance company incorporated in Brunei Darussalam.

Banking Order 2006

Section 54 of *Banking Order 2006* provides that the Authority may, at any time, make an investigation, under conditions of confidentiality, of the books, accounts and transactions of any bank in Brunei Darussalam, if it has reason to believe that any bank:

- (a) Is carrying on its business in a manner likely to be detrimental to the public interest or the interests of the creditors or depositors of such bank;
- (b) Has insufficient assets to cover its liabilities to the public; or
- (c) Is contravening any provision of this Order.

Anti-Terrorism Order 2011

The *Anti-Terrorism (Financial and other Measures) Act* (chapter 197) has been repealed and it was replaced by *Anti-Terrorism Order 2011* which came into force on 18 July 2011. Under this Order, Brunei Darussalam has enacted the following provisions to safeguard against the possibility of terrorism financing:

- Section 4 criminalizes the provision and collection of property to commit terrorist acts;
- Section 5 criminalizes the provision of services for commission of terrorist acts;
- Section 6 criminalizes the use of property for the commission of terrorist acts;
- Section 7 criminalizes the arrangement for acquisition, retention or control of terrorist property;
- Section 8 criminalizes any dealing with terrorist property;
- Section 9 criminalizes the soliciting and giving support to terrorist groups for commission of terrorist acts; and
- Section 13 criminalizes the abetment, promotion or solicitation of property for commission of terrorist acts.

Part V of Anti-Terrorism Order 2011 provides for the provision and sharing of information empowering the Financial Intelligence Unit to receive and disseminate

suspicious transaction reports for the purposes of combating terrorism financing as well as creating obligations on financial institutions and designated non-financial businesses and professions to report suspicious transaction reports. The Order also contains provisions allowing financial intelligence to be shared and received between foreign counterparts.

Section 66 of the Order provides powers for the relevant regulatory or supervisory authority to issue such directions and guidelines to any person or any class of person under their regulation or supervision as they consider necessary in order to discharge or facilitate the discharge of any obligation by virtue of a resolution or decision of the United Nations Security Council relating to terrorism.

Section 67 of the Order empowers the Authority to issue such directions or make such regulations concerning any person or any class of person as the Authority considers necessary for the prevention of financing of terrorism.

Geneva Conventions Order 2005

The *Geneva Conventions Order 2005* is an Order to give effect to the four Geneva Conventions, where each Convention covers the protection of a specific category of persons:

- Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
- Convention for the Convention for Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea
- Convention relating to the Treatment of Prisoners of War
- Convention relating to the Protection of Civilian Persons in Time of War

The common article 1 to the four Geneva Conventions requires that State Parties, in all circumstances, not only “respect”, but also “ensure respect for” humanitarian law. States not party to an armed conflict are also required under the common article 1 to neither encourage a party to violate international humanitarian law nor to take action that would assist in such violation. In other words, article 1 requires States to take appropriate steps or measures against parties to a conflict who are violating international humanitarian law.

The *Geneva Conventions Order 2005* also gives effect to the Additional Protocols to the four Conventions above signed at Geneva on 10 June 1977:

- Additional Protocol I on the protection of victims of international armed conflicts
- Additional Protocol II on the protection of victims of non-international armed conflicts

Ports Act (chapter 144)

Under section 21 of the *Ports Act* (chapter 144), His Majesty the Sultan may prohibit and, if necessary, prevent any vessel from entering and remaining in the waters of Brunei if His Majesty is of the opinion that it would not be in the interests of Brunei for such vessel to enter or remain in Brunei Darussalam.

Section 22(1)(m) of the *Ports Act* provides that His Majesty the Sultan and Yang Di-Pertuan also may make regulations for providing for inspection of vessels in a port and regulating the manner in which vessels shall be boarded and such inspection carried out.

Section 22(2) of the *Ports Act* provides that His Majesty the Sultan and Yang Di-Pertuan also has the power to make regulations for the conveyance, loading, discharging and storage of dangerous goods within the waters of Brunei or within limits of a port, and in particular, for classifying goods as dangerous goods (section 22(2)(a)); prohibiting the loading or discharging of dangerous goods at places where such loading or discharging appears specially dangerous to the public (section 22(2)(m)).

“Dangerous goods” mentioned above includes aquafortis, vitriol, naptha, benzene, gunpowder, lucifer matches, nitroglycerine, petroleum, and explosives as defined under the *Arms and Explosives Act* (chapter 58) and any other goods which His Majesty the Sultan may, by regulation, declare to be dangerous goods.

Civil Aviation Order 2006

Under section 21 of the *Civil Aviation Order 2006*, the prohibited activities under this provision include carrying aboard an aircraft explosives, weapons, ammunition, poisons, flammable substances, radioactive or highly magnetic materials, oxidizing substances, corrosives, substances having a strong odour and other goods considered dangerous and any other activity which is prohibited by the Director (of civil aviation) as is necessary in the interests of safety or which is otherwise required by the public interest.
