

ARTICLE

Libya Sanctions Update

March 25, 2011

This memorandum briefly updates our March 3, 2011 summary of international economic sanctions directed at the Libyan regime of Colonel Muammar Qadhafi.

Following the March 17, 2011 adoption of United Nations Security Council Resolution (UNSCR) 1973, the United States, the European Union, the United Kingdom and other countries have adopted additional sanctions against the Libyan Arab Jamahiriya, spurred by the continued violence and attacks on Libyan civilians by the Government of Libya. The updated measures largely focus on blocking the assets and interests of certain individuals and entities associated with the regime of Muammar Qadhafi.

United States Sanctions (March 11, March 15 and March 22, 2011)

Since the beginning of March, the Office of Foreign Assets Control (OFAC) has added a number of Libyan individuals and entities to its list of Specially Designated Nationals. Among the new additions are Libyan Foreign Minister Moussa Koussa, and companies from Libya's aviation, banking, investment and oil sectors. Notably, the Obama Administration has imposed sanctions against 14 oil companies owned by Libya's National Oil Corporation. ^[1] OFAC also authorized the provision of certain legal services to or on behalf of the Government of Libya, its agencies, instrumentalities or controlled entities, including the Central Bank of Libya, provided that all payments and reimbursements for such services are specifically licensed. ^[2]

United Nations Security Council Resolution 1973 (March 17, 2011)

Practice Areas

International Trade
Trade Policy and Trade Negotiations

On March 17, 2011, the United Nations Security Council adopted Resolution 1973, demanding an immediate ceasefire in Libya and authorizing Member States to take all necessary measures to protect Libyan civilians from further attacks. ^[3] In addition to imposing a no-fly zone, UNSCR 1973 tightened sanctions that were imposed pursuant to UNSCR 1970. UNSCR 1973 calls on Member States to:

- Impose a no-fly zone over Libyan airspace to help protect Libyan civilians, and deny permission to any Libyan aircraft to overfly Member States' territory;
- Take all necessary measures, specifically excluding a foreign occupation force of any form, to protect civilians and civilian populated areas under threat of attack;
- Use all measures necessary to carry out inspections within their territory, and on the high seas, of cargo to or from Libya provided the inspecting State has reasonable grounds to believe the cargo contains prohibited items;
- Require their nationals, persons subject to their jurisdiction and firms incorporated in their territory or subject to their jurisdiction to exercise vigilance when doing business with entities incorporated in the Libyan Arab Jamahiriya or subject to its jurisdiction, if the State has reasonable grounds to believe that the business could contribute to the violence against civilians;
- Take necessary measures to prevent the entry into or transit through their territory of two individuals added to the Travel Ban implemented in UNSCR 1970; and
- Freeze without delay all funds, assets and economic resources of seven Libyan government officials and five Libyan entities, in addition to those already named in UNSCR 1970.

EU Sanctions (March 10, March 21 and March 23, 2011)

On March 10 and March 21, 2011, the Council of the European Union adopted implementing regulations that impose restrictive measures against 12 additional individuals and 11 additional entities identified as being involved or complicit in ordering, controlling or otherwise directing the commission of serious human rights abuses against persons in Libya. ^[4] On March 23, 2011, pursuant to the expanded scope of UNSCR 1973, the Council issued Implementing Regulation (EU) No. 288/2011, which further amended the list of persons and entities subject to restrictive measures, increasing the total number of persons to 25, and the total number of entities subject to the measures to 15, including five oil companies. ^[5]

UK Sanctions (March 3 and March 24, 2011)

On March 3, 2011, HM Treasury issued a General License allowing persons to engage in business with non-Libyan financial institutions owned or controlled, directly or indirectly, by a designated individual or an entity acting on their behalf, provided that the person has no reasonable grounds to suspect that the actions will result in funds or other financial assets being made available to either the designated individual or other sanctioned individuals listed in Council Regulation (EU) No. 204/2011, as modified by 288/2011. ^[6] The British government also published a Financial Sanctions Notice giving effect to Council Implementing Regulation (EU) No. 288/2011, thereby freezing the assets of all individuals and entities listed in Annexes I and II of that regulation. ^[7]

Australia Sanctions (March 9, 2011)

The Government of Australia adopted legislation prohibiting transactions involving the transfer of assets related to property, securities or funds owned or controlled, directly or indirectly, by certain members of the Qadhafi regime, including all individuals and entities listed in UNSCR 1970 and 1973. ^[8] In addition to the travel ban implemented pursuant to the UN Resolutions, Australia has imposed travel restrictions to prohibit certain designated Libyan individuals from entering or transiting Australian territory. ^[9]

Additional Country Sanctions

In addition to the countries and sanctions mentioned above, Italy, Germany, Luxembourg, Japan, Russia, Spain and Switzerland have all imposed sanctions pursuant to UNSCR 1970 by freezing the assets of all individuals and entities named in the Resolution. In total, the Federal Council of Switzerland has blocked the assets of 29 individuals, including all those named in the UN Resolutions. ^[10] Further, on March 10, 2011, the German Federal Ministry of Economics and Technology blocked access to assets held in German banks by the Libyan Central Bank, the Libya Africa Investment Portfolio, the Libyan Foreign Bank and the Libyan Investment Authority. ^[11]

This article was co-authored by John B. Reynolds, III and Cari N. Stinebower.

[1] See Office of Foreign Assets Control, OFAC Recent Actions (Mar. 15, 2011), available at <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20110315.aspx>.

[2] See General License 3 available at http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya2_gl3.pdf.

[3] S.C. Res. 1973, U.N. Doc. S/RES/1973 (Mar. 17, 2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement>.

[4] See Council Regulation (EU) No. 204/2011 (Mar. 10, 2011), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:064:0013:0014:EN:PDF>; Council Regulation (EU) No. 272/2011 (March 21, 2011), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:076:0032:0035:EN:PDF>.

[5] See Council Regulation (EU) No. 288/2011 (Mar. 23, 2011), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:078:0013:0020:EN:PDF>.

[6] General License 1 is available at http://www.hm-treasury.gov.uk/d/finsanc_libya_generallicence_030311.pdf.

[7] See http://www.hm-treasury.gov.uk/d/fin_sanc_public_notice240311.pdf.

[8] See Direction Relating to Foreign Currency Transactions and to Libya, No. S 34 (Mar. 9, 2011), available at <http://www.rba.gov.au/mkt-operations/fin-sanctions/index.html#libya>. A complete list of individuals subject to these restrictions is available at http://www.dfat.gov.au/un/unsanctions/libya_unsanctions_autonomous_list.html.

[9] See http://www.dfat.gov.au/un/unsc_sanctions/libya_autonomous_sanctions.html.

[10] See <http://www.news.admin.ch/message/index.html?lang=en&msg-id=37958>.

[11] See <http://www.bmwi.de/English/Navigation/Press/press-releases,did=383112.html>.