

ARTICLE

The United Nations, United States and European Union Ease Sanctions against Libya

September 22, 2011

In an effort to demonstrate international support for the Transitional National Council (TNC) in Libya, the United Nations, United States and European Union (EU) have taken steps to ease sweeping sanctions targeting the regime of Muammar Qadhafi, as well as agencies and instrumentalities of the former regime. Provided below is a brief summary of United Nations Security Council Resolution (UNSCR) 2009 and changes to the United States' sanctions against Libya. The EU also adopted a decision implementing UNSCR 2009 on September 22, 2011, but has yet to publish the new measures.

United Nations Security Council Resolution 2009 (2011)

On September 16, 2011, the UN Security Council adopted Resolution 2009 (2011), easing sanctions on certain Libyan entities. ^[1] UNSCR 2009 maintains the asset freeze imposed against Qadhafi and his family by UN Security Council Resolution 1970 (2011). ^[2] However, UNSCR 2009 unblocks assets of the Libyan National Oil Corporation and Zueitina Oil Company. Additionally, UNSCR 2009 modifies asset freezes currently in place against the Central Bank of Libya, Libyan Arab Foreign Bank, Libyan Investment Authority and Libyan Africa Investment Portfolio. Pursuant to the changes, although the financial assets of these entities remains frozen, individuals may now engage in new transactions with these entities, and any "new" funds generated after September 16, 2011 are not subject to an asset freeze.

Additionally, UNSCR 2009 permits states to unblock the assets that remain frozen for the following purposes:

Practice Areas

International Trade

- Humanitarian needs;
- Fuel, electricity and water for strictly civilian uses;
- Resuming Libyan production and sale of hydrocarbons;
- Establishing, operating or strengthening institutions of civilian government and civilian public infrastructure; or
- Facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya.

Finally, UNSCR 2009 modifies the arms embargo imposed pursuant to UNSCR 1970 to allow the TNC to buy arms "intended solely for security or disarmament assistance." The TNC, however, must notify and seek approval from the Sanctions Committee five days in advance of any such transfers or purchases.

United States Sanctions

On September 19, 2011, the Department of Treasury's Office of Foreign Assets Control (OFAC) issued two new general licenses authorizing transactions with the Government of Libya, the Central Bank of Libya and the National Oil Corporation.

General License 7A: General License with Respect to the Libyan National Oil Corporation and Its Subsidiaries

General License 7A authorizes U.S. persons to engage in all transactions involving the Libyan National Oil Corporation (NOC) or entities owned or controlled by NOC, provided that such transactions do not involve persons whose property and interests in property are blocked. ^[3] This general license covers all NOC subsidiaries, including the Arabian Gulf Oil Company, Azzawiya Oil Refining Company, Brega Petroleum Marketing Company, Harouge Oil Operations, Jamahiriya Oil Well Fluids Equipment, Mediterranean Oil Services Company, Mediterranean Oil Service GmbH, National Oil Fields and Terminals Catering Company, North African Geophysical Exploration Company, National Oil Wells Drilling and Workover Company, Oilinvest Netherlands B.V., Ras Lanuf Oil and Gas Processing Company, Sirte Oil Company for Production Manufacturing of Oil and Gas, Tamoil Group, Waha Oil Company, and Zueitina Oil Company. Because the entity identified as Libya Oil is owned by the Libyan Investment Authority rather than by NOC, it is covered by General License 8 rather than by General License 7A. Accordingly, while prospective transactions with Libya Oil are authorized, its property remains blocked.

In addition to authorizing all prospective transactions with NOC and entities owned or controlled by NOC, General License 7A unblocks all property and interests in property of these entities. Within 10 business days of the release of blocked funds, including cash and securities, however, the releasing party must file a report with the Sanctions Compliance and Evaluation Division of OFAC. Such a report must indicate the date of release of the funds as well as the amount released, and must include a copy of the relevant initial blocking report.

General License 8: General License with Respect to the Government of Libya, Its Agencies, Instrumentalities and Controlled Entities and the Central Bank of Libya

General License 8 authorizes all prospective transactions involving the Government of Libya, its agencies, instrumentalities and controlled entities and the Central Bank of Libya, subject to two limitations. ^[4] First, all property and interests in property blocked pursuant to Executive Order 13566 ^[5] or the Libyan Sanctions Regulations ^[6] remain blocked, except as authorized under General License 7A. Second, transactions must not involve specific persons listed in the annex to the license, which primarily focuses on members of the Qadhafi family, as well as certain senior members of the former Libyan regime, such as Ali Al-Mahmoudi Al Baghdadi, former Prime Minister of Libya, Abu Zaid Dorda, former Director of the External Security Organization, Abdullah Al-Senussi, former Director of Military Intelligence, among others. ^[7]

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

[1] S.C. Res. 2009, U.N. Doc. S/Res/2009 (Sep. 16, 2011).

[2] S.C. Res. 1970, U.N. Doc. S/Res/1970 (Feb. 26, 2011), *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>.

[3] See General License 7a *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya2_gl7a.pdf. By its terms, General License 7A replaces and revokes General License 7, issued on September 9, 2011.

[4] See General License 8 *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya2_gl8.pdf.

[5] See http://www.treasury.gov/resource-center/sanctions/Programs/Documents/2011_libya_eo.pdf.

[6] See Libyan Sanctions Regulations, 31 C.F.R. Part 570 *available at* <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/2011-16621.pdf>.

[7] See Annex to General License 8 *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya2_gl8.pdf.