



Trade and the Libya sanctions

To note that this Supplement has been revised from the version originally issued on 8 June 2011. The original version referred to the Council of the European Union having adopted Council Decision 2011/332/CFSP of 7 June 2011. This revised version refers to Council Regulation (EU) No 572/2011 of 16 June 2011 which implemented the Decision.

UN and EU sanctions

1. The UN and the EU have adopted comprehensive financial sanctions against Libya and have listed a broad range of sanctions targets, including Colonel Qadhafi and other family and regime members, the Libyan central bank, the Libyan National Oil Corporation and a number of Libyan sovereign wealth funds and state entities, including banks. UN sanctions also apply more generally against entities that are owned or controlled by designated persons such as Colonel Qadhafi.
2. Financial sanctions are not the only sanctions in place. Notably, there is also an arms embargo against Libya. Full details about Libya financial sanctions, including a consolidated list of targets, are available from the Libya regime page on the Financial Sanctions pages of the Treasury website: http://www.hm-treasury.gov.uk/fin_sanctions_libya.htm. Details of the arms embargo and other export controls are available on the export control pages of the Business Link website: <http://www.businesslink.gov.uk/exportcontrol>.

What do the sanctions mean for business with Libya?

3. The financial sanctions have significant implications for business with Libya. The measures require the freezing of funds or economic resources that are owned, held or controlled by designated persons. In relation to those listed by the UN, there is an additional requirement that funds or economic resources of entities that are owned or controlled by those individuals, and persons acting on their behalf must also be frozen. The measures also prevent funds or economic resources being made available, directly or indirectly, to, or for the benefit of, designated persons/entities.

4. Business with Libya will be caught by the sanctions (and therefore prohibited unless it is authorised by a Treasury licence) if it involves:
 - (a) trading directly with designated persons/entities;
 - (b) trading with entities that are owned or controlled by designated persons such as Colonel Qadhafi; or
 - (c) making or receiving payments through designated Libyan state banks.

Listing of Libyan ports

5. On the 16 June 2011 the Council of the EU adopted Council Regulation (EU) No 572/2011, which implemented Council Decision 2011/332/CFSP of 7 June 2011 by amending Council Regulation (EU) No 204/2011 to designate six port authorities in Libya for an asset freeze. The asset freeze takes effect from 17 June 2011. The Treasury has published a notification in respect of these amendments.
6. The port authorities which have been designated for an asset freeze are:
 - Port authority of Tripoli
 - Port authority of Al Khoms
 - Port authority of Brega
 - Port authority of Ras Lanuf
 - Port authority of Zawia
 - Port authority of Zuwara
7. These port authorities have been identified for an asset freeze because they are controlled by the Qadhafi regime. Port authorities that are not listed will not be subject to an asset freeze. There is no prohibition on making payments to unlisted ports.
8. No funds or economic resources can be made available, directly or indirectly, to, or for the benefit of, designated entities. In practice, this means it will not be possible to pay port or other fees to these port authorities for any reason, including to dock at the ports of Tripoli, Al Khoms, Brega, Ras Lanuf, Zawia or Zuwara.
9. Regulation 572/2011 amends Regulation 204/2011 to insert Article 10a, under which the Treasury will be able to authorise exemptions from the asset freeze of the port authorities up until 15 July 2011 for the execution of contracts concluded prior to 7 June 2011 (the date that Council Decision 2011/332/CFSP was adopted). This will enable payments to the port authorities which are necessary in order to fulfil an existing contract. The existing contract

does not have to be with the port itself, but the port will be the means of delivery for the contract.

10. The prior contracts exemption does not apply to contracts relating to oil, gas and refined products.
11. The prior contracts exemption in relation to the port authorities will only exempt a person from the asset freeze in so far as it applies to the port authorities. Other elements of the sanctions still apply. Until 15 July 2011, it will be possible, under licence, to make a payment to a designated port authority in relation to, for example, a non-oil/gas/refined products shipment going to a non-designated company in Libya, providing the payment is made under a contract concluded before 7 June 2011.
12. It will not be possible to use this exemption to authorise sending goods to designated persons. For example, it is prohibited to send economic resources to the Libyan Investment Authority, a designated person, whether the goods are due under a prior contract or not.
13. If you wish to take advantage of the prior contracts exemption to make a payment to the port authorities, please apply for a licence from the Treasury (see paragraph 26 below).

Humanitarian shipments

14. There is an exemption from the EU asset freezes against Libya for humanitarian purposes.
15. Council Regulation (EU) No 572/2011 amends Article 8a of Regulation (EU) No 204/2011 by replacing it with the following:

'Article 8a

By way of derogation from Article 5, the competent authorities in the Member States, as listed in Annex IV, may authorise the release of frozen funds or economic resources belonging to persons, entities or bodies listed in Annex III, or the making available of certain funds or economic resources to persons, entities or bodies listed in Annex III, under such conditions as they deem appropriate, where they consider it necessary for humanitarian purposes, such as the delivery and facilitation of delivery of humanitarian aid, the delivery of materials and supplies necessary for essential civilian needs, including food and agricultural materials for its production, medical products and the provision of electricity, or for evacuations from Libya. The Member State concerned shall inform other Member States and the Commission of authorisations made under this Article within 2 weeks of the authorisation.'

16. If you wish to send a humanitarian shipment to Libya, please apply for a licence from the Treasury (see paragraph 26 below).

Issues faced by companies trading with Libya

17. A number of companies dealing with Libya have contacted the Treasury stating that they are having problems receiving payments that are owed to them under prior contracts.

18. It is important to distinguish between:

(a) Cases where the reason for the non-payment is that the Libyan counterparty is refusing to or is unable to pay; and

(b) Cases where the Libyan counterparty or other payer has made funds available to pay but payments are prevented from getting through by the sanctions.

19. In cases where the Libyan counterparty is refusing to or is unable to pay, this is a private contractual matter and the Government cannot intervene in such cases. The company should first resolve the issue of payment with their Libyan counterparty before applying for a licence from the Treasury, as a licence can only be effective if payment instructions have first been received from the counterparty (or other payer).

20. In cases where the Libyan counterparty (or other payer) has made funds available, companies should check with their bank in the UK whether the transaction is covered by an existing licence that has been granted by the Treasury. If so, then the payment can be received without further authorisation. If an existing licence is not in place, then the company should contact the Treasury's Asset Freezing Unit and request a licence (see further below).

Exemptions

21. The Treasury is able to authorise the release of or making available of certain frozen funds, other financial assets or economic resources relating to basic and extraordinary expenses, prior contracts, legal services, maintenance fees and service charges, and humanitarian provisions.

22. In considering licence requests, the Treasury is guided by the following principles:

(a) ensuring that no funds or other benefits go to designated persons/entities;

(b) protecting the welfare of the Libyan people, including by protecting the value of frozen assets so they can be returned to the Libyan people in due course; and

(c) minimising, where possible, the impact on legitimate business and other third parties.

23. The Treasury has granted a number of licences so far, including licences to enable the Libyan banks in London to carry out their business:
http://www.hm-treasury.gov.uk/d/finsanc_libya_generallicence_030311.pdf
and to make payments due under prior contracts where the goods were provided prior to sanctions; licences to manage Libyan assets in the UK to maintain their value; licences covering the payment of salaries; and licences covering the payment of fees and grants for Libyan students in the UK.
24. Regarding trade specifically, the Treasury has previously granted licences covering payments due under prior contracts in cases where goods or services were supplied prior to sanctions. Today, the Treasury has also granted licences covering payments due under prior contracts in cases where goods or services were supplied to Libya after the sanctions, with the exception of any goods or services supplied to designated persons or any supplies covered by the arms embargo.
25. The licence does not cover payments for goods or services that have not yet been supplied (e.g. shipped) to Libya, even if they are due under prior contracts. For any such cases, companies will need to apply to the Treasury for a separate licence.

Dealing with enquiries and licence requests

26. The Treasury has received a very considerable number of enquiries and licence requests from companies and other persons affected by Libya sanctions. We apologise that, because of the volume of enquiries and because of the complexity of some of the issues raised, we have not been able to deal with many enquiries and requests as quickly as we would like.
27. To facilitate more effective handling of enquiries and licence requests, the Treasury is issuing a Libya sanctions enquiries template for persons who have Libya-related enquiries to fill in. Further details are provided in the attachments to this Supplement.
28. The template will help us more easily to identify the nature of the enquiry and will ensure that we have all the relevant information needed to consider the case and to handle cases in priority order. Those who have previously submitted enquiries or requests and are still awaiting a response do not need to fill in the template. However, if you consider that the information you have already provided does not cover all the points raised in the template, then it may be advisable to fill in the template with the supplementary information needed, referring back to your initial enquiry.

29. Relevant enquiries should be addressed to:

Asset Freezing Unit
HM Treasury
1 Horse Guards Road
London SW1A 2HQ
E-mail: AFU@hmtreasury.gsi.gov.uk

30. Media enquiries should be addressed to the Treasury Press Office on 020 7270 5238.

HM Treasury
08/06/2011 (**Revised 17/06/2011**)



Libya Sanctions Questionnaire

08/06/2011

1. The Asset Freezing Unit of HM Treasury is responsible for the implementation and administration of international financial sanctions in the UK and for licensing exemptions to and/or derogations from financial sanctions. The Department for Business, Innovation and Skills (BIS) is the UK department responsible for trade sanctions.

Licence applications

2. The attached licence application form, which is also available as a Word document from the Libya regime page on the Financial Sanctions pages of the Treasury website, must be completed for all licence applications in relation to Libya submitted after the date of this notice.

Libya web page:

http://www.hm-treasury.gov.uk/fin_sanctions_libya.htm

Word version of form:

http://www.hm-treasury.gov.uk/d/finsanc_libya_licence_application_form.doc

3. The completed licence application form should be submitted to the Asset Freezing Unit at the email address AFU@hmtreasury.gsi.gov.uk, with the following text included in the subject heading of the covering email:

Libya Licence Application: Name of company

4. We will endeavour to respond to your application as soon as possible. Please note that the Treasury can only issue licences in relation to conduct within the UK or conduct outside the UK by UK nationals or bodies incorporated or constituted under the law of any part of the UK. If any conduct takes place outside the UK, you may also require a licence from overseas authorities.
5. For payments outstanding from Libyan counterparties, the licence application form should only be completed in circumstances where the counterparty is willing to make payment but is prevented from doing so by financial sanctions (e.g. it has issued or will issue instructions to make payment from frozen funds) or you are otherwise aware that you require a licence from HM Treasury.
6. The Treasury is unable to assist businesses with situations involving the refusal of counterparties to make payment, including instances where the counterparty is unwilling to pay even though it has funds available. Non-payment issues that are not related to financial sanctions must be resolved between the parties.

7. Those who have previously submitted licence applications and are still awaiting a response do not need to fill in the questionnaire. However, if you consider that the information you have already provided does not cover all the points raised in the questionnaire, then it may be advisable to fill it in with the supplementary information needed, referring back to your initial enquiry.

Other enquiries

8. Any other queries about asset freezing/ financial sanctions in relation to Libya should continue to be submitted to the Asset Freezing Unit at the email address AFU@hmtreasury.gsi.gov.uk. You may wish to use the attached form for such enquiries. You must use the form for licence applications submitted after the date of this notice.

HM Treasury
08/06/2011



HM TREASURY

Asset Freezing Unit
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

Email: AFU@hmtreasury.gsi.gov.uk
Website: www.hm-treasury.gov.uk

(Version 8 June 2011)

LICENCE APPLICATION/GENERAL ENQUIRY

Please complete or mark with an X all relevant boxes below

Section 1 – Details of Applicant

Date of application	
Name of applicant (Individual / Company Name)	
Are you a designated person, or owned or controlled by a designated person? <i>If so, please provide details</i>	YES / NO
Nature of business	
Address	
Contact Name	
Telephone number	
Email address	

Section 2 – Nature of enquiry – Please tell us what your issue is about?

General enquiry about:	Scope of sanctions	
	Reporting obligations	
	Licensing exemption	
	Other (please specify)	

If General Enquiry – Go straight to Section 7

Licence required to release frozen funds for	Prior contract	
	Legal or other professional services	
	Office and other expenses in UK	
	Salaries etc	
	Other (please specify)	
Licence required to make funds or economic resources available to a designated person or a person acting on their behalf or at their direction, , or to entities owned or controlled by a designated person.	YES / NO	
Licence required to permit humanitarian transactions	YES / NO	

Is this your first application regarding this specific licence or enquiry?	<p style="text-align: center;">YES / NO</p> (If 'No', please provide date of original email/letter) Date of original email/letter:
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Section 3 – Pending Libyan licence application(s) and/or licence(s) already issued

To be completed by applicant who has already applied for or received licence(s) from the AFU.

Licence number(s) of any Libya sanctions licence(s) already received by the applicant	
Date of any pending application(s) for Libya sanctions licence(s) made by the applicant	

Section 4 – Details of the transaction(s) concerned

Date of contract	
Description of funds, goods or services to be supplied	
Are the goods or services for humanitarian purposes (e.g. delivering or facilitating the delivery of assistance, including medical supplies, food, the provision of electricity, humanitarian workers and related assistance, or evacuations from Libya)?	<p style="text-align: center;">YES / NO</p> (If 'Yes' please explain the humanitarian purpose fully)
In all cases describe the purpose of the funds, goods or services to be supplied	
If any goods are to be supplied, are they controlled goods?	<p style="text-align: center;">YES / NO</p> If "Yes", has an export licence been obtained from BIS, Home Office or another EU country? If so, please provide the licence number [and a copy of the licence]
Value of the goods or services to be supplied	
Name of Libyan counterparty to contract	
As far as you are aware, is the end user different to the contract counterparty?	<p style="text-align: center;">YES / NO</p> If "Yes", please provide details of the end user (if known)
As far as you are aware, is the end user a state-owned entity?	<p style="text-align: center;">YES / NO</p> If "Yes", do you have reason to believe that the entity is under the control of the Libya National Transitional Council (NTC)?

Do you know or have reasonable suspicion that the funds, goods or services will be used by a designated person, or by a person acting on their behalf or at their direction, or by entities owned or controlled by them?	YES / NO If "Yes" who is the designated person or entity?
Dates of any shipments already made	
Dates of any future shipments and the ports in Libya receiving such shipments	

Section 5 – Banking details

Method of payment (e.g. confirmed or unconfirmed letter of credit, or other method)		
The banks (including correspondent, intermediary and confirming banks) through which payment will be made	Correspondent bank	
	Intermediary bank	
	Confirming or advisory bank	
Are payment instructions/funds available for this transaction?	YES / NO	
Which Libyan entity will make the payment?		

Section 6 – Further details

Please provide any further details that may help us determine the urgency of the case (e.g. deadlines, impact on your business)	
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Section 7 – Details of general enquiry (not required for licence applications)

You may wish to additionally submit copies of document that support your application or help us to understand your enquiry. Please indicate below if additional documentation has been provided and list attachments.

YES / NO	
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