

Treasury
Customs and Excise Division

Sanctions Notice 35

United Nations Sanctions
European Union Sanctions

Libya



March 2011
(updated to 16 February 2016)



Isle of Man
Government

Reilrys Ellan Vannin

About this Notice

This Notice draws attention in convenient form to measures designed to impose restrictive measures in respect of Libya.

This Notice provides guidance on aspects of the measures having effect in the Isle of Man, and should be read in conjunction with any order or regulations giving effect to those measures in the Island.

The Treasury has appointed its Customs and Excise Division to act for the purposes of enforcing sanctions measures. Accordingly, certain powers have been delegated by the Treasury to the Division.

Enquiries concerning this Notice should be addressed to the Sanctions Officer at—

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Tel: (01624) 648138
Fax: (01624) 661725
Email: customs@gov.im
Website: www.gov.im/treasury/customs

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



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Directions to all Financial Institutions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Division.

Financial Institutions **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Division.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Division and co-operate in any verification of the information.

Introduction

1. Following the unrest in Libya, on 26 February 2011 the United Nations Security Council adopted Security Council Resolution UN SCR 1970 (2011) which imposed certain restrictions against the Gadaffi regime in Libya. These restrictions included financial sanctions against certain listed persons listed, or designated by the relevant UN Sanctions Committee, as people involved in or complicit in ordering, controlling or otherwise directing, the commission of serious human rights abuses against persons in Libya. UN SCR 1970 also imposed an arms embargo.
2. The Libya (Financial Sanctions) Order 2011 gave effect to the financial restrictions in UN SCR 1970 in the UK on 27 February 2011.
3. On 15 September 2011 in the light of developments in Libya the UN Security Council adopted UN SCR 2009 (2011). This Resolution partially relaxed the arms embargo, lifted the asset freeze on the Libyan National Oil Corporation (LNOC) and Zueitina Oil Company, and lifted restrictions imposed on the Central Bank of Libya, the Libyan Arab Foreign Bank, Libyan Investment Authority and the Libyan Africa Investment Portfolio - whilst urging states to be vigilant for possible misappropriation of funds. It also provided a new licensing system for previously frozen assets for humanitarian needs, civilian fuel, electricity and water needs, resuming oil production and sale, establishing or re-establishing civilian government and infrastructure, and re-establishing the banking sector and facilitating international trade by Libya. However, the UN maintained the asset freeze imposed on Gadaffi himself and several family members.
4. On 28 February 2011 the European Union also adopted sanctions measures against the Gadaffi regime by means of Council Decision 2011/137/CFSP. These EU sanctions included an asset freeze and a visa ban on named individuals. The sanctions also adopted an arms embargo and a prohibition on trade with Libya in equipment which might be used for internal repression. The Decision was reinforced on 2 March 2011 by Council Regulation (EU) No. 204/2011, which additionally required pre-arrival and pre-departure reports for all goods entering or leaving the EU from or to Libya. It

did, however, allow for the release of funds etc in certain limited circumstances. Regulation 204/2011/EU was repealed and replaced by Council Regulation (EU) 2016/44 on 19 January 2016. This new Regulation consolidated Regulation 204/2011/EU and its amendments in one instrument, and re-designated those individuals and entities subject to sanctions.

5. Regulation 204/2011 was first given effect, with modifications, in the Island by means of the European Union (Libya Sanctions) (Application) Order 2011 [SD 157/11] with effect from 10 March 2011. On the same date the Libya Sanctions Regulations 2011 [SD 158/11] came into operation, providing for offences, penalties and licences in connection with the applied Regulation.
6. Subsequently, further EU measures modified the sanctions measures and these were applied in the Island law by order, with regulations also made to provide for information powers to the Treasury, and for offences and penalties.
7. With effect from 2 September 2011, EU Council Implementing Regulation 872/2011/EU lifted sanctions on 28 Libyan companies, including a number of ports and banks, as part of an international move to provide funds for the National Transitional Council and the country's economy.
8. On 22 September 2011, 3 new orders applying EU Council Regulations in the Island brought the Island's sanctions regime into line with that in the UK and the EU, except for the deletion from the UK and EU sanctions list of 2 oil companies - the Libyan National Oil Corporation; and the Zuietina Oil Company (a.k.a. ZOC; a.k.a. Zuietina), which had been removed in the light of UN SCR 2009 (2011).
9. On 16 December 2011 the UN Sanctions Committee removed the Central Bank of Libya and the Libyan Arab Foreign Bank (a.k.a. the Libyan Foreign Bank) from its list of those entities subject to an asset freeze. This move was followed by the EU and UK. Previously the prohibitions on making available funds to the Libyan Investment Authority (LIA) and the Libyan Africa Investment Portfolio (LAIP) had been lifted. Consequently, as of 19 December 2011 EU and UK financial sanctions applied only to individuals and entities listed in Annexes II and III to Regulation 204/2011, entities owned or controlled by Colonel Gaddafi and his family, and funds, other financial assets and economic resources held as of 16 September 2011 outside Libya by LIA and LAIP. However, the EU sanctions measures remained in effect in the Isle of Man, and a licence from the Treasury remained necessary for the release of any frozen funds or to make funds available to LIA or LAIP.
10. On 27 January 2012 Council Regulation (EU) No. 1360/2011 was applied by order in Island law. This had the effect of lifting the sanctions imposed on the Central Bank of Libya and the Libyan Arab Foreign Bank. This Regulation was applied in the Island by order. As of 27 January 2012 Island sanctions measures include all relevant EU restrictions.
- 10A. On 14 June 2013, the European Union (Libya Sanctions) (Application) (Amendment) Order 2013 [SD 253/13] applied Council Regulation (EU) No. 488/2013 in Island law. This Regulation amended Regulation 204/2011 in relation to supplies of technical or financial assistance related to goods and technology listed in the EU Common Military List, prohibiting their supply except in certain circumstances. It also amended the

financial restrictions, allowing for the release of funds in certain circumstances.

10B. On 21 March 2014, Council Regulation (EU) No 45/2014 was applied in Island law by means of the European Union (Libya Sanctions) (Application) (Amendment) Order 2014 [SD 2014/0097]. The applied Regulation clarified the scope of liability and potential claims arising from imposition of the economic sanctions.

10C. On 8 August 2014, the European Union (Libya Sanctions) (Application) (Amendment) (No. 2) Order 2014 came into effect. The Order applies in Island law, Council Regulation (EU) No 690/2014.

On 8 August 2014, the Libya Sanctions (Amendment) (No. 2) Regulations 2014 came into effect. The Regulations amend the Libyan Sanctions Regulations 2011, as these have effect in the Island.

10D. On 27 August 2014, the UN Security Council adopted Resolution 2174 in view of the deteriorating situation in Libya. This Resolution amended the scope of the existing arms embargo to allow for assistance to be provided to the Libyan government whilst extending the sanctions criteria to include individuals and entities engaging in, or providing support for other acts that, threaten the peace, stability or security of Libya or undermine a successful political transition.

As a result, EU Council Regulation 204/2011 required amendment. This amendment was made by means of Council Regulation (EU) No. 1102/2014 with effect from 21 October 2014. The amendment in respect of the arms embargo had immediate effect in the Island. The amendment of the criteria for designating persons and entities required a legislative change and therefore could not have immediate effect.

Council Regulation (EU) No 2015/374 of 6 March 2015 added a new Annex III to Regulation 204/2011/EU, allowing for the listing of those said to be -

- involved in, or complicit in, ordering, controlling or otherwise directing the commission of human rights abuses against persons in Libya, including involvement etc in aerial bombardment of civilians and other breaches of international law;
- violating, or assisting in the violation of, UN SCR 1970, 1973 or Regulation 204/2011/EU;
- engaged in, or providing support for, acts that threaten the peace, stability or security of Libya, or obstructing its successful political transition, including by involvement in human rights abuses;
- planning, directing or committing acts against air, land or sea ports in Libya, or against Libyan state institutions or installations, or any foreign mission in Libya;
- providing support for armed groups or criminal networks through the illicit exploitation of crude oil or other natural resources in Libya; or
- acting for, or on behalf of, or at the direction of natural or legal persons,

entities or bodies listed in either this Annex or the existing Annex II, or anyone or anything controlled by those listed in those Annexes.

- 10E. On 24 March 2015, the European Union (Libya Sanctions) (Application) (Amendment) Order 2015 came into effect. The Order applies in Island law, Council Regulation (EU) No 2015/374.
- 10F. On 24 March 2015, the Libya Sanctions (Amendment) Regulations 2015 came into effect. The Regulations amend the Libya Sanctions Regulations 2011, as these have effect in the Island.
- 10G. On 28 May 2015, Council Regulation (EU) No 2015/813 came into operation. This new Regulation extended the scope of EU sanctions, following UN SCR 2213 and changes made by EU Council Decision 2015/818/CFSP, and amended the criteria for imposing such sanctions measures. It also attaches a new Annex III.
- 10H. On 27 May 2015, Council Regulation (EU) No 2015/813 amended the EU sanctions regime and created a new Annex VI to Regulation 204/2011 with effect from 28 May 2015, the Libyan Investment Authority and the Libyan Africa Investment Portfolio being moved into this new Annex. The amendments provided that all funds and economic resources belonging to, or owned, held or controlled by these entities on 16 September 2011 and were located outside Libya on that date should be frozen. However, there was no prohibition on making funds available to either entity.
- 10J. On 5 June 2015, the European Union (Libya Sanctions) (Application) (Amendment) (No. 2) Order 2015 [SD 2015/0215] applied in Island law Council Regulation (EU) No 2015/813. At the same time the Libya Sanctions (Amendment) (No. 2) Regulations 2015 [SD 2015/0216] made suitable amendments to the Libya Sanctions Regulations 2011.
- 10K. On 2 August 2015, Council Decision 2015/1333/CFSP repealed and replaced Decision 2011/137/CFSP. This followed the amendment of the UN sanctions regime by UN SCR 2174 (2014) and 2213 (2015), and the earlier amendment of Decision 2011/137 by means of Council Decision 2015/818/CFSP in May 2015 that took into account the continuing threats to the peace, stability and security of Libya, and the threats of misappropriated Libyan state funds being used for the same reasons.

Council Decision 2015/1333/CFSP followed a review of the lists of those persons and entities designated under Decision 2011/137, and replaced not only those lists but also restated in consolidated and amended form the restrictive measures imposed under the sanctions regime.

Also on 2 August 2015, Council Regulation 2015/1324/EU amended Regulation 204/2011 to ensure alignment with new Decision 2015/1333. The amendments made related to authorisations that could be permitted by competent authorities re supplies of military equipment and assistance that could be permitted, and the circumstances when frozen funds or economic resources could be released.

- 10L. On 18 August 2015, the European Union (Libya Sanctions) (Application) (Amendment) (No. 3) Order 2015 [SD 2015/0269] applied EU Regulation 2015/1324 in Island law. On the same day the Libya Sanctions (Amendment) (No. 3)

Regulations 2015 [SD 2015/0270] amended the Libya Sanctions Regulations 2011 accordingly.

- 10M. On 19 January 2016, Council Regulation (EU) 2016/44 repealed and replaced Regulation 204/2011/EU and its amendments, consolidating the various provisions in one instrument and re-designating those individuals and entities subject to sanctions.

On 12 February 2016, the European Union (Libya Sanctions) Order 2016 [SD 2016/0074] applied new EU Regulation 2016/44 in Island law. This Order also revoked a number of earlier orders that had applied previous EU Regulations. At the same time, the Libya Sanctions Regulations 2016 [SD 2016/0075] came into operation, and these also revoked and replaced a number of earlier regulations.

Appeals against listings

11. On 3 March 2011 the EU also published two Notices explaining how those affected by either the Council Decision or the Council Regulation could appeal their listing.

Those listed by the UN could apply to—

United Nations - Focal Point for Delisting
Security Council Subsidiary Organs Branch
Room S-3055 E
New York
NY 10017
USA

Those listed by the EU could apply to—

Council of the European Union
General Secretariat
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
Belgique/Belgie

The Notices also alerted those affected of the option of challenging their listing before the General Court of the European Union.

Export controls

12. The UN arms embargo, and ban on the supply of equipment that might be used in internal repression imposed by EU measures, had immediate effect in the Isle of Man in that no licence would be permitted by either the Treasury or by the UK Department of Business, Innovation and Skills for the export to Libya, or the supply from another country to Libya. Under export control and trade control law, contained chiefly in orders made under the Export Control Act 2004 and applied in the Island, it would be an offence for any person or company in or from the Isle of Man to be involved in the export or supply of such materials to Libya.
13. The arms embargo and the ban on the supply of equipment that might be used for internal repression and the requirement for pre-arrival and pre-departure information,

contained in Council Regulation (EU) No. 204/2011 above also had immediate effect in the Isle of Man being “customs” measures.

14. On 28 March 2011 the Export Control (Libya) Order 2011 (Application) Order 2011 [SD 187/11] applied in Island law the Export Control (Libya) Order 2011 [SI 2011 No. 825]. The applied Order amended the Export Control Order 2004 to add Libya to the list of embargoed destinations, meaning it was subject to the full extent of the “trade controls” on trafficking and brokering of certain goods between Libya and a third country. For more information on trade controls please see Notice 279 MAN (Export Licensing), available on the Customs and Excise website. Further Orders prohibited the export to Libya of uncirculated Libyan banknotes or coins.

For further information on these or other export control measures please contact Customs and Excise.

- 14A. On 14 June 2013, the European Union (Libya Sanctions) (Application) (Amendment) Order 2013 applied Council Regulation (EU) No. 488/2013 in Island law. This Regulation amended Regulation 204/2011 in relation to supplies of technical or financial assistance related to goods and technology listed in the EU Common Military List, prohibiting their supply except in certain circumstances.
- 14B. On 19 March 2014 the UN Security Council approved Resolution 2146 imposing further restrictions on illegal oil exports from Libya. The Resolution authorised states to inspect vessels on the high seas suspected of carrying crude oil from Libya, to deny entry into their ports of such vessels and to forbid transactions involving smuggled Libyan oil and their nationals or other persons in their territory. This change was recognised and endorsed by the EU by means of Council Decisions 2014/380/CFSP and 2014/386/CFSP of 23 June 2014.
- 14C. On 23 June 2014, by means of Council Regulation (EU) No 690/2014, the EU amended Regulation 204/2011 to allow it to list designated vessels, and added a new Annex V to Regulation 204/2011 to contain such a list.

Effect of the financial sanctions in the Isle of Man

15. Under the terms of the various Council Regulations, as applied in the Island—
- all funds and economic resources belonging to, owned, held or controlled by listed persons must be frozen;
 - no funds or economic resources should be made available, directly or indirectly, to or for the benefit of listed persons;
 - participating, knowingly and intentionally, in activities the object or effect is, directly or indirectly, to circumvent the above measures is prohibited.
16. All funds and economic resources belonging to, owned or controlled by listed persons held by banks, building societies, stockbrokers, accountants etc must be frozen. No payment shall be made from a frozen account, including to another frozen account, without written authorisation from the Treasury. This includes the deduction of fees or service charges for routine holding or maintenance of such accounts.

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17. Loans and other forms of credit should not be made available to listed persons.
 18. Payments due under contract, agreements or obligations, that were concluded or arose before the date on which the listed person's listing took effect in the Island, provided that such interest etc is frozen. Interest and other earnings may also be added to frozen accounts. Funds transferred to the account of a listed person must also be frozen, and the Treasury Sanctions Officer notified as soon as practicable.
 - 18A. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions. Failure to furnish such information or documents without reasonable excuse is an offence.

Licences and other exemptions

19. No funds or economic resources may be made available, directly or indirectly, unless authorised by a licence in writing issued by the Treasury.
20. The Treasury may issue a licence where—
 - necessary to satisfy the basic needs of a listed person and their dependent family members, including payments for foodstuffs, rent or mortgage, medical treatment, taxes and insurance premiums and public utility charges;
 - intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
 - intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or
 - necessary for extraordinary expenses.
21. The Treasury may also issue a licence if satisfied the funds or economic resources are intended exclusively to satisfy claims secured by a lien or judgment established prior to the date that the listed person's listing took effect in the Island, provided that—
 - the lien or judgment is not for the benefit of the listed person;
 - is not contrary to public policy; and
 - the UN or EU has been notified of the lien or judgment.

Amendments to this Notice

10 May 2012	Whole text replaced from edition dated 8 February 2012.
22 July 2013	Paragraphs 10A and 14A inserted to reflect amendments made to EU Regulation 204/2011 and implemented in the Island by means of SD 253/13.
20 March 2014	Paragraph 14B inserted re UN Security Council approving a Resolution imposing further restrictions on illegal oil exports from Libya.
25 March 2014	New paragraph 10B inserted re Council Regulation (EU) No 45/2014.
24 June 2014	Paragraph 14B replaced by new paragraphs 14B and 14C in respect of shipments of oil.
8 August 2014	New paragraph 10C inserted re Council Regulation (EU) No 690/2014.
21 October 2014	New paragraph 10D inserted re UN SCR 2174 and EU Council Regulation No. 1102/2014.
9 March 2015	Paragraph 10D amended following the coming into force of EU Regulation 2015/374/EU.
24 April 2015	Paragraphs 10E and 10F inserted re Council Regulation (EU) No 2015/374.
29 May 2015	New paragraph 10G inserted re Regulation 2015/813 and the amended criteria for imposing sanctions.
3 June 2015	New paragraph 10H inserted re Regulation 2015/813 changes.
5 June 2015	New paragraph 10J inserted re SD 2015/0215 and SD 2015/0216.
3 August 2015	New paragraph 10K inserted re Council Decision 2015/1333 and Regulation 2015/1324.
18 August 2015	New paragraph 10L re SD 2015/0269 and SD 2015/0270 inserted.
25 November 2015	New "directions" substituted on page 3, and new paragraph 18A re information powers inserted.
20 January 2016	Paragraph 4 amended, and new paragraph 10M inserted, following the repeal and replacement of Regulation 204/2011/EU by Regulation 2016/44/EU.
16 February 2016	Paragraph 10M amended to include reference to SD 2016/0074 and 2016/0075.

Isle of Man Customs and Excise website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases, Sanctions Notices and links to relevant websites and lists at <http://www.gov.im/treasury/customs/>

New or amended versions of this Notice will also be provided on that website.

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