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CANADIAN GOVERNMENT INTRODUCES NEW SANCTIONS AGAINST SYRIA

BY CARMEN FRANCIS AND MICHAEL G. WOODS

OVERVIEW

On August 13, 2011, Minister of Foreign Affairs John Baird announced the implementation of further trade and investment sanctions against Syria.¹ These expand the existing measures set out in the *Special Economic Measures (Syria) Regulations*.² Since March 2011, the Canadian government has implemented a series of new sanctioning measures against both the Libyan and Syrian governments, among others.³ The Prime Minister has indicated that the measures are intended to underscore the Canadian government's condemnation of "...Syria's blatant violation of its international human rights obligations that threaten[s] the security of the entire Middle East."⁴ These sanctions cover a range of transactions, and include prohibitions against commercial activity with certain "designated" entities and individuals. Failure to comply with these sanctions can result in significant penalties, including substantial fines and imprisonment for up to ten years.⁵ Canadians active in Libya or Syria, or contemplating trade/investment in those countries, should pay special attention.

LIBYAN SANCTIONS

Canada's *Regulations Implementing the United Nations Resolution on Libya and Taking Special Economic Measures*⁶ were implemented on February 27, 2011, and are intended to support the *United Nations Security Council Resolution 1970*.⁷ The *Regulations* prohibit the export, sale or supply of arms and related material to Libya or any person in that country. The inclusion of "related material" in the provision extends the potential application of the prohibition to dual-use goods (those items with shared military and civilian applications) and other non-conventional military materials (such as certain

GPS and tracking devices). The provision of technical, financial or other assistance related to military activities is prohibited. In addition, under section 7 of the above *Regulations*, persons in Canada and Canadians outside of Canada are prohibited from dealing in property owned by, entering into financial or other transactions with, or providing goods or financial (or related) services to, the designated individuals and entities listed in Annex 2 to *Resolution 1970*.

AMENDED SYRIAN SANCTIONS

The *Special Economic Measures (Syria) Regulations* came into force on May 24, 2011. Similar to the sanctions imposed upon Libya, though less broad in scope, the Syrian measures likewise prohibit persons in Canada and Canadians outside of Canada from dealing in property owned by, entering into financial or other transactions with, or providing goods or financial (or related) services to, the designated individuals and entities listed in the Schedule. The *Regulations Amending the Special Economic Measures (Syria) Regulations*,⁸ in force on August 11, 2011, and announced on August 13, prohibit any dealings with two commercial entities (Syriatel and the Commercial Bank of Syria) and four additional individuals.

In addition, Minister Baird announced that *de facto* export bans would accompany the additional sanctions.⁹ These bans apply to the export to Syria of all goods and technology previously subject to export controls. Those items to which permit requirements apply are now unlikely to receive the necessary permits. This includes such items as arms, munitions and nuclear and strategic materials intended for use by the Syrian military establishment, or other government agencies.

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MINISTERIAL EXEMPTIONS

For both the Libyan¹⁰ and Syrian¹¹ measures, a *Permit Authorization Order* grants the Minister of Foreign Affairs the authority to issue a permit allowing successful applicants to engage in otherwise prohibited activities and transactions. These discretionary permits are available upon application in cases where there are sufficiently compelling reasons to allow the otherwise prohibited activity.

RESOURCES AT HEENAN BLAIKIE

Despite these tightened sanction measures, trade does continue. If you are involved in trading activities in these or any other sanctioned country,¹² contact the trade law team at Heenan Blaikie for further information regarding the rules and procedures governing Canada's export control policies. Heenan Blaikie's upcoming Export Control Compliance Course (September 21 and 22, in Montreal) will also address these and other practical export-oriented issues. Details are available at <http://heenanblaikie.com/media/pdfs/pdf/Programme_Canadian_Export_Compliance_2011.pdf>.

- 8 SOR/2011-166;
<http://www.international.gc.ca/sanctions/syria_amended_regs-modifiant_syrie.aspx?lang=eng&view=d>.
- 9 *Supra* note 1.
- 10 SOR/2011-52; <<http://canadagazette.gc.ca/rp-pr/p2/2011/2011-03-16/html/sor-dors52-eng.html>>.
- 11 SOR/2011-115; <<http://www.gazette.gc.ca/rp-pr/p2/2011/2011-06-08/html/sor-dors115-eng.html>>.
- 12 States to which sanctions currently apply include: Burma/Myanmar, Belarus, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Libya, Liberia, North Korea, Rwanda, Sierra Leone, Somalia, Sudan, Syria, Tunisia and Egypt, and Zimbabwe.

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- 1 <<http://www.international.gc.ca/sanctions/syria-syrie.aspx?lang=eng&view=d>>.
- 2 SOR/2011-114;
<<http://www.canlii.org/en/ca/laws/regu/sor-2011-114/93050/>>.
- 3 <<http://www.international.gc.ca/sanctions/index.aspx?view=d>>.
- 4 Statement issued by Prime Minister Harper on May 24, 2011. Full text available at: <<http://pm.gc.ca/eng/media.asp?category=1&featureId=6&pageId=26&id=4127>>.
- 5 These penalties are outlined in the *Special Economic Measures Act*, and the *United Nations Act*.
- 6 SOR/2011-51; <<http://www.canlii.org/en/ca/laws/regu/sor-2011-51/93074/>>; see also <<http://www.international.gc.ca/sanctions/libya-libye.aspx?lang=eng&view=d>>.
- 7 <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf>>.

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