

Canada Lifts Most Economic Sanctions Against Libya

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On September 23, 2011, Canada amended its Libyan sanctions regime to implement recent steps taken by the United Nations Security Council significantly relaxing measures imposed against Libya. Canadian companies should be reviewing these changes to ensure that their compliance programs are fully up-to-date and any resumption of activity involving Libya or Libyan entities is fully compliant with economic sanctions measures that remain in force.

Canada's Unilateral Sanctions Removed

On August 31, 2011, Canada lifted its unilateral sanctions imposed against Libya under the *Special Economic Measures Act*. These contained a number of requirements and prohibitions concerning activities involving the government of Libya and its departments, institutions and agencies, including the Central Bank of Libya. A summary of these and other Canadian sanctions measures imposed against Libya on February 27, 2011 can be found at [Canada Imposes Wide-Ranging Economic Sanctions Against Libya \(http://www.mccarthy.ca/article_detail.aspx?id=5307\)](http://www.mccarthy.ca/article_detail.aspx?id=5307).

Although Canada's unilateral sanctions against Libya no longer apply, until now, measures imposed under Canada's *United Nations Act* remained in force, including restrictions on dealings with the Central Bank of Libya, the Libyan National Oil Corporation, and the Libyan Investment Authority as well as entities owned or controlled by them.

Canada's Implementation of UN Security Council Resolution

With the passage of Resolution 2009 on September 16, 2011, the United Nations Security Council significantly relaxed its economic sanctions against Libya by (i) declaring that the Libyan National Oil Corporation and Zueitina Oil Company were no longer subject to asset freezing and other requirements and (ii) exempting the Central Bank of Libya, the Libyan Investment Authority and other Libyan entities from most sanctions measures.

On September 23, 2011, Canada implemented UN Security Council Resolution 2009 by amending its regulations, now referred to as the *Regulations Implementing the United Nations Resolutions on Libya* (the "Regulations"), so that:

- (a) property of the Central Bank of Libya, the Libyan Arab Foreign Bank, the Libyan Investment Authority, and the Libyan Africa Investment Portfolio (or of a person owned or controlled by them) arriving in Canada after September 16, 2011 is not subject to prohibitions against direct and indirect dealings and other asset freeze measures;

- (b) prohibitions against making property or financial or other related services available to the above entities or entities owned or controlled by them no longer apply; and
- (c) prohibitions against making property or financial or other related services available for the benefit of the above entities or entities owned or controlled by them no longer apply.

Canada's Remaining Sanctions Against Libya

Canada continues to apply economic sanction measures in respect of certain dealings involving Libya or Qadhafi and his family and associates, all in accordance with UN Security Council Resolution 2009. An arms embargo also remains in force. These measures include the following:

- (a) funds, financial assets and other economic resources in Canada of the Central Bank of Libya, the Libyan Arab Foreign Bank, the Libyan Investment Authority, and the Libyan Africa Investment Portfolio that were frozen on or before September 16, 2011 must remain frozen; the Regulations provide that the Minister of Foreign Affairs may issue a certificate to exempt such property if it is to be used for one or more of the following purposes:
 - (i) humanitarian needs;
 - (ii) fuel, electricity and water for strictly civilian uses;
 - (iii) resuming the production and sale of hydrocarbons by Libya;
 - (iv) establishing, operating or strengthening institutions of civilian government and civilian public infrastructure; or
 - (v) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya;
- (b) property in Canada of UN-listed Qadhafi family members and associates and entities owned or controlled by them continues to be subject to prohibitions against direct and indirect dealings and other asset freeze measures; and
- (c) prohibitions against making property or financial or other related services available to UN-listed Qadhafi family members and associates and entities owned or controlled by them continue to apply;
- (d) prohibitions against making property or financial or other related services available for the benefit of UN-listed Qadhafi family members and associates and entities owned or controlled by them continue to apply; and
- (e) the arms embargo remains in force - specifically:
 - (i) a ban on exporting or supplying arms and related material to Libya;

- (ii) a ban on providing to any person in Libya technical, financial or other assistance related to military activities;
- (iii) a ban on importing or procuring arms and related material from any person in Libya or any Libyan national; and
- (iv) related restrictions on Canadian vessels and aircraft.

Disclosure and duty-to-determine obligations regarding designated persons and related proposed or actual transactions also continue to apply under the Regulations.

Proceed Carefully

Canadian companies seeking to engage or to re-engage in business with Libya or involving Libyan-owned or controlled entities should tread carefully. It will be important to closely review the remaining sanctions in Canada, the United States and the European Union to ensure companies continue to maintain effective due diligence and full compliance with applicable requirements.

Canada currently imposes trade controls of varying degrees on activities involving the following countries, besides Libya: Belarus, Burma, Cuba, Cote d'Ivoire, Democratic Republic of the Congo, Egypt, Eritrea, Guinea, Iraq, Iran, Lebanon, Liberia, North Korea, Pakistan, Sierra Leone, Somalia, Sudan, Syria, Tunisia and Zimbabwe.