

Brussels Brief - March 9, 2011

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KEY DEVELOPMENTS

EU Imposes New Sanctions on Libya

Following a series of sanctions imposed on Libya by the United States, the United Nations and the United Kingdom, the European Union has belatedly introduced a new arms embargo, an asset freeze and a visa ban on Libya, which are stricter in scope than the original UN sanctions.

On 28 February 2011, amidst calls for an international concerted action to stop bloodshed by Colonel Muammar Gaddafi, the Council of the European Union adopted Decision 7081/137/CFSP to implement the United Nations Security Council Resolution on Libya of 26 February 2011 (UNSC 1970/2011) providing for an arms embargo, an asset freeze and a travel ban. By the same Decision, the EU provided for additional restrictive measures, showing its firm stance against the unfolding disturbing situation in Libya. The arms embargo and asset freeze are introduced at the EU level by Council Regulation (EU) No 204/2011 of 3 March 2011, which entered into force on the same day. The Regulation applies within the territory of the EU, and on board any aircraft or any vessel of a Member State, to nationals of the EU Member States and to legal persons incorporated or constituted under the law of a Member State, and in respect of any business done within the EU.

Arms Embargo

The Regulation prohibits the sale, supply, transfer or export to Libya of equipment which might be used for internal repression as listed in Annex I. The purchase, import or transport from Libya of equipment which might be used for internal repression is also prohibited.

Likewise, the Regulation prohibits the provision to Libya of technical assistance related to the goods and technology listed in the Common Military List as well as the provision to Libya of technical assistance or brokering services related to equipment which might be used for internal repression as listed in Annex I. The provision of financing or financial assistance related to the goods and technology listed in the Common Military List or in Annex I (goods for internal repression) is also prohibited.

Moreover, the participation in activities the object or effect of which is to circumvent these prohibitions is prohibited. Certain derogations, although limited, are available for humanitarian purposes.

Finally, as part of the arms embargo, for all goods brought into or leaving the customs territory of the EU from or to Libya, an additional declaration as to whether or not the goods are covered by the Common Military List or by the Regulation is required.

Asset Freeze

The Regulation requires all funds and economic resources belonging to, owned, held or controlled by the individuals listed in Annexes II and III to be frozen. The Regulation also requires that no funds or economic resources be made available to or for the benefit of the individuals identified in Annexes II and III.

In Annex II, Muammar Gaddafi, his daughter and four of his sons, who are designated in the UN list, are included. Annex III lists an additional 20 individuals regarded as being involved in serious human rights abuses against persons in Libya.

Travel Ban

The EU adds ten individuals to the UN list of those who are subject to a travel ban. The original UN list designates 16 individuals: Muammar Gaddafi, his daughter, seven of his sons and other top officials involved in the suppression of demonstrations since 15 February 2011. The individuals subject to the travel ban will be prohibited from entering into or transiting through the territories of the EU.

Obligation to Supply Information

Except when prevented by rules on reporting, confidentiality and professional secrecy, individuals and companies are required to supply immediately any information which would facilitate compliance with the Regulation, such as accounts and amounts frozen, to the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex IV. The person required to supply information must cooperate with that competent authority in any verification of the information.

Penalties

Penalties will be applicable to infringements of the Regulation. The detailed rules on the penalties are to be laid down by Member States. For other similar EU sanctions rules, a number of EU Member States impose criminal as well as administrative penalties for breach of sanctions.

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