

Canada Imposes Wide-Ranging Economic Sanctions Against Libya

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On February 27, 2011, the Canadian government announced the application of economic sanctions against Libya, following similar moves by the United States and the European Union. In addition to measures that implement United Nations Security Council Resolution 1970 (February 26, 2011), Canada's sanctions package also includes unilateral measures extending well beyond the UN sanctions.

Any Canadian companies with activities in Libya, or doing business with other companies active in Libya, should be reviewing the new measures to address any compliance issues. All companies doing business internationally should be revising their compliance and screening procedures to reflect these new rules.

Prohibited Activity

Canadian companies, wherever they operate, and Canadian individuals, wherever situated, are subject to a range of measures contained in the *Regulations Implementing the United Nations Resolution on Libya and Taking Special Economic Measures*, including:

1. a ban on exporting or supplying arms and related material to Libya;
2. a ban on providing to any person in Libya technical, financial or other assistance related to military activities;
3. a ban on importing or procuring arms and related material from any person in Libya or any Libyan national; and
4. asset freezes that prohibit dealings with persons designated by the UN Security Council, with Libya and its political subdivisions, or with any arm of the government of Libya.

The Canadian government has **published these Regulations**.

The prohibitions on dealing with persons designated by the UN Security Council or with the Libyan government require Canadian companies to engage in significant due diligence to ensure they are not dealing with sanctioned individuals or entities.

Dealings With UN Security Council Designated Persons

Section 7 of the Regulations imposes significant restrictions on dealings with persons designated by the UN Security Council. These designated persons include Muammar Qadhafi and a number of his family members and associates.

Persons in Canada, and Canadians outside Canada, are prohibited from dealing directly or indirectly in any property in Canada owned or controlled by these designated persons or by a

person acting on their behalf or owned or controlled by them. Entering into or facilitating any financial dealings, or providing any financial or related service in respect of such property, is also prohibited.

There is as well a ban on making property or financial services available to or for the benefit of these designated persons or persons acting on their behalf or owned or controlled by them.

Dealings With the Libyan Government and its Entities

Canada has also, going beyond the UN Resolution, unilaterally imposed its own asset freeze on Libya itself, including any political subdivisions of Libya and the government of Libya and any of its departments, institutions or agencies, including the Central Bank of Libya or the government of a political subdivision of Libya.

This freeze includes very broad prohibitions on persons in Canada and Canadians outside Canada engaging in any of the following activities:

1. dealing in any property, wherever located, held by or on behalf of a designated person or entering into or facilitating any transaction related to such dealings;
2. making any goods, wherever located, available to a designated person; and
3. providing any financial or financial-related service to or for the benefit of a designated person.

Other Ongoing Obligations

Every person in Canada, and every Canadian outside of Canada, is required to disclose without delay to the Royal Canadian Mounted Police and to the Canadian Security Intelligence Service the existence of property in their possession and control that they have reason to believe is owned or controlled by a designated person, by someone acting on their behalf, or by a person owned or controlled by them. They are also required to disclose any information about an actual or proposed transaction related to such property.

As is the case with several other Canadian sanctions programs, financial institutions have an additional duty to determine on a continuing basis whether they are in possession or control of any property owned or controlled by or on behalf of a designated person. The Superintendent of Financial Institutions' June 2010 ***Instruction Guide: Designated Persons Listings and Sanctions Laws*** provides some guidance for Canadian financial institutions subject to economic sanctions.

Next Steps

All companies should be revising their compliance manuals and screening procedures to ensure they reflect these new measures. These measures will have an impact not only on day-to-day compliance, but also on transactional due diligence and contractual representations and warranties.

Firms dealing with Libya or dealing with others who may have Libyan-related activities should be scrutinizing these new measures as well as those of the United States and the EU to ensure they are in full compliance with the prohibitions and disclosure obligations.

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

McCarthy Tétrault's International Trade and Investment Law Group has extensive experience in dealing with these measures and is available to advise on related enforcement, compliance and strategic planning issues.