



EU and US Economic Sanctions Against Libya

In response to recent events in Libya, the United States and European Union have each adopted broad economic sanctions and restrictive measures against trade with Libya and the Qadhafi regime. Companies with ongoing business involving Libya should assess immediately their exposure under these programs and take action to avoid government sanctions.

US Sanctions Measures

The US Libya sanctions derive from an [Executive Order](#) issued by the White House on February 25, 2011. Effective as of that date, the Executive Order prohibits any transfer or dealing in property and interests in property in which the government of Libya, its agencies, instrumentalities and controlled entities, and the Central Bank of Libya have an interest. This includes property or interests in property that are in the United States or that come within the jurisdiction of the United States, or that come within the possession or control of any US person. In view of the prevalence of state ownership of Libya's businesses, and the broad definition of "interests in property" adopted by the Treasury Department's Office of Foreign Assets Control (OFAC), which is implementing the Executive Order, this prohibition is potentially very broad. It effectively prohibits transactions between US persons and a significant number of Libyan businesses, including the National Oil Company, Libyan Airlines and many others.

Founded in 1890, Squire, Sanders & Dempsey has lawyers in 37 offices and 17 countries around the world and now includes the nearly 500 lawyers from leading UK legal practice Hammonds. With one of the strongest integrated global platforms and our longstanding "one-firm firm" philosophy, Squire Sanders provides seamless [legal counsel worldwide](#).

Contacts – United States:

[Francis E. Fletcher, Jr.](#)
+1.202.626.6231

[George N. Grammas](#)
1.202.626.6234

[Karen R. Harbaugh](#)
+1.703.720.7885

[Christopher H. Skinner](#)
+1.202.626.6226

[Christine J. Sohar Henter](#)
+1.202.626.6670

[Ritchie T. Thomas](#)
+1.202.626.6686

[Christopher A. Williams](#)
+1.202.626.6221

Contacts – Europe:

[Jochen P. Beck](#)
+32.2.6277.615

The Executive Order further requires the blocking of property of five individuals who were added to OFAC's Specially Designated Nationals (SDN) List, including Muammar Qadhafi and Qadhafi family members Ayesha Qadhafi, Mutassim Qadhafi, Khamis Qadhafi and Saif Al-Islam Qadhafi. The Executive Order directs OFAC, in consultation with the State Department, to designate additional SDNs, to include senior officials of Libya's government, children of Muammar Qadhafi, persons involved in the commission of human rights abuses related to political repression in Libya, and persons found to have assisted SDNs and other blocked persons in relation to such abuses. Under the terms of the Executive Order, US persons are prohibited from dealing in the property or interests in property of these blocked individuals and entities.

Other important aspects of the US sanctions measures include the following:

- The sanctions apply to US citizens, permanent resident aliens, persons physically in the United States and entities organized under US law (including foreign branches, but not independent foreign subsidiaries);
- Pursuant to General License 1A issued by OFAC, transactions involving banks that are owned or controlled by Libya's government and organized under the laws of a country other than Libya are authorized, provided that the transactions do not otherwise involve Libya's government, an SDN or a blocked person; and
- The Executive Order does **not** include a "contract sanctity" provision authorizing the completion of performance on preexisting contracts or transactions. Thus, US persons are barred from continuing preexisting arrangements with affected Libyan persons or entities.

Following the Executive Order, the US Department of Commerce, Bureau of Industry and Security (BIS), and the US Department of State, Directorate of Defense Trade Controls (DDTC) each announced the suspension of existing licenses for exports and reexports to Libya. Effective March 3, 2011, all licenses issued by BIS for exports or reexports to Libya have been suspended indefinitely. Accordingly, no further shipments may be made against BIS licenses for export or reexports to Libya of controlled dual-use items by any person. Likewise, all export licenses issued by DDTC for defense articles are suspended until further notice, and no further exports may be made against such licenses. Additionally, no ITAR license exemptions may be utilized

[Chris Caulfield](#)
+44.113.284.7640

[Simon Lucas](#)
+44.113.284.7208

[Yves Melin](#)
+32.2.6277.620

[Juan Romani](#)
+34.91.426.4858

[Guillaume Taillandier](#)
+32.2.6277.682

[Matei Ujica](#)
+49.0.30.72616.8226

[Tim Wünnemann](#)
+49.0.30.72616.8216

Squire Sanders emphasizes quality, efficiency and alignment with client goals as core standards. Our [Partnering for Worldwide Value®](#) initiative is focused on continuously improving our service delivery to maximize the value of our services to clients. Squire Sanders wholeheartedly endorses the Association of Corporate Counsel's Value Challenge® and encourages and manages development and implementation of processes and tools to continually improve staffing and pricing models, training and resource optimization, knowledge management and more.

Squire Sanders publishes on a number of other topics. To see a list of options and to sign up for a mailing, visit our [subscription page](#).

Beijing • Berlin • Birmingham
Bratislava • Brussels • Budapest
Caracas • Cincinnati • Cleveland
Columbus • Frankfurt • Hong Kong
Houston • Kyiv • Leeds • London
Los Angeles • Madrid • Manchester
Miami • Moscow • New York
Northern Virginia • Palo Alto • Paris
Phoenix • Prague • Rio de Janeiro
San Francisco • Santo Domingo
São Paulo • Shanghai • Tampa
Tokyo • Warsaw • Washington DC
West Palm Beach |
Independent Network Firms:
Beirut • Bogotá • Bucharest
Buenos Aires • La Paz • Lima
Panamá • Riyadh • Santiago

for exports to Libya.

EU Council Decision

The EU Council announced its economic sanctions against Libya in Council Decision 2011/137, issued on February 28, 2011, and in Regulation 204/2011, issued on March 2, 2011. Both were published to the [*Official Journal of the European Union*](#). The EU measures differ somewhat from the US sanctions and track closely the measures adopted by the UN Security Council.

The EU measures include the following prohibitions and requirements (references to Articles concern Regulation 204/2011 unless otherwise specified):

- It is prohibited to sell, supply, transfer or export arms and related material to or for use in Libya (Article 1 of Council Decision 2011/137, to be implemented by national law);
- It is prohibited to sell, supply, transfer or export equipment that can be used for internal repression to or for use in Libya (Article 2.1 and Annex I of the Regulation);
- It is prohibited to import, transport or purchase equipment that can be used for internal repression from Libya (Article 2.2 and Annex I of the Regulation);
- It is prohibited to provide technical assistance or financing in relation to military goods and equipment for internal repression (Article 3);
- Shipments to and from Libya are subject to detailed pre-arrival and pre-departure information and reporting requirements (Article 4);
- All funds and economic resources of persons listed in Annexes II and III are frozen (Article 5.1);
- Funds and economic resources must not be made available to persons listed in Annexes II and III (Article 5.2); and
- Controlled individuals are subject to a travel ban to and through the EU (Article 5 of Council Decision 2011/137).

The scope of Regulation 204/2011 is defined by its annexes. Annex I is a list of controlled equipment related to internal repression and includes: firearms,

ammunition and related accessories; bombs and grenades; certain vehicles for riot control; explosive substances and related equipment; protective equipment such as body armor and helmets; simulators for training in the use of firearms; night vision and thermal-imaging equipment; razor-barbed wire; knives and bayonets; and production equipment and technology for the above items. Annex II includes the UN list of sanctioned persons, and Annex III includes the EU list of sanctioned persons. Annex IV includes a list of the competent Member State authorities.

Regulation 204/2011 shall apply as follows:

- Within the territory of the EU including its airspace;
- On board any aircraft or any vessel under the jurisdiction of a Member State;
- To any person inside or outside the territory of the EU who is a national of a Member State;
- To any legal person, entity or body that is incorporated or constituted under the law of a Member State; and
- To any legal person, entity or body in respect of any business done in whole or in part within the EU.

For more information about this Alert or if you have questions regarding the restrictive measures and sanctions, please contact your primary Squire Sanders contact or one of the individuals listed here.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

©Squire, Sanders & Dempsey
All Rights Reserved
2011

This email was sent by Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W., Suite 500, Washington, D.C. 20004, USA

We respect your right to privacy – [view our policy](#)

[Manage My Profile](#) | [One-Click Unsubscribe](#) | [Forward to a Friend](#)

Squire, Sanders & Dempsey (US) LLP is part of the international legal practice Squire, Sanders & Dempsey which operates worldwide through a number of separate legal entities. Please visit www.ssd.com for more information.