

INTERNATIONAL TRADE

EU SANCTIONS DEVELOPMENTS IN LIBYA AND SYRIA SEPTEMBER 2011

Libya

We write further to our sanctions updates and specifically our update on Libyan sanctions of 24 August 2011. In light of the developing situation in Libya, as of 2 September 2011 the Council of the European Union has significantly eased the sanctions in place against Libya by lifting its asset freeze on 28 Libyan entities. Whilst UN and EU sanctions remain in place, the number of entities subject to restrictions has been significantly reduced. This move from the EU comes in recognition of the fact that interests in the entities concerned are now held by the National Transitional Council rather than by the Gaddafi regime.

Of particular interest to those in the shipping and trading communities is that among the 28 entities who are no longer subject to sanctions are six port authorities (Al Khoms, Brega, Ras Lanuf, Tripoli, Zawia and Zuwara) and a number of oil companies and banks. It is hoped that this lifting of the asset freeze will go some way towards easing the humanitarian problems which are currently being felt in Libya and will encourage international trading partners to (re-)engage with Libya, particularly where trade had been prevented by port authorities having been sanctioned.

Whilst the lifting of the asset freeze will greatly increase the opportunities for trade with Libya, sanctions still remain in place against a number of important Libyan institutions including the Libyan Investment Authority, the Libyan National Oil Corporation and the Central Bank of Libya. The situation in Libya is developing on a daily basis and until such time as all sanctions against Libyan entities have been lifted, it is important that care is taken to ensure compliance with the restrictions that remain in place.

Syria

The Council of the European Union imposed sanctions on Syria through Council Regulation (EU) No 442/2011 on 9 May 2011. Since that time violent repression of the civilian population is reported to have continued and, if anything, intensified. Subsequently additional EU Regulations have been published which amend EU Regulation No 442/2011. On five occasions the list of persons/entities subject to the asset freeze has been amended, most recently through EU Regulation No 878/2011 of 2 September 2011. This most recent amendment not only

expanded the list of persons and entities subject to the asset freeze but also introduced a prohibition on trading in crude oil and petroleum products.

EU Regulation No 878/2011 provides as follows:

"It shall be prohibited:

*(a) to **import** crude oil or petroleum products into the Union if they:*

(i) originate in Syria; or

(ii) have been exported from Syria;

*(b) to **purchase** crude oil or petroleum products which are located in or which originated in Syria;*

*(c) to **transport** crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country;*

(d) to provide, directly or indirectly, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions set out in points (a), (b) and (c); and

(e) to participate, knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibitions in point (a), (b), (c) or (d)." (our emphasis)

As our emphasis in the above extract highlights, it is now prohibited under EU sanctions (as was already the case under the investment ban imposed by US sanctions) to import, purchase or transport crude oil or petroleum products from Syria. It is also prohibited to provide financial assistance (directly or indirectly) in relation to Syrian crude oil or petroleum products. Intentional circumvention of any of the aforementioned prohibitions is also prohibited.

The financial impact of the new prohibitions relating to crude oil and petroleum products is likely to be significant. Until such time as they can find new trading partners who are not subject

to EU sanctions, it is likely to be a severe blow to the Syrian regime given that oil exports are said to make up around a third of Syria's budget. The impact of the prohibitions is also likely to be felt in Europe; almost all of Syria's oil is exported to Europe. However Syrian oil does not represent a large proportion of European oil imports, as was illustrated by a report in Lloyd's List last week showing that Italy imports 54% of Syria's crude exports but this figure is only 4.5% of Italy's total crude imports. Nevertheless, with Libyan oil exports not set to return to pre-uprising levels for months if not years, the prohibitions on Syrian oil represent further potential difficulties for the European oil and shipping industries.

As a result of the potential problems that might arise for European oil supply, short term exceptions to the prohibitions on crude and petroleum products have been included in the legislation. These exceptions are available for the execution of obligations arising pursuant to contracts concluded before 2 September 2011 and in relation to crude and petroleum products exported from Syria prior to 2 September 2011. The exceptions will be available up until and including 15 November 2011 but the activity or transaction must be brought to the attention of the competent authority in the relevant Member State at least seven working days before the performance of the obligation.

Thus far sanctions and widespread international condemnation appear to have had little impact on the regime in Syria. It is unclear whether or not the introduction of EU sanctions on crude oil and petroleum products will do anything to change the regime's policy. Depending on how the political situation develops, it is possible that further restrictive measures will be introduced by the EU in due course. For the time being it is important that existing and future contracts with a Syrian element and any Syrian counterparties are carefully checked to ensure that they do not breach any of the regulations now in force.

The above summarises some recent developments but is not intended to act as an alternative to obtaining legal advice. If sanctions issues arise in your business we recommend that you contact your usual contact at Ince & Co or speak direct to Michelle Linderman.

Contacts



Michelle Linderman

Partner, London
michelle.linderman@incelaw.com



James Rose

Solicitor, London
james.rose@incelaw.com



Jonathan Reese

Trainee Solicitor, London
jonathan.reese@incelaw.com

Ince & Co International LLP, and its affiliated entities of commercial law firms together form the Ince & Co network with offices in Dubai, Hamburg, Hong Kong, Le Havre, London, Monaco, Paris, Piraeus, Shanghai and Singapore. Ince & Co network firms practise in seven strands:

Aviation Business & Finance Commercial Disputes Energy & Offshore Insurance & Reinsurance
International Trade Shipping

**E: firstname.lastname@incelaw.com
incelaw.com**

24 Hour International Emergency Response Tel: +44 (0)20 7283 6999

LEGAL ADVICE TO BUSINESSES GLOBALLY FOR OVER 140 YEARS

The information and commentary herein do not and are not intended to amount to legal advice to any person on a specific matter. They are furnished for information purposes only and free of charge. Every reasonable effort is made to make them accurate and up to date but no responsibility for their accuracy or correctness, nor for any consequences of reliance on them, is assumed by the firm. Readers are firmly advised to obtain specific legal advice about any matter affecting them and are welcome to speak to their usual contact.

© 2011 Ince & Co International LLP, a limited liability partnership registered in England and Wales with number OC361890. Registered office and principal place of business: International House, 1 St Katharine's Way, London, E1W 1AY.