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Client Alert

US To Lift Most Trade Sanctions Against Libya

International Trade Practice **April 27, 2004**

The US Department of the Treasury, Office of Foreign Assets Control (OFAC) has issued a general license to be published at 31 C.F.R. § 550.575 removing nearly all of the prohibitions on trade with Libya by US persons under the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (LSR).

Delayed Effective Date

Although issued by OFAC on April 23, 2004, the general license will not become effective until the Department of Commerce, Bureau of Industry and Security (BIS) publishes a new rule entitled "Revision of Export and Reexport Restrictions on Libya" in the Federal Register. Accordingly, US companies should not engage in transactions with Libya that would be prohibited under the LSR until the new BIS rule is published. Unless licensed, companies should refrain from entering into contracts with the Libya, even if contingent upon lifting of the sanctions. Publication of the new rule is expected in a few days.

New Transactions Will Be Authorized

All transactions that are otherwise prohibited under the LSR, subject to the exceptions noted below, will be authorized under the general license, including:

- Imports into the United States of goods or services of Libyan origin.
- Exports of goods, software or technology to Libya from the US provided the export is licensed or otherwise authorized by BIS under the Export Administration Regulations.
- The purchase by US persons of goods for export from Libya to any country.
- The performance by US persons of contracts in support of industrial, commercial or governmental projects in Libya.
- The grant or extension of credits or loans by US persons to the Government of Libya or its instrumentalities and controlled entities.
- Investment in Libya by US and foreign persons.

Libya Sanctions Under ILSA Are Lifted Immediately

Also on April 23, 2004, President Bush issued Presidential Determination No. 2004-30 under Section 8(b) of the Iran and Libya Sanctions Act of 1996 (ILSA) certifying that Libya has met the requirements for the lifting of sanctions under UN Security Council Resolutions 731, 748 and 883. Consequently, although never used, both the mandatory trade and discretionary investment sanctions against Libya under ILSA have been terminated.

Libya Remains on US List of State Sponsors of Terrorism

Libya remains on the list of countries identified by the Secretary of State as a state sponsor of international terrorism. Therefore, Libya is still barred from receiving arms-related exports or sales of US-origin defense articles under the International Traffic in Arms Regulations or from receiving exports of dual-use goods, software or technology controlled for anti-terrorism reasons under the Export Administration Regulations. The US Government is also prohibited from providing economic assistance to Libya or supporting loan requests from Libya in international lending institutions.

Property Blocked as of Effective Date Remains Blocked

The Libyan Sanctions Regulations (31 CFR Part 550) blocked all property and interests in property of the Government of Libya within the possession or control of US persons, including overseas branches. Blocking will no longer be required after the effective date of the general license. However, all property and interests in property that are blocked as of the effective date will remain blocked and subject to the prohibitions of the LSR.

Prohibitions Remain on Flights by US and Libyan Air Carriers

Flights to or from Libya by US carriers, code-sharing involving flights to or from Libya, or flights to or from the United States by Libyan air carriers remain prohibited.

Further Information Forthcoming

OFAC has stated that further information regarding implementation of the general license will be forthcoming on the effective date, i.e., the date of publication of BIS rule.

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