

## E-ALERT | International Trade Controls

April 14, 2011

### RECENT DEVELOPMENTS IN EU AND US ECONOMIC SANCTIONS

#### Additional EU Sanctions Against Libya and Iran, Renewed EU Burma Sanctions; US Sanctions Guidance Concerning Southern Sudan

The EU and US have taken a number of steps this week in the international trade area relating to economic sanctions:

- The European Union has imposed sanctions against additional Libyan individuals and entities associated with the Qadhafi regime and against additional Iranian individuals responsible for human rights violations. The EU also renewed its sanctions against Burma.
- The US Treasury Department's Office of Foreign Assets Control issued guidance earlier this week concerning the application of the Sudanese Sanctions Regulations after Southern Sudan formally declares its independence in July 2011.

Each of these developments is discussed below.

#### EU IMPOSES ADDITIONAL ECONOMIC SANCTIONS AGAINST LIBYA AND IRAN AND RENEWS SANCTIONS AGAINST BURMA

On April 12, 2011, the European Union Council ("EU Council") adopted further sanctions against Libya and Iran and renewed EU sanctions against Burma. For Libya, [Council Regulation \(EU\) 360/2011](#) subjects another two individuals and 26 entities to asset blocking and other restrictive measures in order to prevent further funding of the Qadhafi regime. For Iran, [Council Regulation \(EU\) 359/2011](#) subjects 32 individuals deemed responsible for serious human rights violations in Iran to EU restrictive measures (an asset freeze and a visa ban). In addition, the publication of renewed EU sanctions against Burma is expected in the coming days.

#### Freezing of Funds and Economic Resources (Libya, Iran)

The newly designated Libyan entities subject to EU sanctions include significant oil and gas sector companies, financial institutions and an airline. Among the newly sanctioned entities are Tamoil Africa Holdings Limited (a.k.a. Oil Libya Holding Company), Libyan Holding Company for Development and Investment, First Gulf Libyan Bank, LAP Green Networks, National Oil Wells and Drilling and Workover Company, North African Geophysical Exploration Company, Mabruk Oil Operations, Zuietina Oil Company, Mediterranean Oil Services Company, Mediterranean Oil Services GMBH, and Libyan Arab Airlines. The newly designated Libyan individuals are deemed to be involved in recruiting and coordinating mercenaries for the Qadhafi regime. The EU Council announced that the EU will continue to deprive the Qadhafi regime of all funding derived from exports of oil and gas.

The newly designated Iranian individuals subject to EU sanctions are deemed to be complicit in or responsible for directing or implementing grave human rights violations in Iran.

All funds and economic resources that belong to or are owned, held or controlled by the designated parties are frozen. The Member States are authorized to release frozen funds in certain circumstances, including as necessary to satisfy the basic needs of the designated persons.

### Renewed EU Sanctions Against Burma

The EU Council also renewed sanctions against Burma for a period of twelve months. The sanctions have not yet been published but their content has been outlined in the [EU Council conclusions](#). The new measures will suspend for one year the application of the visa ban and asset freeze for certain civilian members of the Burmese government, including the Burmese Foreign Minister, subject to continued review. The new measures will also lift the ban on high level visits to Burma, anticipating EU access to senior levels of the Burmese government and to key opposition figures. The EU Council announced it will continue to review the actions of the Burmese government and will adjust the restrictive measures as needed.

### OFAC ISSUES GUIDANCE ON THE APPLICATION OF THE SUDANESE SANCTIONS REGULATIONS AFTER THE INDEPENDENCE OF THE NEW STATE OF SOUTHERN SUDAN

On April 12, 2011, the Treasury Department's Office of Foreign Assets Control ("OFAC") issued guidance regarding the application of the Sudanese Sanctions Regulations (the "SSR," 31 C.F.R. Part 538) after Southern Sudan formally declares its independence from Sudan, which is expected to occur on July 9, 2011. The guidance states that the SSR will continue to apply to Sudan and the government of Sudan, but Southern Sudan and its government will not be subject to the SSR. US persons may nevertheless be required to obtain OFAC authorization for certain transactions and activities in or involving Southern Sudan that also implicate Sudan.

Sudan has been the subject of US economic sanctions since 1997, when President Clinton issued Executive Order 13067, imposing a trade embargo against the entire territory of Sudan and comprehensive blocking of property and interests in property of the government of Sudan. In 2006, President Bush expanded the scope of the SSR by blocking assets of persons determined to be contributing to the conflict in Darfur. Later that year, following the adoption of the Darfur Peace and Accountability Act, P.L. 109-344, President Bush exempted Specified Areas of Sudan (including the regional government of Southern Sudan) from most of the trade prohibitions imposed by the SSR. However, transactions by US persons relating to Sudan's petroleum or petrochemical industries, including in the Southern Sudan region, continued to be prohibited.

OFAC's recent guidance on the application of the SSR follows the Southern Sudan Referendum, which took place in January 2011, when residents of Southern Sudan voted to secede from the north. The guidance states that, because Southern Sudan will no longer be included within the territorial boundaries of Sudan and will not be governed by the government of Sudan in Khartoum, the SSR will continue to apply only to Sudan and the government of Sudan, but not to Southern Sudan.

While Southern Sudan will not be directly subject to US sanctions, the SSR will continue to prohibit US persons from engaging in the following activities without OFAC authorization, even if such activities are performed in Southern Sudan:

- Dealing in property and interests in property of the government of Sudan;
- Performing services that benefit Sudan or the government of Sudan;
- Engaging in any transactions relating to the petroleum or petrochemical industry in Sudan; and

- Participating in exports to or imports from Southern Sudan that transit through Sudan.

OFAC's guidance further provides that, absent OFAC authorization, US persons are prohibited from:

- Providing services to the petroleum industry in Southern Sudan if those services would benefit Sudan or its government or relate to the petroleum industry in Sudan; and
- Transporting exports of petroleum and petrochemical products through Sudan.

Additionally, if Sudan and Southern Sudan reach a revenue-sharing agreement in which Southern Sudan makes payments to the government of Sudan for the sale of Southern Sudanese petroleum, US persons would generally be required to obtain approval from OFAC before engaging in transactions involving the oil industry in Southern Sudan. Until that occurs, however, it appears that OFAC licensing will not be required for US persons to engage in activities involving the petroleum or petrochemical industries in Southern Sudan so long as such activities do not (i) benefit the government of Sudan, (ii) relate to the petroleum industry in Sudan, (iii) involve property of the government of Sudan, or (iv) involve the transport of petroleum or petrochemical products through Sudan.

The State Department also announced recently that the United States is initiating a review process for withdrawing Sudan's designation as a State Sponsor of Terrorism. Removal of the State Sponsor of Terrorism designation will occur if and when Sudan complies with various requirements under US law, which include, *inter alia*, not supporting international terrorism for the preceding six months, providing assurance that it will not support such acts in the future, and fully implementing the 2005 Sudanese Comprehensive Peace Agreement.

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Our EU and US offices are deeply involved in advising clients concerning the application of EU and US trade controls and would be pleased to assist clients in navigating the intricacies of these requirements.

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If you have any questions concerning the material discussed in this client alert, please contact the following members of our international trade controls practice group:

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