BORD TA' SORVELJANZA DWAR IS-SANZJONIJIET
SANCTIONS MONITORING BOARD
MALTA

Libya Sanctions: Guidance Note on illicit petroleum including crude oil and refined petroleum products from Libya

This guidance note is produced by the Sanctions Monitoring Board (SMB) as the competent authority for the implementation of all UN, EU and national sanctions in the Republic of Malta in pursuance of its powers under the National Interest (Enabling Powers) Act (Cap 365 of the Laws of Malta). This legislation ensures the direct and immediate applicability of all UN, EU and national sanctions under Maltese law.

The SMB's website is: https://foreignandeu.gov.mt/SMB

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I. Introduction

In view of Malta's close geographic position to Libya, the SMB would like to highlight certain aspects of the UN and EU restrictive measures against Libya to ensure more effective implementation thereof by all subject persons. Restrictive measures against Libya are in place to ensure the preservation of the assets and resources of the People of Libya and to contribute to the efforts on the part of the recognised Government of Libya to bring about stability to the country. Restrictive measures against Libya include:

(i) An arms embargo,
(ii) Freezing of assets
(iii) Prohibitions relating to dealing in illicit petroleum including crude oil and refined petroleum products from Libya and
(iv) Restrictions on equipment which may be used for the smuggling of migrants and trafficking in human beings.

This Guidance Note will focus on (iii).

II. Prohibitions relating to dealing in illicit petroleum including crude oil and refined petroleum products from Libya

Oil is Libya's main economic resource thus the restrictive measures against Libya play a central role in safeguarding this resource from smuggling and illicit exploitation for the benefit of the People of Libya. Exports of petroleum including oil and refined petroleum products by Libya are illicit when not expressly authorised by the National Oil Corporation (NOC) of Libya. The United Nations (UN) has repeatedly underlined that the illicit export of such resource from Libya undermines the Government of National Accord (GNA) and the NOC, posing an utmost threat to the peace security and stability of Libya.

UN Resolution 2146/2014 targets illicit crude oil exports from Libya and requires the inspection of vessels designated by the UN that might be carrying illicit crude oil. It also ensures the return to Libya of any illicit crude oil thereby discovered in coordination with the Government of Libya, preventing any designated vessel carrying illicit crude oil from calling at any ports. UNSC Resolution 2362(2017), expands the applicability of the restrictions to petroleum and refined petroleum products, illicitly exported or attempted to be exported from Libya. Vessels may be directed not to load, transport, or discharge petroleum, including crude oil and refined petroleum products, illicitly exported from Libya in the absence of direction from the Government of Libya focal point, as referred to in paragraph 3 of UNSCR 2146 (2014).

Designated vessels may be subject to several restrictions as specified by the Libya Sanctions Committee:

- Designated vessels may be denied entry into ports unless such entry is required for the purpose of an inspection, in the case of an emergency or in the case of return to Libya.
- It may also be prohibited to provide bunkering and other services to designated vessels, unless the Malta Sanctions Monitoring Board authorises such bunkering for humanitarian purposes or in order for the vessel to return to Libya. If such an authorisation is given, the Libya Sanctions Committee will be notified by the SMB.

These measures are implemented under EU restrictive measures against Libya as per Council Regulation 2016/44 and Council Decision 1333/2015.

Although current restrictive measures against Libya refer to designated vessels in relation to illicit oil, the SMB understands that restrictive measures against Libya sanctions concern any dealing in illicit Libyan petroleum including crude oil and refined petroleum products. Past cases prove evidence to the fact that vessels involved in the carriage of such illicit products may become ‘designated vessels’ by the Libya Sanctions Committee within a very short time-frame. Thus, the SMB urges all traders in oil to conduct the necessary due diligence to make sure that no trade is conducted on oil that has been illicitly exported from Libya, even if such oil is bought through third parties on the high seas. Traders need to ensure that any oil that is purchased originates from legitimate sources and does not derive from or is mixed with any oil that has been illicitly exported from Libya. Financial transactions with respect to crude oil illicitly exported from Libya, brokering of such deals and the financial assistance related to such deals are also prohibited. Traders who fail to conduct the necessary due diligence and deal in illicit oil risk being in breach of applicable sanctions and, apart from the consequences upheld by the National Interest (Enabling Powers) Act, risk also becoming listed persons under UN, EU or national sanctions. Moreover, vessels involved in any illicit traffic in oil may become designated by the UN Libya Sanctions Committee

Henceforth, **all applications received in Malta for the importation** and were necessary the re-exportation/transhipment of oil and refined petroleum products should be reinforced with a **signed Certificate of Origin, even if such applications would have as a subject, oil of non-Libyan origin.**

This is being done to duly ascertain the origin of the consignment. Furthermore, a declaration provided by the importer attesting to the genuineness of the Certificate of Origin shall also be requested.

The SMB may request that the results of the tests regarding the specifications of the product undertaken by the buyer/importer on every consignment imported in Malta for internal use or for export, may be made available to it for its consideration.

III. Further Information

The SMB remains available for any further clarifications and may be contacted on sanctions.mfea@gov.mt or import-export@gov.mt