



REPUBLIC OF CYPRUS
MINISTRY OF TRANSPORT,
COMMUNICATIONS AND WORKS



DEPARTMENT
OF MERCHANT SHIPPING
LEMESOS

Circular No. 9/2016

30 March 2016

TEN 5.13.09
TEN 4.3.08.6

To all Registered owners, Registered bareboat charterers
Managers and Representatives of ships flying the Cyprus Flag

To all Owners, Managers and Representatives of ships under a foreign flag calling at
Cyprus ports

c/o Cyprus Shipping Chamber
c/o Cyprus Union of Shipowners
c/o Cyprus Shipping Association

Subject: Newly consolidated EU instruments concerning restrictive measures in view of the situation in Libya

1. I refer to the above subject and further to DMS Circulars No. 10/2011, No. 29/2011, No. 32/2011, No. 33/2012, No. 51/2012, No. 8/2014, No. 18/2014 No. 35/2014, No. 5/2015 and No. 20/2015 I wish to inform you of the adoption of the following instruments concerning restrictive measures against Libya which in essence for the sake of clarity consolidate and repeal previously issued EU instruments:
 - (i) **EU Council Decision (CFSP) 2015/1333** of 31st July 2015 repealing EU Council Decision 2011/137/CFSP;
 - (ii) **Council Regulation (EU) 2016/44** of 18th January 2016 repealing Regulation (EU) No. 204/2011.
2. The impact of the newly adopted instruments is the consolidation of the previously issued EU instruments.
3. Therefore for the sake of clarity please find below a summary of the restrictive measures currently in force:

(A) Arms and related materiel

(A.1.) Prohibition:

The transportation by Cyprus ships from and to Libya of the following is prohibited:

- a. arms and related materiel, whether or not originating in the Union, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression in Libya;



- b. armed mercenary personnel;
- c. equipment which might be used for internal repression as listed in Annex I, of **Council Regulation (EU) 2016/44**, whether or not originating in the Union, to any person, entity or body in Libya or for use in Libya; and
- d. equipment which might be used for internal repression as listed in Annex I of **Council Regulation (EU) 2016/44**, whether or not the item concerned originates in Libya.

(A.2.) Exemptions:

- I. (a) non-lethal military equipment intended solely for humanitarian or protective use;
 - (b) protective clothing, including flak jackets and military helmets, temporarily exported to Libya by United Nations (UN) personnel, personnel of the European Union or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;
 - (c) non-lethal military equipment intended solely for security or disarmament assistance to the Libyan government;
 - (d) equipment which might be used for internal repression, intended solely for humanitarian or protective use.
- II. (a) arms and related materiel, including the provision of personnel;
 - (b) arms and related materiel, intended solely for security or disarmament assistance to the Libyan government;

as approved in advance by the Committee established pursuant to paragraph 24 of UNSCR 1970 (2011) (“the Committee”).
- III. small arms, light weapons and related materiel, temporarily exported to Libya for the sole use of UN personnel, representatives of the media and humanitarian and development workers and associated personnel, notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification.

(A.3.) Prohibition:

The procurement by Cyprus ships from Libya of the following is prohibited:

arms and related materiel, whether or not originating in Libya, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression in Libya.

The above prohibitions originate in Articles 1-3 of **EU Council Decision (CFSP) 2015/1333** as well as Article 2 of **Council Regulation (EU) 2016/44**.

(B) Crude oil transported by vessels as designated by the Committee

Article 15 of **Council Regulation (EU) 2016/44** provides as follows:

“1. It shall be prohibited to load, transport or discharge crude oil from Libya on designated vessels flying the flag of a Member State unless authorised by the competent authority of that Member State after consultation with the Government of Libya focal point.

2. It shall be prohibited to accept or provide access to ports in the territory of the Union to designated vessels, if the Sanctions Committee has so specified.

3. The measure laid down in paragraph 2 shall not apply where the entry to a port in the territory of the Union is necessary for an inspection, in the case of an emergency or where the vessel is returning to Libya.

4. The provision by nationals of Member States or from territories of Member States of bunkering or ship supply services, or any other servicing of vessels, to designated vessels, including the provision of fuel or supplies, shall, if the Sanctions Committee has so specified, be prohibited.

5. The competent authorities of the Member States identified in Annex IV may grant exemptions to the measure imposed by paragraph 4 where necessary for humanitarian or safety purposes, or where the vessel is returning to Libya. Any such authorisation must be notified in writing to the Sanctions Committee and the Commission.

6. Financial transactions with respect to crude oil aboard designated vessels, including the sale of the crude oil or the use of the crude oil as credit, as well as taking out insurance with respect to the transport of the crude oil shall, if the Sanctions Committee has so specified, be prohibited. Such prohibition does not apply to the acceptance of port fees in the cases referred to paragraph 3”.

(C) Inspections

(C.1.) Territorial Sea:

Article 4 of **EU Council Decision (CFSP) 2015/1333** provides as follows:

“1. Member States shall inspect in their territory, including their seaports and airports, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, vessels and aircraft bound to or from Libya, if they have information that provides reasonable grounds to believe that the cargo of such vessels and aircraft contains items the supply, sale, transfer or export of which is prohibited under Article 1.

2. Member States shall, upon discovery, seize and dispose of (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) items whose supply, sale, transfer or export is prohibited under Article 1.

3. Member States shall cooperate, in accordance with their national legislation, with inspections and disposals undertaken pursuant to paragraphs 1 and 2.

4. Aircrafts and vessels transporting cargo to and from Libya shall be subject to the requirement of additional pre-arrival or pre-departure information for all goods brought into or out of a Member State.”

(C.2.) High Seas:

Article 6 of **EU Council Decision (CFSP) 2015/1333** provides as follows:

“1. Member States may, in accordance with paragraphs 5 to 9 of UNSCR 2146 (2014), inspect on the high seas designated vessels, using all measures commensurate to the specific circumstances, in full compliance with international humanitarian law and international human rights law, as may be applicable, carry out such inspections and direct the vessel to take appropriate actions to return the crude oil, with the consent of and in coordination with the Government of Libya, to Libya.

2. Member States should, before undertaking an inspection as referred to in paragraph 1, first seek the consent of the vessel's flag State.

3. Member States undertaking an inspection as referred to in paragraph 1 shall submit promptly a report on the inspection to the Committee containing relevant details, including efforts made to seek the consent of the vessel's flag State.

4. Member States undertaking inspections as referred to in paragraph 1 shall ensure that such inspections are carried out by warships and ships owned or operated by a State and used only on government non-commercial service.

5. Paragraph 1 shall not affect the rights, obligations or responsibilities of Member States under international law, including rights or obligations under the United Nations Convention on the Law of the Sea, including the general principle of exclusive jurisdiction of a flag State over its vessels on the high seas, with respect to non-designated vessels and in any other situation than the one referred to in that paragraph.

6. Annex V to this Decision includes the vessels referred to in paragraph 1 designated by the Committee in accordance with paragraph 11 of UNSCR 2146 (2014).”

(D) Pre-arrival and pre-departure

Article 4(4) of **EU Council Decision (CFSP) 2015/1333** provides that “vessels transporting cargo to and from Libya shall be subject to the requirement of additional pre-arrival or pre-departure information for all goods brought into or out of a Member State”.

In addition Article 4 of **Council Regulation (EU) 2016/44** provides that “for all goods brought into or leaving the customs territory of the Union from or to Libya, in addition to the rules governing the obligation to provide pre-arrival and pre-departure information as determined in the relevant provisions concerning entry and exit summary declarations as well as customs declarations in Regulations (EC) No 450/2008 and (EU) No 952/2013 of the European Parliament and of the Council, the person who provides that information shall declare whether the goods are covered by the Common Military List or by this Regulation and, where the exported goods are subject to authorisation, specify the particulars of the export licence granted. These additional elements shall be submitted to the competent customs authorities of the Member State concerned either in written form or using a customs declaration, as appropriate.”

(E) Vigilance in dealings

According to Article 10 of **EU Council Decision (CFSP) 2015/1333** vigilance should be exercised when doing business with entities incorporated in Libya or subject to

Libya's jurisdiction, and any individuals and entities acting on their behalf or at their direction, and entities owned or controlled by them, with a view to preventing business that could contribute to violence and the use of force against civilians.

4. It is recalled that respective restrictive measures also originate in the United Nations Security Council Resolutions UNSCR 1970 (2011), 1973 (2011), 2009 (2011), 2095 (2013) 2146 (2014) and 2174 (2014).
5. The text of the aforementioned European Union instruments may be found on <http://eur-lex.europa.eu> whereas the text of United Nations Security Resolutions may be found on <http://www.un.org/Docs/sc/>.

A regularly updated list of all the European Union restrictive measures in force can be found at http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf

6. All recipients of the present Circular are invited to take note of its content and should strictly abide by the provisions of the aforementioned UN & EU Instruments as well as national Prohibition Order P.I. 195/2012.

This Circular must be placed on board vessels flying the Cyprus flag.



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Director
Department of Merchant Shipping

Cc: - Permanent Secretary, Ministry of Transport, Communications and Works

- Attorney General of the Republic
- Permanent Secretary, Ministry of Foreign Affairs
- Permanent Secretary, Ministry of Defence
- Permanent Secretary, Ministry of Justice and Public Order
- Diplomatic Missions and Honorary Consular Officers of the Republic
- Maritime Offices of the Department of Merchant Shipping abroad
- General Manager, Cyprus Ports Authority
- Director, Department of Customs and Excise
- Registrar of Companies
- Commander, Cyprus Marine Police
- Cyprus Shipping Chamber
- Cyprus Union of Shipowners
- Cyprus Shipping Association
- Cyprus Bar Association

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