



REPUBLIC OF CYPRUS  
MINISTRY OF  
COMMUNICATIONS AND WORKS



DEPARTMENT  
OF MERCHANT SHIPPING  
LEMESOS

Circular No. 29/2011

10 August 2011

TEN 5.13.09  
TEN 4.3.08.6

To All Owners, Managers and Representatives  
of Ships under the Cyprus Flag

To All Owners , Managers and Charterers of  
Ships under a foreign flag operating in the Republic of Cyprus

*c/o Cyprus Shipping Chamber (CSC)*  
*c/o Cyprus Union of Shipowners (CUS)*

**Subject: European Union restrictive measures (asset freeze) targeting port authorities in Libya: Adoption of Council Decision 2011/332/CFSP amending Council Decision 2011/137/CFSP and Council Regulation (EU) No 572/2011 amending Council Regulation (EU) No 204/2011.**

1. I refer to the above subject and further to my previous Circular No. 10/2011 (dated 18.03.2011) advising on the UN & EU prohibitions on the transportation of arms and related materiel to Libya<sup>1</sup> as well as cargo inspection requirements, I wish to inform you of new restrictive measures imposed by the European Union on certain entities, which shall now, in view of the recent adoption on 7 June 2011 and 16<sup>th</sup> June 2011 of ***Amending Council Decision 2011/332/CFSP and Amending Council Regulation (EU) No 572/2011 respectively***, affect trade with Libya.
2. Article 6 of the ***basic EU Council Decision 2011/137/CFSP*** as amended, provides for an **asset freeze** of all funds, financial assets and economic resources, owned or controlled directly or indirectly by natural or legal persons, entities and bodies listed in the Annexes therein and, of most importance in **Annex IV**.

New amending ***Council Decision 2011/332/CFSP*** includes the following six port authorities in the list of the targeted entities of **Annex IV** of the **basic Council Decision 2011/137/CFSP**:

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<sup>1</sup> A relevant **Prohibition Order** is currently in the final stage of preparation (at the Office of the Attorney General) and will be published in the coming days.



- (i) Port Authority of Tripoli;
- (ii) Port Authority of Al Khoms;
- (iii) Port Authority of Brega;
- (iv) Port Authority of Ras Lanuf;
- (v) Port Authority of Zawia;
- (vi) Port Authority of Zuwara.

This asset freeze is also imposed by virtue of Article 5 of the **basic Council Regulation (EU) No 204/2011**. The above targeted entities are included in the relevant Annex III, to which Article 5 refers, pursuant to **Amending Council Regulation (EU) No 572/2011**.

In view of the inclusion of the above mentioned Port Authorities in the list of targeted entities, which are subject to EU restrictive measures, any direct or indirect transfer of funds, financial assets or economic resources to the Authorities-Operators of these six ports is now prohibited and may result in a possible violation of the sanctions provisions (e.g. in practice **payment of fees and port charges**).

3. The **asset freeze** affecting the said Libyan port Authorities can be subject to three distinct types of exemptions:

3.1 The **first type of exemption** was an express exemption, limited in time: According to new Article 6(2a) of the **basic Council Decision 2011/137/CFSP as amended**, as well as new Article 10a of the **basic Council Regulation (EU) No 204/2011 as amended**, the **asset freeze** regarding the said targeted Libyan port Authorities did not prevent the execution of contracts concluded before 7<sup>th</sup> June 2011, and that until the 15<sup>th</sup> July 2011.

This exemption did not apply to contracts relating to oil, gas and refined products.<sup>2</sup>

3.2 The **second type of exemption- derogation** is provided by Article 6(4) (a) of **Decision 2011/137/CFSP as amended**, as more precisely reflected in the implementing provisions of Article 7(2)(b) of **Council Regulation (EU) No 204/2011 as amended**. Under these provisions, an authorisation- derogation to make payment of fees and port charges to the relevant listed Libyan Port Authorities can be issued provided that these funds/resources have been determined by an EU Member State that they constitute funds /resources necessary for **extraordinary expenses**.

For such case a relevant request shall be submitted to the *Ministry of Foreign Affairs* of the Republic of Cyprus. If the *Ministry of Foreign Affairs* intends to proceed with granting an authorisation, such intention must be communicated to the other competent authorities of the 26 EU Member States and the European Commission at least two weeks before the granting of the authorisation.

<sup>2</sup> Introduced by Article 1 of amending Council Decision 2011/332/CFSP as follows: “Article 1  
In Article 6 of Decision 2011/137/CFSP, the following paragraph is added:  
‘2a The prohibition on making funds, financial assets or economic resources available to persons or entities referred to in paragraph 1(b), in so far as it applies to port authorities, shall not prevent the execution, until 15 July 2011, of contracts concluded before the date of entry into force of this Decision, with the exception of contracts relating to oil, gas and refined products.’”

3.3 The third type of exemption-derogation is introduced by the new Article 8a of **Council Regulation (EU) No 204/2011 as amended** which provides as follows:

*“By way of derogation from Article 5, the competent authorities in the Member States, as listed in Annex IV, may authorise the release of frozen funds or economic resources belonging to persons, entities or bodies listed in Annex III, or the making available of certain funds or economic resources to persons, entities or bodies listed in Annex III, under such conditions as they deem appropriate, where they consider it necessary for humanitarian purposes, such as the delivery and facilitation of delivery of humanitarian aid, the delivery of materials and supplies necessary for essential civilian needs, including food and agricultural materials for its production, medical products and the provision of electricity, or for evacuations from Libya. The Member State concerned shall inform other Member States and the Commission of authorisations made under this Article within 2 weeks of the authorisation”*

3.4 In view of the provisions of **Council Regulation (EU) No 204/2011 as amended** (see also Article 19), the authorities of the Republic of Cyprus intend to confine the examination and granting of such derogations-authorisations to the minimum necessary, for making possible the payment of the relevant fees and port charges, due:

a) by the registered owners/registered bareboat charterers of ships flying the flag of the Republic of Cyprus; or

b) by the operators of ships flying a foreign flag , when such ships are operated from the territory of the Republic of Cyprus.

3.5 Affected Owners, Charterers and Operators intending to ask for such derogations- authorisations are requested to submit, well in advance, their relevant requests in writing to the Department of Merchant Shipping (DMS) (with appropriate information and details as to the cargo carried the relevant charter party, the date of arrival at the listed Libyan ports, the exact nature and sum of the payments to be effected, the banks involved etc). The DMS shall then liaise with the Ministry of Foreign Affairs of the Republic of Cyprus. Their requests will be treated on a **“first come- first served basis”**.

4. All recipients of the present Circular are invited to take note of its content and should strictly abide by the provisions of *Council Regulation (EU) No 204/2011 as amended by Council Regulation (EU) No 572/2011, Council Decision 2011/137/CFSP as amended by Council Decision 2011/332/CFSP, UNSCRs 1970 (2011) and 1973 (2011)* and of my Circular No. 10/2011.

Your attention is also drawn to the **Advisory Note on the situation in the Libyan Arab Jamahiriya dated 28 March 2011** issued by this Administration and posted on the DMS Website ( see, click *Latest News*)

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/>.

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



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Department of Merchant Shipping

- Cc:**
- ***Permanent Secretary, Ministry of Communications and Works***
  - ***Maritime Offices of the Department of Merchant Shipping abroad***
  - Attorney General of the Republic (MOKAS)
  - Governor Central Bank of Cyprus
  - Permanent Secretary, Ministry of Foreign Affairs
  - Permanent Secretary, Ministry of Finance
  - Permanent Secretary Ministry of Justice ,and Public Order
  - Permanent Secretary Ministry of Commerce, Industry and Tourism
  - Permanent Secretary, Ministry of Defence
  - Diplomatic Missions and Honorary Consular Officers of the Republic
  - General Manager Cyprus Ports Authority
  - General Manager Cyprus Electricity Authority
  - Cyprus Shipping Association
  - Cyprus Bar Association
  - Institute of Certified Public Accountants of Cyprus

AM/EP