



# Security Council

Distr.: General  
31 July 2019

Original: English

---

## Security Council Committee established pursuant to resolution [1970 \(2011\)](#) concerning Libya

### **Note verbale dated 30 July 2019 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee**

The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1970 \(2011\)](#) and has the honour to submit to the Committee the implementation report prepared by the national authorities of the Netherlands pursuant to paragraph 12 of Security Council resolution [2441 \(2018\)](#) (see annex).

The Kingdom of the Netherlands welcomes the adoption of Implementation Assistance Notices No. 5 on 4 December 2018, on the correct application of the provisions of the resolutions regarding the payment of management fees on frozen assets, and No. 6 on 17 December 2018, on the application of the provisions of the resolutions regarding the asset freeze in relation to the payment of interest and other earnings on frozen assets.



## **Annex to the note verbale dated 30 July 2019 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee**

### **Report of the Netherlands on the implementation of Security Council resolution 2441 (2018)**

Pursuant to paragraph 12 of Security Council resolution 2441 (2018), the Permanent Mission of the Netherlands to the United Nations has the honour to inform the Security Council Committee established pursuant to resolution 1970 (2011) of the steps taken by the Government of the Netherlands to effectively implement the travel ban and asset freeze measures in relation to all individuals on the sanctions list, including those designated by the Committee on 7 June 2018, 11 September 2018 and, most recently, 16 November 2018.

The implementation of United Nations sanctions is an autonomous competence of Aruba, Curaçao, Sint Maarten and the Netherlands, although the Kingdom of the Netherlands remains accountable under international law. Only the Netherlands is a member of the European Union.

States members of the European Union implement the provisions of Security Council resolutions that fall within the scope of the competence of the European Union by means of the relevant European regulatory acts, comprising decisions, common positions and regulations of the Council of the European Union. The Netherlands and the other States members of the European Union have jointly implemented the restrictive measures against the individuals listed pursuant to Security Council resolution 1970 (2011) and those designated by the Committee on 7 June 2018, 11 September 2018 and, most recently, 16 November 2018.

The Netherlands and the other States members of the European Union have jointly implemented the restrictive measures imposed by the Security Council in its resolution 2441 (2018) in view of the situation in Libya, by taking the following common measures:<sup>1</sup>

#### **European Union measures**

(a) Council Decision (CFSP) 2018/2012 of 17 December 2018 amending Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya. The Decision sets out the commitment of the European Union to the implementation of the measures contained in resolution 2441 (2018) in the following manner:

(i) In article 6, paragraph 1, concerning the inspection by member States on the high seas of designated vessels, a reference to paragraph 2 of resolution 2441 (2018) has been included. Article 6, paragraph 1, now reads:

Member States may, in accordance with paragraphs 5 to 9 of UNSCR 2146 (2014), paragraph 2 of UNSCR 2362 (2017) and paragraph 2 of UNSCR 2441 (2018), 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 petroleum, including crude oil and refined petroleum products, with the consent of and in coordination with the Government of Libya, to Libya.

---

<sup>1</sup> All common measures are published in the *Official Journal of the European Union*.

(ii) In article 8, paragraph 1, concerning the travel ban, a reference to paragraph 11 of resolution [2441 \(2018\)](#) has been included. Article 8, paragraph 1, now reads:

Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of persons designated and subjected to travel restrictions by the Security Council or by the Committee in accordance with paragraph 22 of UNSCR [1970 \(2011\)](#), paragraph 23 of UNSCR [1973 \(2011\)](#), paragraph 4 of UNSCR [2174 \(2014\)](#), paragraph 11 of UNSCR [2213 \(2015\)](#), paragraph 11 of UNSCR [2362 \(2017\)](#) and paragraph 11 of UNSCR [2441 \(2018\)](#), as listed in Annex I.

(iii) In article 9, paragraph 1, regarding the asset freeze, a reference to paragraph 11 of resolution [2441 \(2018\)](#) has been included. Article 9, paragraph 1, now reads:

All funds, other financial assets and economic resources, owned or controlled, directly or indirectly, by persons and entities designated and subjected to an asset freeze by the Security Council or by the Committee in accordance with paragraph 22 of UNSCR [1970 \(2011\)](#), paragraphs 19 and 23 of UNSCR [1973 \(2011\)](#), paragraph 4 of UNSCR [2174 \(2014\)](#), paragraph 11 of UNSCR [2213 \(2015\)](#), paragraph 11 of UNSCR [2362 \(2017\)](#) and paragraph 11 of UNSCR [2441 \(2018\)](#), as listed in Annex III, shall be frozen.

(b) Council Regulation (EU) 2018/2004 of 17 December 2018 amending Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya, which gives effect to the measures provided in Council Decision (CFSP) 2018/2012.

### **National implementation**

The above-mentioned Council regulations are binding in their entirety and directly applicable to all States members of the European Union. When the European Union legislation was adopted, the Minister for Foreign Affairs of the Netherlands entered into negotiations with the relevant ministries and other government bodies in order to lay down the necessary national provisions in secondary legislation within the framework of the Sanctions Act 1977. The amending legislation has been drafted, agreed upon and published.

### **Financial control**

Provisions of international sanctions regimes, such as those of the United Nations and the European Union, have been incorporated into applicable national standards through the Sanctions Act 1977. The Act states that the Minister of Finance may designate one or more legal entities to monitor compliance with sanctions legislation (the Act and secondary legislation) in relation to financial transactions. In the Legal Entities Designation Order pursuant to the Act, the Minister of Finance designated the Dutch central bank and the Dutch Authority for the Financial Markets as supervisors of compliance with sanctions legislation by specific categories of financial institutions. The central bank is responsible for the supervision of credit institutions, trust offices, payment institutions, pension funds and insurers. The Authority for the Financial Markets supervises the following financial institutions: managers of undertakings for collective investment in transferable securities, managers of alternative investment funds, as referred to in sections 2:65 and 2:66a of the Financial Supervision Act, and investment firms.

The Supervision Order pursuant to the Sanctions Act 1977, prepared jointly by the Authority for the Financial Markets and the central bank, provides financial institutions with a framework for taking measures. There are two types of financial sanctions: an order to freeze assets and a ban or restrictions on providing financial services. Those sanctions are intended to prevent undesirable transactions (embargoes) and to combat terrorism. Institutions take measures to ensure that they can identify clients and associates that are legal or natural persons or entities referred to in sanctions legislation. Institutions subsequently ensure that they do not provide financial resources or services to those clients and associates and that they are able to freeze their financial assets.

In short, financial institutions are required to have proper internal controls so that they can meet their obligations under sanctions legislation. They also have an obligation to notify supervisory bodies of any frozen funds or frozen financial assistance. Failure to meet those obligations can result in a penalty under national administrative law. Infringement of those standards is also deemed to be an offence under the Economic Offences Act.

### **Asset freeze**

Currently, assets frozen in the Netherlands under regulations of the Council of the European Union that derive from the sanctions regime concerning Libya total \$50 million and €111,465. Those assets were frozen in response to the establishment of the sanctions regime in 2011. No additional assets have been frozen in response to the new listings in 2018.

As part of an annual risk analysis, financial institutions are required to report their activities in countries named under sanctions regimes. The central bank assesses the inherent sanctions risks of financial institutions. The information provided is analysed and outliers are assessed. The central bank conducts thematic reviews of compliance with sanctions legislation and takes action in response to occasional incidents (e.g. if a financial institution or other entity reports an alleged breach of sanctions legislation). The central bank communicates amendments to sanctions regimes, including the Libya sanctions regime, to financial institutions.

### **Visa control**

With regard to the restrictions on admissions (visa bans), the Netherlands implements the relevant provisions in accordance with existing national frameworks. Council Decision (CFSP) 2015/1333 of 31 July 2015 provides the basis for refusing admission and denying visa requests.

Individuals listed under Decision (CFSP) 2015/1333, as amended, have been registered in the Schengen Information System, which ensures that any Schengen visa application requested by those individuals will be denied. In the Netherlands, there are currently no reports of individuals listed under the Libya sanctions regime having violated or having attempted to violate the visa ban.

### **Coordination efforts**

As one of the designating States that proposed the listing of six individuals on 7 June 2018, the Netherlands has been instrumental in spurring action regarding sanctions implementation. To that end, on 24 January 2019, the first coordination meeting was organized in cooperation with Eurojust, with the objective of sharing information needed to locate and freeze assets of those individuals. There is added value in bringing together authorities involved in such implementation, such as public prosecutors, law enforcement officers, diplomats and United Nations experts. The Netherlands encourages all Member States, in particular those in which designated

individuals and entities are based, as well as those in which their assets frozen under the measures are suspected to be present, to take effective action to trace and freeze assets of the listed individuals.

---