

## **Direct Commercial Sales Exports to Libya**

Libya is a country subject to a United Nations Security Council (UNSC) arms Embargo as identified in §126.1(k) of the International Traffic in Arms Regulations (ITAR). It is the policy of the United States that all requests for the export of defense articles and services will be reviewed on a case by case basis with consideration be given to the following:

- (1) Arms and related materiel of all types, including technical assistance and training, intended solely for security or disarmament assistance to the Libyan authorities and notified in advance to the Committee of the Security Council concerning Libya and in the absence of a negative decision by the Committee within five working days of such a notification;
- (2) 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 in advance to the Committee of the Security Council concerning Libya and in the absence of a negative decision by the Committee within five working days of such a notification; or
- (3) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee.

License applications submitted pursuant to these exceptions must provide specific justification on how the proposed export meets the UNSC criteria. License applications to support marketing of defense articles that require prior UN notification must include a letter of request from the Libyan government attesting to the end-use consistent with (2) above. License applications without this may be returned without action. General correspondence requests and technical data licenses are not subject to prior UN notification which would only take place with the export of hardware or defense services Applicants are reminded to note the requirements in 126.1(e) of the ITAR to obtain the prior written approval of this office before *any* proposals for the sale of defense articles or services may be made to Libya. This may be satisfied by a general correspondence/letter request or DSP-5 marketing license.

License applications submitted pursuant to these exceptions are notified, after the completion of the normal review process, to the Committee of the Security Council concerning Libya, and are eligible for approval in the absence of a negative decision by the Committee within five working days of such a notification. This process can be time consuming and the exporter should plan accordingly, see the

web notice “Direct Commercial Sales, Notification to the United Nations Security Council” for additional information.

History: On February 26, 2011, the UNSC adopted Resolution 1970, paragraph 9 of which provides that UN member states shall immediately take the necessary measures to prevent the sale, supply, or transfer of arms and related materiel of all types to the Libyan Arab Jamahiriya, with certain exceptions. On March 17, 2011, the UNSC adopted Resolution 1973, paragraph 4 of which authorizes member states to take all necessary measures, notwithstanding the arms embargo established by paragraph 9 of Resolution 1970, to protect civilians and civilian populated areas under threat of attack in Libya. On May 24, 2011, the Department amended the ITAR to implement the UNSC’s actions by adding Libya to ITAR §126.1(c), which identifies countries subject to UNSC arms embargoes. See 76 FR 30001. The Department also revised the previous policy on Libya contained in ITAR §126.1(k) to announce a policy of denial for all requests for licenses or other approvals to export or otherwise transfer defense articles and services to Libya, except where not prohibited under UNSC embargo and determined to be in the interests of the national security and foreign policy of the United States. On September 16, 2011, the UNSC adopted Resolution 2009, which modified the arms embargo against Libya put in place by the adoption of resolutions 1970 and 1973. On November 4, 2011, the Department amended the ITAR to reflect the arms embargo policy of Resolution 2009, which is the policy currently in effect.