

Notice to Exporters – Libya Policy Update

On September 16, 2011, the United Nations Security Council (UNSC) adopted resolution 2009, which modifies the arms embargo against Libya put in place by the adoption in February and March of resolutions 1970 and 1973, respectively.

UNSC Resolutions 1970 and 1973

On February 26, 2011, the United Nations Security Council 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 UN Security Council 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 Security Council's actions within the ITAR by adding Libya to §126.1(c), which identifies countries subject to UN Security Council arms embargoes, and revising the previous policy on Libya contained in §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.

UNSC Resolution 2009

To the existing exceptions to the arms embargo, delineated in resolutions 1970 and 1973, resolution 2009 adds the supply, sale, or transfer to Libya of arms and related materiel, including technical assistance and training, intended solely for security or disarmament assistance to the Libyan authorities, and 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. Items for export pursuant to the exceptions must first be notified to the Committee of the Security Council concerning Libya, which has the option of disapproving the export.

U.S. Policy

The ITAR will be amended to reflect these exceptions. It continues to be the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Libya, except where it determines, upon case-by-case review, that the transaction (or activity) is not prohibited under applicable UN Security Council resolutions and that the transaction (or activity) is in furtherance of the national security and foreign policy of the United States.