

Implementation Assistance Notice # 4

(as updated on 15 December 2020)

To assist Member States in their implementation of the travel ban in relation to the Libya sanctions regime

Objective and scope of the travel ban

1. The travel ban as set out in paragraph 15 of Security Council resolution 1970 (2011), obliges Member States to:

[...] take the necessary measures to prevent the entry into or transit through their territories of individuals listed [under the travel ban measure in Annex I of resolution 1970 (2011) and Annex I of resolution 1973 (2011) or designated by the Libya Sanctions Committee] provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

2. The current list of those individuals subject to the travel ban can be found at <https://www.un.org/securitycouncil/sanctions/1970/materials>. The individuals subject to the travel ban are indicated by the phrase “Travel Ban” in parentheses in the “Other information” section of their list entry. These individuals are also included in the Consolidated United Nations Security Council Sanctions List, which is available at: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>.
3. The purpose of the travel ban is to limit the international travel of listed individuals. It is preventive in nature and not reliant upon criminal standards established under national law. Member States are encouraged to add the names of the listed individuals to their visa watch lists and national watch lists to ensure effective implementation of the travel ban. Member States are also encouraged to take other relevant measures in accordance with their international obligations and national laws and regulations, which may include, but are not limited to, cancelling visas and entry permits or refusing to issue any visa/permit for listed individuals.

Scope of Member State obligations

4. All Member States of the United Nations are required to implement the travel ban in relation to all individuals designated for a travel ban on the Libya Sanctions List maintained by the Libya Sanctions Committee. The travel ban applies wherever such listed individuals are located. The responsibility to implement the travel ban lies with the State(s) of entry and/or transit. The Government of National Accord is urged to enhance cooperation and information sharing with other states with regard to the travel ban.

5. The travel ban requires States to:
 - (i) prevent the entry into their territories of the listed individuals, and
 - (ii) prevent the transit through their territories of the listed individuals; unless one of the exceptions or exemption provisions apply (explained in below sections on *Exceptions* and *Exemptions*).
6. The obligation to prevent the entry of listed individuals into their territories **applies in all circumstances**, regardless of the method of entry, the point of entry or the nature of the travel documents used, if any, and despite any permissions or visas issued by the State in accordance with its national regulations.
7. The obligation to prevent the transit through a Member State's territory **applies to any passage** through the territory of a Member State, however brief, even if the listed individual has travel documents, permissions and/or transit visas as required by the State in accordance with its national regulations and is able to demonstrate that he/she will continue his/her journey to another State. However, the obligation to prevent transit does not require a State to prevent a listed individual from travelling purely within its territory.
8. In order to enhance the implementation of the travel ban, Member States are encouraged to submit, where available and in accordance with their national legislation, photographs and other biometric data on listed individuals for inclusion in INTERPOL-United Nations Security Council Special Notices.
9. One of the measures that could assist Member States in effective implementation is the utilisation of electronic information exchange systems (one example being the Advance Passenger Information System (APIS)), or any other documentation, such as flight manifests, which the carrier would have available at the entry or transit point and which is provided to the carrier's office in the country of final destination and to the border control agencies. This would assist the Member States in identifying listed individuals prior to travel and thus preventing their entry into the Member States' territory.

Reporting

10. Reporting by Member States under paragraph 25 of resolution 1973 (2011) also applies to the travel ban. Paragraph 25 of resolution 1973 (2011) “[u]rges all States [...] to cooperate fully with the Committee and the Panel of Experts, in particular by supplying any information at their disposal on the implementation of the measures decided in resolution 1970 [...] in particular incidents of non-compliance.”
11. Upon discovery of cases where listed individuals are present on or transiting through their territory where such individuals do not fall under the categories of exceptions or exemptions (see below), whether or not such presence or transit occurred without their knowledge or permission, Member States are urged to report such non-compliance with the travel ban.

Exceptions

12. There are two types of exceptions to the travel ban and they are described in paragraphs 15 and 16 (b) of resolution 1970 (2011):
 - (i) entry of a State's own nationals into its territory; and
 - (ii) where entry or transit is necessary for the fulfilment of a judicial process.
13. There is no obligation under the Libya travel ban for a Member State to deny entry into or require the departure from its territories of its own nationals, including those who hold dual nationality.
14. There is no obligation to arrest or prosecute listed individuals on the basis of their inclusion in the Libya Sanctions List. However, the competent national authority may allow entry or transit of listed individuals into national territory where necessary for fulfilment of a judicial process.
15. This may include, but would not be limited to, allowing a listed individual to enter or transit the territory of a Member State in relation to judicial proceedings where the listed individual's presence may be necessary for the purposes of identification, testimony or other assistance relevant to the investigation or prosecution of an offence committed by someone other than that listed individual, or in relation to civil proceedings, and extradition.

Exemptions

16. There are two types of exemptions, subject to certain conditions (see below):
 - (i) where the Committee approves travel in advance; and
 - (ii) where a State notifies the Committee within 48 hours after it has determined that entry or transit is required to advance peace and stability in the State of Libya.
17. The Committee may decide to approve travel as per (i) if it determines, on a case-by-case basis, that either of two conditions (detailed below) are met.

Exemption requests

18. Paragraph 16 (a) of resolution 1970 (2011) provides an exemption where the Committee determines on a case-by-case basis that travel is justified on the grounds of humanitarian need. Humanitarian need may include medical treatment or religious obligation.
19. Paragraph 16 (c) of resolution 1970 (2011) provides an exemption where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Libya and stability in the region.

20. In acceding to any request for exemption to the travel restrictions imposed under paragraph 15 of resolution 1970 (2011), the Committee may attach any conditions to the exemption granted that are consistent with paragraph 16(a) and/or paragraph 16(c) of resolution 1970 (2011).

Exemption notifications

21. Paragraph 16 (d) of resolution 1970 (2011) provides an exemption where a State determines on a case-by-case basis that entry or transit is required to advance peace and stability in Libya and the State subsequently notifies the Committee within forty-eight hours after making such a determination.

How to make an exemption request

22. Further information regarding the process to be adopted when requesting exemptions under paragraph 16 can be found in the Guidelines of the Libya Sanctions Committee.¹
23. **All requests** for exemptions should be made in writing to the Committee Chairman through the Permanent Mission of the state in which the listed individual is a national or resident, or through the relevant UN office, **at least five working days** (except in cases of emergency) **prior to the date of the proposed travel.**

Humanitarian Exemptions

24. Requests for exemptions under paragraph 16 (a) on grounds of humanitarian need, should include the following information about the person(s) travelling:
- (i) full name;
 - (ii) designation;
 - (iii) nationality;
 - (iv) passport number;
 - (v) the purpose(s) of the proposed travel;
 - (vi) date and time of treatment (for requests for medical reasons only);
 - (vii) copies of supporting documents furnishing details connected to the request, such as specific dates and times of meetings or appointments;
 - (viii) the proposed dates and times of departure from and return to the country from which the travel commenced;
 - (ix) the complete itinerary for such travel including the ports of departure and return and all transit points; and

¹ Available at https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/provisional_guidelines.pdf

- (x) details of the mode of transport to be used, including where applicable, record locator, flight numbers and names of vessels.

25. Additionally, in cases of emergency medical evacuation, the request should include the following information:

- (i) a doctor's note explaining the nature of the emergency treatment;
- (ii) details of the facility where the person was treated; and
- (iii) the date, time and mode of travel by which the person returned, or is expected to return, to his or her country of residence.

Other exemptions

26. Requests for exemptions for the objectives of peace and national reconciliation in Libya and stability in the region under paragraph 16 (c) should include the following information:

- (i) full name;
- (ii) designation;
- (iii) nationality;
- (iv) passport number;
- (v) the purpose(s) of the proposed travel;
- (vi) copies of supporting documents furnishing details connected to the request such as specific dates and times of meetings or appointments;
- (vii) the proposed dates and times of departure from and return to the country from which the travel commenced;
- (viii) the complete itinerary for such travel including the ports of departure and return and all transit points; and
- (ix) details of the mode of transport to be used, including where applicable, record locator, flight numbers and names of vessels.

Procedure to be adopted after return of the person

27. Upon return of the listed individual(s) travelling under an exemption, the State in whose territory they reside, or the relevant UN office, should provide the Committee with documents confirming the itinerary and date on which they returned to the country of residence.

Applying for extensions to agreed exemptions

28. Any request for an extension to an agreed exemption must be made to the Chairman of the Committee **in writing, at least 5 days prior to the expiry date** of the agreed exemption, explaining the reason, and including:
- (i) the complete revised itinerary, including the ports of departure and return and all transit points; and
 - (ii) details of the mode of transport to be used, including where applicable, record locator, flight numbers and names of vessels.

Applying for changes to requested or approved exemptions

29. Any changes to the travel information previously submitted to the Committee, particularly the points of transit, require the **prior approval** of the Committee. Approval must be requested in writing **no less than 5 working days prior to the commencement of the travel**, except in cases of emergency, as determined by the Chair of the Committee.
30. In the event of advancement or postponement of travel for which the Committee has already issued an exemption, the Chair of the Committee must be informed immediately. Written notification to the Chair will be sufficient in cases where the time of departure is advanced or postponed no more than 48 hours and the **previously submitted itinerary remains otherwise unchanged**.
31. If travel is to be advanced or postponed **more than 48 hours** before or after the date previously approved by the Committee, then **a new exemption request must be submitted**, and the procedures outlined in paragraphs 20 - 24 above repeated.

Procedure to be adopted by the Chair after approval of an exemption request

32. After the Committee has approved a request for exemption to the travel ban, the Chair will write to the Permanent Mission to the United Nations of the State of which the listed individual is a national or resident or to the relevant UN office, informing them of the approval. Copies of the approval letter will also be sent to the Permanent Missions to the United Nations of all State(s) to which the listed individual will be traveling and transiting in the course of the approved exemption.
33. All requests for exemption and extensions thereto, which have been approved by the Committee pursuant to paragraph 16(a) or paragraph 16(c) of resolution 1970 (2011), shall be posted on the Committee's webpage until confirmation of the return to the country of residence of the listed individual is received by the Committee.

Procedure where non-compliance with the travel ban is identified in the country of transit or entry

34. All Member States are encouraged to maintain a record of individuals subject to the travel ban at all entry points – land, sea or air. In normal circumstances, Member States shall take the necessary measures to prevent entry into or transit through their territories of listed individuals.
35. Member States are encouraged to immediately inform the Committee and the Panel of Experts should a non-compliance be identified in their territory. They may seek guidance from the Committee on the next steps. To allow the Committee to examine and take appropriate action on information regarding alleged violations or non-compliance with the travel ban, Member States should share all relevant information. Should guidance on what kind of information may be useful for the Committee be required, Member States are encouraged to refer to paragraph 9 d) i-v of the Committee's guidelines for examples.
36. In order to avoid a situation where the listed individual overstays, Member States may wish to evolve procedures for maintaining effective oversight to avoid situations of non-compliance with the travel ban.
37. After hearing of a non-compliance with the travel ban, the Committee and/or its Panel of Experts may write to all Member States involved in the incident to request additional information. The Panel may also request a visit to interview the concerned individual which Member States are urged to accede to.

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