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Government Permits Libya to Buy Defense Goods From Foreign Subsidiary of U.S. Defense Firm

The Libyan government has selected General Dynamics U.K. (“GDUK”), the British arm of the U.S.-based defense firm, to supply a tactical communications system for the Elite Brigade of Libya’s armed forces. This announcement comes on the heels of Britain and Libya signing a defense cooperation and defense industrial partnership accord that will facilitate British defense companies to conduct future business in Libya.

This is a significant development for U.S. defense and aerospace companies for at least two reasons. First, despite the fact the U.S. Department of State removed Libya from the list of designated state sponsors of terrorism, the arms embargo enforced by the Department of State is still in place. Libya remains a significant overseas market for defense and aerospace products and services that is completely unavailable to U.S. businesses except through their foreign subsidiaries. Also, the U.S. Government is effectively putting U.S. businesses at a competitive disadvantage in the global market place because of the export control laws and regulations currently in place.

Second, GDUK claimed it was able to avoid a U.S. ban to the transaction for its tactical communication system because the system is said to be completely free of U.S. technology and therefore not subject to the U.S. export licensing restrictions of the *International Traffic in Arms Regulations*. The impact to U.S. business is critical as U.S. companies are completely shut out from this market, not only on the exportation side but also on the product development side because GDUK cannot incorporate any U.S. technology into its product in order to be able to continue to deal with Libya. Until the State Department announces that it will lift the arms embargo against Libya, U.S. business are prohibited from exporting any military items, including services and technology, to Libya.

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