



Freezing Libyan Assets: It's Complicated

Edwin M. Truman explains the impact of the freeze on Libya's assets and suggests that other sovereign wealth funds in the region might take umbrage.

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Steve Weisman: In response to the turmoil in Libya, the Obama administration's Treasury Department has frozen about \$30 billion worth of Libyan assets. Ted Truman, senior fellow at the Peterson Institution for International Economics is here with me, Steve Weisman, to explain what that means, what powers were invoked, and what the implications are for foreign investments by oil producing countries. Ted, thanks for joining me.

Ted Truman: My pleasure.

Steve Weisman: Thirty billion dollars worth of Libyan assets in the United States -- do we know where they are? And what the composition of those assets is?

Ted Truman: We don't know where they are. We can guess. They are some combination of Central Bank of Libya's reserves, which probably mostly were in the Federal Reserve Bank in New York; the holdings of the sovereign wealth fund of Libya, the Libya Investment Authority [LIA]; and the assets of Gaddafi and his family and other people mentioned in the U.N. resolution -- the personal assets, which might include real estate.

Steve Weisman: What does it mean to freeze the assets?

Ted Truman: Freezing the assets means that the previous owners can't get access to them, can't spend them and do not get the income from those assets.

Steve Weisman: What happens to the income?

Ted Truman: It presumably accumulates (depending on what the asset is) in the account. If you had a bank account, it would just accumulate in the bank account. If you had a Treasury security that matured, it would just stay there in the Federal Reserve Bank of New York. If you had a share of General Motors, the Treasury would I think normally issue regulations which would tell General Motors to pay any dividends. Maybe not a good example at this point in time -- I don't think they are paying any dividends! But to pay any dividends into an escrow account and not pay them over to the ultimate holder.

Steve Weisman: What portion of Libyan assets would you suppose this represents? Europe has also taken similar steps.

Ted Truman: I think if I were to put my finger up in the air, I would say Libya supposedly has \$110 billion of foreign exchange reserves. The sovereign wealth fund would be on the order of \$70 billion, which gets you to \$180 billion maybe. If the other individuals have another \$20 billion, I would a ball park number would [be] \$200 billion, which is maybe 10 or 15 percent of the total.

Steve Weisman: Where is everything else? How much of it is in Europe?

Ted Truman: We know a lot of it is in Europe, particularly in Italy. There were some issues in the European context about whether the Europeans would follow our example to the extent of what was done. The U.N. resolution called only for the freezing of assets of individuals -- Gaddafi and his family and cohorts. Twelve people, if I remember correctly. The Europeans and the Americans and maybe some others, and I assume the Swiss and some other countries, have gone further and frozen the assets of the government as well. In the US case this was all done just before the U.N. resolution, by the President invoking his powers under the International Emergency Economic Powers Act. You have to draw large conclusions about the consequences of letting these assets go for the economic and financial security of the United States. It is a pretty powerful, legal instrument. We use it quite often these days. Not every day, but probably more than once a year, for one reason or another. And it gives the President quite sweeping powers, but those powers are basically only to freeze the assets. It doesn't say that we can go to the next step, which is confiscation of the assets.

Steve Weisman: Is this going to be effective? Do you think enough countries will cooperate that this will be effective against the Gaddafi family?

Ted Truman: I don't think it will be effective in terms in either type. The family, the cohorts, the assets or the government, are going to be particularly effective in immediately starving either the family or the government. My assumption is that the people who are doing this are trying to tip the balance and get more people to change sides in Libya so that they don't fall under the same category, and have their assets frozen. It is the writing on the wall in terms the unanimity of the international community about what Libya is going to be. Libya even continuing under Gaddafi will become a pariah state, as it was in many respects until twenty or ten years ago.

Steve Weisman: More like five, I think.

Ted Truman: It was a gradual warming or thawing of the freeze. It is going back to the status quo immediately after the Pan Am 106 event in 1988 if I remember correctly. I think it is more symbolic in the short run. It does protect the assets in two respects. The official assets means that they can't be spent, which means that a new government will have them to use. They will become the assets of the new government rather than squirreled away somehow by Gaddafi and his cohorts. And in terms of the personal assets, the individuals involved, it means that those too are available to be turned back to Libya. The U.N resolution actually prescribes that as these assets are to be held, frozen, and returned to the benefit of the Libyan people. Presumably when things are stabilized.

Steve Weisman: Let's talk about the sovereign wealth fund, a subject you have studied and know more about than just about anybody. Is this the first case of a sovereign wealth fund having its assets frozen because of a political development?

Ted Truman: As far as I know, it is. Given that sovereign wealth funds have been around for a long time, it is probably a little hard to be precise about that. I can't think off the top of my head that another country has had a sovereign wealth fund treated in this way. And it is a complication, in some sense. It is one thing to freeze someone's bank account or even entities like a government's bank account or their holdings of Treasury securities in the international reserves. It is another thing to freeze their holdings of real estate, shares in Italian banks and so forth. You actually have to have a subsequent apparatus to implement that freeze. Because

you have to stop the presses so that dividends don't get paid. You can track attempts to dispose of the assets. It may well be, for example, I noticed that the Financial Times -- the Libyan authorities own a piece of the company (Pearson_ that owns the Financial Times -- put out a press release saying, "We are a little embarrassed that we have this investor." But actually they can't do anything about it now because they are stuck with the investor at this point. Even if they would like to encourage the investor to sell to someone else.

Steve Weisman: If Pearson wanted to disinvite Libya as an investor this freeze, that would be impossible at least for now?

Ted Truman: Yes. They are stuck with their [investment]. They are in limbo. One could imagine a circumstance, and I suspect that there are some, where Libya might be the sole owner or the principal majority owner of a piece of real estate. I can imagine all kinds of things. And essentially that piece of real estate or that company can't do anything. You can continue business as usual but if they were in the process of trying to raise more capital, or sell off a piece of their company...

Steve Weisman: Or acquire...

Ted Truman: Or acquire something else, it will be pretty clear that no one will want to do business with that company as a majority owned by Libyan authorities, or these individuals for that matter, while they are subject to this freeze. It does have consequences for the functioning of the national financial system, and if we think that my guess of \$200 billion is not a bad number. It is not a pittance. We are not talking about \$2 billion. It is potentially consequential and in some respects I suspect you will find at least international case law, if not international law, more generally will be written against the background of this operation. It almost won't matter how it turns out for Libya and for the world. Just as things like the Iranian asset freeze in 1979 did change some important features of how the international financial system operated in that particular case. Actually, the United States lost a case in the British courts about how far we can extend our freeze.

Steve Weisman: The debate over sovereign wealth funds, which you analyzed and contributed to, focused on the dangers of political motivation for the funds in their investments. But here is a case of a political motivation of freezing the investment of a fund. Did that enter into the discussions of drafting the rules of the road for sovereign wealth funds?

Ted Truman: Certainly not to my knowledge. You basically had two pieces there. One, you had the Santiago principles which applied to the activities of the sovereign wealth funds themselves. And the other side of it was the consideration of the investment rules, guidelines, codes of the OECD countries, the 30 or so major industrial countries, which apply certain procedures to a full range of investments in their countries. They basically decided we are not going to change anything. Those rules and regulations don't apply generally to this kind of circumstances in particular. They all have huge national security carve-outs [for barring investments in those countries].

Steve Weisman: But this is not a national security carve-out the recipient of the investment.

Ted Truman: But in a way it is, at least as it falls under that kind of exemption. There is a U.N. convention on corruption and that applies a principle to the treatment of the assets of the individuals.

Steve Weisman: But on the issue of motivation, there are other autocratic oil producing regimes in the Gulf and the Middle East that have sovereign wealth funds. Is this action against the Libyan sovereign wealth fund going to cause other countries concern? Will they take umbrage fearing that the United States might punish them in the same way?

Ted Truman: I would think the answer almost has to be yes. And not just the United States by the way. I think you have at least the broad NATO, maybe some exceptions, doing this. And if you were running the sovereign wealth fund of Bahrain and the various sovereign wealth funds in the UAE, Oman and Saudi Arabia. you would think that at a minimum you would want your lawyers to rethink what one should do in terms of one's investments. So it might have some implications for the investment activities for the funds. And it probably would drive them on the margin to invest less in the NATO countries. And elsewhere countries or a group of countries that would be less likely to go along with either a U.N. resolution or actions like this -- it would be, on the margin, somewhat discouraging to some countries' sovereign wealth funds' investments in the United States. The magnitude might not be that large presumably once this all blows over. As it is resolved one would suspect that there are not a lot of other cases, although there certainly could be.

Steve Weisman: Ted, thanks.

Ted Truman: You are welcome.

