

## EU AND UK SANCTIONS UPDATE: APRIL 2017

Date: 20 April 2017

### Antitrust, Competition & Trade Regulation Alert

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There have been a number of key developments in the European Union ("EU") and United Kingdom ("UK") sanctions regimes in relation to North Korea, Russia, Syria and other jurisdictions since our last update.

### NORTH KOREA

The EU implemented the United Nations' ("UN") most recent sanctions listings relating to North Korea. This has added 11 people and 10 entities to the list of persons subject to an asset freeze and travel ban.[1]

The EU has de-listed five vessels operated by Ocean Maritime Management Company from its sanctions on North Korea.[2]

The EU has implemented similar sanctions on North Korea to those imposed by the UN Security Council imposed in November 2016 in response to North Korea's nuclear test on 9 September 2016. These new sanctions include a cap on imports of coal from North Korea, a ban on imports of statues and several metals from North Korea, and a ban on exporting new helicopters and vessels to North Korea. The EU has also tightened existing restrictions on North Korea, including by limiting North Korean diplomats to only one bank account in the EU, and requiring Member States to take further measures to prevent specialised nuclear or missile-related teaching being provided to North Koreans and to suspend scientific and technical cooperation involving persons or groups officially sponsored by, or representing, North Korea (except for medical exchanges).[3]

The EU decided to further expand its existing nuclear-proliferation sanctions, to now include prohibitions in new sectors such as conventional arms, metallurgy and metalworking, and aerospace. There is also a prohibition on the provision of computer services and services linked to mining and manufacturing in the chemical, mining, and refining industry to people and entities in North Korea.[4]

### RUSSIA

The EU agreed to renew its sectorial sanctions on Russia, which were due to expire on 31 January 2017, for six months until 31 July 2017. These sectorial sanctions targeted Russia's financial, energy, and defence sectors and restricted trade in dual-use goods and Russian banks' access to EU capital markets.[5]

The EU published a notice addressed to 50 people and seven entities listed on its targeted Russia sanctions, stating that it intended to maintain their sanctions listings with new statements of reasons. The EU subsequently decided to renew its asset freezing measures and travel bans on people and entities said to be involved in undermining Ukraine's territorial integrity for a further 6 months, until 15 September 2017.[6]

On 28 March 2017 the Court of Justice of the European Union ("CJEU") answered questions on the interpretation of some of the EU's sanctions on Russia imposed in July 2014 referred to it by the High Court of England and Wales. The questions were referred to the CJEU in the course of a judicial review. The CJEU judgement held that:

- The measures were not incompatible with the EU-Russia Partnership agreement;
- The measures gave sufficient reasons and did not breach the principle of equal treatment or misuse the EU's powers, nor did they amount to a disproportionate interference with any fundamental rights; and
- The vagueness of some of the measures did not make them invalid for lack of certainty or prevent Member States from imposing criminal penalties for breach.

The sanctions in question concerned the imposing of restrictions on some financial transactions and on the access of some Russian entities to EU capital markets, and on the export of some goods and technology and services required for oil transactions.

Member State foreign ministers have reaffirmed their commitment to continuing sanctions against Russia until it complies with its obligations under the Minsk peace agreements. Federica Mogherini, the EU's High Representative, stated on 7 February 2017 that she "can say where the Europeans stand on this". Setting out the UK's position, UK Foreign Secretary Boris Johnson stated that "The UK will be insisting that there is no case for the relaxation of the sanctions, every case for keeping up the pressure on Russia".

## SYRIA

On 7 December 2016, the EU amended its sanctions on Syria to allow for the otherwise prohibited purchase or transportation of oil and petroleum products in Syria, where the sole purpose is to provide humanitarian relief or assistance to the Syrian population. This amendment also included the necessary derogations from the existing travel ban and asset freeze. The derogation is available to entities who receive public funding for providing aid to Syria, or any other entity approved by a Member State.[7]

Federica Mogherini, the EU's High Representative, stated on 13 December 2016 that the EU intends to impose further restrictive measures targeting Syrian individuals and entities "supporting the regime" for as long as it continues to repress civilians and violate human rights.

The EU also decided to impose sanctions in the form of an asset freeze and travel ban on four high-ranking Syrian military officials, who allegedly were involved in the use of chemical weapons against the civilian population in Syria.[8]

It is likely the EU will further sanctions on Syria, especially after the international condemnation of the apparent chemical weapon attacks of 4 April 2017 in which scores of civilians, including children and relief workers, died.

## IRAQ

The EU has de-listed several persons and entities from its sanctions on Iraq.[9]

The EU de-listed National Chemical and Plastic Company from its sanctions on Iraq on 13 March 2017.[10] The UK subsequently announced the de-listing of National Chemical and Plastic Company from its sanctions on Iraq on 15 March 2017 meaning that an asset freeze no longer applies to this entity.

## **IRAN**

The EU confirmed on 20 January 2017 that thirteen entities have been removed from their sanctions lists for Iran.[11]

In response to the substantial lifting of EU sanctions on Iran under the Joint Comprehensive Plan of Action ("JCPOA") nuclear deal signed in 2015, the UK's Export Control Organisation (ECO) provided notice on 22 March 2017 that it has withdrawn its Iran List.

On 11 April 2017, the EU extended until 13 April 2018 its restrictive measures, consisting of a travel ban and an asset freeze against 82 people and one entity, and a ban on exports to Iran of equipment which might be used for internal repression and of equipment for monitoring telecommunications, in response to serious human rights violations in Iran.[12]

## **DEMOCRATIC REPUBLIC OF CONGO**

On 13 December 2016, the EU added seven people to its sanctions against the Democratic Republic of the Congo, all of whom were said to hold high positions of authority in DRC security forces.[13]

On 9 February 2017, the EU updated the identifying information for 21 people and one entity listed on its sanctions on the Democratic Republic of Congo in line with recent UN changes.[14]

The EU informed the Democratic Republic of Congo, on 7 March 2017, that it is ready to impose new targeted sanctions in response to the serious human rights violations that have recently occurred in the country, the refusal of President Joseph Kabila to stand down at the end of his term, and the general blockage of the December 2016 political agreement.

## **TERRORIST ORGANISATIONS (INCLUDING IS AND AL-QAIDA)**

The EU, on several occasions, made changes (additions and removals) to the list of persons, groups and entities to whom the freezing of funds and economic resources should apply in relation to specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations.[15]

The EU also updated its autonomous counter-terrorism sanctions regime. This regime targets people and groups said to be involved in terrorism around the world, including Hamas, Hizballah, and FARC and is separate to the regime targeting ISIL & Al-Qaida.[16]

## **OTHER EU SANCTIONS**

### **Afghanistan**

On 7 March 2017 the EU removed one person from the list of individuals, groups, undertakings and entities subject to restrictive measures as a result of the situation in Afghanistan, as well as updated the information relating to the remaining persons and entities subject to restrictive measures.[17]

## **Belarus**

On 27 February 2017 the EU renewed its remaining sanctions against Belarus for one year, until 28 February 2018. The sanctions include an arms embargo, a travel ban and asset freeze on 4 people listed in connection with the disappearances of two opposition politicians, one businessman, and one journalist in 1999/2000.[18]

## **Bosnia & Herzegovina**

The EU decided to extend its sanctions on Bosnia & Herzegovina for one year, until 31 March 2018. The sanctions are an asset freeze and travel ban, targeting people and entities, and those associated with them, considered to be undermining the sovereignty or territorial integrity of Bosnia, seriously threatening its security situation, or undermining the Dayton/Paris peace agreement.[19]

## **Central African Republic**

On the 7 March 2017 the EU updated the designation criteria for the asset freeze provided for by Decision 2013/798/CFSP.[20]

## **Egypt**

The EU updated its sanctions listings regarding Egypt, including the deletion of persons and entities as well as amending statements of reasons for listings. Restrictive measures were also renewed until 22 March 2018.[21]

## **Estonia**

On 19 December 2016, the Estonian Parliament introduced sanctions on foreign nationals determined to be guilty of human rights abuses. These sanctions would result in anyone found to have taken part in human rights abuses that resulted in the "death or serious damage to the health of a person" or their "unfounded conviction...for criminal offence on political motives" being prevented from entering Estonia.

## **Guinea Bissau**

On 7 March 2017 the EU has amended the details of 11 individuals subject to restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau on 7 March 2017.[22]

## **Libya**

The EU updated its sanctions listings against Libya, following changes made by the UN.[23]

The EU has also renewed its sanctions on people deemed to be obstructing implementation of the Libyan Political Agreement and the formation of a Government of National Accord in Libya, currently listing three people.[24]

## **Somalia**

On 7 March 2017 the EU has amended the details of 12 individuals and one entity subject to restrictive measures in relation to the EU's sanctions on Somalia.[25] The UK subsequently announced amendments to the identifying information for 9 individuals and one entity listed in its sanctions on Somalia.

## **South Sudan**

The Council stated on 13 December 2016 that it is ready to impose further autonomous restrictive measures on "any individual who obstructs the peace process, impedes UNMINSS in the performance of its mandate, prevents actors from exercising their humanitarian duties, incites ethnic hatred, or commits atrocities against civilians".

On 7 March 2017 the EU has added four individuals to its list in relation to its sanctions on South Sudan.[26]

## **Sudan**

The EU has amended the details of four individuals named in relation to its sanctions on Sudan.[27]

## **Tunisia**

The EU renewed its asset freezing measures on people "responsible for the misappropriation of Tunisian state funds" on 27 January 2017 for a year, until 31 January 2018. There are currently 48 people listed on these sanctions, which were first introduced on 31 January 2011.[28]

## **Ukraine**

The EU renewed its asset freezes relating to people identified as being responsible for misappropriating Ukrainian state funds for one year, following its annual review.[29]

## **Yemen**

Following changes made by the UN, the EU updated its own sanctions against Yemen, adding four people to its listings.[30]

## **Zimbabwe**

On 17 February 2017, the EU renewed its listings of the seven people and one entity targeted by its Zimbabwe sanctions for a further year, until 20 February 2018. The sanctions are currently suspended in respect of all listed people and entities except for Robert Mugabe, Grace Mugabe, and Zimbabwe Defence Industries.[31] The EU also introduced an exception to its arms embargo on Zimbabwe, allowing for the export of certain explosive substances where they are solely for use in Zimbabwe's civilian mining and infrastructure projects.[32]

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On 28 March 2017 the UK foreign secretary, Boris Johnson, stated during a Parliamentary debate on Ukraine that the UK government would publish a White Paper which would propose the introduction of a Bill detailing how the UK will continue to cooperate with the EU on sanctions matters following Brexit. Mr Johnson also reiterated the UK's commitment to Russian sanctions in relation to their actions in Ukraine.

## NOTES

[1] Implementing Regulation 2016/2215 of 8 December 2016 amending Council Regulation 329/2007 and Council Decision 2016/2217 of 8 December 2016 amending Council Decision 2016/849.

[2] Implementing Regulation 2017/80 of 16 January 2017 amending Council Regulation 329/2007 and Council Decision 2017/82 of 16 January 2017 amending Council Decision 2016/849.

[3] Implementing Council Regulation 2017/330 of 27 February 2017 amending Council Regulation 329/2007 and Council Decision 2017/345 of 27 February 2017 amending Council Decision 2016/849.

[4] Council Regulation (EU) 2017/658 of 6 April 2017 amending Regulation (EC) No 329/2007, Council Decision (CFSP) 2017/666 of 6 April 2017 amending Decision (CFSP) 2016/849 and Council Decision (CFSP) 2017/667 of 6 April 2017 amending Decision (CFSP) 2016/849.

[5] Implementing Decision (CFSP) 2016/2315 of 19 December 2016 amending Decision 2014/512/CFSP.

[6] Implementing Regulation 2017/437 of 13 March 2017 implementing Regulation 269/2014 and Decision 2017/445 of 13 March 2017 amending Decision 2014/145/CFSP.

[7] Council Regulation 2016/2137 of 6 December 2016 amending Council Regulation 36/2012 and Council Decision 2016/2144 of 6 December 2016 amending Council Decision 2013/255/CFSP.

[8] Implementing Regulation (EU) 2017/480 of 20 March 2017 implementing Regulation 36/2012 and Implementing Decision 2017/485 of 20 March 2017 implementing Decision 2013/255/CFSP.

[9] Commission Implementing Regulation (EU) 2016/2363 of 21 December 2016 amending Council Regulation (EC) No 1210/2003; Commission Implementing Regulation (EU) 2017/44 of 10 January 2017 amending Council Regulation (EC) 1210/2003; Commission Implementing Regulation (EU) 2017/184 of 1 February 2017 amending Council Regulation (EC) No 1210/2003.

[10] Commission Implementing Regulation (EU) 2017/441 of 13 March 2017 amending Council Regulation (EC) No 1210/2003.

[11] Regulation (EU) 2017/77 of 16 January 2017 implementing Regulation 267/2012 and Decision 2017/83 of 16 January 2017 amending Decision 2010/413/CFSP.

[12] Implementing Regulation 2017/685 of 11 April 2017 implementing Regulation (EU) No 359/2011 and Council Decision (CFSP) 2017/689 of 11 April 2017 amending Decision 2011/235/CFSP.

[13] Regulation 2016/2230 of 12 December 2016 amending Regulation 1183/2005 and Decision 2016/2231 of 12 December 2016 amending Decision 2010/788/CFSP.

[14] Implementing Regulation 2017/199 of 6 February 2017 implementing Regulation 1183/2005 and Implementing Decision 2017/203 of 6 February 2017 implementing Decision 2010/788/CFSP.

[15] Commission Implementing Regulation (EU) 2016/2262 of 15 December 2016 amending for the 257th time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/142 of 26 January 2017 amending for the 258th time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/221 of 8 February 2017 amending for the 259th time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/296 of 20 February 2017 amending for the 260th time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/326 of 24 February 2017 amending for the 261st time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/494 of 21 March 2017 amending for the 262nd time Council Regulation (EC) No 881/2002; Commission Implementing Regulation (EU) 2017/630 of 3 April 2017 amending for the 264th time Council Regulation (EC) No 881/2002 and Commission Implementing Regulation (EU) 2017/637 of 4 April 2017 amending for the 265th time Council Regulation (EC) No 881/2002.

[16] Implementing Regulation (EU) 2016/2373 of 22 December 2016 Implementing Article 2(3) of Regulation (EC) No Regulation 2580/2001 and amending Regulation 2016/1127; Implementing Regulation (EU) 2017/150 of 27 January 2017 implementing Regulation 2580/2001 and repealing Implementing Regulation (EU) 2016/1127 and Decision 2017/154 of 27 January 2017 updating Common Position 2001/931/CFSP and repealing Decision (CFSP) 2016/1136.

[17] Council Implementing Regulation (EU) 2017/404 of 7 March 2017 implementing Article 11(4) of Regulation (EU) No 753/2011 and Council Implementing Decision (CFSP) 2017/416 of 7 March 2017 implementing Decision 2011/486/CFSP.

[18] Council Regulation 2017/331 of 27 February 2017 amending Council Regulation 765/2006 and Council Decision 2017/350 of 27 February 2017 amending Council Decision 2012/642/CFSP.

[19] Council Decision 2017/607 of 29 March 2017 amending Council Decision 2011/173/CFSP.

[20] Council Regulation (EU) 2017/400 of 7 March 2017 amending Regulation (EU) No 224/2014 and Council Decision (CFSP) 2017/412 of 7 March 2017 amending Decision 2013/798/CFSP.

[21] Council Implementing Regulation (EU) 2017/490 of 21 March 2017 implementing Regulation (EU) No 270/2011, Council Decision (CFSP) 2017/496 of 21 March 2017 amending Decision 2011/172/CFSP, Council Implementing Regulation (EU) 2017/491 of 21 March 2017 implementing Regulation (EU) No 270/2011 and Council Implementing Decision (CFSP) 2017/498 of 21 March 2017 implementing Decision 2011/172/CFSP.

[22] Council Implementing Regulation (EU) 2017/403 of 7 March 2017 implementing Article 11(1) of Regulation (EU) No 377/2012 and Council Implementing Decision (CFSP) 2017/415 of 7 March 2017 implementing Decision 2012/285/CFSP.

[23] Council Implementing Regulation (EU) 2017/489 of 21 March 2017 implementing Article 21(5) of Regulation (EU) 2016/44 and Council Implementing Decision (CFSP) 2017/497 of 21 March 2017 implementing Decision (CFSP) 2015/1333.

[24] Council Decision (CFSP) 2017/621 of 31 March 2017 amending Decision (CFSP) 2015/1333.

[25] Council Implementing Regulation (EU) 2017/395 of 7 March 2017 implementing Article 13 of Regulation (EU) No 356/2010 and Council Implementing Decision (CFSP) 2017/398 of 7 March 2017 implementing Decision 2010/231/CFSP.

[26] Council Implementing Regulation (EU) 2017/402 of 7 March 2017 implementing Article 20(3) of Regulation (EU) 2015/735 and Council Implementing Decision (CFSP) 2017/414 of 7 March 2017 implementing Decision (CFSP) 2015/740.

[27] Council Implementing Regulation (EU) 2017/401 of 7 March 2017 implementing Article 15(3) of Regulation (EU) No 747/2014 and Council Implementing Decision (CFSP) 2017/413 of 7 March 2017 implementing Decision 2014/450/CFSP.

[28] Implementing Regulation 2017/149 of 27 January 2017 implementing Regulation 101/2011 and Decision 2017/153 of 27 January 2017 amending Decision 2011/72/CFSP.

[29] Implementing Regulation 2017/374 of 3 March 2017 implementing Regulation 208/2014 and Decision 2017/381 of 3 March 2017 amending Decision 2014/119/CFSP.

[30] Council Implementing Regulation (EU) 2017/628 of 3 April 2017 implementing Article 15(3) of Regulation (EU) No 1352/2014 and Council Implementing Decision (CFSP) 2017/634 of 3 April 2017 implementing Decision 2014/932/CFSP.

[31] Council Decision 2017/288 of 17 February 2017 amending Council Decision 2011/101/CFSP.

[32] Council Regulation 2017/284 of 17 February 2017 amending Council Regulation 314/2004 and Council Decision 2017/288 of 17 February 2017 amending Council Decision 2011/101/CFSP.

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