

EU AND UK SANCTIONS AND EXPORT CONTROLS UPDATE – AUTUMN 2017

Date: 6 October 2017

EU and UK Policy and Regulatory Alert

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There have been a number of key developments in the European Union ("EU") and United Kingdom ("UK") sanctions regimes over the summer of 2017. Alongside the inevitable updates to the UK's sanctions policy in light of Brexit, the EU has also revised many of the sanctions it imposes on individuals, entities and governments in countries such as North Korea, Russia, Syria and the Central Democratic Republic of Congo. Below is a summary of both the general changes and changes specific to key jurisdictions.

SANCTIONS AND BREXIT

On 21 April, the UK published a white paper seeking views on the legal powers the UK Government will need upon the UK's withdrawal from the EU in order to be able to continue imposing and implementing sanctions. After a review of the comments submitted during the consultation period, on 2 August the UK Government published its plans for a new Sanctions Bill. If adopted, the new Bill will allow the UK to impose substantial sanctions on another country or individual, without having to implement new legislation as part of the EU policy. The Sanctions Bill also foresees granting new powers to the UK Government to further prevent terrorist organisations from obtaining funds, by ensuring that the process of imposing asset freeze orders is quicker and easier. It will also grant greater powers to the Office of Financial Sanctions Implementation ("OFSI") to issue licences, such as delivering humanitarian aid.

However, the Bill acknowledges that the UK is still obliged to implement UN sanctions under international law. Moreover, it will require that autonomous sanctions are reviewed once a year and each and that every individual listing is reviewed at least once every three years, whilst individuals and entities subject to sanctions will have the ability to challenge them.

Yet, there are still uncertainties underlying this new UK sanctions regime. The UK Government has not carried out consultations on whom or where the sanctions should target or how the UK plans on coordinating its action with that of the EU. Without an efficient mechanism to enable the UK to harmonise its regime with the EU's, there could be divergence in the implementation of sanctions and the issuance of export licences.

To overcome this lack of clarity, the UK continues to carry out consultations and develop its post-Brexit sanctions policy, with the House of Lords EU External Affairs Sub-Committee having recently taken evidence from the UK Government on its proposed post-Brexit sanctions policy.

FURTHER UK UPDATES

Office of Financial Sanctions Implementation

Since 3 April, the Office of Financial Sanctions Implementation ("OFSI") has had the power to impose penalties for serious breaches of UK financial sanctions that occur on or after 1 April 2017. What is deemed to be a serious breach will be fact-specific, but OFSI will look at a various factors including the value and frequency of the breaches, harm or risk of harm caused by the breaches and whether the offending party has self-reported. Although no penalties have yet been issued, the risks for non-compliance with UK sanctions are now much greater.

Until August, OFSI required only financial institutions to report sanctions breaches. However, as of 8 August 2017, in accordance with EU Regulations (Regulation 2017 No. 754), the UK broadened the types of organisations that are required to inform OFSI about sanctions breaches, which now include law firms and legal professionals, auditors and accountants, tax advisors, dealers in precious metals or stones and even casinos. Under the new reporting requirements, these organisations must notify OFSI if they have reasonable cause to suspect that an individual or entity has committed a sanctions offence or is subject to an asset freeze. A failure to report such a suspicion is a criminal offence.

Furthermore, OFSI is currently conducting its annual review of frozen assets. Any entity or individual that controls or is holding the funds of a sanctioned entity or individual must report details of those assets by 13 October 2017.

OFSI has also recently published a quick guide on financial sanctions. The guidance summarises what financial sanctions are, their purpose, how to comply with them and what other guidance is available.

Export Controls

On 7 July 2017, the UK Department of International Trade issued a notice to exporters stating that the Export Control Organisation ("ECO") had amended Schedule 2 of the Export Control Order 2008. The amendments follow changes made to the EU Common Military List and thereby apply to lists regarding military goods, software and technology, subject to export controls. The new order came into force on 13 July 2017.

The ECO has gone on to amend and re-publish the open general export licence ("OGEL") for a variety of military goods. These OGELs cover components, technology and information required for the development and production of military goods, military goods imported into the UK for exhibition, demonstration or repair/replacement under warranty and military goods or technology exported or transferred under the US-UK Defence Trade Co-operation Treaty. The ECO also amended and re-published the OGELs regarding printed circuit boards and goods, software or technology in relation to the Turkish Aerospace Industries TF-X Programme.

JURISDICTIONAL UPDATE

North Korea

In June, the EU added 14 individuals and four entities to the list of those subject to an asset freeze, while lifting restrictive measures previously placed on both Pyon Yong Rip, the previous President of Democratic People's Republic of Korea ("DPRK") Academy of Science and the Korea International Chemical Joint Venture Company.

In August, following the imposition by the United States of further sanctions on the DPRK (to read our alert on the new US sanctions on North Korea, [click here](#)), the EU also implemented additional sanctions, including the prohibition of the supply, transfer or sale of coal, iron, iron ore, seafood, lead and lead ore to the DPRK. In addition, the EU imposed a travel ban and froze the assets of a further nine individuals and four entities, including the state-owned Foreign Trade Bank. However, the Foreign Trade Bank and the Korean National Insurance Company have since become exempt from these restrictions in circumstances where the transactions with these entities are for the sole purpose of diplomatic missions in the DPRK or humanitarian activities undertaken by, or in partnership with, the United Nations ("UN").

In September, as a result of the DPRK's ongoing nuclear-weapon and ballistic development activities (for instance, the missile launches over Japan conducted by the DPRK), which are clear violations of UN Security Council resolutions, the UN approved a US proposal for further sanctions on the DPRK. The new sanctions place a ban on trading the following goods with the DPRK: natural gas liquids, refined petroleum products in excess of 500,000 barrels for the remainder of 2017 and thereafter in excess of two million barrels and crude oil in excess of existing levels of trade. These new sanctions, which the EU has since implemented, also proscribe DPRK exports of textiles, prohibit Member States from permitting North Korean citizens from working in their jurisdictions without prior approval from the UN and forbid any joint ventures with the DPRK.

In this new round of sanctions, the EU has added three governmental entities to its sanctions lists: the Central Military Commission, the Organisation and Guidance Department and the Propaganda and Agitation Department and one individual, Pak Yong Sik, a member of the Central Military Commission.

Finally, following President Trump's recent imposition of new sanctions on the DPRK, the EU is said to have provisionally agreed further sanctions on the DPRK, prohibiting, inter alia, all EU investment in the country.

Russia

Following the EU Council's affirmation in June that it did not recognise Russia's illegal annexation of the Crimea and Sevastopol, it extended its sanctions against the Russian Federation until 23 June 2018. These sanctions include a prohibition on making investments in Russia, importing or exporting goods, services or technologies to or from Russia or providing tourism services in relation to Crimea or Sevastopol.

Moreover, on 28 June 2017, economic sanctions against Russia were renewed, which are now due to last until 31 January 2018. These financial sanctions, which are the result of the Minsk Agreements, target the financial, energy and defence sectors, as well as dual-use goods.

In August, alongside the more stringent sanctions imposed by the US (to read our alert on the new US sanctions on Russia, [click here](#)) the EU added Andrey Vladimirovich Cherezov (Russia's Vice-Minister for Energy), Evgeniy Petrovich Grabchak (the Head of Russia's Department for Energy) and Sergey Anatolevich Topor-Gilka (Director General of Technopromexport) to the list of persons and OAO Technopromexport, OOO Technopromexport and ZAO Interavtomatika to the list of entities that are subject to restrictive measures. Sanctions were imposed on these individuals and entities for their involvement in the transfer of gas turbines to Crimea in breach of the EU's prohibition of the supply of key equipment in the energy sectors to the Russian Federation for infrastructure projects in that area.

The most recent update to EU sanctions against Russia is the extension of sanctions imposed on individuals and entities to 15 March 2018, in relation to the unlawful annexation of Ukraine. In addition, the EU has added Crimean Sea Ports to its sanctions lists and removed four deceased individuals and three reorganised entities.

Syria

On 1 June 2017, the EU renewed sanctions imposed on Syria. The EU Council has stated that restrictive measures against the Syrian regime and its supporters will remain in force while the repression of its civilians continues.

The sanctions imposed by the EU target Syria's finance and transportation sectors and include measures such as oil embargos, constraints on certain investments and the trade of certain equipment and technology as well as restrictions on the access that Syrian banks' have to EU capital markets.

The list of sanctioned persons and entities in Syria has recently grown, imposing travel bans on, and freezing the assets of, Syria's Justice Minister (Hisham Mohammad Mamdouh al-Sha'ar), Economy and Foreign Trade Minister (Mohammad Samer Abdelrahman al-Khalil) and Administrative Development Minister (Salam Mohammad al-Saffaf). Furthermore, eight high-ranking military personnel and eight scientists have been added to the EU sanctions list, for their involvement in the proliferation of the chemical weapons that were used against Syrian civilians. It should also be noted that George Haswani, a leading Syrian businessman and Abdulkarim Group, a Syrian conglomerate, were removed from the EU sanctions list.

Due to their alleged involvement in the violent repression and use of chemical weapons against civilians in Syria, a total of at least 255 persons and 67 entities have now been targeted by the EU's sanctions.

Democratic Republic of the Congo

The EU sanctions imposed on the Democratic Republic of the Congo (the "DRC") stem from the human rights violations committed by certain persons and the general obstruction of the electoral process.

The EU recently implemented the UN decision to change the way it imposes its sanctions on the DRC, by amending the criteria for the designation of persons and entities subject to restrictive measures to now include those involved in planning, sponsoring or participating in attacks on members of the UN Group of Experts.

In addition, in May, the EU froze the assets and enforced a travel ban on nine individuals, all of which are said to hold positions of responsibility within state administration or in the DRC security forces while also prohibiting any other person or entity from providing financial assistance to those persons.

Iran

In April the EU Council extended the existing EU sanctions against Iran, which will now be in place until 13 April 2018. In June, the EU amended the details of its authorisation regime for reviewing and deciding on nuclear-related transfers to, or activities with, Iran.

Although there has been little change recently regarding EU sanctions on Iran, it should be noted that in August the US implemented a new set of Iranian sanctions (to read our alert on the new US sanctions on Iran, [click here](#)). While it deliberately omits nuclear issues, so as not to undermine the recent Iran nuclear deal (the Joint

Comprehensive Plan of Action, or JCPOA), it does indicate that the Trump administration is taking a different stance to its predecessor on its Iranian sanctions policy.

Libya

In light of the migration crisis, the EU introduced new restrictions in July on the export and supply to Libya of inflatable boats and outboard motors, which could be used by people smugglers and human traffickers.

In August, following the latest UN Security Council resolution, the EU extended the measures imposed on vessels loading, transporting or discharging petroleum that are in place to combat illicit exports from Libya so as to include crude oil and refined petroleum products. Consequently, the vessels already listed are now subject to further prohibitions. In addition, the EU added the Lynn S vessel to this list.

Myanmar (Burma)

In April, the EU extended the embargos on arms and equipment that might be used for internal repression that it currently imposes on Myanmar until 30 April 2018.

Recently there have been calls by human rights pressure groups for the UN and EU to implement further sanctions on Myanmar, including a more complete arms embargo, in response to the violence carried out against Rohingya Muslims by its military. We will provide updates on the sanctions of Myanmar as the political situation in the country develops.

Central African Republic

In May, the EU implemented the UN's sanctions listings relating to the Central African Republic, freezing the assets of eleven individuals and two entities, The Lord's Resistance Army and Bureau D'achat de Diamant en Centrafrique/Kardiam. In June, the EU also added Hissene Abdoulaye to its Central African Republic sanctions list and Fared Saal (a Central African Republic national) to its ISIL and Al-Qaida sanctions list.

Guinea-Bissau

In June, the EU renewed the restrictive measures placed on individuals and entities that were first introduced on 3 May 2012, following the coup d'état of 12 April 2012.

Terrorist Organisations (including ISIL and Al-Qaida)

Over the past few months, the EU has added and removed several individuals and entities to its sanctions listings relating to terrorist organisations.

More generally, in September the EU extended all ISIL and Al-Qaida sanctions until 31 October 2018 while in August, the EU determined that terrorism sanctions imposed on individuals involved in all other terrorist organisations should continue.

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