

Sanctions Alert

A bi-monthly summary of sanctions news and events

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Russia News

Rosneft Fails in Application for Injunction Against UK Criminal Penalties Regarding Breaches of EU Export Restrictions

Rosneft has failed in an application for interim relief to stay the effect of UK legislation criminalising violations of EU restrictions on the export of equipment or technology used in arctic or shale oil and gas exploration. The EU restrictions are contained at [Council Regulation \(EU\) No 833/2014](#) as amended by [Council Regulation \(EU\) No 960/2014](#). UK secondary legislation (the [Export Control \(Russia, Crimea, Sevastopol Sanctions\) Order 2014, SI 2014, No 2357](#), as amended by the [Export Control \(Russia, Crimea, Sevastopol Sanctions\) \(Amendment\) Order 2014 SI 2014, No 2932](#)) introduced criminal penalties for breaches of EU restrictions.

Rosneft sought interim relief in the form of an injunction staying implementation of the revised UK secondary legislation, pending the outcome of an application for judicial review of that legislation. It did so on grounds including that the nature of the EU restrictions relating to ‘deep water’ and ‘arctic’ oil exploration and production, and ‘shale oil projects’ were

so uncertain that the criminal offences did not meet common law or EU jurisprudence tests for certainty. [Council Regulation \(EU\) No. 1290/2014](#) now clarifies these restrictions; please see the story on Russia Sanctions amendments [below](#) for further information.

The UK’s High Court considered the relevant case law and held that, notwithstanding that such terms contained some degree of uncertainty (recognised in a letter sent by the Department for Business, Innovation and Skills to Rosneft), the restrictions were not so uncertain as to be void.

Rosneft’s full challenge in the High Court for judicial review of the UK implementation of these restrictions is expected to be heard in January. Rosneft is separately challenging the EU restrictions in the European Court of Justice.

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EU Amends and Extends Russia Sanctions

On 5 December, the EU published [Council Regulation \(EU\) 1290/2014](#) which amends and clarifies the sanctions against Russia set out in [Council Regulation \(EU\) 833/2014](#) (“Regulation 833”), (as amended by [Council Regulation \(EU\) 960/2014](#) (“Regulation 960”)).

The new regulation has introduced some additional clarity to the scope of the restriction on making or being part of any arrangement to make new loans or credit with a maturity exceeding 30 days after 12 September 2014 to certain designated Russian banking, defence and oil industry entities and their non-

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EU subsidiaries (“Designated Entities”). It introduces a new exemption for loans made pursuant to revolving and multi-tranche credit facilities which were entered into before 12 September 2014, provided that:

- (1) all of the terms and conditions applicable to post-12 September 2014 drawdowns under the facility (such as the repayment period, interest rate, maximum amount etc) were agreed before 12 September 2014 and have not been modified on or after 12 September 2014; and
- (2) before 12 September 2014, the facility included a contractual maturity date by which all funds must be repaid and all rights and obligations created by the facility would expire.

The EU has also expanded one of the exceptions to providing new loans or credit with a maturity exceeding 30 days. Previously, the exemption applied to loans or credit that provided financing for non-prohibited imports or exports of goods and non-financial services between the EU and Russia. The new regulation has extended this exemption to include such loans or credit between the EU and any third state, including expenditure from another third state that is necessary to execute export or import of such contracts.

The new regulation also provides clarification with regards to the restrictions on providing goods and services for certain oil exploration and production projects.

First, the EU has extended all references to Russia to include Russia’s Exclusive Economic Zone and Continental Shelf as well.

Second, the EU has replaced the terms “deep water”, “arctic” and “shale oil projects”, which are the types

of oil exploration and production subject to particular restrictions, with the following phrases:

- (a) “waters deeper than 150 metres”;
- (b) “the offshore area north of the Arctic Circle”; and
- (c) “projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing”.

The EU also clarified that exploration and production through shale formations to locate or extract oil from non-shale reservoirs is not subject to the same restrictions as the above categories.

Finally, in connection with the export of dual-use goods and technology, the EU has extended one of the exemptions to the prohibition. Previously, the EU had prohibited export of dual-use goods and technology for military use or a military end-user under Regulation 833. Regulation 960 subsequently prohibited all exports of dual-use goods and technology. However, both Regulation 833 and Regulation 960 included an exemption to the prohibition where export of dual-use goods would concern the execution of contracts concluded before 1 August 2014 (under Regulation 833) and before 12 September 2014 (under Regulation 960). The EU has now extended the exemption to include ancillary contracts necessary for the execution of contracts concluded before 12 September 2014.

On 29 November, the EU expanded the asset freeze and travel ban which were originally imposed by [Council Regulation \(EU\) No. 269/2014](#) and [Council Decision 2014/145/CFSP](#) in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine. [Council Implementing Regulation \(EU\) No. 1270/2014](#) imposes additional

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restrictions on individuals and entities that are said to be separatists involved in the disputed elections in Eastern Ukraine. Five entities are designated along with 13 senior members. The entities are organisations which presented candidates in the elections.

They are: (1) Donetsk Republic; (2) Peace to Luhansk Region; (3) Free Donbass; (4) People's Union; and (5) Luhansk Economic Union.

The individuals and entities will become subject to asset freezes and travel bans under [Council Decision 2014/855/CFSP](#).

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Iran News

EU Extends Iran Sanctions Suspensions

As reported in our previous issue, the Joint Plan of Action (“JPA”) entered into between Iran and the E3+3 countries China, France, Germany, Russia, UK and USA has been extended for a further 7 months as negotiations over Iran’s nuclear programme continue. The EU has now published the information in [Council Decision 2014/829/CFSP](#). The negotiations

were initially extended in July until 24 November 2014 and will now last until 30 June 2015.

For further information on the JPA negotiations, please see [Issue 24](#) and [Issue 31](#) of our Sanctions Alert.

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EU News

General Court Annuls Historic Belarus Listings

On 9 December, the General Court of the EU annulled the historic designation of one individual and three entities in respect of Belarus sanctions.

Each of Vladimir Peftiev, BelTechExport ZAO, BT Telecommunications PUE and Sport-pari ZAO had challenged their listing by the EU pursuant to [Council Regulation \(EU\) No. 588/2011](#) (“2011 Regulation”), [Council Implementing Regulation \(EU\) No. 1017/2012](#) (“2012 Regulation”) and [Council Implementing Regulation \(EU\) No. 1054/2013](#) (“2013 Regulation”). For a variety of reasons, the General Court annulled

each of their listings pursuant to the 2011 Regulation and 2012 Regulation, but not the 2013 Regulation.

Practically, this ruling is of limited significance. Vladimir Peftiev and BT Telecommunications PUE were de-listed by the EU in October 2014, and Sport-pari ZAO was de-listed by the EU in May 2013. BelTechExport has not been de-listed however, and therefore remains subject to the restrictions of the 2013 Regulation.

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EU Amends Central African Republic Sanctions

On 2 December, the EU published [Council Implementing Regulation \(EU\) No. 1276/2014](#), amending [Council Regulation \(EU\) No. 224/2014](#), concerning restrictive measures in view of the situation in the Central African Republic. The Regulation updates the identifying information of three individuals who were designated pursuant to Regulation 224/2014 for “engaging in or providing support for acts that undermine the peace, stability or security of the Central African Republic”.

The three designated individuals are: (1) Francois Yangouvonda Bozize; (2) Nourredine Adam; and (3) Levy Yakete. They are all subject to an asset freeze.

[HM Treasury Financial Sanctions Notice](#)

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EU Extends DRC Sanctions

The EU has, pursuant to [Commission Implementing Regulation \(EU\) No. 1275/2014](#) and [Council Implementing Decision 2014/862/CFSP](#), added one entity to the restrictive measures in place against persons acting in violation of the arms embargo with regard to the DRC.

The Allied Democratic Forces (“ADF”) is now subject to the asset freeze and travel ban originally imposed by [Council Regulation \(EC\) No. 1183/2005](#) and [Decision 2010/788/CFSP](#).

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EU Extends Al Qaida Sanctions

On 28 November, the EU expanded its Al Qaida sanctions by designating two further individuals. [Commission Implementing Regulation \(EU\) No. 1273/2014](#) amends Annex I to [Council Regulation \(EC\) No. 881/2002](#) imposing asset freezes against certain persons and entities associated with Al Qaida.

The two individuals are Ansar Al Charia Derna and Ansar Al Charia Benghazi. They have been designated as a result of UN sanctions against them.

For further details on the designations, please see [Issue 31](#) of our Sanctions Alert.

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US News

US Authorities Extend Standard Chartered's Settlement Obligations Amid New Investigations of Possible Sanctions Violations

On 9 December, Standard Chartered PLC, a UK banking organisation with a significant presence in Asia, Africa and the Middle East, announced that it agreed to a three year extension of the Deferred Prosecution Agreements (“DPAs”) entered into in December 2012 with the US Department of Justice (“DOJ”) and the New York County District Attorney’s Office (“DANY”) relating to violations of US sanctions on Iran and other countries. The extended DPAs provide that US authorities will dismiss the charges against Standard Chartered in December 2017, provided that Standard Chartered fulfils certain requirements and obligations before that time, such as bolstering its sanctions compliance program. Standard Chartered also agreed to retain an independent monitor to evaluate and make recommendations regarding its sanctions compliance program. This news follows the imposition of a \$300 million penalty in August 2014 by

the New York State Department of Financial Services (“NYDFS”) for failure to comply with an earlier settlement with the NYDFS relating to the 2012 DPAs (please see Issue 26 for additional details).

At the same time, Standard Chartered announced that it is cooperating with an on-going US sanctions-related investigation. The Wall Street Journal reports that this investigation involves the bank’s operations in Dubai, which may have handled business for Iranian-controlled entities, and also involves employees who worked in the United Arab Emirates. These investigations cover possible violations of US sanctions that occurred after the period covered by the 2012 DPAs.

[Standard Chartered Press Release](#)

[Wall Street Journal Article](#)

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OFAC Releases Report on TSRA Licensing Activities for January-March 2014

On 2 December, the US Treasury Department’s Office of Foreign Assets Control (“OFAC”) released its quarterly report on licensing activities pursuant to Section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (“TSRA”). The TSRA governs licence applications for the

export of agricultural commodities, medicine and medical devices to Iran and Sudan. OFAC’s report details licensing activities between January 2014 and March 2014, covering 373 licence applications. On average, OFAC found that the average processing time for issuing TSRA licences was 46 business days

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for a licence issuance and 154 days for a license denial. OFAC received 339 license applications within the scope of the TSRA with respect to Iran and granted 137 of them. With respect to Sudan, OFAC received

34 applications and issued 23 licenses.

[OFAC Quarterly Report – TSRA Licensing Activities](#)

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OFAC Unblocks and Delists Saudi Businessman Yasin al-Qadi from Counterterrorism Sanctions

On 26 November, OFAC announced the delisting of multiple individuals from the Counterterrorism Sanctions program, including Saudi businessman Yasin Abdullah Ezzedine al-Qadi. Al-Qadi was first added to OFAC's Specially Designated Nationals list in October 2001, when US authorities alleged that al-Qadi's charity had been used to funnel money to Osama bin Laden. Subsequently, the United Nations and the European Union added him to their sanctions lists.

In March 2012, a US District Court rejected a suit by al-Qadi to require OFAC to delist him. The UN removed al-Qadi from its list in October 2012. In July 2013, the

European Court of Justice affirmed a ruling requiring the EU to remove al-Qadi from its blacklist. In regard to the recent decision to remove US sanctions against al-Qadi, an OFAC spokesperson stated that the circumstances that resulted in his listing "no longer apply".

[OFAC, Unblocking of a Specially Designated Global Terrorist Pursuant to Executive Order 13224, 79 Fed. Reg. 72248 \(Dec. 5, 2014\)](#)

[Wall Street Journal Risk & Compliance Report](#)

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UK News

HM Treasury Renews Final Designations of Two Entities

On 10 December, HM Treasury renewed the designations of two entities under the Terrorist Asset-Freezing etc. Act 2010 for terrorist financing. The Popular Front for the Liberation of Palestine – General Command (PFLP-GC) and Popular Front for the Liberation of Palestine (PFLP) therefore continue to

be subject to the financial sanctions, including an asset freeze, imposed by the Act.

[General Notice of Renewal of Final Designation](#)

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HM Treasury Designates an Individual Under Terrorist Asset Freezing etc. Act 2010

On 1 December, the HM Treasury published a [General Notice of Final Designation](#) giving notice that Aseel Muthana is designated under the Terrorist Asset Freezing etc. Act 2010. The Notice replaces an earlier Notice issued on 4 July 2014, solely to certain institutions and individuals. Muthana's designation was initially only publicised under a restricted basis as

he was a minor at the time. Muthana is now 18 years of age and as a result his designation can now be fully publicised.

Muthana is now subject to financial sanctions imposed under the Act, including a freezing of assets.

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