

CLIENT UPDATE

EUROPEAN UNION BANS IMPORTS OF GOODS FROM CRIMEA

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The European Union today passed a significant new set of sanctions relating to the Ukraine. In Council Decision 2014/386/CFSP and Council Regulation 692/2014, the Council of the European Union prohibited the import into the EU of goods originating in Crimea or Sevastopol. It also prohibited the provision of financing, financial assistance or insurance in relation to such imports.

Goods originating in Crimea or Sevastopol are defined, following EU customs law, as goods wholly obtained in Crimea or Sevastopol or that underwent their “last substantial transformation” there.

EXCEPTIONS

There are two exceptions to the prohibition.

First, goods that have been granted a certificate of origin by the Ukrainian government are not subject to the prohibition.

Second, a grandfathering clause allows the continued performance of contracts related to such goods until 26 September 2014 – but only where such contracts were concluded before 25 June 2014.

EFFECT

EU importers of goods must review their supply chains and determine if any of their goods come from facilities or operations in

Crimea or Sevastopol. If so, they should take steps to stop receiving goods under existing contracts by 26 September – and should not enter into any new contracts relating to the import of such goods.

EU companies providing financing, financial assistance or insurance to producers with such facilities or operations should determine if any of the goods so produced are to be imported into the EU, and if so, should similarly halt support under existing contracts and agreements by 26 September, and should not enter into any new contracts.

No claims for breach of contract may be brought in the EU against companies acting pursuant to these restrictions.

NO BLANKET PROHIBITION

Not all business with Crimea and Sevastopol is banned. It is important in that regard to note what this restriction does not cover.

First, this restriction, as with other EU legislation, applies to EU nationals, EU-registered companies, activities within the EU and business done in whole or in part within the EU. Therefore, it would not prohibit any activities of non-EU businesses acting wholly outside of the EU, such as Russian companies with facilities in Crimea.

Second, this applies only to the import of goods into the EU; it does not apply to other business activities taking place in Crimea, including imports not destined for the EU.

KNOWLEDGE REQUIREMENT

Finally, as with other EU sanctions, no offence has taken place if a person did not know and had no reasonable cause to suspect that their actions would infringe the prohibition. So a person cannot be prosecuted for this offence if, for example, they did not know and had no reasonable cause to suspect that goods that they were handling originated from Crimea or Sevastopol.

Nonetheless, these restrictions underscore the need for importers, and those providing financing, insurance and other assistance to them, to conduct appropriate due diligence and understand the origin of the goods they handle.

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Please do not hesitate to contact us with any questions.

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