

DEBEVOISE & PLIMPTON LLP

SANCTIONS ALERT

A bi-monthly summary of sanctions news and developments

ISSUE 17

TABLE OF CONTENTS

RUSSIA NEWS

US Enacts 'Ukraine Act' Authorising Assistance and Additional Sanctions

EU Publishes 'Conclusions on Ukraine' and Promises Further Sanctions

EU Adds Four Individuals to Ukraine Sanctions List

OFAC Designates Gas Company and Seven Crimean and Former Ukrainian Officials

Moscow Encourages Russian Companies to Delist from Western Stock Exchanges

Albania, Iceland, Montenegro, Norway and Ukraine Promise to Mirror EU Sanctions

Russia Considers Suing US in WTO

Miley Cyrus, Justin Timberlake to Perform in Finnish Stadium Owned by Sanctioned Russian Billionaires

EU NEWS

EU Proposes Changes to Evidential Rules of Procedure

EU Renews Burma Sanctions

EU Lifts Guinean Arms Embargo

General Court Annuls Individual 'Arab Spring' Listing

US NEWS

OFAC Makes New Narcotics Designations

State Department Makes New Foreign Terrorist Organization Designation

OFAC Expands Iran General Licenses for Food and Medical Exports

US Authorises New Sanctions against Individuals in Response to South Sudan Conflict

Clearstream Banking Faces Criminal Investigation after OFAC Settlement

[US Exporter Settles OFAC Allegations of Antenna Shipments Destined for National Iranian Tanker Company](#)

UN NEWS

[UN Removes Individual from Al-Qaida Sanctions List](#)

OTHER NEWS

[President Rouhani Predicts Lifting of Iran Nuclear Sanctions](#)

RUSSIA NEWS

US Enacts 'Ukraine Act' Authorising Assistance and Additional Sanctions

On 3 April 2014, President Obama signed into law the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 ("Ukraine Act"). The new law provides for the issuance of loan guarantees to Ukraine, directs the Secretary of State to provide certain technical assistance to Ukraine and other states in Central and Eastern Europe and authorises enhanced security cooperation with Ukraine and other countries in the region.

The Ukraine Act also authorises new blocking sanctions on certain persons. Specifically, the Ukraine Act requires the President to impose blocking sanctions and visa bans on any person he determines:

- Is responsible for significant acts of violence or gross human rights abuses in Ukraine associated with the anti-government protests in Ukraine that began on November 21, 2013;
- Is responsible for significant acts that are intended to undermine the peace, security, stability, sovereignty, or territorial integrity of Ukraine, including acts of economic extortion;
- Is an official of the Russian Federation, or close associate or family member, who is responsible for acts of significant corruption in either Ukraine or Russia; or
- Materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, (i) the commission of gross human rights abuses in Ukraine, (ii) acts that are intended to undermine the peace, security, stability, sovereignty, or territorial integrity of Ukraine or (iii) acts of significant corruption in either Ukraine or Russia.

[Text of the Ukraine Act \(PDF\)](#)

[Back to the top](#)

EU Publishes 'Conclusions on Ukraine' and Promises Further Sanctions

On 14 April 2014, the EU Council published its 'conclusions on Ukraine', in which the EU condemned recent "actions undertaken by armed individuals in cities of Eastern Ukraine." In light of such violence, the EU Council decided to "expan[d] the list of those subject to assets freeze and visa ban." Subsequently, on 15 April 2014, four individuals were added to the Ukraine sanctions list (see story below).

The EU Council also reiterated its strong support for Ukraine's sovereignty and demanded that Russian troops retreat from Ukraine and withdraw the mandate of the Federation Council to deploy force on Ukrainian territory. Significantly, the EU Council promised that further targeted measures are currently being prepared in the event that Russia continues to "destabilise the situation in Ukraine." The EU Council did however welcome the forthcoming meeting between foreign ministers of Ukraine, Russia and the US as a possible catalyst to a substantial process of de-escalation.

Following these conclusions, UK's Foreign Minister William Hague stated on 15 April that the "issues at stake here are of enormous importance, of a rules-based international system and respect for the independence and sovereignty of a nation. So, yes, we absolutely are ready to [sacrifice for] it, in co-operation with other nations..." Such sacrifice includes the City of London taking "a hit".

[Council Conclusions on Ukraine \(PDF\)](#)

[Back to the top](#)

EU Adds Four Individuals to Ukraine Sanctions List

The EU adopted Council Implementing Regulation 381/2014 and Council Implementing Decision 2014/216/CFSP meaning that as of 15 April 2014, a further four individuals have been added to the list of persons subject to the asset freeze and travel ban originally imposed by the EU under Council Regulation 208/2014 and Council Decision 2014/119/CFSP.

The newly designated individuals are: Serhiy Arbuzov; Yuriy Ivanyushchenko; Oleksandr Klymenko; and Edward Stavytskyi. All of these individuals were designated by the EU due to their alleged involvement in crimes connected with the embezzlement of Ukrainian State funds and their subsequent illegal transfer outside Ukraine.

The asset freeze prohibits EU persons and persons within the EU from dealing in funds or economic resources that belong to, are owned, controlled or held by the designated individuals, and from making funds or economic resources available, directly or indirectly, to the designated individuals. The travel ban requires Member States to adopt all measures necessary to prevent the entry into, or transit through, their territories.

[Council Implementing Regulation 381/2014](#)

[Council Implementing Decision 2014/216/CFSP](#)

[Council Regulation 208/2014 \(PDF\)](#)

[Council Decision 2014/119/CFSP \(PDF\)](#)

[Back to the top](#)

OFAC Designates Gas Company and Seven Crimean and Former Ukrainian Officials

On 11 April 2014, the US Treasury Department's Office of Foreign Asset Control ("OFAC") sanctioned seven individuals and one company as part of the United States' ongoing response to recent events in Ukraine. These parties were designated under the authority of Executive Order 13660, which targets individuals and entities that undermine democratic processes and institutions in Ukraine, that threaten the sovereignty or territorial integrity of Ukraine, that misappropriate assets of the Ukrainian state or that assert unauthorised governmental authority over any part of Ukraine.

Six of the individuals were designated for their roles in Russia's annexation of Crimea, and the seventh individual was designated for his appointment as the de facto head of the Security Service in Crimea. One of the designated individuals is a former Ukrainian official and the other six are Crimeans. The designated entity, Chernomorneftegaz, holds assets seized by the Crimean Parliament from Ukraine's state-owned gas company, including drilling rigs off Crimea's west coast and in the Sea of Azov.

In total, the United States has designated 38 individuals and two entities under Ukraine-related sanctions.

[Treasury Department Press Release](#)

[Back to the top](#)

Moscow Encourages Russian Companies to Delist from Western Stock Exchanges

It has been reported that Russia's First Deputy Prime Minister Igor Shuvalov has suggested that Russian companies should delist from Western stock exchanges and relist in Moscow. In a public address on 8 April 2014, Shuvalov stated that this policy was a "matter of economic security", adding however that "companies should make independent decisions".

To encourage such migration to the OAO Moscow Exchange, Shuvalov promised "attractive" conditions to Russian companies who relisted, particularly through increased trading hours, pricing oil and gas in roubles and aligning the settlement system with international markets.

Shuvalov has confirmed that delisting is not mandatory and companies will be able to

come to a decision independently.

[Bloomberg news reports](#)

[Back to the top](#)

Albania, Iceland, Montenegro, Norway and Ukraine Promise to Mirror EU Sanctions

On 11 April 2014, the governments of Albania, Iceland, Montenegro, Norway and Ukraine committed to align their national policies with the EU asset freeze and travel ban, which are imposed on certain individuals associated with Crimean efforts to unilaterally declare independence from Ukraine.

The relevant EU restrictive measures were implemented by way of two Council Decisions of 17 and 21 March 2014: Council Decision 2014/145/CFSP and Council Implementing Decision 2014/151/CFSP, respectively.

[EU Press Release regarding alignment of national policies with Council Decision 2014/145/CFSP \(PDF\)](#)

[EU Press Release regarding alignment of national policies with Council Implementing Decision 2014/151/CFSP \(PDF\)](#)

[Council Decision 2014/145/CFSP \(PDF\)](#)

[Council Implementing Decision 2014/151/CFSP \(PDF\)](#)

[Back to the top](#)

Russia Considers Suing US in WTO

Russia is considering filing a lawsuit against the United States in the World Trade Organisation (the "WTO") over Ukraine-related sanctions affecting Russian banks. On 16 April 2014, Russia's Economy Minister Alexei Ulukayev stated "[t]he WTO gives us some additional possibilities. We at the WTO council in Geneva talked about the possibility of filing lawsuits against the U.S. over the sanctions against Russian banks and we hope to use the mechanism of the WTO to keep our partners in check regarding this issue." The affected Russian banks are Bank Rossiya and SMP Bank.

On 20 March 2014, Bank Rossiya became the first entity to be designated by OFAC on its Ukraine list; its chairman and substantial shareholder, Yuri Kovalchuk, was also designated on the same date. Whilst not designated itself, SMP Bank's chief executive, Dmitry Kalantyrsky, reported that approximately \$249 million were withdrawn from the bank following the designation by OFAC of its sibling co-owners Boris and Arkady Rotenberg, also on 20 March.

In a bulletin posted on the WTO's website on 9 April 2014, the WTO stated that Russia was "closely monitoring the effect of [US sanctions] on Russian operators and on the

potential violation of WTO Agreements”, urging “other members not to be drawn to political motivations when it comes to trade.”

[Reuters News Report](#)

[Back to the top](#)

Miley Cyrus, Justin Timberlake to Perform in Finnish Stadium Owned by Sanctioned Russian Billionaires

Next month, numerous US musical performers, including Miley Cyrus and Justin Timberlake, are scheduled to perform at Finland’s Hartwall Arena. Concern arose that these performances would have to be cancelled as a result of US sanctions, as the owners of Hartwall Arena are Gennady Timchenko, Arkady Rotenberg and Boris Rotenberg, all of whom are on the US Specially Designated Nationals List. However, Reuters reported that US officials have told Live Nation, the concert promoter, that the sanctions will not have an impact on Hartwall Arena and the scheduled concerts.

[Reuters Article](#)

[Back to the top](#)

EU NEWS

EU Proposes Changes to Evidential Rules of Procedure

The European Court of Justice (the “ECJ”) has submitted new Draft Rules of Procedure of the General Court (the “Draft Rules”) to the EU Council for approval. The Draft Rules propose changes to the procedural rules of evidence in applications for annulment or judicial review of restrictive measures by designated persons or entities. The Draft Rules have now been publicly published.

Article 105 of the Draft Rules signals a departure from the adversarial principle, under which all information and material must be fully communicated between the parties, and would enable EU institutions to request that the General Court consider evidence without disclosing it to the other party on the grounds that disclosure of such evidence would harm the security of the EU or the conduct of international relations.

To date, the ECJ has held that rights of defence do not permit the EU Council to rely on reasons for including an individual on EU restrictive measures unless the Council discloses those reasons and evidence to the designated person or entity. See for example *Kadi v Commission* (Kadi II).

[Draft Rules \(PDF\)](#)

[Joined Cases C-584/10 P, C-593/10 P and C-595/10 P *Kadi v Commission \(Kadi II\)*](#)

[Back to the top](#)

EU Renews Burma Sanctions

The EU has renewed, until 30 April 2015, its embargo on arms and other equipment which might be used for the purposes of internal repression in Myanmar/Burma. Council Decision 2014/214/CFSP of 14 April 2014 accordingly amended Council Decision 2013/184/CFSP of 22 April 2013.

[Council Decision 2014/214/CFSP](#)

[Council Decision 2013/184/CFSP \(PDF\)](#)

[Back to the top](#)

EU Lifts Guinean Arms Embargo

The EU has lifted, through Council Regulation 380/2014 and Council Decision 2014/213/CFSP of 14 April 2014, the arms embargo and the embargo concerning equipment which might be used for internal repression which had been in place in respect of the Republic of Guinea. Council Regulation 1284/2009 of 22 December 2009 and Council Decision 2010/638/CFSP of 25 October 2010 have also been accordingly amended.

[Council Regulation 380/2014](#)

[Council Decision 2014/213/CFSP](#)

[Council Regulation 1284/2009 \(PDF\)](#)

[Council Decision 2010/638/CFSP \(PDF\)](#)

[Back to the top](#)

General Court Annuls Individual 'Arab Spring' Listing

The ECJ has annulled the extension of Mr. Mehdi Ben Ali's inclusion on the EU's so-called 'Arab Spring' list of restrictive measures relating to the Tunisian uprising. Mr. Ben Ali is the nephew of former Tunisian President Zine el-Abidine Ben Ali. Council Decision 2011/72 CFSP of 2 February 2011 and Council Regulation 101/2011 of 5 February 2011 freeze the funds of individuals said to have been "responsible for misappropriating the funds of the State of Tunisia" in January 2011.

Mr. Ben Ali was designated by the EU Council as the Tunisian Ministry of Foreign Affairs informed it that Mr. Ben Ali was the subject of a judicial investigation for money

laundering offences in Tunisia. However, the ECJ held that this did not satisfy the criteria for designation as the EU council never maintained that an individual may be responsible for "misappropriation of State funds" merely because he is subject to a "judicial investigation" for "money-laundering" offences. In other words, money laundering does not automatically imply the handling of state, as opposed to private, funds. The conditions required in order for the extension of the freezing of funds were therefore not satisfied.

The judgment was handed down by the ECJ on 2 April 2014.

[EU Press Release](#)

[Case T-133/12 Mehdi Ben Tijani v Council of the European Union \(French\)](#)

[Council Decision 2011/72 CFSP](#)

[Council Regulation 101/2011](#)

[Back to the top](#)

US NEWS

OFAC Makes New Narcotics Designations

On 10 April 2014, OFAC designated five individuals and 10 entities as specially designated narcotics traffickers pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"). According to the US, the designated persons have ties to the Sanchez Garza family, which is a money laundering operation based in Guadalajara, Mexico. OFAC stated that the Sanchez Garza family has been supporting the operations of major narcotics traffickers Rafael Caro Quintero and Juan Jose Esparragoza Moreno since the 1980s. Other members of the Sanchez Garza family have previously been designated under the Kingpin Act. Of the 10 entities designated, nine of them are real estate development companies and the tenth is a restaurant.

On 9 April 2014, OFAC designated Carlos Arnoldo Lobo (a.k.a. El Negro Lobo) pursuant to the Kingpin Act. The US asserts that Mr. Lobo plays a significant role in international narcotics trafficking through his transport of multi-ton loads of cocaine for Mexican, Guatemalan and Honduran drug kingpins and organisations. According to the US, Mr. Lobo also launders the proceeds from the sale of narcotics through numerous assets, including real properties, maritime vessels and seafood shipping businesses. In 2011, OFAC began collaborating with Honduran counterparts to target Mr. Lobo, and Honduran authorities took Mr. Lobo into custody in March 2014. Mr. Lobo has been indicted in the Southern District of Florida on drug trafficking charges.

[Treasury Department Press Release—Sanchez Garza family](#)

[Treasury Department Press Release—Carlos Arnoldo Lobo](#)

[Back to the top](#)

State Department Makes New Foreign Terrorist Organization Designation

On 9 April 2014, the US Department of State designated Ansar Bayt al-Maqdis ("ABM") as a Foreign Terrorist Organization under the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under Executive Order 13224. ABM was formed in 2011 and is based in Egypt. ABM has claimed responsibility for numerous attacks in both Egypt and Israel, including a rocket attack in the Israeli city of Eilat, a suicide bombing in El Tor, multiple bombings in Cairo and the bombing of a tourist bus in the Sinai Peninsula. The US asserts that ABM is responsible for additional attacks on both civilian and military targets in Egypt and Israel.

[State Department Press Release](#)

[Back to the top](#)

OFAC Expands Iran General Licences for Food and Medical Exports

On 7 April 2014, OFAC published a final rule amending the Iranian Transactions and Sanctions Regulations ("ITSR") to facilitate the exportation of agricultural commodities and replacement parts for medical devices. The rule expands the categories of merchandise that may be exported without a specific license, by authorising the exportation of most agricultural commodities as well as certain replacement parts for medical devices. OFAC has updated the Frequently Asked Questions on its website to reflect these changes.

[Notice of Final Rule \(PDF\)](#)

[Updated FAQs](#)

[Back to the top](#)

US Authorises New Sanctions against Individuals in Response to South Sudan Conflict

On 3 April 2014, President Barack Obama issued E.O. 13664, which authorises blocking sanctions on certain individuals involved in the conflict in South Sudan. The sanctions do not target the government of South Sudan. Rather, the Treasury Department, in consultation with the State Department, may impose blocking sanctions on persons determined to have engaged in or supported (i) actions or policies that threaten the peace, security or stability of South Sudan; (ii) actions or policies that seek to expand or extend the conflict in South Sudan; (iii) the commission of human rights abuses in South Sudan; (iv) the targeting of women, children or any civilians through the commission of acts of violence; (v) the recruitment of children by armed groups; (vi) the obstruction of international peacekeeping activities; or (vii) attacks on peacekeeping missions.

Additionally, any leader of an entity that engages in these activities may be sanctioned, as well as any person who materially assists a person who engages in these activities. No persons have yet been designated under these sanctions.

[Executive Order 13664 \(PDF\)](#)

[White House Press Release](#)

[Back to the top](#)

Clearstream Banking Faces Criminal Investigation after OFAC Settlement

On 2 April 2014, Deutsche Börse A.G. confirmed that the US Attorney for the Southern District of New York, Preet Bharara, is conducting a criminal investigation into potential violations of Iran sanctions laws by Deutsche Börse's Luxembourg-based subsidiary Clearstream Banking S.A. ("Clearstream"). Deutsche Börse stated that Clearstream is cooperating with the investigation and that the investigation is in an early stage. The statement follows up on a disclosure by federal prosecutors the previous day, in court papers filed in a civil case, that In January 2014, Clearstream Banking paid OFAC \$152 million to settle potential civil liability for violations of sanctions against Iran.

[Reuters Article](#)

[Back to the top](#)

US Exporter Settles OFAC Allegations of Antenna Shipments Destined for National Iranian Tanker Company

On 2 April 2014, OFAC announced that Sea Tel Inc ("Sea Tel"), based in Concord, California, has agreed to pay \$85,113 to settle potential civil liability for alleged violations of the Iran sanctions. According to OFAC, Sea Tel exported 16 orders of marine antenna systems over a 15 month period, with a total value of \$378,281, to its distributor in South Korea knowing that the distributor intended to reexport the antenna systems to Iran for the use of National Iranian Tanker Company ("NITC").

Sea Tel voluntarily disclosed the alleged violations to OFAC, and OFAC concluded that the transactions constitute a non-egregious case. In determining the settlement amount, OFAC considered that this is Sea Tel's first violation, that Sea Tel has already undertaken remedial steps and that Sea Tel cooperated with OFAC, including by agreeing to toll the statute of limitations. OFAC also considered that these antenna systems are intended for installation on vessels owned by the NITC, a heavily sanctioned entity, and that a sales manager had reason to know that this entity was the ultimate purchaser. In making such exports, OFAC concluded that Sea Tel showed reckless disregard for US sanctions and this reckless conduct constituted a pattern.

[OFAC Enforcement Announcement](#)

[Back to the top](#)

UN NEWS

UN Removes Individual from Al-Qaida Sanctions List

On 3 April 2014, the Security Council Committee removed Son Hadi Bin Muhadjir from the UN list of individuals and entities associated with Al-Qaida. Muhadjir was subject to an asset freeze, travel ban and arms embargo pursuant to Security Council Resolution 2083 (2012).

Muhadjir's original designation related to his activities as spokesperson and director of Jemmah Anshorut Tauhid, itself a designated entity formed in Indonesia as a splinter cell of the Jemmah Islamiyah (perpetrators of the 2002 Bali bombings).

[Security Council Resolution 2083 \(2012\) \(PDF\)](#)

[UN Press Release](#)

[Back to the top](#)

OTHER NEWS

President Rouhani Predicts Lifting of Nuclear Sanctions

On 15 April 2014, speaking during a tour of the Sistan-Baluchistan province on the Iran-Pakistan border, President Hassan Rouhani applauded the first efforts his "government has taken...towards the lifting of the brutal sanctions", adding that Iran "will witness the sanctions shattering in the coming months."

This statement relates to the Joint Plan of Action (the "JPOA") implemented between Iran, the five members of the UN Security Council and Germany on 20 January 2014. The JPOA requires Iran to take specific measures as part of a six-month, first-phase agreement to terminate progress of its nuclear proliferation programme. Such measures are primarily connected to Iran's production of enriched uranium, and related research.

On 9 April 2014, a senior US administration official stated that "all sides have kept all of the commitments they made in the JPOA and that had given [the US] more confidence as we negotiate this even tougher comprehensive agreement."

Negotiators from all sides of the JPOA met in Vienna last week to commence the drafting of the 'tougher comprehensive agreement' to resolve the nuclear issue, ahead of the expiry of the JPOA on 20 July 2014.

[Joint Plan of Action \(PDF\)](#)

[Reuters News Report](#)

[Back to the top](#)

For further information in relation to any of the above, please email sanctions@debevoise.com or call:

Satish Kini (Partner, Washington) +1 202 383 8190

Carl Micarelli (Counsel, New York) +1 212 909 6813

Jessica Gladstone (International Counsel, London) +44 20 7786 9166

Matthew Getz (International Counsel, London) +44 20 7786 5518

Jane Rahman (Associate, London) +44 20 7786 5463