



Sanctions Alert

A monthly summary of sanctions news and events

Issue 43

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Russia and Ukraine News

Ukraine introduces first Sanctions against Russia

On 16 September 2015, Ukrainian President Petro Poroshenko signed a decree levelling sanctions against 382 people and approximately 100 entities said to be responsible for unrest in eastern Ukraine and the Russian annexation of Crimea. This follows the adoption of legislation in August 2014 creating a legal framework for the imposition of sanctions on countries, foreign individuals and foreign entities (see [Issue 25 of the Sanctions Alert](#)), and is the first instance of any sanctions being imposed by Ukraine since the eastern Ukraine conflict first broke out in April 2014.

In addition, flights by Russian airlines will be banned from Ukrainian airports from 25 October 2015, and Russian planes carrying military hardware or troops will not be allowed to overfly Ukraine. Russia responded that it would take retaliatory measures against Ukrainian airlines.

President Poroshenko stated that the listings were triggered by recent announcements by pro-Russian separatists, led by Alexander Zakharchenko, that local elections are to be held in the Donetsk region of Ukraine on 18 October.

The listings include Russian politicians such as Defence Minister Sergey Shoygu, a number of pro-Russian separatist leaders in Ukraine and major Russian entities such as Gazprombank. President Poroshenko initially faced a backlash for including the names of a number of European journalists on the list. BBC foreign editor, Andrew Roy, described the inclusion of three BBC journalists as “a shameful attack on media freedom.” Poroshenko subsequently removed the names of three BBC journalists, two Spanish reporters and a German journalist on 17 September 2015, the day after signing the decree.

The complete list of people and entities subject to Ukraine sanctions can be viewed [here](#) (link in Ukrainian).

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EU renews Ukraine-related asset freezes

The EU has extended sanctions aimed at individuals and entities responsible for taking actions against Ukraine's territorial integrity, sovereignty and independence. The sanctions, which were initially enacted on 17 March 2014 (see [Issue 15 of the Sanctions Alert](#)), have been extended for a further 6 months until 15 March 2016. A total of 149 persons and 37 entities are subject to the asset freeze and travel ban under the sanctions, including Russian ministers, military figures and organisations connected with the Donetsk and Lugansk People's Republics.

The sanctions were renewed by [Council Decision \(CFSP\) 2015/1524](#) amending [Council Decision 2014/145/CFSP](#) and [Council Implementing Regulation \(EU\) 2015/1514](#) implementing [Council Regulation \(EU\) 269/2014](#). The same regulations removed one deceased person from the list.

These asset freezes apply in parallel to the wider industry-specific sanctions set out in [Council Regulation \(EU\) 833/2014](#), which remain in force until 31 January 2016 (see [Issue 40 of the Sanctions Alert](#)).

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EU News

Serbia and Croatia: Sanctions Dispute over Migrant Crisis

A dispute erupted between Serbia and Croatia after 50,000 migrants entered Croatia from Serbia in the space of a week. Croatia responded to the entry of migrants by shutting off all but one of its border crossings with Serbia. Serbia then banned imports of all Croatian goods, with Croatia subsequently barring entry to all vehicles with a Serbian licence plate.

Following emergency negotiations on 25 September 2015, Croatia lifted the blockade of its border and Serbia indicated that it would lift the embargo on Croatian goods.

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Al Qaeda: EU removes one individual from Sanctions List and adds another

On 9 September 2015, pursuant to [Security Council Resolution 1267 \(1999\)](#) and [Security Council Resolution 1989 \(2011\)](#), the EU removed Yasser Mohamed Ismail Abu Shaweesh from the Al-Qaeda Sanctions List. Shaweesh was previously convicted of aiding Al Qaeda in Germany in 2007.

On 3 September 2015, pursuant to [Commission Implementing Regulation \(EU\) 2015/1517](#) amending [Council Regulation 881/2002](#), the EU listed Sofiane Ben Goumo under its Al-Qaeda sanctions, thereby freezing his assets in the EU. Goumo has been associated with the Libyan Islamic Fighting Group, and also trained at a camp operated by Usama Bin Laden in Afghanistan.

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Iran News

Debevoise & Plimpton LLP hosts Seminar: “The Beginning of the End of Iran Sanctions?”

On 29 September in London and 30 September in New York, Debevoise & Plimpton LLP hosted seminars exploring the implications of recent developments concerning international economic sanctions against Iran.

The seminars were attended by over 200 participants and we thank all those who attended. For those who were unable to attend and are interested in the presentations, materials are available from any of the persons listed at the end of this Alert.

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CJEU rules on National Iranian Oil Company affiliates

A number of judgments were handed down by the Court of Justice of the EU (the “CJEU”) on 18 September 2015, in relation to the EU’s 2012 listing of companies alleged to be connected with the National Iranian Oil Company (“NIOC”).

In [Case T-5/13 Iran Liquefied Natural Gas Co v Council of the European Union](#), the applicant was successful because the EU offered no evidence against the applicant’s denial that it was a subsidiary of NIOC.

The applicant also won in [Case T-121/13 Oil Pension Fund Investment Company v Council of the European Union](#) (link in French) because the EU did not provide evidence in support of its accusation that the applicant had provided financial support to the Iranian Government.

16 applicants lost in [Case T-577/12](#) (link in French) because they could not refute the contention that they were wholly owned subsidiaries of NIOC.

Similarly, in [Joined Cases T-156/13 and T-373/14 Petro Suisse Intertrade Co. SA v Council of the European Union](#), the applicant could not refute that it was a subsidiary of NIOC, and therefore lost its application.

The applicant in [Case T-428/13 Iranian Oil Company UK Ltd \(IOC-UK\) v Council of the European Union](#) lost for

the same reason.

In July 2014, NIOC's application to have its own sanctions listing annulled was rejected by the CJEU in [Case T-578/12 National Iranian Oil Company v Council](#) (link in French) (see [Issue 24 of the Sanctions Alert](#)). The CJEU's reasoning was that NIOC is an "entity owned and managed by the State". NIOC's appeal against that decision is ongoing, in [Case C-440/14 National Iranian Oil Company v Council](#). On 3 September 2015, Advocate General Cruz Villalón gave a non-binding [opinion](#) (link in Spanish) that the CJEU had been correct in its initial ruling. The ultimate decision may not have much practical relevance, since the asset freeze against NIOC is due to be lifted as part of the first phase of sanctions relief under the Joint Comprehensive Plan of Action (the "JCPOA") (see the [Debevoise Client Update](#) of 17 July 2015), after Iran fulfils its initial nuclear weapons decommissioning obligations.

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Iran Aluminium Co sanctions listing annulled

The inclusion of Iranian Aluminium Co ("Iralco") by the Council of the EU in the EU's nuclear proliferation sanctions on Iran has been annulled by the CJEU in [Case T-158/13 Iranian Aluminium Co v Council](#). The judgment was given on 15 September 2015.

Iralco had been subject to sanctions since 2012 for allegedly assisting other designated entities to violate the provisions of the UN and EU's Iran sanctions, supporting Iran's proliferation-sensitive nuclear activities, and contracting to supply aluminium to Iran Centrifuge Technology Company, an entity subject to EU sanctions. Iralco denied the Council's reasons for listing, and the Council produced no supporting evidence in response. The listing was therefore annulled on the basis that the Council had made an error in its listing assessment.

The Council now has two months to remedy the errors outlined in the judgment, during which time the sanctions against Iralco remain in place.

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Iranian Ministry of Energy's annulment application rejected

The Iranian Ministry of Energy's application to the Council of the EU to have its EU sanctions listing annulled has been rejected by the CJEU in [Case T-564/12 Ministry of Energy of Iran v Council](#). The judgment was given on 8 September 2015.

The CJEU found that the Council, in taking 15 months to respond to the Ministry's application, had breached the Ministry's rights of defence, but the delay did not require an annulment, because the Council had ultimately given reasons in support of its decision to list the Ministry.

As with NIOC, noted above, the asset freeze against the Ministry of Energy of Iran is likely to be lifted as part of the first phase of sanctions relief under the JCPOA, so the CJEU's decision in this case may be of limited

practical relevance.

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US News

US Further Relaxes Cuba Embargo

On 18 September, the US Treasury Department's Office of Foreign Assets Control ("OFAC") [amended](#) the Cuban Assets Control Regulations ("CACR"). Among other things, OFAC has expanded the general licenses for travel, telecommunications, internet-based services, educational services and legal services involving Cuba, has authorised companies to establish a physical presence and bank accounts in Cuba in furtherance of authorised transactions, and has expanded the authorisation to provide goods and services to Cuban individuals located outside of Cuba. These amendments make a number of significant changes, which we will describe in further detail in an upcoming Client Update.

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OFAC Announces Settlement Agreement with UBS for Securities Transactions on Behalf of an SDN

On 27 August, OFAC [announced](#) that UBS AG had agreed to pay \$1,700,100 to settle 222 apparent violations of the Global Terrorism sanctions regime. According to OFAC, from early 2008 to early 2013, UBS processed 222 transactions involving securities custodied in the United States on behalf of an individual who was designated a Specially Designated Global Terrorist ("SDGT"). The individual was designated as an SDGT by the United States in October 2001 and also was subject to asset freezes imposed by Switzerland, the United Kingdom, the European Union, and the United Nations. However, the individual's name has not been disclosed because of Swiss bank secrecy regulations. Although UBS had blocked the individual's bank accounts, UBS continued to engage in securities-related transactions on the individual's behalf. OFAC determined that the apparent violations were non-egregious and that the total base penalty amount for the apparent violations was \$3,778,000.

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Texas Man Pleads Guilty to Illegally Exporting Sensitive Electronics to the Russian Military

On 9 September, a co-founder of the now defunct Houston, Texas electronics firm Arc Electronics Inc. [pleaded guilty](#) in United States District Court in Brooklyn, New York to being an unregistered agent of the Russian

government in violation of the Foreign Agents Registration Act (“FARA”), illegally exporting sensitive microelectronics to Russia in violation of the US Commerce Department’s Export Administration Regulations (“EAR”), and conspiracy to launder money in connection with the sales. Alexander Fishenko, a naturalised US citizen, admitted to shipping roughly \$50 million worth of sensitive technologies to the Russian military between 2002 and 2012 without appropriate licenses from the Commerce Department. Four of Fishenko’s co-defendants previously pleaded guilty, and three others are scheduled to go on trial commencing September 21, 2015. Fishenko potentially faces up to 20 years in prison for the EAR and money-laundering violations and up to 10 years in prison for the FARA violation.

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US Fines South Carolina Company for Illegal Exports of Armoured Vehicles

On 2 September, the US Commerce Department’s Bureau of Industry and Security (“BIS”) [announced](#) that it had imposed a partially suspended civil penalty and a suspended denied-persons order on Streit USA, a South Carolina company, certain of its affiliates, and two of its corporate officers. These penalties were imposed for selling U.S.-origin vehicles, which were retrofitted with ballistic steel and bullet proof glass, without appropriate licences to buyers in the UAE, Venezuela, Afghanistan, Iraq, Nigeria, the Philippines, and Singapore. The goods in question were export-controlled for national security reasons. The individual corporate officers were included in the penalty for causing, aiding and abetting the transfers and re-exports by providing a false statement in support of a pending export licence application. The total penalty imposed was \$3,500,000, of which \$1.5 million was suspended, and each of the parties was also placed under a suspended three-year denial order. During the three-year suspension period, the corporate parties are required to comply with certain audit requirements.

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US Revokes Export Privileges of Five Accused of Exporting Software to Syria

On 21 September, BIS [announced](#) that it [revoked](#) the export privileges of two individuals and three entities that were allegedly involved in a conspiracy to illegally export encryption items, consisting of monitoring software and equipment, to Syria, including to Syrian state-controlled entities. The items are controlled for national security and anti-terrorism reasons. Denial orders of five and six years, respectively, were imposed on United Arab Emirates nationals Aiman Ammar and Rashid Albuni and their companies, Engineering Construction and Contracting and Advanced Technology Solutions of Damascus, Syria, and iT-Wave FZCO, of Dubai, U.A.E.

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US Updates Terrorism List with a Series of Additions and

Removals

On 10 September, the US Treasury Department [designated](#) seven individuals and one business affiliated with Hamas under the Specially Designated Global Terrorist (“SDGT”) regime. The individuals were all accused of acting as major financiers for the Hamas regime. The business, Asyaf International Holding Group for Trading and Investment, is accused of being a front company for some of the designated individuals.

On 9 September, the US Treasury Department and the US State Department [designated](#) Abu Ubaydah Yusuf al-Anabi as an SDGT. Al-Anabi is a member of the Islamic Maghreb through the Algerian al-Qa’ida. He is the leader of the former’s Council of Notables and serves as the broader organisation’s Media Chief. In 2013, he called for a worldwide armed conflict against French interests.

On 8 September, the US Treasury Department and the US State Department [designated](#) as SDGTs Yahya Sinwar, Rawhi Mushtaha, Muhammed Deif, and Samir Kuntar. Sinwar and Mushtaha, who were released from an Israeli prison in 2011 as part of a prisoner exchange, co-founded the military wing of Hamas, Izzedine al-Qassam Brigades, and are said to be currently encouraging the kidnapping of Israeli soldiers. Deif is a top commander in the Brigade, and is known for directing suicide bombers and orchestrating the kidnapping of Israeli soldiers. He was also alleged to be the mastermind of Hamas’ offensive strategy during the 2014 conflict between Israel and Hamas. Kuntar, who was also convicted in Israel for various violent crimes and released in a later prisoner swap, is [alleged](#) to be one of Hizballah’s most notable spokesman and is currently building Hizballah’s infrastructure in the Golan Heights.

On 25 August, the US Treasury Department and US State Department [designated](#) Abdul Aziz Haqqani as a SDGT. Haqqani is brother to Sirajuddin Haqqani, the leader of the Haqqani Network. As a senior member of the Haqqani network, Haqqani has planned and carried out attacks against Afghan government targets and has taken wider responsibility for other Haqqani Network attacks.

On 25 August, the US Treasury Department removed Sajid Mohammed Badat, a dual U.K.-Pakistan citizen, from the Specially Designated Nationals List (“SDN List”). The US State Department had [determined](#) on 19 December 2005 that Badat posed a significant risk of performing acts of terrorism against the United States. Badat is [known](#) for being tasked to carry out a similar-styled attack as Richard Reid, the ‘shoe bomber’. Badat withdrew from the plan before its execution but was still later arrested. He was sentenced to prison but had his term reduced multiple times by agreeing to provide evidence to prosecutors. It is not immediately clear why Badat was removed.

On 3 September, the US Treasury Department removed the Greek terrorist organisation ‘17 November’ from the SDN List. The State Department concluded that the leftist group, which had orchestrated the murder of a Central Intelligence Agency station chief in Athens, is no longer a threat.

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US Continues Paring Obsolete Entries from Zimbabwe List

On 3 September, the US Treasury Department continued its recent trend of removing obsolete Zimbabwe-

related entries from the SDN List. On this round it removed (1) Nathan Shamuyarira, Politburo Secretary for Information and Publicity, (2) Lovemore Sekeramayi, Chief Elections Officer, (3) Louise Nkomo, daughter of Zimbabwean independence leader Joshua Nkomo and ex-wife of Francis Nhema, the Minister of Youth Development, Indigenisation, and Empowerment, and (4) Oryx Natural Resources, a mining company that was accused of trafficking in conflict minerals. Shamuyarira and Sekeramayi are reportedly deceased, and Nkomo was reportedly recently divorced from Nhema. It is unclear why Oryx was removed.

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US Sanctions Businesses Owned by Mexican Drug Cartel

On 17 September, the US Treasury Department [designated](#) five businesses in Jalisco state, Mexico under the Foreign Narcotics Kingpin Designation Act (“Kingpin Act”) on the ground that they are controlled by the Cartel De Jalisco Nueva Generación (“CJNG”) network. CJNG had been [designated](#) under the Kingpin Act in April 2015. The businesses include a sushi restaurant with locations in Puerto Vallarta and Guadalajara, a cabin rental business located in Tapalpa, and a tequila producer, an advertising company, and an agricultural company located in Guadalajara. All five businesses are accused of providing financial support to CJNG’s narcotics activities.

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UK News

UN imposes sanctions on British jihadists

At the request of the UK government, the UN has subjected four British individuals to an asset freeze and travel ban. The [updated sanctions list](#) names the individuals as Omar Hussain, Nasser Muthana, Aqsa Mahmood and Sally-Anne Jones. All are said to be jihadists fighting or recruiting for Islamic State militants in Syria.

This marks the first time since 2006 that the UK government has asked the UN to sanction its own citizens. A government spokeswoman said that the sanctions were intended as “a clear deterrent message to those thinking of going to fight for ISIL” and that the government would “continue to consider whether more individuals should be subjected to these sanctions”.

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UK Foreign Office issues guidance on doing business with Iran

On 2 September 2015, in light of the JCPOA, the UK Foreign and Commonwealth Office released a set of [frequently asked questions](#) on doing business with Iran.

The questions and accompanying guidance cover issues such as the impact of the deal on business, the time of phasing of sanctions relief, the risks of doing business in Iran and other topics. The guidance emphasises that, until the sanctions relief is in force, the prohibitions remain in place and enforceable, and reiterates that trade with or investment in Iran is currently not encouraged by the UK.

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