

## EU

### **EU Renews Its Sanctions Against Bosnia and Herzegovina**

The EU Council has renewed its sanctions against Bosnia and Herzegovina until 31 March 2018. The measures include an asset freeze and travel ban on listed individuals and entities believed to be undermining its sovereignty and territorial integrity, posing a serious threat to the Bosnian security situation, or undermining the Dayton/Paris Peace Agreement. [Council Decision 2017/607](#) amends [Council Decision 2011/173/CFSP](#).

### **European Court of Justice (ECJ) Clarifies Sanctions in Response to the Crisis in Ukraine Against Certain Russia Undertakings**

In February 2015, the UK Divisional Court referred questions to the ECJ for a preliminary ruling in the course of Rosneft's judicial review proceedings challenging UK legislation that gives effect to EU sanctions against Russia. The questions referred concerned the interpretation and validity of [Council Decision 2014/512/CFSP](#) and [Council Regulation \(EU\) 833/2014](#).

In response to the UK Divisional Court's questions, on 28 March 2017, the ECJ held that the measures on "financial assistance" within Article 4(3)(b) of Regulation 833/2014 do not include the processing of a payment by a bank or other financial institutions. The ECJ clarified that Article 5(2) prohibits the issuance the Global Depository Receipts in relation to a depository agreement concluded with one of the entities listed in Annex VI of Regulation 833/2014, where those Global Depository Receipts represent shares issued by one of those entities before 12 September 2014.

In summary, the ECJ upheld the EU's sanctions against Russia over the Ukraine conflict, including on its largest oil group, Rosneft. The EU's sanctions on Russia which are at issue include those imposing restrictions on certain financial transactions and on the access of various Russian entities to EU capital markets, as well as on the export of certain goods and technology and services required for oil transactions. The ECJ held that the vagueness of some of the restrictive measures did not make them invalid for lack of certainty or prevent Member States from imposing criminal penalties for infringement.

The [judgment of the ECJ](#) is available online.

### **EU Extends Asset Freezing Measures and Travel Bans on Individuals and Entities Responsible for Undermining the Territorial Integrity of Ukraine**

The EU has extended its asset freezing measures and travel bans on entities and individuals who are involved in undermining or threatening Ukraine's territorial integrity, sovereignty and independence for a further six months, until 15 September 2017. The EU's listings on these measures include, to date, 150 people and 37 entities. [Implementing Regulation 2017/437](#) implements [Regulation 269/2014](#) and [Decision 2017/445](#) amends [Decision 2014/145/CFSP](#).

### **EU Extends Ukraine Misappropriation Sanctions**

Following its annual review, the EU has renewed its asset freezes relating to individuals who are identified as being responsible for misappropriating Ukrainian state funds until 6 March 2018. These asset freezes were initially introduced in March 2014. [Implementing Regulation 2017/374](#) implements [Regulation 208/2014](#) and [Decision 2017/381](#) amends [Decision 2014/119/CFSP](#).

### **Potential New EU Restrictive Measures on the Democratic Republic of Congo**

In a [press release](#) published on 6 March 2017, the EU informs the Democratic Republic of Congo that it remains ready to impose new targeted sanctions as a result of the serious human rights violations that have recently occurred in Congo, the refusal of President Joseph Kabila to stand down at the end of his term and the general blockage of the December 2016 political agreement. The press release states that: "The EU reminds political leaders and members of the security forces that it is prepared to adopt new individual restrictions measures against those responsible for serious human rights violations or for incitement to violence and those who would obstruct a consensual and peaceful solution to the crisis, one that respects the aspiration of the people of the DRC to elect their representatives. The EU invites the High Representative to initiate work to this end."

### **EU Amends North Korea Sanctions**

With effect from 1 March 2017, the EU has amended its financial sanctions against the Democratic People's Republic of North Korea to include additional prohibitions. In summary: (1) with effect from 1 March 2017, it is prohibited to open a new bank account held or controlled by a North Korean diplomatic mission, consular post or their North Korean members; (2) by 11 April 2017, any existing bank account held or controlled by a North Korean diplomatic mission, consular post or their North Korean members must be closed; and (3) derogations may be authorised (if requested) for one bank account per mission, post and member. [Council Regulation \(EU\) No 2017/330](#) amends [Council Regulation \(EC\) 329/2007](#).

## Supply Chain Compliance – New French Law on Corporate Duty of Vigilance Law Adopted

On 21 February 2017, the French National Assembly [adopted](#) a Corporate Duty of Vigilance Law, which creates a novel corporate supply chain liability, defining a duty of vigilance for parent companies and their subcontractors. The law provides that multinational firms carrying out all or part of their activity on French territory will need to adopt mechanisms to prevent human rights violations and environmental damages throughout their supply chain. The law applies to large French companies, and it is estimated that only 150 businesses will be affected by the new rules. Companies that fail to monitor themselves or publish reports can be reported by victims or concerned parties and, in cases of breach of the law, can face possible financial penalties totalling as much as €10 million.

## UK

### UK Export Control Organisation (ECO) Withdraws Iran End-User Concern List

In a [notice](#) to exporters from 22 March, the ECO announced that its Iran list has been withdrawn, owing to the substantial lifting of EU sanctions on Iran under the JCPOA nuclear deal signed in 2015. The list was designed to provide information relating to certain entities, companies and organization in Iran for exporters concerned about the possible end-use of their goods. Going forward, exporters should use the end-user advice service, accessible through the [SPIRE export licensing system](#).

### UK ECO Amends Its Rules on Capital Punishment Goods

In a [notice](#) to exporters from 15 March, the ECO announced that it amended its rules concerning the export of goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, implementing the EU's [new export control rules](#) from November 2016. The list of these goods can be found in Annexes II and III of the [Export Control Order 2008](#). As a result of these changes, there are now new prohibitions on: (1) transit within the customs territory of the EU of Annex II goods and, in certain circumstances, Annex III and Annex IIIa goods; (2) the provision of brokering services related to Annex II goods; (3) the provision of training related to Annex II goods; (4) the display or offering for sale of any Annex II goods at an exhibition or fair taking place within the EU (unless such display/sale does not promote the sale or supply of the goods to a person to entity in a third country); and (5) the sale or purchase of advertising time or space for Annex II goods. The new legislation also allows for more flexible licensing of Annex III goods as they may have legitimate uses.

## UK ECO Updates Six Open Licences

The ECO has announced that it has updated and amended six open general export licences (OGELs) in order to reflect the amendments to the Export Control Order 2008, which came into force on 22 February, and the replacement of Schedule 1 to the OGEL for printed circuit boards (PCB) and components for military goods. The new licences came into force on 1 March 2017. Exporters who no longer meet the terms and conditions of a particular licence will need to de-register from the licence via [SPIRE](#). In summary: (1) control list classification PL5017 has been removed from five of the amended OGELs, and exporters still need to complete an annual return at the end of the calendar years in December if they have been using OGELs to export PL5017 goods during 2017; and (2) the range of PCBs and components for military goods featuring in Schedule 1 to that OGEL has been considerably extended to include a wide range of additional minor components for equipment controlled in ML5, ML6, ML9, ML10 and ML11. The [ECO's notice](#) can be accessed online as well as the [amended OGELs](#).

### UK Introduces New Monetary and Criminal Penalties for Breach of Financial Sanctions

The new [Policing and Crime Act 2017](#) (the Act), which comes into force in April 2017, provides HM Treasury with enforcement powers to punish breaches of financial sanctions. Under the Policing and Crime Act 2017, HM Treasury has the power to impose monetary penalties if it is satisfied that a person acted in breach of sanctions and knew or had reasonable cause to suspect they were in breach, on the balance of probabilities. Part 8 of the Policing and Crime Act 2017 that deals with financial sanctions comes into force on 1 April 2017.

In summary: (1) for breaches of UK, EU and UN financial sanctions the maximum monetary penalty is £1,000,000 or 50% of the estimated value of the funds or economic resources, whichever is greater. In certain circumstances, HM Treasury may also impose a penalty in instances where there is a failure to provide information which has been specifically requested by HM Treasury; and (2) the Policing and Crime Act 2017 increases the maximum criminal penalty for breaches of financial sanctions from two to seven years' imprisonment and includes breaches of financial sanctions in the list of offences to which Deferred Prosecution Agreements and Serious Crime Prevention Orders apply.

Our analysis of the Act and implications is available [here](#).

## US

### BIS Removes ZTE Corp. From Entity List

The US Department of State's Bureau of Industry and Security (BIS) has removed from the Entity List China's telecommunications equipment firms Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications Ltd., known collectively as ZTE. The [action](#) follows the agency's recently announced, record-breaking settlement for US export controls violations, according to which those entities agreed to pay US\$661 million to resolve claims of unlawful exports of US items to sanctioned countries, including Iran and North Korea.

The removal of these entities from the Entity List eliminates the licence requirements for exports, re-exports and transfers (in-country) to these entities. However, the BIS simultaneously added former ZTE CEO Shi Lirong to the Entity List, imposing a licence requirement for all items subject to the Export Administration Regulations (EAR) and a licence review policy of presumption of denial for Shi Lirong.

### OFAC Issues General License Authorising Certain Transactions with Soho Panama, S.A.

On 9 March 2017, the US Treasury Department's Office of Foreign Assets Control (OFAC) issued [General License 4F](#), authorising limited transactions with the Panamanian Mall, Soho Panama, S.A, and related entity Westline Enterprises, Inc. Soho Mall Panama was designated for sanctions under the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901-1908) in May 2016, in connection with the Waked money laundering organisation. Accordingly, US persons (including non-US branch offices of US companies) are generally prohibited from dealing with Soho Mall Panama, its property or interests in property.

General License 4F permits US persons to engage in limited activities relating to the mall through 12:01 a.m. eastern daylight time, 28 April 2017. They include certain activities for winding down of operations or contracts, building maintenance and certain financial services, provided that involve no other designated parties. They further include transactions involving payments by entities located in the mall or providing management or maintenance services to the mall, provided that such payments are to a blocked account, and transactions to facilitate the sale, disposition, or transfer of Soho Mall Panama or Westline Enterprises, Inc., provided that they involve no other designated parties.

### Congress Introduces North Korea and Iran Sanctions Legislation

House lawmakers introduced a new bill, the Korean Interdiction and Modernization of Sanctions Act (H.R. 1644), that would expand existing sanctions targeting trade with the North Korean regime. Further, two new Iran sanctions bills were introduced in the House and Senate – the Iran Ballistic Missiles and International Sanctions Enforcement Act (H.R. 1698) and the Countering Iran's Destabilizing Activities Act of 2017 (S. 722), respectively. The House bill is narrower and would establish new sanctions measures targeting Iran's ballistic missiles program and acquisition of conventional weapons. The Senate bill is broader and would establish new ballistic missiles and conventional weapons sanctions, in addition to sanctions related to Iran's support for terrorism and human rights abuses.

### Enforcement Actions

#### ZTE Corporation Enters Into US\$1.19 Billion Settlement

On 7 March, the Departments of Commerce, Justice, and Treasury jointly [announced](#) a US\$1.19 billion settlement with China-based telecommunications company ZTE Corporation and its subsidiaries and affiliates (together ZTE) for allegedly violating US sanctions and export controls laws. ZTE agreed pay a US\$100.9 million civil penalty to OFAC; a US\$661 million civil penalty to the BIS (US\$300 million of which will be suspended during a probationary period); and a US\$430 million penalty to the Department of Justice, subject to court approval. Separately, and as addressed in the earlier portion of this update, effective 29 March, the BIS [removed](#) ZTE Corporation and ZTE Kangxun from the Entity List, while simultaneously adding former ZTE Corporation Shi Lirong to the list.

#### BIS Announces Arrest of Ukrainian National and a US\$27 Million Settlement With Access USA Shipping, LLC

On 7 March, the BIS [announced](#) the arrest of a Ukrainian national on charges related to the export of military technology to Ukraine. Separately, on 24 March, the BIS [announced](#) a US\$27 million civil settlement with Access USA Shipping, LLC, a company based in Sarasota, Florida, for alleged export controls violations related to the shipment of rifle scopes, night vision lenses, weapons parts and EAR99 items.

### Event

#### US Export Controls Workshop: "The ITAR "Virus" EARvolves!" – Stratford-Upon-Avon, UK, 12-14 June 2017

Our Aerospace, Defense & Government Services Industry Group will once again co-host the three-day ITAR workshop sessions with EGADD and Strategic Shipping Company Ltd. This year marks the 10th anniversary of this conference. Please visit our blog, [The Trade Practitioner](#), for workshop descriptions and registration information.

## About Us

Our export controls and sanctions team has the ability to provide advice on the shifting regulatory framework on both sides of the Atlantic. We have extensive experience in advising and representing a wide range of companies and financial intuitions in Europe, the US and other jurisdictions on export control and sanctions from a multijurisdictional perspective. Our team is part of our overall International Trade Practice, providing a “one-stop” solution to global trade compliance through rapid, professional and tailored advice and compliance tools to fit your business needs and processes. If you have any questions relating to sanctions, please contact a member of our EU or US Sanctions team listed herein, or email [InternationalTradeCompliance@squirepb.com](mailto:InternationalTradeCompliance@squirepb.com) for assistance.

## Resources to Strengthen Compliance

We encourage you to visit our blog, [The Trade Practitioner](#), where you will find additional updates and information on export controls, sanctions and other international trade topics. In addition, organisations engaged in the trade of items specially designed for military or space applications are encouraged to download our complimentary [ITAR Practitioner's Handbook](#), which covers the International Traffic in Arms Regulations (ITAR) and the US Department of Commerce “600 Series”.

## Contacts

### EU

**Robert MacLean**

Brussels  
T +32 2 6277 619  
E [robert.macleans@squirepb.com](mailto:robert.macleans@squirepb.com)

**Aline Doussin**

London/Brussels  
T +44 20 7655 1145  
E [aline.doussin@squirepb.com](mailto:aline.doussin@squirepb.com)

**Martin Rees**

London  
T +44 207 655 1137  
E [martin.rees@squirepb.com](mailto:martin.rees@squirepb.com)

**Tim Wünnemann**

Berlin  
T +49 30 72 616 8116  
E [tim.wunnemann@squirepb.com](mailto:tim.wunnemann@squirepb.com)

### US

**George Grammas**

Washington DC/London  
T +1 202 626 6234  
T +44 20 7655 1301  
E [george.grammas@squirepb.com](mailto:george.grammas@squirepb.com)

**Daniel Waltz**

Washington DC  
T +1 202 457 5651  
E [daniel.waltz@squirepb.com](mailto:daniel.waltz@squirepb.com)

**Christopher Skinner**

Washington DC  
T +1 202 626 6226  
E [christopher.skinner@squirepb.com](mailto:christopher.skinner@squirepb.com)

**Stephen McHale**

Washington DC  
T +1 202 457 6344  
E [stephen.mchale@squirepb.com](mailto:stephen.mchale@squirepb.com)

Squire Patton Boggs International Trade Practice Co-Leaders: Frank Samolis and George Grammas

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