

EU

EU Issues Judgments on Designated Individuals Under Ukraine Restrictive Measures

On 8 November, the EU General Court delivered judgements in the cases of [Klymenko v Council \(case T-245/15\)](#) and [Ivanyushchenko v Council \(case T-246/15\)](#). These cases concerned two individuals designated as “persons identified as responsible for the misappropriation of Ukrainian State funds and persons responsible for human rights violations” and, therefore, subject to restrictive measures pursuant to [Council Decision 2014/119/CFSP](#).

In the case of Mr Ivanyushchenko, the court annulled his designation, finding that the Council relied upon evidence that was “beset with inconsistencies” and, furthermore, in light of the inadequacy of the factual basis on which the council relied, it should have investigated further. It found that the council made a “manifest error of assessment”. In respect of the *Klymenko* case, the court decided that the applicant’s pleas did not merit annulment.

EU Imposes Restrictive Measures, Including Arms Embargo, on Venezuela

On 13 November, the Foreign Affairs Council of the EU adopted conclusions on Venezuela, including the imposition of an arms embargo. On the back of a UN report that described a “worsening human rights situation ... within a wider severe economic and social crisis in the country and an increasingly unstable and polarized national political situation”, the EU concluded that the setting up of an “all-powerful Constituent Assembly” contributed to the erosion of democratic and independent institutions.

The council unanimously adopted restrictive measures, including an arms embargo, travel bans and asset freezes. It added that the measures will be employed in a “gradual and flexible manner”, and may be expanded or reversed depending on how the situation in Venezuela develops (see [Council Regulation \(EU\) 2017/2063](#) and [Council Decision \(CFSP\) 2017/2074](#)).

EU Trade Committee Votes to Control Export of Dual-Use Cyber-Surveillance Items

On 23 November, the EU Trade Committee voted to extend EU export controls to include cyber-surveillance technologies (i.e. ones that could be used not only for civilian purposes, but also in violation of human rights). The [new rules](#) would essentially modernise the existing dual-use regulation (428/2009) to encompass cyber-surveillance items that might be used as “intrusion software” and “monitoring centres” to collect, store and analyse data, for example from mobile traffic. The proposals aim to protect “human security”.

The Trade Committee vote saw 34 votes in favour, one in opposition and two abstentions (see [here](#) for details). The December plenary session will determine Parliament’s negotiating mandate.

EU Amends Russia Prohibitions in Context of ExoMars 2020 Mission

On 30 November, the EU amended its Russia prohibitions to allow “[t]he provision, directly or indirectly, of technical assistance, financing or financial assistance” related to the sale, supply, transfer or export and the import, purchase or transport of hydrazine in concentrations of 70% or more, provided that it is for named purposes concerning the ExoMars descent module and carrier module (see [Council Decision \(CFSP\) 2017/2214](#) and [Council Regulation \(EU\) 2017/2212](#)).

UK

UK Government Publishes New Trade Bill

On 7 November, the UK government published the Trade Bill, having introduced it to Parliament for its First Reading. Together with the Customs Bill, it is designed to give the UK the powers necessary to bring existing EU trade agreements into UK statute. The bill also establishes a new independent body called the Trade Remedies Authority with the power to launch trade remedies investigations in the UK, a responsibility currently assigned to the European Commission. The bill will ensure that the UK can become an independent member of the Agreement on Government Procurement (rather than a member by virtue of being in the EU) which, according to the government, will maintain UK businesses’ access to public contracts worth £1.3 trillion. An accompanying [factsheet](#) explaining the bill was published by the Department of International Trade.

Terrorism and Terrorist Financing

The UK’s Office of Financial Sanctions Implementation, part of HM Treasury, [renewed the final designations](#) of “Popular Front For The Liberation Of Palestine - General Command” and “Popular Front For The Liberation Of Palestine”, with effect from Friday 1 December 2017. These entities, therefore, continue to be subject to financial sanctions imposed by the Terrorist Asset-Freezing etc. Act 2010.

UK Introduces Regulations in Light of EU Sanctions on Venezuela

In November, the UK passed the [Venezuela \(European Union Financial Sanctions\) Regulations 2017](#). The regulations follow the EU's recent sanctions on Venezuela as part of [Council Regulation \(EU\) 2017/2063](#). They cover offences, penalties and other provisions, such as reporting obligations.

On 15 November, the UK Department for International Trade published a notice to exporters ([Notice 2017/25](#)) in which it emphasised that the UK interprets the arms embargo on Venezuela as applying to all items on the UK Military List. It further explained that "[a] licence will be required for the supply of equipment, technology or software intended primarily for use in the monitoring or interception of internet or telephone communications on mobile or fixed networks in Venezuela". Licence applications must be submitted to the Export Control Joint Unit (ECJU) in the Department for International Trade via SPIRE, the online export licensing system. The notice also makes clear that member states may authorise prohibited transactions that concern the execution of a contract or agreement concluded before 12 November.

House of Lords Report Expresses Deep Concerns Over UK Sanctions Bill

On 17 November, the House of Lords Select Committee published its [report on the UK Sanctions and Anti-Money Laundering Bill](#), wherein it expressed concerns, for example, in respect of the bill's three-yearly review provisions, which it is not convinced are acceptable. The Lords also questioned the absence of an individual's right to be told that sanctions have been applied against them or on what grounds, and also expressed its deep concerns over the enforcement provisions, which it described as "constitutionally unacceptable". On 29 November, the House of Lords continued to closely scrutinise the [UK Sanctions and Anti-Money Laundering Bill](#), which was introduced at the Committee stage on 21 November.

UK Amends Nine Open General Export Licences to Reflect EU Dual-Use Regulation Amendments

The UK Export Control Organisation (ECO) amended [nine open general export licences \(OGELs\)](#) in response to [amendments to the EU dual-use export control list in Annex I to Regulation \(EC\) No 428/2009](#).

UK Publishes Taxations (Cross-Border Trade) Bill

On 21 November, the UK government published the [Taxation \(Cross-border Trade\) Bill](#), the stated aim of which is to "allow the UK to set and collect its own duty on goods coming into the country and will allow the government to implement different outcomes of the EU negotiations, including an implementation period". The [government announcement](#) accompanying the bill explained that the precise nature of the EU-UK future customs relationship will be the subject of negotiations, but the bill will allow the government to charge and vary customs duty on goods, specify which goods are subject to what duty, set preferential or additional duties in certain circumstances and ensure that VAT and excise legislation function effectively upon EU exit.

UK Implements EU Sanctions on Mali

On 7 November, the UK Office of Financial Sanctions Implementation issued a [Financial Sanctions Notice](#) confirming that, as of that date, no individuals or entities had been included in [Annex I of the EU Regulation](#). This remains the case at the date of this newsletter.

By way of background, on 17 October 2017, the UK published the [Republic of Mali \(European Union Financial Sanctions\) Regulations 2017 \(SI 2017/972\)](#). These follow [Council Regulation \(EU\) 2017/1770](#) of 28 September 2017, which imposed "travel restrictions and the freezing of funds and economic resources of certain of persons designated by the United Nations Security Council as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security, or stability of Mali".

Sanctions on Mali deriving from the Council Regulation restrict designated persons, with the UK regulations implementing the enforcement and penalty provisions thereof.

Commission Updates to EU Control List of Dual-use Items Enter into Force

On 16 December, the European Commission's updates to the EU dual-use export control list entered into force.

On 26 September 2017, the commission adopted the annual Delegated Regulation ([2017/2268](#)), which was published in the [Official Journal](#) on 15 December, updating the EU dual-use export control list in [Annex I to Regulation \(EC\) No 428/2009](#). The update aligns the list with the decisions taken within the framework of the international non-proliferation regimes and export control arrangements in 2016. The changes include updated acronyms and abbreviations, new definitions for certain terms such as "biological agents" and "authentication", and new sub-entry controls. The most significant changes relate to dual-use information security items contained in Category 5 Part 2, a new sub-entry for integrated circuits with analogue-to-digital converters.

Worldwide

UN Adopts Resolution to Extend Restrictive Measures on Somalia and Eritrea

On 14 November, the UN Security Council [announced](#) the adoption of [Resolution 2385 \(2017\)](#) to extend the modified arms embargo on Somalia and the authorisation for maritime interdiction of illicit arms imports and charcoal exports until 15 November 2018. The arms ban on Eritrea was also renewed for that same period.

Switzerland Introduces Sanctions on Republic of Mali

On 22 November, the Swiss Federal Council introduced [UN sanctions against the Republic of Mali](#), which include travel bans and asset freezes. The sanctions target individuals and entities acting directly or indirectly to undermine peace, security and stability in the country. Switzerland's media release can be read [here](#).

US

FinCEN Issues Final Rule Further Restricting North Korean Access to the US Financial System

On 2 November, the US Department of Treasury's Financial Crimes Enforcement Network (FinCEN) [announced](#) the issuance of a [final rule](#) severing the Chinese financial institution Bank of Dandong from the US financial system. FinCEN found Bank of Dandong to be of primary money laundering concern under the USA PATRIOT Act, in connection with activities by the bank to serve as a financial conduit between North Korea, US and international financial systems. In addition to the action against Bank of Dandong, FinCEN issued an [advisory](#) to financial institutions highlighting the illicit financial schemes used by North Korea and explaining how to identify red flags.

New Venezuela-Related Frequently Asked Questions

The US Department of Treasury's Office of Foreign Assets Control (OFAC) has published two new Frequently Asked Questions (FAQ) concerning economic sanctions adopted in August against the government of Venezuela, under [Executive Order \(EO\) 13808](#). The [first FAQ](#) explains the treatment of Petroleos de Venezuela, S.A. (PdVSA), a state-owned entity, under EO 13808. The [second FAQ](#) discusses US persons participating in meetings regarding the restructuring of PdVSA debt that existed prior to 24 August 2017, the effective date of [EO 13808](#).

OFAC and BIS Amend Cuba Sanctions Regulations

OFAC and US Department of Commerce's Bureau of Industry and Security (BIS) have each issued new regulations implementing President Trump's June 2017 National Security Presidential Memorandum on Cuba (the "Cuba NSPM").

On 9 November, OFAC published [amendments to the Cuban Assets Control Regulations \(31 C.F.R. Part 515\)](#) in the Federal Register. The amendments implement the shift in US policy toward Cuba announced in the Cuba NSPM by, among other things, modifying the general licenses for travel to Cuba for certain educational and people-to-people exchanges, and restricting certain direct financial transaction by US persons with Cuban government and military entities.

According to OFAC's [announcement](#), the amendments are "intended to channel economic activities away from the Cuban military, intelligence, and security services, while maintaining opportunities for Americans to engage in authorized travel to Cuba and support the private, small business sector in Cuba". In conjunction with this amendment, OFAC has published new and updated [FAQs](#) and a [Fact Sheet](#).

For its part, BIS has published a [final rule](#) amending the licencing policy for Cuba and three licence exceptions. The amended licence exceptions include those for Gift Parcels and Humanitarian Donations (GFT), Consumer Communications Devices (CCD) and Support for the Cuban People (SCP). In accordance with the Cuba NSPM, BIS will now generally deny licence applications for exports and re-exports to Cuba of items for use by certain entities or subentities of the Cuban government, as identified on the State Department's List of Restricted Entities and Subentities associated with Cuba (the so-called "[Cuba Restricted List](#)"), unless determined to be consistent with the Cuba NSPM. The rule further amends the list of ineligible Cuban government officials in License Exceptions GFT (§ 740.12), CCD (§ 740.19) and SCP (§ 740.21). BIS has published updated [FAQs](#) and a [Joint Fact Sheet](#) explaining the measures implementing the Cuba NSPM.

BIS Clarifies Use of EAR Licence Exceptions GOV and STA

BIS has published a [final rule](#), effective 1 November 2017, which clarifies two licence exceptions in the Export Administration Regulations (EAR). They are the licence exception for governments, international organisations, international inspections, and the International Space Station (GOV) and for Strategic Trade Authorization (STA). The rule does not change any EAR requirements for the use of these licence exceptions but simply clarifies their scope and terms of use.

Enforcement Action

OFAC Announces Settlement With BCC Corporate SA

On 17 November, OFAC [announced](#) a settlement agreement with BCC Corporate SA (BCCC), a Belgium-based credit card issuer and corporate service company, in connection with 1,818 violations of the Cuban Assets Control Regulations occurring between April 2009 and February 2014. During this time, BCCC was a wholly owned subsidiary of Alpha Card Group, which in turn owned 50% by the US financial institution American Express Company (AMEX). BCCC issued credit cards to corporate customers, which it permitted to be used for transactions in Cuba. Following its voluntary self-disclosure of the violations to OFAC, AMEX agreed to remit US\$204,277 to settle potential liability for these violations.

Upcoming Events

Save-the-Date: Advanced International Trade Compliance Workshops – Washington DC, 10-12 April 2018

Our International Trade Practice is once again partnering with marcus evans® to host a two-day workshop on advanced international trade compliance topics with separate tracks on export and import.

Subscribe to our blog, [The Trade Practitioner](#), where additional details about the workshops will be released soon.

Save-the-Date: US Export Controls Workshop – “The ITAR ‘Virus’ Continues to EARvolve!” – Stratford-Upon-Avon, UK, 23-25 July 2018

Our [Aerospace, Defense & Government Services Group](#) is pleased to partner once again with [EGADD](#) and [Strategic Shipping Company Ltd](#) to host the upcoming workshops in the UK. Continue reading [here](#) for additional details on topics to be discussed, format and benefits.

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About Us

Our export controls and sanctions lawyers have 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 shop” 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 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”.