

EU

Part of EU Sanctions on Russia Extended Through July 2018

On 21 December 2017, the Council of the European Union prolonged sanctions targeting sectors of the Russian economy until 31 July 2018 (See [Council Decision \(CFSP\) 2017/2426](#)). The restrictive measures include limited access to EU primary and secondary capital markets for certain Russian banks and companies, an export and import ban on trade in arms, an export ban on dual-use items for military use or military end-users in Russia, and restricted access to certain sensitive technologies and services that can be used for oil production and exploration. These measures are based on [Council Decision 2014/512/CFSP](#) of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and were taken following the condemnation by the EU's Head of States of the violation of Ukrainian sovereignty and territorial integrity by the Russian Federation in March 2014.

EU Amends Restrictive Measures on the Democratic People's Republic of Korea

On 8 January 2018, the EU aligned its North Korea sanctions list with part of [UN Security Council Resolution 2397](#) adopted on 22 December 2017. Sixteen persons and one entity, the Ministry of the People's Armed Forces, have been added to the list of those subject to an asset freeze and travel restrictions (See [Council Implementing Decision \(CFSP\) 2018/16](#) and [Council Implementing Regulation \(EU\) 2018/12](#)). To complement the UN listing, on 22 January 2018, the EU added 17 supplementary individuals to the same list. These individuals have been identified for their involvement in illegal trade activities and activities aimed at facilitating the evasion of sanctions (See [Council Decision \(CFSP\) 2018/89](#) and [Council Implementing Regulation \(EU\) 2017/1509](#)).

EU Adds Seven Venezuelan Officials to Restrictive Measures List

On 22 January 2018, the EU froze the assets of seven Venezuelan officials, notably including the Minister for Interior, the head of the Intelligence Service, the head of the National Electoral Council and the President of the Supreme Court of Justice. These individuals are considered by the EU to be "involved in the non-respect of democratic principles or the rule of law and the violation of human rights" (See [Council Decision \(CFSP\) No 2018/90](#) and [Council Implementation Regulation No 2018/88](#)).

EU Amends Its ISIL and Al-Qaida List Following UN Decision

On 11 January 2018, the EU amended its list under [Council Regulation No 881/2002](#) imposing certain specific restrictive measures directed against persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations (See [Commission Implementing Regulation No 2018/50](#)).

EU Extends Its Sanctions on the Democratic Republic of Congo

On 11 December 2017, the Council extended its current sanctions regime against the Democratic Republic of Congo (DRC) until 12 December 2018. These sanctions were adopted in response to the obstruction of the electoral process and the related human rights violations in DRC (See [Council \(CFSP\) Decision 2017/2282](#)). EU Candidate Countries Macedonia, Montenegro and Albania, potential candidate Bosnia and Herzegovina, European Free Trade Association (EFTA) countries Iceland and Liechtenstein, as well as Moldova and Armenia, aligned themselves with the Council decision (See [Council Statement](#)).

EU Extends Asset-Freezing Sanctions in Connection to Situation in Tunisia

The EU extended asset-freezes against persons provided in [Council Decision 2011/72/CFSP](#) and in [Council Implementing Regulation \(EU\) No 101/2011](#) who are considered to be responsible for the misappropriation of Tunisian State funds. On 29 January 2018, the sanctions were extended until 31 January 2019 (See [Council Decision \(CFSP\) 2018/141](#) and [Council Implementing Regulation \(EU\) 2018/137](#)).

EU Parliament Adopts Amendments on Dual-Use Items Regulation Proposal

Presented by the European Commission on 28 September 2016, the [dual-use items Regulation Proposal](#) aims at reviewing the export control regime of dual-use items. The proposal contains amendments to key export control notions, for example, the amending of the definition of "dual-use" to include cyber-surveillance technologies. It also clarifies controls on intangible technology transfer (ITT) and those applicable to technical assistance involving cross-border movement.

On 17 January 2018, the European Parliament Plenary adopted a number of amendments to the text. These reflect the ongoing discussion on the balance between promoting human rights standards and what would be appropriate for the industry. These amendments are now referred back to the International Trade Committee. However, the Bulgarian Presidency does not see the dual-use items Regulation Proposal as a priority and, therefore, it is unlikely that negotiations between the Council and the Parliament will start before the Austrian Presidency in the second half of 2018 ([Text adopted by the European Parliament on 17 January 2018](#)).

EU Reaches Agreement on Money Laundering and Terrorist Financing Directive

On 5 July 2016, the European Commission presented a [proposal for a Directive of the European Parliament and of the Council](#) amending [Directive \(EU\) 2015/849](#), which is intended to prevent the financial system from being used for money laundering or terrorist financing. Following negotiations between the Council and the European Parliament, a provisional agreement was reached on 13 December 2017. The agreed upon [text](#) still has to go through a formal vote in both the Council and Parliament. One of the contributions of the text would be imposing improved checks and due diligence on financial transactions to and from third countries showing anti-money laundering prevention deficiencies. For this purpose, the Commission will consolidate a harmonised list of "high-risk third countries".

EU Declassifies Negotiating Directives for EU-Chile Modernised Association Agreement

On 22 January 2018, the Council made public for the first time [the directives](#) given to the European Commission to negotiate a Modernised EU-Chile Association Agreement. Quite interestingly, the Commission should address specific issues such as the promotion and liberalisation of investments, the protection of intellectual property rights, the elimination of non-tariff barriers, the cooperation in regulatory framework for goods and services, mutual access to public procurement, geographical indications and specific sustainable development provisions.

Four Non-EU Countries Align With EU Sanctions Against Russia

On 31 January 2018, the High Representative of the Union for Foreign Affairs and Security Policy announced that Montenegro, Albania, Norway and Ukraine had aligned themselves with [EU Council Decision \(CFSP\) 2017/2426](#). They have, therefore, extended a part of the sanctions imposed on Russia in relation to its violation of Ukrainian sovereignty and territorial integrity until 31 July 2018 (See [Council statement](#)).

UK

UK Revokes Certain Open General Export Licences

On 4 January 2018, the Export Council Joint Unit (ECJU) of the UK Department for International Trade revoked Open General Export Licenses (OGELs) applicable to [dual-use technology items](#), [cryptographic development](#), [low value shipments](#), and [dual-use items for oil and gas exploration](#), as well as [OGELs for Turkey](#). The ECJU suggested they will be replaced very soon.

This follows another series of decisions on OGELs taken in December. The ECJU already amended [nine open licences](#) as mentioned in our [November Bulletin](#). Continuing on 12 December 2017, the ECJU revoked 17 OGELs applicable to [military and dual-use goods in non-embargoed countries](#), [diverse goods under the dual-use Regulation](#), [export for repair/replacement under warranty on dual-use items](#), [export after repair/replacement under warranty for dual-use items](#), [export after exhibition on dual-use items](#), [PCBs and components for dual-use items](#), [military surplus vehicles](#), [technology for military goods](#), [software and source code for military goods](#), [PCBs and components for military goods](#), [military goods for demonstration](#), [historic military goods](#), [exports or transfers in support of UK government defence contracts](#), [export for repair/replacement under warranty for military goods](#), [export after repair/replacement under warranty for military goods](#), [export after exhibition or demonstration for military goods and access overseas to software and technology for military goods for individual use only](#).

UK Amends the Consolidated List of Strategic Military and Dual-Use Items

On 17 January 2018, the UK's ECJU of the UK Department of International Trade updated the [Consolidated Control List of Strategic Military and Dual-use Items that Require Export Authorisation](#). The updated list notably takes into account the changes made to the EU dual-use export control list (See Annex I of the above link).

UK Issues Guidance on Form to Release Information on Classified Goods and Services to Foreign Nations

On 29 January 2018, the ECJU published a [guidance on the MOD Form 680](#) allowing firms to apply for permission to release information about classified goods and services to foreign nations. According to this guidance, the outcome of a MOD Form 680 request depends on various factors, including the complexity of the project, protective opportunities and the information provided. Indeed, insufficient or incomplete information can delay decision-making.

UK Implements EU's Venezuela Sanctions Regime

On 6 December 2017, the [Venezuela \(European Union Financial Sanctions\) Regulations 2017](#) entered into force in the UK. This regulation implements [Council Regulation \(EU\) 2017/2063](#) of 13 November 2017 and provides for the imposition of restrictive measures on persons or entities considered to be involved in undermining democratic principles and the rule of law, as well as violating human rights in Venezuela. On 22 January 2018, the UK Department for International Trade published a [notice](#) amending the Venezuela Regulations to take into account the addition of seven individuals subject to the EU Venezuelan regime (as aforementioned).

Brexit: Developments in Parliament on UK Trade and Sanctions Bills

The [UK Trade Bill](#) continued to be debated in the House of Commons with a second reading taking place on 9 January 2018. One of the main contributions of the bill is the establishment of the UK Trade Remedies Authority, an institution responsible for investigations into trade remedies, a responsibility currently assigned to the European Commission. Some amendments aim at ensuring that the Authority is answerable to Parliament and not just the Secretary of State, as is currently provided. Following debate, the International Trade Committee launched a specific [inquiry](#) on this future institution and invited stakeholders to send their input by 28 February 2018. Another heated question touches upon whether the UK could or should stay in the EU Customs Union. This would indeed have major implications for businesses (See [minutes of the debate on Hansard](#)). On 23 January 2018, the UK Trade Bill entered the Committee Stage where Members of Parliament are conducting a detailed examination of the bill.

On 15 January 2018, the Report Stage of the [UK Sanctions Bill](#) took place in the House of Lords, allowing Lords to discuss and issue additional amendments. Following Brexit, the UK will no longer implement the EU's sanctions regimes. It will, therefore, have to develop its own sanctions regimes both as a result of its obligation to implement UN's Security Council Resolutions and by the adoption of autonomous sanctions measures. The UK Sanctions Bill, presented on 18 October 2017, provides for powers to develop such measures. Apart from the power to make sanctions law, the UK Sanctions Bill gives the UK government a mandate to designate persons under sanctions regulations according to a simple "description". This has been extensively criticised by several Lords; hence, the introduction by the UK government of an amendment imposing that the description should be as such that "a reasonable person" would know whether a particular individual falls into the description and the recourse to description only occurs when it is not practicable to designate a person by name. These discussions are also of particular significance to financial institutions as the bill allows Ministers in the context of financial sanctions to impose sanctions on persons "connected" with a prescribed country. It is expected that financial institutions will be held to higher standards with regard to their information and reporting obligations (See [minutes of the debate on Hansard](#)). Lords examined the bill one last time during a third reading on 24 January 2018 and focused on the anti-money laundering section of the text. It was then transferred to the House of Commons, which held a first reading on 25 January 2018; the second reading is scheduled for 20 February 2018.

US

US Commerce Department Implements Inflationary Adjustments to Civil Monetary Penalties

Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the US Commerce Department [announced](#) its annual inflationary adjustments to the maximum civil monetary penalties under its jurisdiction. These include, among others, civil monetary penalties issued under the Export Administration Regulations (EAR), enforced under the International Emergency Economic Powers Act (IEEPA), the Census Bureau's Collection of Foreign Trade Statistics law and the International Trade Administration's Foreign Trade Zone law. Effective 15 January 2018, violations of the EAR are subject to a maximum civil monetary penalty of US\$295,141, up from US\$289,238. The new maximum civil monetary penalty amounts apply only to penalties assessed by the US Department of Commerce after 15 January 2018, including where the associated violation predates the adjustment.

Trump Administration Announces Extension of Waivers of Iran Sanctions

In a [statement](#) issued 12 January 2018, President Trump announced that his administration was extending the waivers of certain secondary sanctions against Iran originally adopted on implementation of the Joint Comprehensive Plan of Action agreement (JCPOA) on Iran's nuclear program. Trump stated that the move not to reinstate sanctions against Iran is to allow for talks with European allies who are parties to the JCPOA to alter terms of the agreement and for the US Congress to amend the Iran Nuclear Agreement Review Act (INARA). That law requires the president to certify Iran's compliance with the deal every 90 days – which Trump declined to do in October 2017 (as covered in our [September/October 2017 Bulletin](#)). Among other things, the President indicated that he will require that the Iran deal be revised to be permanent, and that it include Iran's development of long-range missiles.

The same day, the US Treasury Department [announced](#) sanctions against 14 individuals and entities in connection with human rights abuses and censorship in Iran, and support to designated Iranian weapons proliferators. The parties sanctioned include, among others, Iranian government officials, a Chinese national and certain Chinese entities found to support Iran's military procurement.

BIS Adds Two Entities to the Entity List

BIS published a [final rule](#), effective 20 December 2017, which amended the Export Administration Regulations (EAR) by adding two Russian companies to the Entity List under the destination of Russia on the basis of § 744.11 of the EAR. The added entities are the Joint Stock Company Experimental Design Bureau Novator and the Joint Stock Company Federal Scientific and Production Center Titan-Barrikady.

According to BIS, these entities produced a ground-launched cruise missile system and associated transporter-erector-launcher, with a range prohibited by the Intermediate-Range Nuclear Forces Treaty (INF Treaty) for the Russian Federation Ministry of Defense. The US and the Russian Federation are party to the INF Treaty.

OFAC Publishes Amended Iraq Stabilization and Insurgency Sanctions Regulations

Effective 28 December 2017, US Treasury's Office of Foreign Assets Control (OFAC) [amended](#) the Iraq Stabilization and Insurgency Sanctions Regulations, 31 CFR part 576, to implement [Executive Order \(EO\) 13668](#) ("Ending Immunities Granted to the Development Fund for Iraq and Certain Other Iraqi Property and Interests in Property Pursuant to Executive Order 13303, as amended"). These amendments terminated various regulatory provisions that implemented the protections granted under [Executive Order 13303](#). These protections prohibited, with limited exceptions, any attachment, judgment, decree, lien, execution, garnishment or other judicial process with respect to (1) the Development Fund for Iraq; (2) all Iraq petroleum and petroleum products; and (3) any accounts, assets, investments or other property owned by, belonging to or held by the Central Bank of Iraq. The sections that were removed from the regulations are listed in detail in the [OFAC announcement](#).

President Trump Issues Global Magnitsky Executive Order

On 20 December 2017, President Trump issued [EO 13818](#), authorising the imposition of financial sanctions against designated persons determined to be directly or indirectly engaged in certain human rights abuses or corrupt acts around the world. OFAC subsequently released new [Frequently Asked Questions](#) and published updated [designations](#).

OFAC Announces New Regulations Implementing the Sergei Magnitsky Act

OFAC [announced](#) new regulations implementing certain provisions of the Sergei Magnitsky Rule of Law Accountability Act of 2012 (Magnitsky Act) on 20 December 2017. The [regulations](#) became effective upon publication in the Federal Register on December 21. OFAC also [announced](#) the addition of five designations to the SDN List pursuant to the Magnitsky Act.

OFAC Announces New Venezuela-Related Designations

On 5 January 2018, OFAC [designated](#) four current or former Venezuelan government officials pursuant to [EO 13692](#) for their alleged role in undermining electoral processes, media censorship, or corruption in government-administered food programs in Venezuela. Included among the individuals designated was Rodolfo Clemente Marco Torres, who is an External Director on the Board of Directors of PdVSA.

OFAC Announces New Iran-Related Designations

On 4 January 2018, OFAC [designated](#) five Iran-based entities "subordinate to a key element of Iran's ballistic missile program". OFAC designated these entities pursuant to [EO 13382](#) for being owned or controlled by Iran's Shahid Bakeri Industrial Group (SBIG). The SBIG is listed in the Annex to EO 13382 and is currently sanctioned by the US, the EU and the United Nations. According to OFAC, the SBIG "is responsible for the development and production of Iran's solid-propellant ballistic missiles". On 12 January, OFAC [announced](#) additional designations of 14 individuals and entities "in connection with serious human rights abuses and censorship in Iran and support to designated Iranian weapons proliferators".

OFAC Announces New North Korea-Related Designations

On 24 January 2018, OFAC [designated](#) nine entities, 16 individuals and six vessels "in response to North Korea's ongoing development of weapons of mass destruction (WMD) and continued violations of United Nations Security Council Resolutions". The designations "target agents of the Kim regime financing or otherwise supporting North Korea's WMD programs and other illicit businesses".

OFAC Releases CAATSA Reports to Congressional Committees

On 29 January 2018, OFAC [announced](#) that it released five reports to Congressional Committees pursuant to the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA). The reports include (1) Section 241: Report on Senior Foreign Political Figures and Oligarchs in the Russian Federation; (2) Section 104(e): Report on Contributions to Iran's Ballistic Missile Program; (3) Section 242: Report on Effects of Expanding Sanctions to Include Sovereign Debt and Derivative Products; (4) Section 273: Examining the Counter-Terror Financing Role of the Department of the Treasury in Embassies; and (5) Section 311(d): Designation of Additional Persons Related to North Korea. OFAC also published a [Frequently Asked Question](#) regarding the Section 241 report on oligarchs.

Enforcement Action

OFAC Announces Settlement with DENTSPLY SIRONA INC.

On 6 December 2017, OFAC [announced](#) a settlement agreement for US\$1,220,400 with DENTSPLY SIRONA INC. (DSI), a US company incorporated in Delaware, the successor in interest to DENTSPLY International Inc. (DII), in connection with 37 violations of the Iranian Transactions and Sanctions Regulations between November 2009 and July 2012. According to the [OFAC press release](#), DII subsidiaries exported 37 shipments of dental equipment or supplies from the US to third-party distributors with knowledge or reason to know that the goods were destined for Iran.

Upcoming Events

[8th Advanced International Trade Compliance and Modernization Conference – Washington DC, 10-12 April 2018](#)

This premier marcus evans® conference will provide a practical and intuitive approach that addresses high-level challenges with unique breakout sessions targeted for specific issues in the commercial and defense trade landscapes for a practical, realistic look at how to adjust to the regulatory climate, strengthen compliance programs and create a pathway toward robust risk mitigation. [Our International Trade Practice](#) is once again partnering with marcus evans® to host a two-day workshop at the conference covering advanced international trade compliance topics with separate tracks on export and import. More information about the conference and registration can be found [here](#).

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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.

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@sqirepb.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".

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations, nor should they be considered a substitute for taking legal advice.

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