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FOREIGN TRADE LAW

FOREIGN TRADE LAW UPDATE: MORE NEW EU AND U.S. SANCTIONS AGAINST RUSSIA ENTER INTO FORCE

The EU has imposed further economic sanctions on Russia in light of the continuing attacks on Ukraine as well as on Belarus for its support of Russia: On 3/4 June 2022 the EU's sixth package of sanctions came into force. The new sanctions package builds on those of 24 and 26 February 2022 ([newsletter of 28 February 2022](#)), 28 February/2 March 2022 ([newsletter of 7 March 2022](#)), 16 March 2022 ([newsletter of 18 March 2022](#)) and 9 April 2022 ([newsletter of 12 April 2022](#)). It includes a series of measures designed to effectively thwart Russia's ability to continue its military attacks.

In particular, a gradual import ban on Russian oil as well as a ban on the provision of accounting, public relations and consulting services have been added to the list of previous sanctions. The EU has also expanded the list of personal sanctions and the list of individuals and entities that have been denied export privileges for dual-use goods. It has also extended the list of goods and technologies that may not be exported to Russia as they might contribute to its military or technological enhancement. In addition, Sberbank and other Russian and Belarusian banks have now also been excluded from the global banking communications network SWIFT. Three major Russian state broadcasters are no longer allowed to broadcast their content in the EU, and are banned from advertising products or services.

The U.S. has also expanded its personal sanctions and sanctions targeting the provision of certain services.

In addition to further tightening regulations on intellectual property rights, Russia has introduced a far-reaching ban on business with persons sanctioned by Russia, as well as restrictions on trading in certain foreign securities on the Russian stock exchange and on the supply of gas to EU states.

EU sanctions

In its **sixth sanctions package (Regulations (EU) 2022/877 and 2022/879 as well as Council Implementing Regulation (EU) 2022/876 and 2022/878) of 3/4 June 2022**, the EU has again amended and tightened Regulations (EU) 765/2006, 269/2014 and 833/2014.

- It has added a further 83 entries to the list of **personal sanctions**, bringing the current total to 1,158 individuals and 98 entities. The new Annex I to Regulation (EU) 269/2014 now also lists officers of units operating in Bucha and Mariupol, those involved in collaborating with the Russian occupation in Kherson Oblast, as well as further politicians, propagandists, leading businesspersons and family members of already sanctioned individuals. The newly listed entities also include a number of companies that directly or indirectly support the Russian Federation's armed forces or government, including Russia's largest securities depository, the National Settlement Depository. As already explained in our [newsletter of 7 March 2022](#), the listed persons are banned from entering and transiting EU territory, and all their assets are being frozen. The rule banning European companies from providing funds or economic resources to listed persons continues to apply.

- In addition, twelve pro-government individuals and eight pro-government entities from Belarus have been

- › added to the list of natural and legal persons, entities and bodies subject to restrictive measures contained in Annex I to Regulation (EC) 765/2006.
- › The EU has expanded the list of persons and entities subject to export restrictions on **dual-use** goods and technologies to include further Russian and Belarusian entities.
- › The focus of the sanctions is once again the amendment of Regulation (EU) 833/2014, **adding further financial and trade-related sanctions**:
 - › Article 3m of Regulation (EU) 833/2014 now prohibits the direct or indirect **purchase, import or transfer of crude oil or petroleum products** as listed in Annex XXV if they originate in or are exported from Russia. It is now also prohibited to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, or any other services related to the ban. However, there are a **number of exemptions** to these prohibitions. For example, they do not apply until 5 December 2022 or 5 February 2023 to one-off transactions for near-term delivery or the execution of contracts concluded before 4 June 2022. These periods may be extended in Croatia and Bulgaria under certain circumstances (but the goods imported under such exemptions may not then be sold on to buyers located in another Member State or in a third country). In addition, the prohibitions do not apply to the purchase, import or transfer of seaborne crude oil and of petroleum products listed in Annex XXV where those goods originate in a third country and are only transiting through Russia, provided that the owner of those goods is non-Russian. Furthermore, the prohibition does not apply to crude oil falling under CN 2709 00 which is delivered by pipeline from Russia into Member States. However, the transfer or sale to other Member States (except for average volumes to Czechia until 5 December 2023) or third countries is prohibited.
 - › Under the newly introduced Article 3n of Regulation (EU) 833/2014, it is **prohibited to** provide, directly or indirectly, technical assistance, brokering services or financing or financial assistance, related to the **transport**, including through ship-to-ship transfers, **of such goods to third countries**. This ban does not apply until 5 December 2022 to the execution of existing contracts concluded before 4 June 2022. Nor does it apply where such goods originate in a third country and are only transiting through Russia, provided that the owner of those goods is non-Russian.
 - › The new paragraph 2a of Article 5aa of Regulation (EU) 833/2014 (see our [newsletter of 18 March 2022](#)) makes it clear that the exemption from the ban on transactions for contracts concluded before 16 March 2022 also includes the receipt of payments due under these contracts. Further exemptions have been introduced for transactions required for the wind-down of joint ventures or related to the provision of electronic communication services, data centre services or call centre services.
 - › According to the new Article 5n of Regulation (EU) 833/2014, it is now also prohibited to directly or indirectly provide **auditing services, including statutory audit, bookkeeping and tax consulting services, or business and management consulting or public relations services** to the Russian government or to entities or bodies established in Russia. However, exemptions apply in particular to the provision of services for the termination by 5 July 2022 of contracts concluded before 4 June 2022 (wind-down period) and of services intended for the exclusive use of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated or constituted under the law of a Member State.
 - › The **bans on imports into the EU** pursuant to Article 3i of Regulation (EU) 833/2014 (see our last [newsletter of 18 March 2022](#)) have also been extended to further products. The new Annex XXI to Regulation (EU) 833/2014 includes additional foodstuffs and semi-luxury goods, cement, potassium chloride, fertilisers, further wood products, etc.
 - › The export ban in Article 2a in conjunction with Annex VII of Regulation (EU) 833/2014 has also been extended to goods and technologies which might contribute to the **technological enhancement of the Russian defence and security sector**. The additions include 80 **chemicals** that can be used to produce chemical weapons.
- › The EU has suspended the **broadcasting activities of three further Russian state-owned media outlets** in the EU: Rossiya RTR/RTR Planeta, Rossiya 24 / Russia 24 and TV Centre International. The new Article 2f(3) of Regulation (EU) 833/2014 also **prohibits advertising** products or services in any content produced or broadcast by these media outlets.
- › The EU has extended the existing ban on the provision of special payment services (**SWIFT**) to three more Russian credit institutions – **Sberbank as the largest Russian bank**, the Credit Bank of Moscow and the

- › Russian Agricultural Bank. The Belarusian Bank for Development and Reconstruction is also now excluded.

Suspension of import duties on Ukrainian exports to the EU

In the meantime, the EU has also adopted a regulation allowing for **temporary trade liberalisation and other trade concessions** with regard to certain Ukrainian products. This means that for one year no import duties will be due on Ukrainian exports to the European Union.

U.S. sanctions

Already on 8 March 2022, the U.S. imposed a ban on the import of Russian crude oil, petroleum, petroleum fuels, including their distillation products, liquefied natural gas, coal and coal products, which entered into force on 22 April 2022 (see [newsletter of 18 March 2022](#)). The U.S. also already expanded the sanctions that had been imposed on Sberbank since 2014 in both February (see [newsletter of 18 March 2022](#)) and April 2022 (see [newsletter of 12 April 2022](#)).

Since our last foreign trade law update on the Ukraine sanctions ([newsletter of 12 April 2022](#)), the U.S. has tightened and expanded its sanctions regime essentially as follows:

- › On 8 May 2022, the U.S. extended its **personal sanctions list** (SDN list), adding individuals who the U.S. Treasury Department believes are critical to Russia's ability to wage war. These include the board members of Gazprombank and Sberbank, as well as the Russian state-owned Moscow Industrial Bank and ten of its subsidiaries. A state-supported arms manufacturer (Limited Liability Company Promtekhlogiya) and three of Russia's state-owned television stations (Channel One Russia, NTV Broadcasting Company and Russia-1) have also been added to the list. On 2 June 2022, the U.S. once again extended the SDN list with the aim of degrading the key networks used to attempt to circumvent U.S. sanctions and anonymously make use of luxury assets around the globe. An airline, a yacht brokerage serving Russian oligarchs, and companies that have provided yachts to President Putin were among those listed. Certain yachts and aircraft were identified as (partly) owned by the listed persons. Other prominent Russian government officials were also added to the SDN list, as well as the custodian of President Putin's offshore wealth. As described in our [newsletter of 7 March 2022](#), inclusion on the list entails the blocking of all assets of the listed persons that are located in the U.S. or controlled by a U.S. person as well as a transaction ban. The U.S. Department of Commerce also added another 71 companies based in Russia and Belarus to the Department of Commerce's Entity List, with the aim of cutting off their access to militarily significant goods and technology of U.S. origin.
- › The U.S. also extended its sanctions to various **consulting services**. This is intended to block Russian persons from accessing services used to circumvent the sanctions. This means that as from 7 June 2022, U.S. companies will generally no longer be allowed to offer or carry out accounting, trust and corporate formation or management consulting services in Russia. Necessary clearing and settlement transactions will still be permitted until 7 July 2022. As things currently stand, U.S. auditors and credit rating agencies may continue to conduct their Russian business on the basis of a general licence until 20 August 2022. Assets located in the U.S. or controlled by U.S. persons and belonging to persons to be individually identified who operate or have operated in the auditing, trust and corporate formation, and management consulting sectors of the Russian economy will be blocked.
- › The general exemption (General License 9A), which still permitted certain transactions involving Russian financial institutions (including VTB Public Joint Stock Company Sberbank of Russia, Alfa-Bank) as well as the Russian Central Bank, the National Property Fund of the Russian Federation and the Russian Ministry of Finance for a wind-down period, expired on 25 May 2022 or 1 June 2022, depending on the financial institution. However, notwithstanding the ban on transactions with the Russian Central Bank, the National Property Fund and the Russian Ministry of Finance, U.S. persons will still be entitled to pay taxes, fees or import duties and to acquire or obtain permits, licences, registrations or certifications in the course of their day-to-day business, in any case up to 30 September 2022 (General License 13A).

Further Russian countermeasures

- › Russia's counter-sanctions concerning the **IP rights** of right holders from "unfriendly states" have again been tightened (see our [newsletter of 18 March 2022](#) and [12 April 2022](#)). For example, Presidential Decree No. 322 "on the temporary procedure for the performance of obligations to certain creditors" entered into force on 27 May 2022:
 - › Accordingly, Russian debtors are required to make payments for the use of IP rights to a specific group of foreign right holders in roubles only to a special O-type bank account opened in the name of the right holder. It will not be possible to make payments without using a special O-type bank account in future. This regulation affects:
 - › Foreign right holders associated with foreign states that commit "unfriendly actions" against the Russian Federation and Russian legal and natural persons.
 - › Right holders who publicly support or have publicly called for restrictive measures by foreign states.
 - › Right holders who have prohibited the use of IP rights in Russia or the manufacture or supply of goods, the provision of services and/or the export of goods from Russia after 23 February 2022 due to compliance with sanctions or for other reasons unrelated to economic feasibility.
 - › The authorised banks where the right holders concerned may open a special O-type account will be determined by the government of the Russian Federation. This will be a rouble account. The right holder may agree to the debtor making corresponding payments to the special account. If the right holder does not agree to this, the debtor may refuse to make payment without infringing its contractual obligations towards the right holder.
 - › Obligations in a foreign currency will be deemed duly and properly fulfilled if a payment in roubles is made corresponding to the value of the obligations in the foreign currency at the official exchange rate applicable at the time.
 - › The amounts received in the right holder's special O-type account may only be transferred to an account at another bank in Russia or abroad if this is authorised by the Government Commission for the Control of Foreign Investments in the Russian Federation.
 - › The Decree specifies a number of contracts to which it does not apply. These involve the granting of IP rights for:
 - › the import or manufacture of medicinal products, medical devices, industrial and agricultural products and foodstuffs,
 - › the provision of communication services and
 - › the creation and/or use of computer programs, databases, information systems and data processing centres.
 - › Payments to right holders made by natural persons in the course of using IP rights for purely personal, non-business purposes and not exceeding RUB 100,000 continue to be exempt from the provisions of the Decree.
 - › Nor do the restrictions of the Decree apply to payments to right holders who are subject to the Decree but who duly fulfil their contractual obligations with the debtors.
- › Russia has also adopted the following **additional countermeasures**:
 - › Whilst real estate transactions between Russians and foreigners with ties to "unfriendly states" have required official approval since March 2022, Presidential Decree No. 252 "on the use of retaliatory special economic measures in response to unfriendly acts by certain foreign states and international organisations", which entered into force on 3 May 2022, and its Implementing Regulation No. 851, which entered into force on 12 May 2022, have introduced sweeping new measures. These provisions prohibit all Russian authorities and persons subject to Russian jurisdiction from conducting business with the sanctioned persons listed in the Implementing Regulation, from conducting financial transactions for the benefit of such persons, and from exporting products manufactured or mined in Russia via or to such a person. The sanctioned persons currently include companies in the energy sector in particular, for example Gazprom Germania GmbH, Gazprom NGV Europe GmbH, Astora GmbH, WIBG GmbH, WIEH GmbH, WINGAS GmbH, WINGAS Sales GmbH, WINGAS Holding GmbH and Industriekraftwerk Greifswald GmbH. Whilst the Implementing Regulation makes it possible to obtain permission for an individual transaction that would otherwise be prohibited, it contains no details of the relevant procedure.
 - › The Russian Central Bank opted to restrict trading on the Russian Stock Exchange from 30 May 2022

- › › for foreign securities whose purchase or sale is no longer handled by international clearing and settlement institutions. Exceptions apply to securities of foreign issuers that manufacture products and carry out their economic activities mainly in Russia. Russia's second largest stock exchange, SPB, subsequently announced that it would transfer up to 14% of the U.S. shares held by its clients to a blocked securities account. Whilst SPB's clients will retain ownership of their respective shareholdings, the new restrictions mean that they will not have access to their shares in companies such as Apple or Tesla and therefore cannot sell them.
- › Russia is also expanding the group of countries or gas suppliers to which gas will no longer be delivered due to their refusal to pay their bills in roubles. Deliveries to Poland, Bulgaria, Finland and the Netherlands have already been halted. Most recently, Russia announced that it would also stop exports to the Danish utility Ørsted and to Shell Energy Europe.

Conclusion and outlook: piecemeal expansion of existing sanctions; end of existing sanctions not yet foreseeable

- › The EU's sixth sanctions package and the further sanctions imposed by the U.S. show that "the West" is still prepared to take drastic steps to target Russia's sources of income.
- › After lengthy negotiations, the EU Member States have now agreed on a partial oil embargo (imports) in addition to the ban on coal imports from Russia and the ban on importing certain mineral products, including oil and gas, from Belarus. The embargo is limited to seaborne oil deliveries and is expected to stop more than two-thirds of previous oil imports from Russia by the end of this year. Although pipeline deliveries are not covered by the sixth package of sanctions, Germany and Poland have signalled that they no longer wish to purchase oil via the Druzhba pipeline in future. In this case, EU oil imports could be reduced by 90% by the end of the year. It remains to be seen how strongly the provisions in the sixth sanctions package will affect the Russian – and also the EU – economy.
- › The trend of extensive Russian counter-sanctions continues and should be borne in mind by companies doing business in Russia.
- › An end to this spiral is not yet in sight. In any event, the existing sanctions will likely remain in force for some time.

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