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SANCTIONS | EU ADOPTS 14TH ECONOMIC AND INDIVIDUAL SANCTIONS AGAINST RUSSIA

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FOCUS ON NEW MEASURES IMPACTING EU OPERATORS

On June 24, 2024, after intense negotiations between member states, the European Union adopted its 14th set of sanctions against Russia. This new package of measures, characterized by its firmness and targeted strategies, aims to weaken the Russian economy and restrict its military capabilities.

The sanctions imposed include significant restrictions in the energy, finance, trade and transport sectors, aiming to reduce opportunities to circumvent existing sanctions.

1. ENERGY-RELATED MEASURES

Regulation (EU) 833/2014 now prohibits the supply of goods, technologies, or services to liquefied natural gas (LNG) projects under construction in Russia, such as the Arctic LNG 2 and Murmansk LNG terminals.

This initiative, which aims to restrict Russia's ability to expand its LNG infrastructure, is coupled with a ban on the transshipment of Russian LNG in EU ports, as well as the provision of associated technical services. A derogation can be requested for LNG transshipment when the cargo's destination is another member state. This measure is likely to increase costs for Russia, which will no longer be able to take advantage of EU infrastructures to optimize the transport of its LNG around the world. A 9-month transition period is planned.

European states can still import Russian LNG, which accounts for 16% of the LNG consumed in the EU. However, re-exporting this LNG from European ports will no longer be possible. The EU also aims to hinder the current logistical pattern of Russian gas exports from the Arctic - notably from the Yamal plant - which, during the winter months, requires the use of ice-breaking LNG carriers. These ships deliver LNG to European ports that have the infrastructure to transfer LNG directly from one ship to another, mainly the ports of Bilbao, Zeebrugge, and Montoir-de-Bretagne, from where it is then transported, notably to Asian markets such as China and Turkey by conventional LNG carriers.

In addition, the import of Russian LNG into specific terminals not connected to the EU pipeline network is now prohibited, reinforcing the efforts of the "*Decarbonized Gas and Hydrogen*" package to reduce European dependence on Russian gas. Ships supporting Russia's war are also banned from European ports and services.

2. ADDITIONAL LISTS OF PERSONS UNDER SANCTIONS

The list of sanctioned persons has been extended by a further 116 entries concerning 69 individuals and 47 entities subject to an asset freeze, bringing the total to over 2,200. Individuals are also subject to a travel ban within the European Union. The new entries target various economic sectors, including military companies, companies specializing in space engineering, the chemical sector, explosives, as well as leading energy companies. As for natural persons, they are mainly individuals involved in disinformation and propaganda activities, who support Russia's war of aggression against Ukraine.

Among the new additions, however, is Russia's state-owned shipping company Sovcomflot - already targeted by US sanctions since early 2024.

3. MEASURES CONCERNING THE FINANCIAL SECTOR

Financial sanctions are being stepped up with a ban on EU banks outside Russia using the Central Bank of Russia's financial messaging system (SPFS). Currently used by some 160 banks worldwide, this system was set up after Russia's exclusion from the SWIFT financial system.



Third-country banks using SPFS are also prohibited from contacting EU operators, limiting financial transactions that could support Russian military capabilities. Transactions with banks and crypto-asset providers facilitating Russian defense transactions are also banned.

4. TRADE-RELATED MEASURES

61 new entities have been added to the list of entities linked to the Russian military-industrial complex, 33 of which are based in countries such as China, Hong Kong, Turkey, Kyrgyzstan, India, Kazakhstan and the United Arab Emirates. These entities are subject to stricter export restrictions on dual-use goods and technologies likely to contribute to enhance Russia's capabilities in the defense and security sectors. The 14th sanctions package imposes additional restrictions on exports of goods likely to particularly strengthen Russia's industrial capabilities, such as chemical substances like manganese ore, rare earths, plastics, excavation machinery, monitors and electrical equipment. In addition, five new high-priority common items are now subject to export restrictions

The 14th sanctions package bans the import of Russian helium to reduce resource dependency and deprive Russia of important revenues. Rules on imports of Russian diamonds are clarified, temporarily allowing the import or export of jewelry for trade fairs or repairs and has delayed until March 1er 2025 the roll-out of the mandatory traceability system for diamonds imported into the EU.

Finally, the import of stolen Ukrainian cultural goods is prohibited to protect Ukraine's cultural heritage.

5. TRANSPORT MEASURES

In the aviation sector, sanctions now prohibit non-scheduled flights by Russian persons, irrespective of ownership and control of the aircraft. This measure is accompanied by a uniform obligation for operators to provide detailed information on aircraft ownership and passengers on board at the request of national authorities.

Another important measure is the tightening of restrictions in the road haulage sector. EU companies that are 25% or more Russian-owned are no longer allowed to transport goods by road across the Union, including transit. This ban also applies to road haulage companies currently owned at this level, preventing them from continuing to transport goods. Furthermore, these companies will no longer be eligible to become road hauliers within the EU in the future.

In the shipping sector, a ban on access to ports and services has been imposed on vessels on the sanctions list due to their contribution to Russia's war effort. Under the terms of this 14th set of sanctions, 27 ships are currently affected. These ships are involved in transporting military equipment, transporting LNG, transporting stolen Ukrainian grain, and participating in the "*phantom fleet*" which transports Russian oil while using deceptive shipping practices to circumvent the price ceiling imposed by the EU and the coalition. This list of ships can be updated as often as necessary to counter the evolving involvement of vessels supporting Russia's war against Ukraine.

6. MEASURES TO PROTECT INTELLECTUAL PROPERTY RIGHTS (IPR)

EU intellectual property offices will no longer accept applications for new trademarks or patents from Russian citizens or residents. This measure is designed to deprive Russia of EU industrial know-how, while preventing Russian companies from benefiting from IPR protection in Europe. Russians can still use their new trademarks and technologies in the EU. They will simply not be protected from being used by an EU company or traded as a title. Their registered intellectual property rights will not, however, be canceled.

7. MEASURES TO COMBAT RUSSIAN INTERFERENCE

Political parties, NGOs, foundations, think tanks, and the media in the EU can no longer accept funding, donations, or economic benefits from the Russian state or its proxies. This protects the integrity of European



political processes and defends against Russian-orchestrated disinformation campaigns, particularly those conducted in light of the latest European elections from June 6 to 9, 2024.

The EU has added Voice of Europe, RIA Novosti, Izvestia, and Rossiyskaya Gazeta to the list of sanctioned media.

These measures are coupled with a new ban on EU and member states financing all Russian entities - not just public ones, as was previously the case. This measure aligns with existing restrictions on public procurement.

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The new sanctions package introduces a number of measures to protect EU operators still operating in Russia:

- Extension of the exemption period for services and software provided by entities controlled by persons located within the European Union.

The new sanctions package introduces the possibility of requesting a waiver from the competent authority up to September 30, compared with June 20, 2024 previously. In France, applications are to be sent to the French Treasury, via the Téléservice platform.

- Exemption for EU nationals residing in Russia before February 2022

In order not to unduly restrict the right to employment of Union nationals who were resident in Russia prior to the invasion of Ukraine in February 2022 and who are employed by subsidiaries of Union entities and partner countries in Russia, Decision (CFSP) 2024/1744 introduces an exemption to the prohibition on providing certain services to the Russian government or to legal persons, entities or bodies established in Russia.

- Creation of a legal basis enabling EU operators to claim compensation in the EU for damage caused by Russian companies in the context of the implementation of sanctions and expropriation.

At present, EU companies that, for example, terminate a contract with a Russian company to comply with sanctions are protected from possible claims in the EU. However, they can be prosecuted in Russia for doing so and have their assets seized there. The new instrument establishes a specific legal basis enabling EU companies to recover such damages from any assets of their Russian counterparts in the EU.

Regulation (EU) 2024/1745 thus enables EU companies that have been dispossessed or expropriated to claim damages, including not only compensation for the loss of their assets but also coverage of the legal costs incurred in these proceedings.

More specifically, where a company has suffered damage as a result of "*illegitimate temporary management imposed by a decision of Russian decision-makers targeting property located on the territory of the Russian Federation and belonging to foreign persons associated with 'hostile foreign states', i.e. states that have taken restrictive measures against Russia,*" this operator will now be able to obtain compensation.

These measures include the possibility of recovering damages from those who benefited from a decision taken under Decree 302 of the President of the Russian Federation, dated April 25, 2023, authorizing the takeover of assets managed by investors from hostile states.

At the same time, a number of measures have been taken to tighten parent companies' control over their subsidiaries in third countries, in order to avoid opportunities to circumvent European sanctions:

EU companies will have to do everything possible to ensure that their subsidiaries in third countries are not involved in activities that jeopardize EU sanctions.



The main aim is to ensure that a "*No Russia clause*" is included in contracts for the transfer of intellectual property rights (IPR), to ensure that industrial know-how transferred outside the EU is not used to manufacture priority goods for Russia.

EU companies will have to exercise due diligence to prevent high-priority goods from reaching Russia via third countries, often in the Caucasus and Central Asia, which often serve as hubs for re-routing of Western products, and to ensure that their foreign subsidiaries marketing such goods do likewise. In this way, European operators, as well as the non-European entities they own or control, could be held liable in the event of non-compliance with this obligation and for violating the sanctions.

In this sense, the 14th sanctions package specifies that the conditions for circumventing European sanctions are met not only when a person deliberately seeks the object or effect of circumventing the restrictive measures, but also when a person participating in an activity with the object or effect of circumventing the restrictive measures is aware that such participation may have such an object or effect, and accepts the possibility (including when the individual had acted recklessly or negligently when he or she had reasonable grounds to suspect that his or her actions would violate the said sanctions, as per the case law of CJEU^[1]).

[1] See the interpretation of CJEU case C-72/11, dated December 21, 2011, Mohsen Afrasiabi and others.
