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EU ADOPTS 14TH SANCTIONS PACKAGE AGAINST RUSSIA

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On June 24, 2024, the European Union (“EU”) adopted its 14th sanctions package against Russia, which “responds to the needs and findings on the ground, and tackles enforcement issues,”¹ “target high-value sectors of the Russian economy, like energy, finance and trade, and make it ever more difficult to circumvent EU sanctions.”²

The 14th package amends the framework governing asset freeze measures under Council Regulation (EU) No 269/2014 (“Regulation 269/2014”) and introduces new designations based on that Regulation.³ It also reinforces sectoral sanctions targeting Russia under Council Regulation (EU) No 833/2014 (“Regulation 833/2014”) by establishing new tools to fight circumvention through increased liability and compliance requirements, establishing new frameworks for imposing list-based sanctions, introducing sanctions against Russian liquefied natural gas, reinforcing existing import- and export-related restrictions, increasing the scope of transport-related sanctions and providing for specific restrictions relating to intellectual property rights. At the same time, measures have been extended or inserted to ease compliance by EU operators, facilitate exit from Russia and open the door to new damages recovery actions, while additional measures were designed to promote enforcement.⁴

New asset freeze designations entered into force immediately upon publication on June 24, 2024, while the remaining measures enter into force at midnight on June 25, 2024.

1. ADDITIONAL ASSET FREEZE MEASURES LISTINGS & EXTENDED DEROGATION GROUNDS

2.1 ADDITIONAL ASSET FREEZE MEASURES LISTINGS

The names of 69 natural persons (“individuals”) and 47 legal persons, entities or bodies (“entities”) were added to the list of parties subject to EU asset freeze measures. Newly listed individuals are also subject to travel ban measures.

New listings target businesspersons, media and public figures, public officials, members of the army, intelligence and judiciary services, military and defense industry entities, as well as individuals and entities involved in the circumvention of EU sanctions through financial transactions and delivery of prohibited EU goods.⁵

In parallel, six Russian individuals were added to the list of asset freeze and travel ban targets under the EU’s cyberattacks regime,⁶ while the Islamic Revolutionary Guard Corps Research and Self-Sufficiency

Jihad Organisation was designated as subject to asset freeze measures under the EU's regime targeting Iran's military support to Russia.⁷

2.2 NEW DEROGATION GROUNDS FOR TRANSFER OF FUNDS OR PAYMENTS THROUGH ASSET FREEZE TARGETS

Two new derogation grounds have been introduced to permit authorizations to be granted in order to:

- Release funds that were frozen due to the involvement of an asset freeze target acting as intermediary bank during the transfer of funds from Russia to the EU; or
- Release payments that were frozen as a result of a transfer from Russia to the EU initiated through or from an asset freeze target.

In both cases, the transfer of funds or payment has to be carried out between individuals or entities that are not asset freeze targets and such transfer must not result in funds or economic resources being made available to an asset freeze target or otherwise circumventing Regulation 269/2014. In addition:

- The first derogation is only available if the transfer of funds is carried out using accounts at credit institutions that are not asset freeze targets; while
- The second derogation is only available if the beneficiary of the transfer is a national or resident of the EU, the European Economic Area or Switzerland.

These derogations, however, do not apply to frozen funds or economic resources held by Central securities depositories.

2. FIGHTING CIRCUMVENTION THROUGH INCREASED LIABILITY AND COMPLIANCE REQUIREMENTS

2.1 APPLICATION OF THE NO LIABILITY CLAUSE UNDER REGULATIONS 269/2014 AND 833/2014 SUBJECT TO DUE DILIGENCE REQUIREMENTS

Reminder: Under the no liability clause,⁸ EU operators cannot be held liable if they did not know or had no reasonable cause to suspect that their actions would infringe EU sanctions.

Clarified due diligence expectations: While no express provision was adopted to that effect, recitals to the Regulations amending Regulations 269/2014 and 833/2014 now expressly provide that the no liability clause would not apply if EU operators have failed to carry out appropriate due diligence. To benefit from the no liability clause, an EU operator must therefore show that publicly or readily available information was duly taken into account. Failure to carry out simple checks or inspections would deprive EU operators from the benefit of the no liability clause.

2.2 INTRODUCTION OF BEST EFFORTS REQUIREMENTS TO ENSURE THAT NON-EU SUBSIDIARIES DO NOT UNDERMINE SANCTIONS SET FORTH IN REGULATION 833/2014

Individuals or entities required to comply with EU sanctions ("EU operators") must undertake their best efforts to ensure that non-EU entities they own or control ("non-EU subsidiaries") do not participate in activities that undermine the sanctions set forth in Regulation 833/2014.

Definitions of "ownership" and "control": Recitals define the concept of ownership and control, in line with previous guidance, as follows:

- Ownership means "*being in possession of 50 % or more of the proprietary rights of the legal person,*

entity or body, or having a majority interest therein”;

- Controls is to be determined based on indicia, including “*the power to appoint or remove a majority of the members of the administrative, management or supervisory body; the right to use all or part of the assets of the legal person, entity or body; managing the business of the legal person, entity or body on a unified basis, while publishing consolidated accounts; or the right to exercise a dominant influence over the legal person, entity or body*”.

Expectations for EU operators: As clarified also in relevant recitals:

- If EU operators are able to and effectively assert a decisive influence over the conduct of their non-EU subsidiaries, they may incur responsibility for actions of that legal person, entity or body that undermine the restrictive measures and should use their influence to prevent those actions from occurring.
- Activities that would undermine the sanctions set forth in Regulation 833/2014 are those resulting in an effect that this Regulation seeks to prevent, such as where “*a recipient in Russia obtains goods, technology, financing or services of a type that is subject to prohibitions under Regulation (EU) No 833/2014*”.
- Best efforts comprise all actions that are suitable and necessary to prevent undermining Regulation 833/2014, including “the implementation of appropriate policies, controls and procedures to mitigate and manage risk effectively, considering factors such as the third country of establishment, the business sector and the type of activity of the [non-EU subsidiary]”;
- However, EU operators are only expected to take actions that are feasible in view of the operator’s nature, size and relevant factual circumstances, such as the degree of effective control or the inability to exercise control due to reasons not caused by the EU operator itself.

2.3 AMENDMENTS TO THE “NO RUSSIA” CLAUSES REQUIREMENTS

Reminder: Under Regulation 833/2014, EU exporters are obliged to include in their contracts with counterparties in third countries other than Russia, with the exception of partner countries,⁹ contractual provisions that (i) prohibit the re-export of *inter alia* certain sensitive items¹⁰ to or for use in Russia and (ii) provide for adequate remedies in case of contractual breach. Any breach of this contractual provision must in addition be reported to national competent authorities (“NCAs”).

New exemptions: New exemptions have been introduced to:

- Exclude the execution of contracts relating to goods added to the Common High Priority Items list;¹¹
- Postpone, for other goods subject to “No Russia” clauses requirements, the inclusion of such clauses in contracts concluded before December 19, 2023 until January 1, 2025, instead of December 20, 2024;
- Exclude from “No Russia” clauses’ requirements, public contracts concluded with a public authority in a third country or an international organization, which must however be notified to NCAs within two weeks from their conclusion.

Clarification of expectations: Recitals clarify that, with regard to contracts concluded before December 19, 2023, the “No Russia” clause requirement would be considered fulfilled if the contract contains a general clause that prohibits exportation and re-exportation to jurisdictions targeted by EU sanctions and sets out adequate remedies in the event of a breach of that clause.

Potential extension to non-EU subsidiaries: Recitals also clarify that the European Commission will monitor

the situation to determine whether EU operators should require their non-EU subsidiaries to also use the “No Russia” clause.

2.4 EXTENDED REQUIREMENTS AND SPECIFIC COMPLIANCE MEASURES RELATING TO COMMON HIGH PRIORITY ITEMS¹²

Extended list of Common High Priority Items: The list of Common High Priority Items, in relation to which so-called “No Russia” clause requirements already apply, has been extended to cover goods falling under CN codes 8457 10, 8458 11, 8458 91, 8459 61, and 8466 93 and is therefore now aligned with the list published by the European Commission on February 22, 2024.

Compliance measures to be implemented by Common High Priority Items operators: EU operators producing, selling, supplying, transferring or exporting Common High Priority Items must as of December 26, 2024:

- Document and keep up-to-date risk assessments relating to the risks of exports to or for use in Russia of Common High Priority Items, proportionate to their nature and size;
- Implement policies, controls and procedures to mitigate and manage risks of exports to or for use in Russia, which have to be proportionate to the nature and size of the operator;
- Ensure that the aforementioned measures are implemented in non-EU subsidiaries that sell, supply, transfer or export Common High Priority Items, unless due to reasons the EU operator did not cause itself, it is not able to exercise control over the non-EU subsidiary.

The above requirements do not apply to EU operators that sell, supply or transfer Common High Priority Items only within the EU or to partner countries.

Specific “No Russia” contractual clause requirements for intellectual property (“IP”) rights and trade secrets related to Common High Priority Items: EU operators will have to contractually prohibit non-EU counterparts and require them to prohibit possible sublicensees to use IP rights, trade secrets or other information related to Common High Priority Items that are intended for sale, supply, transfer or export to or for use in Russia.

Adequate remedies will also have to be contractually foreseen in case of breach, with reports of such breach to be made to NCAs.

This clause will have to be inserted in contracts relating to certain IP rights or trade secrets transactions with non-EU counterparties, including those in partner countries:

- As of December 2024, for all contracts concluded after June 25, 2024;
- After June 26, 2025, for contracts concluded before June 25, 2024 (unless they expire before that date).

Again, recitals clarify that the “No Russia” clause requirement for IP rights and trade secrets would be met for contracts concluded before June 25, 2024, if there is a general clause prohibiting the use, or allowing the use of, such IP rights, trade secrets or material or information protected thereby and setting out adequate remedies in the event of a breach.

3. INTRODUCTION OF NEW LIST-BASED SANCTIONS

3.1 FRAMEWORK TO SANCTION VESSELS THAT UNDERMINE EU SANCTIONS OR THEIR OBJECTIVES

Introduction of Annex XLII in Regulation 833/2014: The Council has the possibility to list vessels in Annex XLII if they (i) support the Russian defense and security sector, (ii) engage in irregular and high-risk shipping practices for crude oil or petroleum products, (iii) support the energy sector in Russia, (iv) engage in activities undermining or threatening Ukraine, (v) transport goods subject to commercial restrictions under EU sanctions, (vi) facilitate or engage in the violation, circumvention or frustration of EU sanctions, or (vii) are owned, chartered, operated or used in the name of, on behalf of, in relation with or for the benefit of asset freeze targets under Regulation 269/2014.

As clarified by the Council, “[t]hese vessels can be designated for various reasons such as the transport of military equipment for Russia, the transport of stolen Ukrainian grain, and support in the development of Russia’s energy sector, for instance through the transport of LNG components or transshipments of LNG. This measure also targets tankers part of Putin’s dark fleet which circumvent the EU and Price Cap Coalition’s caps, while adopting deceptive shipping practices in complete disregard of international standards”.¹³

27 vessels have already been designated in Annex XLII.

Sanctions applicable to vessels designated in Annex XLII: Prohibitions to (i) access EU ports, anchorage zones and locks, (ii) import, purchase, transfer, sell, supply or export designated vessels, (iii) operate or crew designated vessels, (iv) provide services to designated vessels (flag registration, financing, financial assistance, brokering services, technical assistance and other services) and (v) engage in ship-to-ship transfers, transfers of cargo with or procure services from designated vessels.

Exemptions: Exemptions apply for maritime safety, human health and safety or environmental reasons, as well as for the recognition or enforcement of a judgment or arbitration award rendered in a Member State.

Derogations: NCAs of an island Member State can grant authorization to provide most of the services denied to designated vessels, if (i) the goods are strictly necessary to satisfy the basic needs of that Member State and (ii) the import of such goods is not otherwise prohibited under Regulation 833/2014.

3.2 FRAMEWORK TO SANCTION CLAIMANTS IN LITIGATION INITIATED IN RUSSIA FOR CONTRACTS OR TRANSACTIONS AFFECTED BY EU SANCTIONS

Framing the problem: Under Russian procedural rules, claimants may bring disputes before Russian courts where the underlying matter is connected with EU sanctions. In practice, this allows for the forced satisfaction of claims that would be prohibited under EU sanctions, and which could not be satisfied under so-called “no claims” clauses, if the dispute was brought before an EU court.

Targeting litigation in Russia through the introduction of Annex XLIII in Regulation 833/2014: To address this issue, the Council has the possibility to list in a new Annex XLIII individuals and entities targeted by no claims clauses who lodged claims in Russia, on the basis of the aforementioned Russian procedures rules, in connection with contracts or transactions affected by Regulation 269/2014 or 833/2014.

Any direct or indirect transaction with individuals or entities listed in Annex XLIII is prohibited.

No designation has been made yet in Annex XLIII.

Exemptions: Exemptions apply for transactions that are:

- Necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, allowed under Regulation 833/2014;
- Strictly necessary to ensure access to judicial, administrative or arbitral proceedings in the EU and the

recognition or enforcement of judgment or arbitration award rendered in the EU, provided the transactions are consistent with the objectives of Regulations 269/2014 and 833/2014; or

- Strictly necessary to recover damages under damages recovery provisions of Regulations 269/2014 and 833/2014.¹⁴

3.3 FRAMEWORK TO SANCTION THE SYSTEM FOR TRANSFER OF FINANCIAL MESSAGES OF THE CENTRAL BANK OF RUSSIA AND ITS USERS OUTSIDE OF RUSSIA

Targeting the SPFS: EU entities operating outside of Russia will be prohibited, as from June 25, 2024, from connecting directly to the System for Transfer of Financial Messages of the Central Bank of Russia, as well as any equivalent services set up by the Central Bank of Russia (together, "SPFS").

Targeting users of SPFS through the introduction of Annex XLIV in Regulation 833/2014: The Council is entitled to list third-country users of the SPFS outside of Russia in a new Annex XLIV in Regulation 833/2014, which, by such use, (i) increase Russia's financial resilience and (ii) support the circumvention of Regulations 269/2014 and 833/2014.

Any direct or indirect transaction with individuals or entities listed in Annex XLIV is prohibited.

No designation has been made yet in Annex XLIV.

Exemptions: Exemptions have been introduced as follows:

- A wind-down exemption to permit the execution of contracts concluded before June 25, 2024 until March 24, 2024;
- The reception of payments pursuant to such contracts performed before March 24, 2024 is exempted;
- Connecting to the SPFS is allowed for certain transactions related to (i) natural gas, titanium, aluminium, copper, nickel, palladium, iron ore, oil, pharmaceutical, medical, agricultural and food products, as well as transactions necessary for (ii) the repayment of a debt due to an EU national or entity, (iii) the payment of a pension scheme to a person established in the EU or a (iv) payment from or to the Jewish Claims Conference;
- Engaging in transactions with Annex XLIV targets is allowed for certain transactions related to (i) pharmaceutical, medical, agricultural and food products, (ii) access to judicial, administrative or arbitral proceedings in the EU and the recognition or enforcement of judgment or arbitration award rendered in the EU, (iii) humanitarian purposes, (iv) the repayment of a debt due to an EU national or entity, (v) dependence on an Annex XLIV target to provide correspondent banking services or (vi) payment by an EU national or entity under a loan agreement concluded by a Member State.

3.4 FRAMEWORK TO SANCTION CREDIT AND FINANCIAL INSTITUTIONS AND CRYPTO ASSETS SERVICES PROVIDERS FACILITATING TRANSACTIONS THAT SUPPORT RUSSIA'S DEFENSE-INDUSTRIAL BASE

Introduction of Annex XLV in Regulation 833/2014: The Council has the possibility to list in Annex XLV non-EU credit or financial institutions or crypto assets services providers involved in transaction that facilitate the export, sale, supply, transfer or transport to Russia of dual-use goods and technology, as well as advanced technology items, items suited for use in aviation or the space industry, jet fuel and fuel additives, firearms, their parts and essential components and ammunition or Common High Priority Items.¹⁵

Any direct or indirect transaction with individuals or entities listed in Annex XLV, as well as entities inside or

outside the EU acting on their behalf or at their direction, is prohibited.

No designation has been made yet in Annex XLV.

Exemptions – Exemptions apply for transactions with Annex XLV targets related to (i) pharmaceutical, medical, agricultural and food products, (ii) access to judicial, administrative or arbitral proceedings in the EU and the recognition or enforcement of judgment or arbitration award rendered in the EU or (iii) humanitarian purposes.

4. SANCTIONING RUSSIAN LIQUEFIED NATURAL GAS WITHOUT PROHIBITING IMPORTS INTO THE EU

4.1 REPORTING OBLIGATIONS FOR UNLOADING AND IMPORTS INTO THE EU

Imports of liquefied natural gas falling under CN code 2711 11 00 (“LNG”) in the EU, for the EU market, will not be prohibited.

However, as from July 26, 2024, and then on a monthly basis, reports will have to be submitted on all unloading transactions and imports into the EU of LNG originating in or exported from Russia, including information on volumes.

4.2 PROHIBITION TO TRANSSHIP RUSSIAN LNG THROUGH THE EU

Transactions targeted: The purchase, import and transfer of LNG originating in or exported from Russia through terminals in the EU that are not connected to the interconnected natural gas system is prohibited. Related technical assistance, brokering services, financing, financial assistance and other services are also prohibited.

This prohibition shall not affect the supply of Russian LNG from the mainland of a Member State to its outermost regions.

Exemption: A wind-down exemption permits the execution of contracts concluded before June 25, 2024 until July 26, 2024.

4.3 PROHIBITION TO PROVIDE RELOADING AND ASSOCIATED SERVICES IN THE EU FOR TRANSSHIPMENT OF RUSSIAN LNG

Services targeted: Reloading services for the purposes of transshipment operations of LNG under CN code 2711 11 00 originating in Russia or exported from Russia, as well as related technical assistance, brokering services, financing or financial assistance is now prohibited.

As clarified in recitals, this applies to ship-to-ship transfers, ship-to-shore transfers and re-loading operations.

Exemptions: Exemptions apply as follows:

- A wind-down exemption will permit the execution of contracts concluded before March 26, 2025 until June 25, 2024;
- Reloading services necessary for the bunkering of LNG fueled vessels is exempted;
- Associated services are exempted in case of a vessel in need of assistance seeking a place of refuge, of an emergency port call for reasons of maritime safety, or for saving life at sea or for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and

safety or the environment, or as a response to natural disasters.

Derogation: NCAs can authorize reloading services that are necessary for the transport to a Member State, where the Member State has confirmed that transshipment is used to ensure the energy supply in that Member State.

Possible more stringent national rules: NCAs can establish national rules and guidance, including on enhanced due diligence requirements.

Ongoing monitoring: The European Commission is tasked to monitor LNG gas flows, markets, prices, Union competitiveness and the share of Russian LNG in the total EU energy imports, in order to identify developments and make recommendations to the Council.

4.4 PROHIBITIONS TARGETING THE COMPLETION OF LNG PROJECTS UNDER CONSTRUCTION

Clarification that the energy sector covers ongoing LNG projects for the purposes of restrictions on investments (acquisitions, financing, JV, investment services) in non-EU entities operating in the energy sector in Russia: Article 3a of Regulation 833/2014 has been amended to clarify that restrictions on new investments in the energy sector in Russia include “projects under construction for the production of LNG.”

Prohibition to provide goods and services for the completion of LNG projects under construction: The sale, supply, transfer or export of goods and technology and the provision of services to any individual or entity in Russia for the completion of LNG projects under construction, such as Arctic LNG 2 and Murmansk LNG, is prohibited. Related technical assistance, brokering services, financing or financial assistance is also prohibited.

Exemption: A wind-down exemption will permit the execution of contracts concluded before June 25, 2024 until September 26, 2024.

5. AMENDMENTS TO EXISTING IMPORT-RELATED RESTRICTIONS

5.1 FACILITATING COMPLIANCE WITH IMPORT CONTROL MEASURES ON RUSSIAN DIAMONDS¹⁶

Reminder: the EU prohibits to:

- Purchase, import or transfer diamonds and products incorporating diamonds, as listed in Annex XXXVIII A of Regulation 833/2014 (“Diamonds Products”);
- Provide related services (technical assistance, brokering services, other services, financing or financial assistance).

These prohibitions were phased-in and already apply:

- Since January 1, 2024, if the Diamond Products originate in Russia or have been exported from Russia to the EU or any third country;
- Since January 1, 2024, if they transited via Russia;
- Since March 1, 2024, if the Diamond Products are listed in Part A of Annex XXXVIII A (*unsorted and non-industrial diamonds*) and have been processed in a third country, consisting of diamonds originating in Russia or exported from Russia with a weight equal to or above 1.0 carats per diamond;

Limiting the scope of Diamond Products processed in third-countries covered by the prohibitions: The prohibitions were initially scheduled to apply, as of September 1, 2024 to all Diamond Products processed in

a third country, consisting of or incorporating diamonds originating in Russia or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams per diamonds.

However, prohibitions will now only apply as of September 1, 2024 to Diamond Products listed in Parts A and B of Annex XXXVIII A (*unsorted and non-industrial diamonds and synthetic or reconstructed diamonds*), when processed in a third country, consisting of diamonds originating in Russia or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams per diamonds.

Prohibitions targeting Diamond Products listed in Part C of Annex XXXVIII A (*jewelry, goldsmith, silversmith, articles of precious metals, watches, etc. incorporating diamonds*) processed in third-countries have been postponed until the Council decides to activate the ban in light of action taken within the G7.

New exemptions – Exemptions have been introduced in the following circumstances:

- Diamond Products physically located in the EU before the restrictions became applicable and thereafter exported to a third-country other than Russia;
- Diamond Products physically located, polished or manufactured in a third country other than Russia before the restrictions became applicable;
- Products incorporating diamonds (jewelry, goldsmiths, silversmiths, watches, etc. covered by Part C of Annex XXXVIII A) manufactured before 1 September 2024 temporarily imported in the EU from a third country other than Russia or imported after a temporary exportation to a third country other than Russia, under temporary admission, inward processing or outward processing customs procedures.
- Evidence to be provided to benefit from these exemptions is defined as follows:
 - *Diamond Products physically located in the EU before the restrictions became applicable and thereafter exported to a third-country other than Russia*: importers shall submit:
 - evidence that products were physically located in the EU; OR
 - a certificate from the specific authority in Belgium, as defined in Annex XXXVIII B, based on a submitted stock declaration, prior to the export from the EU.
 - *Diamond Products physically located, polished or manufactured in a third country other than Russia before the restrictions became applicable*: importers shall submit:
 - evidence of imports in a third-country other than Russia before the restrictions became applicable for unsorted diamonds (CN code 7102 10), non-industrial diamonds, unworked or simply sawn, cleaved or bruted (CN code 7102 31); synthetic or reconstructed diamonds, unworked or simply sawn or roughly shaped (CN code 7104 21)
 - evidence of final processing or manufacturing or location in a processed or manufactured state in a third country other than Russia before the restrictions became applicable for all other Diamond Products.

Amended requirements on evidence of country of origin of Diamond Products processed in third-countries:

Importers are still required to provide evidence of the country of origin of Diamond Products used as inputs for the processing of the product in a third country. However, requirements have been simplified as follows:

- *Unsorted and non-industrial unworked or simply sawn, cleaved or bruted diamonds* (CN codes 7102 10 and 7102 31): these products must still be submitted for verifications to a specific authority in Belgium,

as defined in Annex XXXVIII B, with verifications to be carried out in accordance with the Kimberley Process certification scheme as set forth in Regulation 2368/2002, UNLESS the products have previously undergone that verification procedure and this is proven by traceability-based evidence;

- *All Diamond Products processed in third-countries*: traceability-based evidence, including a corresponding certificate certifying that the diamonds are not mined, processed or produced in Russia, will only have to be provided as of March 1, 2025 (instead of September 1, 2024).

5.2 EXTENDED CONTROLS ON ITEMS WHICH GENERATE SIGNIFICANT REVENUES FOR RUSSIA¹⁷

Extension of the list of items covered by Annex XXI: Helium (CN codes 2804 29 10 and 2845 40) has been added to the list of items covered.

Exemption: For items added to Annex XXI, a new wind-down exemption permits the execution of contracts concluded before June 25, 2024 until September 26, 2024.

New derogation for repairs of components of medical devices: Authorizations are now available for goods falling under CN codes 8471, 8523, 8536 and 9027 that were physically located in Russia before prohibitions entered into force and that are components of medical devices and are brought into the EU for repair, maintenance or returning of defective components goods.

5.3 FACILITATING TRADE IN IRON AND STEEL PRODUCTS BETWEEN THE EU AND LIECHTENSTEIN

The EU added Liechtenstein to the list of partner countries for the importation of iron and steel,¹⁸ which already included Switzerland, Norway and the United Kingdom.¹⁹ Accordingly, upon importation into the EU of iron and steel products from Liechtenstein, importers are now exempt from the requirement to provide evidence of the country of origin of the iron and steel inputs.

6. AMENDMENTS TO EXISTING EXPORT-RELATED RESTRICTIONS

6.1 DUAL-USE AND ADVANCED TECHNOLOGY ITEMS²⁰

Additions to the list of entities subject to enhanced restrictions on dual-use and advanced technology items:²¹ 61 newly designated entities have been added to the list in Annex IV of Regulation 833/2014. These entities are located in and outside of Russia, including China, Kazakhstan, Kyrgyzstan, Türkiye, and the United Arab Emirates.

The structure of Annex IV has also been updated to also provide for additional identifying information, along with the date of initial listing.

Extension of the list of advanced technology items in Annex VII of Regulation 833/2014: Additions to this list concern notably certain machine tools, such as microwave and aerial amplifiers or flight data recorders, and certain "All Terrain Vehicles".

6.2 ITEMS THAT MAY CONTRIBUTE TO THE ENHANCEMENT OF RUSSIAN INDUSTRIAL CAPACITIES²²

Extension of the list of industrial items in Annex XXIII of Regulation 833/2014: Additions to this list concern notably chemicals (manganese ores and compounds of rare-earths), plastics, excavating machinery, monitors and electrical equipment.

New exemptions: Exemptions apply:

- In the form of a wind-down exemption that permits the execution of:
 - Contracts concluded before June 25, 2024 until September 26, 2024, for items listed in Annex XXIII C;
 - Contracts concluded before June 25, 2024 until July 26, 2024, for items falling under CN code 2602; and
 - Contracts concluded before June 25, 2024 until December 26, 2024, for items falling under Cn codes 8481 80 and 8708 99.
- For goods for non-military use or end-user, intended for health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters.

New derogations: Authorizations are available for:

- Goods under CN codes 3917, 8421, 8471, 8523, 8536, and 8544, that are necessary for the repair or maintenance of medical devices;
- Goods falling under CN code 8417 20, as well as certain taps, cocks and valves under CN code 8481 80, and certain copper tubes, pipes and pipe fittings under CN codes 7411 or 7412, that are necessary for personal household use of natural persons in Russia;²³ and
- Goods falling under CN code 3917 10 sold, supplied, transferred or exported strictly for the production of food items for human consumption in Russia.

7. INTRODUCING IMPORT- AND EXPORT-RELATED RESTRICTIONS ON UKRAINIAN CULTURAL PROPERTY ILLEGALLY REMOVED FROM UKRAINE

Transactions targeted: Purchases, imports, transfers, sales, supplies or exports of Ukrainian cultural property goods and other goods of archaeological, historical, cultural, rare scientific or religious importance removed from Ukraine without the consent of their legitimate owner or have been removed in breach of Ukrainian law or international law are prohibited. Related technical assistance, brokering services, financing, financial assistance and other services are also prohibited.

Exemptions: Exemptions apply for:

- Goods exported from Ukraine prior to March 1, 2014; or
- Goods being safely returned to their legitimate owners in Ukraine.

8. INCREASED SANCTIONS TARGETING THE TRANSPORT SECTOR

8.1 PROHIBITIONS TARGETING AIR TRANSPORT

Extension of aircrafts covered: In addition to aircrafts operated by Russian air carriers or owned, chartered or controlled by a Russian individual or entity, aircraft are also be prohibited from landing in, taking off from or overflying the territory of the EU, if:

- It is used for a non-scheduled flight;
- With regard to which a Russian individual or entity is in a position to effectively determine the place or time for its take-off or landing.

Exclusion of certain aircraft for recreational or training purposes: Prohibitions on landing in, taking off from or overflying do not apply to certain smaller aircraft²⁴ used for private, non-corporate flights carried out within the EU for recreational purposes or for training for private pilot licenses and related ratings with EU training providers.

New reporting requirements: For non-scheduled flights, aircraft operators are required to report, upon request from NCAs, information needed to ensure compliance with the prohibition on Russia-related aircrafts landing in, taking off from or overflying the territory of the EU, including on (i) the ultimate beneficial owner and ultimate charterer of the aircraft and (ii) passengers.

8.2 PROHIBITIONS TARGETING ACCESS TO PORTS AND LOCKS

Extended scope of prohibition: In addition to prohibiting to “provide access” to ports and locks to Russian-flagged vessels, to vessels certified by the Russian Maritime Register of Shipping and vessels that changed their Russian flag or registration after February 24, 2022, the text now clarifies that “access” to EU ports and locks for such vessels is also prohibited.

Clarification of the definition of vessel: The definition of vessel has been amended to clarify that it covers replicas of historical ships.

New derogation for vessels that changed their Russian flag prior to April 16, 2022: Authorizations are now available for vessels declared abandoned and subject to a forced sale prior to February 24, 2022 and physically located in the EU at the time of that forced sale.

8.3 PROHIBITIONS TARGETING ROAD TRANSPORT UNDERTAKINGS

Extension to EU entities owned by Russian individuals/entities: In addition to road transport undertakings established in Russia and road transport by means of trailers or semi-trailers registered in Russia, restrictions now apply to road transport undertakings established in the EU that are owned 25% or more by a Russian individual or entity:

- Prohibition as of June 25, 2024 to be admitted to become a road transport undertaking which transports goods by road within the territory of the EU, including in transit;
- Prohibition as of July 26, 2024 for road transport undertakings established in the EU after April 8, 2022 to transport goods by road within the territory of the EU, including in transit.

Information on ownership has to be provided by road transport undertakings established in the EU, upon request of the NCAs where they are established.

Exemption: The above does not apply to road transport undertakings established in the EU which are owned for 25% or more by a Russian national who is also a national or resident of the EU.

9. IP RIGHTS

Prohibiting registration and request related to IP rights: Applications for registration of, as well as requests or submissions related to IP rights made by Russian nationals, residents or entities have to be refused.

Member States must also use their best efforts to ensure that the European Patent Office, the World Intellectual Property Organization or IP offices constituted under Member State, EU law or the European Patent Office refuse requests for unitary effect of IP rights, as well as new applications for registration, when filed by Russian nationals, residents or entities.

Exemption – The above requirements do not apply to EU, EEA or Swiss nationals or residents.

10. EXTENDING EXEMPTIONS TO PROVIDE SERVICES & SOFTWARE TO EU AND PARTNER COUNTRIES SUBSIDIARIES IN RUSSIA

Article 5n of Regulation prohibits the provision of certain business services, enterprise management and software and industrial design and manufacture software to the Government of Russia and entities established in Russia.

Renewed exemption for Russian subsidiaries of EU and partner countries entities: The exemption that applied for the provision of such services and software intended for the exclusive use of entities established in Russia that are owned or controlled by a parent in the EU, the European Economic Area, Switzerland or a partner country, as listed in Annex VIII of Regulation 833/2014 (“Relevant Subsidiaries”), was initially scheduled to expire on 20 June 2024.

This exemption, however, has been renewed until September 30, 2024.

New exemption for employees of Russian subsidiaries: Services provided by EU nationals who are Russian residents since prior to February 24, 2022 to Relevant Subsidiaries that employ them are exempted, if such services are for the exclusive use of the Relevant Subsidiaries.

11. FACILITATING DIVESTMENTS FROM RUSSIA

12.1 NEW DEROGATION TO “NO CLAIMS” CLAUSES

As a derogation from the “no claims” clause contained in Regulation 833/2014, NCAs can authorize until December 31, 2024 the satisfaction of claims related to contracts or transactions affected by that Regulation where strictly necessary for the divestment from Russia or the wind-down of business activities in Russia.

12.2 EXTENDED DEROGATIONS FROM TRADE CONTROL MEASURES

Derogations pursuant to which NCA may authorize transactions that would otherwise fall under trade control measures or services and software restrictions, but are necessary for (i) the divestment from Russia or the wind-down of business activities in Russia or (ii) the divestment from an EU joint venture involving Russian entities and operating a gas pipeline infrastructure between Russia and third countries have been extended until December 31, 2024, instead of June 30, 2024.

12. EXTENDED LIST OF PARTNER COUNTRIES

The list of partner countries in Annex VIII of Regulation 833/2014 has been extended to cover Liechtenstein and Iceland, in addition to the United States of America, Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Norway and Switzerland.

Partner countries benefit from various exemptions or derogations under Regulation 833/2014.

13. REINFORCING ENFORCEMENT

13.1 ENHANCED REPORTING ON ENFORCEMENT ACTIONS

In addition to violation and enforcement problems and judgments handed down by national courts, Member States are now expressly required to inform each other and the European Commission on penalties applied for infringements of EU sanctions under Regulation 269/2014 or 833/2014.

13.2 ENHANCED CONFIDENTIALITY REQUIREMENTS FOR ENFORCEMENT MATTERS AND SANCTIONS PROPOSALS

Information exchanged, including with individuals or entities, to ensure enforcement of EU sanctions set forth in Regulation 269/2014 or 833/2014 or prevent violation or circumvention is subject to professional secrecy and must enjoy the protection afforded by the rules applicable to EU institutions.

The same applies to joint proposals for amendments to Regulation 269/2014 or 833/2014 and preparatory documents related to them.

13.3 PROMOTING VOLUNTARY SELF-DISCLOSURES

Although no voluntary self-disclosure mechanism has been established, Regulations 269/2014 and 833/2014 now provide that penalties may take into account the voluntary, complete and timely self-disclosure of infringements of these Regulations as a mitigating factor, in accordance with respective national laws.

14. INTRODUCING NEW DAMAGES RECOVERY ACTIONS

14.1 EU NATIONALS AND ENTITIES ARE ENTITLED TO RECOVER DAMAGES LINKED TO CLAIMS LODGED BEFORE THIRD-COUNTRIES COURTS IN RELATION TO CONTRACTS OR TRANSACTIONS AFFECTED BY EU SANCTIONS:

Reminder on “no claims” clauses : “No claims” clauses prohibit the satisfaction in the EU of claims made by individuals or entities targeted by EU sanctions in relation to contracts or transactions the performance of which has been affected by EU sanctions.

Framing the issue: “No claims” clauses may not be recognized in non-EU jurisdictions. In particular, Russian procedural rules allow for claims to be brought before Russian courts where the underlying dispute relates to a contract or transaction that has been affected by EU sanctions. In such disputes before Russian courts, “no claims” clauses and sanctions-related considerations are generally not recognized, leading to claims being awarded and forcibly requiring satisfaction of such claims, in breach of EU sanctions.

Introducing new damage recovery actions: EU nationals and entities are entitled to seek the recovery of damages resulting from claims lodged with non-EU courts in connection with a contract or transaction the performance of which has been affected by EU sanctions imposed under Regulation 269/2014 or 833/2014, whereas such claims would not have been satisfied in the EU due to the no claims clause, provided that the person concerned does not have effective access to the remedies under the relevant jurisdiction.

14.2 EU NATIONALS AND ENTITIES ARE ENTITLED TO RECOVER DAMAGES LINKED TO ASSETS CONFISCATION IN RUSSIA

EU nationals and entities are entitled to seek the recovery of damages resulting from a decision under Russian laws to put assets owned by investors associated with “unfriendly” States under temporary administration, against individuals or entities that benefitted from such decision, provided that such decision is illegal under international customary law or under a bilateral investment treaty entered between a Member State and Russia, and the person concerned does not have effective access to the remedies under the relevant jurisdiction.

Member States shall not be liable for such judicial decisions or their enforcement and shall not comply with judgments, arbitral awards or other judicial decisions that hold them liable.

15. MISCELLANEOUS

- Clarifications of the concept of circumvention: In accordance with settled case-law, the provisions on circumvention in Regulations 269/2014 and 833/2014 have been reinforced to clarify that circumvention includes participating in activities the object or effect of which is to circumvent EU sanctions without

deliberately seeking that object or effect but being aware that the participation can have that object or effect and accepting that possibility.

This clarification however merely reproduces the findings of the Court of Justice in the *Afrasiabi* precedent.²⁵

- **Prohibition on financing of political parties, non-governmental organizations (“NGOs”) and media service providers:** Prohibitions target donations, economic benefits or support to political parties and alliances, NGOs and media service providers from (i) the Government of Russia, (ii) entities in Russia with over 50% public ownership, (iii) non-EU entities they own for more than 50% and (iv) individuals or entities acting on their behalf or at their direction.
 - Derogation: authorizations are available where such donations, economic benefits or support would in no way interfere with the democratic processes in the Union or undermine its democratic foundations.
- **Extended prohibitions on support under EU, Euratom or Member State programmes and contracts:** The prohibition now applies to any entity established in Russia or whose proprietary rights are owned for more than 50% by an entity established in Russia (instead of entities in established in Russia with over 50% public ownership or public control).
 - **Additional exemptions** were also introduced for (i) the functioning of chambers of commerce, business associations, cultural and educational centres, religious institutions and academic exchange programmes from Member States in Russia, (ii) civil society activities that directly promote democracy, human rights, the rule of law or any other purposes consistent with the objectives of Regulation 833/2014 in Russia and (iii) Member States’ historical responsibility programmes and support of Member States’ ethnic minorities in Russia.
- **Amendments supporting Japan’s energy security and its reliance on the Sakhalin-2 project:**
 - **New derogation for items suited for use in aviation or the space industry:** authorizations can now be granted to sell, supply, transfer or export or provide services related to certain instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (CN code 9026 00 00) that are physically located in the EU as of June 25, 2024 and are strictly necessary for the functioning of the Sakhalin-2 project to ensure Japan’s energy security.
 - **New derogation for items that may contribute to the enhancement of Russian industrial capacities:** authorizations can now be granted to sell, supply, transfer or export or provide services related to goods falling under CN codes 8414 90 and 9026 that are physically located in the EU as of June 25, 2024 for the purpose of maintenance or repairs where strictly necessary for the functioning of the Sakhalin-2 project to ensure Japan’s energy security;
 - **Renewing Japan’s exemption under the price cap on crude oil and petroleum products:** The transport by vessel to Japan of and services related to crude oil originating in Sakhalin-2 will continue to be exempted from restrictions under Article 3n of Regulation 833/2014 until June 28, 2025, instead of June 28, 2024.
- **Introduction of a horizontal exemption in Regulation 833/2014 relating to the Paks II project:** A number of specific exemption and derogations had been previously amended to clarify that they applied in relation to the Paks II project. These previous amendments have been removed, as a horizontal exemption was introduced in relation to that project.
- **Housekeeping changes:** Various exemptions / derogations that provided for wind-down periods that

have expired have been deleted.

In parallel, legal texts have also been adopted to confirm the application, as from June 25, 2024, of the broadcasting and advertising ban foreseen under Article 2f of Regulation 833/2014 against Voice of Europe, RIA Novosti, Izvestija and Rossiskaja Gazeta.

¹ European Commission, [EU adopts 14th package of sanctions against Russia for its continued illegal war against Ukraine, strengthening enforcement and anti-circumvention measures](#), June 24, 2024.

² Council, [Russia's war of aggression against Ukraine: comprehensive EU's 14th package of sanctions cracks down on circumvention and adopts energy measures](#), June 24, 2024.

³ Through [Council Decision \(CFSP\) 2024/1738](#) of 24 June 2024 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L, 2024/1738, June 24, 2024; [Council Regulation \(EU\) 2024/1739](#) of 24 June 2024 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L, 2024/1739, June 24, 2024 and [Council Implementing Regulation \(EU\) 2024/1746](#) of 24 June 2024 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L, 2024/1746, June 24, 2024.

⁴ Through [Council Decision \(CFSP\) 2024/1744](#) of 24 June 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024, 1744, June 24, 2024 and [Council Regulation \(EU\) 2024/1745](#) of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024/1745, June 24, 2024.

⁵ Council, [14th package of sanctions on Russia's war of aggression against Ukraine: EU lists additional 69 individuals and 47 entities](#), June 24, 2024.

⁶ Through [Council Decision \(CFSP\) 2024/1779](#) of 24 June 2024 amending Decision (CFSP) 2019/797 concerning restrictive measures against cyberattacks threatening the Union or its Member States, OJ L, 2024/1779, June 24, 2024 and [Council Implementing Regulation \(EU\) 2024/1778](#) of 24 June 2024 implementing Regulation (EU) 2019/796 concerning restrictive measures against cyberattacks threatening the Union or its Member States, OJ L, 2024/1778, June 24, 2024.

⁷ Through [Council Decision \(CFSP\) 2024/1791](#) of 24 June 2024 amending Decision (CFSP) 2023/1532 concerning restrictive measures in view of Iran's military support to Russia's war of aggression against Ukraine and to armed groups and entities in the Middle East and the Red Sea region, OJ L, 2024/1791, June 24, 2024 and [Council Implementing Regulation \(EU\) 2024/1793](#) of 24 June 2024 implementing Regulation (EU) 2023/1529 concerning restrictive measures in view of Iran's military support to Russia's war of aggression against Ukraine and to armed groups and entities in the Middle East and the Red Sea region, OJ L, 2024/1793, 24.6.2024.

⁸ See, e.g., Article 10 of Regulation 833/2014.

⁹ As listed in Annex VIII of Regulation 833/2014. Currently: the United States of America, Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Norway, Switzerland, Liechtenstein and Iceland.

¹⁰ Namely, items suited for use in aviation or the space industry, jet fuel and fuel additives, firearms, their parts and essential components and ammunition or Common High Priority Items, as listed, respectively, in Annexes XI, XX and XXXV of Regulation 833/2014, Annex I of Regulation 258/2012 and Annex XL of Regulation 833/2014.

¹¹ Namely goods falling under tariff positions 8457 10, 8458 11, 8458 91, 8459 61, and 8466 93 of the EU's combined nomenclature ("CN").

¹² As listed in Annex XL of Regulation 833/2014.

¹³ Council, *Russia's war of aggression against Ukraine: comprehensive EU's 14th package of sanctions cracks down on circumvention and adopts energy measures*, June 24, 2024.

¹⁴ As further detailed in the damages recovery section below.

¹⁵ Listed, respectively, in Annex I of Regulation 2021/821, Annexes VII, XI, XX and XXXV of Regulation 833/2014, Annex I of Regulation 258/2012 and Annex XL of Regulation 833/2014.

¹⁶ As listed in Annex XXXVIII A of Regulation 833/2014.

¹⁷ As listed in Annex XXI of Regulation 833/2014.

¹⁸ As listed in Annex XVII of Regulation 833/2014.

¹⁹ This list is contained in Annex XXXVI of Regulation 833/2014.

²⁰ As listed in Annex I of Regulation 2021/821 and Annex VII of Regulation 833/2014.

²¹ This list is contained in Annex IV of Regulation 833/2014.

²² As listed in Annex XXIII of Regulation 833/2014

²³ Previously, only goods falling under CN code 8417 20 were covered.

²⁴ Namely, aircrafts that have a maximum seating capacity of 4 persons and a maximum take-off mass of no more than 2000 kg.

²⁵ Judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874.

²⁶ As listed in Annex XI of Regulation 833/2014.

²⁷ As listed in Annex XXIII of Regulation 833/2014.

²⁸ Through [Council Decision \(CFSP\) 2024/1770](#) of 24 June 2024 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024/1770, June 24, 2024 and [Council implementing Regulation \(EU\) 2024/1776](#) of 24 June 2024 implementing Regulation (EU) 2024/1428 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024/1770, June 24, 2024.

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