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EU EXTENDS SANCTIONS AGAINST BELARUS TO FIGHT CIRCUMVENTION

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Following the adoption of its 14th sanctions package against Russia, the European Union ("EU") extended the scope of its sanctions against Belarus with a view to "*mirroring several of the restrictive measures already in place against Russia*"¹ and "*making EU sanctions against Russia more effective*".²

The legal texts, published on June 30, 2024,³ provide for significant amendments to Council Regulation (EC) No 765/2006 ("**Regulation 765/2006**"),⁴ to align part of the sanctions targeting Belarus with those applicable to Russia. Anti-circumvention tools applicable to Russia have been replicated for Belarus. This includes "No Belarus" contractual clause requirements, the introduction of best effort requirements vis-à-vis non-EU subsidiaries and specific compliance measures relating to Common High Priority Items. In addition, both export-related and import-related restrictions have been aligned with those targeting Russia, resulting in a substantial increase in the scope of controlled items and transactions. Prohibitions were also introduced to target new investments in the energy sector in Belarus, while services and software restrictions were imposed against the Government of Belarus, its public bodies, corporations and agencies. Road transport prohibitions have also been aligned with those applicable against Russia. At the same time, facilitations were introduced regarding the release of goods presented to customs before sanctions became applicable, to facilitate divestments from Belarus and to permit the recovery of damages caused by claims lodged outside the EU to force the execution of contracts or transactions affected by sanctions against Belarus. The list of partner countries has also been updated to mirror the one established under the Russian sanctions regime. Mirroring, again, the Russian sanctions regime, provisions on enforcement were introduced, notably through reporting obligations and clarifications of the concept of circumvention.

These new sanctions against Belarus entered into force at midnight on July 1, 2024.

1. EXTENDED GROUNDS FOR LISTING AND DEROGATION UNDER ASSET FREEZE MEASURES

1.1 NEW GROUNDS FOR LISTING UNDER ASSET FREEZE MEASURES

The Council is now empowered to impose asset freeze measures against natural persons ("**individuals**") or legal persons, entities or bodies ("**entities**"):

- Facilitating infringements of the prohibition against circumvention of EU sanctions against Belarus or otherwise significantly frustrating those sanctions;
- Associated with individuals or entities designated as subject to asset freeze measures.

1.2 INTRODUCTION OF A DEROGATION TO AUTHORIZE THE IMPLEMENTATION OF RING-FENCING MECHANISMS

National competent authorities ("**NCA**") can now authorize transactions which would otherwise be prohibited by asset freeze measures, where necessary for setting-up, certifying or evaluating a firewall, which seeks (i) to remove control by an asset freeze target over a non-listed entity it owns or controls and (ii) to ensure that no funds or economic resources accrue to the benefit of such asset freeze target.

2. REPLICATING ANTI-CIRCUMVENTION TOOLS APPLICABLE UNDER SANCTIONS TARGETING RUSSIA

2.1 INTRODUCTION OF "NO BELARUS" CONTRACTUAL CLAUSE REQUIREMENTS

Scope of the "No Belarus" requirement – Like for Russia, "No Belarus" contractual clause requirements now apply in relation to the following goods and technologies:

- Firearms, other arms and ammunitions, as listed in Annex XVI of Regulation 765/2006 and Annex I to Regulation (EU) 258/2012 ("**Regulation 258/2012**");
- Goods and technology suited for use in aviation or the space industry, as listed in Annex XVII of Regulation 765/2006;
- Jet fuel and fuel additives, as listed in a new Annex XXVIII of Regulation 765/2006;
- Common High Priority Items, as listed in a new Annex XXX of Regulation 765/2006. (together, "**Sensitive Items**")

Accordingly, exporters must, when selling, supplying, transferring or exporting Sensitive Items to a third-country, (i) contractually prohibit re-exportation to or for use in Belarus, (ii) provide for adequate remedies in case this contractual obligation is breached and (iii) inform their NCA as soon as they become aware of such breach.

Exemptions – "No Belarus" contractual clause requirements do not apply to:

- The sale, supply, transfer or export to partner countries, as listed in Annex Vba of Regulation 765/2006;⁵
- Contracts relating to goods falling under CN codes 8457 10, 8458 11, 8458 91, 8459 61, 8466 93;
- Contracts concluded before July 1, 2024, until their expiry date;
- Public contracts concluded with a public authority in a third country or with an international organization.⁶

Potential extension to non-EU subsidiaries – Recitals 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 Belarus" clause.

2.2 INTRODUCTION OF BEST EFFORTS REQUIREMENTS TO ENSURE THAT NON-EU SUBSIDIARIES DO NOT UNDERMINE SANCTIONS SET FORTH IN REGULATION 765/2006

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 765/2006.

In line with similar requirements introduced in the context of the EU's 14th sanctions package against Russia,⁷ recitals clarify that:

- Activities that would undermine the sanctions set forth in Regulation 765/2006 are those resulting in an effect that this Regulation seeks to prevent;
- Best efforts comprise all actions that are suitable and necessary to prevent undermining Regulation 765/2006, but only actions that are feasible;
- However, requirements to ensure that non-EU subsidiaries prevent exports or re-exports to Belarus "*should be pursued to the extent that is permitted by the legislation of the third country where the legal person, entity or body in question is established*".

2.3 SPECIFIC COMPLIANCE MEASURES RELATING TO COMMON HIGH PRIORITY ITEMS

EU operators selling, supplying, transferring or exporting Common High Priority Items, as listed in Annex XXX of Regulation 765/2006, must as of January 2, 2025:

- Document and keep up-to-date risk assessments relating to the risks of exports to or for use in Belarus 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 Belarus, 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.

3. ALIGNING EXPORT-RELATED RESTRICTIONS WITH THOSE TARGETING RUSSIA

3.1 CLARIFICATION OF BROKERING CONTROLS ON MILITARY ITEMS

Regulation 765/2006 now expressly prohibits the provision, in addition to technical assistance, of brokering services related to items listed in the Common Military List of the EU to any individual or entity in Belarus or for use in Belarus.

This amendment reflects existing requirements contained in Council Decision 2012/642/CFSP, which already required Member States to take measures to prohibit the provision of brokering services related to arms and related material of all types to any individual or entity in Belarus or for use in Belarus.

3.2 EXTENSION OF CONTROLS ON TRANSIT VIA BELARUS

The transit via Belarus of the following items exported from the EU is now prohibited:

- Dual-use goods, technology and software, as listed in Annex I of Regulation (EU) 2021/821 ("**Dual-Use Regulation**");
- Goods and technology which might contribute to Belarus's military and technological enhancement, or to the development of its defence and security sector ("**advanced technology items**"), as listed in Annex Va of Regulation 765/2006;
- Firearms, their parts and essential components and ammunition, as listed in Annex XVI of Regulation 765/2006 and Annex I of Regulation 258/2012;
- Machineries, as listed in a new Annex XIVa of Regulation 765/2006;⁸
- Goods and technology suited for use in aviation or the space industry, as listed in Annex XVII of Regulation 765/2006.

Limited exemptions and/or derogations may be available, in line with those applicable for existing export controls.

3.3 EXTENSION OF CONTROLS TO INTELLECTUAL PROPERTY RIGHTS AND TRADE SECRETS

The sale, licensing and transfer of intellectual property rights ("**IPR**") or trade secrets, as well as granting rights to access or re-use any material or information protected by means of IPR or constituting trade secrets ("**IPR and trade secrets provision**") to any individual or entity in Belarus or for use in Belarus is prohibited in relation to the following items and to their provision, manufacture, maintenance and use:

- Dual-use goods, technology and software, as listed in Annex I of the Dual-Use Regulation;
- Advanced technology items, as listed in Annex Va of Regulation 765/2006;
- Firearms, their parts and essential components and ammunition, as listed in Annex XVI of Regulation 765/2006 and Annex I of Regulation 258/2012;
- Goods and technology suited for use in aviation or the space industry, as listed in Annex XVII of Regulation 765/2006.

3.4 DUAL-USE AND ADVANCED TECHNOLOGY ITEMS (ANNEX I OF THE DUAL-USE REGULATION & ANNEX VA OF REGULATION 765/2006)

Extended list of advanced technology items – Annex Va of Regulation 765/2006 has been revised to be aligned with Annex XXIII of Council Regulation (EU) No 833/2014 ("**Regulation 833/2014**"), providing for similar restrictions in relation to Russia.

New derogation for advanced technology items – NCAs may authorize certain transactions related to the fulfilment of maintenance obligations by Member States in areas under long-term lease agreements with Belarus.

Increased information sharing – Member States are required to exchange information on the application of export-related restrictions on dual-use and advanced technology items. This includes information on authorizations granted and denied, but also on requests for authorization received in the event of suspected forum shopping or other cases as appropriate. In addition, information on enforcement, infringement, penalties, best practices for national enforcement and detection and prosecution of unauthorized exports must be shared.

3.5 MACHINERIES (ANNEX XIV OF REGULATION 765/2006)

Updated list of machineries – Annex XIV already covered all products that were classified under heading 8539 of the EU's Combined Nomenclature ("**CN**"). The description of this heading has been aligned with the description of the CN to clarify that this covers "*light-emitting diode (LED) light sources*" and "*parts thereof*", in addition to "*electric filament or discharge lamps, including sealed beam lamp units and ultraviolet or infra-red lamps; arc lamps; parts thereof*".

New derogation – NCAs may authorize transactions involving machineries intended for certain diplomatic representations.

3.6 ITEMS SUITED FOR USE IN AVIATION OR THE SPACE INDUSTRY (ANNEX XVII OF REGULATION 765/2006)

New derogations – NCAs may authorize:

- Transactions necessary for the production of titanium goods for the aeronautic industry for which no alternative supply is available;
- Technical assistance necessary to avoid collision between satellites or unintended re-entry into the atmosphere; and
- Certain transactions related to the fulfilment of maintenance obligations by Member States in areas under long-term lease agreements with Belarus.

3.7 INTRODUCTION OF NEW CATEGORIES OF ITEMS SUBJECT TO EXPORT-RELATED RESTRICTIONS

New categories of export-controlled items – In order to align sanctions against Belarus with those targeting Russia under Regulation 833/2014, the following categories of items are now subject to export-related controls:

- Items which could contribute to the enhancement of Belarusian industrial capacities ("**industrial items**"), as listed in a new Annex XVIII of Regulation 765/2006;
- Maritime navigation goods and technology, as listed in a new Annex XXIV of Regulation 765/2006;
- Luxury goods, as listed in a new Annex XXV of Regulation 765/2006, where their value exceeds EUR 300 per item or a higher value as set forth in Annex XXV; and
- Items suited for use in oil refining and liquefaction of natural gas, as listed in a new Annex XX of Regulation 765/2006.

Scope of prohibitions – In relation to newly controlled categories of items, prohibition apply in relation to:

- Their sale, supply, transfer or export to any person in Belarus or for use in Belarus;
- The provision of associated services (technical assistance, brokering services, other services, financing or financial assistance) to any person in Belarus or for use in Belarus; and

- IPR and trade secrets provision to any person in Belarus or for Belarus.

In addition, for industrial items listed in Annex XIX of Regulation 765/2006,⁹ transit of these items via Belarus is prohibited if they were exported from the EU.

Exemption and derogations – Exemptions and derogations have been introduced as follows:

Categories of controlled items	Exemptions(s)	Derogation(s)
<p style="text-align: center;">Industrial items</p>	<p>1. Wind-down of contracts concluded before July 1, 2024 until October 2, 2024, except for:</p> <ul style="list-style-type: none"> - Goods under CN code 2602, for which the exemption expires on August 2, 2024; - Goods under CN code 8708 99, for which the exemption expires on January 2, 2025. <p>2. Goods necessary for the official purposes of certain diplomatic or consular missions in Belarus or the personal effects of their staff. Certain transactions intended for health emergencies, human health and safety or environmental purposes.</p> <p><i>NB – Only the last exemption applies to transit via Belarus.</i></p>	<p>1. Transactions necessary for pharmaceutical or humanitarian purposes;</p> <p>2. Transactions necessary for fulfilment of maintenance contracts by Member States in areas of long-term lease agreements in Belarus;</p> <p>3. Transactions necessary for activities related to civil nuclear capabilities, facilities or construction;</p> <p>4. Transactions involving goods under CN code 8417 20 necessary for the personal or professional use of persons;</p> <p>5. Transactions involving goods under CN codes 3917, 8523 and 9018 necessary for the maintenance or repair of medical devices;</p> <p>6. Transactions involving goods under CN code 3917 10 for the production of food items for human consumption in Belarus;</p> <p>7. Transactions involving goods under CN code 8417 20 and 8417 21 or 8417 22 or 8417 23 or 8417 24 or 8417 25 or 8417 26 or 8417 27 or 8417 28 or 8417 29 or 8417 30 or 8417 31 or 8417 32 or 8417 33 or 8417 34 or 8417 35 or 8417 36 or 8417 37 or 8417 38 or 8417 39 or 8417 40 or 8417 41 or 8417 42 or 8417 43 or 8417 44 or 8417 45 or 8417 46 or 8417 47 or 8417 48 or 8417 49 or 8417 50 or 8417 51 or 8417 52 or 8417 53 or 8417 54 or 8417 55 or 8417 56 or 8417 57 or 8417 58 or 8417 59 or 8417 60 or 8417 61 or 8417 62 or 8417 63 or 8417 64 or 8417 65 or 8417 66 or 8417 67 or 8417 68 or 8417 69 or 8417 70 or 8417 71 or 8417 72 or 8417 73 or 8417 74 or 8417 75 or 8417 76 or 8417 77 or 8417 78 or 8417 79 or 8417 80 or 8417 81 or 8417 82 or 8417 83 or 8417 84 or 8417 85 or 8417 86 or 8417 87 or 8417 88 or 8417 89 or 8417 90 or 8417 91 or 8417 92 or 8417 93 or 8417 94 or 8417 95 or 8417 96 or 8417 97 or 8417 98 or 8417 99 necessary for personal household use of natural persons in EU Member States.</p> <p><i>NB – Only the first three derogations apply to transit via Belarus.</i></p>

<p>Maritime navigation goods and technology</p>	<p>1. Certain transactions intended for humanitarian purposes, health emergencies, human health and safety or environmental purposes.</p>	<p>N/A</p>
<p>Luxury goods</p>	<p>1. Goods necessary for official purposes of certain diplomatic or consular missions in Belarus or the personal effects of their staff;</p> <p>2. Goods under CN codes 7113 00 00 and 7114 00 00, for personal use of persons travelling from the EU or members of their immediate families traveling with them, owned by them and not intended for sale.</p>	<p>1. Transactions related to cultural goods on loan in the context of formal cultural cooperation in Belarus.</p>
<p>Items suited for use in oil refining and liquefaction of natural gas</p>	<p>1. Wind-down of contracts concluded before July 1, 2024 until October 2, 2024.</p>	<p>1. Certain transactions necessary for human health and safety or environmental reasons.</p>

4. ALIGNING IMPORT-RELATED RESTRICTIONS WITH THOSE TARGETING RUSSIA

4.1 EXTENSION OF CONTROLS ON MINERAL PRODUCTS TO CRUDE OIL

Extension of controls – In addition to mineral products listed in Annex VII of Regulation 765/2006, crude oil products, as listed in a new Annex XXIII of Regulation 765/2006, are now covered.

Scope of prohibitions – The scope of prohibitions applicable to mineral products and crude oil has been revised and aligned and now prohibits:

- Their purchase, import or transfer if they originate in Belarus or are exported from Belarus;
- The provision of technical assistance, brokering services, financing or financial assistance or other services related to the above prohibition.

New exemptions for crude oil – In relation to crude oil, the above prohibitions do not apply to:

- One-off transactions for near-term delivery for crude oil concluded and executed before October 2, 2024, provided such transactions are notified by Member States to the European Commission within 10 days of their completion; and
- The wind-down of contracts for crude oil concluded before July 1, 2024 until October 2, 2024, provided those contracts are notified by Member State to the European Commission by July 23, 2024.

No impact on Russian crude oil imports through pipeline – As was previously the case, Regulation 765/2006 clarifies that restrictions on mineral products and crude oil are without prejudice to the transit through Belarus of crude oil under CN code 2709 00 delivered by pipeline from Russia into the EU, as currently permitted under Regulation 833/2014.

4.2 INTRODUCTION OF CONTROLS ON GOODS WHICH ALLOW BELARUS TO DIVERSIFY ITS SOURCES OF REVENUE

New Annex XXVII – A new Annex XXVII of Regulation 765/2006 identifies goods which allow Belarus to diversify its sources of revenue.

Scope of prohibitions – Regulation 765/2006 now prohibits:

- Their purchase, import or transfer if they originate in Belarus or are exported from Belarus;
- The provision of technical assistance, brokering services, or other services, as well as financing or financial assistance related to the above prohibitions.

Exemptions – The above prohibitions do not apply to:

- The wind-down of contracts concluded before July 1, 2024 until October 2, 2024; and
- Purchases in Belarus necessary for the functioning of certain diplomatic and consular representations or the personal use of EU nationals and their immediate family members.

Derogations – NCAs can authorize certain transactions related to:

- The personal use of natural persons travelling to the EU or immediate family members, limited to personal effects manifestly not intended for sales;
- Certain activities related to civil nuclear capabilities, facilities or cooperation; and
- Certain goods falling under CN codes 8471, 8523, 8536 and 9027 that are components of medical devices brought into the EU for maintenance, repair or return of defective components.

Specific rules regarding vehicles – Specific rules apply regarding vehicles, as follows:

- Vehicles already in the EU on July 1, 2024 can be registered in a Member State;
- An exemption applies for the entry into the EU of motor vehicles under CN code 8703 that have diplomatic plates and are necessary for the functioning of certain diplomatic and consular representations or for the personal use of their staff and immediate family members;
- An exemption applies for vehicles under CN code 8703 intended for humanitarian purposes;
- NCAs can grant authorization for the entry into the EU of vehicles under CN code 8703 that are not intended for sale and owned by (i) EU citizens or immediate family member who are resident in Belarus and driving the vehicle in the EU for strict personal use or (ii) Belarus citizens holding a valid visa or residence permit allowing entry in to the EU, driving the vehicle into the EU for strict personal use.

4.3 INTRODUCTION OF CONTROLS ON GOLD AND GOLD PRODUCTS

New Annexes XXI and XXII – New annexes XXI and XXII of Regulation 765/2006 cover, respectively, gold ("**Annex XXI gold**") and products made of gold (jewellery, goldsmiths, silversmiths of gold or containing gold or of metal clad with gold) ("**Annex XXII gold products**").

Scope of prohibitions – Regulation 765/2006 now prohibits:

- The purchase, import or transfer of:
 - (i) Annex XXI gold originating in Belarus AND exported from Belarus after 1 July 2024;

(ii) Annex XXI gold processed in a third country incorporating Annex XXI gold originating in Belarus AND exported from Belarus after 1 July 2024;

- The purchase, import or transfer Annex XXII gold products originating in Belarus AND exported from Belarus after 1 July 2024; and
- The provision of associated services (technical assistance, brokering services, other services, financing or financial assistance) related to the above prohibitions.

Exemptions – The above prohibitions do not apply to:

- Gold necessary for official purposes of diplomatic missions, consular posts or international organizations in Belarus; and
- Annex XXII gold products for the personal use of natural persons travelling to the EU or immediate family members travelling with them, owned by these individuals and not intended for sale.

Derogation – NCA can authorize certain transactions related to cultural goods on loan in the context of formal cultural cooperation with Belarus.

4.4 INTRODUCTION OF CONTROLS ON DIAMONDS AND DIAMONDS PRODUCTS

New Annex XXIX – A new Annex XXIX of Regulation 765/2006 covers diamonds and diamonds products according to three categories:

- Part A covers unsorted and non-industrial diamonds;
- Part B covers synthetic or reconstructed diamonds;
- Part C covers products incorporating diamonds (jewelry, goldsmiths, silversmiths, watches, etc.).

Scope of prohibitions – Regulation 765/2006 prohibits as of 1 July 2024:

- The purchase, import, transfer of Parts A, B and C diamonds and diamonds products that:
 - (i) originate in Belarus or have been exported from Belarus; or
 - (ii) transited via Belarus.
- The provision of associated services (technical assistance, brokering services, other services, financing or financial assistance) related to the above prohibitions.

Exemption – The above prohibitions do not apply to Part C diamond products for personal use of persons travelling to the EU and immediate family members traveling with them, owned by those persons and not intended for sale.

Derogation – NCAs may authorize certain transactions related to cultural goods on loan in the context of formal cultural cooperation with Belarus.

5. INTRODUCING PROHIBITIONS ON NEW INVESTMENTS IN THE ENERGY SECTOR IN BELARUS

Definition of the "energy sector in Belarus" – In line with restrictions targeting Russia under Regulation 833/2014, restrictions now target the energy sector in Belarus, defined as covering the following activities with the exception of civil nuclear related activities:

- The exploration, production, distribution within Belarus or mining of crude oil, natural gas or solid fossil fuels, the refining of fuels, the liquefaction of natural gas or regasification;
- The manufacture or distribution within Belarus of solid fossil fuel products, refined petroleum products or gas; or
- The construction of facilities or installation of equipment for, or the provision of services, equipment or technology for, activities related to power generation or electricity production.

Scope of prohibitions – In relation to non-EU entities operating in the energy sector in Belarus, it is prohibited to:

- Acquire new or extend existing participation in such entities;
- Grant or be part an arrangement to grant new loans, credits or financing to such entities or for the documented purpose of financing them;
- Create new joint ventures with such entities;
- Provide investment services related to the above activities.

Derogations – NCAs may authorize certain transactions that:

- Are necessary for critical energy supply with the EU, as well as non-sanctioned transport of natural gas and oil from or through Belarus into the EU
- Exclusively concern a person operating in the energy sector in Belarus owned by an EU entity.

6. INTRODUCING SPECIFIC SERVICES & SOFTWARE PROHIBITIONS AGAINST THE GOVERNMENT OF BELARUS, ITS PUBLIC BODIES, CORPORATIONS AND AGENCIES

Targeted parties – Prohibitions on the provision of specific services and software target:

- The Republic of Belarus, its Government, its public bodies, corporations or agencies;
- Any natural or legal person, entity or body acting on behalf or at the direction of the Republic of Belarus, its Government, its public bodies, corporations or agencies.
(together, "**Targeted Parties**")

While the scope of Targeted Parties is narrower than under Article 5n of Regulation 833/2014, "public corporations" encompass any "*undertaking, other than a credit institution, established in Belarus with over 50 % public ownership, or under public control, as of 1 June 2021*".

Prohibitions targeting services – The provision of the following services to Targeted Parties is prohibited:¹⁰

- Accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services;
- Architectural and engineering services, legal advisory services and IT consultancy services;
- Market research and public opinion polling services, technical testing and analysis services and advertising services.

Prohibitions targeting software – The sale, supply, transfer, export or provision to Targeted Parties of software for the management of enterprises and software for industrial design and manufacture, as listed in a new Annex XXVI of Regulation 765/2006, is prohibited.

Prohibitions targeting associated services – Prohibitions apply to the provision of technical assistance, brokering services, other services, financing or financial assistance related to covered services and software for their provision to Targeted Parties.

Exemptions – The above prohibitions do not apply to:

- The wind-down of contracts concluded before July 1, 2024 until October 2, 2024;
- Services intended for the exclusive use of Belarusian entities that are owned or controlled by EU, European Economic Area, Swiss or partner countries entities until January 2, 2025;
- Except for accounting, auditing, bookkeeping, tax consulting, business and management consulting or public relations services, services necessary for public health emergencies, human health and safety or environmental reasons;
- For accounting, auditing, bookkeeping, tax consulting, business and management consulting or public relations

services and architectural and engineering services, legal advisory services and IT consultancy services:
(i) Services strictly necessary for the exercise of rights of defense or the right to an effective legal remedy;
(ii) Services strictly necessary to ensure access to judicial, administrative or arbitral proceedings in the EU or the enforcement of a judgment or arbitration award rendered in the EU, provided this is consistent with the objectives of Regulation 765/2006.

Derogations – NCA may grant authorizations where necessary for:

- Humanitarian purposes;
- Certain civil society activities;
- The functioning of certain diplomatic or consular representations;
- Ensuring critical energy supply within the EU and the purchase, import or transport into the EU of titanium, aluminum, copper, nickel, palladium and iron ore;
- Ensuring the continuous operation of infrastructures, hardware and software critical for human health and safety or the environment;
- Certain activities related to civil nuclear capabilities, facilities or cooperation;
- The provision of certain electronic communication services by Union telecommunication operators;
- Services intended for the exclusive use of Belarusian entities owned or controlled by EU, European Economic Area, Swiss or partner countries entities;
- Firewall measures to ringfence an entity from an asset freeze target, in relation to accounting, auditing, bookkeeping, tax consulting, business and management consulting or public relations services and architectural and engineering services, legal advisory services and IT consultancy services;
- Existing initiatives supporting victims of disasters and in the framework of international adoption procedures, for legal advisory services;
- Contribution of Belarusian nationals to international open-source projects, in relation to software for the management of enterprises and software for industrial design and manufacture.

7. ALIGNING ROAD TRANSPORT PROHIBITIONS WITH THOSE TARGETING RUSSIA

7.1 EXTENDED SCOPE OF PROHIBITION

In addition to road transport undertakings established in Belarus, the prohibition to transport goods by road within the territory of the EU has been extended to:

- Transport carried out by means of trailers or semi-trailers registered in Belarus, regardless of where the trucks hauling them are registered;
- As of 2 August 2024, road transport undertaking established in the EU after 8 April 2022 that are 25% or more owned by Belarusian individual or entity.

Furthermore, road transport undertaking that are 25% or more owned by Belarusian individual or entity are now prohibited from being admitted to become a road transport undertaking that transport goods by road within the territory of the EU.

7.2 REQUIREMENT TO PROVIDE INFORMATION

EU road transport undertakings are required to provide information on their ownership structure to national competent authorities, upon request.

7.3 NEW EXEMPTION

Prohibitions do not apply to road transport undertakings that are 25% or more owned by Belarusian individuals that are also EU citizens or residents.

7.4 DEROGATIONS

Derogations available to road transport undertaking established in Belarus have also been extended to transport carried out by means of trailers or semi-trailers registered in Belarus.¹¹

8. AUTHORIZING THE RELEASE OF GOODS PRESENTED TO CUSTOMS BEFORE SANCTIONS BECAME APPLICABLE

In line with facilitations provided for under Regulation 833/2014 for Russia, Regulation 765/2006 now clarifies that goods that were presented to customs before sanctions became applicable may be released, and all procedural steps for that purpose shall be allowed, provided that customs authorities (i) have no reasonable grounds to suspect circumvention and (ii) do not authorize re-export of the goods to Belarus.

Payments in relation to such goods must however remain consistent with the provisions and objectives of Regulation 765/2006.

9. FACILITATING DIVESTMENTS FROM BELARUS

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 the divestment from Belarus or the wind-down of business activities in Belarus have been introduced and can be obtained until December 31, 2024.

This concerns:

- **For export-related restrictions:** advanced technology items (Annex Va), goods used for the production or manufacturing of tobacco products (Annex VI), machineries (Annex XIV), goods and technology suited for use in aviation or the space industry (Annex XVII), industrial items (Annex XVIII), goods and technology suited for use in oil refining and liquefaction of natural gas (Annex XX), maritime navigation goods and technology (Annex XXIV) and luxury goods (Annex XXV);
- **For import-related restrictions:** mineral products (Annex VII), wood products (Annex X), cement products (Annex XI), iron and steel products (Annex XII), rubber products (Annex XIII), gold and gold products (Annexes XXI and XXII) and goods which allow Belarus to diversify its sources of revenue (Annex XXVII).
- **For services and software restrictions:** all services covered by Article 1jc of Regulation 765/2006 and software covered by Annex XXVI.

10. REVISING THE LIST OF PARTNER COUNTRIES

The list of partner countries in Annex Vb of Regulation 765/2006, which was previously empty, now includes Norway, Switzerland, the United States of America, Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Liechtenstein and Iceland.

Partner countries benefit from various exemptions or derogations under Regulation 765/2006.

11. REINFORCING ENFORCEMENT

11.1 INTRODUCTION OF REPORTING OBLIGATIONS

EU operators are now required to supply information that facilitate the implementation of Regulation 765/2006 to their NCAs within two weeks of acquiring this information and cooperate with NCAs in any verification of such information.

Member States must then transmit relevant information within one month to the Commission, possibly in an anonymized form.

This obligation must be applied consistently with respect for the confidentiality of communications between lawyers and, in certain circumstances, other certified professionals and their clients.

11.2 ENHANCED INFORMATION EXCHANGES 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 765/2006.

11.3 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 765/2006 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 765/2006 and preparatory documents related to them.

11.4 PROMOTING VOLUNTARY SELF-DISCLOSURES

Although no voluntary self-disclosure mechanism has been established, Regulation 765/2006 now provides 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.

12. INTRODUCING NEW DAMAGES 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 765/2006, 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.

This reflects a similar action for damages introduced in Regulation 833/2014 against Russia, as part of efforts to reinforce the effectiveness of "no claims" clauses, which was jeopardized by claims made in third-countries.

13. CLARIFICATIONS OF THE CONCEPT OF CIRCUMVENTION

In accordance with settled case-law, and as previously done in Regulation 833/2014 regarding Russia, the provisions on circumvention in Regulation 765/2006 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.¹²

¹ Council, [Belarus' involvement in Russia's war of aggression against Ukraine: new EU restrictive measures target trade, services, transport and anti-circumvention](#), June 29, 2024.

² Commission, [EU further extends the scope of sanctions on Belarus](#), June 29, 2024.

³ [Council Decision \(CFSP\) 2024/1864](#) of 29 June 2024 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine and [Council Regulation \(EU\) 2024/1865](#) of 29 June 2024 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine.

⁴ Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus, OJ L 134, May 20, 2006, p. 1, as amended.

⁵ The list of partner countries currently consist of Norway, Switzerland, the United States of America, Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Liechtenstein and Iceland.

⁶ Those contracts are subject to notification requirements within two weeks of conclusion.

⁷ Certain clarifications made in the context of the EU's 14th sanctions package are not reproduced in recitals of the sanctions targeting Belarus, but should apply by analogy. This notably concerns the assessment of "ownership" and "control". For further details, see Mayer Brown's Insight of June 25, 2024: [EU Adopts 14th Sanctions Package Against Russia](#)

⁸ Annex XIVa of Regulation 765/2006 corresponds to a sub-set of Annex XIV.

⁹ Annex XIX of Regulation 765/2006 corresponds to a sub-set of Annex XVIII.

¹⁰ Those services are the same as those covered by Article 5n of Regulation 833/2014 in relation to Russia. In that regard, recitals clarify that the same definitions apply under Regulation 765/2006 and Regulation 833/2014.

¹¹ This concerns derogations relating to certain transactions (i) related to natural gas and oil, titanium, aluminium, copper, nickel, palladium and iron ore, (ii) related to pharmaceutical, medical, agricultural and food products, (iii) for humanitarian purposes, (iv) related to certain diplomatic and consular representations in Belarus.

¹² Judgment of 21 December 2011, *Afrasiabi and Others*, C-72/11, EU:C:2011:874.

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