

Ukraine and Russian Sanctions

22 December 2014

In response to the annexation of Crimea and Sevastopol by Russia, the European Union, United States and Russia have introduced various trade sanctions against each other. Sanctions that directly affect shipping can be summarised as follows:

Sanctions relating to persons and companies

Both European Union and United States have listed various persons and entities whose assets should be frozen, effectively prohibiting all financial transactions involving those persons/entities. It is generally not possible to circumvent the prohibitions by making or receiving payments through middlemen. A consolidated list of all the persons and entities that have been designated by the European Union can be found [here](#). Persons and entities designated by the United States can be found [here](#) (SDN List) and [here](#) (SSI List).

Notably, the European Union has listed Sevastopol Commercial Seaport and Kerch Commercial Seaport. The latter has reportedly control over the Kerch Strait and administers the Kerch Canal. Vessels entering or leaving the Sea of Azov must pass through the Kerch Strait and the Kerch Canal. The port authority levies canal dues and therefore in order to pass the Kerch Canal dues must be paid to Kerch Commercial Sea Port. A number of Russian and Ukrainian ports such as Mariupol and Rostov are located in the Sea of Azov and the effect of the designation of the Kerch Commercial Sea Port may be that any vessels which are EU controlled (see below) could be in breach of European Union Sanctions if calling at ports in the Sea of Azov even if not calling at the sanctioned ports of Kerch or Sevastopol. The position is not clear and members trading to the Sea of Azov are recommended to seek legal advice in order to satisfy that the trading to and from Sea of Azov can be undertaken without infringing sanctions legislation.

On June 16, 2014, the Ukraine authorities issued a Directive (№ 255) effectively “closing” the following ports: Kerch, Theodosia, Sevastopol, Yalta and Evpatoria. The exact implications of this “closure” are unclear – according to the Club’s P&I correspondents the ports are open and work in normal manner. However one known and potentially problematic implication is that persons cannot freely move between Ukraine and a “closed” area, meaning there are implications for crew members calling first a “closed” port and subsequently calling another port in Ukraine. Therefore, in addition to a general recommendation to members to exercise extreme caution when calling Ukraine, members are specifically recommended to seek local advice in order to ensure that all formalities for crew members calling these ports are complied with.

Sanctions relating to cargoes and activities

European Union has imposed the following prohibitions pursuant to [Council Regulation 825/2014](#) and [Council Regulation 692/2014](#):

- ▶ To import into the European Union goods which are wholly obtained in Crimea or in Sevastopol or which have undergone their last substantial transformation there.
- ▶ To provide, directly or indirectly, financing or financial assistance as well as insurance and reinsurance related to the import of goods originating (see above) in Crimea or Sevastopol.
- ▶ To sell, supply or transfer designated key equipment and technology for infrastructure projects in the transport, telecommunications and energy sectors to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol. The equipment and technology are listed in Annex III of Council Regulation 825/2014.
- ▶ To sell, supply or transfer key equipment and technology for the exploitation of oil, gas and mineral resources, to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol. The equipment and technology are listed in Annex III of Council Regulation 825/2014.
- ▶ To provide technical and financial assistance related to the above activities.

These prohibitions do not apply to contracts entered into before 30 July 2014 (including ancillary contracts) and which are executed by 28 October 2014. For cargo originating in Crimea and Sevastopol the prohibition do not apply for contract entered into before 25 June 2014 and which are concluded before 26 September 2014. Members seeking to perform such contract must provide a minimum of 10 days advance notice to their EU member State Competent Authority. Furthermore goods made available to the Ukrainian authorities and entitled to “preferential origin” status in accordance with [Council Regulation 978/2012](#) and [Council Regulation 374/2014](#) or the [EU-Ukraine Association Agreement](#), may also be exempt.

Payment of claims in respect of contracts or transactions are prohibited if they are made by designated persons, entities or bodies listed in [Council Regulation 269/2014](#) persons, entities or bodies acting on behalf of designated entities; persons, entities or bodies who have been found by a competent authority to have infringed the prohibitions in Regulation 692/2014; or if claims relate to the import of goods originating in Crimea or Sevastopol.

In addition, pursuant to [Council Regulation 833/2014](#) further prohibitions are:

- ▶ Dealings in transferable securities with maturity exceeding 90 days issued after 1 August 2014 if issued by a state-owned Russian bank
- ▶ Trading in dual-use goods and technology destined for military use, or for a military end-user in Russia. Dual-use goods and technology means certain proscribed items which have

civilian uses but which may also have military applications. Such supplies may be possible where an authorisation is obtained from the relevant authorities in the relevant EU member State. Performance of contracts pre-dating 1 August 2014 is permitted subject to authorisation. There are similar prohibitions and restrictions in relation to armaments.

- ▶ Trading in certain items used in the oil industry, and prohibits trade in certain items associated with deep water oil exploration and production, Arctic oil exploration and production or shale oil projects in Russia. Performance of contracts pre-dating 1 August 2014 is permitted subject to authorisation. Further, trade in the items listed is only possible subject to authorisation.

UK authorities have issued a guidance note to Council Regulation 833/2014.

On 4 December 2014 the EU issued [Council Regulation 1290/2014](#) which seeks to clarify the EU sanctions against Russia regarding (1) sanctioned technologies and activities regarding oil exploration and production, (2) geographical application, (3) exemptions and (4) financial restrictions.

On 18 December 2014 the EU issued [Council regulation 1351/2014](#) introducing various new prohibitions of which the most notable are;

- ▶ A prohibition on the sale, supply, transfer or export of certain goods and technology "suited for use" in the targeted sectors of: (i) transport; (ii) telecommunications; (iii) energy; and (iv) the prospection, exploration and production of oil, gas and mineral resources. The expanded list of prohibited goods and technology is very wide in scope, and includes items as diverse as refrigerators; forestry machinery; air-conditioning machines; electric motors; and calculating machines and cash registers.

The goods or technology listed cannot be provided to anyone in Crimea or Sevastopol or for use in Crimea or Sevastopol;

- ▶ A prohibition of "services directly related to tourism activities in Crimea or Sevastopol". European cruise ships are prohibited from calling at (i) Sevastopol; (ii) Kerch; (iii) Yalta; (iv) Theodosia (v) Evpatoria; (vi) Chernomorsk; and (vii) Kamysh-Burun, except in the case of an emergency. This applies to all ships owned and under the operational control of an EU ship owner or any ship flying the flag of an EU member state.

On 19 December 2014 the US added individuals to the OFAC SDN list and also issued information about licensing of Agricultural Commodities, Medicine, Medical Supplies, and Replacement Parts. Further information can be found [here](#)

To whom do the European Union Sanctions apply?

The prohibitions imposed by the European Union apply to any person within the territory of the EU and on board vessels under the jurisdiction of EU Member States, companies incorporated in EU Member States, EU citizens and to any person, entity or body (including non-EU domiciled Members) in respect of any business done in whole or in part within the EU. Notably, the Club, being domiciled in the European Union, will not be able to provide insurance to any vessel of whatever nationality shipping goods originating in Crimea or Sevastopol into the European Union.

Sanctions issued by Russia

In response to the sanctions imposed by United States and European Union, Russia has introduced a one-year ban on the import to Russia of certain agricultural products from the USA, Canada, the European Union, Norway and Australia. The categories of items whose import has been banned are: Beef; pork; poultry (chicken, duck, goose, turkey, guinea fowl); salted meat, meat in brine, dried meat and smoked meat; fish, crustaceans and other marine/freshwater invertebrates; milk and dairy products; vegetables, edible root vegetables and other tubers; fruit and nuts; sausages and analogous meat products, meat or blood sub-products, processed food products based on them; processed products, including cheese and curd with vegetable fat base; and food products containing dairy and vegetable fats. In contrast to the sanctions imposed by the European Union, the measures introduced in Russia do not contain any "grandfathering" provision allowing for the performance of pre-existing obligations and have been introduced with immediate effect in relation to all affected imports.

Implications on the Member's insurance cover

As a general remark, members are advised that sanctions legislation is very complex. In particular, it may be very difficult to ascertain if and to what extent sanctions legislation apply in a particular situation. The information provided by the Club is a broad brush summary of the prohibitions in place and members are recommended to always seek legal advice in case of any business activity that may be subject by prohibitions in sanctions legislation or otherwise. Breach of sanctions legislation may jeopardise the member's insurance cover due to sanction exclusions in the insurance policy including but not limited to P&I Rules 10, 11 and 27(f).