

Sanctions Update: EU and UK Impose Sweeping Import Restrictions on Russian-Origin Iron and Steel

The new measures bar the import of iron or steel products processed in countries other than Russia but incorporating Russian-origin iron or steel components. The measures form part of a series of significant sanctions updates adopted by the EU and UK in 2023.

This Client Alert is published in the context of ongoing developments and should be read in conjunction with Latham's [previous sanctions updates](#). Given the frequency with which different jurisdictions are imposing new sanctions on Russia, businesses exposed to sanctions-related developments in Russia should obtain up-to-date legal advice before taking any steps that may have legal effects.

As of 30 September 2023, the EU and the UK have imposed further import restrictions targeting Russian-origin iron and steel products. The EU and the UK had previously barred the import of iron and steel products from Russia, or which originated in Russia. The new restrictions also ban the import of iron and steel products that have been “processed” in countries other than Russia (so-called third countries) but that incorporated Russian-origin iron or steel inputs from certain (widely drawn) lists. Both the EU and the UK bans contain limited exceptions that postpone the application of these measures to certain products with specific Harmonised Tariff System (HTS) codes (also known as Combined Nomenclature (CN) codes).

Authorities from the EU, several of its Member States, and the UK have issued guidance on how customs officials will enforce the ban. EU rules require importers to provide evidence of the country of origin of the iron and steel “inputs” that were used in a third country for processing. The European Commission states in [FAQs dated 3 October 2023](#) that mill test certificates (MTCs) can be considered “sufficient” evidence in certain circumstances (and when the MTCs contain certain information). The European Commission also notes that the customs authorities of EU Member States are permitted to establish “other documentation” that can be considered as evidence of origin of the “inputs”. The European Commission noted these documents could include “a statement or declaration by the exporter or manufacturer confirming that, after exercising due diligence, the imported product does not contain any Russian steel or iron”. The European Commission also stressed that each EU Member States’ customs authorities “should assess evidence in a proportionate and reasonable manner”.

Certain EU Member States’ authorities have provided recent guidance on the additional documents their customs authorities may review to establish evidence of origin. [Germany](#) and [Austria](#) have produced

similar guidance, indicating that suitable evidence may include “invoices, delivery bills, quality certificates, quality certificates, long-term supplier declarations, costing and manufacturing documents, customs documents of the exporting country, business correspondence, production descriptions, declarations by the manufacturer, or exclusion clauses in purchase contracts stating the non-Russian origin of the input products” (as translated from the original German). The [UK’s guidance](#) similarly suggests that customs officials could accept any type of document as “evidence of a good’s supply chain”. The UK advises importers “to include assurances that imports are not of Russian origin in contractual agreements”.

The new EU and UK restrictions on iron and steel are part of several Russia-related sanctions that both authorities have imposed in recent months. Notably, the EU on 23 June 2023 produced its so-called “11th Package” of sanctions against Russia since the February 2022 invasion of Ukraine. The UK has this year implemented three amendments which have updated its main legislative vehicle for Russia sanctions — the Russia (Sanctions) (EU Exit) Regulations 2019 (the UK Russia Regulations). The rest of this Client Alert summarises the 11th Package and the UK’s three 2023 amendments.

EU Sanctions

The EU’s 11th Package, like previous sanctions “packages”, updates EU Regulations [269/2014](#) (Regulation 269) and [833/2014](#) (Regulation 833). These are the main pieces of EU legislation for Russia-related sanctions. An EU [press release](#) describes the 11th Package’s focus as ensuring that sanctions against Russia are “better enforced and implemented”.

Updates to Regulation 269

Regulation 269 designates persons, entities, and bodies under the EU “asset-freeze” sanctions. Such designated persons are listed in Annex I of Regulation 269 (and are described below as “Annex I-listed persons”). In the 11th Package, the EU passed [Implementing Regulation 2023/1216 \(the asset freeze restrictions apply to entities owned or controlled by such persons within the meaning of the EU guidance\)](#). This amended Annex I of Regulation 269 imposes asset freeze sanctions on an additional 71 individuals and 33 entities, including:

- entities in the IT sector which have provided technology and software to the Russian intelligence administration;
- companies operating within the Russian military-industrial complex;
- individuals accused by the EU of spreading misinformation;
- MRB Bank and CRB Bank, which the EU alleges operate in Russia-occupied sectors of the Ukrainian oblasts of Donetsk, Luhansk, Kherson, and Zaporizhzhia.

The EU further amended Regulation 269 through [Regulation 2023/1215](#). This amendment introduced new derogations under which the national competent authorities (NCAs) of EU Member States may grant limited authorisations for dealings with designated persons that would otherwise violate sanctions. Most notably, the new derogations include the following:

- With respect to Russian underlying securities held with Russia’s sanctioned National Settlement Depository (NSD), a new derogation permits NCAs to authorise the conversion of such securities in certain circumstances for the purpose of selling the underlying security.

- Another derogation allows NCAs to authorise dealings with persons listed in Annex I if such dealings are strictly necessary for the setting up, certification, or evaluation of a “firewall” which: (i) removes an Annex I-listed person’s control over the assets of a non-listed legal person that is incorporated or constituted under the law of a Member State and which the Annex I-listed person owns or controls; and (ii) ensures that no other funds or economic resources accrue to the benefit of the Annex I-listed person. The net result is to allow an NCA effectively to take an entity that would otherwise be owned or controlled by a designated person, out of the asset freeze restrictions.
- Several bespoke derogations relate to (i) VTB Bank (ii) Alexey Mordashov (chairman of Severgroup and Severstal), and (iii) vessels in “innocent passage” as defined by international law which are necessary for reasons of maritime safety.

Regulation 2023/1215 also creates new grounds on which the EU may designate persons as asset-freeze targets for “significantly frustrating” Russia sanctions. The amendments also insert additional provisions on information exchange and reporting, including a clarification that reporting obligations should respect lawyer-client confidentiality.

Updates to Regulation 833

Regulation 833 is the EU’s primary piece of legislation setting out the Russia-related sanctions other than asset-freeze sanctions. The 11th Package amends Regulation 833 through [Regulation 2023/1214](#). Notable changes are summarised below.

Anti-Circumvention Tool

As part of the EU’s efforts to prevent the circumvention of Russia-related sanctions, Regulation 2023/1214 introduces an “anti-circumvention tool”. The “tool” is created via the new Article 12f. This allows the EU to designate third countries to which the sale, supply, transfer, or export (and the provision of related ancillary services) of certain sensitive goods are banned. Prohibited goods will be listed in a new Annex XXXIII along with the third countries to which the export restrictions will be applied.

The new Annex XXXIII is currently empty and the [press release](#) notes that the “tool will be an exceptional and last resort measure when other individual measures and outreach by the EU to concerned third countries have been insufficient to prevent circumvention”. Nonetheless, the press release affirms that the tool aims to target “certain third countries whose jurisdictions are considered to be at continued and particularly high risk of circumvention”.

Military End Users

The 11th Package expands the list of entities (set out in Annex IV of Regulation 833/2014) which are subject to a presumption of denial with respect to export license applications concerning dual-use goods or technology “which might contribute to Russia’s military and technological enhancement or the development of the defence and security sector”. Persons on this list are in effect presumed to be “military end-users”.

Eighty-seven new entities have been added to Annex IV. In light of diversion/circumvention concerns several non-Russian entities have been targeted, including three Chinese companies: (i) Asia Pacific Links Ltd., (ii) Tordan Industry Limited, and (iii) Alpha Trading Investments Limited.

Expansion of Export Controls

Regulation 2023/1214 introduces new prohibitions on the sale, licensing, and transfer (or other granting of access rights to, or re-use of) trade secrets and intellectual property rights related to certain goods and technology subject to export restrictions (e.g., dual-use items or items “which might contribute to Russia’s military and technological enhancement or the development of the defence and security sector”). As noted in a [European Commission Q&A](#), which indicates that trade secrets should be broadly construed in this context, this new restriction is designed to prevent “EU companies from transferring their industrial know-how and trade secrets concerning sanctioned goods to third country companies, which would then manufacture those products in or provide them to Russia”.

Regulation 833 includes a ban on the transit of certain restricted goods via the territory of Russia regardless of their final destination. The 11th Package expanded the existing ban on the transit of dual-use goods and firearms to also prohibit the transit of (i) advanced technology goods (as listed in Annex VII), (ii) aviation goods (as listed in Annex XI), and (iii) jet fuel and fuel additives (as listed in Annex XX).

The EU has added various new goods and technology to the annexes of Regulation 833/2014, which list goods and technology subject to export and/or import prohibitions. For example, more items are now subjected to the export controls on advanced technology goods listed in Annex VII including further electronic components, semiconductor material, navigational instruments, manufacturing and testing equipment for electronic integrated circuits, and printed circuit boards and marine equipment. Export controls on firearms and other arms have also been extended with the creation of a new Annex XXXV.

Regulation 2023/1214 also implements a substantial re-organisation of the Regulation 833/2014 annexes. The [European Commission](#) states this change has “simplified” the annexes by merging what were previously different “parts” and by moving many customs codes from six to four digits. The EU suggests these changes will make it easier for customs officials to check compliance.

Expansion of Import Controls

The 11th Package also expands the import restrictions on Russian-origin iron and steel products to include items processed in a “third country”. An earlier amendment (in [EU Regulation 2022-1904](#) from 6 October 2022) had inserted Article 3g(1)(d) of Regulation 833/2014 to introduce a ban on the import or purchase, from 30 September 2023, directly or indirectly, of the iron and steel products listed in Annex XVII when such products are processed in a third country and incorporate Annex XVII iron and steel products. The 11th Package’s [Regulation 2023/1214](#) supplemented this ban by introducing an obligation to provide evidence of the country of origin of the iron and steel inputs used during the processing in a third country. See the introductory section of this Client Alert for the latest EU guidance.

New Information Sharing Provisions

The 11th Package introduces a new requirement for Member States to inform other Member States and the European Commission within two weeks from when they have denied an application requesting authorisation of certain trade activities otherwise prohibited under Regulation 833/2014. The 11th Package also requires Member States — before they grant an authorisation for a transaction that is “essentially identical” to a transaction that is the subject of a valid denial issued by another Member State — to consult the Member State that issued the denial. The [European Commission](#) describes these measures as aimed at tackling “the possible situation of economic operators lodging multiple applications for authorisation of the same activity” (i.e., “forum shopping”).

Other additional provisions on reporting and information exchange include a requirement for persons subject to EU jurisdiction to supply information that would facilitate the implementation of Regulation 833/2014 to an appropriate NCA within two weeks of acquiring the information — albeit subject to the rules of “confidentiality of communications between lawyers and their clients”. This aligns the reporting requirements in Regulation 833 with similar provisions surrounding the asset-freeze sanctions in Regulation 269.

New Derogations

The 11th Package introduces a derogation supporting the “firewall” derogation described in the section on Regulation 269. Under this derogation, NCAs may authorise the provision of various professional services to the Russian government or legal persons, entities, or bodies established in Russia if required to set up, certify, or evaluate a “firewall” which: (i) removes an Annex I-listed person’s control over the assets of a non-listed legal person that is incorporated or constituted under the law of a Member State and which the Annex I-listed person owns or controls; and (ii) ensures that no further funds or economic resources accrue to the benefit of the Annex I-listed person. A related derogation permits NCAs to authorise, until 31 March 2024, the provision of legal advisory services which are legally required to complete a sale or transfer of proprietary rights directly or indirectly owned by a Russian entity in an EU entity.

Other derogations include highly technical permissions that can be granted with respect to maintaining the Caspian Pipeline Consortium which transports Kazakhstan-origin oil to the EU through Russia. The 11th Package also extends a “wind-down” derogation on the export or import of certain trade-restricted goods beyond its original 30 September 2023 deadline until 31 December 2023.

UK Sanctions

The UK has released three amendments to the UK Russia Regulations in 2023.

First 2023 Amendment

On 21 April 2023, the UK released [the Russia \(Sanctions\) \(EU Exit\) \(Amendment\) Regulations 2023](#) (the First 2023 Amendment).

The amendment enhanced the UK’s pre-existing prohibition against dealings with certain Russian-origin “revenue generating” goods. The pre-existing prohibition focused on the import into the UK of such goods (with those goods being listed on Schedule 3D — and covering a diverse range of items from centrifuges to toilet paper). The prohibition also targeted associated activities such as brokering and providing related financial services. The First 2023 Amendment adds a set of “revenue generating goods” in Schedule 3DA. It prohibits persons under UK jurisdiction not only from importing such goods into the UK but also from supplying or delivering such goods “from a place in Russia to a third country” (i.e., to a country that is not the UK, the Isle of Man, or Russia). The goods on Schedule 3DA are varied, including caviar, mattress supports, cigars, various beauty products, and yachts. Associated activities such as brokering are also banned.

The amendment also introduces the restrictions described in this Client Alert’s introduction on the import of iron or steel products processed in a third country but which incorporate Russian origin iron or steel products. Those measures came into force on 30 September 2023.

The First 2023 Amendment also expands the UK’s export restrictions against Russia. As the [Explanatory Memorandum](#) notes, the amendment adds to the lists of goods subject to these restrictions goods “that

Russia has been found using on the battlefield to date”. That includes aircraft and vehicle parts, radio and other electronic equipment, biotechnology, and 3D printing machinery.

Second 2023 Amendment

On 20 June 2023, the UK released [the Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No.2\) Regulations 2023](#) (the Second 2023 Amendment). This amendment extends existing sanctions on Crimea and the Russian-occupied areas of the Donetsk and Kherson oblasts to include the Russian-occupied areas of the Kherson and Zaporizhzhia oblasts. This change aligns UK sanctions with the EU, which introduced similar sanctions affecting parts of Kherson and Zaporizhzhia in October 2022.

The Second 2023 Amendment also updated the “purposes” section of the UK Russia Regulations. It states that the purpose is not only to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty, or independence of Ukraine, but also to promote the payment of compensation by Russia for damage, loss, or injury that Ukraine suffered as of 24 February 2022 as a result of Russia’s invasion.

Third 2023 Amendment

On 30 June 2023, the UK released [the Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023](#) (the Third 2023 Amendment). This amendment introduced a new “professional and business services” sanction affecting the provision of legal advisory services. An accompanying [press release](#) describes the sanction as seeking to further restrict “wealthy individuals and big business linked to the Russian regime” from accessing UK legal services.

The Third 2023 Amendment introduces a new Regulation 54D to the UK Russia Regulations. Regulation 54D provides that a person must not directly or indirectly provide legal advisory services to any non-UK person in relation to, or in connection with, any activity which would:

- be prohibited under any of the finance or trade-related sanctions in the UK Russia Regulations; or
- contravene the measures in the UK Russia Regulations prohibiting circumvention;

if the activity was done by a UK person or was taking place in the UK.

Legal advisory services are defined as the provision of legal advice to a client in non-contentious matters, involving (i) the application or interpretation of law, (ii) acting on behalf of a client, or providing advice on or in connection with, a commercial transaction, negotiation, or any other dealing with a third party, (iii) the preparation, execution, or verification of legal documents. The Third 2023 Amendment states that relevant legal advisory services do not include any representation, advice, preparation of documents, or verification of documents undertaken as part of legal representation services that are provided in, or in anticipation of (i) any proceedings before administrative agencies, courts, or other duly constituted official tribunals, or (ii) arbitral or mediation proceedings.

A new Regulation 60DB provides for certain exceptions to the legal advisory services ban. These include carve-outs relating to: (a) acts “necessary” for the official purposes of a diplomatic mission or consular post in Russia or of an international organisation enjoying immunities in accordance with international law; (b) satisfying an obligation in respect of the provision of legal advisory services to any person where the services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations; and (c) a wind-down relating to pre-existing contracts (and which expired on 29 September 2023).

Notably, Regulation 60DB(3) contains another exception. This confirms that Regulation 54D is “not contravened by any act done by a person for the purpose of providing legal advice to any person as to whether an act or a proposed act complies with [the UK Russia Regulations]”.

The ECJU on 11 August 2023 released a [General Licence](#) (the GL) that provides that, subject to certain criteria (including registering to use the GL), the GL authorises the direct or indirect provision to any person of the following legal advisory services:

- a) as to whether an act or a proposed act complies with, or could trigger punitive measures (which includes administrative penalties) in relation to, restrictive measures, including sanctions, export and import controls on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction; and/or
- b) in relation to, or in connection with compliance with, or addressing the risk of punitive measures (which includes administrative penalties) in relation to, (i) restrictive measures, including sanctions, export and import controls on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction; (ii) any laws of Russia that have as their object or effect the frustration of any laws specified at (i), including sanctions, export and import controls or other restrictive measures imposed by Russia; (iii) or any criminal law imposed by any jurisdiction; and/or
- c) where the legal advisory services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations.

What's Next?

Latham & Watkins is tracking developments across all regions closely and expects that the US, the EU, the UK, and other governments around the world may impose additional rounds of sanctions as events unfold. The firm is well positioned to advise clients on the legal and practical impacts of these measures.

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