New EU Sanctions against Russia

Date 14 August 2014

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Restricions on energy-related goods and technologies

Where can I find the list of restricted goods and technologies?
The technologies concerned are defined in Article 3 and Annex II of Council Regulation No 833/2014.

What form do the restrictions take?
A licence is required for the sale, supply, transfer or export of the listed technologies to Russia or for any other country where the technologies are for use in Russia. A licence will not be granted if there are reasonable grounds to determine that the sale, supply, transfer or export of the technologies is for use in connection with a project pertaining to deep water oil exploration and production, Arctic oil exploration and production, or shale oil projects in Russia.

A licence is also required for the provision of technical assistance, brokering services, financing and financial assistance related to the sale, supply, transfer or export of these technologies to Russia or for use in Russia.

What is meant by ‘Arctic’?
We understand ‘Arctic’ to mean the area north of the Arctic Circle.

What is meant by ‘deep water’?
There is no definition of ‘deep water’. We are working with the EU Commission and other Member States to reach a common understanding of this term. In the meantime you should be aware that in its own sanctions against Russia the US has defined ‘deep water’ as ‘greater than 500 feet’.

I am transferring goods listed in Annex II to another EU Member State but I know they will ultimately be for use in Russia. Do I need to apply for a licence?
A licence will only be required when the goods leave the EU. In all cases the licence application must be made in the Member State where the exporter is established.

What date do the new restrictions come into force?
The restrictions came into force on 1 August 2014.

How do I apply for a licence?
Licence applications must be submitted to the Export Control Organisation (ECO) in the Department of Business, Innovation and Skills (BIS) via, SPIRE, the online export licensing system. The ECO can be contacted by email at eco.help@bis.gsi.gov.uk or by phone on 020 7215 4594.

What information must I provide in support of a licence application?
You must provide full details of:

- The goods and/or technology you wish to export.
- The consignee and, if different, the end-user of the goods and of any third party involved in the transaction.
- The intended end-use of the goods, including (where known) the project name and the location where the goods will be used.

What happens then?
The ECO will consider your application carefully against the terms of the EU sanctions. You may be asked to provide further information or clarification. You will be informed of the outcome of your application via the SPIRE system.

**How long will it take to process a licence application?**
The ECO aims to deal with licence applications promptly, however because these are new restrictions we cannot at this time give an estimate as to how long it will take to process these applications.

*I have been told it will take 20 days to process a licence application. Can’t you do it more quickly?*
20 working days is our target for process licence applications for export of military and dual-use items. We do not yet know how long it will take us to process licence applications for Annex II items – it may be more or less than 20 working days. Once we have processed a meaningful number of such applications we will publish data on actual processing times.

**Do these sanctions prohibit all engagement in the Russian shale, arctic and deep water sectors?**
There are restrictions on the provision of technical assistance, brokering services and financing and financial services relating to the identified technologies. While the Government can give general advice and guidance about the scope of these new restrictions and how to comply with them, we cannot give legal advice – companies requiring legal advice should make their own arrangements.

**Financial Assistance**

**What is meant by ‘financial assistance’?**
There is no definition of “financial assistance”. We understand the term in its broadest sense, i.e. involvement in any financial transaction which promotes, enables or facilitates the prohibited or restricted trade transaction to which it relates.

**Does ‘financial assistance’ include the processing of payments for prohibited/restricted trade transactions?**
Yes, it is our view that this is a form of financial assistance.

**Does ‘financial assistance’ include the provision or brokering of insurance or reinsurance for the transport of prohibited or restricted goods?**
No, this type insurance and reinsurance are not covered by the Regulation (note: financial assistance does include export credit insurance or guarantees). However we will be amending the Export Control Order 2008 to make Russia an “embargoed destination” under the UK’s national controls on trade (i.e. brokering) in military goods. As a result a licence will be required for the provision of insurance or reinsurance related to the supply of military goods to Russia.

*I have to process a payment for a trade transaction that has already taken place. Do I still need a licence?*
For financial assistance related to military and to dual-use items, the provision of financial assistance is prohibited unless the assistance is an obligation arising from a contract or agreement concluded before 1 August 2014. In this case no licence is
required. You should however retain sufficient records to demonstrate that the assistance provided was an obligation arising from a contract or agreement concluded before 1 August 2014.

For financial assistance related to the list of energy related technologies in Annex II of the Regulation, a licence is required in all circumstances. Where the assistance is an obligation arising from a contract or agreement concluded before 1 August 2014 the Regulation permits us to grant a licence where otherwise we would have to deny a licence, but it does not remove the requirement for a licence to be in place before the assistance is provided.

**The ECO has already authorised the trade transaction. Do I need a licence to process the payment?**
Yes. The Regulation requires that the provision of financial assistance be authorised in advance. However you should indicate on your application that a licence for the trade transaction has already been granted and this will allow us to process your application more quickly.

**Can a single licence authorise both the trade transaction and any related financial assistance?**
A licence is generally granted to a single named entity or individual. In most cases the trade and financial aspects of the transaction will be carried out by separate entities or persons and therefore separate licences will be required.

**Can a single licence for financial assistance authorise multiple payments?**
Yes. Please provide a schedule of proposed payments in support of your application.

**Who is responsible for granting licences for financial assistance?**
The Export Control Organisation in BIS is the licensing body for financial assistance under Article 4(3) of the Regulation.

**How do I apply for a licence?**
Licence applications must be submitted to the Export Control Organisation (ECO) in the Department of Business, Innovation and Skills (BIS) via SPIRE, the online export licensing system. The ECO can be contacted by email at eco.help@bis.gsi.gov.uk or by phone on 020 7215 4594.

**What information must I provide in support of a licence application?**
You must provide full details of:
- The financial assistance you wish to provide
- The trade transaction to which the financial assistance relates
- All the parties involved in the transaction

**What happens then?**
The ECO will consider your application carefully against the terms of the EU sanctions. You may be asked to provide further information or clarification. You will be informed of the outcome of your application via the SPIRE system.
**How long will it take to process a licence application?**
The ECO aims to deal with licence applications promptly, however because these are new restrictions we cannot at this time give an estimate as to how long it will take to process these applications.

**I have been told it will take 20 days to process a licence application. Can’t you do it more quickly?**
20 working days is our target for process licence applications for export of military and dual-use items. We do not yet know how long it will take us to process licence applications for financial assistance – it may be more or less than 20 working days. Once we have processed a meaningful number of such applications we will publish data on actual processing times.

**Technical assistance**

**What is technical assistance?**
“Technical assistance” is defined in the Regulation as “any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance”.

**Who is responsible for granting licences for technical assistance?**
The Export Control Organisation in BIS is the licensing body for technical assistance under Article 4(3) of the Regulation.

**How do I apply for a licence?**
Licence applications for technical assistance must be submitted to the Export Control Organisation (ECO) in the Department of Business, Innovation and Skills (BIS).

If you are providing technical assistance as part of a transaction that also involves the export or supply of goods or technology for which an export licence is required, you should ensure that your export licence application also specifies the technical assistance to be provided. In this case you should submit your application via SPIRE, the online export licensing system.

If you are providing technical assistance as a stand-alone activity, you should apply in writing to eco.help@bis.gsi.gov.uk with “Technical assistance licence” in the subject line.

**What information must I provide in support of a licence application?**
You must provide full details of:
- The technical assistance you wish to provide, including details of the goods or technology to which the assistance relates
- The end-use of the goods or technology for which you are providing assistance
- All the parties involved in the transaction

**What happens then?**
The ECO will consider your application carefully against the terms of the EU sanctions. You may be asked to provide further information or clarification. You will be informed of the outcome of your application via the SPIRE system or in writing, depending on how your application was submitted.

**How long will it take to process a licence application?**
The ECO aims to deal with licence applications promptly, however because these are new restrictions we cannot at this time give an estimate as to how long it will take to process these applications.

**I have been told it will take 20 days to process a licence application. Can’t you do it more quickly?**
20 working days is our target for process licence applications for export of military and dual-use items. We do not yet know how long it will take us to process licence applications for technical assistance under the Regulation – it may be more or less than 20 working days. Once we have processed a meaningful number of such applications we will publish data on actual processing times.

**Arms embargo**

**I already have a licence to export military goods to Russia. Is that licence still valid?**
We are currently reviewing extant licences to ensure they are consistent with the Regulation. We will contact licence holders directly if they are affected by the new sanctions.

**Is Russia now an “embargoed destination” under the UK’s trade controls?**
We will shortly be amending the Export Control Order 2008 to add Russia to the list of “embargoed destinations” (i.e. Part 2 of Schedule 4 of the Order).

**I have a contract to supply military goods to Russia that was signed before 1 August 2014. Will I be granted an export licence?**
We will assess all export licence applications for military items against the terms of the Regulation and against the Consolidated EU and National Arms Export Licensing Criteria. You should provide a copy of the relevant contract in support of your application. The existence of a relevant contract does not guarantee that a licence will be granted.

**Restrictions on dual-use items**

**I already have a licence to export dual-use items to Russia. Is that licence still valid?**
We are currently reviewing extant licences to ensure they are consistent with the Regulation. We will contact licence holders directly if they are affected by the new sanctions.

**I have a contract to supply dual-use goods to Russia for a military end-use that was signed before 1 August 2014. Will I be granted an export licence?**
We will assess all export licence applications for dual-use items against the terms of the Regulation and against the Consolidated EU and National Arms Export Licensing Criteria.
Criteria. You should provide a copy of the relevant contract in support of your application. The existence of a relevant contract does not guarantee that a licence will be granted.

I am supplying non-listed dual-use items for a military end-use or to a military end-user in Russia. Do I need a licence?

Because Russia is subject to an arms embargo imposed by a Decision adopted by the Council of the EU the “Military End-Use” control applies to export to Russia of non-listed dual-use items. As a result, if you are aware, or have been informed by the ECO, that the items are or may be intended for a military end-use in Russia then you should apply for a licence.

The ‘Military End-Use’ control is set out in Articles 4(2) and 4(4) of Council Regulation 428/2009. Further guidance on the control can be found here: https://www.gov.uk/military-end-use-control-guidance-notes

Competent Authorities

Who are the “competent authorities” under the Regulation?
The Export Control Organisation in BIS is the competent authority for Articles 2, 3 and 4. HM Treasury are the competent authority for Article 5.

Licence refusals and appeals

Can a licence be refused?
Yes. A licence will be refused where the transaction would be a breach of any of the provisions of the Regulation. For licence applications for the export or supply of military or dual-use items we will also assess the application against the Consolidated EU and National Arms Export Licensing Criteria.

If a licence is refused, can I appeal?
Yes. We will give you as much information as possible about the reason for refusal and you will then have 28 days in which to submit an appeal in writing. Your appeal should be supported, where possible, by additional information that you believe wasn’t taken into account in our original decision.

Compliance and enforcement

How will Government ensure compliance?
We expect all UK companies to comply fully with the sanctions, and Government is committed to helping businesses comply. HMRC and the Border Force are responsible for ensuring compliance with export controls and trade sanctions and they have a range of measures available to them to ensure compliance. The unlicensed export of controlled goods is a criminal offence and serious and deliberate evasion of the controls may lead to prosecution.

Further information

Where can I get further information?
We are in the process of updating the sanctions pages on the gov.uk website. The ECO can be contacted by email at eco.help@bis.gsi.gov.uk or by phone on 020 7215 4594.

While the Government can give general advice and guidance about the scope of these new restrictions and how to comply with them, we cannot give legal advice – companies requiring legal advice should make their own arrangements.

**Contact details**
For further details of strategic export controls, please contact:

Export Control Organisation,
Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET

Tel: 020 7215 4594 Fax: 020 7215 2635 E-mail:

More information on export controls is available on the ECO pages of the GOV.UK website, also the SPIRE Export Licensing Database.

Export Control Organisation, 14 August 2014