

International Trade Insights

Grow | Protect | Operate | Finance

April 2024

Welcome to the return of Dentons UKIME's quarterly International Trade updates, providing an overview of key developments in sanctions, export controls, customs, trade remedies, national security and investment screening, WTO and wider international trade and supply chain related regulation, focusing on the UK, EU and US. Dentons' UK International Trade team operates as part of the Firm's wider global trade offering based across key hubs including London, Brussels, Washington DC and Toronto, and sits within the UK Regulatory & Investigations team and the Firm's wider global compliance and investigations network.

Our team draws on a wealth of experience from diverse public and private sector backgrounds and offers clients in-depth, practical experience of navigating the full range of international trade issues. Should you wish to discuss any of the issues featured in this update with us, please contact one of our team directly.

What this update covers:

- Sanctions
- Export controls
- National security and investment screening
- Trade remedies
- Free trade agreements
- WTO

Sanctions

UK

Further round of Russia sanctions restrictions

In its latest round of sanctions targeting Russia, the majority of which took effect from 15 December 2023, in summary the UK:

- expanded the scope of goods and technology restricted for export, supply, delivery or making available for use in Russia;
- introduced a ban on the import of Russian diamonds, including when incorporated into jewellery, together with a ban on the acquisition, supply and delivery of Russian diamonds from Russia to third countries or between third countries;
- expanded the scope of Russian-origin or located metals whose import or acquisition, or whose supply or delivery from Russia to a third country, is prohibited;
- expanded reporting requirements for “relevant firms” (including financial institutions), requiring reporting to OFSI regarding any funds held for the Central Bank of Russia, the Russian Ministry of Finance or the Russian National Wealth Fund;
- introduced a requirement for designated persons to provide details of their assets in the UK to OFSI, and for designated “UK persons” to provide details of all assets worldwide; and
- introduced a specific prohibition on UK banks processing payments to, from, or via a designated person.

Announcement of new Office of Trade Sanctions Implementation

On 11 December 2024, the UK government announced the creation of a new Office of Trade Sanctions Implementation (**OTSI**) which the UK government aims to launch in 2024 following the implementation of the necessary legislation. OTSI’s precise remit remains to be seen. However, it is expected that it will take over some of the administrative and enforcement responsibilities currently undertaken by the Export Control Joint Unit and HMRC with respect to sanctions restricting activities relating to the import and export of goods and technology targeted under various UK sanctions regimes, and potentially also including service-related restrictions.

Whilst it is clear that OTSI’s establishment has been driven in part by the significant expansion of trade and service-related restrictions targeting Russia, OTSI’s remit will cover relevant restrictions across all UK sanctions regimes. The UK government’s announcement also stated that OTSI will be responsible for a new civil prosecution and enforcement regime with respect to trade sanctions. Currently, breaches of trade sanctions are subject only to criminal prosecution by HMRC. However, once established, OTSI will be able to impose civil penalties (fines) on the lower “balance of probabilities” standard of proof, as OFSI is able to do with respect to breaches of financial sanctions. Due to the legislative changes required, the launch of OTSI may now not occur until after the next UK general election, though no official announcement has yet been made in this regard.

Russia Oil Price Cap – enhanced attestation requirements

On 19 February 2024, the UK and G7+ Coalition partners implemented significant changes to the Oil Price Cap attestation model, strengthening the existing compliance regime. The UK Oil Price Cap General Licence (OPC GL) permits, subject to certain requirements, the supply and delivery of Russian oil by ship from a place in Russia to a third country, or from one third country to another, provided that the unit price of the Russian oil concerned is at or below the applicable price cap. The OPC GL also applies to the provision of associated services.

From 19 February 2024, more stringent attestation requirements have applied to the OPC GL. Providers are now required to provide attestations on a per-voyage basis. Further, Tier 1 providers (and those Tier 2 providers with access to price information) must record itemised price information for any ancillary costs. On 12 March 2024, the UK government amended the new attestation requirements with an extension of the deadline for providing additional attestations or itemised ancillary costs from 28 days to 30 days from the request.

Our full article can be found [here](#).

OFSI published details of reported frozen assets from FY 2022-23

On 14 December 2023, OFSI published its Annual Frozen Asset Review compiling the results of reporting on assets frozen under all UK financial sanctions regimes. As at 30 September 2022, the value of reported frozen assets stood at £21.64 billion, of which £12.86 billion were frozen under the Libya regime and £7.98 billion under the Russia regime. OFSI's more up-to-date Frozen Asset In-Year Reporting announcement in December 2023 stated that, as of October 2023, the value of frozen Russian assets alone had risen to £22.7 billion.

Challenges to UK asset freezing designations fail

On 12 January 2024, former British civil servant Graham Phillips failed in his attempt to persuade the UK High Court to overturn the decision of the Foreign, Commonwealth and Development Office to designate him as an asset freezing target in July 2022. Mr Phillips is based in Ukraine and was designated due to his production and broadcast of video propaganda in support of Russia's invasion of Ukraine. The High Court rejected arguments relating to human rights and the relevant statutory purpose and powers underlying the designation.

On 24 February 2024, Anzhelika Khan also failed in a High Court challenge, based on similar grounds, to her designation in April 2022 due to her being a person "associated with" her husband, the sanctioned Russian businessman German Khan.

Further sanctions developments

In December 2023, a new UK Iran sanctions regime entered into force, replacing and enhancing the UK's Iran human rights regime (separate from its nuclear-related regime). Key additions include further designations and trade restrictions relating to both domestic human rights abuses as well as wider regional and international, destabilisation, proliferation and repression-related activities.

Between January and March 2024, the UK also designated, variously, a number of further individuals, entities and organisations under its wider sanctions programmes, including: parties linked to Hamas and Palestinian Islamic Jihad; Israeli settlers under its Global Human Rights regime; individuals and entities allegedly involved in undermining the stability and independence of Moldova; further individuals under its Yemen regime in connection with Houthi rebel attacks on shipping in the Red Sea; and seven Russian nationals suspected of cybercrimes under its cyber regime.

EU

12th and 13th EU Russia sanctions packages

The EU's 12th Russia sanctions package was adopted on 19 December 2023, followed by the 13th package on 23 February 2024.

The 12th package included:

- asset freezes targeting a further 145 Russian individuals and entities;
- an import ban on Russian diamonds, including those polished in a third country or incorporated into jewellery and watches, supported by a verification and certification mechanism;
- an expanded scope of other goods and technology restricted for sale, supply, transfer or export for use in Russia;
- an expanded scope of Russian-origin or exported metals whose purchase, import or transfer, or whose transfer between third countries, is prohibited;
- a new prohibition on providing enterprise management or industrial design and manufacturing software to the Russian government or entities in Russia; and
- a requirement to include a “no re-export to Russia” clause in all contracts for the export or supply to third countries of goods restricted under the Russia regime – see below.

The 13th package included:

- asset freezes targeting a further 194 Russian individuals and entities; and
- a further expanded scope of restricted goods and technology for sale, supply, transfer or export for use in Russia, including advanced technology items used in the production of drones, missiles and wider military systems.

“No re-export to Russia” clause

In its 12th package of Russia sanctions, the EU introduced a requirement for exporters and suppliers to or between third countries, of certain goods restricted under the EU's Russia trade sanctions, to insert what has been termed a “no re-export to Russia” clause into both new and existing agreements. All in-scope agreements concluded on or after 19 December 2023 have been required to incorporate the “no re-export to Russia” clause since 20 March 2024. Affected agreements concluded before 19 December 2023 must incorporate the provision by 20 December 2024.

In summary, the new requirement, implemented under Article 12g of EU Regulation 833/2014, provides that EU Persons must include in all agreements for the sale, supply, transfer or export of restricted goods to any third country (with the exception of specified EU/NATO-aligned “partner countries”):

- a specific prohibition on the re-exportation of those restricted goods to or for use in Russia; and
- provision for “adequate remedies” should the third-country importer/buyer of the restricted goods breach the “no re-export to Russia” prohibition.

In the case of such a breach by the third-country importer/buyer, the EU Person who had sold, supplied, transferred or exported the restricted goods must inform the competent authority of the relevant EU member state as soon as they become aware of the breach.

The EU Commission has published guidance on Article 12g including a suggested model “no re-export to Russia” clause. However, a number of questions regarding its scope remain, including what constitutes “adequate remedies” under different types of affected agreements, and how to ensure the enforceability of the clause under different governing laws. Our full article on this new requirement can be found [here](#).

Harmonisation of enforcement of EU sanctions

On 12 March 2024, the European Parliament voted to approve new harmonised rules and minimum standards for the enforcement of EU sanctions in view of the current variation in approaches to enforcement across the 27 EU member states. It is now expected that the EU Council will adopt the proposed directive into law by May 2024 with few further amendments. The directive requires EU member states to adopt harmonised approaches in a number of areas including:

- establishing that a wide range of acts in breach of EU sanctions measures constitute a criminal offence under domestic law, including breaches of asset freezes, travel bans, arms embargoes, anti-circumvention measures, sectoral measures and certain service-related restrictions, as well as inciting, aiding and abetting, and attempting such offences;
- ensuring that sanctions-related offences carry a maximum sentence of at least five years' imprisonment for individuals, and fines of at least 5% of global turnover for companies;
- ensuring that regulatory and prosecuting authorities consider standardised aggravating and mitigating circumstances when considering the severity of enforcement action/penalties for breaches of EU sanctions; and
- implementing standardised rules on jurisdiction and limitation periods for enforcement.

Further sanctions developments

Between January and March 2024, the EU also designated, variously, a number of further individuals, entities and organisations under its wider sanctions programmes, including: parties linked to Hamas and Palestinian Islamic Jihad; individuals and entities allegedly involved in undermining the stability and independence of Moldova; several individuals in Guatemala; several Russian individuals and one entity under its Global Human Rights regime; and a number of individuals and entities in Syria.

US

Largest package of US designations against Russia

On 24 February 2024, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) and the State Department announced the largest ever package of Russia sanctions designations by the US, totalling approximately 500 individuals and entities. In addition, the US Department of Commerce announced new Russia-related export restrictions by adding more than 90 companies to the Entity List – based in Russia, China, India, Kyrgyzstan, South Korea, Turkey and the United Arab Emirates.

The new designations focus on:

- Russia's financial infrastructure and access to the international financial system;
- Russia's military industrial complex and wider targeted sectors of the Russian economy; and
- parties outside Russia believed to be engaged in sanctions evasion and circumvention, including individuals and entities located in Belarus, China, Finland, Germany, Ireland, Kazakhstan, Kyrgyzstan, Liechtenstein, Turkey, Serbia, the UAE and Vietnam.

Our full article can be found [here](#).

New authority to sanction foreign banks facilitating certain transactions relating to Russia

As part of its efforts to counter sanctions evasion, on 22 December 2023 the US President provided, via executive order for new authorities, for OFAC to sanction foreign financial institutions determined to have:

- conducted or facilitated significant transactions with persons designated for operating in the Russian technology, defence and related material, construction, aerospace or manufacturing sectors (as well as any additional sectors that the US may determine); or
- conducted or facilitated significant transactions or provided services involving Russia's military-industrial base, including transactions in certain enumerated "critical items".

The targeted “critical items” include machine tools, manufacturing equipment, materials for semiconductors and related electronics, electronic test equipment, propellants, chemical precursors for propellants and explosives, lubricants and their additives, bearings, advanced optical systems and navigation instruments.

Our full article can be found [here](#).

Termination of Zimbabwe-specific sanctions programme and transition to Global Magnitsky programme

On 4 March 2024, the US terminated its specific Zimbabwe sanctions programme, and simultaneously redesignated 11 individuals and three entities that had been designated under that regime, now under the Global Magnitsky human rights programme. A number of Zimbabwean parties are thus no longer targeted by US blocking measures. Those whose designations have been transitioned under the Global Magnitsky programme are involved variously in the Zimbabwean government, security services and in business, signifying the desire of the US to “refocus” US sanctions relating to Zimbabwe on human rights and corruption issues.

Our full article can be found [here](#).

Further sanctions designations

Between January and March 2024, the US also designated, variously, a number of further individuals, entities and organisations under its wider sanctions programmes, including: Israeli settlers accused of violence in the occupied West Bank; parties linked to Hamas and Palestinian Islamic Jihad; a number of parties under its Iran programmes; several individuals and organisations in Guatemala; several entities in Sudan; parties allegedly involved in narcotics trafficking; several entities under its counter-terrorism programme; and a number of individuals and entities under its cyber programme.

Export controls

Updates to UK export control regime

The UK government has announced amendments to the UK export control lists, effective from 1 April 2024. The changes include:

- new controls on emerging technologies – see below;
- technical updates made to the multilateral Wassenaar Arrangement dual use and munitions lists, as agreed in December 2023; and
- updates to reflect changes under the wider multilateral Australia Group, Nuclear Suppliers Group and the Missile Technology Control Regime, also agreed in December 2023.

Among other issues, the updates reflect the increasing focus of the UK and many other jurisdictions on ensuring that export controls continue to cover emerging sensitive technologies.

Key new entries in the UK’s dual use list are:

- PL9013, prohibiting the export or transfer by electronic means of goods, software, or technology related to semiconductors to any destination;
- PL9014, prohibiting the export or transfer by electronic means of goods, software or technology related to quantum computers and related electronic assemblies and components to any destination. This prohibition also extends to computers, electronic assemblies and components containing certain integrated circuits; and
- PL9015, prohibiting the export or transfer by electronic means of goods, software or technology related to additive manufacturing equipment to any destination.

As a consequence, entities wishing to export or transfer by electronic means the above-mentioned goods, software or technology from the UK will now be subject to an export licence requirement for all destinations.

UK national security and investment screening

National Security Act 2023

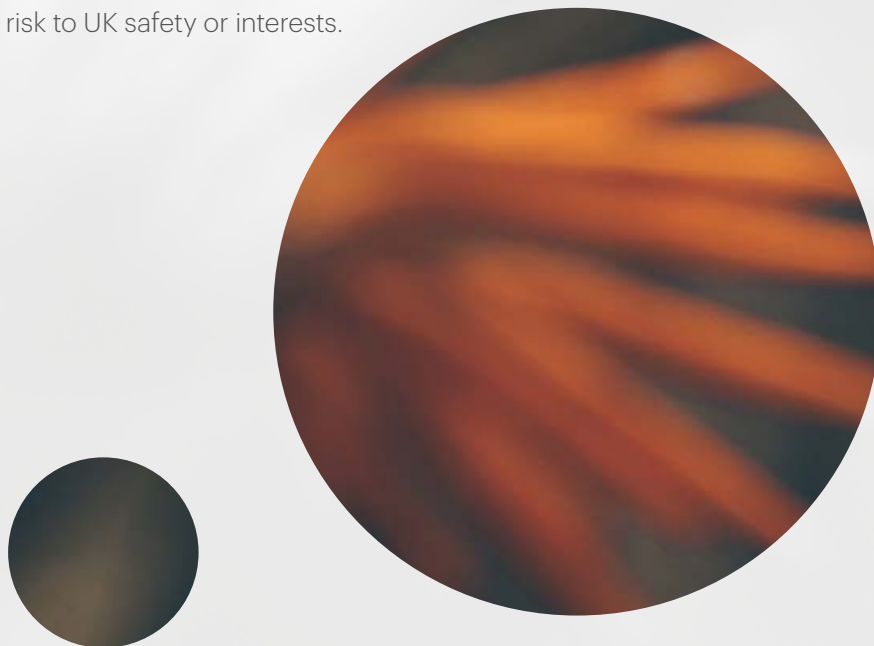
The National Security Act 2023 (**NSA**) received Royal Assent on 11 July 2023, aimed at enhancing the protection of the public against espionage, foreign interference (including in the UK political system), sabotage and acts that endanger life. It is not yet in force, though it is expected to be later this year.

The NSA introduces the foreign influence registration scheme (**FIRS**). In February 2024, the UK government published draft guidance providing further details of the scheme. Once the FIRS enter into force, individuals and entities who have formed certain types of arrangements with foreign powers, or who carry out particular types of activities for, or under the direction of, specified entities, are required to register certain information on an online portal, which will then be made available on a public register.

The FIRS imposes distinct requirements upon parties falling into one of two tiers: the “political influence” tier, where they are directed by a foreign power to carry out or arrange for others to carry out political influence activities in the UK, and the “enhanced” tier, where a party is acting at the direction of a specified foreign power or entity, or where a specified entity is carrying out activities in the UK itself, and such power or entity has been identified as posing a potential risk to UK safety or interests.

Review of the National Security and Investment Act

Deputy Prime Minister Oliver Dowden has announced a review of the National Security and Investment Act, aimed at “narrowing and refining” its scope to become more business-friendly. In December 2023, the UK government launched a call for evidence to this end, with proposals including to narrow the scope of the definitions of the sectors caught by the mandatory notification requirement, including a change from all deals involving AI being caught, to only deals involving dual-use or very advanced AI, and amendments to the definitions of “Advanced Materials” and “Defence” sectors to the same end. Also under review is the scope of transactions that are caught, including potentially exempting some internal restructurings from the regime, as well as the appointment of certain insolvency-related professionals. However, the UK government is also considering broadening the scope of the Act elsewhere, including with regard to other aspects of AI, and bringing a possible new targeted Critical Minerals sector within the mandatory notification requirement.



Trade remedies

EU, UK and US respond to large growth in imports of Chinese electric vehicles

In October 2023, the European Commission launched an anti-subsidy investigation following a surge in imports of electric vehicles from China into the EU, which it described as having “flooded” the global market at artificially low prices thanks to “huge state subsidies”, risking injury to EU manufacturers. Imports of electric vehicles from China exceeded US\$12.7 billion in 2023.

On 5 March 2024, the EU Commission stated in an update that it had found “significant evidence” that Chinese vehicles benefit from several different types of state subsidies. The investigation is due to conclude in November 2024, though there is a significant possibility that provisional countervailing duties could be imposed on affected imports from July 2024. Notably, the EU Commission has also instructed EU member state customs authorities to begin registering imports of Chinese electric vehicles to enable the potential retroactive implementation of countervailing duties back-dated to March 2024 once the investigation has concluded.

The UK government has similarly announced concerns as to the impact on imports of Chinese electric vehicles on UK manufacturers and it is understood that the UK authorities are considering a range of options, though no formal investigation – which must be triggered on the application of UK manufacturers – has been instigated. In the US, 25% tariffs on Chinese electric vehicles among a host of other products have resulted in far fewer such imports to date. However, the Biden administration has initiated investigations both into the fairness of China’s trade practices as well as into national security implications regarding the technology.

Carbon Border Adjustment Mechanism

Announcement of UK Carbon Border Adjustment Mechanism

On 18 December 2023, the UK government announced its intention to implement, by 2027, a UK Carbon Border Adjustment Mechanism (**CBAM**) under which a levy is imposed on imports of certain goods from countries with a lower or no carbon price imposed on emissions-generating activities. This follows the recent introduction of a similar measure in the EU. Further details are expected later this year following a consultation, including the specific products within the CBAM’s scope and calculation methodologies for the levy. However, the sectors identified in the government’s initial announcement are iron, steel, aluminium, fertiliser, hydrogen, ceramics, glass and cement.

Our full article can be found [here](#).

Free trade agreements (FTAs)

EU/Kenya

On 18 December 2023, the EU and Kenya announced the signing of a new Economic Partnership Agreement (EPA), described as the most ambitious FTA that the EU has signed with a developing country. For Kenya, the new EPA replaces the EU-East African Community agreement signed in 2014, but which has not been ratified by the majority of other signatory states. Once in force, it aims to open up the EU market more fully to Kenyan products whilst allowing for a more gradual liberalisation of Kenya’s market for EU goods and services and providing safeguards for Kenya’s continued sustainable economic development.

EU/Chile

On 13 December 2023, the EU and Chile signed an Advanced Framework Agreement, to replace the 2002 Associated Agreement between the two parties. The new agreement aims to expand trade and investment, as well as enhanced cooperation on a number of new areas, including political, environmental, human rights, state governance and gender equality issues.

EFTA/India

On 10 March 2024, the European Free Trade Association (**EFTA**) – consisting of Iceland, Liechtenstein, Norway and Switzerland – signed a comprehensive Trade and Economic Partnership Agreement with India following 21 rounds of negotiations over 16 years. The agreement enhances reciprocal market access, simplifies customs procedures and aims to foster increased investment between EFTA countries and India.

UK/Canada

On 25 January 2024, the UK government announced that it had suspended talks with its Canadian counterparts over a bespoke FTA to replace the rolled-over EU-Canada FTA that entered into force on the expiry of the Brexit transition period. The majority of the rolled-over FTA is not time-limited and can continue indefinitely. However, time-limited rules of origin with respect to imports of cheese and electric vehicles expired at the end of December 2023 and March 2024 respectively, with the UK and Canadian governments failing to conclude a replacement agreement that would include longer-term provisions on these products due to disagreements on wider issues, including access to the UK beef market and to Canada's domestic cheese market.

UK/India

Despite several weeks of intensive negotiations, the 14th round of negotiations between the UK and India concluded on 15 March 2024, without agreement on the remaining outstanding issues. Negotiations will now not resume until after the Indian general election, in May or June this year. It is understood that the remaining sticking points include the liberalised granting of UK visas to Indian nationals, while the UK is said to be holding out for greater access for UK providers into India's services market and a reduction on high Indian tariffs on goods, including cars and whisky.

World Trade Organisation

WTO 13th Ministerial Conference

The World Trade Organisation held its 13th Ministerial Conference (**MC13**) in Abu Dhabi from 26 February to 2 March 2024. While achieving consensus among 166 WTO members is challenging, ministers' engagement with one another delivered a forward-looking package, with key outcomes including:

- renewal of a moratorium on customs duties for e-commerce until the 14th Ministerial Conference or 31 March 2026, whichever is earlier. Given the extent of e-commerce trade, the decision to continue this moratorium is of critical importance for many businesses worldwide; and
- a renewed commitment to restoring a fully-functioning dispute settlement system in 2024. Ministers reviewed a draft text setting out reforms to the WTO's dispute settlement system and work will continue on unresolved issues, including an appeal/review mechanism.

Ministers did not reach agreement on updating WTO disciplines on agriculture and the final elements of the Agreement on Fisheries Subsidies. Given the challenges in full multilateral negotiations, plurilateral initiatives (covering less than the full membership) are becoming more prominent. At MC13, several such plurilateral initiatives reached agreements or reported on the results of their work in important areas. In particular, 72 members, accounting for more than 92% of services in trade globally, agreed on new disciplines on domestic regulation of services. Signatories include the US, the UK, all EU member states, China, the UAE and Singapore. These disciplines are designed to facilitate trade in services by streamlining regulatory procedures. Commitments relate to, for example, licensing, qualification and technical standards. It is expected to reduce the costs of global services trade by more than US\$125 billion annually.

Read our full article [here](#).

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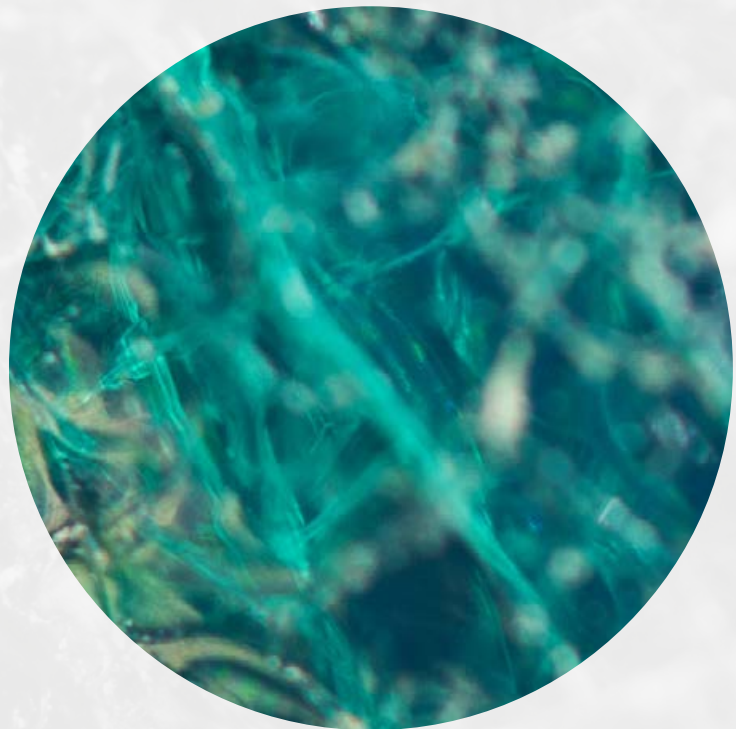
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