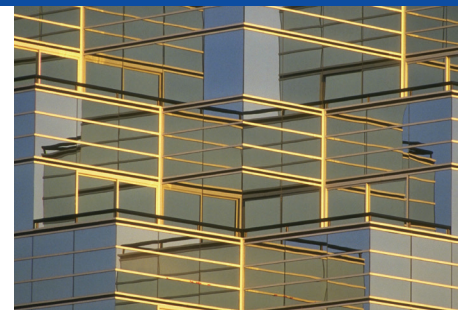


ClientAlert

International Trade

August 2014

US Expands Export Restrictions on Russia and Targets Russian Energy Sector



On August 1, 2014, the Bureau of Industry and Security (BIS) announced further export restrictions targeting Russia generally and the Russian oil and gas sector in particular, effective August 6, 2014. This action implements restrictions taken in coordination with further enhancement of sanctions measures against Russia stemming from the Ukraine situation, which were announced generally on July 29, 2014.¹

Background

BIS is the agency responsible for administering export controls on items that are subject to the Export Administration Regulations (EAR), including dual-use items. This includes most goods, software and technology originating from the United States, and also some items made outside the United States that incorporate specified levels of US-origin content. If an item subject to the EAR is controlled for export or reexport to a certain country, end-use or end-user, an export license is required absent a license exception. Not all items require export licenses for Russia. Depending on the situation, license exceptions may be available, even if a license would otherwise be required. The export control restrictions effective August 6 increase export licensing requirements for exports and reexports to Russia, as well as certain transfers within Russia.

New Energy Sector Restrictions

BIS has imposed a license requirement for specified items subject to the EAR that are exported, reexported, or transferred to specified oil and gas projects in Russia.

This licensing requirement applies to items classified under specified Export Control Classification Numbers (ECCN) or a supplement included in the new regulations, when the exporter has knowledge or reason to know the item is intended for use in exploration or production from deepwater (in excess of 500 feet), Arctic offshore, or shale projects that have the potential to produce oil or gas in Russia, or when it cannot be determined whether such items will be used in such projects in Russia.

Generally, these items include various types of steel pipes and tubes for oil/gas exploration, production, and transport, drilling rigs, parts for horizontal drilling, drilling and completion equipment, subsea processing equipment, Arctic-capable marine equipment, wireline and down-hole motors and equipment, drill pipe and casing, software for hydraulic fracturing,

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¹ Our previous Alert, discussing the announcement, is available [here](#).

high pressure pumps, seismic acquisition equipment, remotely operated vehicles, compressors, expanders, valves and risers. Certain ECCNs have been added or revised to broaden their scope, including the addition of data to controls, which normally only cover goods, software and technology.

License application for export of covered items intended for specified deep water, arctic, or shale oil projects are subject to a rebuttable presumption of denial, with no license exceptions available except License Exception GOV, for personnel and agencies of the US Government and Department of Defense. Licenses for specified gas projects will be granted on a case-by-case basis, with no license exceptions available except License Exception GOV. BIS may also specifically reach out to exporters to inform them that their export requires a license, even if not technically covered by this provision. Once notified, exporters are bound by this instruction.

BIS has not issued a "Savings Clause" alongside these new restrictions. Normally, a Savings Clause permits the completion of in-process exports that were not subject to restriction under pre-existing rules up to a certain point in time. In contrast, BIS has stated that items previously authorized but now restricted under the new rule, en route aboard a carrier to a port of export or reexport, on August 6, 2014, pursuant to actual orders for export or reexport to a foreign destination, may not proceed to that destination.

Additional Export Restrictions on Russia

Finally, BIS revoked Russia's "favorable" status for exports of items controlled for National Security reasons. Though Russia has always been subject to National Security controls, license applications for items controlled for such reasons had received more favorable treatment for Russia than other countries subject to the same level of controls. Russia will now receive the same treatment as other countries subject to National Security controls.

Addition to Entity List

BIS also added the following Russian company to the Entity List:

- United Shipbuilding Corporation

Designation on the Entity List imposes a license requirement for the export, reexport or other foreign transfer of items subject to the EAR to such companies, with a presumption of denial. This includes most US-origin products, as well as some non-US made items that incorporate greater than *de minimis* US-origin content and items that are the direct product of certain US-origin technology.

These measures have been taken in addition to past export restrictions imposed by both BIS and also the US State Department's Directorate of Defense Trade Controls (DDTC). Beyond additional Entity List designations, both BIS and DDTC have implemented a policy to deny licenses for export or reexport of any high technology defense articles or services to Russia or occupied Crimea that contribute to Russia's military capabilities for both dual-use goods and goods captured under the US Munitions List (USML), effective April 28, 2014. DDTC and BIS are also taking actions to revoke any existing export licenses that meet these conditions. All other pending applications and existing licenses will receive a case-by-case evaluation to determine their contribution to Russia's military capabilities.

More information about the Russia sanctions, including the corresponding Executive Orders and sanctions measures, can be found [here](#).

Companies doing business with or exporting to Russia and Ukraine should closely monitor any measures imposed by the United States to ensure compliance. Penalties for noncompliance can be severe. We will continue to track and report on any additional sanctions developments.

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