

# WTS Customs Newsletter

---

## Contents

<b>China:</b> China boosting offshore trading business .....	2
<b>Netherlands:</b> DMS: The new Dutch Customs declaration system.....	3
<b>United Kingdom:</b> Upcoming deadlines for import and export measures in the UK.....	4
<b>Vietnam:</b> "Royalty" fees for imported goods.....	5
<b>Germany:</b> Restrictive measures against Russia and Belarus due to the war of aggression against Ukraine – Current developments .....	6

Please find the complete list of all contacts at the end of the newsletter.

China



China boosting offshore trading business

Once an ugly duckling and now Cinderella, which is what offshore trading has experienced – a business niche once handcuffed and now being strategically boosted in some tier-one free trade zones (FTZs) in China with the green light from the State Council and central foreign exchange authority,

Offshore trading refers to an offshore purchase-and-sale transaction conducted by a Chinese trading entity with the shipment transported directly from an overseas customs point to another overseas customs point, without arriving in China.

Offshore trading was somehow handicapped by the bureaucratic difficulties in verifying the delivery and fund flow. Traditionally, China's foreign exchange and tax regulations for imports/exports have been blatantly based on customs declarations – which are typically absent in offshore trading, resulting in some feasibility issues: the banks were hesitant in processing funds for imports/exports without actual flow of goods across the border; the tax authorities tended to cast doubt on the exports when assessing VAT refunds, and foreign exchange authorities were uncertain about the identity of offshore suppliers and final customers.

To drive China's service economy further, the central government now sees the time ripe to encourage and support offshore trading, especially in top-ranking FTZs. Thanks to the endorsement from the central government and the cross-function data exchange mechanism, local FTZ authorities can now collaborate with each other to make the business feasible and verifiable. One practical means is to deploy e-platforms to capture and share offshore trading data, making them accessible to the banks, the authorities, and the traders for an efficient and a reliable verification.

In addition, it is observed that some FTZ authorities are also offering financial and tax incentives via various programs to offshore traders on a negotiation basis (WTS China has helped in some of the negotiations). On the whole, offshore trading operators can benefit from running the business in an environment as tax-competitive and business-friendly as in some other jurisdictions (see a short comparison between Shanghai's FTZ and Hong Kong).

	Shanghai (China)	Hong Kong (HK)
Government policy	<b>Yes.</b> State Council supports and promotes offshore trading. The FTZ government has also teamed up with local finance and tax bureau, and banks to ensure offshore trading can work smoothly, efficiently and economically.	<b>No.</b> HK government cannot instruct the banks to support any transactions. It is up to the banks to decide.
Tax rate	<b>16%</b> (reduced from the headline rate at 25% after tax incentives and subsidies).	<b>16.5%</b> (could be exempted. However, it could be even higher as the profit could be taxed at investor's level due to the place of effective management).
Free from Customs tariff	<b>Yes.</b> Offshore trading is outside China customs regime and not subject to China customs tariff and control.	<b>Yes.</b> HK has no customs tariff and control on international trading in general.

Many other FTZs in China (e.g. Beijing, Xiamen, Hainan, and Guangzhou, etc.) have launched their local policies to promote offshore trading.

WTS China has been working in an integrated approach with the local government bureau, banks, and landlords to offer investors a one-stop solution for offshore trading, from entity incorporation, renting office venues, negotiating for tax incentives and grants, opening bank accounts, employments, bookkeeping to tax filings. It allows the operators to conduct offshore trading while enjoying strong financial and logistics supports.

Conrad Lin  
conrad.lin@wts.cn

## Netherlands



### DMS: The new Dutch Customs declaration system

Dutch Customs is replacing the existing customs declaration services (AGS) with a new system called DMS. This is due to new legislation and regulations from the EU and is based on the EU Customs Data Model for digital customs declarations.

The initial plan was that DMS would be available for operators in the Netherlands in the course of 2022, but due to a number of issues this has been postponed. AGS will be phased in and for import and export declarations will remain available until 30 November 2022, whilst AGS for special procedures will remain available until 31 December 2023.

We note that NCTS will continue to exist alongside DMS. Declarations for the transit procedure can only be made in NCTS.

#### Key changes in DMS

The data set in the customs software solution needs to be updated and communication protocol needs to meet the new standards. This also means that traders need to provide additional details in order for the customs declarations to be lodged and accepted.

Historically, Dutch Customs was able to make changes/edits in the customs declaration in the event of findings resulting audits of the declarations (e.g. for random checks upon entry). With DMS, this is no longer possible and the clearing agent and/or the trader will receive a 'message' reflecting the findings. The clearing agent and/or the trader are subsequently responsible to make these amendments in the lodged declarations or appeal the findings. This could potentially lead to delays in releasing the shipments.

The common practice in the Netherlands for simplified declaration procedures, entry into the declarants records, and filings for customs warehousing, inward processing relief, etc. (commonly referred to as the GPA and SPA) will disappear and will be replaced by filings into DMS. This means that companies currently using the GPA and / or SPA will need to ensure that the relevant data elements are lodged via DMS on a complete and timely manner.

#### Planning and time lines

DMS will be introduced in phased approach. The intention is that the first couple of clearing agents will transfer to DMS on a pilot basis in the first and second quarter of

2023. Subsequently, companies that are filing customs declarations will receive notification from Dutch Customs regarding the transfer onto DMS, including suggested time lines.

The current end-date for transfer from AGS to DMS is set at 30 November 2023 for normal declarations and 31 December 2023 for current GPA and SPA filings. This indicates that Dutch Customs will no longer accept customs declarations via AGS after the mentioned dates.

### Conclusion

Dutch customs encourages customs clearing agents and traders that lodge declarations themselves to work more real-time. Robust customs processes are therefore becoming even more important and the importance of IT support becomes increasing significantly.

Arjen Odems  
odems@cutraco.com

Maartje Meijer  
meijer@cutraco.com

If businesses want to smoothly start lodging declarations via DMS, it is pertinent that they actively and timely engage with the DMS migration process and organize their IT structure to ensure they are prepared to lodge declarations on a daily basis, or provide the information to their declarant who will lodge the declarations on their behalf.

## United Kingdom Upcoming deadlines for import and export measures in the UK



Whilst 2023 is already well underway, it is important to consider the important milestones relating pending UK import and export measures that 2023 holds. These milestones should be considered and addressed appropriately to avoid disruption of trade flows in and out of the UK.

### CDS export

Exporters will have more time to move across to the new Customs Declaration Service (CDS). The planned date of the 1st April 2023 no longer applies and traders now have until 30th November 2023 to continue using the CHIEF system for export declarations.

CDS for exports will be introduced in a phased approach and the key phases are:

- › **From late February 2023** – export declarants that only move goods through ports in the UK that use the Goods Vehicle Movement Service (GVMS) – also known as non-inventory linked ports.
- › **From May 2023** – export declarants that currently use the National Export System (NES) web service to submit export declarations on CHIEF
- › **From September 2023** – export declarants using inventory-linked ports and DEPs
- › **From 30 November 2023** – All export declarations must be made using CDS

### Import controls

The Government previously announced that the changes to import controls on certain products coming from the EU would not be introduced on 1 July 2022 as planned. These import controls now have a target launch date of end of 2023.

The list of controls that are now planned to be introduced by the end of 2023 is:

- › A requirement for safety and security declarations on EU imports
- › A requirement for health certification for further Sanitary and Phytosanitary (SPS) imports
- › A requirement for SPS goods to be presented at a Border Control Post (BCP)
- › A requirement for SPS currently at destination to be moved to a BCP
- › A requirement to issue Certificates of Inspection (COI) for organic imports
- › A requirement for organic imports to be presented at a BCP
- › Prohibitions and restrictions on the import of chilled meats from the EU

### UKCA marking

The UKCA marking is the product marking used for products being placed on the market in Great Britain. The UKCA marking applies to most products for which the European CE marking could be used and would have become required per 1 January 2023.

To provide businesses with some flexibility, the UK government will bring forward legislation that continues to allow recognition of the CE marking for most goods that are being placed on the market until 31 December 2024.

It should be noted that UKCA marking is already available and can be used.

### Conclusion

Importers of products from the EU currently benefit from the relative flexible UK import controls measures, at least until the above listed restrictions come into play. It is however pertinent that the UK and EU come to some sort of mutual recognition on the import controls topics to ensure a continuation of the market access for all goods.

With the agreement on 27 February 2023 relating the Northern Ireland situation (The Windsor Framework), the EU and the UK have made a first step to a closer relationship.

The expectation is that this also opens up the opportunity for further cooperation on some of the above mentioned topics, including the import controls. Nevertheless, the expectation is that some of these topics will not be resolved before the provided timeframes and further disruptions and increase in cost for doing business in the UK are still expected.

*Arjen Odems*  
odems@cutraco.com

*Maartje Meijer*  
meijer@cutraco.com

## Vietnam



### "Royalty" fees for imported goods

On 23 August 2022, the General Department of Customs issued the Official Letter No. 3489/TCHQ-TXNK with new guidance on the declaration of royalty for imported goods.

#### 1. Key concept

"Royalty" is defined as an amount of money that the buyer shall pay directly or indirectly to the intellectual property right holder for the use of or transfer of the right to use the subject matters of intellectual property rights.

#### 2. Customs procedure of royalty

At customs clearance, the declaration and customs valuation of royalty is separated into two cases:

› **For cases where the royalty can be determined:**

The amount of the royalty fee shall be included in the customs value and declared in the declaration of imported goods.

› **For cases where the royalty cannot be determined at the time of registering the import declarations because this fee depends on the sales of goods after the importation, or other reasons specified in the sale contract, or separate agreements for payment of royalties:**

The importer shall clearly provide an explanation for not declaring the royalty fee on the import customs declarations.

Within 05 working days from the time the royalty is determined, the importer shall:

- Declare the royalty fee on the supplementary declaration after customs clearance;
- Declare, calculate and fully pay the tax liabilities as regulated for such fees.

*Nguyen Ngoc Tuyet Van*  
*nguyen.ngoc.tuyet.van*  
*@lawyer-vietnam.com*

The importer must decide according to the relevant documents on the right time to declare and pay the adjusted royalty fee.

*Nguyen Thi Hang Nga*  
*nguyen.thi.hang.nga*  
*@wtsvietnam.com*

In case the royalty fee is paid in several installments depending on the quantity of imported goods distributed to Vietnam, the company must allocate, declare and pay the additional tax payment until all royalty fees related to imported goods are fully paid.

## Germany



### Restrictive measures against Russia and Belarus due to the war of aggression against Ukraine – Current developments

Due to Russia's war of aggression against Ukraine, numerous restrictive measures have been issued against the Russian Federation and Belarus in recent months, most recently the tenth sanction package. Hereafter we have summarized the most recent developments from the perspective of export control law.

#### **1 What factors need to be considered and what actions need to be taken?**

In the current situation, the relevant measures and sanction lists may change at any time, even at short notice. For this reason, in all instances we recommend a thorough review of the relevant circumstances, particularly sanction lists with a view to participating end customers and banks, as well as the relevant embargo regulations, both when initiating a business relationship, and then again just before goods are shipped.

The risks involved in doing business with or supplying goods to Russian/Belarusian individuals or companies are multiple in nature.

On top of the need to review individual sets of export control regulations and sanctions, which requires a high level of legal expertise, doing business with Russia and Belarus presents a high risk of criminal liability and economic risk. This is the case, for instance, in the following scenarios:

- › If the customer or participating banks are listed.
- › If intended end use for military purposes cannot be excluded or the purpose cannot be documented (when do I require an end use certificate (EUC), and is this adequate?).

- › How do I deal with customers who are attributable directly to the Russian/Belarusian state or in which the state has a majority holding?
- › If payments have already been made by the customer, but there is a ban on delivery of goods (repayment issues).
- › If problems exist in relation to interpretation of legal texts.

In addition, there exist purely practical hurdles; for example, on the border with Belarus/Russia, goods may not be cleared by the EU customs authorities because export control documents are missing or no carrier is available to transport the goods (on) into the two countries due to sanction rules having changed since the goods began their transportation journey.

As a result, it is impossible to give a single specific recommendation for action that covers all potential circumstances, also due to the fact that the legal rules are continually changing. Every situation needs to be assessed on an individual basis.

However, we are able to give you the following general suggestions for doing business and on how to handle the current situation:

- › Due to the uncertainty and the ever-changing sanctions position, which is evolving on a daily basis, we advise the utmost caution and restraint in business dealings that have a connection with Russia, Belarus and the territories of Ukraine occupied by Russia.
- › First of all, our recommendation is that no business transactions should be entered into or work steps taken until they have first been reviewed in terms of legality with reference to the relevant regulations and sanction lists. A final check should also be undertaken on sanction lists and embargo regulations just before goods are shipped.
- › At present, doing business with Russia and Belarus comprises a high level of financial risk. Due to the sanctions on Russian banks and the prohibition on provision of financial resources, making or receiving payments for goods already delivered may also breach applicable law. For this reason, you should also involve your company's finance department in the decision-making process.
- › In addition, we recommend that, for all transactions (not only for the supply of dual-use goods) with Russian or Belarusian business partners, you ensure that such partners sign an end use certificate prior to delivery.

## 2 Overview: relevant embargo regulations

- › Regulation (EC) No 765/2006: "**Restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine**"
- › Regulation (EU) No 269/2014: "**Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine**"
- › Regulation (EU) No 692/2014: "**Restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol**"
- › Regulation (EU) No 833/2014: "**Restrictive measures in view of Russia's actions destabilising the situation in Ukraine**"
- › Regulation (EU) No 2022/263: "**Restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine**"

### 3 Summary – 10th round of sanctions – new sanctions against Russia

- › **Extension of sanction lists to include additional natural and legal persons and entities**
  - Further individuals have been added to the sanction lists. In addition to travel restrictions and the freezing of financial resources, this primarily means a ban on enabling access and supply in relation to such persons and entities, meaning that no disposition is permitted on the part of the sanctioned persons and entities in relation to any economic resources whatsoever (financial resources, goods, real estate, etc.).
- › **Extension of embargo regulations in regard to acquiring, participating or investing in Russian legal entities to any company operating in the mining and quarrying sector in Russia.**
  - Exception for goods of annex XXX
- › **Further exceptions for (among others) the import ban on crude oil or petroleum products** (annexes XXXI and XXXII)
- › **Extension of a prohibition on the holding of posts in the governing bodies of Russian enterprises to any Russian enterprises** (in contrast to the previous rule, where this pertained to only sanctioned Russian legal entities).
  - Exception for the critical energy provision and oil provision (transit of oil through Russia) for Europe
- › **Extension of the banned scope of services to include the areas of market research and public opinion polling services, technical testing and analysis services and advertising services**
- › **Exception of export restrictions for**
  - goods that were physically located in Russia before the sanctions were put in place and
  - goods that are owned by a legal entity or person from a member state
- › **Amendment of Annexes IV, VII, IX, XI, XV, XVII, XIX, XXIII and XXV and addition of annexes XXX, XXXI and XXXII to Regulation (EU) No 833/2014**

### 4 Restrictive measures already in place against Russia

#### 4.1. Crimea and Sevastopol

In June and July 2014, in response to the illegal integration of the Autonomous Republic of Crimea and the city of Sevastopol into the Russian Federation, the following measures were enacted (Regulation (EU) No 692/2014):

- › **Import restrictions on goods originating in Crimea and the city of Sevastopol**
- › **Restrictions on trade and services** in relation to **infrastructure projects in particular sectors in Crimea and Sevastopol**
- › **Further sanctions** relate primarily to the areas of transport, telecommunications, energy and the prospection/exploration and extraction of oil, gas and mineral resources.



## 4.2 Areas controlled by Russia

In response to recognition of the non-government controlled areas of the Ukrainian oblasts of Donetsk and Luhansk, Regulation (EU) No 2022/263 of 23 February 2022 was adopted. Since 4 October 2022, its geographical scope now covers the oblasts of Kherson, Donetsk, Luhansk and Zaporizhzhia (Regulation (EU) 2022/1903 amending Regulation (EU) 2022/263). This comprises the following measures:

- › **Import restrictions on goods originating in the oblasts of Ukraine controlled by Russia**
- › **Ban on enabling access and supply** with regard to financing and financial assistance as well as insurance and reinsurance in connection with the import of such goods
- › Restriction on trade in **goods and technologies for use in particular sectors**
- › **Ban on services** in the sectors of transport, telecommunications, energy, the prospection, exploration and extraction of oil, gas and mineral resources, as well as services in connection with tourism-related activities
- › **Further sanctions** relate primarily to the areas of transport, telecommunications, energy and the prospection/exploration and extraction of oil, gas and mineral resources

## 4.3 Russia

### 4.3.1 Since 2014

In March 2014, financial sanctions were imposed on specific individuals responsible for actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Regulation (EU) No 269/2014). **Funds and economic resources** in the ownership of or belonging to **the persons listed in Annex I** of the Regulation are **frozen**. Frozen funds and resources must now generally be reported by 1 September to the German Federal Office for Economic Affairs and Export Control (BAFA) (or the competent authority in the respective Member State), and any failure to undertake such reporting is deemed to constitute evasion (Regulation (EU) No 2022/1273 amending Regulation (EU) No 269/2014).

Furthermore, such persons may not be provided with or benefit from funds or economic resources, either directly or indirectly (**ban on enabling access and supply**). Since enactment of the above Regulations, further names have regularly been added to Annex I of Regulation (EU) No 269/2014. The measures relate only to the persons listed in Annex I of Regulation (EU) No 269/2014. Natural or legal persons, bodies or entities related to such persons are only affected if they themselves are also listed in Annex I. This does not change the ban on enabling indirect access and supply, which must be observed.

In July 2014, further embargo measures were enacted. These comprised an **arms embargo, trade restrictions on dual-use goods** and on **equipment for the energy sector**, as well as **restrictions on access to the capital market** of the European Union (Regulation (EU) No 833/2014).

Within the framework of various legal instruments, in September 2014 the measures were extended. **Existing restrictions on services** in specific areas of oil exploration and extraction were **extended** and **further restrictions on access to the capital market** were enacted (Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014). In addition, the **grounds for listing** contained in Article 3(1) of Regulation (EU) No 269/2014 were **expanded** (Regulation (EU) No 959/2014 amending Regulation (EU)

No 269/2014). In this context, a **prohibition** was enacted **on the sale, supply, transfer and export of dual-use goods** contained in Annex I of the EU Dual-Use Regulation (Regulation (EU) 2021/821) to the **recipients** stated in Annex IV of Regulation (EU) No 960/2014, as well as a prohibition on rendering of associated services.

In December 2014, the restrictive measures underwent general revision (including definition of terms such as "Arctic"). In addition, at this point the **authorization requirement for the export, supply and sale of goods contained in Annex II** of Regulation (EU) No 833/2014 to persons, entities or bodies in Russia or for use in Russia was introduced. This includes the rendering of technical services in connection with such goods (Regulation (EU) No 1290/2014 amending Regulation (EU) No 833/2014).

#### 4.3.2 Current developments

The **measures relating to capital restrictions** in connection with enabling access to and supply of financing to Russia, the government and the central bank were **extended** through Regulations (EU) 2022/259, 2022/262, 2022/394 and 2022/580 amending Regulation (EU) No 269/2014. In addition to **banknotes of any EU currency**, this also includes **securities** that can be used as a means of payment, and thus also **cryptocurrencies**. Moreover, several **Russian banks have been excluded from the SWIFT payment system** (Regulation (EU) 2022/345 and 879/2022 amending Regulation (EU) No 833/2014). Similarly, **transactions with the Russian central bank have also been prohibited** (Regulation (EU) 2022/334 amending Regulation (EU) No 833/2014).

**The list of names in Annex I** of Regulation (EU) No 269/2014 is regularly **supplemented** in response to the ongoing events of the war. The list of names of those persons and entities covered by the embargo now includes influential oligarchs, key military figures, and Russian Foreign Minister Sergei Lavrov, as well as Russian President Vladimir Putin. Changes have been enacted via Regulations (EU) 2022/236, 2022/260, 2022/261, 2022/332, 2022/336, 2022/396, 2022/408, 2022/427, 2022/581, 2022/878, 2022/1270, 2022/1906, 2022/2430, 2022/2476 and 2023/429. As described above, the assets of the above persons and entities situated in the European Union are frozen based on their being listed, and a ban applies on the enabling of access and supply in relation to financial resources.

**Important note:** Annex I of Regulation (EU) No 269/2014 also includes Belarusian nationals (mostly members of the military).

Furthermore, in Regulations (EU) 2022/328, 2022/394, 2022/428, 2022/576, 2022/879 and 2022/1904 amending Regulation (EU) 833/2014, it is stated that **export** of the following goods to Russia or for use in Russia **is now strictly prohibited**. This includes technical assistance, brokering services, or financial assistance in connection with such goods:

- › **Dual-use goods**, Art. 2
- › **Goods in the areas of electronics, computers, telecommunications, information security, sensors and lasers, navigation and avionics, marine, aerospace, and propulsion**, Art. 2a (Annex VII)
- › **Oil refining goods**, Art. 3b (Annex X)
- › **Goods for use in the aviation or space industry** (Annex XI) und **jet fuels** (Annex XX), Art. 3c

- › **Maritime navigation goods and technology**, Art. 3f (Annex XVI)
- › **Iron and steel products**, Art. 3g (Annex XVII)
- › **Luxury goods**, Art. 3h (Annex XVIII)
- › **Goods which could contribute to the enhancement of Russian industrial capacities**, Art. 3k (Annex XXIII)
- › **Firearms, munitions and their parts and components**, Art. 6aa, (Annex I of Regulation No 258/2012 (Regulation concerning the export, import and transit of firearms, munitions and their parts and components))

Dual-use goods and firearms, ammunition and parts thereof are also subject to a ban on transit through Russia (Regulation (EU) 2023/427 amending Regulation (EU) No 833/2014).

The new Article 12b (Regulation (EU) 2022/2474 amending Regulation (EU) No 833/2014) introduced a temporary **exception from export bans** (sales, supply, transfer) for:

- › **goods** that were **physically located in Russia before the sanctions were put in place, and**
- › that are **owned by a legal entity or person from a member state, and**
- › for which there is no evidence from a responsible authorities perspective of military end-use or military end-users.

**Importation from Russia** of the following goods and associated technical assistance, brokering services or financial assistance is **banned** (Regulations (EU) 2022/576, 2022/879, 2022/1269 and 2022/2474 amending Regulation (EU) No 833/2014):

- › **Goods which generate significant revenues for Russia**, Art. 3i (Annex XXI)
- › **Coal and other solid fossil fuels**, Art. 3j (Annex XXII); the importation of natural gas and oil remains exempt from the embargo
- › **Crude oil and petroleum products**, Art. 3m (Annexes XXV, XXXI and XXXII)
- › Here, there exist **various exemptions** in order to ensure supplies to all Member States (e.g. exemption for imports via pipelines, exemptions for Bulgaria and Croatia, etc.)
- › **Gold and other products**, Art. 3o (Annexes XXVI and XXVII)

A ban on the storage of Russian liquefied petroleum gas continues to apply unless it is necessary to secure the critical energy supply of the Union (Regulation (EU) 2023/427 amending Regulation (EU) 833/2014).

Exemptions from the above import and export bans are possible, in particular in relation to contracts already concluded. However, such exemptions require authorization and must therefore be agreed with the German Federal Office for Economic Affairs and Export Control (BAFA) prior to export.

Furthermore, based on Regulations (EU) 2022/334, 2022/576 and 2022/1269 amending Regulation (EU) No 833/2014, all Russian air carriers, vessels registered under the flag of Russia and all road transport undertakings are banned from European airspace, European airports, ports and locks, as well as from transiting the EU. An exemption to this ban was granted for the unloading of goods necessary for the development of renewable energy projects (Regulation (EU) 2022/1269 amending Regulation (EU) No 833/2014).

Regulation 2023/427 (EU) amending Regulation (EU) No 833/2014 introduced a reporting requirement for non-linear flights from the Union to Russia (directly or indirectly via a third country).

Annex XV of Regulation (EU) 2022/350 and 2022/879 amending Regulation (EU) No 833/2014 lists **Russian media outlets and their establishments in the EU** that contribute to the channelling of propaganda and false information. Operators are **prohibited** from **distributing content** in the EU, whether via television or internet. Furthermore, the **granting of transmission authorizations or broadcasting licences** to such media outlets is **prohibited**.

Through Regulation (EU) 2022/428 amending Regulation (EU) No 833/2014, Annex XIX has been added, which lists **companies in which the Russian state or the Russian central bank has an ownership share of 50% or more. All transactions** with such companies are **prohibited**. The Regulation additionally imposes a **prohibition on rating services** for Russian companies. Furthermore, there is a **ban on holding any post on the governing bodies of sanctioned legal entities as well as any Russian enterprises** (Regulations (EU) 2022/1904 and 2022/2474 amending Regulation (EU) No 833/2014). It is furthermore **prohibited to participate or invest in any company that is operating in the Russian energy sector, now expanded to include the mining sector** (Regulation (EU) 2022/2474 amending Regulation (EU) No 833/2014). Furthermore, a ban on the employment of Russian nationals in governing bodies of critical infrastructures in the Union (Regulation 2023/427 (EU) amending Regulation (EU) No 833/2014) applies.

Regulation (EU) 2022/576 amending Regulation (EU) No 833/2014 imposes a prohibition on the awarding of public-sector contracts to Russian persons or entities. There is also a prohibition on the registration of trusts where the beneficiaries are Russian persons or entities.

Based on Regulations (EU) 2022/879, 2022/1904 and 2022/2474 amending Regulation (EU) No 833/2014, a **prohibition** is imposed **on the provision** to the Russian government and Russian companies **of accounting, auditing, including statutory auditing, bookkeeping and tax consulting services, business or management consulting or public relations services, architecture and engineering services, legal advisory services, IT consultancy, market research and public opinion polling services, technical testing and analysis services and advertising services**. Numerous exemptions, in order to achieve objectives such as the promotion of democracy and to safeguard human rights, as well as to secure energy supplies, were introduced by way of Regulations (EU) 2022/1904 and 2022/2474 amending Regulation (EU) No 833/2014.

Regulation 2023/427 (EU) amending Regulation (EU) No 833/2014 has ensured that sanctioned goods of Russian origin physically located in the Union may be presented and subsequently released or re-exported. However, it should be noted that payment is not automatic and must be in accordance with the applicable rules.

## 5 Restrictive measures already in place against Belarus

### 5.1 Since 2006

Regulation (EC) No 765/2006, enacted in 2006, stipulates the **freezing of financial resources** in the EU of persons and entities listed in Annex I of the Regulation. In addition, there is a **ban on enabling access and supply** in relation to financial resources.

### 5.2 Since 2021

In view of political developments in the country and the forced landing of a Ryanair plane in Minsk, further sanctions have been imposed on Belarus. Measures related to goods and persons were enacted by Regulation (EU) 2021/1030 and Regulation (EU) No 588/2011 amending Regulation (EC) No 765/2006. Here, in addition to an **arms embargo**, the following measures were implemented, whereby services, technical assistance, repair and maintenance measures are also covered by the restrictions. The **sale, supply, transfer or export** of the following goods to Belarus or for use in Belarus is **prohibited**:

- › **Goods used for internal repression**
- › **Dual-use goods for persons listed in Annex V**
- › **Communications monitoring equipment**
- › **Goods for military end use**
- › **Tobacco manufacturing industry goods**
- › **Petroleum products**
- › Transfer of **securities** and money market instruments, providing new **loans and credit**, as well as providing **insurance and reinsurance**

### 5.3 Current developments

In response to the support by Belarus for the war of aggression against Ukraine, the existing embargo measures against Belarus have been substantially tightened. In Regulations (EU) 2022/355, 2022/876 and 2022/877 amending Regulation (EC) No 765/2006, the following measures (among others) have been adopted:

- › **Expansion** of the list of names contained in **Annex I** of Regulation (EC) No 765/2006
- › **(Further) restrictions on trade in the following goods**, including the provision of technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and reinsurance in connection with such goods:
  - **Dual-use goods** set out in Annex I of Regulation (EU) 2021/821, Art. 1e
  - **Goods for military end use**, Art. 1f
  - **Tobacco products**, Art. 1g
  - **Petroleum products**, Art. 1h
  - **Potassium chloride ("potash") products**, Art. 1i
  - **Wood products**, Art. 1o
  - **Cement products**, Art. 1p
  - **Iron and steel products**, Art. 1q
  - **Rubber products**, Art. 1r,
  - **Machinery and apparatus**, Art. 1s

In addition, through Regulations 2022/398 and 2022/577 amending Regulation (EC) No 765/2006, the following further embargo measures (among others) were enacted:

- › Inclusion of cryptocurrencies, shares and securities of all types in the financial sanctions package
- › Transactions with the central bank of Belarus are prohibited
- › Deposit limit with EU financial institutions applicable to Belarusian citizens totalling a maximum of EUR 100,000.00
- › **Legal persons in which a company listed in Annex XV of the Regulation holds an ownership share of >50% are excluded from the SWIFT payment system**
- › **Ban on trading on European stock exchanges for securities of companies in which the Belarusian state has a holding of >50%**
- › **Ban on the sale and supply of securities and banknotes** to Belarusian citizens, banks and other entities
- › **Transit ban** through the territory of the EU **for Belarusian freight carriers** (road transport undertakings)

*Markus Wieners*  
markus.wieners@  
wts.de

*Judith Brandl*  
judith.brandl@  
wts.de

## Contact

### China

#### Conrad Lin

conrad.lin@wts.cn  
T +86 21- 5047 8665 – 223

#### WTS China Co., Ltd.

Unit 06–07, 9th Floor, Tower A,  
Financial Street Hailun Center  
No.440 Hailun Road, Hongkou District  
Shanghai, 200080  
www.wts.cn

### Netherlands

#### Arjen Odems

odems@cutraco.com

#### Maartje Meijer

meijer@cutraco.com  
T +44 208 144 6408

#### Cutraco Consultancy BV

Keizersgracht 520H  
1017 EK – Amsterdam  
www.cutraco.com

### United Kingdom

#### Arjen Odems

odems@cutraco.com

#### Maartje Meijer

meijer@cutraco.com  
T +44 208 144 6408

#### Customs and Trade Consultancy Limited

First Floor  
85 Great Portland Street  
W1W 7LT, London  
www.cutraco.com

### Vietnam

#### Nguyen Ngoc Tuyet Van

nguyen.ngoc.tuyet.van@  
lawyer-vietnam.com

#### Nguyen Thi Hang Nga

nguyen.thi.hang.nga@wtsvietnam.com  
T +84 28 7302 5771

#### WTS Tax Vietnam Co., Ltd.

8th Floor, TMS Building  
172 Hai Ba Trung Str., D.1  
700000, Ho Chi Minh City  
www.wtsvietnam.com

### Germany

#### Markus Wieners

markus.wieners@wts.de  
T +49 211 20050–616

#### Judith Brandl

judith.brandl@wts.de

#### WTS GmbH

Klaus-Bungert-Straße 7  
40468 Düsseldorf  
www.wts.com

### **About WTS Global**

With a representation in over 100 countries, WTS Global is one of the leading global tax practices offering the full range of tax services without the constraints of a global audit firm. WTS Global deliberately refrains from conducting annual audits in order to avoid any conflicts of interest and to be the long-term trusted advisor for its international clients. Clients of WTS Global include multinational companies, international mid-size companies as well as private clients and family offices.

The exclusive member firms of WTS Global are carefully selected through stringent quality reviews. They are typically strong local players in their home market being united by the ambition of building the tax firm of the future. WTS Global effectively combines senior tax expertise from different cultures and backgrounds be it in-house, advisory, regulatory or digital.

For more information please visit [wts.com](https://wts.com)

### **Imprint**

WTS Global

P.O. Box 19201 | 3001 BE Rotterdam

Netherlands

T +31 (10) 217 91 71 | F +31 (10) 217 91 70

[wts.com](https://wts.com) | [info@wts.de](mailto:info@wts.de)

The above information is intended to provide general guidance with respect to the subject matter. This general guidance should not be relied on as a basis for undertaking any transaction or business decision, but rather the advice of a qualified tax consultant should be obtained based on a taxpayer's individual circumstances. Although our articles are carefully reviewed, we accept no responsibility in the event of any inaccuracy or omission. For further information please refer to the authors.