

RESTRICTIVE MEASURES UNDER EU LAW

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EU LEGAL FRAMEWORK

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KEY OBJECTIVES WHEN ADOPTING SANCTIONS

1. Safeguarding EU's values, fundamental interests, independence and integrity;
2. preserving peace, prevent conflicts and strengthen international security;
3. Consolidating and supporting democracy, the rule of law, human rights and the principles of international law;
4. promote an international system based on stronger multilateral cooperation and good global governance.

RESTRICTIVE MEASURES

The **restrictive measures imposed by the Council** can target:

1. **countries** or parts of countries
2. **governments**
3. **entities** (companies)
4. **groups or organizations** (such as terrorist groups)
5. **individuals** (involved in terrorist activities, etc.)

EU LEGAL FRAMEWORK

Procedure for the adoption of restrictive measures (Articles 24 and 26 TEU, 215 TFEU)

1. Restrictive measures are laid down in the **Common Foreign and Security Policy Council Decisions**;
2. A proposal is made by the **High Representative of the EU for Foreign Affairs and Security Policy**;
3. The proposed measures are then examined and discussed by the **relevant Council preparatory bodies** (Council working party responsible for the geographical region, Committee of Permanent Representatives, etc.);
4. The decision is then adopted by the Council **by unanimity**;
5. If the Council Decision includes an **asset freeze** and/or other type of economic and/or **financial sanctions**, those measures need to be **implemented in Council Regulation**

EU LEGAL FRAMEWORK

Procedure for the adoption of Council regulation (Article 215.1 TFEU)




- 1

Joint proposal from	
EU High Representative for Foreign Affairs and Security Policy	EU Commission
- 2 Adoption by **qualified majority** of the Council (55% of the Member States, 65% of population)
- 3 Informative to the **European Parliament**
- 4 Publication in the **Official Journal of the EU**
- 5 **Notification to individuals** of asset freeze or travel restrictions if address is available

EU LEGAL FRAMEWORK

Review Process

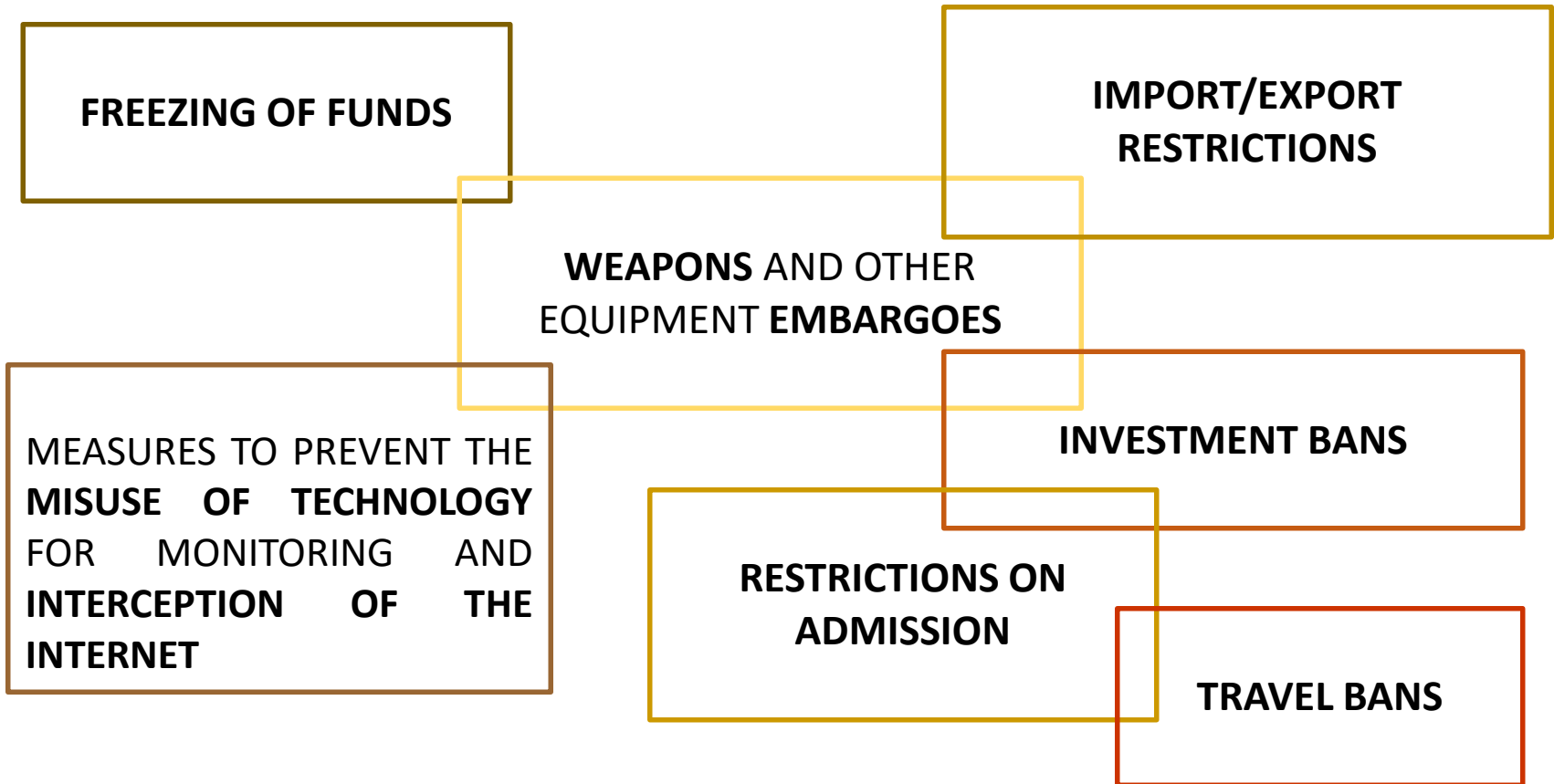
All restrictive measures in force are kept under constant review to ensure that they continue to contribute towards achieving their stated objectives:

- **UN SECURITY COUNCIL RESOLUTIONS**  Restrictive measures adopted in implementation of such resolutions **do not have an end date**;
- **MIXED SANCTIONS REGIMES**  Measures taken by the EU to reinforce UN sanctions. While UN provisions are open-ended in time, EU autonomous provisions are reviewed at least once every 12 months;
- **EU AUTONOMOUS RESTRICTIVE MEASURES**  Council decisions usually apply for **12 months**, while the corresponding Council regulations **are open-ended**.

NB: Listed persons and entities may submit a request to the Council requesting the decision to list them to be reconsidered.

RESTRICTIVE MEASURES

The **restrictive measures** may include:



TYPES OF SANCTIONS

IN DETAIL ...



Embargo on dual-use goods



Inspections



Prohibition to satisfy claims



Restrictions on admission



Restrictions on goods



Arms export



Asset freeze and prohibition to make funds available



Arms procurement



Cultural property



Petrol products



Prohibition to satisfy claims



Flights, airports, aircrafts



Restrictions on equipment used for internal repression



Vessels



Vigilance



Restrictions on services



Training and education



Food and agricultural products

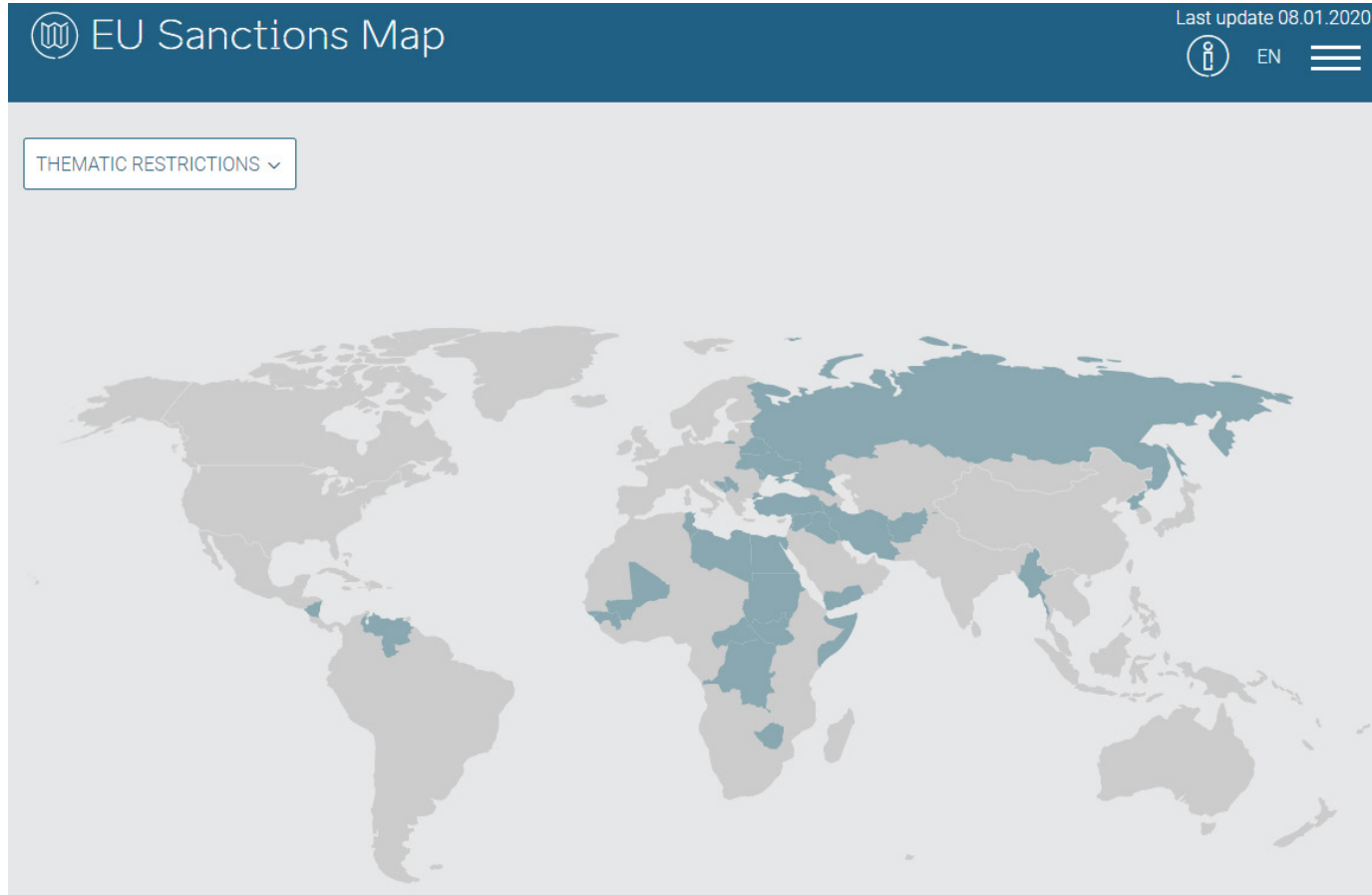


Gold, precious metals, diamonds



Luxury goods

SANCTIONED COUNTRIES



See more at:

<https://www.sanctionsmap.eu/#/main?checked=4&search=%7B%22value%22:%22%22,%22searchType%22:%7B%7D%7D>

EU MEASURES (NORTH KOREA)

- **JULY 15, 2019 - EU AUTONOMOUS SANCTIONS:** 57 persons are listed by the EU autonomously. In addition, the EU has frozen the assets of 9 entities as part of its own sanctions regime;
- **FEBRUARY 26, 2019 - TRANSPOSITION INTO EU LAW OF UN LISTINGS:** strengthening of export ban of all refined petroleum products (max 500,000 barrels per year), ban on imports of food and agricultural products, industrial machinery, requirement to repatriate all workers abroad within 24 months;
- **OCTOBER 16, 2017 – EU AUTONOMOUS SANCTIONS:** total ban on EU investments; lowering the personal remittances transferred to 5,000 Euros.

EU MEASURES (RUSSIA)

- **DIPLOMATIC MEASURES** → EU countries supported the suspension of negotiations over Russia's joining the OECD and the International Energy Agency;
- **ASSET FREEZE AND TRAVEL RESTRICTIONS** → 170 people and 44 entities are subject to an asset freeze and a travel ban;
- **MISAPPROPRIATION OF UKRAINIAN STATE FUNDS** → in 2014 the Council decided to freeze the assets of individuals responsible for the misappropriation of Ukrainian State funds (measures extended until 6 march 2020);
- **RESTRICTIONS ON ECONOMIC RELATIONS WITH CRIMEA AND SEVASTOPOL** → import ban on goods from Crimea and Sevastopol; prohibition to supply tourism services; etc.
- **ECONOMIC SANCTIONS TARGETING SPECIFIC SECTORS** → limiting the access to EU primary and secondary capital markets for certain Russian banks and companies; export/import ban on trade in arms and for dual-use goods; technology on oil production and exploration;

EU MEASURES (IRAN)

- **RESTRICTIONS ON TRADE IN SEVERAL GOODS:** prohibition to export to Iran arms, dual-use goods and goods which could be used in enrichment-related activities; prohibition to import crude oil, natural gas, petrochemical and petroleum products; prohibition to sell key equipments used in the energy sector, gold, metals and diamonds;
- **RESTRICTION ON FINANCIAL SECTOR:** freezing the assets of the Central Bank of Iran and the major Iranian commercial banks;
- **MEASURES IN THE TRANSPORT SECTOR:** preventing access to EU airports of Iranian cargo flights;
- **TRAVEL RESTRICTIONS AND ASSET FREEZE** imposed against **listed persons and entities**.

EU MEASURES (IRAN)

USA

- **8 May 2018:** unilateral US withdrawal from the Joint Comprehensive Plan of Action (JCPOA)
- **7 August 2018** and **15 November 2018:** reintroduction of extraterritorial sanctions («secondary sanctions») in two phases



Updating of the EU Blocking Regulation



Possible conflicts with US Regime - difficulties for any EU person or entity from complying with certain of the re-imposed U.S. extraterritorial sanctions

POSSIBLE APPROACHES

- 1 Obtain an **authorization from the European Commission** to enable simultaneous compliance with both the Blocking Regulation and the targeted U.S. secondary sanctions;
- 2 Establishing a **technical alignment** with what is required by the targeted U.S. secondary sanctions without actually seeking to comply with the same;
- 3 France, the United Kingdom, and Germany registered a special purpose vehicle, the “**Instrument in Support of Trade Exchanges**” (INSTEX), to help facilitate trade.

NB: Blocking Regulation has not been heavily enforced to date. No jurisprudence is believed to exist at the EU level, and only one enforcement action is reported, being an Austrian case which dates to 2007.



THANK YOU