



JULY 16, 2014

CIRCULAR NO. 19/14

TO MEMBERS OF THE ASSOCIATION

Dear Member:

EUROPEAN UNION SANCTIONS IN RESPECT OF CRIMEA AND SEVASTOPOL: COUNCIL REGULATION (EU) NO 692/2014 OF JUNE 23, 2014 CONCERNING RESTRICTIONS ON THE IMPORT INTO THE UNION OF GOODS ORIGINATING IN CRIMEA OR SEVASTOPOL

In response to the annexation of Crimea and Sevastopol by Russia, the European Union has published Regulation 692/2014 of June 23, 2014 (the Regulation), introducing trade sanctions in respect of goods originating in Crimea or Sevastopol and on the provision, directly or indirectly, of financing or financial assistance, as well as insurance and reinsurance, related to the import of such goods.

Prohibitions

1. Under Article 2 of Regulation 692/2014 it is now prohibited:
 - to import into the European Union goods originating in Crimea or Sevastopol.
 - to provide, directly or indirectly, financing or financial assistance as well as insurance and reinsurance related to the import of goods originating in Crimea or Sevastopol.
2. For the purpose of the Regulation "*goods originating in Crimea or Sevastopol*" are defined as goods which are wholly obtained in Crimea or in Sevastopol or which have undergone their last substantial transformation there in accordance with Articles 23 and 24 of Regulation EEC 2913/92 dated October 12, 1992. Article 23 of Regulation 2913/92 provides that "*goods originating in a country*" shall be those wholly obtained or produced in that country and the expression "*goods wholly obtained in a country*" means:
 - (a) mineral products extracted within that country;
 - (b) vegetable products harvested therein;
 - (c) live animals born and raised therein;
 - (d) products derived from live animals raised therein;
 - (e) products of hunting or fishing carried on therein;
 - (f) products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;
 - (g) goods obtained or produced on board factory ships from - the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
 - (h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
 - (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;
 - (j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

3. Article 24 of Regulation EEC 2913/92 provides that goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.
4. The new Regulation would appear to comprehensively limit trade activities from Crimea and Sevastopol to the European Union. Members who are subject to its application (see paragraphs 7, 8 and 9 below) are advised to seek advice before fixing contracts for voyages from Crimea and Sevastopol. In light of the prohibition on the provision of insurance and reinsurance, and in order to protect their mutual membership, International Group clubs must continue to rely on existing cessation of cover / exclusion provisions in their rules and terms of entry to ensure that they do not provide insurance or reinsurance for sanctioned activities, and that they do not participate knowingly and intentionally in activities the effect of which would or could circumvent the sanctions prohibitions.
5. Article 6 of the Regulation prohibits the payment of claims in respect of contracts or transactions (including claims under guarantees or involving indemnities) which are prohibited by the Regulation if they are made by designated persons, entities or bodies listed in Council Regulation 269/2014 dated 17 March 2014; persons, entities or bodies acting through or on behalf of designated entities; persons, entities or bodies who have been found by the competent authority of a European Union member state to have infringed the prohibitions in Regulation 692/2014; or if claims relate to the import of goods originating in Crimea or Sevastopol.

Exemptions

6. Article 3 of the Regulation stipulates that the prohibitions will not apply to:
 - a) trade contracts concluded before June 25, 2014 or to ancillary contracts necessary for their execution, so long as these contracts are executed by September 26, 2014, and provided that persons, entities or bodies seeking to perform such contracts have given a minimum of 10 days' advance notice of the relevant activity or transaction to their EU member state competent authority.
 - b) goods originating in Crimea or Sevastopol which have been made available to the Ukrainian authorities for examination, for which compliance with the conditions conferring entitlement to preferential origin has been verified and for which a certificate of origin has been issued in accordance with Regulation (EU) No 978/2012 and Regulation (EU) No 374/2014 or in accordance with the EU-Ukraine Association Agreement.

Scope of application

7. Article 10 of the Regulation provides that it shall apply within the territory of the European Union; on board any vessel under the jurisdiction of a European Union member state; to all nationals (wherever located) of a European Union member state; to any legal person, entity or body inside or outside the territory of the Union, which is incorporated or constituted under the law of a European Union member state.
8. The Regulation applies also to any legal person, entity or body in respect of any business done in whole or in part in the European Union.



9. The broad scope of application now makes it unlawful for European Union nationals, EU-domiciled Members, and EU member state flagged or managed vessels to perform prohibited trade activities. Furthermore the prohibitions on the provision of insurance and reinsurance will prevent P&I clubs domiciled in the European Union from providing P&I insurance to any vessel or Member of whatever nationality engaged in prohibited trade activities. The sanctions for prohibited activities will also apply to non-EU domiciled Members and clubs, to the extent that the prohibited activity and any insurance provided constitutes business done in whole or in part in the EU. All International Group club rules contain exclusions from cover in relation to trades or activities for which it is unlawful to provide insurance by reason of sanctions.

10. The Regulation entered force on June 25, 2014.

Yours faithfully,

Joseph F.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

All clubs in the International Group have issued a similar Circular.