



# Overview of EU and US Russia sanctions

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Ben Smith, Baker McKenzie,  
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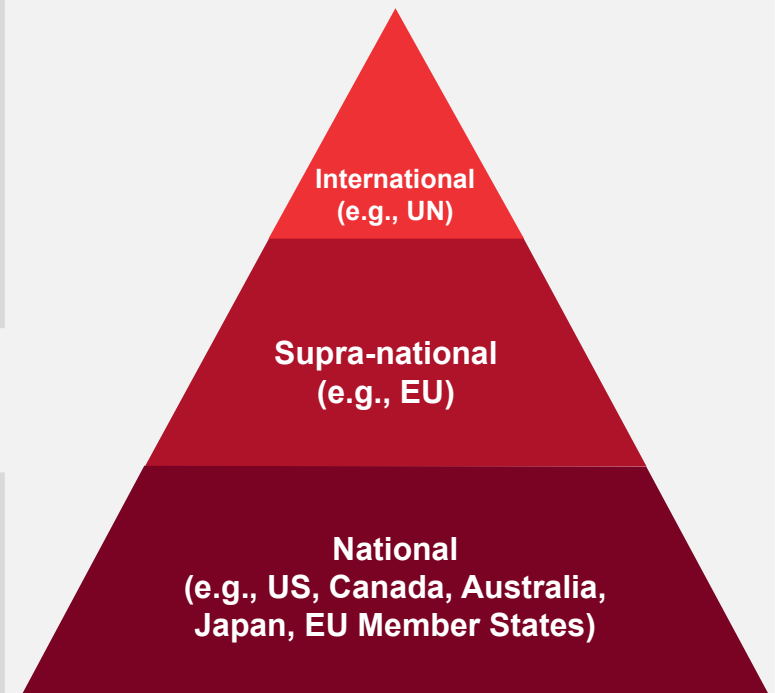
# What are Sanctions and Export Controls?

## Sanctions

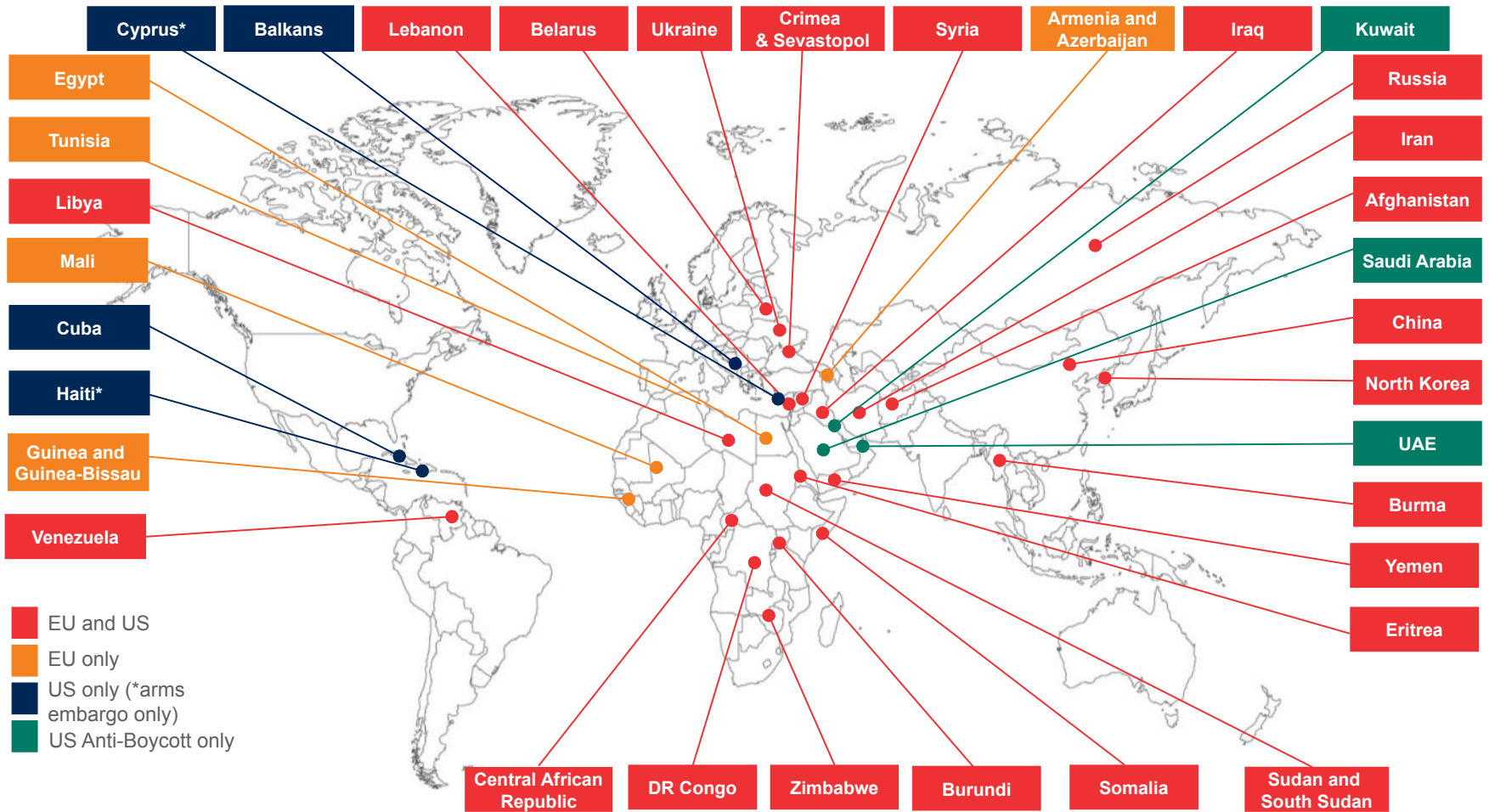
- Prohibit or restrict dealings with those who are targeted (e.g. countries, governments, individuals, companies, charities, armed forces)
- Scope depends on party imposing, party targeted, relevant foreign policy objectives

## Export controls



- Controls on cross-border (and in some cases in-country) movements of strategic goods, software or technology
- Apply independently of sanctions, but often overlap



# Current EU and US Sanctions Targets



# Russia | EU and US Sanctions

>	Restricted party controls	<ul style="list-style-type: none"><li>▪ US SDNs: blocked</li><li>▪ EU DPs: blocked</li></ul>
>	 Sectoral Sanctions	<ul style="list-style-type: none"><li>▪ Not blocked; more targeted restrictions</li><li>▪ Finance: dealings in new debt/new equity</li><li>▪ Energy, Defence</li></ul>
>	Export / product Controls	<ul style="list-style-type: none"><li>▪ Russian Entity List parties; Russian Oil Industry End-uses / key equipment</li><li>▪ Military end-user/end-use and heightened dual-use controls</li></ul>
>	 Controls regarding Crimea	<ul style="list-style-type: none"><li>▪ US: complete embargo</li><li>▪ EU: extensive restrictions</li></ul>

## Some Key Differences

# Russia | EU and US Sanctions

>	Restricted party controls	<ul style="list-style-type: none"><li>▪ US listings have a larger impact</li><li>▪ Ownership/control test (EU) vs. entity 50% or more owned by one or more SDNs (US)</li></ul>
>	 Sectoral Sanctions	<ul style="list-style-type: none"><li>▪ Similar targets/restrictions but notable exceptions (Gazprom, Lukoil, Novatek, only targeted specifically by US)</li><li>▪ US controls cover specific fields; different approach to debt</li><li>▪ US controls expanded pursuant to CAATSA</li></ul>
>	Export / product Controls	<ul style="list-style-type: none"><li>▪ EU controls related services</li><li>▪ EU Annex II – licence required regardless of end-use</li></ul>
>	 Controls regarding Crimea	<ul style="list-style-type: none"><li>▪ EU has not introduced comprehensive sanctions albeit restrictions are significant</li><li>▪ US introduced a comprehensive embargo</li></ul>

# Recent US Sanctions Developments under CAATSA

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- Codification of US sanctions targeting Russia
- Tightening of US sectoral sanctions (i.e., Directives 1, 2, and 4)
- Potential for US secondary sanctions to be imposed against US Persons as well as non-US persons engaged in activities wholly outside US jurisdiction, e.g.:
  - Mandatory sanctions on non-US persons that knowingly make significant investments in “special Russian crude oil projects” (projects intended to extract crude oil from the exclusive economic zone of Russia in waters more than 500 feet deep, Russian Arctic offshore locations, or shale formations located in Russia).
  - Discretionary sanctions related to certain activities (e.g., investments, sales, provision of goods/services) relating to Russian energy export pipelines.
- **CAATSA Section 241 list of Russian senior political figures and oligarchs**

# Key Compliance Questions

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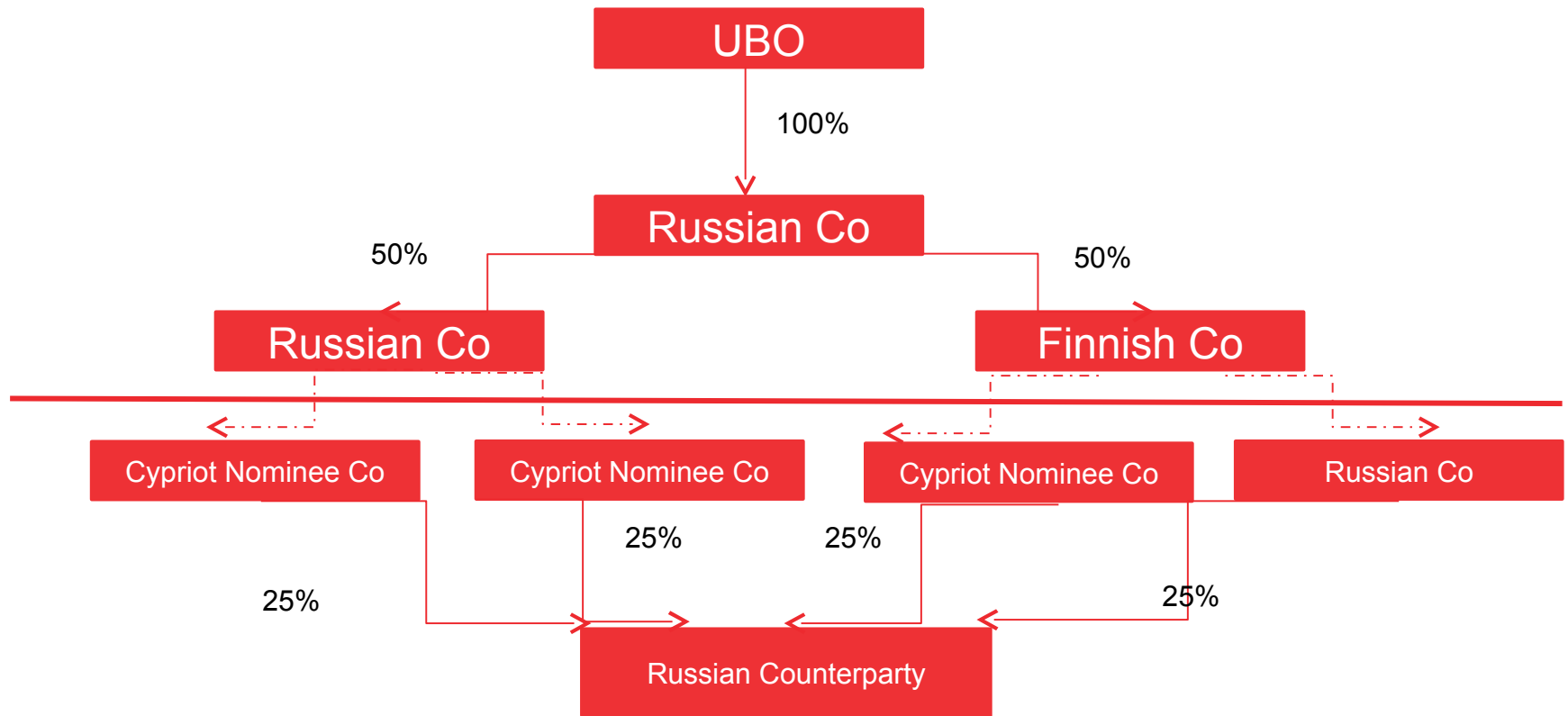
# Practical example

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- **Example transaction:** Opportunity to supply oil and gas equipment and related services for a project in Russia.
- **Key questions:**
  - **WHERE:** Clearly Russia, may trigger additional checks under compliance policy; consider also whether Crimea sanctions relevant
  - **JURISDICTION:** US nexus? EU nexus? Other? Consider entities/staff involved, payment route/currency
  - **WHAT:** Is the equipment caught under any list? Are related services caught? What about financing/payment?
  - **WHY:** Any prohibited end-use (e.g. military, deepwater/arctic offshore/shale oil project)? Any other suspicions?
  - **WHO:** Any sanctions target directly/indirectly involved? Consider not just direct counterparty, also indirect, shareholders/ directors/ management, banks, others involved



# Screening in practice- Russia



Consider also: banks, logistics providers, others involved

# Key principles for screening

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- Clear allocation of responsibility, appropriate training
- Clear guidelines, consistently applied, risk-based approach:
  - **who** to screen (e.g. shareholders, directors, management?)
  - **where** to screen
  - **information gathering** (do you ask counterparty?)
  - **how** to screen (use of software tool? which lists?)
  - **when** to screen (periodic refresh / new contracts)
  - dealing with **hits / red flags** (including escalation process)
- Ensure adequate record keeping
- Consider contractual wording / certifications in support
- Consider overlap to other compliance screening (e.g. ABC, AML, CCO)
- Consider data privacy considerations



**Ben Smith**  
**Senior Associate,**  
Baker McKenzie London

+44 20 7919 1088

[ben.smith@bakermckenzie.com](mailto:ben.smith@bakermckenzie.com)

Ben Smith is a Senior Associate in the Baker McKenzie International Trade team. Based in London, he recently returned from secondment with the Baker McKenzie San Francisco office. Ben specialises in EU and UK export control and sanctions law, as well as anti-bribery and corruption and antitrust. He spent a year on secondment to Shell in 2016, acting as EU/UK sanctions and export controls counsel, and previously worked on secondment in the British Airways legal team. Ben advises clients in a number of sectors, with particular focus on IT/communications, energy and energy services, defence, transport, and FMCG. Ben has significant experience in advising and assisting with risk assessments, compliance programmes, investigations, licence applications, export control classification, and voluntary disclosures.

Baker McKenzie's International Trade practice has strong experience and expertise in relation to export controls, sanctions, customs, WTO law, trade remedies and other EU trade law, with a particular focus over the last year on Brexit activities also. We have a breadth of industry experience covering energy, aerospace and defence, chemicals and petrochemicals, banking, insurance, IT and telecoms, consumer goods, retail and pharmaceutical. For the past 18 years we have been the only firm to be ranked Band 1 in the Legal 500 UK.

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