Export restrictions on maritime navigation goods and technology

FREQUENTLY ASKED QUESTIONS – AS OF 13 April 2022

Q1. Is there now a total ban of exports to Russia for marine navigation and radio communication equipment?

EU sanctions have put in place certain export restrictions applicable to ‘advanced technology’ items and these take the form of prohibitions. The items concerned fall under the scope of chapters 4 and 5 of the applicable Commission Implementing Regulation adopted in accordance with Article 35(2) of Directive 2014/90/EU1. These prohibitions are subject to limited exemptions and derogations.

Exemptions cover, among others, humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters.

There is a specific derogation for maritime safety that may apply to the exports of marine navigation and radio communication equipment. In this case, it is necessary to reach out to the relevant Member State competent authority to request an authorisation.

Q2. When can a Member State competent authority grant a derogation based on maritime safety?

The derogations provided for in Articles 2(4)(d), 2a(4)(d) and 3f(4) for the sale, supply, transfer or export of the goods and technology intended for maritime safety are subject to prior authorisation from the relevant national competent authority, which can only be granted under strict and specific conditions.

The national competent authorities are in charge of determining which documentation is necessary to assess and verify that the conditions for granting a derogation are met.

Maritime safety can be defined as the safety of life, health, property and the environment against environmental and operational risks associated with navigation. Accordingly, a derogation may be granted if a ship is in need of assistance and/or seeking a place of refuge2, if a ship in a Member State’s port or territorial waters cannot safely continue its voyage without the necessary equipment, or again if it needs regular software updates of nautical charts as required by SOLAS chapter V (Regulation 27).

Q3. What information should be provided when requesting an authorisation?

If the intended end-use of the marine navigation and radio communication equipment falls under the scope of maritime safety, the exporter may apply for an authorisation and a case-by-case assessment

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is made by the competent authority of the Member State in which the exporter is resident or established. This is also applicable for the related technical or financial assistance.

The request for authorisation should be submitted by electronic means. Annex IX to Regulation (EU) 833/2014 provides forms containing the mandatory elements for these notifications or applications and whenever possible, exporters should use these forms. However, when the use of the form is not possible, exporters shall provide at least all the elements described in the form and in the order provided set out in the forms. If the item is covered by the EU Dual-Use Regulation, exporters must also submit the form(s) pursuant to that Regulation to the national competent authority.