Lloyd’s List Intelligence

The Russian oil price cap

A shipping industry users’ guide

December 2022

The EU has now banned all seaborne Russian crude imports, with an import ban on refined products to follow in February. Companies and individuals in the bloc can no longer provide finance, brokerage, shipping and insurance services to transport Russian oil elsewhere if the crude was bought above a price cap that came into effect on Monday, December 5.

Michelle Wiese Bockmann, our Markets Analyst, disseminates what this means for shipping, how the cap will be administered and enforced, and explores some likely impacts of the ban.

What does this mean for shipping?

The European Union, United States and United Kingdom marine service providers can no longer provide services for Russian oil exports from this date unless it is compliant with the oil price cap.

"Given the clear focus on shipping, compliance and risk professionals in the sector will need to understand not only the specific restrictions, as well as their company's role in the relevant transactions, but also the extent of due diligence which is expected of them," said Daniel Martin, a partner at London-based law firm HFW, which specialises in EU and UK sanctions advice.

Who is affected?

All trading and commodities brokers, and other maritime service providers including those covering shipping, insurance (including reinsurance and P&I), flag registries and customs brokering.

The US Office of Foreign Assets Control (OFAC) does not clarify whether the oil price cap applies to some of the larger open registries that flag tankers such as Panama, Liberia, and the Marshall Islands. EU inclusion of flag registries includes those provided by the 27 member countries.

Classification, inspection, bunkering and pilotage services are excluded. This means that Danish pilots can continue to provide vital services in the Baltic Sea, and that many of Europe's classification societies that provide services to tankers are unaffected.

What proof needs to be gathered before providing service for Russian oil exports that fit the price cap criteria?

The most complete record-keeping and attestation process was outlined by OFAC in initial guidance in October with follow-up directions in November 2022. The UK Treasury department also addressed what it would accept as proof in its November guidance.

Shipping, freight, customs and insurance costs are not included in the price cap and have to be invoiced separately, but at "commercially reasonable rates" according to OFAC.

"OFAC would view the billing of commercially unreasonable shipping, freight, customs or insurance costs as a sign of the potential evasion of the price cap," its guidance said. EU guidance said that some market participants would need to adjust invoicing models to separately show the oil price, port of loading, and transport price

Service providers were divided into three different tiers:

Tier 1:

Defined as traders and commodities brokers. Must provide and retain invoices, contracts or receipts showing price at which Russian oil was purchased. The UK guidance said that these providers must "undertake sufficient due diligence to satisfy themselves based on the information available of the reliability and accuracy of that information" and must pass on the price to Tier 2 counterparts.

Tier 2:

Defined as finance institutions, ship agents, and customs brokers. Must request and retain documents proving compliance with oil price cap "to the extent practicable", according to OFAC. UK guidance said the Tier 2 providers must request price information or an attestation from Tier 1 counterparts and conduct sufficient due diligence. Transactions could not go ahead if Tier 2 providers didn't get a response from Tier 1 providers within five days, according to the UK government.

For transaction-related financing, institutions needed to have "appropriate and reasonable risk-based policies and procedures within sanctions compliance programs to confirm that the price does not exceed the relevant price cap", OFAC said. That could include origin of articles, date and unit price in trade and transaction information. If this wasn't possible, "signed attestations from their downstream customers or subcontractors" was needed. OFAC also advised ship agents and customs brokers to request price information "to the extent practicable" or obtain a signed attestation from their customer.

Tier 3:

Recognised as service providers that may not have direct access to price information, including insurers, P&I Clubs, shipowners and flagging registries, based on OFAC categories. According to OFAC, shipowners need attestations for each cargo, while insurers could use annual sanctions exclusion clauses to cover themselves. OFAC said signed attestations could also be used as an alternative or addition to clauses for marine insurers.

Flagging registries also could use contracts for customers that stated they would be de-flagged if they did not comply with the price cap, according to OFAC. If a customer or counterparty refused or was reluctant to provide documentation needed or an attestation, OFAC says that this should be a red flag. OFAC also stated that it was okay to "reasonably rely" upon certificates of origin for cargoes but warned service providers to exercise caution if they had reason to believe it had been falsified or may be erroneous. This was particularly important for Kazakh origin crude shipped via the CPC or Atyrau-Samara pipelines at Novorossiysk.

What is the price cap and how will it be reviewed?

The price cap was announced on Friday 2nd December as USD$60 per barrel.

About two-thirds of Russian crude was selling at nearly $11 below the oil price cap on that day, with Urals crude shipped from the Baltic port of Primorsk priced at $49.21 per barrel, and from Novorossiysk at $51.21 per barrel. (Source: Argus Media price assessment 2 December)

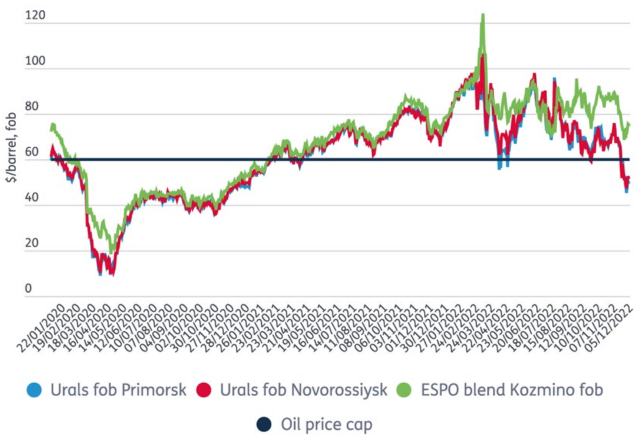
The $60 per barrel price cap is not fixed and will be adjusted over time to reflect market developments and technical changes, as agreed with the Price Cap Coalition (the G7 nations plus Australia), according to the European Commission. The first review will be held mid-January and every two months thereafter.

The EU promised member states a regular review of the price cap's effectiveness, acknowledging that there may be a "potential impact' on some countries and their maritime competitiveness. Unspecified "appropriate supportive measures" are promised by February 5 to assuage concerns from Malta, Greece, and Cyprus. Malta is the EU's largest flag registry and the world's sixth biggest. Along with Cyprus which has a significant international ship management base, Greece and Malta have seen shipowners exit and reflag with open registries in preparation for oil and refined product sanctions on Russia.

Reviews would aim for an oil price cap that was at least 5% below the average market price for Russian oil, the EC regulations said. There was no further information about the methodology for arriving at this figure, except that it would be "calculated in cooperation with the International Energy Agency".

Regulations did not acknowledge differences in prices between Russia's Urals and EFPO grades which currently trade at discounts to Brent crude, which on Friday closed at $85.57 per barrel. That compared with Urals grade loaded from the Russian Baltic Sea port of Primorsk, assessed at $49.20 per barrel, and $51.21 per barrel from Novorossiysk on the Black Sea. The price of ESPO blend from Kozmino was $75.16/bbl (Source: Argus Media price reporting agency). The average of these three prices was $58.79, below the price cap.

Russian oil price: Urals & ESPO blend, $/bbl



Source: Argus Media

Will the price cap apply if Russian oil is resold/reshipped/blended or undertakes a ship-to-ship transfer?

The price cap applies from sale from a Russian entity through to the first landed sale in another country and clears customs, or after it is "substantially transformed" into a different good, according to OFAC, EU and UK government guidance.

The price cap does not apply to any further onshore sales. However, if the oil is taken back on the water and uses maritime transport without being "substantially transformed", the price cap still applies. OFAC defines "substantially transformed" as refined products, which could be exported via maritime transport without being subject to the price cap.

UK Treasury guidance said that the maritime transportation ban included the transfer of goods between ships, while EU said that any Russian oil mixed with oil of another origin was subject to the price cap. "Ship-to-ship transfers for the transport of prohibited Russian oil are explicitly prohibited if purchased above the price cap," said EU guidance published December 3.

"No EU operator should conduct ship-to-ship transfers for the transport of Russian oil, if purchased above the price cap."

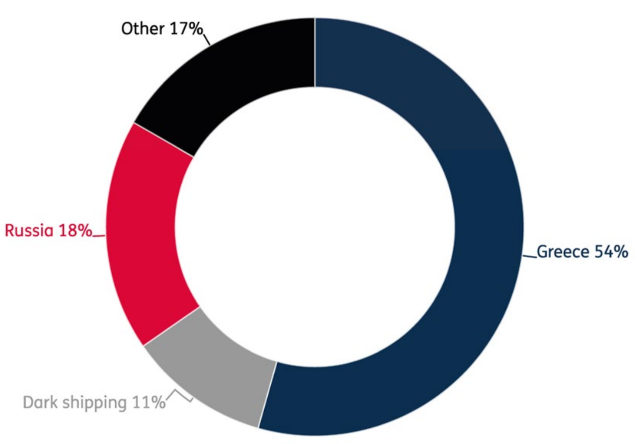
What percentage of EU shipowners were shipping Russian crude before the ban?

Over half of all tankers that called at key Russian oil export ports in November were Greek-owned, research from Lloyd's List using data from Lloyd's List Intelligence data show.

Ports monitored were the Baltic ports of Primorsk, Ust-Luga and St Petersburg, and the Black Sea ports of Novorossiysk and Tuapse. Pre-incursion data showed that about one third of tanker calls at Russian oil export ports were by Greek-owned ships.

Of the 172 tanker calls tracked at five ports during the month of November, 94 vessels were beneficially owned by some of Greece's biggest private shipping families, including Minerva Maritime, Thenamaris, Delta Tankers, and TMS Tankers. The combined tonnage of Greek-owned tankers was 9.4m dwt, 54% of total callings when measured this way.

Russian oil port export calls* (November)



Source: Lloyd's List Intelligence

*Tonnage over 20,000 dwt. Ports of Primorsk, Ust-Luga, St Petersburg, Novorossiysk, and Tuapse considered for this analysis. Data accurate as of November 2022

Seventeen per cent of tankers were Russian-controlled, and a further 11% were assessed as being part of what is now known as the 'dark' or 'shadow' fleet — vessels for which the owner is deliberately obscured, or because the ship has been previously engaged in US-sanctioned Iranian and Venezuelan trades.

Combined, the Russian and dark fleet vessels handled 44 of the 172 voyages monitored, or 28% by deadweight. This is well short of what is needed to maintain exports at current volumes ahead of the additional sanctions and price cap.

Aside from revealing a serious tonnage shortfall for Russian exports, the data also revealed the large percentage of tankers calling at ports that are flagged outside of the EU with open registries. Liberia accounted for 34% of tonnage as measured by deadweight, followed by the Marshall Islands at 21% and Panama at 11%. Greece and Malta totalled 8% and 11% respectively. Liberia is the registry of choice for Russian-owned tankers, which is why the percentage is higher than other open registries.

What are the exemptions?

EU regulations allow for a transitional period of 45 days for vessels carrying crude oil originating in Russia, which was purchased and loaded onto the vessel prior to 5 December 2022 and unloaded at the final port of destination before 19 January 2023. Maritime services can be provided during this period, EC guidance says.

Crude oil or petroleum products that originate in a third country and are being loaded from Russia, provided that both the origin and the owner of those goods are non-Russian, are allowed. This exemption particularly applies to grades from Kazakhstan that are loaded in tankers from terminals in Novorossiysk and via the CPC pipeline.

There are exemptions in the case of emergencies, such as any "significant impact" to marine or environmental safety or the environment, or human health. Some countries are exempted amid energy security concerns, including under some circumstances imports to Bulgaria, Croatia or land-locked EU member states.

Classification, inspection, bunkering and pilotage services are excluded.

What are the penalties?

If a third country-flagged vessel intentionally carries Russian oil above the price cap, EU operators will be prohibited from insuring, financing and servicing the vessel for further transport of Russian oil for 90 days after the cargo was delivered. UK-based ship operators who "knew or had reasonable cause to suspect" that oil was purchased above the oil price cap will be subject to UK penalties. The UK's maximum penalty is $1.2m.

Do importing countries have to be members of the Price Cap Coalition to allow maritime services to provide services for these cargoes, even if the cargo is sold at or below the oil price cap?

The rules are unclear.

The European Commission's wording defines countries who do not join the coalition as those that purchase oil above the price cap. It does not state what this means for buyers whose countries have not agreed to join, but purchase oil at or below the cap anyway.

Given current market prices on December 2, about two-thirds of Russian crude exports were sold at market prices below $60/bbl.

The EC guidance says merely: "the price cap allows our service providers to support shipments of Russian oil to other countries, if purchased below the price cap". This suggests that as long as attestation and other compliance procedures are followed the cargo can be shipped, even if countries are not stated members of the Price Cap Coalition.

China, Türkiye and India are the main buyers of Russian crude and their governments have not stated their support or otherwise for the oil price cap even though prices suggest they are obtaining oil at the lower cost. This alone achieves the ambition of "creating incentives for a coalition of third countries to trade at or below the cap, thereby pushing down prices and reducing Russia's revenues", according to guidance.

Russia has said that it will not participate in any oil price cap. Tankers tracked loading crude at ports in the first few days of the oil price cap were Russian-owned, suggesting they are operating outside of European service providers and insurance.

Our coverage and analysis in full

Throughout the year, we've been delivering unique coverage and analysis of the Russia-Ukraine crisis and its impact across the maritime industry. Below is a timeline of the most significant developments since the invasion began, with links to Lloyd's List analysis.

Russia-Ukraine conflict: Sanctions timeline

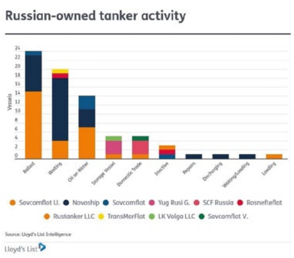
Sanctions against Russia as a result of its war in Ukraine continue to mount. Below is an interactive timeline of the most significant developments since the invasion began, with links to Lloyd's List analysis - select the text or images

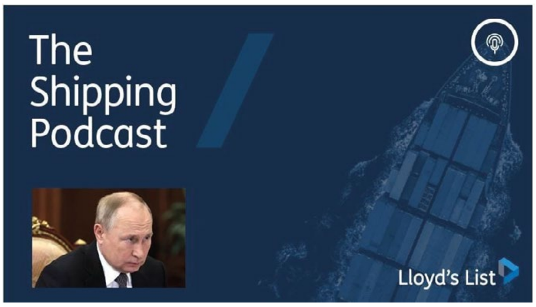
February 2022

The US Treasury's Office of Foreign Assets Control sanctions 5 Russian vessels as part of a broader action against Moscow

OFAC imposes financial restrictions on Sovcomflot, Russia's largest shipping company

London-based Joint War Committee designates Russian and Ukrainian waters in the Black Sea and the Sea of Azov as listed areas



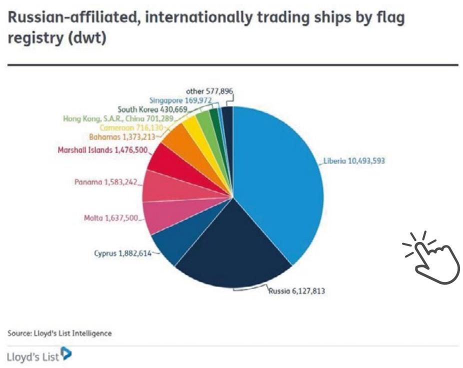


War in Ukraine Shocks Shipping

March 2022

UK bans Russian owned, operated, controlled, chartered, registered or flagged ships from entering UK ports

The EU's list of sanctioned oligarchs and Russian businesses impacts suppliers of marine services and equipment to Russia's shipbuilding sector

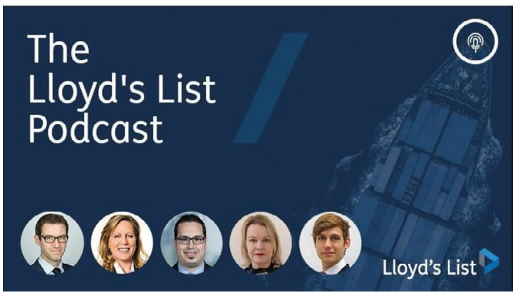


April 2022

The EU adopts 5th round of sanctions against Russia, targeting trading of bulk commodities inc coal, wood, cement and fertilisers and bans Russian vessels from EU ports

The US follows the UK, EU and Canada in prohibiting all Russia-linked ships from US ports as of April 28

Multiple P&I clubs cancel liability insurance for Sovcomflot vessels



How to Navigate Sanctions Risk

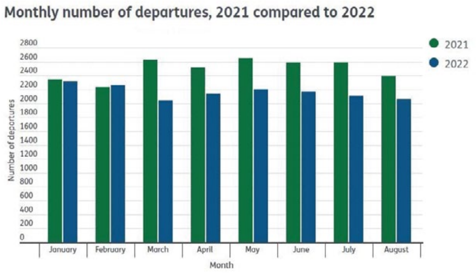
May 2022

European Commission president Ursula von der Leyen announces the EU will phase out crude oil imports from Russia over next six months and refined products by the end of the year

Lloyd's List analysis identifies evolution of ship-to-ship transfer network at anchorages off Greece, Malta and Russia as sanctions recalibrate Russian oil trade routes

August 2022

US Treasury announces fresh sanctions targeting associates of Russian president Vladimir Putin and businesses that generate revenue for Moscow, including MMK Metalurji Port in Turkey and two vessels with links to Russian businessmen

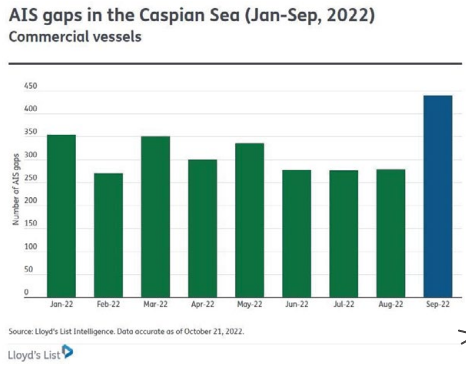


Russia and China behind 'high-risk' mid-Atlantic tanker transfer hub

September 2022

The G7 group of advanced economies — the US, the EU, Germany, France, Japan, Canada and the UK — agrees to place a price cap on Russian oil when EU sanctions begin on December 5

UK amends sanctions guidance to allow Russian food and fertiliser imports for food security reasons, while the EU waters down coal and fertiliser ban



November 2022

UK announces it will tighten existing restrictions to mirror EU rules on the provision of insurance for ships carrying Russian crude and products

UK proposes fines in excess of $1.2m for any company caught breaching the rules on the Russian oil price cap — significantly higher than US equivalents

US Treasury issues expanded guidance for shipping Russian crude and refined products under a new oil price cap

December 2022

The EU bans all seaborne Russian crude imports, with a fuel import ban to follow in February. It has also banned companies and individuals in the bloc from providing financing, brokerage, shipping and insurance services to ship Russian oil elsewhere if the crude was bought above a price cap of $60 a barrel that came into effect on Monday, December 5

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