UK DEFENCE CLUB

G7 Price Cap Exception FAQs

1. What is the price cap exception?

The G7 nations have agreed to implement a coordinated price cap on the sale price of oil to reduce the extent of price increases. The intention behind the price cap is to allow the export of Russian oil into world markets but limit Russia's revenue from those sales.

On 3rd December, 2022, the G7 agreed to set the price cap at $60 per barrel for crude oil. The price cap is adjustable in the future in order to respond to market developments.

The price cap takes effect after 5th December, 2022 for crude oil and 5th February, 2023 for refined petroleum products. A price cap for refined petroleum products will be finalised in due course. A wind down period applies for oil purchased above the price cap which has been loaded onto vessel prior to 5th December, 2022 and unloaded before 19th January, 2022.

The European Commission has published a Q&A on the application of the price cap, which can be found here.

2. How does it operate?

There is now a prohibition on G7 countries providing specified maritime services unless the Russian oil/petroleum products being carried fall at or below the agreed price cap, which is currently $60 per barrel.

Based on guidance published by the UK and US (further detailed below), the price cap exception relies upon an attestation process whereby each party in the maritime supply chain (including shipowners and insurers) will need to retain and share price information/attestations to demonstrate that the oil/oil products purchased are at or below the specified price cap.

We set out the current UK, EU and US positions in respect of implementing the price cap below.

3. How does the price cap interact with UK sanctions?

The HM Treasury Guidance on the price cap and the prohibition on maritime services can be found here. We would recommend that Members read the detailed guidance but we summarise some of the main points below.

Under UK sanctions, there is a maritime transportation ban on the delivery or supply of Russian oil or oil products falling within commodity codes 2709 (including crude petroleum oils and oils obtained from bituminous materials including clean condensate) or 2710 (non-crude petroleum oils and oils obtained from more than 70% or more bituminous materials, including HSFO, VGO, Kerosene) from Russia to a third country or from one third country to another third country.

The ban in respect of code 2709 products came into effect on 5th December, 2022 and the ban in respect of code 2710 products comes into effect on 5th February, 2023. In addition, it is also prohibited to provide 'associated services', which includes financial services, funds and brokering services, to anyone who is supplying or delivering by ship oil or oil products from the same dates. The legislation implementing the ban can be found here.

3. How does the price cap interact with UK sanctions? (cont.)

The price cap mechanism is, essentially, a limited exception to the above sanctions such that it is permitted to supply or deliver to a third country by ship Russian oil/oil products (and provide associated services) where they have been purchased or sold at or below the published price cap. The price cap exception, along with requirements relating to price sharing, attestations, reporting and record keeping, is set out in the relevant General Licence.

The price cap applies from receipt of cargo on to the ship up to the point where it is delivered and passes through customs control into a third country, or is substantially transformed into a different product. Russian oil/oil products will be considered to be at or below the price cap when the price per barrel is at or below the price cap at the date of the most recent transaction (being the most recent transaction in the period of time between the oil/oil products first being loaded onto the ship and offloading at a third country at the point which they pass through customs).

It is important to note that the price cap exception does not apply to the importation of Russian oil/oil products into the UK, which remains prohibited.

4. How does the price cap interact with EU sanctions?

In its eighth package of sanctions published on 6th October, 2022, the EU set out how the intended price cap mechanism would interact with the current restrictions. Following implementation of the price cap, it is now only permitted to carry Russian crude oil and other petroleum products to non-EU countries if the purchase price per barrel does not exceed the published price cap, which is currently $60 per barrel.

In addition, EU insurers/reinsurers can provide insurance cover provided that the purchase price is at or below the published price cap. If the price cap changes thereafter, there will be a 90-day wind down for contracts entered into before the date of the price cap change (provided those contracts comply with the previous price cap).

It is prohibited to import Russian crude oil into the EU from 5th December, 2022 and other petroleum products from 5th February, 2023. Based on the information provided in the EU's eighth package of sanctions, the implementation of the price cap has not changed that position and the importation of these goods is banned from the relevant dates.

5. What is the position in respect of the US implementation of the price cap?

The US Department of the Treasury issued preliminary guidance on the US implementation of the price cap and ban on maritime services (which includes trading/commodities brokering, financing, shipping, insurance, flagging and customs brokering) on 9th September, 2022 which can be found here. Further guidance was issued by OFAC on 22nd November, 2022, which can be found here.

There is a ban on the maritime transportation of Russian crude oil and petroleum products from 5th December, 2022 and 5th February, 2023 respectively. This is subject to a wind down period for Russian crude oil loaded before 5th December, 2022, provided it is discharged before 19th January, 2023.

5. What is the position in respect of the US implementation of the price cap? (cont.)

This is subject to an exception in respect of Russian oil or petroleum products purchased at or below the agreed price cap of $60 per barrel which are exported to third countries. The price cap applies from the date when the cargo is sold by a Russian entity for maritime transport up to the point where it is delivered and passes through customs clearance in a third country, or when it is substantially transformed into a different product.

The price cap exception does not apply to the importation of Russian crude oil and petroleum products into the United States, which remains prohibited.

6. What attestations are required?

If Members are carrying Russian origin oil it will be necessary to complete a simple attestation form in relation to any particular voyage in which the Member seeks the assistance of the Association. A copy of the form can be found here. It is likely that a similar form will be required in due course in relation to Russian petroleum products.