Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom

COMMISSION DELEGATED REGULATION (EU) 2018/1100

of 6 June 2018

amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom[(1)], and in particular the second paragraph of Article 1 thereof,

Whereas:

(1) Regulation (EC) No 2271/96 counteracts the effects of the extra-territorial application of laws, including regulations and other legislative instruments adopted by third countries, and of actions based thereon or resulting therefrom, where such application affects the interests of natural and legal persons in the Union engaging in international trade and/or the movement of capital and related commercial activities between the Union and third countries.

(2) The Regulation acknowledges that by their extra-territorial application, such instruments violate international law.

(3) The third-country instruments to which Regulation (EC) No 2271/96 applies are specified in the Annex to that Regulation.

(4) On 8 May 2018, the United States announced they will no longer waive their national restrictive measures relating to Iran. Some of those measures have extra-territorial application and cause adverse effects on the interests of the Union and the interests of natural and legal persons exercising rights under the Treaty on the Functioning of the European Union.

(5) The Annex to the Regulation should therefore be amended to include those restrictive measures,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2271/96 is replaced by the Annex to this Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1100. (See end of Document for details)*

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 June 2018.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1100. (See end of Document for details)*

ANNEX

LAWS, REGULATIONS AND OTHER LEGISLATIVE INSTRUMENTS

Note: The main provisions of the instruments contained in this Annex are summarised only for information purposes. The full overview of provisions and their exact content can be found in the relevant instruments.

COUNTRY: UNITED STATES OF AMERICA

ACTS

1. **'National Defense Authorization Act for Fiscal Year 1993', Title XVII 'Cuban Democracy Act 1992', sections 1704 and 1706**

Required compliance:

The requirements are consolidated in Title I of the 'Cuban Liberty and Democratic Solidarity Act of 1996', see below.

Possible damages to EU interests:

The liabilities incurred are now incorporated within the 'Cuban Liberty and Democratic Solidarity Act of 1996', see below.

2. **'Cuban Liberty and Democratic Solidarity Act of 1996'**

Title I Required compliance:

To comply with the economic and financial embargo concerning Cuba by the USA, by, inter alia, not exporting to the USA any goods or services of Cuban origin or containing materials or goods originating in Cuba either directly or through third countries, dealing in merchandise that is or has been located in or transported from or through Cuba, re-exporting to the USA sugar originating in Cuba without notification by the competent national authority of the exporter or importing into the USA sugar products without assurance that those products are not products of Cuba, freezing Cuban assets, and financial dealings with Cuba.

Possible damages to EU interests:

Prohibition to load or unload freight from a vessel in any place in the USA or to enter a USA port; refusal to import any goods or services originating in Cuba and to import into Cuba goods or services originating in the USA, blocking of financial dealings involving Cuba.

Title III and Title IV Required compliance:

To terminate 'trafficking' in property, formerly owned by US persons (including Cubans who have obtained US citizenship) and expropriated by the Cuban regime. (Trafficking includes: use, sale, transfer, control, management and other activities to the benefit of a person).

Possible damages to EU interests:

Legal proceedings in the USA, based upon liability already accruing, against EU citizens or companies involved in trafficking, leading to judgments/decisions to pay (multiple) compensation to the USA party. Refusal of entry into the USA for persons involved in trafficking, including the spouses, minor children and agents thereof.

3. **'Iran Sanctions Act of 1996'**

Required compliance:

Not to knowingly:

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1100. (See end of Document for details)*

(i) invest in Iran at least USD 20 million during a period of 12 months that directly and significantly contributes to the enhancement of the Iranian ability to develop their petroleum resources;

(ii) provide to Iran goods, services or other types of support any of which is worth USD 1 million or more, or of aggregate value of USD 5 million or more over a period of 12 months, that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products or its ability to develop petroleum resources located in Iran;

(iii) provide to Iran goods, services or other types of support any of which is worth USD 250 000 or more, or of aggregate value of USD 1 million or more over a period of 12 months, that could directly and significantly contribute to the maintenance or expansion of Iran's domestic production of petrochemical products;

(iv) provide to Iran (a) refined petroleum products or (b) goods, services or other types of support which could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, any of which is worth USD 1 million or more, or of aggregate value of USD 5 million or more over a period of 12 months;

(v) participate in a joint venture for the development of petroleum resources outside of Iran established on or after 1 January 2002 and in which Iran or its Government has particular interests;

(vi) be involved in the transport of crude oil from Iran or conceal the Iranian origin of cargo consisting in crude oil and refined petroleum products;

Possible damages to EU interests:

Measures to limit imports into USA or procurement to USA, prohibition of designation as primary dealer or as repository of US Government funds, denial of access to loans from US financial institutions or transfers through such institutions, prohibition of transactions in foreign exchange subject to the jurisdiction of the USA, export restrictions by USA, prohibition of property transactions subject to the jurisdiction of the USA, or refusal of assistance by EXIM-Bank, landing and port-calling restrictions for vessels.

4. **‘Iran Freedom and Counter-Proliferation Act of 2012’**

Required compliance:

Not to knowingly:

(i) provide significant support, including by facilitating significant financial transactions, or goods or services, to or on behalf of certain persons operating in the ports, energy, shipping, or shipbuilding sectors in Iran, or any Iranian person included in the list of specially designated nationals and blocked persons;

(ii) trade with Iran in significant goods and services used in connection with the energy, shipping or shipbuilding sectors of Iran;

(iii) purchase petroleum and petroleum products from Iran and conduct financial transactions related with them, in specific circumstances;