

Treasury
Customs and Excise Division

Sanctions Notice 41

European Union Sanctions

Ukraine/Russia



March 2014
(Updated 25 November 2015)



Isle of Man
Government

Reilts Ellan Vannin

About this Notice

This Notice draws attention in convenient form to measures designed to impose restrictive measures in respect of Ukraine.

This Notice provides guidance on aspects of the measures having effect in the Isle of Man, and should be read in conjunction with any order or regulations giving effect to those measures in the Island.

The Treasury has appointed its Customs and Excise Division to act for the purposes of enforcing sanctions measures. Accordingly, certain powers have been delegated by the Treasury to the Division.

Enquiries concerning this Notice should be addressed to the Sanctions Officer at—

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Tel: (01624) 648138
Fax: (01624) 661725
Email: customs@gov.im
Website: <http://www.gov.im/categories/tax,-vat-and-your-money/customs-and-excise/>

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



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Directions to all Financial Institutions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Division. Financial Institutions **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Division.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Division and co-operate in any verification of the information.

Introduction

NOTE

There are 4 distinct categories of sanctions applied in respect of the Ukraine by the EU, these -

- a. relate to "misappropriation and human rights", first implemented by the EU on 6 March 2014 by means of Regulation 208/2014, and are concerned with the misappropriation of state funds and human rights violations;
 - b. relate to those concerned with "undermining and threatening the sovereignty and territorial integrity of Ukraine", as first implemented by the EU on 17 March 2014 by means of Regulation 269/2014. The criteria for applying sanctions under this Regulation was amended by the EU on 25 July 2014 to allow for the listing of natural or legal persons who actively provide material or financial support to, or are benefiting from, the Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Eastern Ukraine;
 - c. involve restrictions on goods originating in Crimea or Sevastopol and on the provision, direct or indirect, of financing or financing assistance, as well as insurance and reinsurance, related to the import of such goods, implemented by means of Regulation 692/2014; amended by Regulation 825/2014 to include a ban on new investments related to infrastructure in the sectors of transport, telecommunications and energy and the exploitation of natural resources in Crimea and Sevastopol and an export ban on key equipment and technology related to those sectors; and
 - d. with the adoption of Regulation 833/2014 on 31 July 2014, measures targeting Russia more directly, including an arms embargo and related restrictions, restrictions relating to the supply of certain technologies related to energy, oil and gas, a prohibition on certain technical and financial assistance, and limited economic sanctions.
1. Following the civil unrest in Ukraine and the ousting of the former president, on 5 March 2014 the Council of the European Union adopted Council Regulation (EU) No

208/2014 which imposed financial sanctions on a number of persons identified as responsible for the misappropriation of Ukrainian state funds and persons responsible for human rights violations in Ukraine. This Regulation came into effect on 6 March 2014.

2. On 10 March 2014, the European Union (Ukraine Sanctions) Order 2014 [SD 2014/0092] applied Council Regulation 208/2014/EU in Island law. At the same time, the Ukraine Sanctions Regulations 2014 [SD 2014/0093] provided for offences and penalties for breaches of the Council Regulation, and allowed for authorisations, derogations and licenses that may be permitted by the Treasury.

Following the discovery of an error in the original Order, on 11 March 2014 the European Union (Ukraine Sanctions) (No. 2) Order 2014 [SD 2014/0101] was made to revoke and reapply the measures. At the same time, the Ukraine Sanctions (No. 2) Regulations 2014 [SD 2014/0102] replaced the original regulations.

3. The Council of the European Union also adopted Council Decision 2014/119/CFSP, which came into force on 5 March 2014.
4. Council Regulation (EU) No 208/2014 required all funds and economic resources belonging to, owned, held or controlled by listed persons to be frozen; and that no funds or economic resources were to be made available, directly or indirectly, to such listed persons.
 - 4A. The continued crisis over Ukraine, and in particular in Crimea, led to further US and EU sanctions being imposed.
 - 4B. On 17 March 2014, the EU adopted Council Regulation (EU) No 269/2014 and Council Decision (EU) No 2014/145/CFSP. The new Regulation included a freeze on the funds and economic resources belonging to, owned or controlled by listed natural and legal persons, and entities or bodies associated with them. These persons were said to be those identified as being responsible for actions which undermined or threatened the territorial integrity of Ukraine, and those persons, entities or bodies associated with such persons. The Regulation also provided that no funds or economic resources were to be made available, directly or indirectly, to such listed persons.
 - 4C. On 18 March 2014, Council Regulation 269/2014/EU was applied in Island law by means of the European Union (Territorial Integrity, Sovereignty and Independence of Ukraine Sanctions) Order 2014 along with the Territorial Integrity, Sovereignty and Independence of Ukraine Sanctions Regulations 2014.
 - 4D. On 15 May 2014 Council Regulation (EU) No. 476/2014, amending Regulation 269/2014, came into operation in the Island, applied by SD 2014/0194. This widened the criteria for listing persons and entities. At the same time, regulations (SD 2014/0195) came into operation.
 - 4DA. On 24 June 2014, the EU adopted Regulation 692/2014 which gave effect to certain measures provided for in Decision 2014/386/CFSP, in particular, restrictions on goods originating in Crimea or Sevastopol and on the provision, direct or indirect, of financing or financial assistance, as well as insurance and reinsurance, related to the import of such goods, in response to the illegal annexation of Crimea and Sevastopol.

On 25 July 2014 this was amended by means of Regulation 825/2014 to also provide for a ban on new investments related to infrastructure in the sectors of transport, telecommunications and energy and the exploitation of natural resources in Crimea and Sevastopol and an export ban on key equipment and technology related to those sectors. Where contracts had existed before 30 July 2014, and subject to at least 10 days prior notice being given to the “competent authority” (which would be the Treasury in the Island, once the new restrictions were implemented), work could continue until 28 October 2014. The mineral resources and key infrastructure equipment and technology referred to in the amended Regulation were included in new Annexes added to Regulation 692/2014.

- 4E. On 19 July 2014, Council Regulation (EU) No 783/2014 amended Regulation 269/2014 and extending criteria for listing of those subject to economic sanctions. This followed a decision of the European Council on 16 July 2014 to target entities, including the Russian Federation, that were materially or financially supporting actions undermining or threatening Ukraine’s sovereignty, territorial integrity and independence.
- 4F. On 25 July 2014, by means of Regulation 811/2014, the EU further modified the criteria for listing individuals and entities under Regulation 269/2014, amending that Regulation to replace Article 3(1). Thus the criteria was extended to include -
- those legal persons, entities and bodies in Crimea or Sevastopol whose ownership had been transferred contrary to Ukrainian law;
 - those legal persons, entities or bodies which benefited from such a transfer; and
 - any natural or legal person, entity or body actively providing material or financial support to, or benefiting from, Russian decision-makers responsible for the annexation of Crimea and Sevastopol or the destabilisation of Eastern Ukraine.
- 4G. On 8 August 2014, the following Orders and Regulations came into operation in the Isle of Man -

European Union (Annexation of Crimea and Sevastopol Sanctions) Order 2014 [SD 2014/0255]

This applied in Island law Council Regulations (EU) Nos. 692/2014 and 825/2014 which imposed restrictions following the illegal annexation of Crimea and Sevastopol and provide for a ban on imports from Crimea and Sevastopol, and restrictions involving new investment related to infrastructure sectors of transport, telecommunications and energy, and the exploitation of natural resources in the region, as well as an export ban on key equipment and technology related to those sectors.

Annexation of Crimea and Sevastopol Sanctions Regulations 2014 [SD 2014/0256]

These Regulations provide for offences and penalties in connection with contravention of the restrictions contained in Council Regulation (EU) No 692/2014 (as amended by Regulation 825/2014), as well as information powers for the Treasury.

European Union (Territorial Integrity, Sovereignty and Independence of

Ukraine Sanctions) (Amendment) (No. 2) Order 2014 [SD 2014/0257]

This Order applied in Island law Council Regulation (EU) No 811/2014, which amended Regulation 269/2014, expanding the criteria for designating those subject to sanctions so as to allow for the inclusion of individuals and entities who actively provide material or financial support to, or are benefiting from, the Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Eastern-Ukraine.

Territorial Integrity, Sovereignty and Independence of Ukraine Sanctions (Amendment) (No. 2) Regulations 2014 [SD 2014/0258]

These Regulations provide for penalties and offences for contravention of Council Regulation (EU) No. 269/2014, as amended by Regulation 811/2014, as well as providing that the Treasury is able to issue licences where permitted by the amended Regulation.

European Union (Russia Sanctions) Order 2014 [SD 2014/0265]

This Order applied in Island law Council Regulation (EU) No. 833/2014, concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. The measures include an arms embargo and related restrictions, restrictions relating to the supply of certain technologies related to energy, oil and gas, a prohibition on certain technical and financial assistance, and limited sanctions prohibiting the involvement in certain bonds, securities etc with a maturity of more than 90 days issued by or on behalf of 4 named banks.

Russia Sanctions Regulations 2014 [SD 2014/0266]

These Regulations provide for offences and penalties for contravention of the restrictions contained in Regulation 833/2014, as well as providing the Treasury with licensing and information powers.

As a result, as of 8 August 2014, sanctions measures in the Island were brought into line with those in force in the UK.

4H. Following publication in the Official Journal of the European Union of Corrigendum to Council Regulation (EU) No 833/2014, the following Orders and Regulations have been revoked -

- European Union (Russia Sanctions) Order 2014 [SD 2014/0265]; and
- Russia Sanctions Regulations 2014 [SD 2014/0266]

and replaced by the European Union (Russia Sanctions) (No. 2) Order 2014 [SD 2014/0290] and Russia Sanctions (No. 2) Regulations 2014 [SD 2014/0291].

Following the subsequent correction of errors in Regulation 833/2014, on 26 August 2014 -

- the European Union (Russia Sanctions) (No. 2) Order 2014 [SD 2014/0290] revoked and replaced SD 2014/0265;
- the Russia Sanctions (No. 2) Regulations 2014 [SD 2014/0291] revoked and replaced SD 2014/0266.

- 4J. On 12 September 2014 the EU further extended the scope of its sanctions by means of Council Regulations 959/2014/EU and 960/2014/EU. These new measures added 24 additional individuals to the lists of those subject to sanctions, and imposed additional restrictive measures against Russian entities in view of Russia's actions in destabilising the situation of Ukraine. New restrictions included those on -
- Transferable securities and money market instruments issued by Russian banks, military equipment and oil businesses listed under Regulation 960/2014/EU; and
 - Loans to any of those entities (with some limited exceptions); and
 - Any legal person, entity or body owned by, or acting on behalf of, or at the direction of any of those listed entities may also be subject to the restrictions.

Regulation 960/2014/EU also replaced the definition of "brokering" formerly used with "investment services" and provides a new definition of "transferable securities".

It should be noted that the restrictions in Regulation 833/2014/EU are not limited to financial restrictions, but also include import and export restrictions, financial and technical assistance and brokering services, as well as investment, insurance and reinsurance activities. These measures are supplemented by export and trade control law changes that provide for offences and penalties linked to the restrictions in Regulation 833/2014/EU as amended.

Regulation 960/2014/EU extended restrictions on the sale, supply, transfer or export of key equipment and technology for use in the oil or shale oil industries to associated services - drilling, well testing, logging and completion services, and supply of specialised floating vessels.

- 4K. On 18 September 2014, the European Union (Russia Sanctions) (No. 3) Order 2014 and the European Union (Territorial Integrity, Sovereignty and Independence of Ukraine Sanctions) (Amendment) (No. 3) Order 2014 came into operation and applied in Island law Council Regulations (EU) No. 959/2014 and 960/2014. At the same time, the Russia Sanctions (No. 3) Regulations 2014 and the Territorial Integrity, Sovereignty and Independence of Ukraine Sanctions) (Amendment) (No. 3) Regulations 2014 were made to amend the offences, penalties, licensing and information powers accordingly.
- 4L. On 6 December 2014, Council Regulation (EU) No 1290/2014 came into force. This amended Regulations 833/2014 and 960/2014 in an attempt to clarify the scope and application of existing provisions. In doing so, it imposed no new sanctions, though it did have the effect of extending certain sanctions measures to a number of additional entities in Russia.

Regulation 1290/2014 replaced "deep water oil exploration and production, arctic oil exploration and production, or shale oil projects" with a fuller, more precise definition of the sectors affected. It also made clear that the restrictive measures in Article 3, 3a and 4(3) of Regulation 833/2014 applied to Russia's Exclusive Economic Zone and Continental Shelf, and that any derogations allowed for pre-existing contracts and agreements also applied to ancillary contracts necessary for the execution of those

contracts and agreements. The amendments also allowed for licensing where human health or safety, or the environment, was under threat, and clarified what certain types of pump (in CN 8413 50 and 8413 60) were caught by sanctions.

Article 1(6) of Regulation 1290/2014 also amended Article 5 of Regulation 833/2014 in respect of loans, and drawdowns and disbursements.

Regulation 1290/2014 was applied in the Island with effect from 19 December 2014 by means of the European Union (Russia Sanctions) (Amendment) (No. 3) Order 2014, with necessary amendment also being made separately to the Russia Sanctions (No. 3) Regulations 2014.

- 4M. On 17 December 2014 the EU Foreign Affairs Council resolved to reinforce sanctions against Russia following the illegal annexation of Crimea and Sevastopol. With effect from 20 December 2014, investment in those places was prohibited, Europeans and EU-based companies would no longer be permitted to buy real estate or entities there, or to finance Crimean companies or supply related services. In addition, the supply of tourism services, in particular visits by European cruise ships (except in cases of emergency), were banned, although existing cruise contracts would be allowed to continue to use until 20 March 2015.

The export of goods and technology concerned with the transport, telecommunications and energy sectors or with the prospecting for, exploration and production of oil, gas and mineral sources is prohibited; this being in addition to the pre-existing import ban on goods from the Crimea and Sevastopol, and restrictions on trade and investment in certain economic sectors and infrastructure projects.

These further restrictions were imposed by means of Council Regulation (EU) No 1351/2014, with effect from 20 December 2014.

- 4N. The European Commission issued a guidance note dated 16 December 2014 on the implementation of certain provisions of Regulation (EU) No 833/2014, including its financial sanctions aspects. This guidance is contained in a Commission Notice available at -

http://europa.eu/newsroom/files/pdf/c_2014_9950_en.pdf

- 4O. On 20 January 2015 the European Union (Annexation of Crimea and Sevastopol Sanctions) (Amendment) Order 2015 [SD 2015/0036] came into operation, applying Council Regulation (EU) No 1351/2014 in the Island. This was followed on 6 February 2015 by the European Union (Ukraine Sanctions) (Amendment) Order 2015 [SD 2015/0066], which applied Council Regulation (EU) No 2015/38 in the Island. At the same time as each of these Orders, corresponding amendments were made to the Island regulations concerned with the enforcement, penalties, offences and licences.

Council Regulation (EU) No 1351/2014, which amended Regulation 692/2014, extended restrictions in respect of Crimea and Sevastopol, providing for a ban on all foreign investments in the region, and on services directly related to the investment ban, as well as services related to tourism (including cruise ships calling there), and in the sectors of transport, telecommunications, energy and exploitation of oil, gas and minerals. The Regulation also broadened an existing prohibition on the export of goods and technology in the transport, communications, energy and oil and gas

exploitation sectors.

Council Regulation (EU) No 2015/38, which amended Regulation 208/2014, made changes to Article 3 of Regulation 208/2014 so as to clarify the criteria for the freezing of funds targeting those persons identified as being responsible for the misappropriation of state funds.

4P. On 26 February 2015 the European Union (Annexation of Crimea and Sevastopol Sanctions) (Amendment) (No. 2) Order 2015 [SD 2015/107] came into operation and applied Council Regulation (EU) No 1351/2014 in Island law to the extent that it did not already have effect. At the same time the Annexation of Crimea and Sevastopol Sanctions Regulations 2014 were amended to take account of the application of this latest EU Regulation.

4Q. On 2 October 2015, Council Decision 2015/1764/CFSP came into force, amending Decision 2014/512.CFSP to reduce the restrictions on certain chemicals used as or for rocket fuel. The changes affected -

- the sale, supply, transfer or export, import, purchase or transport of hydrazine in concentrations of 70% or more;
- the import, purchase or transport of unsymmetrical dimethyl hydrazine;
- the sale, supply, transfer or export, import, purchase or transport of monomethyl hydrazine,

for use in launchers operated by the European launch service providers, or for use in launches of European space programmes, or fuelling satellites by European satellite manufacturers, but subject to limits on total quantity per export.

The prohibitions on the provision of technical assistance, brokering services and other services, and the financing or financial assistance relating to the above were also lifted.

The changes took effect from 9 October 2015, and were subject to proper authorisation by the relevant competent authority of a Member State.

Regulation 2015/1797 was applied in the Island by means of the European Union (Russia Sanctions) (Amendment) Order 2015 [SD 2015/0351] with effect from 26 October 2015, with consequential amendments being made at the same time to the Russia Sanctions (No. 3) Regulations 2014.

5. Competent authorities were permitted to authorise the release of frozen funds or economic resources under certain circumstances, including -

- a. for the basic needs of those persons etc and dependent family members;
- b. for the payment of reasonable professional fees and expenses connected to the provision of legal services;
- c. for the payment of fees or service charges for the routine handling or maintenance of frozen funds or economic resources;

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- d. for extraordinary expenses; and
 - e. for funds or economic resources subject to an arbitral decision, judicial or administrative decision rendered prior to the date when the person concerned was listed - with any funds or economic resources being used solely to satisfy that decision, and only where the decision does not benefit the listed person.

In any case, the release would be subject to a formal application to the competent authority, and being authorised by a licence granted by the competent authority.

6. Council Regulations 208/2014/EU and 269/2014/EU also prohibited any participation, knowingly and intentionally, to circumvent the sanctions measures.
7. The EU also issued Notices explaining how anyone affected by the Regulation or Council Decision could make an appeal to -

Council of the European Union
General Secretariat
DG C 1C
Rue de la Loi/Wetsstraat 175
1048 Bruxelles/Brussel
Belgique/België
Email: sanctions@consilium.europa.eu

Alternatively, anyone affected could take an appeal to the General Court of the European Union.

- 7A. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information to the Treasury is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

Effects of the financial sanctions in the Isle of Man

8. Under the terms of the Council Regulations, as applied in the Island -
 - all funds and economic resources belonging to, owned, held or controlled by listed persons must be frozen;
 - no funds or economic resources should be made available, directly or indirectly, to or for the benefit of listed persons;
 - participating, knowingly and intentionally, in activities the object or effect is, directly or indirectly, to circumvent the above measures is prohibited.

-
9. All funds and economic resources belonging to, owned or controlled by listed persons held by banks, building societies, stockbrokers, accountants etc must be frozen. No payment shall be made from a frozen account, including to another frozen account, without written authorisation from the Treasury. This includes the deduction of fees or service charges for routine holding or maintenance of such accounts.
 10. Loans and other forms of credit should not be made available to listed persons.
 11. Payments due under contract, agreements or obligations, that were concluded or arose before the date on which the listed person's listing took effect in the Island, provided that such interest etc is frozen. Interest and other earnings may also be added to frozen accounts. Funds transferred to the account of a listed person must also be frozen, and the Treasury Sanctions Officer notified as soon as practicable.

Licences and other exemptions

12. No funds or economic resources may be made available, directly or indirectly, unless authorised by a licence in writing issued by the Treasury.

Prohibition on import of goods originating in Crimea and related matters

- 12A. On 23 June 2014, the EU adopted Council Regulation (EU) No 692/2014, which imposed a prohibition on the import into the EU of goods originating in Crimea or Sevastopol. It also prohibited the provision, directly or indirectly, of financing or financial assistance, as well as insurance and reinsurance, related to the import of such goods.

Contracts concluded before 25 June 2014 could continue to be executed until 26 September 2014 (including necessary ancillary contracts), as long as the persons, entities or bodies involved had provided at least 10 working days advance notice of the activity or transaction concerned.

The restriction did not apply to goods that originated in Crimea or Sevastopol which had been made available to the Ukrainian authorities for examination in connection with preferential origin for goods in the trade between the EU and the Ukraine.

Any action, knowingly and intentionally, the object or effect of which was to circumvent the prohibition was itself prohibited by Regulation 692/2014.

Amendments to this Notice

13. New paragraphs 4A, 4B, 4C and 13 inserted, paragraphs 2, 5(e), 6, 7 and 8 amended, and paragraph 4 replaced 18 March 2014.
14. Paragraph 4D re SD 2014/0194 and SD 2014/0195 inserted 16 May 2014.
15. Paragraph 12A inserted 24 June 2014.
16. New paragraph 4E re Council Regulation (EU) No 783/2014 inserted 22 July 2014.

17. New paragraph 4F inserted re the extension of criteria for listing under EU Regulation 269/2014, 28 July 2014.
18. On 31 July 2014, a Note added on page 3 illustrating the 3 types of sanctions regime imposed by the EU, new paragraph 4DA re Regulation 692/2014 inserted and paragraph 4F amended, and the web link on page 7 replaced.
19. On 8 August 2014, the Note on page 3 was amended to include new category (d), and new paragraph 4G inserted re the implementation of a number of EU measures by the Island.
20. On 27 August 2014, new paragraph 4H was inserted.
21. Paragraph 4H amended and extended to mention two corrected SD, 9 Sept 2014.
22. New paragraph 4J re Council Regulations 959/2014/EU and 960/2014/EU added 15 September 2014.
23. On 18 September 2014, paragraph 4K inserted re the application of Regulations (EU) No. 959/2014 and 960/2014 in the Island.
24. New paragraph 4L re Regulation 1290/2014/EU inserted 8 December 2014.
25. New paragraphs 4M (re extended sanctions on Crimea and Sevastopol) and 4N (re a Q&E sheet issued by the EU) inserted 19 December 2014.
26. Paragraph 4L amendment to mention application of EU Regulation 1290/2014; paragraph 4M amended to mention Regulation 1351/2014; and the title of the Notice amended to become "Ukraine/Russia" (22 December 2014).
27. New paragraph 4O inserted 11 February 2015 re new SD 2015/0036 and 2015/0066.
28. New paragraph 4P re SD 2015/107 and 2015/208 inserted 9 March 2015.
29. New paragraph 4Q re easing of restrictions relating to certain space rocket fuel inserted 12 October 2015.
30. Paragraph 4Q amended on 6 November 2015 to reflect application of Regulation 2015/1797 by SD 2015/0351 with effect from 26 October 2015.
31. New "directions" substituted on page 3 and new paragraph 7A inserted 25 November 2015.

Isle of Man Customs and Excise website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases, Sanctions Notices and links to relevant websites and lists at <http://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

New or amended versions of this Notice will also be provided on that website.

Published by:
Isle of Man Customs & Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Telephone: (01624) 648100

Email: customs@gov.im

Website: <http://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/>

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Reilrys Ellan Vannin