UCNSW Response to Australian Senate Inquiry on Sanctions – 3 December 2024

Andrew Mencinsky of the Ukrainian Council of NSW (UNCSW) thanks the Senators for their further detailed question and further replies as follows:

Questions without notice:

1. Senator BIRMINGHAM *(page 20): Are there instances where your organisation or your volunteers are aware of assets held in Australia that may not have been identified by the AFP or other agencies tasked with looking at the extent of those assets?*

The UCNSW is not aware of any assets held in Australia that may not have been identified by the AFP or other agencies tasked with looking at the extent of those assets

2. Senator BIRMINGHAM *(page 21): Some of the submissions, including the Ukrainian submissions, have identified legislative gaps around the import of sanctioned goods which need to be closed. What is the nature of those gaps? What concerns do you have about Russia being still able to derive income or opportunity from gaps in the Australian sanctions regime?*

The Australian government has banned the export and import of a number of goods to and from Russia, including oil. On closer scrutiny, there exists however an anomalous loophole permitting sanctioning countries to import products made from Russian crude oil refined in third countries. Russia has pivoted and is using business from third-party refinement of crude oil as a 'backdoor' to source funds. This is a significant 'loophole' in Australia's sanctions regime - allowing revenues from crude oil refined in third-party countries to flow to Russia.

According to a July 2024 report by Finnish think tank Centre for "Research on Energy and Clean Air" (CREA), Australia is among countries continuing to import oil products refined in third-party countries from Russian crude. In the first six months of 2024, Australia reportedly imported more than 1.4 million tonnes of refined oil products from at least four refineries sourcing Russian crude - Jamnagar, New Mangalore and Vadinar refineries in India, and Qingdao Huangdao refinery in China.

Jamnagar refinery is owned by the multinational company Reliance Industries. In May 2024, Reuters reported that Reliance Industries signed a deal with Russia's Rosneft to buy at least 3 million barrels of oil a month in roubles. Rosneft is controlled by the Russian government.

According to CREA, in April 2023, Australia imported 20,056 tonnes of gas oil from India's Vadinar refinery owned by Nayara Energy the majority shareholder of which is Rosneft Rosneft and its management are sanctioned by Australia.

The intended objective of Australia's sanctions against Russia is to curtail funds to the Russia State and so exert financial pressure on Russia to cease its war in Ukraine. Australian companies buying Russian oil refined in India or China clearly and seriously undermines this objective. This is a significant loophole in Australia's sanctions regime - because it allows these revenues to flow directly back to Russia.

Aside from sanctions, Australia – together with the G7, European Union – are members of the oil 'Price Cap Coalition' the two key objectives of which are:

1. constraining Russian revenues which could otherwise be used to fund Russia's war of aggression against Ukraine; while
2. maintaining global oil flows and protecting energy security.

However, according to CREA, EUR 8.5 bn of Price Cap coalition Countries' imports of oil products between December 2022 and December 2023, were made from Russian crude – *the largest quantities by far being from India's Jamnagar and Vadinar refineries*. In 2023, there was a 44% year-on-year increase in sanctioning countries' imports of oil products, by volume, produced from Russian crude.

UCNSW requests the Australian Government to consider:

1. Sanctioning / banning:
   i. import of oil products produced from Russian crude oil regardless of origin,
   ii. Reliance Industries,
   iii. Nayara Energy,
   iv. The majority owner of China's Qingdao Huangdao refinery,
   v. the management of these companies.

   These measures will enhance the impact of Australia's sanctions - disincentivizing third countries from refining Russian crude and thereby curtailing Russian revenues.

2. Implementing tighter shipping measures including robust penalties for violations.

3. As a member of the Price Cap Coalition, Australia has a key role in advocating on the oil price cap. The key means to cut Russia's export revenues is to drive down the oil price cap. This would be deflationary, reducing Russia's oil export prices, necessitating Russia's increased oil production to make up for the drop in revenue. According to CREA, if a price cap of USD 30 per barrel had been established in December 2022, when oil sanctions were originally implemented, Russia's oil export earnings would have been reduced by 25% (EUR 37 bn).

4. There is a significant role too for the Australian Sanctions Office to play in raising awareness of Australian businesses that their Counter Party Due Diligence is 'alive' to the risk of doing business with companies majority owned by Russia, though outside Russia, or being used by Russia as 'backdoors' to foster its crude oil industry and to exercise vigilance along their supply chain, further than Tier 1 suppliers.

Links: Refining loophole widens: 44% increase in sanctioning countries imports of oil products from Russian crude in 2023 – Centre for Research on Energy and Clean Air; *https://www.sbs.com. au/language/russian/en/article/glaring-loophole-imports-of-sanctioned-russian-oil-products-to-australia/i3xwpeswq*

Pdf report: https://energyandcleanair.org/wp/wp-content/ uploads/ 2024/04/ CREA_PCC_Refined-Oil-Analysis_19.02.2024_Rev_15.04.2024.pdf

3. Senator CICCONE (page 22)**:** One of your recommendations, No. 5, says that the government should engage more proactively with civil society and the private sector, providing better access to sanctions data and resources. What kind of data and resources would you like better access to?

i. Australian governmental sanctions intelligence tools – investment

At the outset of Russia's war on Ukraine, in February - March 2022, the Australian government stated in the print and television media that it had implemented sanctions against Russia "in lock step" (alignment/unison) with UK and US.

Shortly after these statements, the Australian Federation of Ukrainian Organisations (AFUO) submitted to the Australian Deputy Prime Minister a list of fifty Russian oligarchs sanctioned by the UK and/or US and New Zealand – though not by Australia. As a direct consequence of the AFUO's submission, Australia implemented sanctions against the fifty oligarchs specified by the AFUO shortly following.

The sanctions intelligence processes and tools used by Australia in February-March 2022 omitted sanctioning a large number of Russian oligarchs. This may have been intentionally, by oversight - or Australia not possessing highest quality sanctions intelligence tools.

The AFUO sourced data for its submission from manually cross-checking publicly available sanctions lists of Australian, UK, US and New Zealand. This was a labour intensive, detailed process entailing scrutiny of detailed data - yet information on the fifty non-sanctioned oligarchs was revealed.

Service providers, such as Bureau van Dijk and Dow Jones, provide sanctions intelligence data bases and tools providing licensed ready access to comparative international sanctions data literally 'at the press of a button'. UCNSW looks to the Australian government to assure investment in the highest quality sanctions intelligence data bases and tools to avoid repetition of the sanctions oversight of February-March 2022.

2. Civil Society and Industry Liaison

UCNSW proposes that the Australian Sanctions Office augment its services with a team specifically tasked to undertake civil society and private sector liaison regarding sanctions implementation.

As a multi-cultural country engaged in international trade the touchpoints of sanctions with Australian-resident diaspora, industry, investors and financial services are many. The recent impact on the Australian-Ukrainian and Australian-Palestinian communities of war in their homelands illustrates this point.

Australian governmental action against, for example, Russia is weakened and undermined when Australian companies continue to operate in or to do business with Russia, in contravention of Australian sanctions – as was the case of Atlassian continuing business in Russia. The Australian government therefore needs to be proactive communicating to business on the practical impact of sanctions and implementing penalties for their breach.