



U.S. Marks One-Year Anniversary of Ukraine Conflict With New Economic Sanctions, Export Controls, and Tariffs Against Russia

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Last week, on the anniversary of Russia's invasion of Ukraine, the U.S. Departments of Treasury and Commerce adopted an extensive package of new economic sanctions and export controls targeting key industries, entities, and individuals in Russia and Belarus, and others supporting Russia's military. On the same day, the Biden Administration announced steep new tariffs on imports of hundreds of categories of Russian-origin metals, minerals, and chemical products. Collectively, these measures seek to cripple Russia's ability to support its military while increasing the associated economic toll for the war in Ukraine. They add to an already broad and complex set of rules for transacting business with Russia or Belarus and raise additional compliance risk for companies continuing to conduct business in those countries.

With the exception of certain tariffs, the new rules went into effect immediately upon their publication on Friday, February 24, 2023. The following offers an overview of the new rules, with particular focus on those having greatest impact on trade.

Economic Sanctions Measures

On February 24, 2023, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), in conjunction with the Department of State, imposed new economic sanctions targeting Russia's war efforts and key revenue-generating sectors of the Russian economy. The measures consist of (i) blocking sanctions against individuals and entities; (ii) a Sectoral Determination authorizing new sanctions against Russia's metals and mining sectors; (iii) four General Licenses carving out narrow categories of administrative and wind-down activities that would otherwise be prohibited under the sanctions; and (iv) new interpretive guidance on the new sanctions in the form of five Frequently Asked Questions (FAQs).

OFAC's announcement, available here, includes over 200 additions and revisions to its Specially Designated Nationals (SDN) and Blocked Persons List under authorities established by Executive Order (E.O.) 14024, of April 15, 2021. They include 22 individuals and 83 entities from Russia, various third-country actors, and others, including:

- Russian financial institutions;
- Russian government officials and proxy authorities operating in Ukraine;
- Entities operating in Russia's defense and technology industries and their Russian and non-Russian suppliers;
- Entities operating in Russia's metals and mining sectors; and
- Russian shipping company POLA RAIZ OOO and 22 vessels linked to the company.

In conjunction with these SDN designations, OFAC issued a new Sectoral Determination under E.O. 14024 authorizing sanctions against any person that is determined to operate or to have operated in the metals and mining sectors of the Russian Federation. Under newly issued FAQ No. 1115, OFAC will interpret these sectors to cover those engaged in "any act, process, or industry of extracting, at the surface or underground, ores, coal, precious stones, or any other minerals or geological materials in the Russian Federation, or any act of procuring, processing, manufacturing, or refining such geological materials, or transporting them to, from, or within the Russian Federation."

Absent a specific or general license issued by OFAC, U.S. persons and entities are prohibited from virtually all transactions involving SDNs or their property or property interest. This applies also to entities owned 50 percent or more by one or more SDNs.

Non-U.S. persons and entities are also exposed to possible OFAC sanctions when dealing with SDNs. Under E.O. 14024, OFAC can designate as an SDN any non-U.S. person or entity found to have "materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of" persons blocked under the E.O. In addition, non-U.S. persons and entities can be sanctioned for transactions that evade or avoid the sanctions, for causing a violation or attempting to violate the sanctions, or for participating in any conspiracy formed to violate the sanctions.

Export Controls

In parallel with OFAC, the U.S. Commerce Department's Bureau of Industry and Security (BIS) adopted a package of amendments to the Export Administration Regulations (EAR). These measures expand and strengthen existing controls on U.S. items destined for Russia, Belarus, and other countries and parties. They also align U.S. export controls with measures adopted in the EU and allied non-EU countries. The new rules, which are implemented through four separate notifications to the *Federal Register*, will impact significant volumes of remaining trade with Russia and Belarus, including through the following:

- Expanding the scope of the Russian and Belarusian industry sector restrictions (oil and gas

production, commercial and industrial items, chemical and biological precursors) and the "luxury goods" sanctions to include new categories of non-controlled industrial items (i.e., items classified for export as EAR99) now restricted for export to Russia and Belarus, as listed in Supplements 2, 4, 5, and 6 to Part 744 of the EAR;

- Expanding Supplement 4 to Part 744 of the EAR by adding 322 additional 6-digit Harmonized Tariff System (HTS) code entries corresponding to 322 industrial items that will require a license for export or reexport to or transfer within Russia or Belarus under EAR §746.5(a)(1)(ii), and also amending Supplement 4 to define the scope of items controlled according to their HTS-6 code, not their textual descriptions (as was previously indicated);
- Responding to findings of US-origin components in Iranian drones used in Ukraine by establishing new licensing requirements for certain EAR99 items ultimately destined for Iran and a new Foreign Direct Product Rule for Iran that applies to certain Export Control Classification Numbers (ECCNs) and designated EAR99 items;
- Adding 86 entities to the Commerce Department's Entity List for activities in support of Russia's defense-industrial sectors and the war in Ukraine, including 5 entities located in China, two in Canada, and one each in France, Luxembourg, and the Netherlands; and
- Designating 76 entities from the Entity List as "Russian/Belarusian Military End Users" under EAR §744.21, which carries strict prohibitions on exports, reexports and transfers (in-country) of items subject to the EAR and certain foreign direct products of U.S. technology, software, and equipment.

New Tariffs on Imports From Russia

Also on February 24, 2023, President Biden issued two Presidential Proclamations imposing additional tariffs on more than 100 Russian metals, minerals, and chemical products. The first, entitled "A Proclamation on Increasing Duties on Certain Articles from the Russian Federation," increases the "column 2" duty rate for imports of certain products of Russian origin. This includes doubling the ad valorem tariff rates on many metals and metal products from 35 percent to 70 percent and raising tariffs to 35 percent for certain mineral and chemical products. The increased rates become effective for goods imported into the United States on or after 12:01 am ET on April 1, 2023, until expressly reduced, modified, or terminated. The list of affected tariff codes is set forth in the Annex to the Presidential Proclamation, available [here](#).

The second Proclamation, entitled "A Proclamation on Adjusting Imports of Aluminum Into the United States," levies severe new tariffs on imported aluminum products smelted or cast in Russia. Issued under Section 232 of the Trade Expansion Act of 1962 (as amended), the new tariffs add to those adopted in 2018 for aluminum (and steel) imports from most countries. They will apply only to Russia, currently the fifth largest source of imported aluminum in the US, and will be implemented in two stages:

1. Stage 1 " beginning on March 10, 2023, a 200 percent ad valorem tariff on aluminum articles that are the product of Russia and derivative aluminum articles that are the product of Russia; and
2. Stage 2 " beginning on April 10, 2023, a 200 percent ad valorem tariff on aluminum articles where any amount of primary aluminum (i.e., new aluminum metal) used in the manufacture

of the aluminum articles is smelted in Russia, or the aluminum articles are cast in Russia, and derivative aluminum articles where any amount of primary aluminum used in the manufacture of the derivative aluminum articles is smelted in Russia, or the derivative aluminum articles are cast in Russia.

Under the aluminum tariff Proclamation, any country that imposes a tariff of 200 percent or more on its imports of aluminum articles that are products of Russia may be exempt from the tariffs. Importers will be required to provide to U.S. Customs and Border Protection information necessary to identify the countries from which the primary aluminum used in the manufacture of aluminum articles was imported.

While these new economic sanctions, export controls and tariffs against Russia are meant to have an impact on the war in Ukraine, they will undoubtedly have effects on the business community as a whole ? especially those in manufacturing. We will continue to share updates and insights as they become available.

This article contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with questions on specific issues should retain the services of competent counsel. For more information, please contact Chris Skinner, 202.293.8129 or cskinner@williamsmullen.com.

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