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International Trade & Regulatory ADVISORY ▪

MARCH 2, 2023

New U.S. Sanctions, Export Controls, and Tariffs Against Russia Mark the One-Year Anniversary of the Russian Invasion of Ukraine

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As the war in Ukraine moves into its second year, the United States and its allies continue to expand the unprecedented economic measures they started in February 2022 to punish and impede Russian hostilities. Our past advisories documented the buildup of this multinational endeavor, spearheaded by the actions of the United States. During the first month of the war, we issued advisories (on February 24, 2022, February 28, 2022, March 8, 2022, and March 25, 2022) documenting the rapidly evolving sanctions and export restrictions by the United States and other Western nations focused on Russian elites, Russian financial institutions, and major Russian industries and market sectors; cutting Russian banks from the SWIFT payment messaging system; and imposing sweeping export prohibitions on Russia (e.g., by the Russia Foreign Direct Product (FDP) Rule). Our advisory on June 7, 2022 detailed further actions taken by the United States, such as prohibitions on new investment in Russia; prohibitions related to certain accounting, trust and corporate formation, and management consulting services; expansion of restrictions against Russian industry sectors under the Export Administration Regulations (EAR); and further sanctions against Russian financial institutions, companies, and government figures, elites, and their family members.

Since our last advisory, U.S. sanctions and export controls have focused not only on Russian parties but on parties from third countries helping Russia evade sanctions and export controls. Additionally, the United States, along with other G7 nations and Australia, administered a wide-ranging ban on services that allow for the international maritime movement of Russian-origin crude oil and petroleum products. However, such services can be rendered if the crude oil or petroleum products are bought at or below a price cap decided by the collective nations observing and employing the price cap. See recent U.S. guidance on the price cap for crude oil and the price cap for petroleum products.

To mark the one-year anniversary of the Russian invasion, the United States and other countries issued more economic measures against Russia.

New U.S. Sanctions Against Russian and Third-Country Individuals, Entities, Financial Institutions, and Market Sectors

On February 24, 2023, the United States imposed sanctions on over 200 individuals and entities, including both Russian and third-country parties supporting Russia's war effort. In addition to Russian government officials and Russian defense and technology companies, more Russian financial institutions were sanctioned by the United States, further isolating the Russian financial market from Western banking and finance, including:

- Credit Bank of Moscow Public Joint Stock Company
- Joint Stock Company Commercial Bank Lanta Bank
- Public Joint Stock Company Commercial Bank Metallurgical Investment Bank (Metallinvestbank)
- Public Joint Stock Company MTS Bank
- Novosibirsk Social Commercial Bank Levoberezhny Public Joint Company
- Bank Saint-Petersburg Public Joint Stock Company
- Joint Stock Commercial Bank Primorye
- SDM-Bank Public Joint Stock Company
- Public Joint Stock Company Ural Bank for Reconstruction and Development
- Public Joint Stock Company Bank Uralsib
- Bank Zenit Public Joint Stock Company
- OOO Zenit Finance
- OOO Zenit Leasing
- OOO Zenit Factoring MSP

In addition to Russian entities active in the sanctions-evasion networks, the latest round of sanctions targeted over 30 third-country individuals and entities connected to Russia's evasion efforts. These include individuals and companies in Switzerland, Germany, the United Arab Emirates, Malta, Bulgaria, Estonia, Cyprus, the Czech Republic, the British Virgin Islands, and the Bahamas. Over the past year, the sanctions and export controls have damaged the ability of Russia to move funds through the international monetary system and import Western technology needed by its military. Russia has relied on these evasion networks to procure needed resources. We expect to see non-Russian parties involved in evasion to be increasingly sanctioned by the United States.

In addition to sanctioning various parties, the United States announced a determination targeting the Russian metals and mining sector to further erode the overall Russian economy. As a result, individuals and entities may be targeted under U.S. sanctions simply for their involvement in this sector.

New Export Controls Imposed Against Russia

In parallel with the latest round of U.S. sanctions, the Department of Commerce's Bureau of Industry and Security (BIS) issued new export controls to further curtail the export of U.S.-origin and certain foreign-made goods to both Russia and those providing material support to Russia. These new rules are:

- Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls. This rule revises existing export controls by:

  - Expanding the scope of the Russian and Belarusian Industry Sector Restrictions by adding additional items related to oil and gas production, commercial and industrial items, and chemical and biological precursors identified in Supplement Nos. 2, 4, and 6 to EAR Part 746.
  - Expanding the scope of the luxury goods sanctions as identified in Supplement No. 5 to EAR Part 746 to better align with similar sanctions imposed by U.S. allies and partners.
  - Adding Taiwan to Supplement No. 3 to EAR Part 746, which recognizes certain countries that are excluded from the license requirements of EAR Parts 746.7 and 746.8.
- Export Control Measures on Iran Under the Export Administration Regulations (EAR) to Address Iranian Unmanned Aerial Vehicles (UAVs) and Their Use by Russia Against Ukraine. This rule imposes new export control measures on Iran that are meant to address the use of Iranian-made UAVs by Russia. Specifically, this rule imposes the following restrictions:
  - Creates a new Supplement No. 7 to EAR Part 746 outlining a list of EAR99 items used in Iranian UAVs by HTS-6 code.
  - Creates a new Iran FDP rule to ensure that foreign-produced items identified in Supplement No. 7 to EAR Part 746 are subject to the EAR when destined to Russia, Belarus, or Iran, and that certain foreign-produced items specified in any ECCN in Commerce Control List Categories 3, 4, 5, or 7 are subject to the EAR when destined for Iran.
  - Revises the existing Russia/Belarus FDP rules to cover EAR99 items identified in the new Supplement No. 7 based on foreign-made parts identified in Russian weapon systems fielded in Ukraine.
- New Entity List Additions. In two separate actions, BIS also added 86 entities to the Entity List. Seventy-nine of these entities are under the country heading of Russia, five are based in China, two are based in Canada, and the remainder are based in France, Luxembourg, and the Netherlands. Seventy-six of the entities are designated as a Russian/Belarusian Military End User, a designation that includes a footnote 3 extending the Entity List restrictions to certain foreign-made items. These rules can be found here and here.

These new export controls took effect on February 24, 2023. We note that the new Iranian UAV-related export restrictions create yet another tool for BIS to continue to expand extraterritorial jurisdiction as new information comes to light based on the nature of foreign-made products used by Russian forces in Ukraine. We would expect Supplement No. 7 to EAR Part 746 to grow over the coming months.

Further Counter-Evasion Measures

The United States is also combatting sanctions and export controls evasion in other ways. On February 16, 2023, the Justice and Commerce departments launched the Disruptive Technology Strike Force, which is aimed at targeting illicit actors, strengthening supply chains, and protecting critical technological assets from being acquired or used by nation-state adversaries. According to a Department of Justice press release, "[t]he strike force's work will focus on investigating and prosecuting criminal violations of export laws; enhancing administrative enforcement of U.S. export controls; fostering partnerships with the private sector; leveraging international partnerships to coordinate law enforcement actions and disruption strategies; utilizing advanced data analytics and all-source intelligence to develop and build investigations; conducting regular trainings for field offices; and strengthening connectivity between the strike force and the Intelligence Community."

Additionally, the U.S. Treasury Department's Financial Crimes Enforcement Network recently released an alert on the potential Russian evasion of sanctions through financial investments in the U.S. commercial real estate market. While detailing several ways illegal investments could occur, the alert also lists red flags that U.S. financial institutions should be aware of that may indicate an investment in commercial real estate originates from a sanctioned party. These red flags include the use of a private investment vehicle that is based offshore to purchase real estate and that includes politically exposed persons or other foreign nationals; and the ownership of real estate through legal entities in multiple jurisdictions (often involving a trust based outside the United States) without a clear business purpose when there is limited discernable business value in the real estate investment or the investment is outside the client's normal business operations.

To counter Russian attempts to circumvent sanctions and export controls, the United States and other G7 nations established an Enforcement Coordination Mechanism for managing the enforcement of Russia sanctions between the nations, which will be chaired by the United States in the first year. The newly created body will strengthen information sharing between G7 nations and focus on companies and nations suspected of aiding Russia in circumventing sanctions, and it will explore future measures and penalties to interrupt the flow of restricted Western resources and technologies to the Russian military.

Biden Administration Announces Significant Tariff Increases on Aluminum, Metals, Minerals, and Chemical Products

On February 24, 2023, President Biden signed two proclamations concerning tariffs and released a fact sheet on new actions. One proclamation raises tariffs to 35 percent or 70 percent on certain Russian products imported to the United States, namely, Russian metals, minerals, and chemical products worth $2.8 billion to Russia, effective on April 1, 2023. The second proclamation imposes 200 percent tariffs on aluminum and derivative products from Russia, effective March 10, 2023, and could also impose 200 percent tariffs on products from third countries that use Russian aluminum or derivative products, effective April 10, 2023.

The United States placed restrictions on Russian imports shortly after the initial invasion of Ukraine. In Executive Orders announced on March 8 and 11, 2022, the United States prohibited the importation of Russian oil, coal, and oil and coal products; fish, seafood, and preparations thereof; alcoholic beverages; and nonindustrial diamonds. (See our previous advisory on these import bans.) The United States also suspended normal trade relations with Russia and Belarus, pursuant to the Suspending NTR Act, effective April 9, 2022. Since then, all imports of Russian and Belarusian origin have been subject to the duties in column 2 (non-most-favored nation) of the Harmonized Tariff Schedule of the United States, significantly increasing import duties on all Russian and Belarusian products. On July 27, 2022, the United States increased tariffs from the column 2 rates of duty to 35 percent on several products from Russia, including imports of steel, aluminum, iron, minerals, chemicals, and plastics.

With the February 24, 2023 proclamation increasing duties on certain articles from Russia, certain products that were already subject to a 35 percent duty, such as certain iron, steel, copper, nickel, aluminum, and lead products, will be subject to a 70 percent duty effective April 1, 2023. Additional products, such as mineral products, chemicals, platinum, rhodium, and other products, will be subject to a 35 percent duty. (See the full list of affected tariff codes.)

Russian aluminum imports have been subject to 10 percent additional duties since 2018, based on an action under Section 232 of the Trade Expansion Act of 1962. The February 24 proclamation significantly increases duties on Russian aluminum and derivative aluminum articles by imposing a 200 percent tariff on imports, effective March 10, 2023. Additionally, aluminum and derivative aluminum articles from any country where any amount of primary aluminum used in manufacturing is smelted or cast in Russia will become subject to a 200 percent duty, effective April 10, 2023, unless that country imposes a 200 percent tariff on its own imports of Russian aluminum.

Conclusion

At the one-year anniversary of the initial invasion, the United States and its allies continue to enact sanctions and export controls focusing on impairing the Russian military and broad segments of the economy and isolating the financial sector and individuals and entities that, directly or indirectly, provide support to Russian activities in Ukraine. As the ways to circumvent sanctions and export controls continue to evolve, previous measures to combat evasion will expand, such as focusing on sanctioning parties in third countries, and new measures will be instituted, such as the creation of the G7's Enforcement Coordination Mechanism, to hinder such activity. Newly imposed tariffs on Russian goods will further isolate the Russian economy from Western sources of revenue. Companies should adjust their compliance measures based on these recent developments and prepare for future economic measures against Russian individuals and businesses.

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