



11 May 2022

Minister of Foreign Affairs

For approval by

13 May 2022

Russia Sanctions – Additional Belarusian Leaders and Defence Entities

BRIEFING Decision Submission

PURPOSE To provide for your consideration information on 23 Belarusian leaders and 4 defence entities that may be designated under the Russia Sanctions Act 2022; and to seek your agreement to extending prohibitions on 12 Belarusian individuals already designated, and further "continuous improvements" amendments to the Regulations.

Tukunga tūtohua – Recommended referrals

Prime Minister	For information by	13 May 2022
Deputy Prime Minister	For information by	13 May 2022
Minister Responsible for the GCSB	For information by	13 May 2022
Attorney General	For information by	13 May 2022
Minister for Trade and Export Growth	For information by	13 May 2022
Minister of Immigration	For information by	13 May 2022
Minister of Defence	For information by	13 May 2022

Taipitopito whakapā – Contact details

NAME	ROLE	DIVISION	WORK PHONE
Andrea Smith s9(2)(g)(ii)	Deputy Secretary Divisional Manager	Russia Sanctions Taskforce Russia Sanctions Taskforce	s9(2)(a)

Mā te Tari Minita e whakakī – Minister's Office to complete

- | | | |
|--|---|------------------------------------|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Noted | <input type="checkbox"/> Referred |
| <input type="checkbox"/> Needs amendment | <input type="checkbox"/> Declined | <input type="checkbox"/> Withdrawn |
| <input type="checkbox"/> Overtaken by events | <input type="checkbox"/> See Minister's notes | |

Comments

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Pito matua – Key points

- The purpose of the Russia Sanctions Act is to enable Aotearoa New Zealand to impose sanctions “in response to military actions by Russia (and by countries or persons who may be assisting Russia)”. Belarus has provided direct assistance to Russia’s military and its invasion of Ukraine, including by allowing its territory to be used by the Russian military.
- It is open to you to consider whether Belarusian political (including Belarusian President Lukashenko and members of his family) and military individuals, and entities meet the threshold for designation in section 8 of the Russia Sanctions Act, based on the information provided.
- It is also open to you to designate these individuals and entities for the purpose of the full range of applicable sanctions, and to extend the scope of measures currently applied to 12 individuals already sanctioned (currently only travel banned).
- Sanctioning these individual and entities will further demonstrate Aotearoa New Zealand’s seriousness in taking action on those who assist Putin’s illegal war.
- Amendments to the Russia Sanctions Regulations are proposed which will add the KiwiSaver Act 2006 and the Fisheries Act 1996 to section 31(3) of the Russia Sanctions Act, thereby bolstering the effectiveness of the Act. We also seek to remove the revoked HS Code 8903.92 from Schedule 3 of the Regulations.
- The following timeline is proposed:
 - Paperwork completed and returned to the Ministry on Friday 13 May;
 - Regulations submitted to the Executive Council on the afternoon of Monday 16 May;
 - Regulations gazetted at approximately 5pm on Monday 16 May, with entry into force at 12:01am on Tuesday 17 May, and MFAT’s sanctions register updated shortly thereafter; and
 - A public announcement via draft press release and tweet after 5pm on Monday 16 May (drafts attached at Annex 4, together with talking points).

pp: 

Andrea Smith
for Secretary of Foreign Affairs and Trade

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Tūtohu – Recommendations

It is recommended that you:

- | | | |
|---|---|----------|
| 1 | Note that Ministers with Power to Act authorised officials to draft amendments to the Russia Sanctions Regulations and, accordingly, the attached regulations implement 27 proposed designations; | Yes / No |
| 2 | <p>Agree that, in accordance with section 8 of the Russia Sanctions Act (the Act), the attached Russia Sanctions Amendment Regulations (No 5) 2022 (the Amendment Regulations) (in Annex 3):</p> <ul style="list-style-type: none"> • are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine or another country, and • that the United Nations Security Council is unlikely to act, or has acted insufficiently, in response to the threat; | Yes / No |
| 3 | Approve the proposed Amendment Regulations, subject to minor or technical amendments as required; | Yes / No |
| 4 | Agree that the individuals and entities designated by these regulations are designated for the purposes of the following sanctions: travel ban (for individuals only); prohibition on vessels and aircraft entering Aotearoa New Zealand; prohibition on dealing with assets; the prohibition on dealing with shares or securities; and the prohibition on dealing with services; | Yes / No |
| 5 | Note that Ministers with Power to Act agreed to a waiver of the 28 day rule for these regulations on the basis that Russia's invasion of Ukraine constitutes an international emergency that requires a swift response; | Yes / No |
| 6 | Note that the Amendment Regulations will be Gazetted on Monday 16 May, with entry into force at 12:01am on Tuesday 17 May; | Yes / No |
| 7 | Authorise submission to the Executive Council of the Russia Sanctions Amendment Regulations (No 5) 2022; | Yes / No |
| 8 | Sign the attached Executive Council Advice Sheets (Goatskin) for the Amendment Regulations; | Yes / No |
| 9 | Refer a copy of this submission to Ministers with Power to Act (those designated by Cabinet on 7 March). | Yes / No |

Hon Nanaia Mahuta
Minister of Foreign Affairs / Minita Take Aorere

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Pūrongo – Report

1. The Russia Sanctions Act allows Aotearoa New Zealand to impose sanctions on Russia for its illegal invasion of Ukraine, as well as any country or person assisting Russia.
2. In this instance Belarus has provided direct assistance to Russia's military and its invasion of Ukraine. The nature of this assistance includes the use of (i) Belarusian territory to fire ballistic missiles into Ukraine (ii) infrastructure such as roads to enter Ukraine from the north (iii) airspace which Russian military aircraft has used to fly into Ukraine and (iv) refuelling facilities for Russian military vehicles. The Belarusian military also joined Russian armed forces in 'military drills' prior to the invasion, and has provided storage for Russian military equipment. A recent constitutional decision spearheaded by President Lukashenko now also paves the way for Belarus to position Russian nuclear weapons in Belarus, and to host Russian troops on a more permanent basis.
3. In response to concerns of election fraud and human rights abuses following the 2020 Belarus elections, President Lukashenko and Belarusian officials were sanctioned by some of our partners, including the European Union and United Kingdom. Aotearoa New Zealand's response was to place travel bans on President Lukashenko, his son, and other Belarusian officials pursuant to the Immigration Act in 2021.
4. Following the 2022 invasion of Russia our partners have applied further sanctions on Belarus and President Lukashenko for the enabling of the invasion and the subsequent atrocities. This has included sanctions against Belarusian political and military individuals, banks and key economic sectors such as fertiliser.
5. Consistent with the actions of our partners it is proposed that Aotearoa New Zealand sanction further Belarusian political and military individuals and entities. Designations of further entities and economic sectors may be considered in the future as the implications of these are further explored.
6. Information sheets (Annex 1) have been provided for your consideration. Officials have drawn from a range of open source information.
7. The proposed designations are comprised of:
 - **President Lukashenko:** The Belarusian President has explicitly voiced support for Putin's war, and allowed Russian troops to use Belarus as a staging ground for the invasion.
 - **Belarusian senior military leaders (22 individuals):** for their cooperation with Russian forces prior to the invasion and ongoing support
 - **Defence entities (4 entities):** comprising state-owned companies, private weapons manufacturers and military equipment producers, consistent with their links with Russia and their sanctioning by partners.
8. It is proposed to extend all prohibitions to the designations listed above, namely: travel ban (for individuals only); prohibition on vessels and aircraft entering Aotearoa New Zealand; prohibition on dealing with assets; the prohibition on dealing with shares or securities; and the prohibition on dealing with services. It is also proposed to

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extend the full range of prohibitions to those 12 individuals travel banned under the Russia Sanctions Act.

What are the implications for Aotearoa New Zealand?

9. The purpose of the Russia Sanctions Act is to enable Aotearoa New Zealand to impose sanctions "in response to military actions by Russia (and by countries or persons who may be assisting Russia)". Belarus has allowed its territory to be used as a springboard for Russia's military to invade Ukraine, and has lent Russia political support throughout.

s6(a)

s6(a)

s9(2)(g)(i)

s9(2)(g)(i)

Belarus' support to Russia's military made the invasion possible and helped sustain Moscow's forces by providing a base of military operations

s9(2)(g)(i)

s9(2)(g)(i)

10. Aotearoa New Zealand has a thin bilateral relationship with Belarus. In addition to travel bans on President Lukashenko and other political leaders in 2021, Aotearoa New Zealand also suspended foreign ministry consultations, high level bilateral political engagement, and military and defence cooperation. Belarus has been a significant source of potash (potassium chloride).

s9(2)(g)(i)

s9(2)(g)(i)

11. Among measures taken to date in response to the invasion of Ukraine, you also approved bans on Belarusian government and military aircraft and ships, and export prohibitions enacted have applied to Belarus as well as Russia.

12. Designating the proposed group of individuals and entities linked to the political and military leadership of Belarus is

s9(2)(g)(i)

but will

put Aotearoa New Zealand in further alignment with partners.

s9(2)(g)(i)

s9(2)(g)(i)

Continuous improvements to the current Regulations

13. Officials propose the below amendments to the substantive text of the Regulations, in order to bolster the strength of the Russia Sanctions Act.

14. The KiwiSaver Act 2006 and Fisheries Act 1996 will be added to the list of Acts in section 31(3) of the Russia Sanctions Act.

15. The KiwiSaver Act 2006 deals with matters relating to payments of contributions from employers and employees to KiwiSaver accounts via Inland Revenue. The Fisheries Act 1996 permits a range of information to be collected from various participants, including parties based overseas.

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16. It would be consistent to include these Acts into the ambit of the Russia Sanctions Act to allow disclosure to the Secretary of appropriate information supplied or obtained under either Act.
17. Remove revoked HS Code 8903.92 from Schedule 3 of the Regulations. HS Code 8903.92 has been revoked and became 8903.31, 8903.32 and 8903.33, all of which are already included in Schedule 3.

Applicable sanctions

18. The Minister of Foreign Affairs must be satisfied that the two limbs of the threshold at section 8 of the Russia Sanctions Act have been met, as outlined in Annex 2. In respect of the proposed designations, we would ask that you initial the corresponding information sheet as a record of your approval.
19. Officials recommend the proposed individuals and entities are designated for the purposes of the full range of sanctions under the Regulations. These are:
 - Travel ban (for individuals only)
 - Prohibitions on related vessels and aircraft entering Aotearoa New Zealand's ports and airspace;¹
 - Prohibition on people dealing with the designated entity's assets (asset freeze);²
 - Prohibition on people dealing with securities of the designated entity; and
 - Prohibition on people dealing with services provided by, to, or for the benefit of the designated entity.³
20. Approved designations will be added to the relevant Schedule of the Russia Sanctions Regulations 2022 through the proposed Russia Sanctions Amendment Regulations No 5 2022 (attached as Annex 3). Approved amendments will be incorporated into the Regulations upon entry into force.
21. To give effect to these designations and amendments, draft regulations are attached as Annex 3. These Amending Regulations should be considered in the context of the Regulations as a whole as they stand at this point in time.

¹ Regulations 8 and 9, Russia Sanctions Regulations 2022.

² Regulation 10, Russia Sanctions Regulations 2022.

³ Regulation 11, Russia Sanctions Regulations 2022.