

Biden Administration Again Expands Sanctions on Russia and Its Third Party Supporters

by Lawrence Ward, Justin T. Huff, Dave Townsend, and T. Augustine Lo

As Russia continues its war against Ukraine and Ukraine has itself recently opened a new front by capturing Russian territory in its Kursk region, the United States announced on August 23 its latest tranche of sanctions against entities and individuals, both in Russia and in a number of other countries across the Middle East, Europe and Asia (particularly in China). In addition, the new sanctions include a further expansion of export license requirements for software and software updates for computerized numerical control (“CNC”) machines. The Administration intends these latest sanctions to degrade the supply chains and financial channels that are sustaining Russia’s defense industrial base (“DIB”). These new measures were concurrently announced by the U.S. Departments of State, Treasury, and Commerce.

Goals of New Sanctions

In announcing the newly expanded sanctions, the Departments of State, Treasury, and Commerce emphasized the breadth and focus on persons in third countries who are supporting Russia’s war efforts

- Secretary of State Anthony Blinken emphasized^[1] the breadth of the new sanctions: “Today, one day ahead of the celebration of Ukrainian Independence Day, the United States is designating nearly 400 entities and individuals. As part of today’s actions, the Department of State is targeting those involved in sanctions evasion and circumvention, including entities in the People’s Republic of China and those that support Russia’s future energy production and exports.”
- Deputy Secretary of the Treasury Wally Adeyemo stated that^[2], “Companies, financial institutions, and governments around the world need to ensure they are not supporting Russia’s military-industrial supply chains.” That announcement indicated that the latest sanctions will target the supply of ammunition, unmanned aerial vehicles (“UAVs”), other military goods, microelectronics, and machine tools to the Russian DIB and also the evasion of U.S. sanctions by multiple Russian oligarchs who have openly supported Russian President Vladimir Putin and his invasion of Ukraine.
- Undersecretary of Commerce for Industry and Security Alan Estevez said in the U.S.

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Commerce Department's announcement^[3], "We will continue our multilateral approach to attack this problem from all sides and use every tool in our arsenal to prevent Russia from gaining access to the advanced U.S. technology needed for its weapons."

Explanation of New Sanctions

Rather than developing and adopting entirely new types of sanctions, the Biden Administration now seems intent on applying its existing list-based sanctions tools to more persons and entities, both within Russia and Belarus but also in a range of third countries. The Treasury Department provided in its August 23 announcement several detailed annexes across the different sectors of industry being targeted, which we summarize at the end of this eUpdate.

Some of these new U.S. measures will now freeze complex offshore trusts and other corporate entities that have been set up in third countries to disguise and mask sanctioned financial activities, such as money and gold laundering and the illicit export and sale of Russian minerals or petrochemicals in defiance of western sanctions.

In the development of a broad multilateral sanctions regime against Russia, the United States, the European Union ("EU"), the United Kingdom ("UK") and Japan have jointly promulgated a list of key military items and dual-use goods known as the Common High Priority List ("CHP List") that are to be denied to Russia and Belarus and that are meant to align with existing and evolving U.S. export controls.

The Commerce Department announcement noted that its Bureau of Industry and Security ("BIS") was adding 123 entities under 131 entries to the BIS Entity List. Those additions included 63 entities in Russia or the Crimea Region of Ukraine, 42 in the People's Republic of China and Hong Kong, and 14 entities in Türkiye (Turkey), Iran, and Cyprus. Being on the Entity List means BIS is imposing export license requirements for exports of goods that would otherwise not normally be needed for exports to those particular destination countries. In addition, the new BIS sanctions under the EAR are expanded to cover certain EAR99^[4] software used with CNC and other additive manufacturing items.

The Department of the Treasury provided in its announcement^[5] four separate Annexes to summarize the new sanctions it is imposing;

Annex 1: Entities & Persons Involved in Sanctions Evasion & Circumvention

The latest U.S. measures endeavor to focus upon more than a dozen covert international business networks seeking to gain Russian access to goods on the CHP List and to generate revenue for the cash-strapped Russian economy and government. The Treasury Department announcement noted that the Office of Foreign Assets Control ("OFAC"), which is the primary U.S. sanctions agency, has worked very closely with its Treasury colleagues in the Financial Crimes Enforcement Network ("FinCEN") to detect and identify these shadowy networks that now span the entire globe. OFAC named in Annex 1 many companies in Switzerland, Lichtenstein, Türkiye (Turkey), Hong Kong, the

People's Republic of China and the United Arab Emirates as well as in Russia itself.

Annex 2: Technology & Defense Companies

OFAC named in Annex 2 over 60 Russian and Belarussian technology and defense companies and government agencies that are central to the Russian DIB, including key firms engaged in arms development and refurbishment (such as UAVs, fighter aircraft, armored vehicles, and artillery), robotics and automation, production or distribution of dual-use electronics, digital surveillance software and equipment, the Internet of Things ("IoT"), and artificial intelligence ("AI").

Annex 3: Strategic Metals & Mining Companies

The United States and the other G7 nations (Canada, France, Germany, Italy, Japan and the UK) have all pledged to reduce Russia's tax revenues that are derived from export sales of its metals and minerals on the global markets and that help to pay for the Russian war in Ukraine. OFAC thus issued Annex 3 to target multiple Russian companies producing steel, iron and coal as well as other firms that support and serve such Russian metals and mining companies with specialized goods and services for that sector of the Russian economy.

Annex 4: Financial Technology Companies

The G7 nations have also committed themselves to curbing Russia's reliance on and access to the international banking system to sustain its war against Ukraine. Accordingly, Annex 4 includes specific measures aimed at leading Russian financial technology ("fintech") companies involved in online and digital payment systems, credit and other such applications.

The Administration's regulatory approach means that western companies and financial institutions will need -- even more than before -- to have in place robust sanctions screening, list-checking and "know your customer" ("KYC") business processes when engaging in international transactions. International sales and finance personnel in particular must be vigilant about the potential indirect diversion of goods or funds transfers to benefit Russia or Belarus and the hazards of illicit support of the Russian DIB through these complex networks that have been designed to evade and avoid the sanctions regimes in the United States and elsewhere such as the European Union, the Middle East or Asia.

Moreover, with the recent Congressional enlargement of the statute of limitations for U.S. sanctions or export control violations from five years to 10 years, western companies must also revise their record-keeping systems. Companies will need to align their records retention policies with that longer 10-year period of legal exposure, including retrievable records of timely sanctions screening, list-checking and KYC diligence to be able to defend their business activities years later.

[1] New Measures to Degrade Russia's International Supply Chains and Wartime Economy | United States Department of State

[2] As Russia Feels Effects of Multilateral Sanctions Campaign, Treasury Takes Further Action Against Russia's International Supply Chains | U.S. Department of the Treasury

[3] Commerce Tightens Export Controls, Targets Illicit Procurement Networks For Supplying Russian War Machine | Bureau of Industry and Security (bis.gov)

[4] EAR99 software is software that is not subject to product-specific restrictions on the EAR Commerce Control List.

[5] As Russia Feels Effects of Multilateral Sanctions Campaign, Treasury Takes Further Action Against Russia's International Supply Chains | U.S. Department of the Treasury