



Russia Related Sanctions and New Export Controls

March 23, 2022



Speaker



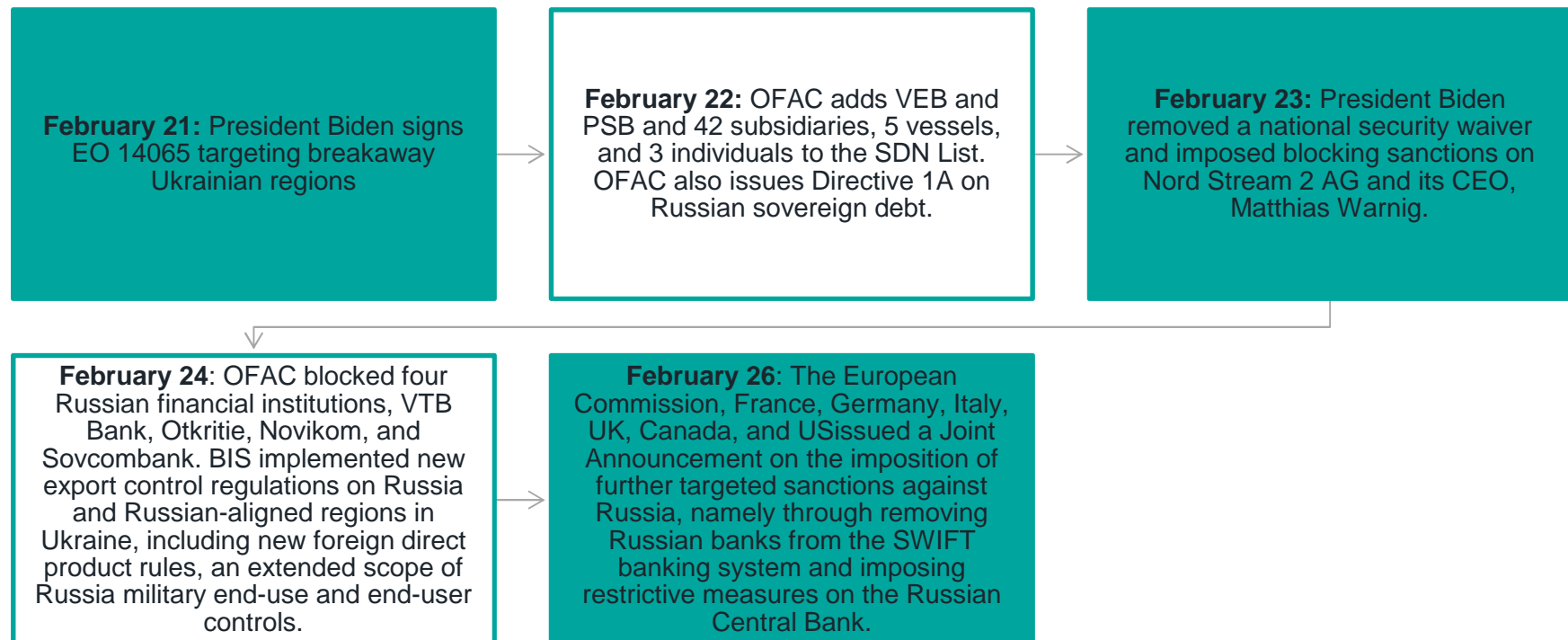
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George Grammas is a partner in the global law practice of Squire Patton Boggs, where he chairs the firm's International Trade and National Security Practice, across our global network in 20 countries and more than 40 offices. He is chair emeritus of the Aerospace, Defense & Government Services Industry Group. George has experience in all controlled technologies regulated under the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR), including aerospace, military, security, semiconductors, specialty materials and chemicals and space items, as well as experience in trade and sanction restrictions imposed by the Office of Foreign Assets Control (OFAC). Mr. Grammas also leads the firm's CFIUS practice, submitting 5-10% of all notices received by CFIUS annually.

Learn more about George [here](#).

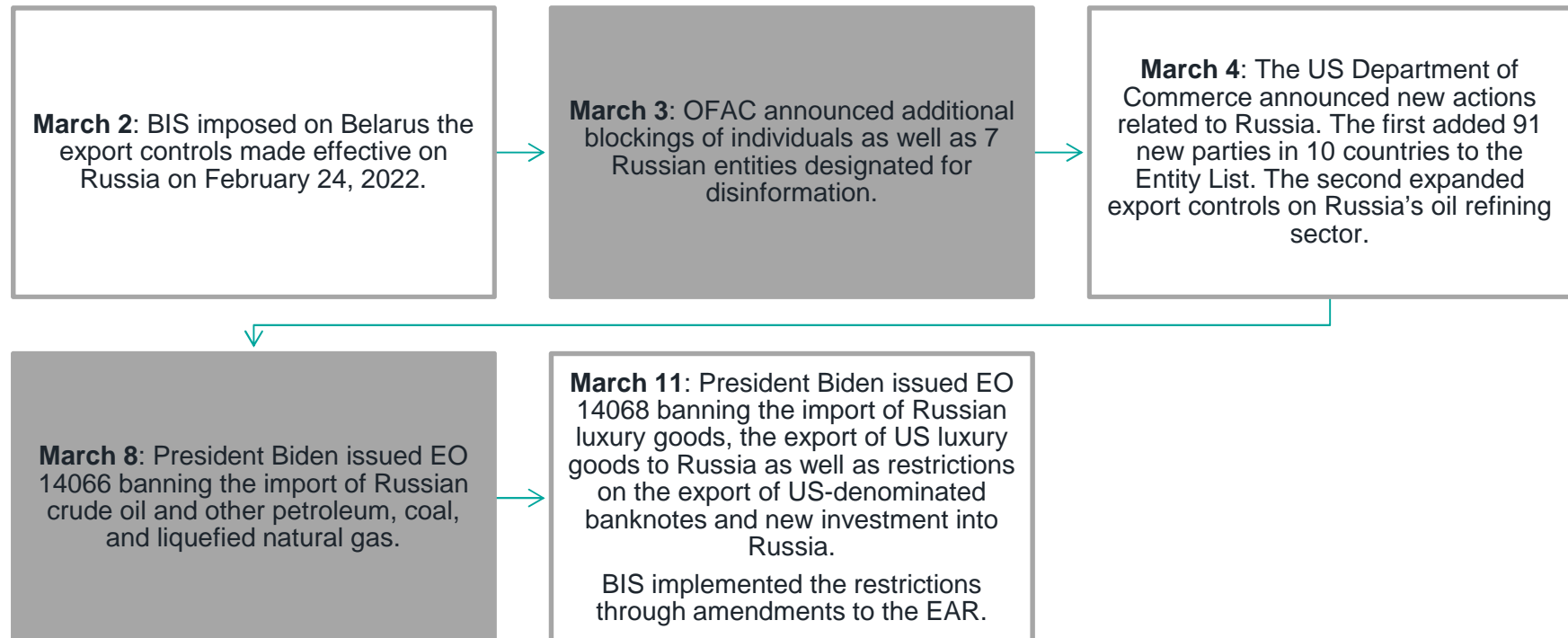
Timeline of Recent Developments

February 2022



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March 2022



Development Tracker at *The Trade Practitioner* (www.tradepractitioner.com)

The screenshot displays the website's navigation menu (HOME, ABOUT, BLOG, CONTACT, SUBSCRIBE) and the SQUIRE PATTON BOGGS logo. The main header features the title 'THE TRADE PRACTITIONER' with the subtitle 'International Trade Current Events and Compliance Tools'. A 'Save Attachments' button is visible in the top right of the header area.

On the left side, a sidebar lists categories: Trade Remedy & Defense, CFIUS Filings & Developments, Customs & Tariffs, European Regulation, US Government Contracts, and *COVID-19 Coronavirus*.

The central content area shows a section titled 'SANCTIONS: NON-US ORGANIZATIONS AND PERSONS' with a 'Save Attachments' button. The text describes tracking sanctions developments, specifically mentioning the conflict in Ukraine and sanctions on Russia and Russia-aligned regions. A list of jurisdictions in focus is provided: EU | Japan | Republic of Korea | UK | US. An orange arrow points from the 'LEARNING CENTER' label below to this list.

On the right side, there is a 'TOPICS' dropdown menu set to 'Abandoned' and a 'TWITTER UPDATES' section featuring a tweet from 'SPB Trade Practitioner' (@SPB_IntlTrade) about EU actions on Russia and a thumbnail image with the word 'SANCTION'.

Defense Articles / Services

Government Agency:

US Department of State,
Directorate of Defense Trade
Controls (DDTC)

Legal Authority:

Arms Export Control Act (AECA)

Implementing Regulations:

International Traffic in Arms
Regulations (ITAR)

Control List:

US Munitions List (USML)

Website (guidance):

pmdrtc.state.gov

Other Items

Government Agency:

US Department of Commerce,
Bureau of Industry and Security
(BIS)

Legal Authority:

International Emergency
Economic Powers Act (IEEPA);
Export Control Reform Act (ECRA)

Implementing Regulations:

Export Administration Regulations
(EAR)

Control List:

Commerce Control List (CCL)

Website (guidance):

bis.doc.gov

Dealings - Sanctioned Countries

Government agency:

US Department of the Treasury,
Office of Foreign Assets
Control (OFAC)

Legal authority:

International Emergency
Economic Powers Act (IEEPA);
Trading with the Enemy Act
(TWEA)

Selected Programs:

Cuba, Syria, Iran, N. Korea,
Ukraine Regions
SDN/SSI-driven programs

Website (guidance):

treas.gov/offices/enforcement/ofac

Agenda

- US Export Controls Developments
- US Economic Sanctions Developments
- Trade Contract Compliance

US Export Controls Developments

US Department of Commerce, Bureau of
Industry and Security



Export License Requirements for Russia

- Exports, reexports and transfers
- Most items exported from the United States other than EAR99 items
- All items (including EAR99) destined for military end-use or end-user
 - The term 'military end use' means incorporation into: a military item described on the U.S. Munitions List (USML) or the Wassenaar Arrangement Munitions List (as set out on the Wassenaar Arrangement Web site at <http://www.wassenaar.org>); commodities classified under ECCNs ending in "A018" or under "600 series" ECCNs; or any commodity that is designed for the "use," "development," "production," or deployment of military items described on the USML, the Wassenaar Arrangement Munitions List or classified under ECCNs ending in "A018" or under "600 series" ECCNs
 - The term 'military end user' means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, **or any person or entity whose actions or functions are intended to support 'military end uses'**

Export License Requirements for Foreign-made Items Destined for Russia

- Foreign Direct Product Rule
- License may be required for foreign-made items located outside the United States if:
 - direct product of U.S.-origin technology or software OR
the output of a plant or major component of a plant that itself is the direct product of U.S.-origin technology or software
AND
 - knowledge that the item is destined to Russia, OR
will be incorporated into or used in the production or development of part, component, or equipment produced in or destined to Russia
- Excluded countries

Export License Requirements for Foreign-made Items Destined for Russia

Delivered value of US-origin content
controlled to ultimate destination

Ex-works value of non-US made
product incorporating US content

≤

0% - 600 series to D:5
10% - to sanctioned/AT
25% - to all others

- De Minimis Rule
- Far more foreign made items in non-excluded countries are subject to the EAR
- General Rule:
 - If the foreign-made item is destined for Iran, Syria, Sudan or North Korea, the US-controlled content is *de minimis* if it is valued at 10% or less of the total value of the foreign-made item
 - If the foreign-made item is destined for any other country, the US-controlled content is *de minimis* if it is valued at 25% or less of the total value of the foreign-made item
 - Compare hardware to hardware, software to software and technology to technology; do not sum US hardware, software and technology content
- 600 Series Rule:
 - There is no *de minimis* level for items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or “600 series” ECCN when destined for a country listed in D:5 countries

Country Exclusions

- BIS has created a Russia Exclusions List to exclude certain countries planning to implement similar export controls measures from the requirements of the Russia and Russia-MEU FDP rules (unless stated otherwise)
 - UK, Australia, Canada
 - European Union
 - Japan, New Zealand
 - South Korea

Licensing Policy and License Exceptions

- Policy of denial.
- Case-by-case reviews
 - Policy of denial exceptions: safety of flight, maritime safety, humanitarian needs, government space cooperation, items destined to specified Western subsidiaries and joint ventures operating in Russia, civil telecommunications infrastructure provided by companies headquartered in Country Group A:5 and A:6 countries, and government-to- government activities
 - Justification for license, including confirming items would benefit the Russian government or defense sector
- Limited use of license exceptions

Other actions by BIS

- Licensing restrictions, FDP rules, MEU rule and MIEU rule extended to Belarus
- Entity list and MEU list
 - Transferred Russian organizations from MEU List to Entity List
 - Footnote 3 designations
 - Added organizations
- Regions of Ukraine: license requirement
 - Crimea, Donetsk, and Luhansk
- Russia added to Group D:5: 600 series and 9x515
- Russian oil industry
 - All items in Supp. 2 to Part 746 and certain listed ECCNs for oil and gas exploration or production (deep water, arctic or shale)
 - All items in Supp. 4 to Part 746
- Luxury goods destined to or for Russia or Belarus, Supp. 5 to Part 746
 - All items in Supp. 5 to Part 746

Executive Orders Designating Entities

- Blocked persons who act or acted for or on behalf of the GoR
- Blocked persons determined to operate or have operated in:
 - technology sector
 - defense and materiel sector
 - any other sector as determined by Treasury
- Blocked Russian Banks – VEB, PSB, VTB, Otkritie, Novikom, Sovcombank
- Sberbank – prohibit U.S. financial institutions from maintaining or opening accounts, as well as processing transactions for or with the bank and its non-U.S. financial institution subsidiaries
- New debt and new equity sanctions on a number of Russian entities (problem for vendor financing)

- Donetsk and Luhansk People’s Republic Regions
 - Prohibitions – (1) new investment, (2) importation into the United States from the regions, (3) exportation, reexportation, sale or supply of goods, services, or technology to the regions
- Prohibits the importation into the US of the following Russian Federation origin products:
 - Crude oil
 - Petroleum
 - Petroleum fuels, oils, and “products of their distillation”
 - Liquefied natural gas
 - Coal and coal products
- Prohibits New Investment in the Russian Energy Sector
- Prohibit importation into the US of the following Russian origin products: Fish, seafood and preparations thereof; Alcoholic beverages; Non-industrial diamonds; any other Russian origin products as determined by Treasury

Trade Contract Compliance



Sales to Russia

- Screen parties and financial institutions, owners and principals
 - <https://www.trade.gov/data-visualization/csl-search>
 - 50% rule
 - Enhanced screening: know who is the owner
- Confirm export classification
- Confirm not military end-use or end-user
- Certification as to parties, banks and end-use/r

Procurement from Russia

- Screen parties and financial institutions, owners and principals
- Confirm not prohibited import
- Some procurements involve exports
- No USD cash payments

Subsidiary in Russia

- Problems with Transactions
 - Payroll
 - Lease
 - Suppliers and contractors
- Facilitation and approval (Russian operations are not independent)

Global Coverage

- Abu Dhabi
- Atlanta
- Beijing
- Berlin
- Birmingham
- Böblingen
- Bratislava
- Brussels
- Cincinnati
- Cleveland
- Columbus
- Dallas
- Darwin
- Denver
- Dubai
- Frankfurt
- Hong Kong
- Houston
- Leeds
- London
- Los Angeles
- Madrid
- Manchester
- Miami
- Milan
- Moscow
- New Jersey
- New York
- Palo Alto
- Paris
- Perth
- Phoenix
- Prague
- Riyadh
- San Francisco
- Santo Domingo
- Seoul
- Shanghai
- Singapore
- Sydney
- Tampa
- Tokyo
- Warsaw
- Washington DC

- Africa
- Brazil
- Caribbean/Central America
- India
- Israel
- Mexico

- Office locations
- Regional desks and strategic alliances

