

Expanded Sanctions Imposed on Belarus by the U.S., EU and UK

Since August 2021, the United States, the European Union and the United Kingdom have increased sanctions imposed against the Republic of Belarus. The restrictive measures have been further expanded following the Russia/Ukraine armed conflict.

Below, Curtis provides a summary of the sanctions imposed against Belarus.

1. United States

A. E.O. 13405 (June 16, 2006)

The United States first imposed sanctions against Belarus on June 16, 2006 under President George W. Bush through E.O. 13405—*Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus*.¹ E.O. 13405 was adopted in response to what the U.S. perceived as an undemocratic election taking place in March 2006. This E.O. created a legal basis for blocking assets of persons determined by the U.S. Secretary of the Treasury, in consultation with the U.S. Secretary of State, to undermine the democratic process in Belarus; to be responsible for or to have committed human right abuses; to be linked to persons engaged in public corruption; or similar wrongful activities. Among the Specially Designated Nationals (SDNs) listed in 2006 was Belarus President Alexander Lukashenko. E.O. 13405 served as a basis to designate eight individuals on October 2, 2020, based upon their involvement in the August 2020 Belarus presidential election, and 16 individuals and five entities on June 21, 2021, based upon the forced diversion of a Ryanair commercial flight flying from Greece to Lithuania.²

B. E.O. 14038 (Aug. 9, 2021)

On August 9, 2021, U.S. President Joseph Biden issued E.O. 14038, titled *Blocking Property of Additional Persons Contributing to the Situation in Belarus*. This E.O. makes reference to “longstanding abuses aimed at suppressing democracy and the exercise of human rights and fundamental freedoms in Belarus.”³ E.O. 14038 refers to “illicit and oppressive activities stemming from the August 9, 2020, fraudulent Belarusian presidential election and its aftermath, such as the elimination of political opposition and civil society organizations, and the regime’s disruption and endangering of international

¹ E.O. 13405 is available at: <https://www.govinfo.gov/content/pkg/WCPD-2006-06-26/pdf/WCPD-2006-06-26-Pg1174.pdf>.

² See OFAC Press release dated June 21, 2021, available at: <https://home.treasury.gov/news/press-releases/jy0237>.

³ This E.O. was published on the Federal Register on August 11, 2021. See 86 Fed. Reg. 43,905, available at: <https://www.govinfo.gov/content/pkg/FR-2021-08-11/pdf/2021-17253.pdf>.

civil air travel.” E.O. 14038 authorizes the U.S. Secretary of the Treasury, in consultation with the U.S. Secretary of State, to impose blocking sanctions on, among others, any political subdivision, agency or instrumentality of the Government of Belarus; any person determined to operate in certain sectors of the economy of Belarus (including the defense, security, energy, potassium chloride (potash), tobacco products, construction, and transportation sectors); to be involved in actions threatening the peace and security of the territory of Belarus; to engage in actions or policies penalizing the exercise of human rights; or to be owned or controlled by the Government of Belarus.

On August 9, 2021, the U.S. Department of the Treasury designated 23 individuals and 21 entities as SDNs, based upon their involvement in repressive activities in support of the Belarus regime. The sanctioned entities operate in the energy (e.g., BelKazTrans, Novopolotok Limited Liability Company Interservice, Bremino Group), tobacco products (e.g., Inter Tobacco and Energo-Oil), construction (e.g., Dana Holdings Limited), and potash (e.g., Belaruskali OAO) sectors of the economy of Belarus.⁴ The sanctions were expanded on December 2, 2021, with designation of an additional 20 individuals and 12 entities. Three aircraft were listed as blocked property.⁵

On February 24, 2022, the U.S. Department of the Treasury designated 24 Belarusian individuals and entities, based upon Belarus’s support for, and facilitation of, the Russian invasion of Ukraine. The designations target Belarus’s defense sector (entities and officials) and financial institutions (including State-owned banks).⁶ The same day, the U.S. Department of the Treasury issued two General Licenses: GL No. 6 (authorizing transactions for conduct of official business of the U.S. Government) and GL No. 7 (authorizing transactions with certain international organizations).⁷

More recently, on March 4, 2022, the Bureau of Industry and Security (BIS) of the U.S. Department of Commerce imposed sweeping export control restrictions on Belarus.⁸

⁴ U.S. Department of Treasury press release, *Treasury Holds the Belarusian Regime to Account on Anniversary of Fraudulent Election* (Aug. 9, 2021), available at: <https://home.treasury.gov/news/press-releases/jy0315>.

⁵ U.S. Department of Treasury press release, *Treasury Expands Sanctions Against Belarusian Regime with Partners and Allies*, available at: <https://home.treasury.gov/news/press-releases/jy0512>.

⁶ U.S. Department of Treasury press release, *U.S. Treasury Targets Belarusian Support for Russian Invasion of Ukraine*, available at: <https://home.treasury.gov/news/press-releases/jy0607>.

⁷ All General Licenses under the U.S. Department of Treasury Belarus program are accessible at: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/belarus-sanctions>.

⁸ U.S. Department of Commerce press release, *Commerce Imposes Sweeping Export Restrictions on Belarus for Enabling Russia’s Further Invasion of Ukraine* (Mar. 2, 2022), available at: <https://www.commerce.gov/news/press-releases/2022/03/commerce-imposes-sweeping-export-restrictions-belarus-enabling-russias>; The White House Fact Sheet - *The United States Continues to Impose Costs on Russia and Belarus for Putin’s War of Choice* (Mar. 4, 2022), available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/02/fact-sheet-the-united-states-continues-to-impose-costs-on-russia-and-belarus-for-putins-war-of-choice/>.

These controls, mirroring those imposed on Russia on February 24, 2022, are designed “to prevent the diversion of items, including technology and software, in the defense, aerospace, and maritime sectors to Russia through Belarus, and degrade both nations’ ability to sustain military aggression.”⁹ In addition, the Department of Commerce “will add entities that have been involved in, contributed to, or otherwise supported the Russian and Belarusian security services, military and defense sectors, and/or military and defense research and development efforts to the Entity List. These actions will ensure that the military as well as the aerospace, maritime and high-technology sectors do not obtain U.S. technology goods and technology that can be used to support Russian technical maintenance and innovation.”¹⁰ More information on export control measures imposed against Belarus may be found in this Curtis client alert: <https://www.curtis.com/our-firm/news/controls-on-russia-and-belarus>.

2. European Union

The European Union (“EU”) first imposed sanctions against Belarus by Council Regulation 765/2006 (as amended).¹¹ Initially, the sanctions consisted of an arms embargo; a ban on the export of goods for internal repression; and targeted asset freezes and travel bans.

Following the Belarusian presidential elections in August 2020, the EU progressively imposed restrictive measures through various rounds of sanctions up to December 2021.¹² Regulation (EU) 2021/1030 and Council Decision (CFSP) 2021/1031 of June 24, 2021, introduced for the first time sectorial sanctions against Belarus. Specifically, the sanctions: (i) prohibit provision of insurance service to the Belarusian government and

⁹ U.S. Department of Commerce press release, *Commerce Imposes Sweeping Export Restrictions on Belarus for Enabling Russia’s Further Invasion of Ukraine* (Mar. 2, 2022), available at: <https://www.commerce.gov/news/press-releases/2022/03/commerce-imposes-sweeping-export-restrictions-belarus-enabling-russias>.

¹⁰ The White House Fact Sheet - *The United States Continues to Impose Costs on Russia and Belarus for Putin’s War of Choice* (Mar. 4, 2022), available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/02/fact-sheet-the-united-states-continues-to-impose-costs-on-russia-and-belarus-for-putins-war-of-choice/>.

¹¹ Consolidated text: Council Regulation (EC) No 765/2006 of May 18, 2006 concerning restrictive measures in respect of Belarus, OJ L 134 20.5.2006, p. 1.

¹² The first round of sanctions listed 40 Belarusian individuals “identified as responsible for repression and intimidation against peaceful demonstrators, opposition members and journalists in the wake of the 2020 presidential election in Belarus, as well as for misconduct of the electoral process” (implemented through Council Implementing Regulation (EU) 2020/1387, and Council Implementing Decision (CFSP) 2020/1388). The second round targeted 15 Belarusian officials including President Alexandr Lukashenko, his son and National Security Advisor Viktor Lukashenko (implemented through Council Implementing Regulation (EU) 2020/1648 and Council Implementing Decision (CFSP) 2020/1650). The third round of EU sanctions targeted 29 individuals and seven entities operating in the arms, real estate and law enforcement sectors (implemented through Council Implementing Regulation (EU) 2020/2129 and Council Implementing Decision (CFSP) 2020/2130). On June 4, 2021, the EU announced restrictions on access of Belarusian air carriers to EU air space and airports.

public bodies; (ii) establish restrictions on trade covering technology, or software for use in monitoring of internet and telephone communications as well as dual-use goods and military equipment; (iii) limit imports of certain petroleum products, potassium chloride and tobacco products; (iv) impose financial sanctions (e.g., limits on dealings with transferrable securities and money market instruments with a maturity exceeding 90 days issued after June 29, 2021 by the Belarusian Government or State-owned banks); (v) limit European Investment Bank technical assistance contracts and programs in Belarus; and (vi) require Member States to limit involvement in Belarus of multilateral development banks.¹³ The most recent sanctions prior to the current conflict were approved on December 2, 2021 in response to the humanitarian and migrant crisis at the Polish border.

The sanctions target 17 individuals and 11 entities (including Belavia Airlines, tour operators and hotels) that, according to the EU, have “participated in the instrumentalisation of migration for political purposes.”¹⁴

Following the escalation of the conflict in Ukraine, the EU has imposed additional sanctions against Belarus.

On February 24, 2022, the EU extended the Belarus sanctions regime until the end of February 2023, and amended the bases for the designation of 27 individuals.¹⁵

On March 2, 2022, the EU adopted a new sanctions package concerning Belarus. The sanctions include:

¹³ Council of the EU press release, *EU imposes sanctions on Belarusian economy* (Jun. 24, 2021), available at: <https://www.consilium.europa.eu/en/press/press-releases/2021/06/24/eu-imposes-sanctions-on-belarusian-economy/>.

¹⁴ Council of the EU press release, *Belarus: EU adopts 5th package of sanctions over continued human rights abuses and the instrumentalisation of migrants* (Dec. 2, 2021), available at: <https://www.consilium.europa.eu/en/press/press-releases/2021/12/02/belarus-eu-adopts-5th-package-of-sanctions-over-continued-human-rights-abuses-and-the-instrumentalisation-of-migrants/>. The measures were implemented through Council Implementing Regulation (EU) 2021/2124 and Council Implementing Decision (CFSP) 2021/2125.

¹⁵ Council Decision (CFSP) 2022/307 of February 24, 2022 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus, OJ L 46, 25.2.2022, pp. 97–124, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.046.01.0097.01.ENG&toc=OJ%3AL%3A2022%3A046%3ATOC; and Council Regulation (EU) 2022/212 of February 17, 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, OJ L 37, 18.2.2022, pp. 4–13, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.037.01.0004.01.ENG&toc=OJ%3AL%3A2022%3A037%3ATOC/.

- New Designations: The EU added 22 individuals involved in the military sector of Belarus in response to their direct participation in the Russian military activities in the territory of Ukraine.¹⁶
- Trade Restrictions: The measures impact 70% of import volume originating in Belarus.¹⁷ They effectively limit imports of a wide array of products such as products for the manufacturing of tobacco, wood, cement, iron and steel, rubber, potash, machinery and mineral products. The provision of insurance, or reinsurance services, as well as related technical and financial assistance are also prohibited.

In addition, the EU expanded its export restrictions on dual-use goods, military equipment or the provision of related technical or financial assistance, absent authorization except for humanitarian purposes and non-military end users.¹⁸

¹⁶ Council Decision (CFSP) 2022/354 of March 2, 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L 66, 2.3.2022, pp. 14–26, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.066.01.0014.01.ENG&toc=OJ%3AL%3A2022%3A066%3AATOC. See also Council Implementing Regulation (EU) 2022/353 of March 2, 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L 66, 2.3.2022, pp. 1–13, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.066.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A066%3AATOC.

¹⁷ Reuters, *EU bans 70% of Belarus exports to bloc with new sanctions over Ukraine invasion* (Mar. 2, 2022), available at: <https://www.reuters.com/world/europe/eu-approves-new-sanctions-against-belarus-over-ukraine-invasion-source-2022-03-02/>.

¹⁸ See Council Regulation (EU) 2022/355 of March 2, 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus, OJ L 67, 2.3.2022, pp. 1–102, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.067.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A067%3AATOC; and Council Decision (CFSP) 2022/356 of March 2, 2022 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus, OJ L 67, 2.3.2022, pp. 103–111, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.067.01.0103.01.ENG&toc=OJ%3AL%3A2022%3A067%3AATOC.

On March 9, 2022, the EU adopted its most recent sanctions targeting the Belarusian financial sector.¹⁹ The package includes the following measures:²⁰

- Restriction on the provision of specialised financial messaging services (SWIFT) to three Belarus State-owned banks: Belagroprombank, Bank Dabrabyt and the Development Bank of the Republic of Belarus, as well as their Belarusian subsidiaries;²¹
- Prohibition on transactions with the Central Bank of Belarus related to the management of reserves or assets;²²
- Prohibition on public financing or financial assistance for trade with, or investment in, Belarus (with the exception of humanitarian aid and €10,000,000 for projects benefiting small and medium-sized enterprises established in the European Union);²³
- Prohibition on listing and provision of services in relation to shares of Belarus State-owned entities on EU trading venues as of April 12, 2022;²⁴
- Prohibition on deposits exceeding €100,000 from Belarusian nationals or residents.²⁵ Such deposits can be subject to authorization in cases where they are: (i) necessary to satisfy the basic needs of natural or legal persons; (ii) intended exclusively for the payment of reasonable professional fees or the reimbursement of incurred expenses for legal services; (iii) necessary

¹⁹ See Council Regulation (EU) 2022/398 of March 9, 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, OJ L 82, 9.3.2022, pp.1–8, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.082.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A082%3ATOOC; and Council Decision (CFSP) 2022/399 of March 9, 2022 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, OJ L 82, 9.3.2022, pp.9–13, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.082.01.0009.01.ENG&toc=OJ%3AL%3A2022%3A082%3ATOOC.

²⁰ See EU Council press release, *Russia's military aggression against Ukraine: EU agrees new sectoral measures targeting Belarus and Russia* (Mar. 9, 2022), available at: <https://www.consilium.europa.eu/en/press/press-releases/2022/03/09/russia-s-military-aggression-against-ukraine-eu-agrees-new-sectoral-measures-targeting-belarus-and-russia/>.

²¹ Council Regulation (EU) 2022/398, Article 1zb.

²² Council Regulation (EU) 2022/398, Article 1ja.

²³ Council Regulation (EU) 2022/398, Article 1jb.

²⁴ Council Regulation (EU) 2022/398, Article 1t and Article 1x.

²⁵ Council Regulation (EU) 2022/398, Article 1t.

for extraordinary expenses; or (iv) for the purposes of a diplomatic mission;²⁶

- Prohibition on the holding of accounts of Belarusian clients by the EU central securities depositories;
- Prohibition on the selling of euro-denominated securities to Belarusian clients;²⁷ and
- Prohibition on the provision of euro-denominated banknotes to Belarus.²⁸

In addition, Council Regulation (EU) 2022/398 of March 9, 2022 clarifies the definition of “transferrable security” to include crypto-assets, which are negotiable on the capital markets. The package also imposes an obligation to exchange information on the Member States and requires the Network Manager for air traffic management to reject an operator plan to flight over Belarus air space. Most of these measures mirror some of the sanctions adopted by the EU against the Russian Federation and they aim at significantly limiting the inflow of capital between the EU and Belarus.

3. United Kingdom

The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (“Belarus Sanctions Regulations”) (as amended) came into force on December 31, 2019.²⁹ The regulations impose a package of trade, financial and aviation sanctions on Belarus in response to alleged democracy and human rights violations by the government.

The measures are wide in their scope, covering: (i) designation of persons and entities; (ii) financial sanctions (i.e., asset freeze, investment restrictions including dealings with transferrable securities with a maturity exceeding 90 days); (iii) prohibitions to enter into loan and credit arrangements; (iv) prohibition on insurance and reinsurance services; (v) trade restrictions (prohibitions to export military goods, dual-use goods, restrictions on imports of tobacco goods, potash and petroleum); (vi) restrictions on technical assistance on aviation; (vii) immigration sanctions; and (viii) transport sanctions (including restrictions on Belarusian aircraft flying over UK airspace and landing in the UK). The

²⁶ Council Regulation (EU) 2022/398, Article 1v. *See also* Article 1w concerning exceptions for humanitarian purposes and civil society activities.

²⁷ Council Regulation (EU) 2022/398, Article 1y.

²⁸ Council Regulation (EU) 2022/398, Article 1za.

²⁹ The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (2019, No. 600), available at: <https://www.legislation.gov.uk/uksi/2019/600/introduction/made>, as amended by The Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2021 (2021, No. 922), available at: <https://www.legislation.gov.uk/uksi/2021/922/made> and The Republic of Belarus (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2021, available at: <https://www.legislation.gov.uk/en/uksi/2021/1146/introduction/made>.

measures also require relevant companies to report information to HM Treasury on suspected offences.³⁰

On August 9, 2021, the UK designated Mikhail Gutseriev. Additional designations were made on December 2, 2021, including eight individuals and OJSC Belaruskali – a major Belarusian producer and exporter of potassium chloride (potash) fertiliser. Other additions were made on February 4, 8, 16 and 18. At the end of February 2022, the UK list concerning its Belarus program included 108 individuals and 10 Belarusian entities.³¹

On March 1, 2022, the UK issued new measures against Belarusians for their role in the Ukrainian/Russian conflict. The measures target individuals and entities involved in the defense sector including the Belarusian Chief of the General Staff and three other deputy defence ministers.

In addition, the UK designated two entities, JSC 558 Aircraft Repair Plant and JSC Integral, a military semi-conductor manufacturer.³² These designations are part of the Russian sanctions program and appear there in the UK's Consolidated List rather than under the Belarus program.

On March 9, 2022, OFSI issued General Licence INT/2022/1322576 pursuant to which a flight data provider may make payment(s) directly or via a relevant institution to Belaeronavigatsia for aeronautical information publication data. The General License also permits Belaeronavigatsia to provide aeronautical information publication data to flight data providers for the purposes of flight safety concerning civilian aircraft and allows the flight data providers to use this data.³³

On the same day, the UK Export Control Joint Unit issued Notice NTE 2022/06 which removes Belarus as a permitted destination for nine open general export licenses. The affected licenses include affect trade with chemicals, cryptographic development, dual-

³⁰ In addition to the relevant regulations and amendments, visit UK Statutory Guidance on Republic of Belarus sanctions: guidance (updated October 2021), available at: <https://www.gov.uk/government/publications/republic-of-belarus-sanctions-guidance/the-republic-of-belarus-sanctions-guidance>.

³¹ The list is accessible at: <https://www.gov.uk/government/publications/financial-sanctions-belarus>. (last updated February 25, 2022).

³² UK Foreign Secretary press release, *UK imposes sanctions on Belarus for its role in the Russian invasion of Ukraine* (Mar. 1, 2022), available at: <https://www.gov.uk/government/news/uk-imposes-sanctions-on-belarus-for-its-role-in-the-russian-invasion-of-ukraine#:~:text=Foreign%20affairs-.UK%20imposes%20sanctions%20on%20Belarus%20for%20its%20role%20in%20the.in%20Russia's%20invasion%20of%20Ukraine>.

³³ Details on OFSI General Licence INT/2022/1322576 are available at: <https://www.gov.uk/government/publications/ofsi-general-licence-int20221322576>.

use items, export for repair/replacement under warranty of dual-use items and items under open general export licenses.³⁴

As the sanctions landscape evolves, Curtis' Sanctions and Export Controls practice group will continue to monitor developments.

About Curtis

Curtis, Mallet-Prevost, Colt & Mosle LLP is a leading international law firm. Headquartered in New York, Curtis has 19 offices in the United States, Latin America, Europe, the Middle East and Asia. Curtis represents a wide range of clients, including multinational corporations and financial institutions, governments and state-owned companies, money managers, sovereign wealth funds, family-owned businesses, individuals and entrepreneurs.

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³⁴ UK Department of International Trade press release, *Notice to exporters 2022/06: OGELS amended to exclude Belarus* (Mar. 9, 2022), available at: <https://www.gov.uk/government/publications/notice-to-exporters-202206-ogels-amended-to-exclude-belarus/nte-202206-ogels-amended-to-exclude-belarus>.

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