

# BEWARE OF PETROLEUM AND POTASSIUM FROM BELARUS! CANADA IMPOSES NEW SECTORAL SANCTIONS

Posted on August 15, 2021

**Categories:** [Insights](#), [Publications](#)

On August 9, 2021, Canada announced additional sanctions under the *Special Economic Measures Act* (“**SEMA**”) against Belarus, this time restricting activities related to transferable securities and money market instruments, debt financing, insurance and reinsurance, petroleum products, and potassium chloride. SEMA sanctions were already in place against 72 Belarusian officials and 5 entities.

The original SEMA sanctions, which were announced on September 29, 2020, were a response to what the Canadian government describes as “gross and systematic human rights violations”<sup>[1]</sup> including voter suppression during the August 2020 presidential election which led to Alexander Lukashenko’s sixth re-election and state-sanctioned violence against anti-government protesters. In the year since the sanctions were imposed human rights violations continue, with the notable occurrence of the forced diversion of Ryanair flight 4978 leading to the arrest and detention of dissident Belarusian journalist Roman Protasevich and his companion Sofia Sapega. They continue to be held in Belarus as political prisoners.

## **Sectoral Sanctions: Financial and oil & gas sectors**

In total, Canada has imposed new SEMA sanctions five separate times since the August 2020 election: September 2020, October 2020, November 2020, June 2021 and August 2021. Until now, the sanctions have largely focussed on high-ranking Belarusian officials, such as Mr. Lukashenko himself and his son Viktor, and Belarusian entities, covering for example, firms in the automobile and aviation sector. Generally, these sanctions restrict any person in Canada or any Canadian from transacting with the sanctioned official or entity. More detailed information on the effects of these sanctions can be found in our bulletin from September 2020.<sup>[2]</sup>

The most recent sanctions announced this week, marking the one-year anniversary of the fraudulent election, are unique in that they target specific sectors: oil and gas and finance. According to Canadian Minister of Foreign Affairs Marc Garneau, they are designed to restrict “key sectors of the Belarusian economy” and to “minimize Belarusian state actors’ access to international finance.”<sup>[3]</sup> The sanctions prohibit any person in Canada or any Canadian outside Canada to import, purchase, acquire, ship or otherwise deal with any

petroleum products and potassium chloride that is exported from Belarus. The sanctions also prohibit any person in Canada or any Canadian from:

- Dealing in transferable securities and money market instruments issued by Belarus, Belarusian banks or a person acting on behalf of said entities.
- Providing debt financing of longer than 90 days' maturity in relation to Belarus, Belarusian banks, or a person acting on behalf of said entities.
- Providing insurance or reinsurance to Belarus, an organization controlled by Belarus, or a person acting on behalf of said entities.[\[4\]](#)

These sanctions share similarities with sanctions imposed against Russia in response to Russia's involvement in the political crisis in Crimea. In 2014, Canada imposed sanctions targeting key sectors of the Russian economy including oil and gas and finance. The sanctions prohibited any person in Canada or any Canadian from providing debt financing of longer than 90 days' maturity, providing financing or otherwise dealing in new securities, and exporting, selling, supplying, or shipping any goods related to oil exploration and production.[\[5\]](#)

### **Concerted Effort on the International Stage**

These measures are part of a concerted effort between Canada, the United States, the EU and the United Kingdom to put pressure on Mr. Lukashenko to cease the human rights violations. In addition to prohibiting trade in petroleum products and prohibiting the purchase of transferable securities and money-market instruments, the UK prohibited Belarusian air carriers from flying over the UK and imposed more expansive trade sanctions, such as restricting trade in potash and goods used in cigarette manufacturing.[\[6\]](#) The US also made an announcement this week adding 23 officials and 21 entities to its sanctions list. Notably, the US added the National Olympic Committee of the Republic of Belarus to the sanctions list, saying that the committee is used as a tool to "launder funds and evade sanctions."[\[7\]](#) The EU has not yet made any announcement.

### **Prior Belarusian Listing on the Area Control List**

As discussed in our client bulletin from September 2020 titled "[Sanctions Alert: Canada Reimposes Sanctions on Belarus](#)", these sanctions are just the next step in a lengthy history of Canadian sanctions against Belarus. Between 2006 and 2017, Belarus was listed on the *Export and Import Permits Act* Area Control List ("**ACL**") for similar transgressions occurring today (e.g. flawed presidential elections and intimidation of opposition). When a country is listed on the ACL, an export permit from the Minister of Foreign Affairs is required to export any goods to this country. Belarus was formally removed from the list on June 20, 2017.[\[8\]](#)

### **Conclusion**

Canadian companies with ties to Belarus should be aware of any risk of non-compliance with SEMA. Under

section 8, any person that fails to comply with a sanctions order risks a \$25,000 fine or up to five years of imprisonment.<sup>[9]</sup> McMillan's International Trade Group will continue monitoring any changes to this sanctions program and can provide strategic advice to mitigate any risk of non-compliance.

*Acknowledgement: McMillan's articling student, Tayler Farrell, made significant contributions to the drafting of this bulletin.*

[1][ps2id id='1' target=''] Global Affairs Canada website: [Canadian Sanctions Related to Belarus](#).

[2] [ps2id id='2' target=''] McMillan Bulletin, September 2020, [Sanctions Alert: Canada Reimposes Sanctions on Belarus](#).

[3][ps2id id='3' target=''] Global Affairs Canada, News Release, August 9, 2021, [Canada imposes additional sanction on first anniversary Belarus's fraudulent presidential elections](#).

[4][ps2id id='4' target=''] *Regulations Amending the Special Economic Measures (Belarus) Regulations*, August 9, 2020; online: [Global Affairs Canada](#).

[5][ps2id id='5' target=''] *Regulations Amending the Special Economic Measures (Russia) Regulations*, December 19, 2014; online: [Global Affairs Canada](#).

[6][ps2id id='6' target=''] UK Foreign, Commonwealth & Development Office, News Story, August 9 2021, online: [Belarus: UK imposes significant new package of economic sanctions on Belarus on anniversary of fraudulent election](#).

[7][ps2id id='7' target=''] US Department of the Treasury, Press Release, August, 9 2021; online: [Treasury Hold the Belarusian Regime to Account on Anniversary of Fraudulent Election](#).

[8][ps2id id='8' target=''] Global Affairs Canada, Notice to Exporters, June 30, 2017, online: [Amendment to the Area Control List \(removal of Belarus\)](#).

[9][ps2id id='9' target=''] *Special Economic Measures Act*, SC 1992, c 17.

By [Peter Jarosz](#) & [Chris Scheitterlein](#)

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2021