

# CANADA RATCHETS UP ITS SANCTIONS IN RESPONSE TO THE RUSSIA-UKRAINE CRISIS

Posted on March 4, 2022

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In this update of McMillan's bulletins on Canadian sanctions in response to military actions taken by Russia against Ukraine, we discuss Canada's revocation of the Most Favoured Nation tariff treatment for Russia and Belarus, Canada's plan to ban imports of Russian oil, and further additions of Russian individuals and entities to the list of sanctioned persons under the *Special Economic Measures (Russia) Regulations*. These and other measures imposed since February 24, 2022 are unprecedented in scope and severity.<sup>[1]</sup>

## Canada Revokes Most-Favoured Nation Treatment for Russia and Belarus

On March 2, 2022 Canada's Minister of Finance issued the *Most Favoured Nation Tariff Withdrawal Order* under the *Customs Tariff*.<sup>[2]</sup> This order effectively rescinds Canada's agreement to accord goods from Russia and Belarus treatment as favourable as goods from other WTO member countries. As a result, Russian and Belarusian goods are now subject to the General Tariff of 35% under the *Customs Tariff*.

The total value of affected trade amounts to approximately \$2.1 billion. In 2020, Russia exported approximately \$1.2 billion worth of goods to Canada. In 2021, this increased to \$2.1 billion, with the main products being metal and non-metallic mineral products (\$712 million), basic and industrial chemical, plastic and rubber products (\$682 million), and energy products (\$289 million).<sup>[3]</sup> In 2020, Belarus exported about \$23 million to Canada, which increased to \$34 million in 2021, with the main products being consumer goods (\$11 million) and forestry products (\$10 million).<sup>[4]</sup>

This withdrawal order may be in effect for up to 180 days. Parliament will need to approve the order for it to continue beyond that time frame.<sup>[5]</sup>

Imposition of the General Tariff departs from the general World Trade Organization principle of Most Favoured Nation treatment for all WTO members. However, Article XXI of the WTO's *General Agreement on Tariffs and Trade* provides for security exceptions, allowing countries to impose measures "necessary for the protection of essential security interests" so long as the action is "taken in time of war or other emergency in international relations".<sup>[6]</sup>

## Canada Bans Oil Imports from Russia

On February 28, 2022, Canada announced that it will be banning crude oil imports from Russia.<sup>[7]</sup> The Canadian government acknowledged that there have not been imports of crude oil from Russia since 2019. However, the announcement indicated that Canada is also considering adding petroleum products to this ban, which Canada does continue to import. As of the date of publication of this bulletin, the implementing steps for this ban have not been issued.

## Canada Adds to the List of Sanctioned Individuals and Entities

Canada has taken three steps to supplement sanctions of individuals and entities issued a week earlier:

- On February 28, 2022, Canada sanctioned 18 high-ranking public officials in Russia, including against the President of the Russian Federation (Vladimir Putin), his Chief of Staff (Anton Vaino), the Foreign Minister (Sergey Lavrov), the Minister of Justice (Konstantin Chuychenko), and the Minister of Defence (Sergey Shoygu).<sup>[8]</sup> Any person in Canada, and Canadians anywhere in the world, are prohibited from any dealings with these individuals, and assets they hold in Canadian financial institutions are subject to a freeze. In particular, Canadians are prohibited from dealing in any property held by or on behalf of these individuals, making any goods available to these individuals, and providing financial or related services to these individuals.<sup>[9]</sup>
- On March 2, 2022, Canada announced that it would expand sanctions against ten key individuals from two important companies in Russia's energy sector, Rosneft and Gazprom.<sup>[10]</sup> As of the date of publication of this bulletin, the names of these individuals have not been made public.
- Canada's also increased the scale and severity of sanctions applied to the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation. These entities are now subject to a dealings prohibition, as described above, and assets freeze.<sup>[11]</sup> While these three entities had previously been designated under the now repealed Schedule 3.1 of Canada's sanctions regime on February 24, which prohibited new debt financing, they have been re-designated under the broader prohibition against all dealings for Schedule 1 entities.<sup>[12]</sup>

## Canada Supports Efforts to Remove Russia from the SWIFT Banking System

On February 26, 2022, Canada, along with the European Commission, France, Germany, Italy, the UK and the US, issued a joint statement committing to remove selected Russian banks from Society for Worldwide Interbank Financial Telecommunication ("**SWIFT**"), a specialized financial messaging service used by banks to exchange financial data.<sup>[13]</sup> This action would cut these banks off from an important part of the international financial system.

On March 1, 2022, the European Commission moved to prohibit the provision of SWIFT to seven major Russian banks and their majority-owned subsidiaries. The following Russian banks are currently designated: Bank Otkritie, Novikombank, Promsvyazbank, Bank Rossiya, Sovcombank, Vnesheconombank (VEB), and VTB Bank.<sup>[14]</sup> Similar action by Canada may be forthcoming.

### **The Government of Canada Takes Additional Measures in Response to the Situation in Ukraine**

In addition to the vast number of economic sanctions, export and import controls, and customs-related measures taken thus far, Canada is also reacting to the situation in Ukraine by:

- providing new immigration streams for Ukrainian refugees;
- supporting efforts to remove Russia from Interpol;<sup>[15]</sup>
- removing Russian state television from the list of non-Canadian programming services and stations authorized for distribution;<sup>[16]</sup>
- ordering Export Development Canada to provide financial assistance to Ukraine under the *Bretton Woods and Related Agreements Act*;<sup>[17]</sup>
- invoking the Moscow Mechanism, an initiative to establish a mission of experts to address the human rights and humanitarian impacts of Russia's invasion of Ukraine;<sup>[18]</sup>
- prohibiting Russian ships and fishing vessels from entering Canadian ports and internal waters;<sup>[19]</sup> and
- closing Canadian airspace to Russian airlines.<sup>[20]</sup>

### **Summary of the First Round of Economic Sanctions Imposed Against Russia**

As discussed in our previous bulletin [Canada Strengthens Its Economic Sanctions and Export Controls Against Russia and Supports Russia's Removal from SWIFT](#), Canada's initial round of sanctions against Russia included the following measures:

- Restrictions on dealings with the Russian financial sector by imposing sanctions that apply to certain large Russian banks;
- Sanctions on major Russian industry players in the export-oriented oil and gas industry, and entities involved in transportation, aviation, utilities, defence and telecommunications;
- Comprehensive sanctions that prohibit numerous transactions and activities in the regions of the "Donetsk People's Republic" and the "Luhansk People's Republic";
- Addition of hundreds of individuals to the sanctions list, including members of the Russian State Duma and four Ukrainian individuals considered to be pro-Russian agents; and
- Cancellation of existing and denial of future export permits for controlled goods and technology to Russia.

McMillan's international trade team is continuing to monitor the Russia, Ukraine and Belarus developments and is available to help businesses to ensure compliance with these changing rules.

[1] See our previous bulletin on Canada's initial round of sanctions in response to Russia's invasion of Ukraine: [Canada Strengthens Its Economic Sanctions and Export Controls Against Russia and Supports Russia's Removal from SWIFT](#). (February 25, 2022). A brief summary of these measures is also provided below.

[2] Order in Council, PC Number: 2022-0182, March 2, 2022, online: <https://orders-in-council.canada.ca/attachment.php?attach=41659&lang=en>.

[3] Statistics Canada, [Canadian international merchandise trade by country and by product section, customs-based, annual \(x1,000\)](#), accessed March 4, 2022 (Narrowed by Trade: Import and Trading Partner: Russian Federation).

[4] Statistics Canada, [Canadian international merchandise trade by country and by product section, customs-based, annual \(x1,000\)](#), accessed March 4, 2022 (Narrowed by Trade: Import and Trading Partner: Belarus).

[5] *Customs Tariff*, SC 1997, c. 36, s. 32 (1).

[6] *General Agreement on Tariffs and Trade*, 30 October 1947, UNTS 187 (entered into force 1 January 1948) [GATT].

[7] Natural Resources Canada, [Government of Canada Moves to Prohibit Import of Russian Oil](#), February 28, 2022.

[8] [Regulations Amending the Special Economic Measures \(Russia\) Regulations](#) (SOR/2022-0032).

[9] [Special Economic Measures \(Russia\) Regulations](#), SOR/ 2014-58, s. 3.

[10] [Canada imposes additional economic measures on Russian energy sector](#), March 2, 2022.

[11] [Regulations Amending the Special Economic Measures \(Russia\) Regulations](#) (SOR/2022-0031).

[12] [Regulations Amending the Special Economic Measures \(Russia\) Regulations](#) (SOR/2022-0031).

[13] Prime Minister of Canada Justin Trudeau, [Joint Statement on further restrictive economic measures](#) (February 26, 2022).

[14] [Council Regulation \(EU\) 2022/345](#), Official Journal of the European Union, March 1, 2022.

[15] Prime Minister Justin Trudeau, [Update on the situation in Ukraine and announcing new Canada Digital Adoption Program](#) (video: March 3, 2022).

[16] [Order requesting the Canadian Radio-television and Telecommunications Commission hold a hearing to determine whether RT and RT France should be removed from the List of non-Canadian programming services and stations authorized for distribution](#), March 2, 2022.

[17] [Order Directing Export Development Canada to act as an Agent for the Minister of Finance to Provide Financial Assistance to Ukraine](#), February 26, 2022.

[18] Global Affairs Canada, [Canada and its partners invoke the OSCE Moscow Mechanism to address Russia's possible war crimes in Ukraine](#), March 3, 2022.

[19]Transport Canada, [Government of Canada prohibits Russian ships and fishing vessels from entering Canadian ports and internal waters](#), March 1, 2022.

[20] Transport Canada, [Government of Canada prohibits Russian aircraft to enter Canadian airspace](#), February 27, 2022.

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### **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.

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