



BELARUS SANCTIONS OVERVIEW AUGUST 2021

For a variety of reasons, Belarus has in recent months become a target for wide-ranging sanctions from the United States, United Kingdom and European Union. Many of these sanctions impact on shipping activities, notably in relation to Belarusian potash trade which accounts for a large percentage of worldwide potash trade.

UNITED STATES

US sanctions targeting Belarus can be traced back to [Executive Order 13405—Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus](#) which was issued on 16 June 2016 by President George W. Bush. EO 13405 was a response to what the US perceived was an undemocratic presidential election which took place in March 2006, the committing of human rights abuses related to political repression, including detentions and disappearances, and corruption, including by diverting or misusing Belarusian public assets or by misusing public authority.

EO 13405 created the basis for blocking sanctions to be applied to:

any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(A) to be responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus;

(B) to be responsible for, or to have participated in, human rights abuses related to political repression in Belarus;

(C) to be a senior-level official, a family member of such an official, or a person closely linked to such an official who is responsible for or has engaged in public corruption related to Belarus;

(D) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(ii)(A) through (C) of this section or any person listed in or designated pursuant to this order; or

(E) to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person listed in or designated pursuant to this order.

EO 13405 requires that all property and interests in property of those designated, and of any entities owned, directly or indirectly, 50 percent or more by them, individually, or with other blocked persons, that are in the United States or in the possession or control of U.S. persons, be blocked and reported to OFAC.

In October 2020 the provisions of EO 13405 were used to designate eight individuals for their roles in the August 2020 Belarus presidential election which was described as fraudulent, and the subsequent violent crackdown on protesters.

On 9 August 2021, the one-year anniversary of Belarus' 9 August 2020 presidential election, OFAC sanctioned 27 individuals and 17 entities pursuant to EO 13405. The persons newly-designated under EO 13405 are alleged to be involved in the continuing violent crackdown on peaceful protests, connected to the 23 May 2021 Ryanair incident, and/or profit from or sustain the Belarusian regime at the expense of the Belarusian people.

In addition, OFAC issued a [new EO of 9 August 2021 "Blocking Property of Additional Persons Contributing to the Situation in Belarus"](#) ("EO of 9 August 2021") expanding Belarus sanctions authorities. The EO of 9 August 2021 creates a foundation for the imposition of blocking sanctions in respect of the following:

(i) persons who are or have been a leader, official, senior executive officer, or member of the board of directors of:

(A) an entity that has, or whose members have, engaged in any of the activities described in subsections (v)(A)-(E) of this section or section 1(a)(ii)(A)-(C) of Executive Order 13405; or

(B) an entity whose property and interests in property are blocked pursuant to this order or Executive Order 13405;

(ii) a political subdivision, agency, or instrumentality of the Government of Belarus;

(iii) persons who are or have been a leader or official of the Government of Belarus;

(iv) those operating or have operated in the defense and related materiel sector, security sector, energy sector, potassium chloride (potash) sector, tobacco products sector, construction sector, or transportation sector of the economy of Belarus, or any other sector of the Belarus economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;

(v) persons responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following:

(A) actions or policies that threaten the peace, security, stability, or territorial integrity of Belarus;

(B) actions or policies that prohibit, limit, or penalize the exercise of human rights and fundamental freedoms (including freedoms of expression, peaceful assembly, association, religion or belief, and movement) by individuals in Belarus, or that limit access to the Internet or print, online, or broadcast media in Belarus;

(C) electoral fraud or other actions or policies that undermined the electoral process in a Republic of Belarus election;

(D) deceptive or structured transactions or dealings to circumvent any United States sanctions by or for or on behalf of, or for the benefit of, directly or indirectly, the Government of Belarus or any person whose property and interests in property are blocked pursuant to this order or Executive Order 13405; or

(E) public corruption related to Belarus.

(vi) persons who have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in subsections (v)(A)-(E) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(vii) persons owned or controlled by, or who have acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus or any person whose property and interests in property are blocked pursuant to this order.

Importantly from a shipping perspective, Belaruskali OAO, one of the world's largest producers of key fertilizer ingredient potassium chloride (potash) and a major source of tax revenue and foreign currency for the Lukashenko regime, has been designated pursuant to the EO of 9 August 2021 for being owned or controlled by, directly or indirectly, the Government of Belarus and for operating or having operated in the potash sector of the economy of Belarus.

Concurrently OFAC issued [Belarus General License 4, "Authorizing the Wind Down of Transactions Involving Belaruskali OAO,"](#) to provide US persons 120 days in which to wind down transactions involving Belaruskali OAO, or any entity in which Belaruskali OAO owns, directly or indirectly, a 50 percent or greater interest.

OFAC has also published a [press release](#) explaining the background to these latest developments.

EU AND UK

On 21 June 2021, the EU and UK announced the joint imposition of sanctions against Belarusian individuals and entities in response to the forced landing of a Ryanair commercial flight in Belarus. Newly-designated parties are subject to asset freezes, which extend to include any other parties owned or controlled by the designated parties.

This was followed by the issuance of a new EU Regulation ([COUNCIL REGULATION \(EU\) 2021/1030 of 24 June 2021 amending Regulation \(EC\) No 765/2006 concerning restrictive measures in respect of Belarus](#)) ("Regulation 2021/1030").

EU Regulation 2021/1030 creates the basis for the imposition of sanctions against a variety of activities related to technology and software, dual-use goods and technology, tobacco, petroleum and potash products, and financial services.

On 9 August the UK Government announced a comprehensive package of sanctions including:

- trade measures on potash, petroleum products, interception and monitoring goods and technology, goods used in cigarette manufacturing, and dual-use goods and technology to reduce the amount of revenue flowing to the Lukashenko regime and to limit its access to items that could enable the internal repression of the Belarusian population
- financial measures prohibiting purchases of transferable securities and money-market instruments issued by the Belarusian state, as well as those issued by state-owned banks, and the provision of loans
- aviation measures to prevent Belarusian air carriers from overflying or landing in the UK and a prohibition on the provision of technical assistance to President Lukashenko's fleet of luxury aircraft

There are also prohibitions on the provision of insurance and reinsurance to Belarusian state bodies.

These sanctions measures have been put in place via an amendment to the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019.

In light of the above developments, trade involving Belarus now carries with it enhanced sanctions risks which may impact upon the provision of insurance, and on the ability of others who provide related services (such as banks) to respond in the usual way.