



1 April 2022

Minister for Trade and Export Growth
 → Minister of Foreign Affairs

For action by 4 April 2022
 For action by 4 April 2022

Russia: Trade-Related Sanctions

BRIEFING Decision Submission

PURPOSE To seek decisions on additional trade measures New Zealand could take as part of its wider Russia sanctions response.

Tukunga tūtohua – Recommended referrals

Prime Minister	For information by	7 April 2022
Deputy Prime Minister	For information by	7 April 2022
Minister Responsible for the GCSB	For information by	7 April 2022
Attorney-General	For information by	7 April 2022
Minister of Immigration	For information by	7 April 2022
Minister of Defence	For information by	7 April 2022
Minister of Transport	For information by	7 April 2022
Minister of Commerce and Consumer Affairs	For information by	7 April 2022
Minister of Customs	For information by	7 April 2022

Taipitopito whakapā – Contact details

NAME	ROLE	DIVISION	WORK PHONE
Andrea Smith s9(2)(g)(ii)	Deputy Secretary Principal Adviser	Russia Sanctions Taskforce Russia Sanctions Taskforce	s9(2)(a)

Mā te Tari Minita e whakakī – Minister's Office to complete

<input type="checkbox"/> Approved	<input type="checkbox"/> Noted	<input type="checkbox"/> Referred
<input type="checkbox"/> Needs amendment	<input type="checkbox"/> Declined	<input type="checkbox"/> Withdrawn
<input type="checkbox"/> Overtaken by events	<input type="checkbox"/> See Minister's notes	

Comments

Russia: Trade-Related Sanctions

Pito matua – Key points

Using the powers available in the Russia Sanctions Act, it is proposed to increase to 35 per cent tariffs applied to all imports from Russia. This would prevent the bulk of Russian exports being competitive in the Aotearoa New Zealand market and likely severely curtail such exports, sending a powerful signal of our condemnation of the invasion of Ukraine.

Officials also propose extending New Zealand's current export prohibitions to cover a wider range of industrial goods closely connected to strategic Russian industries. By denying Russia access to these goods, we would ensure Aotearoa New Zealand is not contributing to Moscow's war effort.

In the time available, it has only been possible to conduct relatively limited analysis on the potential domestic implications of these two measures. The work officials have been able to do to date suggests overall impacts are likely to be minimal.

In the case of New Zealand imports from Russia, fertiliser appears likely to be most affected¹; while the volume and value of any export products covered by extended export prohibitions appears small. Moreover, such trade could well already be precluded by transport and payment restrictions affecting the Russian market.

We propose the timeline for the implementation of this new set of Russia trade-related sanctions (i.e. the tariff increase, and export bans on further specified industrial exports) as follows:

- 4 April: Policy approval for amendments to regulations through an oral item at Cabinet;
- 4 April: Announcement of the Government's intentions after Cabinet;
- 7 April: Submission on draft regulations on trade-related sanctions goes to Minister of Foreign Affairs (copied for information to Ministers with the Power to Act);
- 11 April: Executive Council;
- 11 April: Gazetting and public notification (timing tbc); and
- 25 April: Entry into force of trade-related amending regulations.

Andrea Smith
for Secretary of Foreign Affairs and Trade

¹ Russia accounted for around 1% of New Zealand's fertiliser supplies (including 6% of mineral fertilizer, potash) in recent years. There is currently a global shortage of fertiliser and limited alternative sources of supply, leading to record high prices, including as competition for access to these limited alternative suppliers has intensified.

Russia: Trade-Related Sanctions

Tūtohu – Recommendations

It is recommended that you:

- 1 **Note** the existing trade-related sanctions New Zealand has in place, (including export controls, additional prohibitions on supply of goods to the Russian and Belarusian military, paramilitary, militia or police force); **Yes / No**
- 2 **Agree** that New Zealand supplement these existing measures with further trade-related sanctions; **Yes / No**
- 3 **Agree** that the next set of regulations under the Russia Sanctions Act should include provisions to:
 - establish a 'sanctions tariff' level for Russia set at 35 percent; **Yes/ No**
 - allow for the extension of New Zealand's current export prohibitions to cover a fuller set of goods connected to strategic Russian industries; **Yes/ No**
- 4 **Agree** to implement the extension of New Zealand's current export prohibitions in stages, as the required technical work is completed; **Yes/ No**
- 5 **Note** that while a full assessment of the domestic effects of higher tariffs has not been possible in the time available, the macroeconomic effects of imposing such tariffs is expected to be limited (albeit with some goods potentially more affected); **Yes/ No**
- 6 **Note** that, due to the urgency of these measures, a full review will be completed post-implementation, once the sanctions regime under the Act has stabilised and it is possible to assess its impacts; **Yes/ No**
- 7 **Refer** a copy of this submission to Ministers with the Power to Act (those designated by Cabinet on 7 March 2022). **Yes/ No**

Hon Nanaia Mahuta
Minister of Foreign Affairs / Minita Take Aorere

Date: / /

Hon Damien O'Connor
Minister for Trade and Export Growth

Date: / /

Russia: Trade-Related Sanctions

Pūrongo – Report

The G7, the European Union, Korea, and Australia have taken trade measures as part of the sanctions they have imposed on Russia in response to its invasion of Ukraine. These have included import and export bans targeting key products; plus tariff hikes in some countries. The Russia Sanctions Act enables the imposition of sanctions by New Zealand in response to the military actions taken by Russia against Ukraine, including to reinforce the international community's pressure campaign.

2 Following Ministers' feedback on our 25 March submission proposing a graduated set of trade measures, this submission seeks your agreement to move now to:

- increase tariffs applied to all imports from Russia; and
- extend New Zealand's current export prohibitions to cover a wider range of industrial goods closely connected to strategic Russian industries.

Curtailling Imports

3 Ministers have requested advice on an increase in tariffs. The approach of other trade partners who have imposed tariff increases on Russia has varied:

- ^{s6(a)}
- Canada has withdrawn Russia's eligibility to Most Favoured Nation² tariffs, resulting in imposition of an across-the-board tariff of 35 percent;
- Japan has increased its tariffs on selected imports from Russia to 10 percent (ordinarily the tariffs for these products would be between zero and five percent);
- The UK has divided imports into three categories: (i) products on which it has imposed an additional 35 per cent on top of existing tariff levels – this includes products such as iron, steel, metals, paper and machinery; (ii) products listed for further consideration; and (iii) products not to be subject to increased tariffs given UK domestic requirements;
- The US is in the process of passing legislation to enable it to withdraw Russia's Permanent Normal Trade Relations status and lift tariffs on Russian products.

4 New Zealand's tariff structure has two types of tariffs: the normal tariff and preferential rates (mostly accorded to Free Trade Agreement partners). Most tariff lines do not have a tariff and those that do generally sit at a normal rate of five percent or 10 percent. Unlike Canada, New Zealand does not have legislative provisions for punitive (or non-MFN) tariffs.

5 In light of the above, officials recommend regulations be created under the Russia Sanctions Act to establish a separate, 'sanctions tariff', to apply to Russia. Given the need to create a separate, country-specific, tariff for this purpose, there would be

² Most favoured nation (MFN) is a fundamental WTO principle based on the idea that countries should treat all WTO Members equally—that no one country should be "more favoured." Only in the context of a WTO-consistent Free Trade Agreement are WTO Members able to accord better than MFN treatment to each other.

Russia: Trade-Related Sanctions

administrative advantages in applying this 'sanctions tariff' to all products from Russia and to levying a uniform tariff rate (similar to Canada's approach).

6 New Zealand's imports from Russia are small; just 0.13 percent of total goods imports. At the economy-wide level, the imposition of higher tariffs is unlikely to have a significant negative impact on New Zealand. Of the NZ\$90 million imported in the year to December 2021, \$54 million was crude oil, which has now dropped to zero given the closure of Marsden Point.

7 Officials have undertaken some initial analysis of the significance of other Russian imports as inputs for New Zealand industry. Applying an increased 'sanctions tariff' across the board presents some risks, with fertiliser the most significant product for Ministers to be aware of. While imports of fertiliser from Russia have fluctuated between less than half a million tonnes up to nearly 27 million tonnes a year, a more usual average has been around 3.5 million tonnes a year (valued at approx. NZ\$2 million and accounting for about 6 percent of New Zealand's total potash imports). Though Russia represents a relatively small proportion of total New Zealand supply, global fertiliser prices have almost doubled in the past year. With limited alternative sources of supply, further price increases for fertiliser could be expected to have an impact. This could affect domestic production and have downstream implications for prices both domestically and for exports.

8 What rate should a 'sanctions tariff' be set at? Based on the approach partners have taken, there is a range of between 10 percent and 35 percent. If the tariff were set at 35 percent, it seems likely almost all imports from Russia would be curtailed, sending a powerful signal to Moscow (with relatively limited risks to New Zealand evident). In part, this is because other sanctions already being applied to Russia by us and others (including in the transport and payments areas) have had an impact on the practical feasibility of trading with Russia.^{s6(a)}

Though a 'sanctions tariff' level of 35% is proposed, it would, of course, be open to Ministers to choose a rate lower than 35%.

s9(2)(g)(i)

Measures Affecting Exports

10 Total New Zealand exports to Russia were NZ\$293 million in the year to December 2021 (or 1.0 percent of overall New Zealand exports). Dairy was our single largest export product (\$113 million), with six other primary products featured in our top ten exports. Medical equipment, particularly therapeutic respiration apparatus, ranked fourth (NZ\$15 million). While exporters are voluntarily withdrawing from Russia (e.g. Fonterra's recent decision to cease

³ Fertiliser imports from Belarus averaged NZ\$17.4 million over the period 2019-2021, accounting for 2.3% of total New Zealand fertiliser imports (15.4% of imports of potash).

Russia: Trade-Related Sanctions

trading in Russia) or finding it too complex an environment to operate in, no other country has banned the export of these types of product to Russia. New Zealand should not either.

11 New Zealand has already restricted exports of some types of industrial goods capable of dual-use or support for Russia's military effort and the strategic industries contributing to it. We have issued a prohibition on the export of any other goods that have a civilian use – not just military or dual-use goods – that may be intended for use by the military, paramilitary, militia or police forces in Russia or Belarus or that may have military applications.

12 Officials propose that New Zealand expand the range of goods subject to export bans to bring us into greater alignment with our partners. The US and EU have targeted a list of seven product categories, including: certain types of electronic equipment, certain computer equipment and related software, certain telecommunications equipment, specific optical and acoustic equipment, including certain types of sensors, cameras and lasers; certain navigation equipment, vessels and marine equipment and related software; and certain engines and turbines, including aircraft engines. Our export volumes of such products to Russia/Belarus are, however, currently small and highly variable. As far as officials have been able to identify so far, there appears to be minimal risk of New Zealand exports in these categories currently. ^{s6(a), s9(2)(g)(i)}

13 Officials recommend that an in-principle decision be taken to expand New Zealand's existing export controls to prohibit these specific products, ^{s6(a)}

In light of the further technical work needed to ensure that New Zealand has reflected these products accurately through the classification system normally applied by New Zealand Customs (the international Harmonised System), it is also recommended that this measure be implemented in stages. Our aim would be to work to complete this technical work on a first batch of products in time for inclusion in the next set of regulations – together with any import measures that might be applied – with the remainder to follow as part of a further set of regulations later in April.

Process and Timeframes

14 We propose the timeline for the implementation of this new set of Russia trade-related sanctions (i.e. establishing a 'sanctions tariff', and export bans on further specified industrial exports) as follows:

- 4 April: Policy approval for amendments to regulations through an oral item at Cabinet;
- 4 April: Announcements of the Government's intentions after Cabinet;
- 7 April: Submission on draft regulations on trade-related sanctions goes to Minister of Foreign Affairs (copied for information to Ministers with the Power to Act);
- 11 April: Executive Council;
- 11 April: Gazetting and public notification (timing tbc); and
- 25 April: Entry into force of trade-related amending regulations.

15 If agreed, New Zealand Customs has confirmed it would be possible for the work to programme its Cusmod database to implement the new 'sanctions tariff' and export bans to be completed in time to enable implementation from the date of entry into force on 25 April. Subsequent stages in expansion of New Zealand's export controls to prohibit further specific products as outlined in paragraph 14 above would be implemented through a further set of regulations in late April.

Russia: Trade-Related Sanctions

16 In adopting these kinds of trade-related sanctions, New Zealand would be relying on the 'national security exception' available under World Trade Organisation (WTO) rules. This exception enables a Member to depart from WTO rules and commitments to take 'any action it considers necessary for the protection of its essential security interests', including measures 'taken in time of war or other emergency in international relations'. Given New Zealand's interests in ensuring the national security exception is not misused by other trade partners, it is important to ensure that measures taken in reliance on it are able to be robustly justified and subject to review and/or expiry, as required. Officials will ensure such a review and/or expiry provision is included in the relevant measures.

17 Due to the urgency of these regulations, Regulatory Impact Analysis (RIA) has not been completed and so the paper does not meet Cabinet's RIA requirements. On behalf of respective Ministers, the Treasury's RIA team and MFAT have agreed that a post-implementation review will be completed on both the Act and its successive implementing regulations once the regime has stabilised and we can assess its impacts.