

# United States Imposes Sanctions Related to Russia's Use of Chemical Weapons

---

September 6, 2018

**US Sanctions Team:** [Richard Burke](#), [Nicole Erb](#), [Claire A. DeLelle](#), [Kristina Zisis](#), [Cristina Brayton-Lewis](#), [Sandra Jorgensen](#)

**EU Sanctions Team:** [James Killick](#), [Jacquelyn MacLennan](#), [Genevra Forwood](#), [Sara Nordin](#), [Charlotte Van Haute](#), [Fabienne Vermeeren](#), [Pierre Pêcheux](#)

**UK Sanctions Team:** [Joanna Dimmock](#), [Stuart Willey](#), [Genevra Forwood](#), [Sara Nordin](#), [Joseph Carroll](#)

On August 27, 2018, the US Department of State (State Department) announced that it had determined on August 6, 2018 that the Government of the Russian Federation has used chemical weapons in violation of international law or lethal chemical weapons against its own nationals. As a result of this determination, the United States imposed sanctions on the Russian Federation pursuant to Section 307(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act).<sup>1</sup> The State Department also determined and certified to the US Congress that it is essential to the national security interests of the United States to waive the application of certain sanctions required under the Act. The determination and waiver became effective as of August 27, 2018.

We describe below the sanctions that have been imposed with respect to Russia as a result of the State Department's determination and waiver.

## Sanctions to be Imposed

The following sanctions were imposed without any waiver:

- **Arms Sales Financing** — Termination of all foreign military financing for Russia under the Arms Export Control Act.

---

<sup>1</sup> See Federal Register notice available [here](#).

---

- **Denial of US Government credit or other financial assistance** — Denial to Russia of any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.<sup>2</sup>

The following sanctions were imposed and partially waived:

- **Termination of arms sales** — Termination of (a) sales to Russia under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and (b) licenses for the export to Russia of any item on the United States Munitions List. The State Department determined that it is essential to the national security interests of the United States to waive the application of this sanction with respect to the issuance of licenses in support of government space cooperation and commercial space launches. Such licenses shall be issued on a case-by-case basis and consistent with export licensing policy for Russia in effect prior to the enactment of these sanctions.
- **Prohibition on exports of national security-sensitive goods and technology** — Prohibition on the export to Russia of any goods or technology on that part of the control list established under Section 2404(c)(1) of the Appendix to Title 50. The State Department determined that it is essential to the national security interests of the United States to waive the application of this sanction with respect to the following:
  - **License exceptions** — Exports and reexports of goods and technology controlled for national security purposes will continue to be eligible for License Exceptions GOV, ENC, RPL, BAG, TMP, TSU, APR, CIV, and AVS.
  - **Safety of Flight** — Licenses for the export and reexport of national security-controlled goods or technology used for safety of flight of civil fixed-wing passenger aviation will be issued on a case-by-case basis consistent with current export licensing policy.
  - **Deemed Exports/Reexports** — Licenses for the deemed export and reexport of national security-controlled goods or technology to Russian nationals will be issued on a case-by-case basis consistent with current export licensing policy.
  - **Wholly-Owned US Subsidiaries** — Licenses for the export and reexport of national security-controlled goods or technology to wholly-owned US subsidiaries in Russia will be issued on a case-by-case basis consistent with current export licensing policy.
  - **Space Flight** — Licenses for the export and reexport of national security-controlled goods or technology in support of government space cooperation and commercial space launches will be issued on a case-by-case basis consistent with current export licensing policy.
  - **Commercial End-Users** — Licenses for the export and reexport of national security-controlled goods or technology for commercial end-users and commercial end-uses in Russia will be issued on a case-by-case basis consistent with current export licensing policy.
  - **SOEs/SFEs** — Licenses for the export and reexport of national security-controlled goods or technology for Russian state-owned or state-funded enterprises will be issued on a case-by-case basis, subject to a “presumption of denial” policy.

The following sanctions provided for by the Act were fully waived:

- **Termination of foreign assistance** — Termination of assistance to Russia under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products. The State Department determined that it is essential to the national security interests of the United States to waive the application of this restriction.

---

<sup>2</sup> According to USAID, foreign assistance provided to Russia has dwindled from US\$1.6 billion in 2007 to US\$19 million in 2016 (the last year for which statistics are available). The foreign assistance in 2016 was primarily provided for the Moscow Resettlement Support Center and the Department of Energy, Office of Radiological Security.

---

The State Department has advised that the sanctions required by the CBW Act will be implemented by the relevant departments and agencies of the US Government and will remain in place “for at least one year and until further notice.”

Significantly, the August 6 determination also triggered a three-month period after which the President, in consultation with Congress, must impose three out of a menu of six additional sanctions measures unless he can certify to Congress that (1) Russia is no longer in use of chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals; (2) the Russian government has provided reliable assurances that it will not engage in such activities in the future; and (3) the Russian government is willing to allow on-site inspections by UN observers or other impartial observers. Like the first round of sanctions, the President may also waive these sanctions upon a determination that such a waiver is in the national security interests of the United States. The menu of sanctions is as follows:

- US Government opposition to multilateral development bank assistance to Russia;
- A prohibition on US financial institutions extending credit to the Russian government;
- A total prohibition on all exports to Russia of dual-use items (except for food and agricultural commodities);
- A ban on the import of Russian-origin items;
- Downgrading or suspension of diplomatic relations with Russia; and
- Suspension of the authority of state-owned Russian air carriers (such as Aeroflot) to engage in transportation to or from the United States.

Companies looking to do business related to Russia should monitor future developments closely, and exercise caution to ensure compliance with all applicable sanctions.

White & Case LLP  
701 Thirteenth Street, NW  
Washington, District of Columbia  
20005-3807, United States  
**T** +1 202 626 3600

White & Case LLP  
Wetstraat 62 rue de la Loi  
1040 Brussels  
Belgium  
**T** +32 2 239 26 20

White & Case LLP  
1st Floor & 2nd Floor  
Quai du Mont-Blanc 5  
1201 Geneva, Switzerland  
**T** +41 22 906 9800

White & Case LLP  
5 Old Broad Street  
London EC2N 1DW  
United Kingdom  
**T** +44 20 7532 1000

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.