

The Republic of Belarus (EU Exit) (Sanctions) (Amendment) Regulation 2021

Lead department	Foreign, Commonwealth and Development Office (FCDO)
Summary of proposal	The application of trade, financial and transport sanctions on the Republic of Belarus, following the recent escalation of serious human rights violations.
Submission type	Impact assessment (IA) – 21 July 2021
Legislation type	Secondary legislation
Implementation date	August 2021
Policy stage	Final
RPC reference	RPC-FCDO-5096(1)
Opinion type	Formal
Date of issue	06 August 2021

RPC opinion

Rating ¹	RPC opinion
Fit for purpose	<p>The RPC welcomes the voluntary submission of this IA for independent scrutiny, given that its impacts fall below the <i>de minimis</i> threshold and commends the department's continued engagement with the RPC Secretariat in producing an IA under challenging time pressures.</p> <p>The IA is well written and the analytical approach is proportionate. The IA monetises and classifies the direct impacts to business and provides a sufficient assessment on the impacts to small and micro businesses (SMBs). The IA could be improved by considering the impacts on the wider UK-Belarus trading relationship and the metrics needed to monitor the realised costs to businesses.</p>

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

Business impact target assessment

	Department assessment	RPC validated
Classification	Non-qualifying provision	<i>Non-qualifying provision</i>
Equivalent annual net direct cost to business (EANDCB)	£2.8 million	<i>De minimis</i>
Business impact target (BIT) score	£13.8 million	N/A
Business net present value	-£23.8 million	
Overall net present value	-£23.8 million	

RPC summary

Category	Quality	RPC comments
EANDCB	Green	The EANDCB calculation is fit for purpose. The IA considers and monetises the relevant direct impacts to business, including familiarisation costs and profit losses across the affected sectors. The IA should clarify the location of economic activity in line with the RPC guidance.
Small and micro business assessment (SaMBA)	Green	The IA provides a clear justification for why SMBs are not exempt. The IA notes general mitigations to support businesses, including SMBs, such as guidance to minimise familiarisation costs.
Rationale and options	Satisfactory	The IA includes a clear rationale for intervention and explains why sanctions are an appropriate intervention tool. However, further evidence could be used to demonstrate the likely success of sanctions. The IA considers two options, focussing on the comprehensiveness of the sectoral response.
Cost-benefit analysis	Good	The cost-benefit analysis is proportionate. The IA clearly presents the assumptions, data sources, risks and uncertainties. The IA conducts sensitivity analysis to construct reasonable low and high scenarios. Although option 2 does not have the highest NPV, the IA provides a clear justification for why it is the preferred option.
Wider impacts	Satisfactory	The IA sufficiently considers the wider impacts on the public sector and trade and investment, noting that these may not be material. The IA could expand its consideration on possible retaliatory measures by the Government of Belarus, or its allies, and its impact to UK businesses.
Monitoring and evaluation plan	Satisfactory	The IA notes the statutory requirement to review the proposal annually. The department should consider the metrics to monitor the realised impacts to business in addition to monitoring and evaluating the proposal against the intended policy outcomes.

Summary of proposal

Following a recent escalation of human rights violations in the Republic of Belarus, the UK Government, in concert with the EU and other allies, intends to apply trade, financial and transport sanctions to target key sources of finance and revenue for the Government of Belarus, therefore, increasing the pressure on them and denying them access to items that could be used for internal repression.

The IA notes that Belarus is the UK's 110th largest trading partner in 2020, accounting for less than 0.1% of total UK trade. The IA anticipates that the preferred option would have a net present value (NPV) of -£23.8 million, over a 10-year appraisal period. The largest of these impacts (-£15.5 million) are assumed by petrochemical sector, namely *BNK (UK)* - a UK firm that is a subsidiary of the Belarusian state-owned enterprise, CJSC Belarusian Oil Company.

EANDCB

The RPC confirms that the impacts of this proposal are *de minimis* and therefore, a non-qualifying regulatory provision.

The IA identifies the impacts for several sectors affected by the proposal – these cover the agricultural, aviation, tobacco, firearms, information and communication technology, petrochemical and insurance sectors. The costs include familiarisation costs and estimated cost to UK business of lost profit, resulting from the restrictions to export goods and services to Belarus; these are classified as direct impacts.

However, the IA should clarify the location of economic activity² such that all affected UK-based businesses are in scope in assessing the impacts to business.

SaMBA

Although not required for a *de minimis* measure, the department's SaMBA is sufficient and proportionate. The IA provides a clear justification for why it is not possible to exempt SMBs from the proposal, noting any exemptions would undermine the proposal's effectiveness. The IA acknowledges that SMBs in targeted sector may be disproportionately affected by the proposal, however, this may not be material or significant, given the low volumes of current trade between the UK and Belarus.

The IA notes that general mitigations, from which all businesses including SMBs will benefit, will be included such as exceptions to permit otherwise prohibited activities and accompanying guidance to lower familiarisation costs.

Although the IA does not calculate the number of SMBs due to difficulties in obtaining the data, it reviews and summarises the expected scale and scope of impacts in the affected sectors.

² This is covered in the RPC [short guidance note on issues around defining a 'business'](#).

Rationale and options

The IA outlines a clear rationale for intervention, noting the recent escalation in human rights violations in Belarus and the reputational damage to the UK as the upholder of international law, human rights, freedom of expression and democracy, if the UK Government fails to intervene. Further, the IA notes the market failure in which businesses do not have the incentives to stop trading with Belarus, without intervention, as the private benefits to UK businesses does not account for the wider societal cost to the Belarusian population.

The IA explains why sanctions are an appropriate tool to achieve the policy objectives and refers to recent sanctions imposed by the EU, which the proposal aims to complement alongside action from other allies. However, the IA would be strengthened by evidence that a UK sanctions regime, in isolation or in part of a concerted effort, is likely to impact on the Government of Belarus; this could be based on the success of sanctions in delivering human rights improvements in other countries or noting any improvements following the 2016 lifting of EU sanctions. Further, whilst it notes that Belarus accounts for 0.1% of total UK trade, the IA should include descriptive statistics on the size of the UK in total Belarus trade.

The IA considers two options that focus on the comprehensiveness of the measures. The IA's preferred option covers a wide-ranging sectoral response, including trade in the petroleum, banking and insurance sectors.

Cost-benefit analysis

The cost-benefit analysis in the IA is proportionate and considers the proposal's monetised and non-monetised impacts, noting data limitations. The IA lists the assumptions, which are supported by evidence, and data used in the analysis as well as outlining the risks and uncertainties. However, further analysis should use sector-specific data for assumptions on sectoral profitability, where available: for example, the Civil Aviation Authority estimates for reasonable rates of return for regulated airports. The IA employs sensitivity analysis to produce reasonable low and high scenarios – this includes testing the uncertainty around the cost estimates and the duration of the sanctions as it is envisaged that the sanctions will be lifted once the intended policy objective has been achieved.

Although the RPC would usually expect the department's preferred option to have the highest NPV, the IA provides a clear justification to demonstrate why a limited sectoral response (option 1) that would permit access to financing would not meet the policy objectives – this is covered in the comprehensive sectoral response outlined in the preferred option.

As previously noted, the cost-benefit analysis indicates that *BNK (UK)* assumes the majority of the monetised costs – the IA uses a simplifying assumption that *BNK (UK)*'s entire operations will be impacted by the proposal; this is because *BNK (UK)* uniquely provides intermediate services to oil sector companies in Belarus – this is prohibited under the proposal. The IA helpfully notes the assumption's risk in overestimating the impacts. However, the IA could be improved by making a clear

distinction for the reader between the impacts of this proposal and the firm's earlier designation in June 2021, which prevent UK firms providing funds or economic resources to *BNK (UK)* and would form part of the counterfactual.

Wider impacts

The IA sufficiently considers the proposal's wider impacts on the public sector and trade and investment, noting that these may not be material. The IA could expand its consideration of the potential impacts on the wider Belarus-UK trading relationship, including the long-term impact on UK business, by discussing the possibility of retaliatory sanctions by the Government of Belarus (as highlighted in paragraph 151) or its allies (for example, the Russian Federation), in particular, for those sectors that are not covered by the proposal.

Monitoring and evaluation plan

The IA notes the statutory requirement to review the proposal, as part of the wider sanctions regime toward Belarus, annually. This will be used to determine whether the regulations are fit for purpose for the intended policy objectives.

The department should consider, in its evaluation plan of the proposal, the metrics to monitor the realised impacts to business in addition to the intended outcomes in achieving the intended policy outcomes, such as improvements to the human rights situation in Belarus.

Other comments

More generally, we have been very impressed by the FCDO's engagement with us on this IA. The FCDO made a comprehensive effort to both reach out to, and then discuss with, the RPC on this proposal and worked very well informally to ensure the IA was fit for purpose, all under very challenging time pressures.

Regulatory Policy Committee

For further information, please contact regulatoryenquiries@rpc.gov.uk. Follow us on Twitter [@RPC_Gov_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website www.gov.uk/rpc.