The Russia (Sanctions) (EU Exit) (Amendment) (No.3) Regulations 2022

Lead department	Foreign, Commonwealth and Development Office (FCDO)
Summary of proposal	The application of trade sanctions on the Russian Federation to prohibit exports of dual-use and critical industry goods and services, following the Russian assault on Ukraine.
Submission type	Impact assessment (IA) – 7 March 2022
Legislation type	Secondary legislation
Implementation date	1 March 2022
Policy stage	Final
RPC reference	RPC-FCDO-5167(1)
Opinion type	Formal
Date of issue	01 April 2022

RPC opinion

Rating[1]	**RPC opinion**
Fit for purpose	The RPC welcomes the submission of this IA for independent scrutiny and the engagement with the department to ensure that the assessment is as robust as is possible, given the time constraints. We consider the overall analysis to be proportionate and fit for purpose. We identified some methodological issues with the calculation of the EANDCB in the IA, which the department has subsequently addressed with supplementary clarification. We recognise the department's analyses of the measures' wider impacts on the supply chain and of regional impacts, especially as working at pace. We recommend that the department reflects these changes to the estimates in the published IA.

[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. RPC ratings are fit for purpose or not fit for purpose.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying regulatory provision[2]	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	£27.6 million[3]	£27.6 million *(2019 prices, 2020 pv)*
Business impact target (BIT) score	£138.0 million	£138.0 million
Business net present value	-£2,335.4 million[4]	
Overall net present value	-£2,335.4 million	

[2] The published IA noted that the measures included in the IA were a non-qualifying regulatory provision, however, the department has since clarified that it is a qualifying regulatory provision, which the RPC validates.
[3] Following clarification by the RPC, the department has revised the estimates for the EANDCB from £278 million (as noted in the originally published IA) to £27.6 million to reflect the calculation of foregone profit using 2019 prices and 2020 present value (pv) base year.
[4] As noted above, the business and overall net present value figures have been revised from -£2,502 million (2019 prices, 2022 pv) to -£2,335.4 million (2019 prices, 2020 pv).

RPC summary

Category	Quality[5]	RPC comments
EANDCB	**Green**	The EANDCB calculation is fit for purpose. The IA models Russia's import demand and revenue and the supplementary clarificatory information applies suitable assumptions for the rate of return to calculate the foregone profit, which the RPC validates.
Small and micro business assessment (SaMBA)	**Green**	The IA provides data on the size and number of firms that traded with Russia in 2014 and 2020, noting the majority are small businesses. It gives a clear justification for why small and micro businesses (SMBs) are not exempt. The SaMBA would benefit from a discussion of any courses of mitigation.
Rationale and options	**Weak**	The IA, highlights the market failures that persist under the status quo. However, this could be improved by discussing the process by which specific products and/or sectors were targeted for sanctions measures and why/how these achieve the policy objectives. The IA appraises the preferred option against a suitable do-nothing option.
Cost-benefit analysis	**Satisfactory**	The data, assumptions and methodology are clearly outlined in the IA. In the view of the uncertainties and data limitations, the IA employs sensitivity analysis and models three scenarios to provide a range of impacts over a nine-year appraisal period.
Wider impacts	**Satisfactory**	The IA considers several wider impacts. The RPC commends the department on its analysis of supply chain and regional impacts, given the significant time constraints. The analysis would benefit from consideration of competition, consumer and trade diversion impacts.
Monitoring and evaluation plan	**Satisfactory**	The IA notes the statutory requirement from the Sanctions and Anti-Money Laundering Act 2018 to review the sanctions measures annually. The department could detail how it intends to monitor the realised impacts to business in addition to reviewing and reporting the regulations' impacts against the intended policy outcomes.

[5] The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings here.

Summary of proposal

Following the Russian assault on Ukraine, the UK government has amended the existing sanctions package against the Russian Federation. The IA considers the following trade measures:

1. Removing licensing provisions on the dual-use list, which will limit Russia's access to sensitive items and related technical assistance to constrain the development of their military-industrial complex.
2. Prohibiting the export of critical industry items to Russia, to constrain and disrupt strategic industries such as maritime and aviation and further limit access to UK goods required by the Russian military-industrial complex.

The IA notes that at the end of Q3 2021, Russia was the UK's 26th largest export market accounting for 0.7 per cent of total UK exports of goods and services. It anticipates that the measures would have a net present value of -£2,335.4 million over a nine-year appraisal period.

EANDCB

The RPC has clarified with the department that the impacts of these measures make them qualifying regulatory provisions for the BIT. The estimated annual direct cost to business is £27.6 million, which is derived from the opportunity cost of future profit.

Following engagement with the department, supplementary information was provided and the estimates were revised from those in the published IA. The IA first calculates the foregone revenue based on the value of Russia's import demand and applies an average rate of return for all private non-financial corporations. In the absence of more granular data for the profit margins for firms exporting critical industry and dual use items, the RPC accepts the department's approach in estimating the EANDCB.

The IA notes that transition and familiarisation costs would be negligible due to existing export controls for trade with Russia. It mentions further that the critical industry goods list will be new to businesses and may attract familiarisation and compliance costs – the scale or scope of these costs are not discussed. The IA should assess these costs or any additional costs to firms, such as legal advice when interpreting these measures. Where it is proportionate, the IA would benefit from providing further detail on the number of UK businesses that engage in dual use or critical industry goods and services.

The counterfactual against which the preferred option is assessed is based on pre-invasion projections of the growth rate for Russia's global import demand until 2030 from the Department of International Trade's (DIT) Global Trade Outlook (GTO). In the absence of more-recent data, the IA acknowledges that the approach does not capture any macroeconomic impacts of the invasion, which would affect import demand in the absence of UK government intervention, thus potentially inflating the scale of the impacts in the IA.

SaMBA

In the absence of granular data on the sectors in question, the RPC commends the department in providing some stylised facts on the impact of the 2014 sanctions against Russia on the size and the number of firms that traded goods with Russia, comparing data from 2014 and 2020. It notes that, in 2020, over 50 per cent were businesses with 0 to 49 employees.

The IA gives a clear justification for why it is not possible to exempt small and micro businesses from the measure, noting any exemptions would undermine its effectiveness. However, the IA could benefit from a discussion on any courses of mitigation, where appropriate.

Rationale and options

The IA notes that there are no appropriate non-governmental or private sector solutions or existing sanctions packages, which provide an adequate level of sanctions to deter Russia. It highlights that failure to strengthen the UK's intervention would undermine the UK's reputation as an upholder of international law, human rights, freedom of expression and democracy. The IA summarises the market failure that persists, whereby UK businesses do not have incentives to reduce their economic ties in a coordinated or complete manner as the private benefits to UK businesses do not account for the wider societal costs to Ukraine or of the violations of international law. Noting the possible available choices for applying sanction measures, ranging from a total ban to applying sanctions on specified products or sectors, the IA would benefit from focusing its discussion on the process by which the sectors for sanctions were chosen.

The IA presents the policy objectives and a preferred option. It considers the preferred option against a do-nothing option, whereby the existing sanctions regime is applied against Russia.

Cost-benefit analysis

Given the ever-evolving nature of international developments, the cost-benefit analysis in the IA is proportionate and considers the measures' monetised and un-monetised impacts. The IA and technical annex outline the data and methodology used to quantify the impacts, including limitations to the analysis and modelling assumptions.

The modelling considers three scenarios to quantify the: i) economic costs; ii) regulatory costs of additional licences; and iii) costs to the public sector. The modelling scenarios are based on the underlying projections captured in the GTO and aims to adjust for potential changes to UK market shares, and other shocks that might affect import demand beyond the modelling criteria. Given the modelling uncertainty and assumptions, the RPC commends the department for providing a range of impacts.

The IA notes that the policy measure will be in place until the policy objective is met, but uses using a nine-year appraisal period (2022 to 2030) to reflect the availability of long-term trade projections data and the uncertain timing of the objective.

The IA does not identify nor quantify any benefits to business but notes the reputational benefit to the UK as an upholder of international law and democracy.

Wider impacts

The IA mentions but does not monetise secondary and wider impacts of the measures affecting associated services such as maintenance services or insurance, displacement and potential business closure. Although the scale or scope of these effects are not quantified, the IA provides a qualitative assessment of their possible impacts.

The IA highlights a possible “chilling effect”, whereby firms that are not covered by the measures cease exporting to Russia due to uncertainty. The IA draws from evidence from the previous implementation of other sanctions measures to illustrate the possible scale of these effects, however, the behavioural response is uncertain.

The RPC commends the department on its analysis on trade and supply chains, using Trad in Value Added (TIVA) data from the Organisation for Economic Co-operation and Development. This provides useful insights into the UK sectors that are most integrated into value chains with Russia and that may be vulnerable to the disruption that the measures may introduce. Noting that it is not possible to disaggregate the distribution of impacts, the IA provides data on the regional concentration of exported goods to Russia in 2020; this shows that the West Midlands, the Southeast and Northwest regions had the highest concentrations.

The IA could include further consideration to any impacts on competition, consumers or trade diversification and diversion. Further, it could consider implementation scenarios as the impacts to UK businesses may vary should the UK act unilaterally or in a concerted manner with other economies such as the US and EU.

The IA highlights risks of retaliation by the Russian government when implementing the measures, noting that this may be not symmetric or proportionate and is currently not quantifiable. The IA could provide further information on the level of Russian exports to the UK in the industries in question.

Monitoring and evaluation plan

The IA notes the statutory requirement from the Sanctions and Anti-Money Laundering Act 2018 to review the measures, as part of the wider Russia sanctions regime, to assess whether they are still appropriate for their stated purpose(s), and to lay a report before Parliament.

The IA could detail how the department intends to monitor and evaluate the impacts on business and confirm whether such information will be included in the annual report to Parliament.

Regulatory Policy Committee

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