The Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2023

Lead department	Foreign, Commonwealth and Development Office (FCDO)
Summary of proposal	The proposal introduces further trade sanctions on Belarus, consisting of both additional export (e.g., of machinery, bank notes, and chemical and biological weapons) and import (e.g., of cement, rubber, wood and gold) restrictions.
Submission type	Impact assessment (IA) – 22 June 2023
Legislation type	Secondary legislation
Implementation date	8 June 2023
Policy stage	Final
RPC reference	RPC-FCDO-5277(1)
Opinion type	Formal
Date of issue	17 July 2023

RPC opinion

Rating[1]	**RPC opinion**
Fit for purpose	The department has provided an appropriate assessment of the direct impact upon business from the bans to be introduced at this time, taking into consideration the actions taken by affected businesses complying with other bans already in place. The IA's assessment of the impacts upon small and microbusinesses (SMBs), is sufficient.

Business impact target assessment

	Department assessment	**RPC validated**
Classification	Qualifying regulatory provision	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	£9.1 million	£9.1 million *(2019 prices, 2020 pv)*
Business impact target (BIT) score	£45.4 million	£45.5 million
Business net present value	£-71.5 million	
Overall net present value	£-71.5 million	

[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.

RPC summary

Category	Quality[2]	RPC comments
EANDCB	Green	The department identifies and appropriately quantifies the direct impacts from the latest sanctions to be introduced. The IA discusses a number of non-monetised impacts (e.g., licensing costs) and would be improved through including some indicative cost estimates for these impacts.
Small and micro business assessment (SaMBA)	Green	The IA includes a sufficient consideration of the impact upon SMBs. The department has been unable to identify the exact number of SMBs affected, but does include discussion of the likelihood of SMBs exporting and importing. The department makes clear why exemption is not appropriate and has considered mitigation for any disproportionately impacted SMBs.
Rationale and options	**Satisfactory**	The IA includes discussion of the current sanctions in place upon Belarus, whilst highlighting the desire to bring them in-line with those levied by other countries, as well as those placed upon Russia. The IA would be strengthened by including any lessons learned from the other recent sanctions introduced.
Cost-benefit analysis	**Weak**	The analysis included in the IA is at times unclear. Additionally, the department must provide a stronger explanation for some of the assumptions (e.g., approach to familiarisation) and choices of evidence (e.g., usage of the national wage rate as opposed to an occupation or sector specific one) made.
Wider impacts	**Satisfactory**	The department does well to consider the potential supply-chain, consumer and retaliatory trade impacts that may occur. The IA would be improved by a more detailed consideration of how the balance of trade may shift, as well as what environmental impact there may be from changing the location of relevant imports and exports.
Monitoring and evaluation plan	**Satisfactory**	The department state that no post-implementation review (PIR) will be undertaken for the sanctions, but that as with other sanctions, there will be continuous review. The IA includes some discussion of on-going monitoring of sanctions but would be improved through the inclusion of more detail of the monitoring activities to be undertaken.

[2] The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. The definitions of the RPC quality ratings can be accessed here.

Summary of proposal

The proposal introduces additional trade sanctions upon Belarus, in addition to those already imposed. The new restrictions will seek to bring those upon Belarus more in-line with that which has been placed upon Russia and will cover:

- **Exports from the UK to Belarus** - Exports of the following products from the UK to Belarus will be prohibited: Machinery; bank notes: (their export, supply and delivery and making available); precursor chemicals for chemical and biological weapons and technology;
- **Imports from Belarus to the UK** - Imports of the following products from Belarus will be prohibited: cement (as defined in Annex XI of EU Regulations); rubber (as defined in Annex XIII of EU regulations); wood (as defined in Annex X of EU Regulations) and gold: import, supply and delivery and making available/acquisition;
- **Broadcasting/Internet Services** - Belarus does not enjoy a free media. These new measures relate to internet services and online media and preventing the spread of disinformation from the Belarusian government gaining an audience in the UK;
- **Designation Criteria** - Changes that will allow the FCDO to more effectively target those persons that are involved in supporting Russia's invasion of Ukraine; and
- **Dealing with transferable securities or money market instruments** - This will ensure there is not a gap in the Belarus Regulations that Russia can exploit to undertake activity that we have prohibited in the Russia Regulations. The measure aims to limit the funds that Belarus can raise by restricting its access to the UK securities market, thus constraining Belarus' ability to support the invasion of Ukraine.

EANDCB

Identification of impacts

The department has identified a good range of impacts arising from the introduction of the new sanctions. The IA could be strengthened through also considering the impact on those industries which may be reliant upon imported goods which are to be banned.

Non-monetised impacts

The IA discusses a number of non-monetised impacts, such as administration and enforcement costs as well as licensing costs. Whilst the department states that these are likely to be low overall, providing justification to support this position, the IA would benefit from including an indicative assessment of unit costs for those that will incur these costs (for whom they may not be low). Additionally, the IA could do more to assess the potential scale of the impacts beyond those who are direct importers or exporters.

Counterfactual/baseline

Whilst the department notes that similar sanctions were placed upon Belarus last year, the IA would benefit from more clearly explaining what those sanctions were, as well as the impact upon business due to them.

The IA clearly acknowledges that affected firms are likely to already be complying voluntarily and that the impact upon trade flows is likely to be an overestimate as a result. Additionally, the department discusses, in paragraphs 113 and 114, accounting for fixed costs that are already faced by businesses due to the similar sanctions in place relating to Russia.

Future assessment

The RPC notes that this is the latest in a series of IAs to be submitted for scrutiny by the department for respective sanctions. The department must seek to refine and improve the analysis contained in these assessments, taking on board comments made through RPC scrutiny, as well as learnings (including strengthening of evidence) from those sanctions that are already introduced.

SaMBA

Scope

The department acknowledge that *"although small firms are, generally disproportionately impacted by regulatory burdens, they are already obliged to have processes in place to ensure compliance with existing sanctions regimes…"* as well as noting that it is possible that small businesses may face higher costs. While the department are unable to draw upon evidence of the number of SMB firms importing or exporting to Belarus, the IA does include discussion of the profile of importers and exporters and the likelihood of them being SMBs.

Mitigation and exemption

The department provides a suitable discussion of why SMBs should not be exempt from the policy. In addition, the IA clearly explains that mitigation for any SMBs disproportionately impacted has been considered and has been built into the legislation itself (i.e., by allowing otherwise prohibited activity in certain circumstances).

Medium-sized business exemption

The IA does not include any consideration of the impact upon medium-sized businesses (MSBs), including whether they could be exempt from the ban. This would align with the principle behind the Government's announcement that, from October 2022, that departments should first look to exempt MSBs from new regulation.

Rationale and options

Rationale

The IA includes an appropriate level of discussion setting out why the new sanctions are being introduced, highlighting not only the desire to ensure consistency with those placed upon Russia, but also to align with sanctions being placed upon Belarus by other countries. The department also notes the voluntary action taken by businesses to avoid trading in the goods to be banned, acknowledging that the sanctions being introduced are more to act as a safeguard, than requirement upon business. The department, under the M&E section of the IA, briefly mentions that sanctions are under continuous review and the IA would be improved if any lessons learned over the effectiveness of previous sanctions were included.

Cost-benefit analysis

Evidence and data

The department helpfully includes trade stats for the affected goods going to and from Belarus, however the department does not sufficiently explain why it is appropriate to use only 2019 trade values/volumes to estimate the impact of the ban. The IA should more clearly explain why this is an appropriate approach to take, in particular given the volatility in the figures year-to-year that the department notes.

Additionally, it is not clear why the department has opted to use the wage rate for UK economy overall, rather than that for the specific occupations (or sectors) affected. Whilst the overall scale of these costs is small, the wage rate used will likely lead to an underestimate.

Methodology

The department appropriately attributes only the profit lost (using the gross annual profitability rate for Q3 2021 estimated by the ONS) by those trading in the affected goods, rather than the total combined value of the imports and exports, in line with RPC guidance. The IA would be improved, through including more detail of the steps taken to reach the monetised estimates that have been made. In addition, the department’s justification for only looking at 9-year appraisal period could be strengthened.

Assumptions, risk and sensitivity

As with the analytical approach more generally, the IA would be strengthened by better explaining the source, and appropriateness, of the assumptions made in the IA. For example, the department should explain the origin of the familiarisation cost assumptions, beyond stating that they have been carried over from prior sanction IAs.

The department acknowledges the degree of uncertainty surrounding some of their assumptions and evidence. To account for this uncertainty, the department has included some sensitivity analysis, however this appears to be arbitrary +/- percentage adjustments that simply illustrate the importance of the input in question, as opposed to the actual degree of uncertainty. The IA would be improved if the department were able to include some better-informed sensitivity analysis.

Wider impacts

Competition

The department has included some discussion of the potential impacts upon competition, as well as those to consumers. The IA would be improved through including some discussion of the impacts to those reliant on the materials being banned, compared to others in their sector who may not be reliant on the now banned goods.

Trade and investment

The IA includes some consideration of the likely trade impacts, for example noting the potential retaliatory measures that may be taken against the UK, as well as possible reputational damage. While the department does touch upon the impact to supply chains, the assessment of the likely trade and investment impacts would be improved, if the department were able to include some discussion of likely alternative countries with which the now banned trade would likely be displaced to.

Public sector

The IA includes consideration of the likely enforcement requirements, including the impacts upon the public sector.

Environmental

Building on the point made above, that the IA would be strengthened by considering the likely alternative countries where trade may be displaced to, the IA would be further strengthened by considering the environmental impacts of such a switch. For example, the IA should consider whether there would be additional (or a reduction in) emissions costs due to the changing location of imported and exported goods.

Monitoring and evaluation plan

The department clearly states that no PIR shall be undertaken for this specific policy, however the IA does note that all sanctions are being continuously reviewed. The IA includes a brief description of the approach taken as part of this continuous review, although would be improved though providing more clarity on the approach being taken. The department could also provide more detail of how their monitoring and evaluation activity will be used to shape future policy decisions.

Regulatory Policy Committee

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