

# More Export Controls and Higher Customs Duties on Russia & Belarus

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On Friday, April 8, 2022, the US Government added two more weapons to its artillery of actions against Russia and Belarus.

1. Export license requirement expanded to all items on the Commerce Control List. In a [final rule](#) to be published on April 14, 2022, the US Department of Commerce, Bureau of Industry and Security (BIS):

- a. expanded the licensing requirement for items to Russia and Belarus to all items with Export Control Classification Numbers (ECCNs) on the Commerce Control List (CCL). This adds a licensing requirement for exports, reexports and transfers (in-country) of items subject to the Export Administration Regulations (EAR) that fall under ECCNs beginning with 0 (Category 0 - Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]), 1 (Category 1 - Special Materials and Related Equipment, Chemicals, "Microorganisms," and "Toxins") and 2 (Category 2 - Materials Processing). EAR99 items still do not require a license for export, reexport, or transfer (in-country) to or within Russia and Belarus – provided they are not to a prohibited end-user (e.g., Entity List entities, Military End Users, etc.) or for a prohibited end-use (e.g., military end use). BIS [previously](#) imposed a license requirement on Categories 3-9.

- b. expanded the Russia/Belarus Foreign Direct Product Rule (FDPR) to apply where the foreign-produced item is the direct product of US-origin technology or software subject to the EAR that falls in any ECCN in product groups D (Software) or E (Technology) on the CCL or produced by a plant or

major component of a plant that is itself a direct product of such software or technology subject to the EAR and falling on the CCL. Previously, the Russia/Belarus FDPR was limited to Categories 3-9.

c. narrowed license exception Aircraft, Vessels, Spacecraft (AVS) to exclude aircraft registered in, owned or controlled by, or under charter or lease by Belarus or a national of Belarus (in addition to Russia).

While the rule went into effect on April 8, 2022, the day it was filed for public inspection, the rule includes a savings clause that allows entities to export, reexport, or transfer (in-country) items subject to the Russia/Belarus FDPR only without a license if en route aboard a carrier to a port on May 9, 2022 (pursuant to actual orders). Exports of items normally subject to the EAR, by contrast, needed to be en route on April 8, 2022.

2. President Biden signed into law [HR 7108](#), which suspended normal trade relations with Russia and Belarus. As [previously reported](#), the US and other allied governments indicated that they would revoke most favored nation (MFN) status for Russia and Belarus, and the US has now enacted that law. This means that all products of the Russian Federation and the Republic of Belarus will have the (typically) higher duty rates set forth in column 2 of the Harmonized Tariff Schedule of the United States. Under the new law, until January 1, 2024, President Biden can also proclaim increases in the rates of duty *above* those in column 2 after a five day consultation with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. To lower the duties, the President will need to make a certification that Russia and/or Belarus:

a. has reached an agreement relating to the withdrawal of Russian or Belarusian forces (or both, if applicable) and the cessation of military hostilities that is accepted by the free and independent government of Ukraine;

b. poses no immediate military threat of aggression to any NATO member; and

c. recognizes the right of the people of Ukraine to independently and freely choose their own government.

The President has to notify Congress 45 days before submitting the certification, and there is a procedure for Congress to pass a joint resolution of disapproval of the certification to go back to lower duties.

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