

◀ BELARUS & THE WEST: SANCTIONS CONFRONTATION

Risks for foreign companies

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On 1 January 2022, the food [embargo](#) Belarus has imposed in response to Western sanctions came into effect. The relevant government order, adopted on 7 December 2021, applies to food manufactured in the EU, the US, Canada, the UK and several other states.¹ According to Belarusian authorities, Belarus imported USD 560m worth of food from those states over ten months of 2021. Henceforth, most of these products will be prohibited.² The measures adopted also envisage introducing quotas for food imports from these states.

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¹ The list also includes Norway, Albania, Iceland, North Macedonia, Montenegro and Switzerland.

² The sanctions cover meat products (including pork, beef, poultry and variety meats), dairy products, vegetables, fruit and nuts, baked goods, salt and other goods.

Executive Summary

This is the first time official Minsk has imposed sectoral sanctions; previously it confined itself to imposing restrictions on individual companies.³ In so doing, Belarus has followed in the footsteps of Russia, which imposed a food embargo on imports from several Western states in 2014. From the point of view of the authorities, and given Belarus's limited countersanction response capabilities, a food embargo seems to be the best solution for several reasons: it does not impact critical imports (*goods that Belarus does not manufacture or cannot import from other states, primarily from the states of the Eurasian Economic Union (EAEU)*) while at the same time it delivers a blow to the interests of several consumer sector foreign companies operating in Belarus.

The countermeasure in the form of a food embargo demonstrates that:

- Belarus has opted for asymmetrical sanctions, which was to be expected given the disparity between economies of Belarus and western states.
- Belarus has opted for asymmetrical sanctions, which was to be expected given the disparity between the economies of Belarus and Western states.
- The sanctions affect primarily goods that can be manufactured domestically or imported from states friendly to Belarus.
- There are several food embargo exemptions for imports of individual goods (such as baby food) and goods for processing. Additionally, goods affected by the sanctions may be imported into Belarus under quotas.
- The sanctions do not apply to specific foreign companies working on the Belarusian market.
- The countersanctions policy has so far adopted the "Russian scenario" (a food embargo as a retaliatory step, export diversification, etc.)
- The move marks a radical shift in Belarusian countersanctions policy. Previously, the Belarusian authorities confined themselves to sanctions against specific companies and individuals.

The EU and US sanctions that hurt Minsk most were aimed at Belarus's potassium and oil sectors, and do not apply to pre-existing contracts currently in effect, hence are expected to be felt only from this year onwards. Consequently, international financial institutions and ratings agencies consider the sanctions to be a principal factor negatively affecting the prospects of Belarus's economy. For instance, the IMF predicts Belarusian GDP growth in 2022 at 0.5% and also recommends cutting government spending in consideration of the sanctions. The World Bank predicts a -2.8% drop in GDP, while the Eurasian Development Bank's prediction of 0.7% is close to the IMF forecast.

On 20 December 2021, following consultations with the Belarusian authorities, the IMF listed the problems the Belarusian economy will face, including restrictions on possible Eurobond issues, restricted access to foreign capital and complications in executing international payments.

The confrontation between Belarus and the West also has a negative effect on foreign companies working in Russia (import of goods and parts from the EU into Russia via Belarus). Long lines at border crossings in Belarus and adjacent EU states (Poland, Latvia, Lithuania) caused by the migration crisis significantly extended crossing times, entailing higher logistics cost and supply chain breakdowns.

Additionally, Russia is becoming increasingly politically involved in the conflict between Belarus and the West. In November, UK Foreign Secretary Elizabeth Truss held Russia responsible for the migration crisis.

³ Currently, the only regulatory act serving as a precedent for imposing restrictions on foreign companies is the ban on importing into and selling in Belarus goods manufactured by Liqui Moly, Skoda Auto and Beiersdorf following these companies' public refusal to sponsor the Ice Hockey World Championship in Minsk. In November, the restrictions were extended until May 2022.

Vladimir Putin gave a largely negative assessment of Western countries' sanction pressure on Belarus and repeatedly promised comprehensive assistance to Belarus amid this pressure. The escalating conflict between Belarus and the West is therefore directly linked to increasing costs and risks for Russia.

Given the scale of Russia's economy and its role as the EU's principal energy source supplier, such sanctions as cutting Russia off from SWIFT, restricting crucial imports, or other severe steps appear unlikely. At the same time, imposition of such sanctions on Belarus appears more likely. Moreover, given Moscow's current support for Minsk, Russia's involvement in the sanctions confrontation between Belarus and the West seems inevitable.

In this context, we consider the following potential scenarios for the sanctions confrontation between Belarus and the West:

- › **The confrontation continues without escalating** (the Western sanctions pressure does not entail imposition or ramping up of sectoral sanctions, confining itself instead to imposing new personal sanctions. Countersanctions are imposed only on companies that oppose the actions of the Belarusian authorities, or none are imposed; the list of goods under sanctions is neither expanded nor reduced).
- › **The confrontation between Belarus and the West escalates** (Minsk takes harsh measures against the EU. The conflict with Ukraine is likely to exacerbate. The likelihood of new sectoral sanctions against Belarus increases).
- › **The confrontation between Belarus and the West de-escalates** (Minsk adopts no new countersanctions and complies fully or partially with the terms dictated by the EU and the US. Sanctions against Belarus are unlikely to be lifted but imposition of new sanctions is suspended).

Outlines of Belarus's countersanctions policy

Belarus's countersanctions policy started taking shape in April 2021 when Belarus prohibited import and sale of products manufactured by Liqui Moly, Skoda Auto and Beiersdorf after these companies publicly refused to sponsor the Ice Hockey World Championship in Minsk. Prior, Belarus had not responded at all to the EU's first three sets of sanctions (imposed between October and December 2020).

Subsequently, Belarus's response was mostly designed to minimize the negative effect of the sanctions and entailed switching oil delivery routes from Baltic state to Russian ports and substituting imports from Russia and China for imports from EU states. Restrictions on foreign goods and companies also took the form of non-tariff measures.⁴

The sharp turn in Minsk's countersanctions policy took place after the EU and the US imposed harsh sanctions in June and August 2021. This in turn produced accelerated integration within the Union State (Union programs were approved on 4 November) and a change in Minsk's rhetoric, which, with Moscow's support, became confrontational.

The food embargo was a response to the concerted sanctions imposed on Belarus by the US, the EU, Canada, and the UK.

The restrictive measures Minsk could impose in response to the EU's new sanctions are generally limited and increasingly involve costs for Belarus's economy.

Previously, official Minsk listed the following possible responses:

⁴ In September 2021, the State Control Committee and Gosstandart (the State Committee for Standardization of the Republic of Belarus) prohibited importing into and selling in Belarus detergents manufactured by the Czech, German and Polish companies HERR KLEE, ZICO, and Gaska.

- › Suspending transit of Russian energy sources to the EU via Belarus;
- › Blocking transit of goods for individual EU states (Poland and Germany) via Belarus.

On 6 December 2021, the Belarusian Ministry of Foreign Affairs [announced](#) continued implementation of Union programs and bolstering of economic integration with the Russian Federation as the most significant response to Western sanctions.⁵ Clearly, countersanctions increase Belarus's economic dependence on Russia and involve Russia in the confrontation between Belarus and the West.

Additionally, Belarus's Ministry of Foreign Affairs announced possible non-governmental measures that would probably include supervisory and monitoring measures, and non-tariff restrictions against foreign companies, and the arrest of foreign company employees.⁶

Generally, Minsk makes decisions in a cautious and carefully weighted manner if they might entail economic costs for Belarusian economy. For instance, if the Russian food embargo contained very few exceptions, the Belarusian food embargo does not apply to goods for personal consumption or for processing. Additionally, the embargo does not extend to goods imported under quotas introduced via a special statute.⁷

Possible EU sanctions

While the sanctions have been in effect (just over a year), the EU has developed a certain approach to introducing new ones: harsher new restrictions against Belarus are introduced in response to destructive actions on the part of the Belarusian authorities (the forced landing of a Ryanair plane, organization of the migration crisis). Generally, the EU responds to Minsk's actions by increasing the sanctions pressure gradually (the first three sets of sanctions were confined solely to personal ones).

The EU has a rather long list of restrictions that have not yet been introduced and that would hurt Belarus (*see the Addendum for a detailed overview of EU sanctions*). The fullest list of possible sanctions against Belarus can be found in the resolution adopted by the European Parliament on 9 June 2021.

These sanctions include:

- › Eliminating “bottlenecks”. Sanctions against the oil and potassium sectors were imposed on individual groups of commodities. Several commodities were not placed on the sanctions lists. Consequently, these sanctions could be tightened (despite the sanctions, one of the world's biggest fertilizer suppliers, Norway's Yara, continues to cooperate with Belaruskali).
- › Introducing restrictions against other (besides oil and potassium) export-orientated sectors of the Belarusian economy (primarily wood processing).
- › Expanding the sanctions against the financial sector.
- › Completely prohibiting interaction by European companies with the Belarusian authorities.
- › Cutting off Belarus (individual organizations or the entire country) from SWIFT.

Even though the resolution of the European Parliament is a recommendation, the EU's executive authorities might use it when introducing new sanctions if the conflict with Belarus escalates.

Separate mention should be made of sanctions that individual EU states might adopt nationally. During the acute phase of the migration crisis, Polish Minister of the Interior Mariusz Kaminski stated that rail transit might be suspended at the Kuznica border crossing or the border with Belarus could be closed completely.

⁵ A set of 28 Union programmes entails creating a common energy market, simplified access to the Russian market for Belarusian goods, integrating the taxation and customs systems and harmonizing the financial legislation (including integration of payment systems).

⁶ In December 2021, heads of branches of A1, EPAM and Hyundai were detained and put under administrative arrest, against a background of the Belarusian authorities' making [statements](#) about taking tough action against foreign companies acting “in bad faith”.

⁷ Authorized agencies in Belarus analyze the emerging situation with goods on the domestic market. Pursuant to the analysis results, an authorized agency might decide to introduce quotas.

Currently, Lithuania is considering imposing national sanctions on the transit of potassium fertilizers (Lithuania's Ministry of Transport and Communications has drafted a law prohibiting transit by commodities from Belarus).

Civil society, non-profits & their effect on foreign companies

The Belarusian opposition is collaborating with non-profit organisations to put pressure on foreign companies in the information field; additionally, members of the opposition are co-operating with official agencies of Western countries. For instance, on 24 November 2021, Svetlana Tikhanovskaya addressed the European Parliament, once again calling on the EU to take active steps over Minsk, in particular to eliminate the “loopholes” in the sanctions already adopted, to impose restrictions on lobbyists attempting to block new sanctions and to coordinate the EU's actions with those of the US and the UK in order to make the sanctions more effective. In turn, the National Anti-Crisis Management [claims](#) that its members provided information and analytical support to the American authorities in imposing sanctions on Belarus's sovereign debt.

The opposition acts both directly, by organizing picketing and rallies and submitting requests to foreign companies, and indirectly, for instance via human rights organizations.⁸ Additionally, as already noted, the opposition is active in the information field, which, on the one hand might affect the image of foreign companies and on the other attract the attention of the Belarusian authorities. For instance, in October 2021, a [site](#) was launched listing foreign companies (currently over 50) that purchase or supply goods or services to Belarusian government bodies and enterprises.

A mention on this site demonstrates that the opposition is focusing closely on a particular company's operations and intends to have such operations suspended, with a view to putting pressure on the Belarusian authorities. At the same time, a mention on this site attracts the attention of the Belarusian authorities and, should a company take unacceptable steps (public condemnation of the Belarusian authorities' actions, plans to curtail its presence in Belarus, contacts with the opposition), the authorities might impose restrictive measures on such companies.

Further scenarios for the conflict between Belarus and the West

The future evolution of the conflict will largely depend on those factors currently prompting the sanctions (the migration crisis, human rights violations) subsisting and also on new factors emerging (these could include a military conflict on the Belarusian border, commodities not being allowed to transit via Belarus, as well as other factors).

In this context, the following scenarios are possible:

1. The confrontation continues without escalating
2. The confrontation between Belarus and the West escalates
3. The confrontation between Belarus and the West de-escalates

⁸ According to the media, following the publication of a [report](#) by Libereco, a human rights organization, on foreign companies advertising in government-owned media, Henkel pulled the plug on such advertising.

SCENARIO 1: THE CONFRONTATION CONTINUES WITHOUT ESCALATING

The likelihood of this scenario is estimated at 30%.

The prerequisites for this scenario to materialize:

- The Belarusian authorities create no further reasons for sanctions to be imposed.
- Countersanctions and restrictions are imposed only on companies that oppose the actions of the Belarusian authorities.
- The list of goods under sanctions is not expanded. Given Russia's experience of excluding individual commodity groups from the sanctions list, the Belarusian authorities might be expected to act similarly.
- The West's sanction pressure in this scenario does not envisage imposing or tightening sectoral sanctions; it is confined instead to personal sanctions.
- Russia does not get involved in the political confrontation between Belarus and the West. Russia's economic influence on Belarus within the Union State increases under this scenario as integration within the Union State grows.

The principal risks for foreign companies include a ramping up of the import substitution policy and the actions of the Belarusian opposition continuing to put pressure on them via human rights organizations and the media.

Most EU official documents calling for imposition of sanctions (resolutions of the European Parliament) or directly affirming sanctions measures (regulations of EU bodies) in some way contain provisions on refusing to recognize the results of the presidential elections held in Belarus in August 2020.

With new (early) Presidential elections in Belarus involving international observers currently on the agenda, sanction pressure on Belarus is highly likely to continue.

SCENARIO 2: THE CONFRONTATION BETWEEN BELARUS & THE WEST ESCALATES

The likelihood of this scenario is estimated at 50%.

The Belarusian authorities have so far spoken about a series of harsh measures in response to the EU sanctions, including:

- Cutting off gas transit.
- Ceasing to control drug trafficking and nuclear materials trafficking via Belarus into the EU.
- Cutting off transit of EU commodities via Belarus.

On 29 November 2021, Alexander Lukashenko said that Belarus would not remain on the sidelines of any military conflict in the Donbass. Therefore, conflict involving Belarusian and Russian military personnel on the Belarus-Ukraine border cannot be ruled out. On 2 December, Lukashenko also said that Crimea is Russian both de facto and de jure, and announced a visit to Sevastopol, which might further escalate Belarus's relations with Ukraine and the EU. Minsk's possible steps listed here could exacerbate the sanctions confrontation with both the EU and Ukraine.

The main risk for foreign companies in this scenario lies in the actions of Belarusian authorities being hard to predict, including ramping up of the import substitution policy and economic nationalism.

Should this scenario materialize, the political and economic risks for Russia increase significantly as well, since this scenario envisages direct involvement of Russia in the conflict between Belarus and the West (from the point of view of the US and the EU, accelerated economic integration within the Union State could evidence partial loss of Belarus's sovereignty).

SCENARIO 3: THE CONFRONTATION BETWEEN BELARUS & THE WEST DE-ESCALATES

The likelihood of this scenario is estimated at no higher than 20%.

This scenario envisages Minsk not imposing any new countersanctions and complying partially or fully with the terms dictated by the EU and the US (release of political prisoners, launch of a political dialogue with the opposition).

Should this scenario materialize, the risks for foreign companies decrease. Rapid suspension or full or partial lifting of Western sanctions appear impossible but the risk of new sectoral sanctions being imposed decreases.

As part of steps taken to resolve the situation, Minsk has announced the adoption of a new constitution. Yet, while Alexander Lukashenko previously said that, following adoption of this constitution, early elections might be held, by December 2021 he virtually ruled out such a possibility.

Risks & recommendations for foreign companies

Given the above, for foreign companies, both those that operate in Belarus and those that do not, we see clear risks:

- › of being hit by Western sanctions (including secondary ones) for co-operating with the Belarusian authorities.
- › related to retaliatory steps taken by the Belarusian authorities (non-tariff restrictions, inspections by supervisory and monitoring bodies, law enforcement agency actions against company employees, goods and companies being put on sanctions lists).
- › stemming from actions of the Belarusian opposition (pressurizing foreign companies via human rights organizations, an aggressive information policy).
- › economic risks stemming from the stagnation of Belarusian economy (the shrinking capacity of the Belarusian market, hindered access to foreign capital, difficulties in making international money transfers).

Given the above, in order to minimize the risks entailed by operating in Belarus and Russia, it is recommended that foreign companies:

- › watch closely any changes in the West's sanctions policies toward Belarus, and Belarus's official and unofficial countersanctions.
- › monitor the actions of the Belarusian opposition to put pressure on companies operating in Belarus.
- › remain pointedly apolitical and avoid public interaction with the opposition and refraining from responding to their requests.

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Addendum: overview of principal sanctions imposed on Belarus

EU SANCTIONS

The EU has imposed its sanctions⁹ on Belarus in several stages:

1. **The first** set of sanctions was imposed in October 2020 and was strictly personal. Sanctions were imposed on 40 individuals who had participated in suppressing protests and violating human rights following the presidential elections in August 2020.
2. **The second** set of sanctions adopted in November 2020 imposed restrictions on another 14 individuals.
3. **The third** set of sanctions was adopted in December 2020 against 29 individuals and seven legal entities producing dual-purpose goods and services, exporting weapons and military equipment. Additionally, the sanctions list included the Main Economic Directorate of the Presidential Executive Office, which supervises an extensive range of state assets, and Dana Holdings, a construction company.
4. **The fourth** set of sanctions was adopted in June 2021 largely because a Ryanair plane was forced to land and journalist Roman Protasevich and Russian citizen Sofia Sapega were arrested. **Personal** sanctions were imposed on 78 individuals, including Russian businessman Mikhail Gutseriev and eight legal entities. **Sectoral** sanctions were imposed on dual-purpose goods, the tobacco sector, some types of petrochemical and potassium fertilizer. An extensive range of restrictions was imposed on the finance sector, including sanctions against the three biggest state-owned banks (Belarusbank, Belinvestbank, and Belagroprombank). Sectoral sanctions against petrochemicals and potassium did not extend to contracts concluded previously and currently in effect.
5. **The fifth** set of sanctions was adopted on 2 December 2021, largely over the migration crisis on the EU-Belarus border. Sanctions were imposed on 17 individuals and 11 legal entities involved in organizing the migration crisis and on companies manufacturing military and dual-purpose products, as well as companies that, in the opinion of the West, fired employees for supporting anti-government protests. The fifth set of EU sanctions was coordinated with the sanctions adopted by the US, the UK and Canada.

Switzerland, Norway, Iceland, Liechtenstein, North Macedonia, Montenegro and Albania also acceded to the EU sanctions.

US SANCTIONS

President Joe Biden's **Executive Order** of 9 August 2021 imposed US sanctions on Belarus. Currently, the sanctions list includes 23 individuals and 21 legal entities. The US sanctions are personal and are imposed on specific individuals and legal entities and the companies they control. The US sanctions are not sectoral; however, doing business in the defense, energy, potassium, tobacco, construction, transport and security sectors can serve as a criterion for imposing blocking sanctions. Sanctions against Belaruskali were deferred until 8 December 2021. On 2 December, the US **added** 20 individuals and 12 legal entities to the sanctions list and also imposed restrictions on Belarus's sovereign debt.

In addition to the EU, UK, US and **Canada** also imposed sanctions on Belarus. The Canadian sanctions contain no restrictions differing significantly from those of the EU, UK and US.

⁹ The EU, UK and US had also imposed sanctions on Belarus before. Regulatory acts providing the legal framework for such sanctions are still in effect. Even so, the discussion here focuses solely on the sanctions imposed after the presidential elections of August 2020.

UK SANCTIONS

The UK imposed sanctions on Belarus on 9 August 2021 by means of relevant [Regulations](#). The British sanctions largely repeat the EU sanctions, being blocking (personal) and sectoral. Sanctions were imposed on 100 individuals and nine legal entities and extend to the companies they control (umbrella sanctions). Sanctions against the financial sector include restrictions on circulation of securities, provision of investment services, crediting and insurance of persons on the sanctions list. Sectoral sanctions were imposed on dual-purpose products, the tobacco industry, potassium and oil sectors, and the aviation sector. Sectoral sanctions do not extend to previously concluded contracts currently in effect. Sectoral sanctions on the oil and potassium sectors do not extend to previously concluded contracts currently in effect. On 2 December, the UK [put](#) another seven individuals and Belaruskali on its sanctions list.

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