



## Russian counter-sanctions digest

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### February 2019

Since the entry into force of the Russian counter-sanctions law (on which we [reported](#)) on 4 June 2018, there have been further developments in this field. Below we outline the measures that have been taken or that are being proposed as of 1 February 2019. Many measures are only at discussion stage, so it is unclear which ones will be implemented. What is sure though, is that the issue of sanctions draws a lot of attention in the Russian media, including the counter-measures that Russia has taken or could take, in particular in the TMC sector.

### Sanctions against Ukraine

At the end of 2018, the first sanctions in pursuance of the Russian counter-sanctions law were imposed on Ukraine as a delayed response to Ukrainian sanctions against Russian businessmen and officials announced in May 2018. These measures are also the first ones against that country since Russia's ban on the transit of goods from Ukraine through Russia and on the import of certain agricultural products from Ukraine that took effect on 1 January 2016.

On 22 October 2018, the Russian President signed an executive order in which he instructed the Russian government to determine the list of individuals and legal entities from Ukraine on which sanctions would be imposed and decide on the very nature of restrictive measures.

On 1 November 2018, the Russian Prime Minister signed a decree on the introduction of restrictive measures against 332 politicians, businessmen and public figures, as well as 68 companies from Ukraine. These measures include the freezing of bank accounts, securities and property in Russia, as well as a ban on the withdrawal of capital. The companies caught by the decree are export-oriented enterprises in the chemical, mining, metallurgical, agricultural and pharmaceutical sectors. There are no direct bans on business and trade in Russia. It is [reported](#)\* that, when drawing up the lists, it was taken into account whether the sanctions could damage Russian companies and the fact that the government can allow individual operations to sanctioned enterprises if the need arises.

The list of those caught by Russian counter-sanctions against Ukraine was expanded by 245 individuals and seven companies (including an insurance group and a state bank) on 25 December 2018.

In pursuance of the above Presidential executive order, another government decree was signed on 29 December 2018 banning the import to Russia of a number of goods of Ukrainian origin or transiting through Ukraine. The ban affects turbines (except for turbines for civil aircrafts), transformers, furniture, construction materials and certain types of equipment, and also includes certain raw materials, agricultural products and foodstuffs. The Cabinet [noted](#)\* that Russia can lift the ban if Ukraine lifts the restrictive measures introduced earlier in relation to specific Russian goods.

### Trade and other measures against the United States of America or US companies

As a response to the introduction of an additional customs duty of 10% on imports of aluminium products and an additional customs duty of 25% on imports of certain steel products by the US administration in March 2018, Russia took two separate actions in 2018. Firstly, on 29 June 2018, it initiated a dispute complaint before the World Trade Organisation against US steel and aluminium duties. Secondly, it imposed duties on a selection of goods imported from the US from 6 August 2018. Russian duties (25-40%) were set on the import of some trucks, road construction equipment, oil and gas equipment, tools for metal processing and rock drilling, as well as optical fibre, in all on 80 products. Additional tariffs may be imposed by Russia either from 21 March 2021 or after the decision of the WTO on the complaint of the Russian Federation (joined by other WTO members) against US import duties.

Later in the year, the Federal Service for Veterinary and Phytosanitary Supervision decided to introduce temporary restrictions on the transit through Russia of poultry meat produced at US enterprises from 20 November 2018. This decision was [allegedly](#)\* made by the Service in connection with the threat of products of unknown origin, as well as products made from raw materials of unknown origin entering the Russian market from Kazakhstan.

It has been [reported](#)\* that the Russian Security Council is preparing a consolidated plan for Russia's response to new US sanctions. Among the discussed initiatives in the sphere of international law, the possibility of including a clause on the inadmissibility of the use of US law in treaties between Russia with other states, and, in international commercial agreements, clauses about the inadmissibility of relying on US sanctions as force majeure could be introduced. In addition, the Security Council is discussing the possibility of priority purchases of technologies that have not yet been sanctioned and the development of payment systems based on quantum technologies as alternatives to international payment systems.

In December 2018, Roskomnadzor [fined](#)\* Google RUB 500,000 (EUR 6,670) for non-compliance with the requirement to join the Federal State Information System for filtering prohibited content in Russia. It also [sent](#)\* notifications to Facebook and Twitter on the need to comply with the Russian legislation on the localisation of personal data of Russian citizens in Russia. Even though the two companies replied to the agency within the established deadline, Roskomnadzor was not satisfied with the responses and [instigated](#)\* administrative lawsuits against them. The latest example of Roskomnadzor's systematic monitoring of foreign (and more specifically US) companies is its check of Burger King and Procter & Gamble for compliance with the law on the localisation of personal data. The latest checks are [reported](#)\* to have started in January 2019. The results of the audits will be known in the second half of February. Roskomnadzor is not the only supervisory authority targeting US companies. The Central Bank of Russia has [held](#)\* executives of JP Morgan Chase liable for breach of anti-money laundering laws and issued warnings to them that came into force in December 2018.

### Food embargo

The embargo introduced in August 2014 against certain agricultural products, raw materials and foodstuffs originating from the USA, the EU, Canada, Australia, Norway (and later extended to products from Ukraine, Albania, Montenegro, Iceland and Lichtenstein) was prolonged until 31 December 2019.

### Liability for compliance with foreign sanctions

A hotly debated bill in May 2018 related to the proposed introduction of criminal liability for the implementation or support of foreign sanctions. The bill provides for hefty fines and prison terms against individuals whose actions or inaction for the purpose of complying with foreign sanctions would lead to restricting or refusing the conclusion of a transaction with a Russian person, entity or authority. Similar sanctions were also proposed in case a person's deliberate actions caused or could cause foreign sanctions to be imposed on a Russian public or private law entity. The bill was passed in the first reading on 15 May 2018. However, after discussions with the business community, it was [proposed](#)\* to replace criminal liability with administrative liability. Even though there were initially [reports](#)\* that amendments to the bill would be adopted in the autumn 2018, to date, it has not been the case.

### Measures aimed at reducing the impact of foreign sanctions

The Ministry of Finance is [reported](#)\* to have developed a government action plan to reduce the impact of foreign sanctions on the Russian economy in July 2018. Under the plan, the Ministry of Finance would be able to prepare restrictive measures in the financial sphere, and together with other ministries, it would study the feasibility of introducing a recycling fee for foreign products which have analogues in Russia. The Ministry of Economic Development and the Federal Anti-monopoly Service would assess whether it is necessary to amend the legislation to reduce the dependence of the Russian economy on foreign patent holders. The plan itself includes five thematic blocks and 17 points. Among them is a decrease in the use of the dollar in foreign trade transactions in favour of settlements predominantly in national currencies and ensuring the free operation of sanctioned companies in the domestic financial market. Another block deals with restricting unfair competition from foreign countries (i.e. restrictions on imports and tariff barriers). The government also intends to systematise measures to ensure restricting information for companies that are at risk of being on the sanctions lists. The plan contains already announced measures (e.g. on the creation of national offshore).

Russian offshore (or technically speaking “special administrative districts”) were created in August 2018 to support companies that fell under US or EU sanctions and to attract investment in the Russian Federation. To this end, international companies who register in a special administrative district are provided with tax benefits, preferences in the field of currency regulations, the ability not to disclose information about their beneficiaries, as well as a number of other benefits. The special administrative districts are located on Russkiy Island (Primorskiy Krai) and Oktyabrskiy Island (Kaliningrad Oblast).

In October 2018, it was also [reported](#)\* that a de-dollarisation plan for the Russian economy had been prepared and submitted to the government. It is said not to include restrictive or prohibitive measures, it will not prohibit the circulation of the US dollar in Russia. The main focus is meant to be on creating opportunities for settlements in national currencies, as well as on facilitating exchange controls and liberalising currency legislation. In addition, the plan [does not prohibit](#)\* the issuance of foreign currency loans by banks, but will make it more difficult for banks to issue such loans.

As it had previously done for other sectors, the Russian government allowed, in October 2018, management companies not to disclose information about their shareholders, including controlling ones, if foreign sanctions are imposed on them. A similar right was also granted, in November 2018, to sanctioned insurance companies. Likewise, in November 2018, banks were allowed not to disclose information they are required to disclose by law.

On 28 December 2018, a law restricting access to information on defence procurement was published. This will minimise the risk of leakage of information on procurement in this sphere.

On 16 January 2019, it was [reported](#)\* that the Federal Guard Service has developed a bill that allows it to conduct tenders on closed electronic platforms. The procurement of hardware and equipment for government communications are primarily targeted since they may be of interest to foreign intelligence services.

### Preferences for Russian products or localisation requirements

#### **TMC**

In mid-December 2018, First Deputy Prime Minister Anton Siluanov [requested](#)\* state-owned companies to plan a phased transition to the “preferential use” of Russian software. By 2021, half of the software of each type (office products, antivirus, accounting software, etc.) they use will have to be Russian. State-owned companies have to approve action plans within two months of the request and subsequently report to the Ministry of Communications on a quarterly basis. Already at the end of December, it was [said](#)\* that some state-owned companies had begun to fulfil the directive on import substitution of software.

As we previously [reported](#), Russian state agencies have been required, since 1 January 2016, to buy software of foreign origin only in cases where there is no comparable domestic analogue or where such analogues do not meet their tender requirements. A Domestic Software Register was set up to enable Russian software developers to participate in the tenders for procurement of information systems for state and municipal customers in respect of the products registered there. In October 2018, the Ministry of Communications [required](#)\* that two agencies develop a method to check software for compliance with the requirements for software from the Domestic Software Register. These requirements were established by a government decree in March 2017. It was assumed that the ministry would approve the methodology within three months, but it failed to do so. The lack of methodology has been hampering the centralised public procurement of domestic software which had been further complicated by the introduction of additional requirements for this type of tenders in June 2018.

The Federal Anti-Monopoly Service has [advocated](#)\* the pre-installation of Russian software on mobile and computer devices that are sold in Russia. The software concerned is browsers, antivirus programmes, geolocalisation programmes (maps and navigator) and messengers. Vendors will also be forbidden to create algorithms that allow users to delete these services. The concept is aimed at combating the dominance of American companies in the market of mobile applications in Russia.

The compulsory installation of Russian antiviruses on new personal computers has also been [proposed](#)\* as part of the Digital Economy national project that is currently being finalised.

A bill has been submitted to the State Duma, which requires foreign e-payment systems to have a representative office in Russia, to be entered in a register of the Central Bank of Russia and to comply with local information security requirements. Foreign operators will be prohibited from making electronic payments of Russians without a payment system operator included in the Russian register.

The requirement to use only base stations of Russian origin for the internet of things may be [introduced](#)\*. This follows from the draft decision of the State Commission on Radio Frequencies. Equipment with certain parameters (including power) that can disrupt the operation of other devices in the network will be subject to registration.

The Russian government is [reported](#)\* to have instructed to develop measures to support Russian manufacturers of telecommunications equipment. These are in the form of an increase in import duties by up to 20%, the introduction of a preferential regime for taxes and social benefits, as well as the creation of a unified register of telecommunications equipment of Russian origin.

The Ministry of Communications [has prepared](#)\* a draft government decree that would oblige telecom operators to use only storage devices made in Russia for storing user messages. This measure is meant to protect the Russian communications infrastructure from Western sanctions and computer attacks using foreign equipment vulnerabilities. This Ministry has also [has proposed](#)\* to require mobile operators to use only Russian-made SIM cards approved by the Federal Security Service.

### ***Life sciences sector***

In August 2018, it was [reported](#)\* that manufacturers and distributors of foreign-made medical products could lose the preferential VAT rate they currently enjoy. This measure is intended to make the prices of medical products manufactured in Russia more competitive.

In September 2018, the Ministry of Industry and Trade proposed to expand the list of foreign medical equipment that will be banned from state procurement. Foreign otorinoscopes, tonometers for measuring intraocular pressure, ventilators and functional medical beds could be added to the list established in 2015.

**Exclusion of, restrictions on foreign entities from certain activities**

***Technologies***

Foreigners and entities with foreign participation may be prohibited from owning news aggregators in Russia. A bill to this end was adopted in the first reading by the State Duma on 18 December 2018. In turn, legal entities where foreigners even indirectly control more than 20% of shares should not control, manage or somehow influence the management of an aggregator.

***Industry subsidies***

A reform of state industry support [is](#)\* in the pipeline. One of its elements is to exclude foreign companies from state support measures.

***Fishing***

In July 2018, the FSB Border Service is [reported](#)\* to have started warning fishing companies that using ships owned by foreigners to transport products is not permitted. Previously, such requirements were not applied if a vessel had the right to navigate under the Russian flag and it was operated by Russians under charter contracts without crew.

*\* In Russian*

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If you have any questions on the matters referred to in this digest, please do not hesitate to contact CMS Russia experts **Leonid Zubarev** or **Sergey Yuryev**.



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