

BPE Global Hot Topic – March 2022

BPE Global Stands with Ukraine



At BPE Global, our hearts, along with the rest of the world, break for the inconceivable suffering which the civilians of Ukraine and Russia have endured since the Russian invasion of Ukraine. We stand in unequivocal support and solidarity with Ukrainians who have found themselves in a senseless war that was not of their choosing.

As a nation, the United States, along with its allies, has swiftly responded to Russia's invasion with crippling sanctions and expanded export and import controls. As one of the many industries involved in the enforcement of these new regulations, trade compliance professionals have been tasked with the critical role of not only digesting the rapidly evolving regulatory changes, but also operationalizing the changes throughout their global business.

This month, we have gathered as a team to both mourn this senseless war, but also to benchmark our learnings, best practices and not-so-obvious considerations that we hope you can implement within your global supply chains during these turbulent times.

Key Regulatory Changes:

- New CCL-based license requirements for Russia and Belarus. All AT-controlled ECCNs under Categories 3-9 of the CCL require an export license for Russia and Belarus, which will be denied if there is knowledge that it will be used for a military end user or end use.
- New EU license requirements for products listed under newly created Annex VII of Council Regulation (EU) 2022/328.
- New foreign "direct product" (FDP) rules specific to Russian and Russian "military end users."
- Comprehensive export, reexport and transfer restrictions for Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR).
- Specially Designated National (SDN) designation of key banks and financial sector limits on new debt.
- 91 new entities to the Entity List under the destinations of Belize, Estonia, Kazakhstan, Latvia, Malta, Russia, Singapore, Slovakia, Spain, and United Kingdom, all of whom have assisted the Russian military, contrary to U.S. foreign and national security policy interests.
- Expansion of sanctions targeting the oil refinery sector in Russia.
- Restrictions on export, reexport, or transfer of 'luxury goods' to or within Russia or Belarus or worldwide to certain Russian or Belarusian oligarchs and other malign actors supporting Russian or Belarusian governments.
- Suspension of existing and new U.K. export licenses to Russia and Belarus.
- Removal of Russia and Belarus as permitted destinations under U.K. Open General Licenses (OGELs).
- Limited availability of license exceptions to certain end-users.



Best Practices:

- Correctly classify your hardware, software and technology.
- Identify where you are selling and servicing your hardware, software and technology.
- Identify whether you have product identified on the CCL controlled for “Anti-Terrorism” only reasons (e.g.: 3A991, “electronic devices and components, not controlled by 3A001,” 5D992, “software, classified as mass market encryption software in accordance with § 740.17(b) of the EAR).
- Vet the new AT-only license requirements in Categories 3-9 and EU Annex VII.
- Review the exceptions available under the new regulations. Verify that shipments of products previously authorized under OGELs are being held.
- Review your service and perpetual licenses to ensure you can still provide those services.
- Check in with your re-sellers on their updated policies and end-use/user statements.

To Be Considered:

- Determine if you can get paid for your products or services given the new financial controls.
- Confirm whether your company can even book carriage to get to Russia or Belarus.
- If carriage is possible, determine if your product or requires an export license. (Consider the fact that there is a general policy of denial.)
- Remember that the new rules do not impose new controls on the deemed export or deemed reexport of newly controlled source code or technology to Russians or Belarusians outside of Russia or Belarus.
- Think about goods that are already in transit to/from Russia and Belarus- don't stay focused only on what cannot ship in the future.
- Don't forget about services such as paid maintenance and updates.
- Determine if it is possible to separate your software updates into crypto and non-crypto updates.
- Don't forget to do Beneficial Ownership screening even if a company isn't listed on any of the myriad of restricted party lists.

We have, and always will, continue to lead with empathy and resilience. If we've observed anything these past weeks as we've operationalized the regulatory changes in response to Russia's invasion, it's that working in allegiance with our partners- whether they be your (virtual) officemate, industry organizations, professional social networking platforms, reminds us that together we are stronger and that we can make a significant impact on Vladimir Putin and his unprompted war.

Speaking of working together, many of our great partners have published advisories on this rapidly changing situation. Here are a few that we have been following:

- [Baker McKenzie](#)
- [Cooley](#)
- [Covington](#)
- [Latham & Watkins](#)

Please join BPE Global in supporting one of the many organizations supporting those affected by this brutal war:

- [Doctors Without Borders](#)



BPE Global
139 Pierce Street
San Francisco, CA 94117
T 877-264-3836
info@bpeglobal.com

- [International Rescue Committee](#)
- [UNICEF: Children and Families of Ukraine](#)

BPE Global is a global trade consulting and training firm. You can follow us on [LinkedIn](#) where we publish topical opinions on the ever-changing rules and regulations governing the landscape of global trade.