

Post-Implementation Review: Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022

Coversheet

Purpose of Document	
Purpose:	<i>Post implementation review for the Russia Sanctions Act and Russia Sanctions Regulations 2022</i>
Advising agencies:	<i>Ministry of Foreign Affairs and Trade</i>
Ministers:	<i>Hon Nanaia Mahuta, Minister of Foreign Affairs</i>
Date finalised:	<i>16 November 2022</i>
Problem Definition	
<p>On 24 February 2022 Russia illegally invaded Ukraine. The Government wished to express its condemnation of that invasion and, in concert with international partners, take steps to limit the resources available to the Russian state to continue its war in Ukraine, and exert pressure on Russia to change its behaviour. Russia's actions in Ukraine are a breach of Ukraine's sovereignty and territorial integrity and a violation of international law; in particular, the United Nations Charter's prohibition on the use of force to resolve disputes or seize territory. It is important for New Zealand's peace and security that Russia's direct challenge to the post-World War II rules-based international order is met with a decisive and unified response by the international community.</p> <p>Prior to the Russia Sanctions Act 2022 (the Act), the Government only had the powers to impose sanctions under the United Nations Act 1946 if authorised by United Nations Security Council (UNSC). Because Russia is a permanent member of the UNSC it was able to veto UNSC collective action in response. This meant New Zealand was unable to impose a broad range of sanctions on Russia under existing policy and legal frameworks.</p> <p>Without passing legislation the Government would have had limited ability to take steps to tangibly reflect New Zealand's opposition to the invasion.</p>	

Executive Summary

The Russia Sanctions Bill 2022 (the Bill) was passed by Parliament with unanimous support under urgency to strengthen and expand on the actions New Zealand could take to respond to Russia's actions and allow us to take practical steps to respond to threats to the sovereignty or territorial integrity of Ukraine. Once commenced, the Act enabled sanctions on persons, assets and services to be made by Regulations made under section 9 of the Act.

Given the urgency of the required response, options were considered quickly. They were: (1) to maintain the status quo including with enhanced education and guidance, (2) to develop autonomous sanctions legislation, and (3) to develop targeted legislation.

The option chosen was targeted legislation to this specific conflict in Ukraine. This was because it best met the Government's objectives to react with urgency to condemn the threat to the sovereignty and territorial integrity of Ukraine, including by exerting pressure on Russia and Belarus (for its assistance to Russia) and complementing or reinforcing sanctions by other countries. Delay could have led to other countries' sanctions being circumvented in New Zealand or to New Zealand persons inadvertently supporting Russia's ability to wage war in Ukraine. Relying on the status quo even with enhanced education and guidance would have left New Zealand exposed and at reputational risk. The sanctions regime as adopted instead provides benefits to New Zealand and its people by demonstrating, and being seen to demonstrate, principled defence of and staunch support of the UN Charter, international law and the international rules-based system. Our partners have registered and commended New Zealand's actions noting in particular the impressive pace with which we have rolled out sanctions despite having a nascent legislative framework.

There are no direct costs imposed by the Act itself as it is framework legislation. However some systems and compliance costs are imposed on business and government by the Regulations. It is not possible to avoid these costs as sanctions necessarily impact on activities that New Zealand businesses and individuals can undertake.

As at November 2022, the sanctions in the Regulations include: a travel ban, prohibition on dealing with assets, prohibition on dealing with securities, services prohibition and a prohibition on vessels and aircraft entering New Zealand, as well as a number of import prohibitions (gold, luxury goods, oil, coal and gas) and export prohibitions (strategic goods, luxury goods and oil production products) and a 35 percent tariff increase. Those sanctioned include: President Putin and permanent members of his Security Council, members of the State Duma and Federation Council, Russia's military-industrial complex, economic elites or oligarchs, strategic businesses, disinformation actors, and individuals involved in Russia's attempts to shore up and legitimise its occupation of Ukraine.

While sanctions target Russian (and Belarusian) individuals and entities and a small number of Ukraine nationals that are assisting Russia (e.g. in its efforts to illegally annex Ukraine territory), it is New Zealand persons that have to comply. Key costs for the Regulations will include:

- Costs for duty holders in screening persons and transactions and reporting suspicious activity;
- Costs for exporters and importers through lost trade and in finding new clients or suppliers or absorbing the tariff increase;
- Costs for New Zealand persons to conduct due diligence on their activities;
- Costs for Government in relation to education, compliance and enforcement of the regime, including litigation costs; and

- Costs for New Zealand individuals and businesses that may be impacted by the regime either through New Zealand's sanctions or de-risking or over-compliance.

There are also potential costs arising from any retaliatory action imposed by Russia or an assisting country that has been sanctioned. For example, Russia has announced two rounds of travel bans on named New Zealand individuals. ^{s9(2)(g)(i)}

s6(a)

Anecdotal information, as well as discussions with stakeholders during the implementation of the sanctions, suggests the general public is supportive of New Zealand contributing to international efforts to respond to Russia's illegal invasion of Ukraine including through sanctions. The Bill was passed unanimously by the New Zealand Parliament. While there are some individual businesses that are being disproportionately impacted, for example importers that are reliant on products of Russian origin or exporters for which Russia is an important market, information gleaned from enquiries logs and exemption requests suggests that for the most part businesses have found other options. Moreover, the impacts on these businesses may have occurred without New Zealand enacting sanctions due to other countries' sanctions impacting the global payments system, as well as commercial decisions. Overall, goods imports for the six months ended September 2022 are 80 percent lower compared to the same period last year (NZD2.6 million in 2022 compared to NZD12.7 million in 2021). This has been driven by declines in the importation of fertiliser (which have fallen by 66 percent to NZD1.1 million), and vodka and other beverages (down 93 percent to NZD63,000). Similarly, exports have decreased by 86 percent over the same period compared to last year (down from NZD109 million in 2021 to NZD15 million this year).

While some changes were made over time to the Regulations in order to address issues raised by stakeholders, these were comparatively small and we overall assess the regime to have worked as intended. Work continues to bed-in the regulatory system to support the implementation of the regime, including education and guidance and compliance approaches. The Act will be reviewed in March 2024.

This post implementation review has been undertaken because the pace with which the legislation and regulations were implemented meant the regulatory impact statement could not be completed in time. In consultation with the Treasury we agreed to complete a post implementation review at a later date.

Limitations and Constraints on Analysis

Limitations on the policy process

The Act and the first set of Regulations were enacted a little over three weeks following Russia's invasion of Ukraine. Due to time pressure, the Act adapted the framework of the Autonomous Sanctions Bill introduced to Parliament in 2017, rather than being developed from first principles. While the objectives and criteria outlined in this assessment were considered in choosing an option, they were not necessarily explicitly considered in written material, but formed part of the background thinking that lay behind the advice to the Government. For example, educated assumptions were made about the cost of the regime based on New Zealand's experience in implementing UNSC sanctions and our understanding of the potential level of exposure based on our understanding of the Russia-New Zealand bilateral relationship, including trade and investment.

The sanctions enacted by the Regulations are intended to exert pressure on Russia, including by complementing and reinforcing sanctions by other countries (as provided for in section 8 of the Act). Accordingly both reflect partners' sanctions as well as New Zealand's implementation of UN sanctions enacted under the United Nations Act 1946. As at 16 November, 12 sets of Amending Regulations were enacted to either add new sanctions, add new designations (i.e. individuals, entities, assets), or amend existing sanctions to ensure they work as intended.

In developing both the Act and the Regulations, discussions with a small number of stakeholders were undertaken where possible including with the New Zealand Banking Association and the NZ Super Fund. Given the very limited timeframe, this was primarily intended to ensure that the sanctions regime would be effective, particularly in preventing assets from being hidden in New Zealand, as well as being possible to implement. Consultation with the Privacy Commissioner focussed on ensuring there were appropriate privacy protections in place in the Act.

It would have been useful to have engaged more closely with duty holders and impacted sectors, including individual banks, importers and exporters during the development of the Act and initial Regulations. This would have helped ensure the Regulations, in particular, took into account some of the complexities of the international banking system, including correspondent banking. Some minor amendments to the Regulations were made as a result of further/later consultation with banks (see for examples Section 3 of this review). Also following consultation with stakeholders, guidance was produced for banks and goods exporters in order to facilitate their compliance. This includes, in some cases, the Government's views on how the legislation is intended to operate. We note, however, that sanctions necessarily have impact on the activities of New Zealand businesses and individuals as this is how they operate.

While no specific analysis was done on distributional impacts on certain population groups during the development of the Act and initial Regulations, possible impacts on population groups were extrapolated from an analysis of trade statistics and financial flows. For example, some analysis was commissioned from the New Zealand Police Financial Intelligence Unit on Russian interests in New Zealand including financial flows. Trade statistics between New Zealand and Russia were also examined to establish possible impacts on New Zealand businesses. These were assessed to be comparatively small or isolated to particular products, for example fertiliser imports. Prior to the enactment of certain trade sanctions (i.e. the goods export prohibition, tariff increase and goods import prohibition) a more detailed analysis of trade flows between New Zealand and Russia as well as New Zealand and Belarus was undertaken, including using anonymised data from

New Zealand Customs. Significant analysis was also done to map the domestic impact of sanctions in relation to high net worth individuals with New Zealand-based assets.

Further consideration of our trade statistics and enquiries and exemption applications, as well as discussions with stakeholders since the enactment of the Act and initial Regulations suggests these assessments have been borne out. ^{s9(2)(ba)(i)}

While it is true they had no choice, it seems most New Zealand importers and exporters appear to have been able to redirect product and/or find another source. No significant oversight of impacts on population groups has been revealed through further analysis; although based on enquiries and exemption applications a small number of businesses and individuals have been disproportionately affected.

Global sanctions are having significant and growing economic impacts for Russia. ^{s6(a)}

The regime provides for exemptions to mitigate particular circumstances as long as that is consistent with the Act. However, with more time, we may have been able to better (or sooner) mitigate issues like the receipt of pension payments (see Section 3).

Limitations on the analysis in this review

Even with the benefit of six months implementation it is difficult to put dollar figures on the compliance costs of the regime as outlined in Section 2 of this assessment because the effects are quite diffuse. For example, while there is a new obligation on duty holders to report suspicious activity in relation to sanctions, they are already required to report activity under the Anti Money Laundering and Countering the Financing of Terrorism Act 2009 (AML/CFT Act). It is difficult to quantify the cost of compliance with New Zealand sanctions for specific businesses, ^{9(2)(g)(i)}

The Government is to some extent reliant on businesses with specific interests that are being affected to let us know what their costs are.

The systems cost to Government are also difficult to quantify as the design approach is to make use of existing systems where possible. MFAT has reprioritised NZD1.7m in the year ending June 2023 for a taskforce and advice. Other agencies have also prioritised people for the initial taskforce and ongoing expertise for the implementation of sanctions.

Many benefits of the sanctions regime are not quantifiable at all because they concern immeasurable benefits such as preserving and bolstering New Zealand's reputation as a defender of the rules-based system and supporter of respect for territorial integrity. This means this review has focused on anecdotal information which supports the view that there has been an increase in benefit overall compared to the counter-factual. On balance, we consider the benefits of the policy option outweigh any costs imposed by the sanctions

regime. The tangible expression of New Zealand's concerns through sanctions has sent a clear message to Russia, enabled us to support efforts by like-minded partners intended to impact on Russia's ability to wage the war, and contributed to pressure on Russia to change course. These benefits are expected to grow over time as sanctions have ongoing and, in many cases, cumulative impacts.

We note too that the regime is not yet completely stable. As this review was being prepared, a number of other sanctions were introduced in response to Russia's purported illegal annexation of Ukrainian territory. That means this review is limited to assessing the impact of the regulations that were in place at the time of completion.

Responsible Manager(s) (completed by relevant manager)

s9(2)(g)(ii)

*Divisional Manager, Russia Sanctions Taskforce
Ministry of Foreign Affairs and Trade*

s9(2)(g)(ii)

2 December 2022

Quality Assurance (completed by QA panel)

Reviewing Agency:	The Panel comprised representatives from the Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation & Employment and the Treasury.
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Panel Assessment & Comment:	A panel with representatives from the Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation & Employment and the Treasury has reviewed the post-implementation review (PIR) of the Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022. The panel considers that the PIR meets the quality assurance criteria established under Cabinet's Impact Analysis Requirements.
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The analysis is complete and convincing, and usefully sets out the problem, objectives of the policy, analysis of options, and implementation and review details. The PIR notes difficulties with quantifying the costs and the benefits of the sanctions regime. While acknowledging this limitation, the panel considers the PIR would have been further strengthened if it came to a stronger conclusion on whether the benefits outweighed the costs, and expanded the analysis of the extent to which the policy met its objectives.

Section 1: Diagnosing the policy problem

What was the context behind the policy problem and how was the status quo expected to develop?

The sanctions landscape

1. Sanctions are a common global tool used to seek to influence foreign governments and responsible individuals to modify their behaviour in situations of international concern. The aim of sanctions is to exert political and economic pressure to bring about change. Sanctions can take a variety of forms, but the most common in current usage are:
 - Travel bans or entry restrictions against specified individuals or groups;
 - Trade restrictions including arms embargoes;
 - Economic sanctions such as the freezing of assets and restrictions on the transfer of funds; and
 - Diplomatic sanctions such as the expulsion or recall of diplomats, and suspension of aid, treaties, cooperation or official visits.
2. The United Nations (UN) Charter requires all UN member states to give effect to measures adopted by the UN Security Council (UNSC) under Chapter VII of the UN Charter where there is a threat to international peace and security, including sanctions.¹ New Zealand implements sanctions authorised by the UNSC under the United Nations Act 1946. UNSC sanctions include a broad range of restrictions and prohibitions, for example travel bans and arms embargoes, as well as asset freezes, prohibitions on the entry of ships and aircraft, and prohibitions in relation to specific goods and services.
3. As a small state, we have emphasised the UNSC's responsibility and centrality in upholding collective security, including through its ability to impose sanctions. However, permanent members of the UNSC, including Russia, are able to veto UNSC action, including in relation to sanctions that may be imposed on them or other States.
4. In the absence of sanctions authorised by the UNSC which New Zealand is required to implement, New Zealand could only impose a limited range of sanctions and sanction-type measures within existing policy and legal frameworks. These include travel bans, goods import and export controls, some types of restrictions on inward investment, disinvestment by government entities, and diplomatic sanctions (e.g. suspension of cooperation, suspension of international treaties, recalling ambassadors and breaking diplomatic relations). We set out below the existing options available and some of their limitations

Travel bans and import and export controls

5. The Immigration Act 2009 and Instructions are used to restrict entry to New Zealand by named individuals. These were initially used to restrict entry to nearly 100 actors close to the Russian and Belarusian regimes.
6. Some types of goods import and export controls can be imposed under powers in the Customs and Excise Act 2018. Immediately following the Russian invasion and using

¹ Charter of the United Nations, Articles 41 and 48.

these mechanisms, the Government imposed export controls on goods that could have supported the Russian military.²

7. For these types of restrictions, however, there are cohesiveness, implementation efficiency and transparency benefits to incorporating a power to impose either entry or trade restrictions into a wider legislative framework for the imposition of sanctions – so that the same legislative tool, with the same tests for application, is used for all types of sanction.

s9(2)(g)(i)

Disinvestment

9. The NZ Super Fund, Accident Compensation Corporation, Government Superannuation Fund and National Provident Fund announced on 3 March 2022 that they had excluded Russian sovereign debt and the securities of majority Russian state-owned enterprises from their respective funds. However, s9(2)(g)(i), s9(2)(h)

Diplomatic sanctions

10. The Government suspended bilateral foreign ministry consultations with Russia, and has used multilateral platforms to register our condemnation of Russia's invasion. This has included co-sponsoring UNSC, UN General Assembly and Human Rights Council resolutions and delivering statements across a range of fora. s6(a)

As detailed below, New Zealand has also undertaken other actions to support a peaceful resolution to the conflict, including supporting the International Criminal Court and intervening in Ukraine's case against Russia in the International Court of Justice.

² Refer [Export Controls \(Export Prohibition to Specified Places\) Notice 2022 \(No 2\)](#).

Asset freeze and other financial sanctions

11. The AML/CFT Act does not explicitly cover sanctions and does not include a power that would enable assets to be frozen. Accordingly, prior to the enactment of the Act there was no legislative authority for enacting financial sanctions such as freezing the assets of, or prohibiting financial transactions relating to, specified individuals or entities, outside the UNSC framework. These are important sanctions, because they enable targeting of responsible individuals and entities by limiting their access to funds and international financial markets while seeking to avoid wider adverse impacts on the general population. There was also no mechanism to impose services trade restrictions, including in relation to financial services.

Other responses

12. New Zealand's overall response to Russia's invasion of Ukraine has also included a diplomatic response, direct support to Ukraine, and other elements not requiring a regulatory response. For example, humanitarian support; the supply of military equipment, ammunition, and satellite imagery; deployment of New Zealand Defence Force personnel to Europe in liaison, intelligence, training, and logistics roles; and jointly referring reports of atrocities to the prosecutor of the International Criminal Court.

Work already under way at the time of Russia's invasion

13. Because of the limits on New Zealand's ability to impose sanctions outside of the UNSC framework, there is a programme of work to consider the role of a comprehensive autonomous sanctions regime that would allow the Government to impose a broader range of sanctions in circumstances where they are not authorised by the UNSC. This is being considered within a broader framework about New Zealand's approach to human rights.
14. Autonomous sanctions were first considered by Cabinet in 2012. The Autonomous Sanctions Bill was introduced to Parliament in May 2017, but it had not had its first reading before the House rose for the 2017 General Election. This Bill would have enabled New Zealand to enact sanctions in the absence of an explicit UNSC mandate. (See Autonomous Sanctions - 10 May 2017 - Regulatory Impact Statement - Ministry of Foreign Affairs and Trade (treasury.govt.nz)).
15. Implementing financial sanctions also has links with the AML/CFT regime. A Statutory Review of the AML/CFT Act 2009 was completed on 30 June 2022, and one of its recommendations is to amend the purpose of this Act to include supporting the implementation of New Zealand's financial sanctions.

New Zealand's connections with the Russian economy

16. Also important to the consideration of the status quo are New Zealand's existing connections with Russia. New Zealand has a limited trading relationship with Russia and low numbers of Russian assets, persons, organisations, ships and aircraft in New Zealand.
17. Goods trade (exports and imports) with Russia for the year ended December 2021 totalled NZD331 million (representing 0.26 percent of New Zealand's total global bilateral trade). Of New Zealand's total goods exports to Russia (NZD240 million), around 87 percent was food, which is not prohibited by current sanctions. Dairy products made up 82 percent of New Zealand's goods exports to Russia during this time and in March 2022

Fonterra announced its withdrawal from the market in response to Russia's invasion of Ukraine.

18. New Zealand's largest import product from Russia in 2021 was oil (NZD54 million, representing 60 percent of total Russian imports), for which imports ceased during the year following the announcement of the planned closure of Marsden Point refinery. Fertiliser was the other major import product of significance (NZD12.7 million, comprising 14 percent of the Russian total), representing New Zealand's 11th largest supplier of fertiliser. New Zealand has not imported any gold from Russia in the last five years.
19. New Zealand's total services trade (exports and imports) with Russia in the year ended December 2021 was NZD43 million (representing 0.13 percent of New Zealand's total), and narrowly focused on travel and a small number of government and IT services.
20. New Zealand's total goods and services trade with Belarus in 2021 was NZD16.6 million. Goods exports (NZD1.2 million) were almost exclusively food products (98 percent of the total), of which the vast majority was seafood. Goods imports (NZD14.6 million) were dominated by fertiliser imports (representing 67 percent of total imports from Belarus). New Zealand's services trade with Belarus was negligible in 2021, with no imports and exports (almost exclusively travel related) totalling NZD853,000.
21. Historically, incidents of Russian and Belarusian aircraft and vessels visiting New Zealand are also low. Three Russian registered superyachts have visited New Zealand in the past ten years, two of which are owned by currently sanctioned individuals. Only one Russian registered private jet aircraft arrival has been recorded in the past 36 months. Vessels and aircraft with connection to sanctioned persons that are not Russian flagged have not been monitored; our distance from Europe makes New Zealand a less likely destination for these craft. ^{s9(2)(a)}
22. Reported financial flows into New Zealand from Russia are also comparatively small, predominantly consisting of payments to primary sector exporters, with some pension payments. Flows from New Zealand to Russia consist largely of small personal remittances and some pension payments. At the time the sanctions were enacted, some managed funds had investments in Russian SOEs but the sanctions allow for divestment of those assets. However, it is possible that 'third party payments'³ are used to conduct some trade and remittance activity by high risk actors. In addition, New Zealand legal persons and legal arrangements have been used internationally in the past to launder money (see for example, the Panama papers).⁴

³ Third party payments are where international transactions between two jurisdictions are settled using funds located in another jurisdiction.

⁴ The Panama Papers refer to 11.5 million leaked financial and attorney-client details of more than 200,000 offshore entities which were created by Panamanian law firm Mossack Fonseca in order to evade taxes, facilitate money laundering and other financial fraud. A number of foreign trusts registered in New Zealand were named in the papers, as well as New Zealand registered companies and financial service providers. This resulted in a government inquiry into foreign trust disclosure rules and accelerated changes to the AML/CFT regime.

What was the policy problem or opportunity?

23. Russia's decision to invade Ukraine on 24 February 2022 and its ongoing military actions there are clear acts of aggression, a blatant breach of Ukraine's sovereignty and territorial integrity, and a violation of international law and the UN Charter. The clearest indications of the extent of international censure were two UN General Assembly resolutions, adopted in March and October, condemning Russia's aggression against Ukraine, and its attempts to illegally annex Ukraine. The March resolution was resoundingly adopted with 141 votes in favour (including New Zealand) and only 5 against (Russia, Belarus, Eritrea, North Korea, and Syria); and the October resolution received 143 votes in favour (including New Zealand) and only 5 against (Russia, Belarus, Nicaragua, North Korea, and Syria).
24. Russia is a permanent member of the UNSC and used its veto power to prevent collective action against its own illegal activities. Without action being taken through the Act, as explained in Section 1 above, the Government would have had a limited range of legal tools with which to demonstrate New Zealand's condemnation of threats to the sovereignty and territorial integrity of Ukraine by Russia, and countries or persons assisting Russia. While voluntary tools may have had some effect, there would have been reputational and bilateral relationship consequences for New Zealand in not taking a regulatory option. For example, because of New Zealand's integration in global trade and financial systems, and because sanctions work best when they are adopted by the broadest possible range of countries. Without taking regulatory action, other countries' sanctions could potentially be circumvented in New Zealand. New Zealand companies could have (inadvertently or not) supported the Russian war effort. This would also have been inconsistent with the views of many New Zealanders and New Zealand's foreign policy values.
25. Specifically, the Government would have had limited powers to prohibit or restrict activity in Aotearoa New Zealand by individuals or entities responsible for or associated with the invasion. This would have put New Zealand out of step with our international partners who were quick to implement sanctions measures for a range of individuals and entities. It would also have allowed engagement by New Zealanders and people in New Zealand with Russia to continue in ways that would be inconsistent with the views expressed by Government and damaging to our reputation. For example, Aotearoa New Zealand, could have become a safe haven for those sanctioned by other countries to continue to do business or become a supplier of strategic goods Russia could use to continue its illegal war.
26. A sanctions regime that allows for the targeting of specific persons, assets and services, also allows for actions to be ratcheted in response to Russia's actions – giving New Zealand a new opportunity to condemn Russia's actions as new sanctions are announced. An example of this was the new measures announced in response to Russia's purported illegal annexation of Ukrainian territory in October 2022.
27. At a broad level, every person and business in New Zealand is impacted by this policy problem. New Zealand's support of the international rules-based system is important to all of us; it underpins New Zealand's reputation as a good global citizen and our relationships with important security partners. Sanctions regimes also have the potential to impact every single person and business in New Zealand and New Zealand citizens offshore. However, as explained above, because New Zealand's economic relationship with Russia is comparatively limited, the stakeholders that are particularly impacted are

relatively narrow, for example banks and reporting entities under the AML/CFT Act, businesses that are particularly reliant on import and exports from Russia, and some individuals.

28. The policy problem does not impact any specific population group, although Ukraine nationals and New Zealand nationals with Ukrainian relatives and heritage may have had significant concerns had New Zealand failed to enact broad-ranging sanctions against Russia. Russians in New Zealand are impacted by the sanctions to the extent that they may find it difficult to, for example, receive pension payments or personal remittances. However, these issues would have occurred in the absence of New Zealand sanctions because of the presence of other countries' sanctions. Although Māori and Māori businesses may be impacted by sanctions, the policy problem is not considered to raise any direct Te Tiriti o Waitangi issues.

What objectives were sought in relation to the policy problem?

29. The policy objectives the Government wished to achieve in relation to the policy problem were to ensure New Zealand could:
- a. Join international collective action to express its condemnation of Russia's illegal actions;
 - b. Seek to exert pressure on Russia to change its behaviour away from war;
 - c. Prevent reputational and other damage to New Zealand if New Zealand or New Zealanders were to be used to undermine our partners' sanctions regimes; and
 - d. Act quickly in response to an evolving international crisis.
30. As New Zealand is distant from Russia and has a limited bilateral relationship, the most impactful approach to sanctions is by complementing and reinforcing the actions of other countries. It makes sense therefore for New Zealand's approach to closely follow our partner's sanctions regimes with adjustments to reflect our specific circumstances. For example, our limited trade relationship with Russia means there is less risk to New Zealand companies from import and export restrictions because we only import and export a relatively narrow range goods and services. Following other countries' regimes also has compliance advantages for New Zealand businesses that may have to comply with other countries' sanctions regimes.
31. The Government acknowledges sanctions can have an impact on New Zealanders as well as sanctioned persons. While this is necessary and intentional for any sanctions regime, sanctions regimes should also provide opportunities to mitigate negative outcomes where the material impact of sanctions for New Zealand may be disproportionate to the impact on the sanctioned individual or entity.
32. The resultant objectives of the Act and Regulations are to strengthen and expand on the actions New Zealand could take to express New Zealand's condemnation of the threat to the sovereignty or territorial integrity of Ukraine, including by:
- a. Exerting pressure on Russia and Belarus; and
 - b. Complementing or reinforcing sanctions by other countries.

Section 2: Deciding upon an option to address the policy problem

What criteria were used to compare options to the status quo?

33. Based on the objectives set out above, the following criteria were considered in general terms:
1. **Effectiveness:** Does it expand New Zealand's toolkit to enable us to sufficiently condemn and respond to Russia's illegal invasion of Ukraine and join collective action by the international community? Will it enable us to align our response to the invasion with key international partners?
 2. **Reputation:** Does it preserve and bolster New Zealand's reputation as a defender of the international rules-based system, including international law? Will it ensure New Zealand is not used as safe haven or to circumvent partners' sanctions? Will it prevent inadvertent New Zealand support for Russian war effort?
 3. **Speed:** Can it be done on an urgent basis to enable New Zealand to respond quickly?
 4. **Flexibility:** Given the urgency, is it capable of adjustment in light of experience?
 5. **Systems alignment:** Is it compatible with current regulatory approaches to similar types of illegal activity? Is it possible to implement?
 6. **Systems cost:** How much will it cost the Government to implement and operate?
 7. **Compliance cost:** How will it impact individuals and businesses in New Zealand? Is the cost acceptable and proportionate to the objective?
34. As noted in the "Limitations and Constraints on Analysis" section, due to the timeframe some criteria, in particular criteria 5, 6 and 7 were not explicitly considered in written material, but they were part of the background thinking that lay behind the advice to the Government.

What scope were options considered within?

35. The scope of options that could be considered was constrained due to the time pressure. The Act adapts the framework of the Autonomous Sanctions Bill introduced to Parliament in 2017 rather than developing an entirely new framework. Accordingly, many of the policy issues in the Act had already been considered in that policy process. The experience of other countries under their autonomous sanctions regimes was considered in the development of that Bill (as well as the Act and Regulations).
36. The sanctions enacted by the Regulations are intended to complement and reinforce sanctions by other countries (as provided for in section 8 of the Act) and accordingly they reflect partners' sanctions as well as the types of sanctions measures adopted by the UNSC and implemented in New Zealand under the United Nations Act 1946. This means they were not developed entirely from first principles either. A range of partners' autonomous sanctions regimes were considered when the initial Regulations were adopted, and continue to be considered as the Regulations are amended. We have also engaged with partners about the way in which they manage their sanctions systems and ecosystem and have drawn on that knowledge in our ongoing work to develop a regulatory framework for this new sanctions regime.

37. There was little time to consult stakeholders, and the Government did not want to provide an early indication of likely direction of thinking to stop those who may be considered for sanctioning from taking pre-emptory steps to evade sanctions. However, as noted elsewhere in this paper, the process of amending Regulations each time new designations were made by the Minister presented an opportunity to ensure the Regulations continued to operate as they were intended in implementing the purpose of the Act. Consultation and enquiries from the public following enactment of the Act and initial Regulations has led to important changes. These are explained later in this paper.

What options were considered?

Option One – status quo

38. The counterfactual would have been to continue with the approach already in place, with a travel ban and limited export ban, and perhaps, while not explicitly considered at the time, with some education and guidance to individuals and businesses about the risks of engaging with Russia and persons assisting Russia's actions. Under this option (and all the options), it would also be expected that New Zealand companies would continue to disinvest from Russia and Belarus, whether or not required to, given the political instability and the increasing difficulty in receiving payments. It could also be expected that banks and other actors with international links would comply with sanctions imposed by other countries even if New Zealand did not implement its own sanctions.

Option Two – develop autonomous sanctions legislation

39. This would use or adapt the existing Autonomous Sanctions Bill to have general application to address any situations of concern that might arise, including but not limited to threats to peace and security, and emerging security issues not specific to Russia or this conflict.

Option Three – targeted legislation

40. Development of legislation specifically to address Russia's invasion of Ukraine (and assistance from Belarus) would give us the tools to join the international community to condemn and urgently respond to Russia's invasion.

Assessment of options

41. More detail is provided in the following table on how each of the options compare against the objectives and criteria.
42. In general terms, the status quo (even when accompanied with some educational outreach) was considered insufficient to respond to Russia's flagrant violation of international law and the international rules-based order, putting us out of step with a large grouping of concerned states (including Australia, Canada, the European Commission and 27 EU member states, Japan, Norway, Republic of Korea, Singapore, Switzerland, the UK and the US).
43. In this situation (i.e. where Russia was able to veto UNSC collective action) New Zealand's reputation as a staunch supporter of international law and the international rules-based system would very likely be undermined. ^{s6(a), s9(2)(g)(i)}

As it would not have prevented business as usual to continue, it also ran the risk of New Zealand being perceived as, or potentially being used as, a 'safe haven' for the flight of Russian financial assets due to our inability to impose asset freezes and financial services prohibitions.

This would carry significant reputational risk, especially if our exposure to Russia was greater than anticipated.

44. Because of the expansive scope and significant additional policy issues to be considered in an autonomous sanctions regime – for example whether to empower sanctions targeting those responsible for serious human rights violations (also known as Magnitsky sanctions) and the length of the legislative process, even if it were done under urgency, this option would not have enabled a swift New Zealand response to Russia's invasion. The Government continues to seek advice on a full autonomous sanctions regime.
45. For the purpose of simplicity we have assumed that autonomous sanctions legislation and targeted legislation would have resulted in the same sanctions being enacted through Regulations made under the legislation. However for the autonomous sanctions option, the costs would be higher as, while we cannot predict how such a regime would be used in the future, its much broader scope would mean the potential is there for more actions to be taken under it outside this current situation.
46. Non-regulatory options were a possibility under Option 1 (status quo) but for the various reasons outlined below, Option 1 was considered insufficient.
47. Option 3 was considered the preferred option because it most closely responded to the Government's objectives and criteria (see options analysis that follows).

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How do the options compare against our objectives/criteria?

Criteria	Option One – Status Quo	Option Two – Develop autonomous sanctions legislation	Option Three – Targeted legislation
Effectiveness: Enables New Zealand to sufficiently express condemnation	Insufficient response given the gravity of Russia's actions	YES – in line with partners' arrangements, but delayed	YES – gives clear message about target and test
Aligns with partner responses	Likely to be considered insufficient	YES – but delayed	YES
Reputation: Preserve New Zealand's reputation as a defender of the international rules-based system	There are other things we did including supporting Ukraine	YES – but delayed	YES
Reputation: Prevent circumvention or New Zealand safe haven for assets		YES – but delayed Carries reputational and exposure risk in meantime	YES
Reputation: Prevent inadvertent New Zealand support for Russian war effort	Some export control restrictions in place	YES – but delayed Carries some reputational and exposure risk in meantime	YES

Criteria	Option One – Status Quo	Option Two – Develop autonomous sanctions legislation	Option Three – Targeted legislation
Speed: can it be done urgently?	Limited measures already exist and were used	NO – while some elements were already drafted, it would have taken much longer because of the broader range of policy considerations of a general autonomous sanctions regime that we would need to address Even if passed by Parliament under urgency, there might have been resistance given broadness of the powers (and therefore additional delays)	YES – drafting required (but based on previous Bill) Faster to secure Parliamentary approval because of narrowness of scope Did not need to consider broader policy considerations around wider autonomous sanctions regime
Flexibility: Can it be adjusted in light of experience?	Very limited flexibility - travel bans could be lifted or applied to additional people for example	YES– though as it would have been developed over a longer period of time there may have been less requirement for adjustments to be made	YES – flexibility provided with amendments of Regulations each time new designations are made or measures imposed
Systems alignment: Is it compatible with current regulatory approaches?	Would only be using existing systems	YES – sanctions enacted under the regime are likely to be similar to our existing UN sanctions and similar illegal activity	YES – sanctions enacted under the regime are similar to our existing UN sanctions and similar illegal activity
Systems cost: Can it be done at a cost	YES	NOT ASSESSED but could be considerably greater than for targeted legislation, depending on how an autonomous regime is used in the future	YES – officials assessed that the initial work could be funded through departmental contributions of staff with support for the structure from

Criteria	Option One – Status Quo	Option Two – Develop autonomous sanctions legislation	Option Three – Targeted legislation
acceptable to the Government?			MFAT. The longer term costs were not assessed nor was there opportunity to factor them into budget provision for the longer term given the uncertainty of the duration of the conflict
Compliance cost: Is the cost on New Zealand individuals and businesses acceptable and proportionate to the objective?	<p>NEGLIGIBLE – though potentially less certainty on what is and is not permissible. International-facing businesses and individuals would still be impacted by de-risking by private companies and compliance requirements with other jurisdictions’ sanctions.</p> <p>Such de-risking may lead to calls for government support which would need to be assessed on their merits</p>	<p>NOT ASSESSED but could be considerably greater than for targeted legislation depending on how an autonomous regime is used in the future, this could have an ongoing impact on individuals and businesses</p>	<p>LIMITED – limited exposure to Russia will limit impact overall, though may impact operating environment and compliance costs. This includes de-risking by private companies and compliance requirements with other jurisdictions’ sanctions</p> <p>Such de-risking may lead to calls for government support which would need to be assessed on their merits</p>

Did the option selected address the problem, meet the policy objectives, and deliver the highest net benefits?

48. As noted above, the option of a bespoke fast-track Bill confined to and to specifically address Russia's invasion was considered the preferred option to address the policy problem, meet our objectives, and deliver the highest net benefits. It was also a swift way forward, reflecting the need to move quickly to respond to Russia's aggression.
49. This option offered the ability for New Zealand to join international partners to condemn Russia's invasion in a manner and timeframe that was credible. Using this option, New Zealand was able to join others and announce its first tranche of sanctions against President Putin and other Russian actors one week after the Bill was passed by Parliament and legal powers entered into force, and some three weeks after Russia's invasion.
50. Since then, the Government has been able to roll out, at pace, extensive sanctions packages. As at 16 November 2022, New Zealand has designated more than 1,200 individuals and entities spanning Russia's political, economic and military elite, its military-industrial complex, its financial institutions and companies of strategic significance, disseminators of disinformation, and actors supporting or legitimising Russia's occupation of and attempts to illegally annex Ukrainian territory. In the same time period, New Zealand has also joined international partners to impose some of the most significant trade-related sanctions measures against a major economy. This includes export prohibitions (on strategic goods, luxury goods and oil production products), import prohibitions (on gold, luxury goods, oil, coal and gas) and a 35 percent import tariff. This has largely "decoupled" New Zealand's economy from Russia.
51. The table attached at Annex 1 analyses the interventions (i.e. sanctions) that have been included in the Regulations and what their rationale and intended impacts were.
52. While not a stated policy objective, New Zealand's policy option has delivered additional benefits to our bilateral relationships with countries that have also enacted sanctions in response to Russia's illegal invasion. This is closely linked to reputational benefits. While not possible to quantify in data or monetary terms, we have seen an increase in opportunities for engagement by the Prime Minister, Ministers and officials. While these engagements have been focused on sanctions and support for Ukraine, it adds another facet to our relationships. ^{s6(a)}
53. New Zealand's ability to bring pressure to bear on Russia is limited (including because of our limited trade exposure). Our selected option nonetheless gave us the means to also meet our policy objective of *seeking* to exert pressure on Russia to change its course.
54. This option ensured New Zealand could adequately guard against the risk of, or perception, that New Zealand could become a 'safe haven' for sanctioned assets. The sanctions measures (see Annex 1 for more information) provided the requisite tools to prevent and deter Russian individuals or entities sanctioned by other jurisdictions from

moving assets to New Zealand or using our financial system to circumvent others' sanctions.

55. Choosing this option, however, also meant that some elements of good regulatory practice could not be undertaken in the time available. For example, there was limited time for stakeholder consultation and public debate. However, this was considered acceptable because of the need to act quickly, the expected limited impacts on New Zealanders, and the need to ensure the sanctions were not undermined, e.g. by providing notice for sanctioned persons to move their assets.
56. In sum, the deficiencies of the counter-factual/status quo option would have left New Zealand exposed and at reputational risk. While an autonomous sanctions regime may ultimately have been more flexible in a range of different situations outside the current conflict, the longer timeframes required to implement the option of a broad autonomous sanctions regime would have left New Zealand exposed and at reputational risk with respect to Russia's invasion of Ukraine and the response of the international community.

What have been the marginal costs and benefits of the option?

57. There are intangible reputational benefits to New Zealand and its people through rapidly demonstrating, and being seen to demonstrate, through our selected option, principled defence of and staunch support of the UN Charter, international law and the international rules-based system. ^{s6(a)}

s6(a), s9(2)(f)(iv)

s6(a)

58. Key costs for the sanctions include:
 - a. Costs for duty holders in screening persons and transactions and reporting suspicious activity;
 - b. Costs for exporters and importers in finding new clients or suppliers or absorbing the tariff increase;
 - c. Costs for New Zealand persons to conduct due diligence on their activities to ensure they are not undertaking a prohibited activity and/or doing business with sanctioned persons; and
 - d. Costs for Government in relation to developing, implementing and maintaining sanctions, education, compliance and enforcement of the regime including litigation costs; and
 - e. Costs for New Zealand individuals and business that may be impacted by the regime either through New Zealand's sanctions or over-compliance.

59. Specific businesses with high exposure to Russia, such as those that import goods only available in the Russian market, will have been more affected. We do not hold information on how many businesses are in this position, and have therefore mostly relied upon what we can glean from trade data, and businesses approaching us (either through NZTE links, our public enquiries inbox, and any exemption requests received). To October 2022, small numbers of companies have approached MFAT with questions about the application of sanctions and the potential impact on their business (MFAT receives around 14-20 enquiries per month from businesses).
60. In general terms, some New Zealand exporters to Russia will have been disproportionately impacted. We can look to trade data as one indicator (see next table), however, these costs may have happened anyway due to difficulties in receiving payment for goods and services that are likely to have occurred regardless of New Zealand's sanctions e.g. due to the impact of other countries' sanctions regimes, as well as commercial decisions of service providers to withdraw from the Russian market. The overall impact of the policy option on New Zealand's economy has been limited.

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Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
New Zealand banks	Compliance costs largely already borne by banks complying with the sanctions of other jurisdictions (NZ designations have followed designations by partners)	Negligible-low	High – s9(2)(ba)(i)
New Zealand Government	<p>MFAT reprioritised NZD1.7m for the year ending 30 June 2023 for people and advice</p> <p>Other agencies contributed people to the initial taskforce and ongoing operational expertise</p>	Low-medium	High
Businesses importing to or exporting from Russia	<p>Trade has decreased, albeit from a low value base. Tariff imposes additional cost to make ongoing trade more prohibitive. Some businesses made commercial decisions to withdraw or suspend operations for ethical reasons or due to difficulty in being paid</p> <p>Difficult to assess impact of New Zealand-specific sanctions, separate from operating constraints (e.g. difficulties securing transport or insurance services, and facilitation of payments) and impact of sanctions of other jurisdictions</p>	Overall impact is low but can be high for specific businesses	Medium – trade data. Specific impact of New Zealand sanctions vs. other factors based on anecdotal information

Gold dealers	Prevents possible import, over and above 35 percent import tariff	Negligible-low No import of Russian gold in five years	High – trade data
Individuals sending or receiving remittances	Difficulties completing financial transactions. Very likely impacted by financial sanctions of others even without New Zealand sanctions	Overall impact – low because of low base numbers but impact on individuals can be high	Low/medium – anecdotal information through enquiries received or information from banks
Individuals eligible for Russian pensions in New Zealand	Permissions in Regulation 12(3) may apply to permit payments, but even with this they are very likely impacted by sanctions of other jurisdictions	Individual impact – high, livelihoods impacted. Annualised value of Russian pension deductions \$1.04m as at 29 April 2022, with average value per person \$2,580 per annum. Low-medium – approximately 400 individuals known to previously receive Russian pensions. This may be higher in practice as this number represents only people known to MSD	High – specific data
Other duty holders	Duty-holders cover around 7,000 reporting entities as defined under the AML/CFT Act. Extra compliance costs will be incurred, especially around reporting of suspicious activity. However, given New Zealand's limited exposure to Russian persons and assets this will be relatively low	Low	Medium – reporting from AML/CFT supervisors has not raised this as being an issue with their reporting entities
Total monetised costs	n/a	Low overall	High
Non-monetised costs		Low overall	Medium
Additional benefits of the preferred option compared to taking no action			
New Zealand Government	Reputational benefits accrued from our decisive response to Russia's breach of	High	Anecdotal – diplomatic reporting, direct feedback to PM

	international law and the UN Charter, and our ability to ratchet our response if required through additional sanctions announcements		and Ministers etc.
	Preservation of bilateral relationships and New Zealand reputation through further reducing the risk of New Zealanders inadvertently supporting Russia's invasion machinery or strategic industries (by imposing our own measures that New Zealanders must adhere to)	High	Low – cannot measure counter-factual though could be informed by trade data trends
	Preservation of bilateral relationships and New Zealand reputation through reducing the risk that New Zealand is used to circumvent others' sanctions or used as a 'safe haven' by actors sanctioned in other jurisdictions	High	Low – cannot measure counter-factual though could be informed by trade data trends
	Bolstered relationships with other countries imposing sanctions in response to Russia's invasion, including through shared sense of purpose and increased opportunities for engagement	High	Anecdotal – diplomatic reporting, instances of New Zealand participation in some fora
New Zealand businesses	Reputational benefits associated with adherence to sanctions and being seen to not support the Russian war machine	Low to medium – businesses operating in multiple markets may already be complying with partner sanctions	Low – no data
Total monetised benefits	n/a	n/a	Low
Non-monetised benefits	n/a	High	Low

What have been the impacts of our chosen policy option?

61. Neither the Act nor the Regulations were expected, on their own, to impact any specific population group in New Zealand. Engagement with Ukraine nationals and New Zealand nationals with Ukrainian relatives and heritage has shown there is broad support for New Zealand's showing of solidarity with Ukraine including the adoption of targeted sanctions legislation. The use of exceptions in the Regulations is intended to limit the impacts on New Zealanders living in Russia.
62. **Human Rights:** The regime clearly targets Russian individuals and entities. However, this is not considered direct discrimination on the basis of national or ethnic origin as the threshold for imposing sanctions does not distinguish between individuals of Russian nationality and those of other nationalities. ^{s9(2)(h)}
63. **Trade:** The sanctions have had an impact on our trade and economic relationship with Russia. For the six months period ended September 2022, New Zealand's goods import trade with Russia dropped 80 percent and our exports dropped 86 percent compared to the same period in 2021. Some companies including Fonterra took the commercial decision to withdraw from the Russian market.
64. **Financial transactions:** Aotearoa New Zealand's designation of Russian financial institutions has further limited the New Zealand economy's interaction with Russia. Although we note that even where the activity is permissible under our Regulations it may still be blocked in practice. In part this is because of New Zealand banks' reliance on correspondent banks to facilitate transactions between New Zealand and Russia, which have their own sanctions compliance requirements and internal policies.
65. **Pensions:** One such example is the inward payment of Russian pensions to eligible individuals living in New Zealand. Having been made aware that individuals in New Zealand were no longer receiving these payments, MFAT published guidance on its website for New Zealand banks, confirming that while New Zealand had sanctioned the remitting bank normally used by the Russia Government, receipt of such payments by New Zealand banks was permissible under regulation 12(3) provided the criteria was met. Even with this guidance, Russian pension payments have not been arriving in New Zealand. ^{s9(2)(g)(i)}
66. **Assessment:** Acknowledging that this may be creating hardship for some people, the above example demonstrates that New Zealand's sanctions have not been imposed in a vacuum. The intertwined nature of international financial systems, as well as de-risking and compliance requirements across other sectors, has meant that decisions overseas have had flow-on impacts on New Zealanders' ability to continue to do business and engage with Russia, independent of New Zealand's sanctions. "De-risking" describes the situation where private entities may make a commercial decision to terminate business relationships rather than manage risk.

67. This is reinforced by New Zealand's position as a "fast follower" of other partners' sanctions. The Minister's decision to designate individuals or entities or the Government's decision to impose trade-related sanctions measures has been preceded by at least one international partner's designation or announcement of measures. This in part reflects the reality that international partners have had autonomous sanctions regimes and associated frameworks and resources in place well before New Zealand. At the same time, it also reflects that the objective, included in the Act that Aotearoa New Zealand's sanctions should reinforce or complement partners' sanctions. In practical terms for duty holders, this has meant that for some, primarily the banks, the compliance costs associated with our sanctions regime has been lower than anticipated as their systems are already applying partners' sanctions against the same targets.
68. **Counter-actions:** In response to our sanctions Russia has announced two rounds of travel bans on named New Zealanders. The practical impact of this is limited, with New Zealand SafeTravel advising against any New Zealanders travelling to Russia at this time. The expansion of the Russian travel ban list is likely given our ongoing sanctioning of Russian persons and entities.
69. ^{s9(2)(g)(i)}

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Section 3: Delivering an option

How have the new arrangements been implemented?

70. **Administration:** MFAT has stewardship responsibility for ensuring the Act is effectively administered. Given the wide range of government agencies involved in implementing the different types of sanction, working together in a coordinated way is critical to an effective regulatory regime. Work is under way to ensure functions and accountabilities are clearly articulated and agreed between agencies through a regulatory charter, taking advantage of existing systems and relationships with regulated communities to the fullest extent possible. This includes structures to support responses to specific types of breach.
71. **Timing:** It was not possible to delay the introduction of either the Act or the Regulations given the reason for passing them under urgency was to respond to an emergency in international relations. This meant there was little time to consult stakeholders, and the Government did not want to provide early indication of likely direction of thinking in order to avoid those involved from taking evasive action.
72. **Compliance costs minimisation strategies:** MFAT has worked with other agencies and stakeholders to produce guidance for regulated communities including duty holders, banks, the transport sector and importers and exporters, with the aim of minimising additional work needed for regulated communities to comply.
73. The government recognises there is a significant compliance burden on the private sector associated with identifying sanctioned associates and relatives, vessels and aircraft on an ongoing basis. MFAT is increasing the use of designation notices issued under Section 11 of the Act to improve the information available to support the identification of these individuals, entities and craft, which should reduce cost and make it easier to comply. However, there will always be gaps. This is also a problem for our international partners.
74. **Implementation risks:** For the most part, implementation of the Act relies on existing mechanisms to detect and respond to illegal activity. This is considered proportionate to the risk a breach of the sanctions regime poses to New Zealand, and ensures appropriate prioritisation compared with other illegal activity. This means generally that, where there are existing system constraints in terms of detecting and responding to illegal activity, these will also apply to sanctions.
75. There are also some implementation risks specific to the Act, including:
 - a. The identification of associates, relatives and craft is challenging and adds to a complex enforcement picture were there to be a significant sanctions breach.
 - b. Supervising agencies under the AML/CFT Act currently have no mandate to assess compliance with sanctions, and the focus of the regime on money laundering and terrorism finance risks means there are some differences in application. This issue was considered as part of the statutory review of the AML/CFT Act though any material sanction related legislative changes to the AML/CFT Act are not anticipated before the latter part of 2025.

- c. Given the breadth of the sanctions, good coordination between agencies will be necessary to support effective implementation. Design work is ongoing to clearly articulate the roles and responsibilities of agencies in relation to Russia sanctions.
76. **Education and Guidance:** As noted above, the regime takes advantage of existing government-private sector relationships wherever possible, as well as concentrating on areas that carry the most risk. The Ministry's website provides information about the sanctions, the Act and Regulations, the register of sanctioned individuals and entities, frequently asked questions, and guidance materials provided to businesses and groups to help them comply with the sanctions. We are also working to provide a technical solution to ensure regulated communities are kept up to date with changes to our sanctions. As the government moves forward the intention is for guidance to become more focussed on providing tailored material that will help individuals and businesses to comply. For example, guidance on how to assess customer risk and what to look for. There will be a focus on providing more user-friendly information in the form of infographics, checklists etc. In addition, information will also be added that outlines the approach to compliance and enforcement. Where feasible, guidance is being tested with affected stakeholders.
77. **Enforcement strategy:** Further work is underway to clarify the criteria and conditions under which civil, criminal or regulatory enforcement actions may be taken in response to a sanctions breach or evasion, as well as who is responsible for coordination, investigation and prosecution activities.
78. The regime is based around voluntary or informed self-compliance. Engagement with stakeholders suggests most individuals and businesses are already strongly incentivised to comply, including for ethical and reputational reasons. However, there are likely to be differences in awareness and knowledge of obligations, which means unintentional non-compliance is a risk. For these reasons it makes sense to focus on providing information and using positive relationships to help regulated communities to comply.
79. ^{s6(c)} If evidence of an offence under the Act is uncovered, the Police are able to investigate and prosecute as they would for any other type of offence. Criminal prosecutions may be undertaken for egregious or repeat offending. ^{s6(a), s9(2)(g)(i)}
Enacting sanctions against a significant global economy and sanctioning strategically important high net worth individuals has increased the level of complexity.

How are the new arrangements being monitored, evaluated, and reviewed?

80. Since the enactment of the Act and Regulations, MFAT and other agencies have received a range of enquiries about sanctions, which are logged and used to assess where either additional guidance should be provided, for example through FAQs on MFAT's website or the Regulations might need to be amended.
81. The AML/CFT Act and supporting regime covers approximately 7,000 entities across 30 sectors. These entities are required to manage and mitigate the risk that they will be misused for money laundering or terrorist financing. While these entities are not currently obligated to manage and mitigate sanctions risks, these activities are also likely to have a deterrent impact on sanctions breaches.

82. To support this the Act provides a requirement for duty holders already captured as reporting entities under the AML/CFT Act to report to the Commissioner of Police when they suspect that they are in possession of assets or providing services that are subject to a sanction. This will facilitate the monitoring and enforcement of any restrictions imposed under the Regulations as well as identifying areas where duty holders may require additional guidance. As at 16 November, the FIU has received 40 such reports. Most reports concerned personal remittances or reporting entities disclosing that they held investments in sanctioned entities (which is permitted under the regime).
83. In addition, under the AML/CFT Act, reporting entities are required to report international fund transactions over \$1,000 to the FIU. This provides some visibility of suspicious sanctions activity in sectors that are high risk for financial crime.
84. ^{s6(c), s9(2)(g)(i)}
85. **Planned system reviews:** As noted above, part of the Statutory Review of the AML/CFT Act recommended amending the purpose of that Act to include supporting the implementation of all financial sanctions.
86. The Act is required to be reviewed two years after enactment, which is 11 March 2024. The review of the operation and effectiveness of the Act will include a focus on the policy and procedures of the Russia sanctions regime and an assessment whether:
- There is clarity over responsibilities and reporting lines
 - Internal controls over the application, recording and reporting of sanctions are robust
 - Risk management practices are effective
 - The regulatory system, including compliance and enforcement aspects to underpin sanctions activity on an enduring basis is appropriate
 - There are lessons learned that could be applied to future sanctions laws/processes or to update the Act and Regulations.
87. The Regulations will automatically be revoked in three years on 17 March 2025. Review of the Regulations will be required ahead of that date to provide advice on appropriate management of the Regulations, including their possible extension or removal should circumstances warrant that.

What did we learn? What did we change?

88. The way the sanctions regime was designed through amending the Regulations each time new designations are made has allowed us to continue to monitor and make adjustments in light of experience. We have adopted a “continuous improvement” approach and have made adjustments to the Regulations as issues have emerged or been raised to ensure the Regulations are working as intended. Many of these were in response to feedback from duty holders, either in the course of our outreach or through direct approaches. Some examples are:
- a. Amending our Regulations to allow for entities to divest shares or securities in sanctioned Russian entities, so long as the ability to divest does not enable new financial flows into Russia. This was in response to feedback from some New Zealand financial institutions that, while many managed funds have ethical obligations to divest

from sanctioned companies, the asset freeze regulation prohibited them exiting the Russian stock market. To respond to this, the Regulations were amended to move shares and securities to the new regulation 10A which allowed for different treatment and for divestment to occur.

- b. Amending the beneficial ownership threshold in our regulations to align with partners' sanctions regimes. Originally, our Regulations provided that a sanctioned person or entity is deemed to own or control an asset if they have a beneficial entitlement to, or a beneficial interest in, more than 25 percent of the interests; the power to control the composition of more than 25 percent of the governing body of the entity; or the right to exercise or control the exercise of more than 25 percent of the voting power at a meeting of the entity. The 25 percent threshold aligned with other domestic legislation including the AML/CFT Act and the Overseas Investment Act. However, following feedback from financial institutions that compliance in implementing the 25 percent beneficial ownership threshold was complex and overly burdensome (other partner sanctions used a 50 percent threshold) and after satisfying ourselves that the intent of the regime would not be duly undermined by this change the threshold in our Regulations was amended to 50 percent.
 - c. Refining the prohibition on dealing with services for greater clarity. The Regulations Review Committee raised a concern that Regulation 11 prohibits activity in relation to services "supplied to the world at large" that are being accessed in good faith by New Zealand persons and, coincidentally, by sanctioned persons, without any link between the two. For example, if both President Putin and a New Zealand person were to access the "Stuff" website. While officials considered that when Regulation 11 is read together with the rest of the Regulations and the Act, it can and should be more narrowly interpreted, the Regulation was amended to make as clear as possible how the services prohibition applies to New Zealand persons accessing services "supplied to the world at large", and providers of those services.
 - d. Expanding the definition of duty holders to increase effective implementation of the regime. Under the Act, duty holders are required to report specific matters to the Police Commissioner. To better ensure financial flows are not able to reach the Russian market and Russian assets are not able to avoid sanction, the Regulations were amended to broaden the definition of high-value dealer (those required to report under the Act) to capture a greater number of New Zealand persons. While the number of people caught by this new definition was significant, reporting is still only required if the duty holder believes they are dealing with an asset or service caught by the sanctions. Increasing the potential reach of the sanctions to bolster reporting and implementation was considered to outweigh any costs for new duty holders.
89. In other instances where feedback has been received, MFAT's Russia Sanctions Taskforce has, after consideration, decided not to amend Regulations, but instead opted for an educative approach through outreach and publication of guidance material, and continued monitoring. One such example is for inwards financial transactions that involve a Russian sanctioned bank touchpoint where the permissions in Regulation 12(3) do not apply e.g. a personal remittance. The Russia Sanctions Taskforce, cognisant of the risks of sanctions evasion through permitting all payments, has instead published a guidance note to offer additional clarity and some example scenarios, and is continuing to monitor the situation. New Zealanders have the option of seeking an exemption under Section 13 of the Act where the permissions in Regulation 12(3) do not apply.

90. Our approach has at times been necessarily cautious as we bed-in this new legislative and foreign policy tool, and ensure the Regulations operate as intended. One such example was the deliberate decision not to impose the services prohibition on President Putin and permanent members of his Security Council when New Zealand first designated these individuals in mid-March. MFAT's Russia Sanctions Taskforce has since found the risk of unintended consequences around these designations to be low and the full suite of prohibitions was extended to these individuals in early April. We have not received any significant pushback from persons impacted by the regime, either from offshore or in New Zealand. Anecdotal information from the media in particular, but also from engagement with those who have made enquiries and from those the Russia Sanctions Taskforce has engaged on specific issues, suggests that the New Zealand public remains supportive of our sanctions approach. This may yet be tested if there are significant consequences for New Zealanders at some point.
91. In summary, both the Act and the Regulations have stood up well since enactment, with only relatively minor changes to each having been required to ensure the regime is fit for purpose. This reflects a good design choice in making the Act framework legislation, with the more complex (in terms of impact) sanctions enacted through more flexible Regulations. While there are a few issues that could be considered in a review of the Act, for example a clearer explanation of the process of designation, the Act is entirely functional as it is. The Regulations Review Committee has asked a range of questions of the Government on both the Act and the Regulations, which have been resolved.
92. Overall we assess the regime has met the objectives of enabling New Zealand to respond quickly to an evolving international crisis by joining collective action to express condemnation of Russia's illegal military actions and seek to influence it away from war. While Russia is continuing with its actions, there is evidence that global sanctions are biting.⁵ We expect the cumulative impact to grow over time, as the international response continues to grow with the development and application of more and deeper sanctions. In addition to this positive assessment of the value of Russia sanctions as a pressure point on Russia, the sanctions regime has allowed New Zealand to reap reputational benefits from being able to act with partners to support the international rules-based system. While the costs of the regime to New Zealand have, for the most part, been held in check due to the limited exposure of New Zealand and New Zealanders to the Russian economy and sanctioned persons, it is nonetheless reassuring that the regime has not had significant unintended consequences. The continuous improvement model being applied means we should be able to make any adjustments that may be warranted should such consequences come to light in future.

⁵ See 'Business Retreats and Sanctions Are Crippling the Russian Economy' by Jeffrey Sonnenfeld, Steven Tian, Franek Sokolowski, Michal Wyrebkowski, Mateusz Kasprowicz, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4167193.

Annex 1: Analysis of interventions and alternatives for the selected policy option – targeted legislation

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
Designation of specific sanctioned persons (individuals, entities, classes of person)	No other alternatives were considered as this is essential to the purpose of the Act	Targets individuals and entities strategically relevant to Russia in order to exert pressure and/or complement partner sanctions	YES – to the extent that makes sense for New Zealand, matching partner sanctions reduces additional compliance cost	Provides names so that New Zealanders and New Zealand companies know who they are prohibited from dealing with and can properly implement sanctions
Travel ban – sanctioned individuals not to travel to, enter, or remain in New Zealand	Utilise existing travel ban/powers under Immigration Act 2009	<p>Efficiency and transparency benefits to incorporating power to restrict entry to New Zealand into sanctions legislative framework, i.e. different types of sanction can be applied to persons at the same time as using the same tests/thresholds</p> <p>The bans will send a clear message to individuals that they are not welcome in Aotearoa New Zealand until Russia's position changes fundamentally</p> <p>Aligns with the position of like-minded partners</p>	YES	Low. Limited visitors in the past, but travel bans will encourage some to voice concern about Russia's actions
Ships not to enter ports in New Zealand	s9(2)(g)(i)	Reduces likelihood of vessels “hiding” in New Zealand	YES – but systems and compliance costs to identify	Low. Very limited visits in the past

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
	s9(2)(g)(i)	<p>Serves as a deterrent and sends a message that until Russia's position changes fundamentally these vessels are not welcome in Aotearoa New Zealand</p> <p>Aligns with the position of like-minded partners</p>	vessels makes sanctions difficult to enforce	
Aircraft not to enter territorial airspace of New Zealand	No other options considered	<p>Reduces likelihood of aircraft "hiding" in New Zealand</p> <p>Serves as a deterrent and sends a message that until Russia's position changes fundamentally these aircraft are not welcome in Aotearoa New Zealand</p> <p>Aligns with the position of like-minded partners</p>	YES – but systems and compliance costs to identify aircraft makes sanctions difficult to enforce	Low. Aircraft would need to stop on the way to New Zealand (likely in countries which already impose sanctions)
Prohibition on dealing with assets	No other options considered	<p>Prevents New Zealand becoming a safe haven for assets of sanctioned persons</p> <p>Prevents New Zealanders from inadvertently supporting Russia's war or sanctioned persons</p> <p>Sends a message that until Russia's position changes</p>	<p>YES – but some implementation complexity because this prohibition also targets imports and exports to sanctioned persons</p> <p>Some groups are disproportionately affected, e.g. ordinary Russians</p>	Low. Limited exposure to Russia and limited economic engagement

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
		<p>fundamentally these assets are not welcome in Aotearoa New Zealand</p> <p>Aligns with the position of like-minded partners</p>	<p>sending personal remittances</p> <p>Some increase in businesses' compliance costs to ensure they are not dealing with sanctioned persons assets and for duty holders in reporting suspicious activities (noting however this is a similar requirement to existing AML/CFT reporting obligations and that costs already borne when also complying with other jurisdictions' sanctions regimes)</p>	
Prohibition on dealing with securities	The prohibition on securities was originally included in the asset prohibition but separated out in order to allow for divestment	<p>Prevents New Zealand from being able to make new investments in sanctioned persons while allowing them to divest existing investments</p> <p>Prevents New Zealanders from inadvertently supporting Russia's war or sanctioned persons</p>	YES – some increase in businesses' compliance costs to ensure they are not dealing with sanctioned persons assets and for duty holders in reporting suspicious activities (noting however this is a similar requirement to existing	Low – because divestment allows securities to be sold (i.e. removes existing exposure)

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
		<p>Serves as a deterrent and sends a message that until Russia's position changes fundamentally these securities are not welcome in Aotearoa New Zealand</p> <p>Aligns with the position of like-minded partners</p>	<p>AML/CFT reporting obligations)</p>	
Prohibition on dealing with services	<p>s9(2)(g)(i)</p> <p>It also didn't meet the objective of preventing New Zealanders from engaging economically with sanctioned persons</p>	<p>Makes it harder for sanctioned persons to interact with New Zealand economy</p> <p>Prevents New Zealanders from inadvertently supporting Russia's war or providing services to sanctioned persons</p> <p>Serves as a deterrent and sends a message that until Russia's position changes fundamentally, New Zealand businesses should not be engaging with sanctioned persons</p> <p>Aligns with the position of like-minded partners</p>	<p>YES – broad scope of the prohibition potentially increases systems and compliance costs, but New Zealand's services trade with Russia is small and trade with sanctioned persons likely negligible, which mitigates risk. Also difficult to get paid due to international sanctions</p>	<p>Low – because of limited exposure to Russia and limited economic engagement</p>
35 percent tariff on imported goods of Russian origin	<p>s9(2)(g)(i)</p>	<p>Exerts additional pressure on Russian economy</p>	<p>YES – but compliance costs are higher for businesses using Russian imported</p>	<p>Some – goods imports from Russia for the six months ended September 2022 are</p>

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
	<p>s9(2)(g)(i)</p> <p>(Note that the original tariff was to be revoked on 5 November 2022 but has been extended to match all other sanctions, i.e. 17 March 2025)</p>	<p>Ensures New Zealanders not inadvertently supporting Russia's war</p> <p>Serves as a deterrent to New Zealand persons purchasing Russian products until Russia's position changes fundamentally</p>	<p>goods. Also difficult to get paid due to international sanctions</p>	<p>80 percent lower compared to the same period in 2021</p>
Ban on the export of certain strategic goods	<p>s9(2)(g)(i)</p>	<p>Targets Russian military-industrial complex</p> <p>Serves as a deterrent and ensures New Zealanders not inadvertently supporting Russia's actions</p>	<p>YES</p>	<p>Low – because of limited exposure to Russia and limited economic engagement. Exports for the six months ended September 2022 period have decreased by 86 percent compared to 2021</p>
Prohibition on the import of gold	<p>Do nothing, designate Russian actors operating in gold sector instead of or in addition to the prohibition</p>	<p>Serves as a deterrent and ensures New Zealand will not be used to support Russian gold sales, if gold is displaced to other markets because of partner prohibitions</p> <p>Exerts additional pressure on Russian economy, and supports efforts to prevent Russia from</p>	<p>YES – but the fungible nature of gold (i.e. determining its original) could increase compliance and systems costs</p>	<p>Low – because New Zealand has not imported gold from Russia recently</p>

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
		using or monetising gold reserves to finance war		
Prohibition on the import and export of luxury goods	Do nothing	Ensures additional pressure on Russian elites Serves as a deterrent Ensures New Zealanders not inadvertently supporting Russia's actions	YES	Low – while the wine and seafood industries exported some product to Russia, this was already limited by payment options
Prohibition on the import of oil, gas and coal	Do nothing	Targets products that are key to Russia's ability to fund its war Serves as a deterrent and ensures New Zealand companies do not inadvertently support Russia's actions	YES	Low – New Zealand does not import Russian crude oil or gas and coal There are some impacts on New Zealand fuel companies arising from seeking assurances for blended products
Prohibition on the export of oil production products	Do nothing	Targets products that are key to the industries that Russia uses to fund its war Serves as a deterrent and ensures New Zealand companies do not inadvertently support Russia's actions	YES	Low – New Zealand does export high volumes of these products to Russia

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
General application to 'associates' of sanctioned persons as a class	Not extending as a class, designating associates in their own right	<p>Ensures sanctions are as effective as possible by also capturing associates who may be acting for the benefit of the person or otherwise acting to circumvent sanctions</p> <p>Puts additional pressure on designated individuals</p> <p>Administrative benefits to capturing as class rather than identifying and designating each individually</p> <p>Gives some flexibility if associates or business methods change including in response to sanctions</p>	YES – but increases systems and compliance costs to identify associates and makes sanctions more difficult to comply with if these names are not able to be clearly identified	New Zealand sanctions have broader reach and are more difficult to evade, but they are also more difficult to comply with
General application to 'relatives' of sanctioned persons as a class	Not extending as a class, designating relatives in their own right	<p>Ensures sanctions as effective as possible by capturing relatives who may hold assets on behalf of a sanctioned person or be acting for the benefit of the person</p> <p>Puts additional pressure on designated individuals</p>	YES – but increases systems and compliance costs to identify relatives and makes sanctions more difficult to comply with if these names are not able to be clearly identified	New Zealand sanctions have broader reach and are more difficult to evade, but they are also more difficult to comply with

Intervention	Alternatives considered	Rationale for provision	Meets criteria	Impact on New Zealand persons
		Administrative benefits to capturing as class rather than identifying and designating individually		
Adding exceptions to the Regulations to permit certain activity or activity in certain situations	Do nothing/require affected persons to apply for exemption instead	<p>Allows for legitimate activity and ensures sanctions have intended impact</p> <p>Provides greater certainty and clarity</p> <p>Guards against unintended consequences</p>	<p>YES – lower systems cost/less burdensome than receiving exemption requests</p> <p>Lower compliance and systems costs cost for allowed activities than having to apply for exemptions</p>	<p>More certainty for persons who may need to rely on the exception (and anyone they deal with)</p> <p>Ensures our sanctions are as targeted as possible to meet objectives and minimise adverse impacts on New Zealand and New Zealanders</p>

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