

Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



J.17

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Legislative Statement: Russia Sanctions Bill

This legislative statement is presented to the House in accordance with Standing Order 272.

Overview

The policy proposals in the Russia Sanctions Bill (**Bill**) aim to establish a framework for the implementation and enforcement of sanctions by New Zealand in response to military actions by Russia (and by countries or persons who may be assisting Russia) which threaten the sovereignty and territorial integrity of Ukraine or another country. The Bill enables the making of regulations and designation notices sanctioning persons, assets or services with the effect of prohibiting or restricting entry into New Zealand, or dealing with assets or services. The Bill also envisages the application of such sanctions to expand to another country or person providing illegal aid or assistance to Russia, such as Belarus. Correspondingly, the Bill also proposes the ability to apply sanctions against Russia in the event that it threatens the sovereignty or territorial integrity of more of its neighbours.

Improving legislative tools

New Zealand currently only has the power to impose sanctions under the United Nations Act 1946 if these are authorised by the United Nations Security Council. Russia's decision to use its veto in the United Nations Security Council means that collective action through the United Nations is not possible to respond to the invasion of Ukraine.

The international community is uniting to respond. The clearest indication of the extent of international opprobrium is the United Nations General Assembly resolution condemning Russia's aggression against Ukraine, which was resoundingly adopted with 141 votes in favour and only 5 against.

The Bill would align New Zealand's response to that of the collective action being taken by the broader international community.

The Bill intends to improve New Zealand's ability to respond to Russia's aggression and illegal actions by:

- Establishing a framework to impose and enforce sanctions on persons, assets and services in clearly defined circumstances;
- Empowering the making of regulations to impose sanctions where appropriate to respond to threats to the sovereignty and territorial integrity of Ukraine or another country, where such sanctions would demonstrate New Zealand's condemnation of the threat by exerting pressure on Russia or aligning sanctions to that of other countries.

- Providing the ability to prohibit or restrict imports or exports to or from sanctioned entities
- Providing the ability to prohibit or restrict entry to New Zealand's airspace and waters for sanctioned vessels or aircraft;
- Enabling the Secretary of Foreign Affairs and Trade to designate, by Gazette notice, detailed lists of the persons, assets or services to which sanctions apply;
- Extending sanctions to persons and entities of another country where that country is providing illegal aid or assistance to Russia's military actions against Ukraine;
- Ensuring transparency and safeguards in the process, through a public sanctions register to list persons, assets, or services sanctioned under the Bill;
- Ensuring sanctions are temporary, and provide opportunity for persons to apply to review, revoke, or seek exemptions from sanctions where appropriate;
- Utilising existing legislative processes and mechanisms for the monitoring and enforcement of immigration restrictions and import and export restrictions by requiring duty holders captured by the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 to report to the Commissioner of Police when they suspect they are in possession of assets or providing services that are subject to a sanction;
- Conferring immunity from legal proceedings on any person who takes action in good faith in order to comply with a sanction;
- Allowing civil and criminal enforcement actions to be taken against individuals or entities who fail to comply with a sanction;
- Imposing extraterritorial jurisdiction for offences committed under the Bill;
- Providing the ability to make regulations compensating any persons in relation to assets or services that are adversely affected by the imposition of sanctions;
- Mandating a review of the Bill after two years to consider the operation and effectiveness of the framework.

Fundamental aspects of the Bill

The fundamental aspects of the Bill are outlined below:

- Clause 3(2) – outlines the purpose of the Bill to enable the New Zealand Government to impose and enforce sanctions in response to military actions by Russia (and by countries or persons who may be assisting Russia), including sanctions which respond to military actions in Ukraine or in any other country;
- Clause 5 – outlines the interpretation of key terms in the Bill;
- Clause 8 – outlines the threshold for the recommendation of sanctions and provides that sanctions cannot be made unless the Minister is satisfied that it is appropriate to take such measures to respond to threats to the sovereignty or territorial integrity of Ukraine or another country. A response is appropriate if the Minister considers it demonstrates New Zealand's condemnation of the threat, including—

- if it is designed to exert pressure on Russia (or an assisting country); or
 - because it complements or reinforces sanctions by other countries.
- Clause 9(2) - enables the making of regulations and prescribes what must be included in the regulations, including:
 - a statement of its purpose;
 - a description or class of persons, assets, or services to which the regulations apply;
 - a description of the prohibitions or restrictions;
 - a description of any duties or requirements for compliance with the sanction;
- Clause 10(4) – outlines the scope and effect of regulations, including how existing legislation applies to the framework established through the Bill;
- Clause 11 – enables the Secretary of Foreign Affairs to issue designation notice by *Gazette* which lists the further details of the particular persons, assets or services subject to sanctions made under the regulations;
- Clause 12 – outlines that regulations and designation notices have a fixed term of no more than three years, unless extended;
- Clause 13 – establishes a process any person to apply to revoke or amend a regulation or designation notice, including for humanitarian reasons;
- Clause 15 – places duties on reporting entities captured by the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 to report to the Commissioner of Police when they suspect they are in possession of assets or providing services that are subject to a sanction;
- Part 3 – which sets out the civil and criminal enforcements, including the extraterritorial application of sanctions and enforceable undertakings. In particular, clause 24 outlines the varying offences, which includes fines of up to \$100,000 or imprisonment for a term not exceeding seven (7) years (or both) for individuals, or \$1 million for entities;
- Clause 29 – requires the Minister to commence a review the Act and prepare a report after two (2) years following the commencement of the legislation, and present this to the House of Representatives.