



MINING AND MACHINERY EXPORT SECTORS

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This **GUIDANCE NOTE** is produced by the Australian Sanctions Office (ASO) within the Department of Foreign Affairs and Trade (DFAT). It provides a summary of relevant sanctions laws but does not cover all possible sanctions risks. Users should consider all applicable sanctions measures. This document should not be used as a substitute for legal advice. Users are responsible for ensuring compliance with sanctions laws.



OVERVIEW

Australian businesses are prohibited from supplying, selling or transferring certain machinery and related goods (referred to as a sanctioned supply) under the Australian Harmonised Export Commodity Classification system codes 8207, 84, 85, 8806 and 8807 to, or for the benefit of, Russia or specified regions in Ukraine. It is also prohibited to provide technical advice, assistance, training or another service, if it assists with, or is provided in relation to a sanctioned supply (referred to as a sanctioned service). This guidance note outlines the responsibilities of individuals and businesses to take reasonable precautions and exercise due diligence to comply with these prohibitions.

BUSINESSES INVOLVED IN THE MINING AND MACHINERY EXPORTS SECTORS

Sanctioned supply - Machinery and related goods

Australian businesses involved in the mining and machinery export sectors to Russia are at heightened risk of contravening Australian sanctions law if they are involved in the export of machinery and related goods that fall under Australian Harmonized Export Commodity Classification (AHECC) codes **8207, 84, 85, 8806 and 8807**. 8806 and 8807 relate to unmanned vehicles (drones) and componentry.

Under the *Autonomous Sanctions (Export Sanctioned Goods—Russia) Designation 2022* and the *Autonomous Sanctions (Export Sanctioned Goods—Specified Ukraine Regions) Designation 2023*, goods that are categorised under AHECC codes 8207, 84, 85, 8806 and 8807 are **export sanctioned goods**, and are prohibited from being supplied, sold, or transferred to another person if, as a direct or indirect result, the goods are transferred to, for use in, or for the benefit of Russia or a specified region of Ukraine (Crimea, Donetsk, Luhansk, and Sevastopol). This is referred to as a **sanctioned supply**.

Sanctioned service

In addition to the prohibition on providing export sanctioned goods to Russia and specified regions of Ukraine, Australian businesses are also at risk of contravening Australian sanctions law if they provide **any kind of service** if it assists with, or is provided in relation to, a sanctioned supply of goods within AHECC codes 8207, 84, 85, 8806 and 8807 to Russia or a specified region of Ukraine.

The provision of such assistance is referred to as a **sanctioned service**, and may include:

- technical advice, assistance or training (including manuals)
- financial assistance or a financial service
- or another service – including visits or tours of mining sites or manufacturing facilities.

The purpose of these sanctions is to prevent Australian goods and services from supporting Russia's illegal and immoral invasion of Ukraine. The term 'export sanctioned goods' is not strictly limited to goods manufactured in Australia. It may, for example, encompass the supply by an Australian company of machinery manufactured in a third country.

HOW TO MITIGATE SANCTIONS RISKS

Appropriate sanctions screening practices and adequate due diligence are particularly important for businesses in the mining and machinery export sectors. DFAT is aware that Russia is actively seeking to circumvent sanctions by using third-party countries and complex supply chains, to acquire restricted goods.

Third-party countries and the risk of circumvention

Businesses should conduct due diligence when dealing with export sanctioned goods (such as goods captured under AHECC codes 8207, 84, 85, 8806 and 8807) to countries surrounding the Russian border, as well as to jurisdictions that have been identified by the ASO as being high risk for sanctions circumvention such as:

- Kazakhstan
- Kyrgyzstan
- Türkiye

The risk of circumvention increases when any of the following are present:

- the goods are sold to a reseller rather than an end user
- the buyer has business ties to Russia such as beneficial ownership links, past joint ventures or projects or known investments in Russian entities
- the goods being purchased appear inconsistent with the buyer's usual operations and activities
- the buyer requests unusual payment arrangements, such as payment via a third party
- information about the end user is unclear or contradictory
- foreign companies using end-to-end export services may also be of heightened sanctions risk due to the decreased visibility of the shipping route and end user.

This precaution is intended to reduce the risk of export sanctioned goods being redirected, or reexported to Russia or specified regions of Ukraine, which may constitute a **sanctioned supply**. This may be a contravention of Australian sanctions law.

Recommended due diligence

Businesses should implement due diligence measures to mitigate the risk of potential sanctions contraventions when dealing with export sanctioned goods. Below are some measures that could assist:

- **Know your customer.** Understanding who your customer is, and what their operations include will assist you in understanding the sanctions risks of the sale. This should include identification of the legal and beneficial owners of the customer. Your checks should seek to understand if any parties are based in Russia, or specified regions of Ukraine or have links to Russian entities.
- Include a '**No Russia clause**' in your sales contract. Including an **end-user-certificate**, or a clause in your contract that prohibits the on-sale of the machinery or competent to Russia or a specified regions of Ukraine will assist in preventing the indirect provision of your goods to sanctioned entities.
- **Monitor shipment routes.** You should consider monitoring shipment routes to determine if the goods are delivered to the intended end-user.

PENALTIES FOR SANCTIONS OFFENCES

Sanctions offences are punishable by:

- for an individual – up to 10 years in prison and/or a fine of 2500 penalty units (\$825,000 as of 7 November 2024) or three times the value of the transaction(s) (whichever is the greater)
- for a body corporate – a fine of up to 10,000 penalty units (\$3.30 million as of 7 November 2024) or three times the value of the transaction(s) (whichever is the greater).

The offences are **strict liability offences for bodies corporate**, meaning that it is not necessary to prove any fault element (intent, knowledge, recklessness or negligence) for a body corporate to be found guilty. However, an offence is not committed if a body corporate can demonstrate that it took reasonable precautions, and exercised due diligence to avoid contravening Australia's sanctions laws.

FURTHER INFORMATION AND RESOURCES

While this guidance note provides a framework for understanding key sanctions risks and compliance requirements, it is essential to remember that it does not cover every possible scenario. Sanctions compliance is a dynamic, ongoing process rather than a one-time assessment. Sanctions measures and associated risks are constantly evolving, requiring regulated entities to continuously monitor and reassess their compliance strategies. Regulated entities are encouraged to seek independent legal advice on their specific situation and to ensure thorough due diligence in all activities.

We recommend users also refer to the following resources to assist in their evaluation of sanctions risks:

- [Sanctions Compliance Toolkit](#)
- [Sanctions Risk Assessment Tool](#)
- [Guidance Note - Export Sanctioned Goods – Russia and Specified Regions of Ukraine.](#)

Further information is available on the [Department's website](#) and in [ASO guidance notes](#) on specific sanctions topics, or by making an enquiry to sanctions@dfat.gov.au.