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## Russia, the Skripal Poisoning, and U.S. Sanctions

On August 6, 2018, Secretary of State Michael Pompeo determined that in March 2018 the government of Russia used a chemical weapon in the United Kingdom in contravention of international law. This finding triggered requirements under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act; title III, P.L. 102-182; 22 U.S.C. 5601 et seq.).

The CBW Act requires the President to impose economic and diplomatic measures that first cut off foreign aid, arms sales, and export licenses for controlled goods, services, and technology, and ratchet up in intensity if certain conditions are not met within 90 days. As of August 2019, the United States has imposed two rounds of sanctions on Russia as required by the CBW Act.

The United States also imposes sanctions against Russia for other reasons. See CRS In Focus IF10779, *U.S. Sanctions on Russia: An Overview*, and CRS Report R45415, *U.S. Sanctions on Russia*.

### The Poisoning of Sergei and Yulia Skripal

On March 4, 2018, in Salisbury, United Kingdom, British citizen Sergei Skripal, a former Russian military intelligence officer once imprisoned in Russia for allegedly working as a UK double agent, his daughter, and a police officer were exposed to a highly toxic and potentially lethal chemical weapon agent. In July 2018, British media reported that another British citizen died after she and her partner allegedly came into contact with a bottle containing the nerve agent. British authorities identified the substance as a Novichok, an advanced nerve agent originally developed in the Soviet Union.

On March 15, 2018, President Trump and leaders of the UK, France, and Germany issued a joint statement condemning the chemical attack, calling it “the first offensive use of a nerve agent in Europe since the Second World War” and its use by a state party “a clear violation of the Chemical Weapons Convention [CWC] and a breach of international law.”

In April 2018, the Organization for the Prohibition of Chemical Weapons “confirm[ed] the findings of the United Kingdom relating to the identity” of the Novichok agent and noted that it “was of high purity.” On April 12, 2018, the Trump Administration said it agreed “that Russia is responsible for the attack on UK soil using a chemical weapon—either through deliberate use or through its failure to declare and secure its stocks of this nerve agent.”

In response to the attack, the UK, the United States, and at least 26 other countries expelled over 150 Russian diplomats. The UK expelled 23 diplomats. The Trump Administration expelled 60 officials it said were

intelligence operatives and closed the Russian consulate in Seattle.

In September 2018, British authorities charged two individuals for the attack. British Prime Minister Theresa May said that the suspects “are officers from the Russian military intelligence service, also known as the GRU.” In December 2018, the U.S. Department of the Treasury imposed sanctions on the two individuals charged in the attack for acting on behalf of the GRU.

Russian authorities deny involvement in the attack and possession of chemical weapons. In reference to Skripal, however, Russian President Vladimir Putin said months after the attack that “traitors must be punished.”

### The CBW Control and Warfare Elimination Act

Secretary Pompeo’s August 6, 2018, finding that a foreign government has used a chemical agent as a weapon triggered policy actions required by the CBW Act.

#### First Round of Sanctions

When such a finding is made, the CBW Act first requires the President (who, in 1993, delegated CBW Act authorities to the Secretary of State) to

- terminate foreign assistance other than that which addresses urgent humanitarian situations or provides food, agricultural commodities, or agricultural products;
- terminate arms sales;
- terminate export licenses for U.S. Munitions List (USML) items;
- terminate foreign military financing;
- deny credit, credit guarantees, or other financial assistance from the U.S. government, including Export-Import Bank programs; and
- deny export licenses for goods or technology controlled for national security reasons (Commodity Control List). [CBW Act, Section 307(a); 22 U.S.C. 5605(a)]

The CBW Act requires the imposition “forthwith” of these sanctions on determining that a chemical weapon has been used. On August 27, 2018, Assistant Secretary of State for International Security and Nonproliferation Christopher Ford announced the imposition of this first round of sanctions but invoked national security waiver authority to allow for the continuation of

- foreign assistance;
- exports related to government space cooperation and commercial space launches; and
- export licensing for national security-sensitive goods and technology in specific categories, including exports

related to civil aviation safety, deemed exports or reexports, wholly owned U.S. and other foreign subsidiaries operating in Russia, and commercial end-users for commercial purposes.

## Second Round of Sanctions

Within three months after the initial determination (in this case, by early November 2018), the CBW Act required the President to take additional punitive steps unless he determined and certified to Congress that Russia

- “is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,”
- “has provided reliable assurances that it will not in the future engage in any such activities, and”
- “is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals....” [CBW Act, §307(b)(1); 22 U.S.C. 5605(b)(1)]

If the President could not certify on all these terms, he was required to execute, in consultation with Congress, at least three additional measures among the following:

- oppose loans or financial or technical assistance to Russia by international financial institutions (IFIs);
- prohibit U.S. banks from making loans or providing credit to the Russian government, except for the purchase of food, or other agricultural commodities or products;
- prohibit exports to Russia of all other goods and technology, except food and other agricultural commodities and products;
- restrict importation into the United States of articles that are of Russia-origin growth, product, or manufacture;
- downgrade or suspend diplomatic relations; and
- set in motion the suspension of foreign air carriers owned or controlled by Russia “to engage in foreign air transportation to or from the United States.” [§307(b)(2); 22 U.S.C. 5605(b)(2)]

On November 6, 2018, the State Department informed Congress that it “could not certify that Russia met the required conditions” and intends “to proceed in accordance with the terms of the CBW Act, which directs the implementation of additional sanctions.”

The Administration took its next steps on August 1-2, 2019. On August 1, President Trump issued Executive Order 13883 to require the Secretary of the Treasury to implement measures, “when necessary,” affecting international financing and access to U.S. bank loans. On August 2, Treasury issued a directive (the “CBW Act Directive”) specifying that the latter measures prohibit U.S. banks from “lending non-ruble denominated funds to the Russian sovereign” and participating “in the primary market for non-ruble denominated bonds issued by the Russian sovereign.” According to Treasury, U.S. banks are not

prohibited from participating in the secondary market for Russian sovereign debt. Prohibitions do not apply to transactions with Russian state-owned enterprises.

On August 2, the State Department announced the pending imposition of these sanctions, as well as a third: the Department of Commerce would implement a “presumption of denial” policy for export licenses for goods controlled for their dual-use chemical and biological applications.

According to the State Department, the banking and export restrictions enter into effect on or around August 19, 2019, and “could curtail Russia’s access to billions of dollars of bilateral commercial activity with the United States.”

CBW-related sanctions remain in place for at least a year, and may be removed only after the President determines and certifies to Congress that the three conditions stated above have been met and that Russia is making restitution to those affected by the use of the chemical weapon.

## Lifting or Waiving CBW-Related Sanctions

The CBW Act authorizes the President to waive sanctions if he finds it essential to U.S. national security interests to do so or if he finds that the violating government has undergone fundamental changes in its leadership and policies.

On August 2, 2019, the State Department stated that sanctions affecting bank loans would be waived in all respects other than for lending non-ruble denominated funds to the Russian sovereign and participating in the primary market for non-ruble denominated bonds issued by the Russian sovereign. It also said that Commerce would deny export licenses only for those chemical and biological goods it controlled for weapons proliferation reasons. Finally, the State Department said that exports would continue for space cooperation and commercial space launches, civil aviation safety, commercial end-users for civil end-uses, U.S. and foreign wholly owned subsidiaries operating in Russia, and deemed export licenses for Russian nationals working in the United States.

## Earlier CBW Determinations

The CBW Act has been invoked on two other occasions. On August 2, 2013, the State Department determined that the government of Syria had used chemical weapons, but for national security reasons sanctions decisions would be applied on a case-by-case basis.

On February 22, 2018, the Secretary of State determined that the government of North Korea was responsible for the lethal 2017 nerve agent attack on Kim Jong Nam, the half-brother of North Korean leader Kim Jong-un, in Malaysia. Sanctions that were largely redundant with restrictions already in place went into effect on March 5, 2018.

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