

Canada Announces Plans to End Strict Export Controls Against Belarus

May 12, 2016

On May 7, 2016, Global Affairs Canada (formerly known as DFATD and DFAIT) [made an announcement](#) that Canada plans to legally remove Belarus from the [Area Control List](#). Belarus has been on the Area Control List since December 14, 2006. When this occurs, only North Korea will remain on the Area Control List.

The Area Control List is a Canadian regulation made pursuant to the [Export and Import Permits Act](#). As a result, the removal of Belarus from the list (and the addition of any country to the list) is made by the Governor-in-Council by way of an amendment to Regulation, SOR/81-543. The Canadian Legislature does not vote on regulations. When the Government of Canada promulgates the regulations to remove Belarus from the Areas Control List, the notice will be published in the [Canada Gazette, Part II](#), which is released on Wednesday, every two weeks.

Global Affairs Canada made the following statement concerning the reasons for the removal of Belarus from the Area Control List:

This announcement is consistent with actions taken by the United States and the European Union since October 2015 (see links below). It also reflects Canada's acknowledgment that the Government of Belarus has made progress in key areas in recent months, including the release of political prisoners and conducting a presidential election in October 2015, which demonstrated greater adherence to international norms and was not marked by the levels of violence and intimidation seen in past elections. Canada also recognizes the constructive role played by Belarus in facilitating negotiations toward a ceasefire and peace agreement in Ukraine—the Minsk agreements—in September 2014 and February 2015.

Belarus is no longer in the penalty box.

The removal of Belarus from the Areas Control List means that trade with Belarus will be significantly less restricted. This means that there are opportunities for Canadian businesses and exporters to sell goods to Belarus and businesses/persons in Belarus. Such opportunities have not existed for the last 10 years while the strict export controls have been in place. It was uncommon for Global Affairs Canada to issue export permits to Canadian businesses wishing to export to Belarus.

The *Export and Import Permits Act* prohibits the export or transfer of all goods and technology to a country listed on the Area Control List. Global Affairs Canada has announced that its Export Controls Division will immediately (presumably any time after May 7, 2016) “issue export permits for the export to Belarus of goods and technology that are not specifically listed in the [Export Control List](#).” Technically, the CBSA may detain goods and technology exported to Belarus without an export permit in the interim period.

After Belarus is removed from the Area Control List (that is, the regulatory process is complete), goods and technology not listed on Canada's Export Control List may be exported to Belarus without an export permit. The Export Control List should be reviewed in conjunction with [A Guide to Canada's Export Controls](#). Goods and technology on Canada's Export Control List may not be exported or transferred to any country (with the exception for certain goods and technologies exported or transferred to the United States) without an export permit issued by Global Affairs Canada.

Canada does not currently impose additional economic sanctions against Belarus pursuant to the *United Nations Act* or the *Special Economic Measures Act*. Whether or not Canada passes such economic and trade sanctions against Belarus by way of regulations promulgated pursuant to these laws is yet to be seen. There is no indication in the Global Affairs Canada announcement that such plans exist. It is important to note that the current restrictions (soon to be past export controls) were not economic sanctions by name; but were *de facto* economic and trade sanctions.



Cyndee Todgham Cherniak

cyndee@lexsage.com

Mobile: (416) 389-8999

The Gooderham "Flatiron" Building

49 Wellington Street East, Suite 501

Toronto, Ontario M5E 1C9

Phone: 416-307-4168/416-760-8999

Main Office: 647-290-4249

Fax: 416-760-899

www.lexsage.com