



July 13, 2023

Re: Protection from Suit for U.S. Companies for Good Faith Compliance with U.S. Sanctions on Russia

To the Members of the Senate Committee on Foreign Relations, Senate Committee on Banking, Housing, and Urban Affairs, House Committee on Foreign Affairs, and House Committee on Financial Services:

The U.S. Chamber of Commerce urges your Committees to advance legislation to provide U.S. companies legal protection in U.S. courts from claims or enforcement of foreign judgments or arbitral awards related to their cessation of their operations in Russia. We are increasingly hearing from U.S. firms that have exited the Russian market that now face legal claims simply for complying with U.S. sanctions and export controls. The Chamber urges Congress to provide protections for U.S. companies similar to protections afforded to U.K. and EU companies by laws in those jurisdictions.

In the wake of Russia's invasion of Ukraine in February 2022, many U.S. companies complied with expanded U.S. sanctions and export controls by curtailing or ceasing all business operations and exiting Russia on an expedited basis. In the course of complying with U.S. sanctions and export controls, U.S. companies ceased fulfilling pre-existing contractual obligations with Russian customers, many of whom are impacted by U.S. sanctions.

EU and U.K. laws provide protections to companies domiciled in those countries for good faith compliance with sanctions imposed by their governments. However, U.S. law does not afford similar protections. Despite sanctions, Russian specially-designated nationals (SDNs) have the legal right under an OFAC license to obtain U.S. counsel to sue U.S. companies in U.S. courts. Currently several cases are making their way through Russian courts or arbitral proceedings seeking damages from U.S. companies because of non-performance of contracts as a result of U.S. sanctions.

Russian courts are not impartial and are heavily politicized, and Russian law does not recognize the legitimacy of foreign sanctions. Russian courts and arbitral tribunals will likely rubber stamp suits brought against U.S. companies and allow Russian litigants to use Russian court and arbitral decisions as the basis to bring enforcement suits against U.S. companies. The first of these cases are now being brought.

U.S. courts are inclined to enforce foreign court judgments or arbitral awards absent demonstrable violations of due process. As a result, U.S. companies could face significant legal jeopardy in U.S. courts due to their compliance with expanded U.S. sanctions against Russia.

Under existing U.S. law, U.S. courts could potentially award sizable judgements to Russian litigants, even to parties and industries targeted by U.S. sanctions and export controls.

This clearly unacceptable situation disadvantages U.S. businesses who exited Russia in compliance with U.S. sanctions. The Chamber urges you to consider legislation to shield U.S. companies from legal claims arising from their compliance with U.S. sanctions and export controls, and we stand ready to work with you as you consider the pathway to doing so.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer, and
Head of Strategic Advocacy
U.S. Chamber of Commerce