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Legal Sidebar

# Tariff Authorities in the Lindsey O. Graham Sanctioning Russia and Iran Act of 2026

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On August 7, 2026, the Senate passed the Lindsey O. Graham Sanctioning Russia and Iran Act of 2026 (the Sanctioning Act). In addition to authorizing various sanctions against the government of the Russian Federation and Russian individuals and entities, the Sanctioning Act authorizes new tariffs on imports from Russia and a certain number of additional countries that either import crude oil or natural gas originating in Russia or facilitate Russian oil sanctions evasion. A sunset clause provides that the law would terminate five years after its enactment, except for a provision extending the Iran Sanctions Act of 1996.

Article I of the U.S. Constitution gives Congress the power to impose import tariffs and regulate foreign commerce. Congress, in turn, has enacted several laws authorizing the executive branch to impose tariffs under various circumstances. The second Trump Administration has utilized these laws to impose several tariffs, including tariffs on steel and aluminum, automobiles and parts, and other specific products using Section 232 of the Trade Expansion Act of 1962 (Section 232, 19 U.S.C. § 1862), tariffs on imports from many countries using Section 301 of the Trade Act of 1974 (Section 301, 19 U.S.C. § 2411), tariffs on certain imports from Canada using Section 338 of the Trade Act of 1930 (19 U.S.C. § 1338), and a temporary, now-expired global tariff using Section 122 of the Trade Act of 1974 (Section 122, 19 U.S.C. § 2132). Some of these tariff actions are subject to ongoing legal challenges. Certain states and other plaintiffs have filed lawsuits challenging multicountry tariffs the Trump Administration has imposed under Section 301, and the Administration is currently appealing a court decision invalidating the tariff it imposed under Section 122.

If enacted, the Sanctioning Act would delegate additional tariff authority to the executive branch, authorizing tariffs on imports from Russia and other countries that meet specified conditions. This Legal Sidebar provides an analysis of the tariff provisions in the Sanctioning Act, including interpretive questions regarding the authorities the bill would grant to the executive branch.

## Tariff Provisions in the Sanctioning Act

The Sanctioning Act would authorize tariffs against U.S. imports from Russia as well as imports from other countries meeting various criteria. This Legal Sidebar refers to tariffs on imports from Russia as "primary" tariffs and tariffs on imports from other countries as "secondary" tariffs.

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## Authority for Primary Tariffs

Section 112 of the Sanctioning Act would provide authority for primary tariffs on all U.S. imports from Russia. Section 112(a) states that, no later than 30 days after the bill is enacted into law, "the President shall . . . increase the rate of duty for all goods, including oil, natural gas, liquefied natural gas, petroleum, petroleum products, petrochemical products, coal, and coal products . . . from the Russian Federation to a rate of up to 500 percent ad valorem." The bill does not set a minimum duty rate for the required tariffs. Section 112(b) provides that these tariffs "shall be in addition to any other duty" applicable to those imports, including duties imposed under other executive tariff authorities.

Some of the products to which the Sanctioning Act would apply primary tariffs cannot be imported into the United States at all under current law. The Ending Importation of Russian Oil Act, which became law in April 2022, bans U.S. importation of Russian oil and other energy products. The Sanctioning Act would not appear to repeal the 2022 legislation, and thus, were it to become law, U.S. importation of certain Russian energy products would continue to be prohibited rather than allowed subject to tariffs.

## Authority for Secondary Tariffs

Section 113 of the Sanctioning Act would provide authority to impose secondary tariffs on a certain number of countries other than Russia. As with primary tariffs authorized by the bill, Section 113(f) provides that these secondary tariffs "shall be in addition to any other duty."

Section 113(a) states that, no later than 30 days after the bill is enacted into law, "the President shall . . . increase the rate of duty for all goods imported into the United States . . . to a rate of up to 100 percent ad valorem" for certain countries described in Section 113(c). As explained below, subsection (c) makes a country subject to tariffs under either of two conditions, the first concerning a country's importation of Russian oil or gas and the second concerning a country's facilitation of Russian oil sanctions evasion. A rule of construction (Section 113(h)) states that "nothing in this Act shall be construed to authorize the imposition of duties with respect to goods imported from any country not expressly described in subsection (c) or the Russian Federation."

One question is whether the term "country" would permit the imposition of tariffs on imports from the European Union (EU), assuming the EU as a whole met one or more statutory criteria for tariffs. On one hand, the ordinary meaning of "country" according to general dictionaries—which courts sometimes consult to define statutory terms—may disfavor regarding the EU itself as a country. On the other hand, the U.S. Trade Representative (USTR) has sometimes investigated and taken action against the EU as well as its member states under Section 301, which authorizes tariffs where "an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce," among other scenarios. In July 2026, USTR imposed tariffs of 10 percent, net of certain preexisting tariffs, on certain imports from the EU following a Section 301 investigation relating to forced labor prohibitions. CRS is not aware of any court decisions addressing whether action against the EU as a whole is authorized by Section 301. One potentially relevant distinction between Section 301 and the Sanctioning Act is that the latter would place strict limits on the number of countries subject to tariffs, arguably precluding tariffs on imports from a political union whose constituent countries (i.e., the 27 member states of the EU) exceed that limit in number.

### *Secondary Tariffs Based on Importation of Russian Oil or Gas*

Under Section 113(c)(1), a country would be subject to secondary tariffs if it

> (A) knowingly made new purchases of crude oil or natural gas that originated in the Russian Federation on a date that is on or after 30 days after the date of enactment of this Act; and (B) was among the 5 largest importers, by total volume, of crude oil or natural gas that originated in the

> Russian Federation during the most recent 12-month period preceding the date of the enactment of this Act.

Section 113(d) makes an exception to the above rule, stating that tariffs shall not be imposed on the basis of a country's imports of Russian natural gas if "(1) that country's total imports of [Russian] natural gas . . . during the 12-month period . . . were less than 15 percent of the total annual exports of natural gas from the Russian Federation during that period; and (2) that country has taken significant steps to reduce its imports of natural gas that originated in the Russian Federation." The bill does not define the term "significant steps."

It is uncertain how the requirement in subsection (a) that the President impose tariffs "no later than 30 days after the bill is enacted" relates to the eligibility criteria in subsection (c)(1)(A), which makes a country subject to tariffs only if it "made new purchases of crude oil or natural gas . . . on a date that is on or after 30 days after the date of enactment of this Act." If this language is read literally, the time frame for the President to impose tariffs and the time frame within which a country could become subject to tariffs would overlap by at most a single day (i.e., the 30th day after enactment).

The term "knowingly made" presents another question, as it is not clear whose acts ("made new purchases") or state of mind ("knowingly") may be attributed to a "country." On a narrower reading, Section 113(c)(1) might permit tariffs based only on knowing purchases by a country's government or its agents, while a broader reading might permit tariffs based on actions by other actors, such as private citizens of the country or entities incorporated or operating in the country. For comparison, as explained below, the other secondary tariffs provision (Section 113(c)(2)) expressly authorizes tariffs based on the participation of nongovernmental persons in Russian oil sanctions evasion. As a matter of statutory interpretation, the lack of express authorization against nongovernmental persons in paragraph (1), in contrast to paragraph (2), might lead to the inference that paragraph (1) is limited to government buyers.

### *Secondary Tariffs Based on Facilitation of Russian Oil Sanctions Evasion*

Under Section 113(c)(2), a country would be subject to secondary tariffs if it "was among the top 5 countries facilitating Russian oil sanctions evasion during the most recent 12-month period preceding the date of the enactment of this Act." Section 113(i)(2) defines "countries facilitating Russian oil sanctions evasion" as countries in which foreign persons are located, operating, or organized who are "knowingly engaging in transactions, activities, or services that circumvent, or assist any third party to circumvent, any sanction related to oil that originated in the Russian Federation," including certain conduct relating to oil transactions or "shadow fleet" vessels. Under this definition, secondary sanctions could be imposed based on the activities of private persons (e.g., individuals or corporations) and do not require any governmental participation in sanctions evasion.

The Sanctioning Act does not provide any quantitative or other criteria by which to identify the "top 5" countries facilitating sanctions evasion. Like the "significant steps" exception to secondary tariffs based on importation of Russian oil or gas, this provision would appear to require the President to make a qualitative determination of which countries should be subject to tariffs, assuming that more than five countries meet the definition of "facilitating" sanctions evasion. One possible reading of the Sanctioning Act is that it would give the President discretion to make this determination. As discussed in another CRS report, the Supreme Court has held that judicial review is unavailable "[w]here a statute . . . commits decision-making to the discretion of the President," and the U.S. Court of Appeals for the Federal Circuit has sometimes applied this rule to reject judicial challenges to presidential tariff decisions under existing statutes.

## Subsequent Modifications to Tariffs

The Sanctioning Act contains two provisions that would authorize subsequent modifications to secondary tariffs imposed by the President. One of these provisions would require periodic reassessments of which countries are subject to tariffs by virtue of being top importers of Russian oil or gas, while the other provision would authorize ongoing modifications to the applicable tariff rates.

### *Reassessment of Which Countries Are Subject to Tariffs*

Section 113(e) would require that a new determination be made every 180 days of which countries are the top five importers of Russian crude oil and natural gas, and that tariffs be imposed on those countries:

> Not later than 180 days after the initial imposition of duties under subsection (a), and every 180 days thereafter, the United States Trade Representative [USTR], in consultation with the Secretary of State and the Secretary of Energy, shall[] (1) determine, based on the most recent 12-month period preceding the determination, the countries that are [] (A) the 5 largest importers of crude oil, by total volume, originating in the Russian Federation; and (B) the 5 largest importers of natural gas, by total volume, originating in the Russian Federation; and (2) impose duties pursuant to subsection (a) with respect to goods imported from those countries.

One possible interpretation of this provision is that, if a country ceases to be one of the top five importers of Russian oil or gas according to the latest 180-day determination, tariffs could not be maintained against U.S. imports from that country. An alternative interpretation is that Section 113(e) would permit the maintenance of existing tariffs as well as the imposition of tariffs for additional countries.

The Sanctioning Act does not contain any corresponding provision authorizing periodic reassessment of which countries are the top five facilitating Russian oil sanctions evasion. As noted, Section 113(c)(2) authorizes tariffs for the top five countries facilitating sanctions evasion "during the most recent 12-month period preceding the date of the enactment of this Act." The bill does not expressly allow the executive branch to change its identification of those top five countries over time, although it would allow the President to waive or terminate tariffs for an identified country under procedures described below.

### *Changes to Tariff Rates*

Section 113(b) of the Sanctioning Act would provide that USTR shall, "at any time," adjust the rate of secondary tariffs "to a rate greater than zero and up to 100 percent" if a country has taken "significant steps" either "to increase the importation, sale, supply, transfer, or purchase of [Russian] crude oil or natural gas" or "to decrease or cease engaging in the importation, sale, supply, transfer, or purchase of such crude oil or natural gas." As noted, the bill does not define "significant steps."

Section 113(b) would permit modification of the rate of tariffs imposed "under subsection (a) or (e)." As noted, subsection (a) would authorize tariffs for the five countries importing the most Russian oil or gas as well as for the "the top 5 countries facilitating Russian oil sanctions evasion." Thus, subsection (b) would appear to allow modification of the rate of duty for the top importing countries as well as for the top facilitating countries if they take "significant steps" to increase or decrease the specified transactions.

It is less clear whether the Sanctioning Act would permit modification of the rates of duty on imports from an evasion-facilitating country for reasons concerning sanctions evasion itself. Could the President, for instance, modify the rate of duty based on steps a foreign country has taken to decrease or increase its facilitation of oil sanctions evasion? On one hand, the bill's express provision for modifications due to increases or decreases in certain oil or gas transactions may imply that modifications for other reasons would not be permitted. On the other hand, the Federal Circuit has held that another tariff authority, Section 232, permits the President to modify tariff rates over time although Section 232 does not expressly provide such authority, perhaps suggesting that the duty-rate modifications expressly authorized by Congress are not exclusive.

It is similarly uncertain whether the Sanctioning Act permits modification of the rate of primary tariffs. Section 112 does not expressly authorize modification of tariffs initially imposed on imports from Russia.

### *Implications of Delegating Modification Authority to USTR*

Subsections (b) and (e) would both charge USTR with making subsequent changes to secondary tariffs, whereas subsection (a) would charge the President with imposing these tariffs in the first instance. (Likewise, Section 112 would charge the President with imposing primary tariffs.) Congress's decision regarding which authorities to delegate to the President versus USTR could have ramifications for how courts review potential legal challenges to tariffs.

Courts have held that USTR's tariff actions are subject to judicial review under the standard prescribed by the Administrative Procedure Act (APA), in contrast to presidential actions, which are not subject to the APA. The APA directs courts to review whether an action by an agency, such as USTR, is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or "unsupported by substantial evidence," among other criteria.

Courts have traditionally applied a more deferential standard of review to presidential tariff actions, considering only whether the action is "a clear misconstruction of the governing statute, a significant procedural violation, or action outside delegated authority," while holding that "[t]he President's findings of fact and the motivations for his action are not subject to review." Further, as discussed above, courts have held that some presidential actions are unreviewable because they are committed to his discretion by law. Based on these precedents, it is possible that the President's initial imposition of tariffs under the Sanctioning Act would be subject to less searching judicial review than USTR's subsequent modifications.

## Reporting Requirements

Section 113(g) of the Sanctioning Act would provide that the President or USTR, respectively, must submit a "written justification" to several congressional committees no later than 10 days before imposing or modifying secondary tariffs. This written justification would be required to "provide[] a substantive rationale for the determination of the rate of duty imposed . . . or the modification or adjustment made," as well as "detail[] the methodology used to determine that the country [is] subject to the duty." The bill does not contain a reporting requirement for the imposition of primary tariffs. As explained below, the bill contains separate reporting requirements for the waiver or termination of tariffs.

## Waiver and Termination Provisions

The Sanctioning Act contains provisions that would sometimes allow the President to waive or terminate tariffs imposed under the act. Section 115 would authorize the President to waive the application of duties (or sanctions or restrictions), subject to the requirement that the President first submit to Congress "(A) a certification in writing that the issuance of the waiver is in the national interests of the United States; and (B) a report explaining the basis for the certification." The Sanctioning Act provides that the report "shall be submitted in unclassified form but may include a classified annex."

Section 117(a) of the Sanctioning Act would authorize the President to terminate tariffs (or sanctions or restrictions) upon submitting to Congress a report making specified certifications. The President could terminate primary tariffs upon certifying that

> the Russian Federation has—(i) signed a peace agreement that is accepted by the free and independent Government of Ukraine; and (ii) ceased all military hostilities against and any activities to overthrow, dismantle, and subvert the Government of Ukraine.

The President could terminate secondary tariffs upon certifying that

> (i) the foreign person or the government of the foreign country, as the case may be, is not engaging in the activity that was the basis for the . . . measures being terminated; and (ii) the President has received reliable assurances that the foreign person or the government of the foreign country, as the case may be, will not knowingly engage in activity subject to . . . measures under this title in the future.

Section 117(b) sets forth procedures for Congress to consider a joint resolution of disapproval of the termination of any duties, sanctions, or restrictions. The bill would permit such resolutions to be introduced by the majority or minority leader of either the House or the Senate. Termination would not take effect "[d]uring the period of 30 calendar days beginning on the date on which the President submits a report" to Congress making the requisite certifications. Termination would take effect at the end of the 30-day period if a joint resolution of disapproval had not been enacted into law.

## Considerations for Congress

The Sanctioning Act would give the executive branch new authority to impose tariffs on imports from Russia and a number of other countries, delegating the identification of those countries and the selection of the applicable rates of duty to the executive, within certain limits. The bill, for example, would require the President to ascertain which are the top five countries facilitating Russian oil sanctions evasion, including based on the conduct of private citizens and entities.

The Sanctioning Act may spur debate regarding what tariff policy Congress should adopt with regard to Russia and, more broadly, the extent to which Congress should grant tariff-setting authority to the executive branch. The Peace Through Strength Against Russia Act of 2025, introduced in the House, illustrates a different potential approach to including tariffs in a bill authorizing sanctions against Russia. While Section 115 of this bill authorizes primary sanctions of up to 500 percent on imports from Russia (similar to Section 112 of the Sanctioning Act), the bill does not authorize secondary tariffs.

In the exercise of its constitutional power over tariffs, Congress may consider whether to take a more or less active role in setting U.S. tariffs itself, as opposed to delegating that authority to the President. For example, as an alternative to the tariff provisions in the Sanctioning Act, Congress could enact legislation specifying the rates of new tariffs and the countries and imports to which they apply. One intermediate approach would be for Congress to enact legislation requiring the President or USTR to propose additional tariffs on imports from Russia or other countries and establishing fast-track procedures for Congress to decide whether to approve the proposed tariffs via subsequent legislation. Some bills introduced in the 119th Congress would, similarly, require the enactment of a joint resolution of approval to impose tariffs under existing statutory authorities.

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