

Press Releases: Previewing Sanctions Under Section 231 of the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA)

Special Briefing
Senior State Department Officials
Via Teleconference
September 20, 2018

MODERATOR: Thank you, and good afternoon, everyone. Thank you for joining in today's call regarding the President's executive order on the Countering America's Adversaries Through Sanctions Act as well as other actions. Today's call will be on background, and it is embargoed until the end of this call.

For your reference purposes only and not for reporting, we welcome on the call today [Senior Administration Official One]. From now on he'll be known as Senior Administration Official One. We also have [Senior Administration Official Two], Senior Administration Official Two. Then we have [Senior Administration Official Three], now going to be known as Senior Administration Official Three.

Again, this call is on background. The contents are embargoed until approximately 1:30 or when the call is over. I will now turn it over to our senior administration officials, who will open our call with some brief remarks, and then we'll move to your questions. So Senior Administration Official Number One, please proceed. Thank you.

SENIOR ADMINISTRATION OFFICIAL ONE: Thank you very much. Good afternoon, everyone, and we are grateful for you joining us today. Back in January of this year, many of you may recall we held a background briefing for reporters on the Countering America's Adversaries Through Sanctions Act, which is also known, at least in U.S. Government circles, as CAATSA for its acronym.

Some of you may have been involved in that briefing or been following this issue otherwise in the press, so you may be familiar with CAATSA. But for those who may not be, it is legislation that Congress passed in – well, at least the Russia portions of it were passed by Congress in response to a range of Russian malign activities that include meddling in the U.S. elections. Part of the statute includes provisions that mandate the imposition of sanctions upon anyone engaging in what is called a "significant transaction" with any entity that appears on a list of persons associated

with the Russian defense or intelligence sectors.

There are a couple of developments which we'd like to bring you up to speed on today, two sets of actions. The first is one with which you may be familiar from – just from the website, because today the Treasury – excuse me, today the President signed a new executive order authorizing the State Department to implement certain sanctions that are set forth in the CAATSA statute. That is already public knowledge. The second bit may perhaps be news to you.

The second thing that happened today is the Secretary of State took two actions. First of all, he added 33 additional persons to that list that I mentioned before. It's the so-called "List of Specified Persons" that are acting on behalf of the Russian defense or intelligence sectors. So that so-called LSP, that list, it got longer today by 33 names.

In addition to that, however, the Secretary, in consultation with the Secretary of the Treasury – so Secretary Pompeo and Secretary Mnuchin – imposed sanctions on a Chinese entity, the Equipment Development Department, otherwise known as EDD, and also upon its director, Li Shangfu. EDD and Mr. Li are being added to the Treasury's Specially Designated Nationals and Blocked Persons List, which is a complicated way of referring to what we usually just informally call the SDN list. This list has now been updated on the Treasury website.

We want to stress that the legislative standard here is a significant transaction with an entity that appears on the List of Specified Persons. We took these actions because China took delivery of 10 Sukhoi fighter aircraft, specifically Su-25s, in December of 2017 – of course, after the CAATSA statute came into force. And it also took delivery of a batch of S-400 – sometimes known as SA-21 – surface-to-air missile systems or related equipment in January of this year. Both these transactions, which I repeat occurred after the CAATSA sanctions statute came into force, were deals that were negotiated between the Equipment Development Department, or EDD, on the one hand, and Rosoboronexport, which is Russia's main arms export entity. And it, Rosoboronexport, is on the List of Specified Persons.

I want to emphasize that the ultimate target of these sanctions is Russia. CAATSA sanctions in this context are not intended to undermine the defense capabilities of any particular country. They are instead aimed at imposing costs upon Russia in response to its malign activities. And of course, those malign activities are many that it's undertaken in its attempt to compete with the U.S. and our allies and our partners. The array of sanctions the United States has imposed against Russia and those who material support – materially support its malign activities are undertaken in direct response to Russia's aggressive actions against our country, our allies, and our partners.

This is also the first time that we have ever sanctioned anyone under Section 231 of CAATSA, which focuses upon, as I've been explaining, those who engage in significant transactions with entities that appear on the LSP. We have not done this before; we are doing this now. We want to stress that our

enforcement of Section 231 is an ongoing process. We've been engaging with our partners and our allies for quite some time on this, because the ultimate goal of this legislation is to prevent revenue from flowing to the Russian Government. Russia uses its arms sales not only to raise revenue, moreover, but to build relationships which, of course, it then attempts to exploit in furtherance of its interests and almost invariably in ways that goes against ours.

So we've been using the CAATSA – the possibility of CAATSA legislation to deter arms transfers for many months now. We've had a – done quite a bit, actually, and had some good results in probably preventing the occurrence of several billion dollars' worth of transfers simply by having the availability of this sanctions tool in our pocket. But since China has now gone ahead and, in fact, done what is clearly a significant transaction by acquiring these Sukhoi and S-400 missiles, we feel it necessary – indeed, we are required by the law – to take this step today.

So I want to stress again: This is the first time we've ever sanctioned anyone under Section 231 of CAATSA, so it is a significant – this is a significant step. And we have some experts on hand here who can help explain to you many of the details as best we can should you have questions about this. Thank you.

MODERATOR: All right. Thank you very much. I think now we'll go to our first question.

OPERATOR: Thank you. And once again, on the phone lines, you may press * and then 1 for your questions or comments. Our first question will come from the line of Emily with Energy Intelligence. Your line is open.

QUESTION: Hi, thanks for doing the call. Could you all help me understand some of the other sections, not 231, but that are outlined in the executive order? I mean, specifically I'm interested in Section 232, "Sanctions with respect to the development of pipelines in the Russian Federation." Is what you're doing today sanctioning specific projects – like Nord Stream 2, for example – or is it effectively just laying legal groundwork so that that can happen later?

SENIOR ADMINISTRATION OFFICIAL ONE: I think it's probably best to keep this discussion focused upon the step that we're actually taking today under Section 231. The executive order that was signed does create a framework under – by executive order for implementing CAATSA sanctions, but I think it's best if we keep this particular talk to – simply to the step that we are taking today so that we have the chance with the time – the brief time that's available to explain this step to anyone who has specific questions about it.

MODERATOR: Thank you. We'll go on to our next question, please.

OPERATOR: That will be from the line from the line of Nick Wadhams. Excuse me. One moment. That'll be from the line of Nick Wadhams with Bloomberg News. Your line is open.

QUESTION: Hi, thanks. Could you give us a little more information on the 33 people who were added to the List of Specified Persons acting on behalf of the Russian defense LSP? Who are they? Where do they work? Are these government officials? Are they all Russian nationals? Thanks.

SENIOR ADMINISTRATION OFFICIAL ONE: I think perhaps some of my colleagues can provide a bit more of the buildout on that perhaps, but there are a number of – they fall into clumps, if I might sort of broadly summarize. There's an addition to – there are additions to the list with respect to the Russian defense sector, listing a number of – three entities, actually, there. There are also – most of the bulk of the additions today relate to filling out the list with respect to actors associated with the Russian intelligence sector, which is a bit of a – again, a bit of a new thing here. They come from a variety of sources. Some of you who perhaps will look these names up when you check them out on the website will find that a number of these names correspond to people who have been indicted in connection with Russian election meddling.

SENIOR ADMINISTRATION OFFICIAL TWO: And I would just add that we will be issuing a fact sheet from the State Department with further information with these names, so you'll be able to see them. But it is indeed a mix of people from the defense sector, from the intelligence sector, and various others who have been associated with Russian malign activities.

MODERATOR: Thank you, we'll move on –

SENIOR ADMINISTRATION OFFICIAL ONE: Hold on. If I might just also quickly – sorry – add a little bit of additional gloss, and that is that, of course, the List of Specified Persons is not itself a sanctions imposition. Nothing specifically happens to someone by virtue of being on that list. The implications of it, however, are that if anyone else engages in what is deemed to be a significant transaction with such a person, the person who engages in that action may well be subject to mandatory sanctions pursuant to Section 231.

So partly this – the signaling involved and the list is teeing up such sanctions, should someone be engaged with these folks. But it also, we hope, will be something of a signal to avoid engagement with those folks for that very reason. We work very closely with people around the world to minimize their exposure to sanctions for engaging in significant Russian arms transfers. And with this new build-out of the list to cover the Russian intelligence sector to some extent as well, we are sending a signal that dealings with these people may well subject one to sanctions, and therefore we hope that people, if they come across that opportunity, will think twice.

MODERATOR: Thank you. And we'll go on to the next question now.

OPERATOR: Thank you. We will go to the line of Ian Talley with *Wall Street Journal*. Your line is open.

QUESTION: Hi, yes. Thanks for doing this. Can you hear me? Hello?

SENIOR ADMINISTRATION OFFICIAL ONE: Yes, I can.

QUESTION: Okay. Great. So a little bit of housekeeping. Can – do you have any details on the cost of those two transactions, the Su-25s and the S-400s? And then does that give us an idea of what the threshold is for a significant transaction? And finally, does – do U.S. entities that have Sukhoi parts, therefore, should they be concerned that their supply chain has a – product have – products from their – from a blacklisted entity?

SENIOR ADMINISTRATION OFFICIAL ONE: Okay. I'll try to take those three elements in the order you asked them. First, with respect to the costs, I am not in a position to provide information to you all at this point about the specific costs of the transaction. And I certainly understand your interest in trying to decode from an understanding of those costs what it might mean to be a significant transaction, but I think that is an – that would be an unwarranted conclusion. There are a lot of factors that go into deciding when a transaction is significant. Cost is certainly part of it. The significance of that transaction, both in terms of its security impact upon us and its – frankly, its security benefits to the Russians as well as any other circumstances that may be relevant at the time –

QUESTION: Okay. That's helpful.

SENIOR ADMINISTRATION OFFICIAL ONE: – go into this. So there – it is not quite so simple an algorithm as the question might seem to suppose. So I have no doubt the cost of this fancy equipment was rather significant, but that is not necessarily the determining factor, and I couldn't tell you what the number is at this point on this call anyway.

With respect to your question about parts, we have been pretty consistent in our messaging throughout the process of enforcing – or implementing, I should say – Section 231 of the CAATSA statute that we are not targeting things such as simply the provision of spare parts and maintenance. That is not of particular concern to us at this time. We are focusing most of our efforts upon the much – the bigger ticket items, the items – transactions that involve significant qualitative changes in the nature of military equipment shipped abroad or things of that nature.

I mean, there are a lot of pieces that go into determining significance, as I said, but we have not hitherto spent any time worrying about merely the provision of parts or maintenance in order to keep existing systems that have already been acquired going, for instance, which goes to my earlier point that we are – the purpose of doing this is not, of course, to undermine the defense capabilities or the aerospace capabilities or really any capabilities of any particular country. The objective here is, of course, to impose costs upon Russia. And we generally take a – we look at things rather differently if there's a large shipment of new, fancy, qualitatively significant stuff as opposed to simply the provision of things that keep existing systems going.

MODERATOR: All right. We'll go on to the next question now, please.

OPERATOR: Thank you. Next we'll go to the line – excuse me – of Joel Gehrke

with the *Washington Examiner*. Your line is open.

QUESTION: Hi. Thanks for doing this. Wanted to go back to the 231 sanctions. I think under the law there are 11 different options for different sanctions under Section 235 that you can apply. Which particular sanctions have you imposed over these Sukhoi and S-400 transactions, and what do you think the practical impact of that will be? And then a little more broadly, does this mean – there have been some debates, some ambiguity about whether the law covered transactions that were agreed to prior to passage of CAATSA. If they were agreed to on paper but they hadn't accepted delivery yet, is that transaction a violation? Can you say – does – did you end up adjudicating that in your own minds?

SENIOR ADMINISTRATION OFFICIAL ONE: Okay, yeah, let me offer a little bit more on the specific sanctions in question. Under the law, once a determination of a significant transaction is made, we're required to impose at least five from a menu of – I think it's actually twelve options that are set forth in the statute. One could impose five, six, eleven, twelve, what have you, depending upon the circumstances, and that is itself a complicated question, as part of our decision-making process.

In this case, the sanctions that are being imposed upon EDD – and I would certainly turn to – I believe it's Senior Official Number Three to correct or fill in anything that I get wrong here – but we are imposing sanctions on EDD – that is to say, the Chinese entity, Chinese company – a number of these things, although not all of them and there are indeed some carve-outs and waivers. We are denying U.S. export licenses to EDD. We are denying – or, in fact, we are imposing a prohibition upon foreign exchange transactions under U.S. jurisdiction; also imposing a prohibition on transactions with the U.S. financial system. We are blocking all property or interests in property within the U.S. – within U.S. jurisdiction. And we are imposing sanctions on an EDD principal executive officer. That's the fellow, Mr. Li Shangfu, who we mentioned before. And these sanctions include a prohibition on foreign exchange transactions under U.S. jurisdiction, a prohibition on transactions with the U.S. financial system, and blocking of all property or interests Mr. Li's – in property within the U.S. jurisdiction, as well as a visa ban.

OFAC has also placed both EDD and Mr. Li on its SDN list, and as a result of that in itself, all property and interests in property within the U.S. jurisdiction are being blocked and U.S. persons are from here forth generally going to be prohibited from transacting with them.

Did I miss anything, Number Three?

SENIOR ADMINISTRATION OFFICIAL THREE: No you didn't, Number One. I will just note that the OFAC will be implementing these sanctions by the conclusion of this call, scheduled to go out at 1:30.

MODERATOR: All right. We'll move on to the next question now.

OPERATOR: Thank you. As a reminder, for any questions or comments, press * and then 1. And we will go to the line of Gardiner Harris with *New York*

Times. Your line is open.

QUESTION: Can you just tell us what the effective outcome of the executive order is? It sounds like it's an executive order that's just sort of telling you to go ahead and do what you were already doing or what CAATSA the legislation already required you to do. Am I missing something? Does the executive order sort of give you any greater authority or any new abilities to sort of carry out CAATSA that you didn't already have?

SENIOR ADMINISTRATION OFFICIAL THREE: This is – let me jump in here. This is – I'm [Senior Official Three]. The EO specifically is allowing us to implement the sanctions that we – that – in the State – the actions that the State Department has taken today under CAATSA. First, it delegates the listed sanctions menu – so that was earlier referenced, the menu of 12 in section 235 of CAATSA, and also the separate menu in the Ukraine Freedom Support Act of 2014 – it delegates those sanctions to be implemented.

It also authorizes the Secretary of the Treasury to employ all powers granted under IEEPA. Some of those powers that this executive order now allows us to take will be to do things like promulgate regulations, issue administrative subpoenas, issue licenses, and take the full range of civil enforcement actions that we can. So what the executive order does today is it amplifies and makes implementable the good authority that Congress has given us in the Countering America's Adversaries Through Sanctions Act, or CAATSA.

MODERATOR: Think we have time for one last question.

OPERATOR: Thank you, and that will be from the line of Nicole Gaouette with CNN. Your line is open.

QUESTION: Hi, thank you for making the time. I apologize that I missed the top of the call. I am – I have two questions, and one is: What has prompted today's action? You mentioned that the Chinese purchases took place in – at the end of last year and in January. We're nine months into the year.

The second is that Turkey has been quite forthright about S-400 purchases itself and I'm wondering if there's been any communication with Turkey that they might be next or whether you're looking at them, if there's been any communication with them about their intent to purchase the S-400.

SENIOR ADMINISTRATION OFFICIAL ONE: Okay. The – as I indicated, the driver for this was the delivery of the Sukhoi fighters in – at the end of 2017, and also of a batch of S-400 missile system-related equipment in January of 2018. These are about –

QUESTION: I'm just wondering why it has taken so many months. I mean, it's been – it's been – CAATSA has been in existence for a while and that's nine, ten months ago.

SENIOR ADMINISTRATION OFFICIAL ONE: Well, we wanted to make sure that we were doing our job responsibly, making sure that we have evaluated all of the circumstances and understood the facts surrounding these particular transactions, making sure that in evaluating the standard of significance in

light of those facts, and of course, not just deciding what is a significant transaction, but then thinking through the process of what sanctions it is appropriate to apply from the menu of sanctions. Which ones to impose, what carve-outs to have, which ones not to impose, to make sure that we've done an appropriate job as stewards of the interests of the American people and the intent of the Congress in passing this statute, and making sure that we've appropriately balanced all the equities.

The CAATSA was not intended to take down the economy of third party countries. It's intended to impose appropriate pressures on Russia in response to Russian malign acts, and we have it on very good authority from the office of the statute itself that they expect that we will implement it in ways that are appropriate in light of consultations with all of the parties involved. So we think this time was necessary in order to do the homework that we needed to do to make sure that this action was measured and appropriate, as well as being stern and responsive to a real challenge presented by facts on the ground.

As to other potential recipients of the S-400, we haven't made any determinations yet with respect to what to do about those, but you can be confident that we have spent an enormous amount of time talking about prospective purchases of things such as S-400s and Sukhois with people all around the world who may have been interested in such things and some who may still be. We have made it very clear to them that these – that systems like the S-400 are a system of key concern with potential CAATSA implications. Members of Congress have also publicly said that they believe any transfer of an S-400 to anybody would constitute a significant transaction, and of course that's something we have to bear in mind in these as well. So while decisions on other cases have yet to be made, and indeed other transactions have yet to occur, we hope that at least this step will send a signal of our seriousness and perhaps encourage others to think twice about their own engagement with the Russian defense and intelligence sectors, which would of course be precisely what we hope Congress intended, and what we are required to do pursuant to the fact.

MODERATOR: All right, thank you very much. I'd like to thank our speakers for taking the time today and our journalists for joining us. The embargo on this call is lifted. We will be issuing a statement from the spokesperson as well as a fact sheet on this that will be coming out shortly. Thank you very much and thank you for joining our call today.

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