

## **Explanatory Statement**

Issued by the authority of the Minister for Foreign Affairs (**the Minister**)

### *Autonomous Sanctions Regulations 2011*

#### *Autonomous Sanctions (Sanctioned Vessels – Russia) Amendment (No. 1) Designation 2025*

The purpose of the *Autonomous Sanctions (Sanctioned Vessels – Russia) Amendment (No. 1) Designation 2025* (**the Amending Instrument**) is to amend the *Autonomous Sanctions (Sanctioned Vessels – Russia) Designation 2025* to provide for the designation of a further 95 vessels.

Autonomous sanctions are measures not involving the use of armed force which the Australian Government imposes as a matter of foreign policy in response to situations of international concern. Such situations include Russia's illegal invasion of Ukraine. Despite international sanctions on the Russian oil industry, Russia continues to profit from oil exports through the operation of a fleet of vessels commonly referred to as the 'Shadow Fleet'. The Shadow Fleet is deployed in the trade of sanctioned goods, or oil products and engaging in various deceptive shipping practices. Oil is a critical sector of the Russian economy and remains a significant enabler of Russia's ability to fund its illegal invasion.

Paragraph 8(1)(a) of the *Autonomous Sanctions Regulations 2011* (**the Regulations**) authorises the Minister, by legislative instrument, to designate a vessel as a sanctioned vessel for a country mentioned in the designation. Subregulation 8(4) of the Regulations authorises the Minister to direct a sanctioned vessel to leave Australia, including by a particular route; or not enter a particular port or place, or any port or place, in Australia. The Minister must have regard to Australia's obligations at international law before giving the direction. It is an offence under regulation 16 of the Regulations to contravene the Minister's direction given under subregulation 8(4). Under Regulation 17 of the Regulations, a sanctioned vessel is forfeited to the Commonwealth if a direction is given to the sanctioned vessel under subregulation 8(4) and the sanctioned vessel contravenes the direction.

Each of the 95 vessels listed in the Amending Instrument is designated by the Minister for the purposes of paragraph 8(1)(a) of the Regulations. The Minister is of the view that each vessel listed in the Amending Instrument is involved in illegal activities to undermine Australian and international sanctions by facilitating the export of Russian energy products.

The corresponding authority for the Minister to revoke the designation under paragraph 8(1)(a) is found in paragraph 10(1)(a) of the Regulations. Subregulations 10(2) and (5) provides that the Minister may revoke a designation of the Minister's initiative, or on application.

The imposition of further Australian autonomous sanctions is designed to constrain Russia's ability to fund its illegal invasion of Ukraine through increased pressure on Russia's ability to fund its war effort.

Details of the Amending Instrument are set out at Attachment A.

The legal framework for the imposition of autonomous sanctions by Australia, of which the Regulations are part, was the subject of extensive consultation with governmental and non-governmental stakeholders when introduced. The new sanctions being imposed through the making of the Amending Instrument were subject to targeted consultation within government and with relevant international partners.

In order to meet the policy objective of prohibiting unauthorised entry into Australian ports of the vessels specified in the Amending Instrument, the Department is satisfied that wider consultations beyond those it has already undertaken would not be appropriate and unreasonably practicable to undertake (section 17(1) of the *Legislation Act 2003* (Cth)).

The Amending Instrument is exempt from sunseting under table item 10B of section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. This was granted on the basis that instruments made under regulation 8(1) of the *Autonomous Sanctions Regulations 2011* (the Regulations) were subject to a more stringent statutory review process than is set out in Part 4 of Chapter 3 of the *Legislation Act 2003*. This review process was contained in regulation 9 of the Regulations, which has subsequently been repealed. While the statutory review process has been repealed, it is noted the Regulations themselves are due to sunset on 1 October 2027. Review of these instruments, including sunseting requirements, will be considered as part of the process to remake or replace the Regulations.

The Office of Impact Analysis has advised that a Regulation Impact Statement is not required for listing instruments of this nature (OBPR22-02078).

## Attachment A

### *Autonomous Sanctions (Sanctioned Vessels – Russia) Amendment (No. 1) Designation 2025*

#### Section 1

The title of the instrument is the *Autonomous Sanctions (Sanctioned Vessels – Russia) Amendment (No. 1) Designation 2025* (**the Amending Instrument**).

#### Section 2

The Amending Instrument commences the day after the instrument is registered.

Subsection 2(2) is a technical provision that makes clear that any information inserted in column 3 of the table about the specific date of commencement is not part of the Amending Instrument.

#### Section 3

The Amending Instrument is made under subregulation 8(1) of the *Autonomous Sanctions Regulations 2011* (**the Regulations**).

#### Section 4

Each instrument that is specified in a Schedule to the Amending Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in the Amending Instrument has effect according to its terms.

#### Schedule 1

##### *Autonomous Sanctions (Sanctioned Vessels – Russia) Designation 2025*

The vessels listed in the table in clause 1 of Schedule 1 of the Amending Instrument will be added to the list in the *Autonomous Sanctions (Sanctioned Vessels – Russia) Designation 2025* and are designated by the Minister for Foreign Affairs (the Minister) for the purposes of paragraph 8(1)(a) of the Regulations.

The vessels include Shadow Fleet vessels who support Russia's defence industrial complex through the evasion of autonomous sanctions and the Oil Price Cap.

The Minister exercised their discretion to designate these vessels as sanctioned vessels being satisfied that is in accordance with the objects and purpose of the *Autonomous Sanctions Act 2011* (Cth).

## Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the  
*Human Rights (Parliamentary Scrutiny) Act 2011*

*Autonomous Sanctions (Sanctioned Vessels – Russia) Amendment (No.1) Designation  
2025*

**The Amending Instrument** is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Australia's autonomous sanctions framework imposes highly targeted measures in response to situations of international concern. This includes threats to the sovereignty and territorial integrity of a State. Given the serious nature of Russia's ongoing invasion of Ukraine, the Government considers that vessel designations are an effective way to achieve its legitimate foreign policy objectives of signalling opposition to Russia's aggression and seeking to influence the Russian state to withdraw from Ukrainian territory and restrict Russia's oil revenues in furtherance of its aggression. These sanctions allow a targeted response to Australia's concerns relating to Russia's unprovoked and completely unjustified attack on Ukraine.

The autonomous sanctions designations made by the Amending Instrument pursue legitimate objectives and have appropriate safeguards in place to ensure that any limitation on human rights engaged by the imposition of sanctions is a reasonable, necessary and proportionate response to the situation of international concern, and do not affect particularly vulnerable groups. The Government keeps its sanctions frameworks under regular review, including in relation to whether more effective, less rights restrictive means are available to achieve similar foreign policy objectives.

The owner of a sanctioned vessel, or the person who controls a sanctioned vessel, may apply to the Minister for the revocation of the designation under paragraphs 11(1)(d) and (e) of the *Autonomous Sanctions Regulations 2011* (**the Regulations**). Decisions under both regulations 8 and 11 of the Regulations are judicially reviewable.

The designation of a vessel under paragraph 8(1)(a) of the Regulations does not affect title to the vessel by its owner, or the person under whose control it is. A sanctioned vessel is forfeited to the Commonwealth under regulation 17 of the Regulations if a direction is given to the vessel pursuant to subregulation 8(4), and the vessel contravenes the direction. This paragraph does not apply if the contravention is necessary to secure the safety of the vessel or human life, or is authorised or required under Part IIIAAA of the *Defence Act 1903* (Cth).

The Regulations make provision for, among other things, the proscription of persons or entities for autonomous sanctions. The Amending Instrument designates 95 vessels. The Minister for Foreign Affairs (**the Minister**) designated the vessels being satisfied that each of the designations is in accordance with the objects and purpose of the *Autonomous Sanctions Act 2011* (Cth).