

STATEMENT TO PARLIAMENT
Update on the Jamaican Government's Appeal to the
United States' Office of Foreign Assets Control on
Sanctions on United Company Rusal

HON. ROBERT MONTAGUE
Minister of Transport and Mining

Tuesday, July 24, 2018

Mr. Speaker, as this honourable house is aware, on April 6, 2018, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) added, amongst others, seven Russian oligarchs and twelve companies they own or control, to its Designated Nationals List (the OFAC Sanctions).

Mr. Oleg Deripaska, the single largest shareholder in UC RUSAL, was named amongst those on the OFAC sanctioned list.

As a result of being named, all assets of Mr. Deripaska and these entities that are within US jurisdiction have been frozen, and US persons are prohibited from dealings with them.

Additionally, non-US persons could face secondary sanctions for knowingly facilitating significant transactions for, or on behalf of the individuals or entities sanctioned.

In an effort to reduce the effects of the sanctions on over 1200 workers from WINDALCO, the livelihood of the Jamaican citizens and the local economy, an appeal was made to the U.S. Department of the Treasury in June 2018.

The Government of Jamaica sought the grant of waivers for UC Rusal to:

1. Allow the company to purchase fuel, equipment and spares, chemicals and other supplies needed to sustain the economic operation of the Ewarton plant and the attendant activities;
2. Permit the company to conduct business transactions with banks in Jamaica including their intermediaries to facilitate the continuation of UC Rusal's business. This will allow the banks and their corresponding banking relations to provide vital services that support the functioning of the plant. These include making payments to workers and suppliers, and engaging in new supply contracts that are required to sustain the operations of the company; and

3. Permit the company to sell to the Government of Jamaica as a last resort.

Since then, OFAC has confirmed, through our Ambassador to the U.S., Ambassador Audrey Marks, that WINDALCO's commercial activities are covered under General Licence 14 (GL-14). An excerpt from a letter dated July 18, 2018, from OFAC is as follows:

“To the extent that the relevant activities of Windalco involve transactions that are consistent with the maintenance and wind down activities authorized by GL-14, U.S. persons may continue to engage in those transactions with Windalco until the expiration of GL-14. Similarly, [. . .] **transactions with Windalco by non-U.S. persons will not be considered “significant” for purposes of a sanctions determination . . .**”

The full letter is attached.

We are therefore pleased to know, that from our efforts of representation, the response from the US OFAC is a positive one. We will, as always, continue to monitor the situation closely, and make our best efforts to protect the workers,

the environment and revenue to Jamaica, while keeping the interest of the community and the country in mind.

I take this opportunity to thank Ambassador Audrey Marks, the US Embassy, the Russian Embassy, the Ministry of Foreign Affairs and Foreign Trade, the Attorney General's Chambers, UC Rusal/WINDALCO, the WINDALCO Workers and the Union of Clerical, Administrative and Supervisory Employees (UCASE), who represent the workers, as well as the Opposition for their assistance and input in getting us to this point.

We are of the opinion that the US Government is committed to assisting Jamaica with the sanctions which were never intended to harm Jamaica or our economy. We are pleased that the US Government is extending their support in finding a solution.

We believe in discussion and negotiation, and will continue the engagement to chart a course for that time after the October 23, 2018 expiry date of GL-14.

The letter of clarification from the US OFAC on the operation at WINDALCO is welcomed, and we acknowledge that it is not the long term solution, but a positive step in the right direction.

We continue to make our best efforts to ensure that the WINDALCO operations remain open and continue to make their positive contribution to the economy.

We will continue to update the House from time to time.

I thank you!

Robert Montague, MP
Minister of Transport and Mining
July 24, 2018

Attachment:

Letter from OFAC (Davin Blackborow to Amb. Audrey Marks dated July 18, 2018.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Case No. Ukraine-EO13662-2018-354754-1

Ambassador Audrey Marks
Embassy of Jamaica
1520 New Hampshire Avenue N.W.
Washington, D.C. 20036

Dear Ambassador Marks:

This responds to your request dated June 11, 2018, and supplemental correspondence dated June 15, 2018, and June 22, 2018 (collectively, the "Application"), to the Office of Foreign Assets Control (OFAC) seeking guidance on General License No. 14 ("GL 14") as it relates to the Winalco Ewarton bauxite refinery ("Winalco") in Jamaica, which you indicate is owned and operated by United Company Rusal ("Rusal"), an entity designated on April 6, 2018 under the Ukraine-Related Sanctions Regulations, 31 C.F.R. Part 589 (URSR). Specifically, you seek confirmation that Winalco's activities and commercial relationships with the Government of Jamaica, its agencies, and private sector entities fall within the scope of GL 14.

The URSR prohibit all transactions prohibited pursuant to Executive Order 13660 of March 6, 2014 (E.O. 13660), Executive Order 13661 of March 16, 2014 (E.O. 13661), and Executive Order 13662 of March 20, 2014 (E.O. 13662). Rusal was designated pursuant to E.O.s 13661 and 13662; accordingly, all of Rusal's property and interests in property that are in the United States or in the possession or control of a U.S. person are blocked. Property blocked pursuant to an Executive order or regulations administered by OFAC is broadly defined to include any property or interest in property, tangible or intangible, including present, future or contingent interests. URSR, § 589.308. A property interest subject to blocking includes interests of any nature whatsoever, direct or indirect. URSR, § 589.304.

Please also be aware that persons whose property and interests in property are blocked pursuant to an Executive order or regulations administered by OFAC ("blocked persons") are considered to have an interest in all property and interests in property of an entity in which such blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest. Consequently, any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked persons is itself considered to be a blocked person. The property and interests in property of such an entity are blocked regardless of whether the entity itself is listed in the annex to an Executive order or otherwise placed on OFAC's list of Specially Designated Nationals ("SDN List"). Please see OFAC's "Revised Guidance on Entities Owned by Persons whose Property and Interests in Property are Blocked" at http://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf.

On August 2, 2017, the President signed the Countering America's Adversaries Through Sanctions Act (CAATSA) into law. Section 226 of CAATSA amends section 5 of the Ukraine Freedom Support Act (UFSA) by requiring the imposition of sanctions on foreign financial institutions if the Secretary of the Treasury determines that they, *inter alia*, knowingly facilitated significant financial transactions on behalf of any Russian person added to OFAC's SDN List pursuant to UFSA, E.O. 13660, E.O. 13661, E.O. 13662, or any other E.O. addressing the crisis in Ukraine. Section 228 of CAATSA amends the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (SSIDES) and adds further mandatory sanctions, including with respect to a foreign person that the President determines knowingly, on or after the date of the enactment of CAATSA, facilitates a significant transaction or transactions, including deceptive or structured transactions, for or on behalf of any person subject to sanctions imposed by the United States with respect to the Russian Federation. OFAC will consider the totality of the facts and circumstances when determining whether transactions are "significant." Please see the Ukraine / Russia-related Sanctions page on OFAC's website for more details, including Frequently Asked Questions Nos. 542, 545, 574, and 579 at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx>.

On April 23, 2018, OFAC issued GL 14, which authorizes, through 12:01 a.m. eastern daylight time, October 23, 2018, all transactions and activities otherwise prohibited by the URSR that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving Rusal or any other entity in which Rusal owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018.

To the extent that the relevant activities of Winalco involve transactions that are consistent with the maintenance and wind down activities authorized by GL 14, U.S. persons may continue to engage in those transactions with Winalco until the expiration of GL 14. Similarly, consistent with Frequently Asked Question no. 579, transactions with Winalco by non-U.S. persons will not be considered "significant" for purposes of a sanctions determination under section 10 of SSIDES, as amended by CAATSA, or section 5 of UFSA, as amended by CAATSA if U.S. persons would not require specific licenses to engage in such transactions (for example, if their transactions would be authorized by GL 14 if engaged in by a U.S. person). See Frequently Asked Question No. 579.

If you have any further questions regarding the Ukraine-related sanctions program, please contact OFAC's Licensing Division at (202) 622-2480. Additional information about U.S. sanctions programs may be found on OFAC's website at www.treasury.gov/ofac.

Sincerely,



Davin J. Blackborow
Assistant Director for Licensing
Office of Foreign Assets Control

July 18, 2018