

Free & Legal

By James Evans, EG

I first wrote about Russian diamonds on 13 March, 2022.¹ In the previous month, Russia's President had recognised the People's Republics of Donetsk and Lugansk, signed 'Treaties of Friendship, Cooperation and Mutual Assistance' with the separatist groups, and supported their rights to self-determination with a 'special military operation' in Ukraine.² As part of its economic response, the U.S. prohibited the import of non-industrial diamonds from Russia (under Executive Order E.O. 14068).³ This was hardly surprising, for Russia's dominant diamond-miner (ALROSA) is majority state-owned⁴ and led by Sergei S. Ivanov (whose father, Sergei B. Ivanov, had previously served as both the Russian Defence Minister and Chief of Staff at the Kremlin).⁵ In April, the U.S. expanded its sanctions on ALROSA in order to restrict funds to the Russian government. The company was therefore added to the list of "Specially Designated Nationals" (under E.O. 14024) – cutting it off from U.S. trade.⁶

This is the B-871 "ALROSA" – named by the Russian navy in gratitude of the company's financial support. The vessel now patrols the Black Sea, armed with the Kalibr cruise missile system.¹⁰



Much more surprising was a later article, published in *Gems & Jewellery*, stating that Russian diamonds could be traded 'freely and legally'; so long as they were polished in a third country.⁷ This seemingly misunderstood the range of sanctions in place. Those relating to E.O. 14068 target Russian diamonds. These sanctions can be avoided by polishing rough stones in a third country, under the trade rules of "substantial transformation".⁸ But those relating to E.O. 14024 target ALROSA, not Russia. These sanctions cover 90% of Russia's diamond-mining capacity and are not so readily sidestepped.⁶

A greater concern was the article's disregard for the World Diamond Council's 'System of Warranties'. In complying with this scheme, all trade in diamonds, whether rough or

polished, must be accompanied by an affirmative statement that the stones are “from legitimate sources not involved in funding conflict”.⁹

Applying a false description to goods is illegal. So, whilst some of the sanctions on Russian diamonds can be circumvented, and a conviction for trade descriptions is unlikely, we should certainly not consider the trade in ALROSA’s adamantine output to be free and legal. Nor can trades be rationalised by the fanciful notion that Russia’s treasury has no interest in downstream sales. For, were this argument to be coherent, De Beers would never have broadcast to the world, that a diamond is forever.

Notes

¹ My first article, *Russian Diamonds*, is available at:

<https://lustregemmology.com/spring-2022>

² A press release accompanying the President’s recognition of the People’s Republics of Donetsk and Lugansk and the signing of ‘Treaties of Friendship, Cooperation and Mutual Assistance’ is available at: <http://en.kremlin.ru/events/president/news/67829>

The ‘special military operation’ in support of their right to self-determination was presented in a presidential address, available at:

<http://en.kremlin.ru/events/president/news/67843>

³ The Executive Order 14068 document is available at:

<https://www.govinfo.gov/content/pkg/FR-2022-03-15/pdf/2022-05554.pdf>

⁴ The Russian state owns at least 66% of ALROSA’s shares. Details of the company’s ownership are available at:

<http://eng.alrosa.ru/investors/information-for-shareholders/equity/>

⁵ Earlier U.S. sanctions, announced on 24 February 2022, included the designation of Sergei S. Ivanov and the redesignation of his father, Sergei B. Ivanov. A press release covering these sanctions is available at:

<https://home.treasury.gov/news/press-releases/jy0608>

⁶ I have confirmed with the U.S. Treasury’s ‘Office of Foreign Assets Control’ (OFAC) that ALROSA’s output no-longer avoids sanctions if cut in a third country.

Further details of ALROSA’s designation are available at:

<https://home.treasury.gov/news/press-releases/jy0707>

<https://www.treasury.gov/ofac/downloads/sdnnew22.pdf>

<https://home.treasury.gov/system/files/126/14024.pdf>

⁷ *Sanctions on Russia*, by Russell Shor. Published in *Gems & Jewellery* (Summer 2022), pp.18-20.

⁸ The U.S. Department of the Treasury confirmed that the ‘substantial transformation’ rules apply to E.O. 14068 with the following FAQs:

<https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1027>

<https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1019>

⁹ The World Diamond Council’s ‘System of Warranties’ requires all trade sales of diamonds to be accompanied by an affirmative statement, the full text of which is:

“The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict, in compliance with United Nations Resolutions and corresponding national laws. The seller hereby guarantees that these diamonds are conflict free and confirms adherence to the WDC SoW Guidelines.”

Further information on the ‘System of Warranties’ is available at:

<https://www.worlddiamondcouncil.org/faqs-sow/>

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