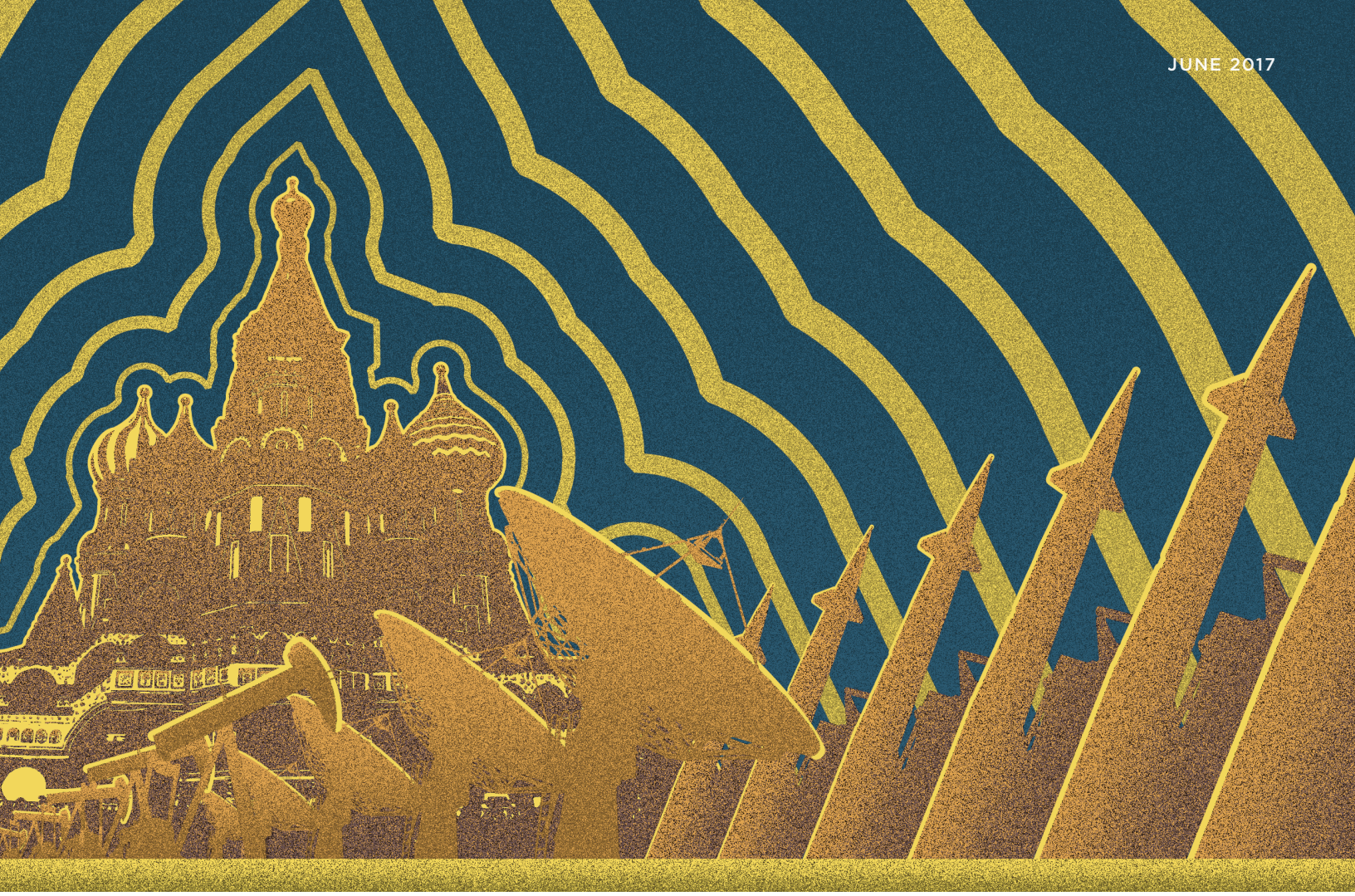

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THE FUTURE OF TRANSATLANTIC SANCTIONS ON RUSSIA

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Introduction

Sanctions on Russia are part of a broad and coordinated U.S. and European policy to counter Russian aggression. The majority of these transatlantic coercive economic measures target Russia's involvement in Eastern Ukraine and date from 2014. The strategic foreign policy concerns that underlie the use of sanctions as a tactic, however, are far broader and much more longstanding. Contemporary financial sanctions are fundamentally a new and innovative tactic among a broader array of military, diplomatic, media, and cyber options, to coordinate transatlantic policy on Russia and craft political and economic leverage for the West.

Economic sanctions have clear economic effects on Russia, though they do not currently present a crippling impediment. Transatlantic sanctions have contributed to diminished Russian economic growth and have deterred investment. They have challenged Russian economic leaders to rapidly try to diversify their markets and trading partners, as well as to find domestic solutions to sanctions-related challenges. Moreover, the Russian state has sought to compensate for the impact of sanctions on key Russian businesspeople subject to asset freezes by offering them lucrative public procurement contracts.[1] However, divergences in U.S. and EU sanctions architecture and policy, coupled with the extreme complexity of implementation and enforcement, have resulted in cases of successful sanctions avoidance.[2] Several years on, some Russian targets of sanctions have found ways to work around and limit their exposure to sanctions, albeit using sometimes more expensive strategies to service debt and obtain project financing.

Russia's annexation of Crimea and aid to separatists in eastern Ukraine precipitated the Ukrainian crisis and led to the imposition of transatlantic sanctions. Here, a separatist mans a checkpoint in eastern Ukraine. (Andrew Burton/Getty Images Europe)

Experts differ on whether, and to what extent, the sanctions have changed Russian behavior. Their economic and political force may have prevented Russia from seizing additional Ukrainian territory since late 2014 or engaging in further destabilizing activities in Ukraine. However, they have not caused Russia to cease supporting separatists in eastern Ukraine or to return the occupied Crimean peninsula. Furthermore, since the United States and Europe implemented sanctions related to Ukraine, Russia's foreign policy has become even more interventionist elsewhere. For example, transatlantic calls on Russia to cease supporting Syria's brutal president, Bashar al-Assad, do not appear to have had any impact on Russia's ongoing support for Assad.

In addition to approaching sanctions as a means to alter Russia's aggressive behavior, Western leaders see them as a valuable tool to communicate condemnation of Russia and exact economic pain on entities and individuals close to the Kremlin. As U.S. and European concerns with Russia mount due to an uptick in Russia's Ukraine aggression, support for Syria's bloody campaign on civilian targets, and meddling in Western elections, policy leaders may use further sanctions as a response.

Rising nationalist sentiment in the United States and Europe, challenges to European integration, and ambiguity about the level of U.S. commitment to transatlantic coordination on diplomacy or security matters point to a possibly weaker future for transatlantic sanctions on Russia. However, U.S. and European leaders do not wish to remove sanctions without Russian concessions or policy changes. Furthermore, notwithstanding a changing political landscape, there is still a very strong case for a unified European and transatlantic stance on Russian aggression in Ukraine and on other foreign policy challenges, and for a coordinated response to Russia's meddling in Western elections.

This paper reviews the current transatlantic sanctions on Russia and the economic impacts they have had on Russia and, to a lesser extent, on the countries that have imposed the sanctions. By surveying recent political developments in Europe and the United States, the paper explores scenarios and considerations for the future of transatlantic sanctions. It concludes with recommendations for policymakers in the United States, in Brussels, and in EU member states on how to adapt sanctions to address a variety of unintended economic factors and the proliferating threats from Russia.

Background

Over the past two decades, relations among the United States, the European Union, and Russia have progressively worsened. During President Putin's first two presidential terms and Dmitry Medvedev's presidential term, periods of tension, such as deep divisions surrounding the Russo-Georgian War in 2008, have occurred. However, it was during President Putin's third presidential term starting in 2012 that the confrontation escalated considerably. The United States and the European Union enacted sanctions on Russia starting in 2014, when transatlantic policymakers sought to deter Russia's intervention in Ukraine. Transatlantic leaders subsequently tied the sanctions to compliance with the peace agreement signed in Minsk, Belarus, in early 2015. They have repeatedly urged Russia to fulfill its Minsk obligations to receive relief from the sanctions.

Overview of Sanctions on Russia

Transatlantic policymakers have imposed several types of sanctions on Russia. The majority of these target Russia's aggression in Ukraine. The sanctions consist of:

- asset freezes and travel bans on individuals and entities that have been involved in, have supported, or have benefited from Russia's actions in Ukraine, as well as individuals identified as responsible for the misappropriation of Ukrainian state funds, including Russian politicians, members of the Russian armed services, separatist leaders in Eastern Ukraine, officials Russia appointed to the government in Russian-occupied Crimea, and some of Russian President Vladimir Putin's close business associates;
- restrictions on doing business and investing in Russian-occupied Crimea;
- so-called sectoral sanctions targeting the oil and gas, defense, and financial sectors in Russia, including an arms embargo; and
- restrictions on economic cooperation between Western development banks, including the European Bank for Reconstruction and Development, and Russia.

The sectoral sanctions, which were enacted in the summer and early fall of 2014, appear to have had the greatest economic impact. These sanctions prohibit lending to a group of large Russian state-owned banks and to Russian energy companies. They also prohibit U.S and EU companies from providing equipment and expertise to complex deep-water, Arctic, and shale oil development projects in Russia.[3]

In addition to these various Ukraine-related sanctions, there are a limited number of U.S. sanctions imposed on Russian entities that have provided support to Assad's Syrian regime or have been involved in human rights abuses inside Russia.[4] Also, in late 2016 the United States, though not the European Union, sanctioned several Russian officials as well as two of Russia's security services, the FSB and the GRU, in response to Russia's intervention in the 2016 U.S. presidential election.[5]

Although policy leaders attempted to harmonize the U.S. and European sectoral sanctions, there are a number of technical differences in the ways that the two jurisdictions framed their economic sanctions. One of the most notable differences is the grandfathering provision in EU sanctions, which allows companies within the EU to continue to perform contracts that were concluded

Both U.S. and EU leaders have made compliance with peace agreements decided at a summit in Minsk in 2015, pictured above, a condition for the lifting of sanctions. (The Russian Presidential Press and Information Office/Wikipedia Commons)

Sectoral sanctions have placed limitations on EU and U.S. companies providing equipment and services to Russian Arctic oil development projects, including Gazprom Neft's Prirazlomnoye project. (Krichevsky/Wikipedia Commons)

prior to the imposition of the original sanctions. This has allowed, for example, European energy companies such as ENI to continue actively working on a host of oil projects begun prior to 2014, in contrast to U.S. companies, which have largely had to cease participation in Russia's Arctic, deep-water, and shale oil developments.

Russia has been consistently surprised by the depth of transatlantic political unity in imposing and maintaining sanctions. Whereas U.S. sanctions remain in force until U.S. policymakers decide to lift them, European Union officials must renew EU sanctions on Russia every 6 or 12 months by securing a unanimous vote of member states. During the initial renewal periods, in mid- and late 2015, both Russian officials and many independent analysts speculated that opposition from the more pro-Russian or anti-sanctions states within the EU, such as Greece and Cyprus, would result in a termination or substantial reduction in the economic pressure on Russia. Strong support for the sanctions by political leaders in Germany, the U.K., several Eastern European states, and Washington, however, combined with Russia's refusal to de-escalate its intervention in Ukraine, have bolstered the resolve of transatlantic policymakers to continue economic pressure on Russia.

Nevertheless, notwithstanding broad political unity on both sides of the Atlantic and the economic costs that sanctions have imposed on Russia, experts disagree about the impact of sanctions on Russia's strategic decisionmaking. Russia has not complied with its obligations under the Minsk agreement, including withdrawing heavy weapons from eastern Ukraine and restoring Ukrainian sovereignty along the Russia-Ukraine border.[6] However, U.S. and European officials, as well as a number of independent analysts, have argued that the sanctions themselves were instrumental in at least deterring Russia from occupying an even larger portion of Ukraine in 2014 and 2015 and in keeping Russia at the negotiating table.[7] In addition, the economic and technological impact of the sanctions may have slowed Russia's military modernization program and cut into social spending.

Regardless of the impact of sanctions targeting Russia's actions in Ukraine, their economic force and their political signaling effect have had no noticeable deterrent effect on President Putin's foreign adventurism broadly or actions in Syria in particular. Putin has continued to provide major military support to the Assad regime despite tremendous Western diplomatic and rhetorical condemnation of both Assad and the military lifeline that Russia has provided his regime.

The Economic Effects of Sanctions

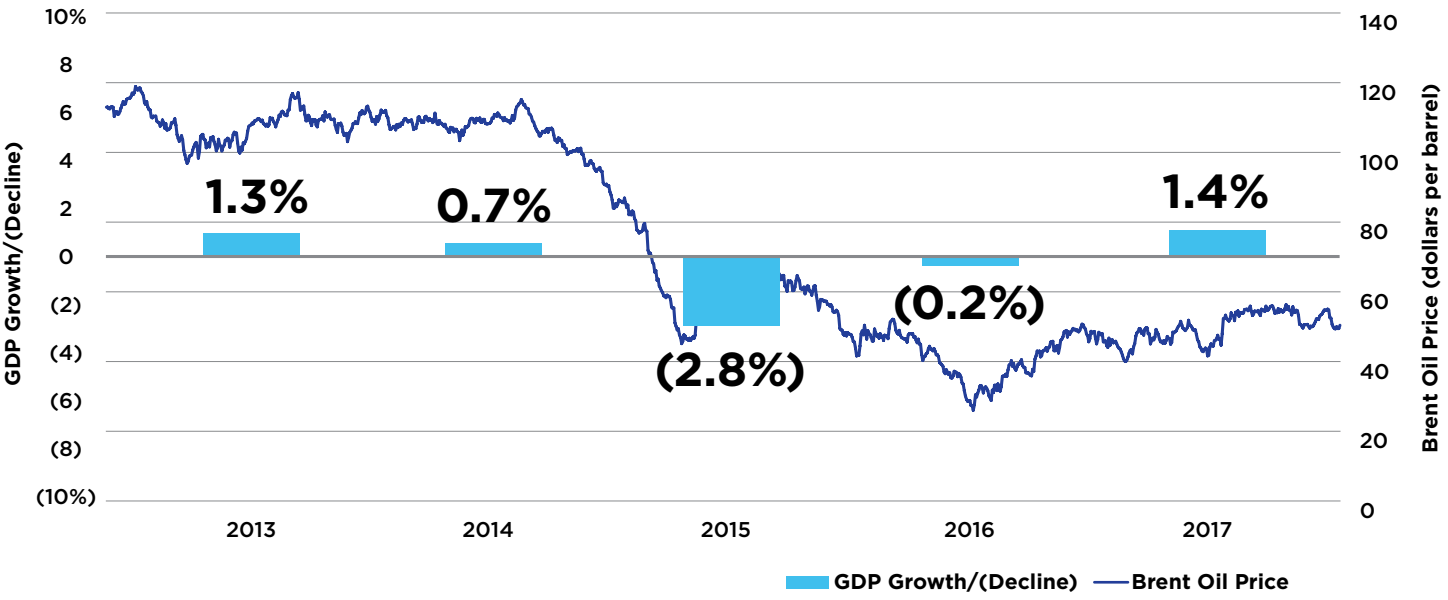
The impact of sanctions on a target country's economy is the primary barometer of the measures' effectiveness. Although it is difficult to disaggregate the macroeconomic effects of sanctions from the 2014 drop in oil prices on Russia's economy, in 2015 the IMF estimated that sanctions and Russia's own countersanctions, mainly targeted at the West's agricultural sector, initially reduced real GDP by 1 percent to 1.5 percent.[8] In total, the Russian economy contracted by 2.8 percent in 2015, but due to a recovery in the oil price and fiscal management measures by Russia's central bank, modest growth is set to return in 2017.[9] (See graph on page 4.)

The sanctions have had more significant firm-specific impacts. Daniel Ahn and Rodney Ludema have studied the impact of targeted Russia-related sanctions on companies using detailed firm-level data. They concluded that the average sanctioned company or associated

Transatlantic leaders, such as High Representative of the European Union for Foreign Affairs and Security Policy Federica Mogherini and U.S. Secretary of State Rex Tillerson, have surprised Russia by showing unity in maintaining sanctions even while transatlantic resolve on the measures has shown some cracks. (U.S. Department of State/Wikipedia Commons)

In conjunction with a recovery in oil prices, fiscal management measures by Russia's central bank contributed to the modest Russian economic growth expected in 2017. (NVO/Wikipedia Commons)

Russian Economic Performance and Brent Oil Price[10]



The decline in oil prices from 2014 played a significant role in the contraction in Russian GDP. This coincided with the imposition of transatlantic sanctions. (2017 GDP growth figure is estimated.)

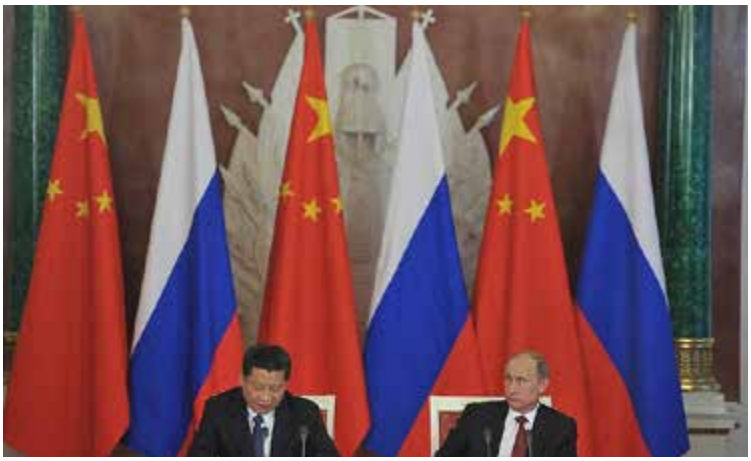
company loses about one-third of its operating revenue, over one-half of its asset value, and about one-third of its employees relative to its non-sanctioned peers.[11]

Sanctions have had a meaningful effect on Russia's defense sector, undermining its military modernization efforts. Restrictions on dual-use technology imports have hindered the modernization of defense industrial plants and forced them to substitute components with less capable domestically produced goods.[12] Sanctions, along with lower oil prices, have also contributed to projected defense spending cuts of 17 percent over the 2017–2019 period.[13] Though Russia has advocated an import-substitution policy, sanctions have exposed a high dependency on certain imported Western components, particularly for military and other technical equipment. For example, Boris Dubrovsky, the governor of Chelyabinsk Province, has said that 90 percent of all machine tools in Russia are imported. All Russian naval electronic systems are based on imported components.[14]

In non-military areas, Russia has generally been able to recalibrate economic activity, demonstrating the constraints of targeted sanctions in a globalized economy. For example, although Russia used roughly $210 billion of reserves in 2014 and 2015 to pay down debt that it could not service in Western capital markets because of sanctions, Russian firms generally did not face insolvency because of the challenges of debt management, and the effects have since moderated.[15] In 2016, capital flight was at the lowest level since 2008 and one-tenth of the 2014 record, and Russian firms are increasingly raising capital through Eurobonds.[16] In 2017, these issuances are expected to triple the 2016 amount, largely through issuances by Russian companies that are not directly under U.S. or EU sanctions.[17]

Additionally, other players, particularly from Asia, have stepped in to finance oil and gas projects where Western corporates cannot. China's recently created Silk Road Fund bought a 9.9 percent stake in the Yamal LNG plant, in a deal that delivered much-needed funding after

Sanctions have hampered the modernization of Russia's defense industrial plants and forced it to rely on import substitution. Combined with low oil prices, transatlantic sanctions have also contributed to projected defense expenditure cuts over the 2017–2019 period. In 2012 President Putin visited Russia's 393rd Air Force base. (Russian Government photo)



With limited access to Western capital, Russia has turned to new sources for financing. China has played a significant role in this diversification through its Silk Road Fund's purchase of a stake in the Yamal LNG plant and the Industrial and Commercial Bank of China offering renminbi clearing services in Russia to decrease dollar dependence. (The Kremlin)

U.S. sanctions hit Russian project operator Novatek.[18] In March 2017, the Industrial and Commercial Bank of China started renminbi clearing services in Russia in a bid to decrease Russia's dependence on the dollar.[19] Trading houses have also served as sources of financing and liquidity. Glencore and Trafigura, for example, purchased minority stakes in Rosneft, a major Russia state-owned oil company, and an Indian refinery,[20] respectively, as well as offering Russia advance payments against future oil deliveries.[21]

Russian firms do not have access to full replacements for Western markets or for the Western investments now off limits due to the sanctions. This is apparent from Russia's need to offer better investment deals to attract foreign, and increasingly Asian, firms, to get around financing problems caused by the sanctions. The situation does show, however, how sanctions can have a negative impact on the sanctioning markets, as they reduce their leverage and competitive advantage.

Another sanctions factor influencing Russia's economic picture is complexity of implementation and enforcement, which leads to market distortions and evasion.[22] Russia sanctions are uniquely challenging for government enforcement and implementation officials to uphold and for private sector executives to comply with. In practice, this situation can raise the cost of doing business for Western firms and offer incentives for legal restructuring to avoid, or evade, sanctions exposure. Europe's more limited capacity and political will to enforce sanctions, and existing loopholes in EU sanctions, make it more exposed to the risk of evasion.[23]

One of the primary challenges confronting both private sector companies doing business in Russia and U.S. and EU authorities investigating potential sanctions violations is understanding the complex, opaque, and often highly adaptable corporate structures in Russian business. Sanctioned individuals may be able to hide their control or influence by transferring assets to family members or masking ownership through offshore or proxy structures. An additional challenge for the private sector is the discrepancy between the U.S. and EU requirements on ownership of corporate interests. The United States determines that an entity is sanctioned where one or more sanctioned persons or entities own in aggregate, directly or indirectly, 50 percent or more of a company. These rules speak only to ownership.[24] The EU differs in that it does not count in aggregate, defining sanctioned corporate interests as those where a listed person or entity owns more than 50 percent or holds a majority interest.[25]

A further discrepancy is that EU requirements address ownership *and* control. The EU definition of control references "dominant influence," which can be very difficult to prove. Case studies have illustrated this.[26] For example, even though businessman and longtime friend of President Putin Arkady Rotenberg, sanctioned by both the EU and the United States, sold a number of corporate interests to his son Igor in 2014, it is difficult to ascertain with legal certainty whether Arkady still exercises "influence" or control over these interests. Simply because a corporate registry or corporate documents do not name an individual as having influence or being a beneficiary does not mean that it is not the case. However, it is not necessarily possible to prove influence to the legal standards required.

Even though he was under sanctions, in 2014 Arkady Rotenberg, here with President Putin, was able to sell corporate interests to his family. It remains unclear whether he still exercises control or influence over these interests. (Russian Government photo/ Wikipedia Commons)

These confusing discrepancies mean that private sector actors, particularly those exposed to both U.S. and EU legal jurisdiction, often find government guidance on sanctions insufficient. EU interpretative guidance can at times be less precise than interpretive guidance provided by U.S. regulators, given the need for EU officials to reach consensus among the bloc's 28 member states. Moreover, individual EU member governments have varying perspectives on the extent of interpretative guidance that they, as opposed to the EU, can ultimately provide to the private sector.

An example of the confusion caused by the various sets of sanctions rules and associated guidance was highlighted in a recent legal case that Rosneft brought challenging EU sanctions against it.[27] As the European Court of Justice noted in its ruling on the case, individual EU member states had interpreted the term "financial assistance" differently when giving guidance to their companies about what kinds of financing and financial services the sanctions prohibited. Ultimately, the court ruled that financial assistance did not include processing of a payment by a bank or other financial institution, disagreeing with the opinion of the U.K. government.[28] Such clarifications help the private sector, which policymakers place on the front line of implementing the sanctions.

Sanctioned individuals may be able to hide their control or influence by transferring assets to family members or masking ownership through offshore or proxy structures.

Implications of the Changing Transatlantic Political Landscape

Both Washington and Brussels have witnessed major political changes since the United States and Europe first imposed sanctions on Russia in 2014. In Washington, President Donald Trump campaigned in 2016 on a platform of improving ties with Russia and reversing many of President Barack Obama's policies toward Russia. In Brussels, the June 2016 vote by the U.K. to leave the European Union will remove one of the strongest European voices for Russia sanctions from the EU debate over the issue and is forcing policymakers in London to direct much of their foreign policy effort towards the Brexit process. Important national elections in France and Germany in 2017 are highlighting pro-Russian sentiment in Europe, though the winner of France's May presidential election, Emmanuel Macron, has generally adopted a hawkish line toward Russia.

Despite these major political changes in Washington and Europe, Russia's ongoing aggression has helped to maintain political support for economic sanctions against the Russian government. Russia has followed through on its annexation of Crimea and maintained its destabilizing presence in Ukraine. It has begun construction of an 11-mile bridge across the Kerch Strait to connect the annexed Crimean peninsula to the Russian mainland and continues to supply separatists in Eastern Ukraine with military hardware.[29] Indeed, Russia appears to have modestly re-escalated the military conflict in eastern Ukraine in early 2017.[30] U.S. and European leaders have recently renewed their calls for Russian compliance with the Minsk agreements and their commitment to continuation of transatlantic cooperation on countering Russian aggression in Ukraine.[31]

The victory of Emmanuel Macron in the 2017 French presidential election suggests there will be stability in European economic sanctions on Russia. (Jeff J. Mitchell/Getty)

Russia is constructing of an 11-mile bridge across the Kerch Strait to connect the annexed Crimean peninsula to the Russian mainland. (Russian Government photo)

In addition, both European officials and the new Trump administration have sharply criticized both Russia's support for President Assad and its possible complicity in Assad's use of chemical weapons in April 2017.[32] Finally, anger at Russia's intervention in the 2016 U.S. presidential election and European concerns about Russian intervention in EU elections in 2017, including the role of Russian media organizations in spreading disinformation across the continent. As a consequence, the European and U.S. sanctions on Russia appear likely to remain steady for the near and mid terms, and perhaps increase as a mechanism of foreign policy to counter Russian aggression.

Anger at Russia's intervention in U.S. and European elections has added to transatlantic skepticism of Russia's intentions.

Future Scenarios for Transatlantic Russia Sanctions

Despite early predictions that President Trump's election and the U.K.'s impending exit from the European Union would result in relaxation of transatlantic sanctions against Russia, in recent months it has become evident that there will likely be stability in economic pressure on Russia from both the United States and Europe. Trump Administration officials have begun to take a hard line against Russia over its ongoing intervention in Ukraine and its support for Assad. Additionally, anger among legislators in the U.S. Congress over Russia's intervention in the 2016 presidential race might produce a modest increase in sanctions. In Europe, it appears likely that both continental European leaders and U.K. officials will agree on the importance of maintaining sanctions on Russia even as they negotiate the terms of Brexit.

The United States

In recent months, U.S. policy leaders have precipitated a rapid evolution in expectations regarding the future of U.S. sanctions on Russia. Although candidate Trump suggested a future of improved U.S.-Russian relations, the initial months of Trump's presidency have seen the administration take a hard line against Russian support for Syrian President Assad and continued violations of Ukrainian sovereignty. U.S. Secretary of State Rex Tillerson and Ambassador to the U.N. Nikki Haley have said publicly that Russia must comply with the Minsk peace process and reverse its intervention in Ukraine before receiving sanctions relief.[33] U.S. officials have also demanded that Russia cease supporting Assad following the Syrian regime's April 2017 use of chemical weapons against Syrian civilians.[34]

Democrats and Republicans in the U.S. Congress are also sharply critical of Russia. Legislators in both parties in both the Senate and House have introduced legislation to codify current sanctions and tighten sanctions on Russia's financial, energy, and defense sectors. Congress currently appears likely to defer votes on these proposals while it focuses first on investigations into Russia's intervention in the 2016 U.S. presidential election. However, new revelations of Russian influence in U.S. politics, or escalated Russian intervention in either Ukraine or Syria, could spur Congress to pass escalated sanctions. This may occur even if Europe proves reluctant to increase EU sanctions on Russia.

Against this backdrop, several developments in U.S. sanctions on Russia appear likely during the course of 2017 and 2018. First, existing sanctions targeting Russia's

Anger at Russia's intervention in the 2016 U.S. presidential race between Donald Trump and former Secretary of State Hillary Clinton has added to transatlantic skepticism of Russian intentions. (Pool/Getty)

violations of Ukrainian sovereignty will remain in place for the foreseeable future absent Russia's fulfillment of its obligations under the Minsk peace agreements. These existing measures include sanctions against providing equipment and expertise to Russian Arctic, deep-water, and shale oil projects; sanctions against lending to most Russian banks and oil companies; and sanctions targeting Russian defense companies and business sector cronies of President Putin.

Second, there is a reasonable likelihood that Congress will pass additional sanctions on Russia after concluding its investigation into Russian interference in the U.S. 2016 presidential election. The scope of such sanctions may change from current proposals and will depend on the results of the investigations as well as on broader U.S.-Russia relations. Additional revelations of relatively modest Russian intervention in the U.S. elections and no further deterioration in U.S.-Russia relations would likely result in a limited set of congressional sanctions, such as codification of existing sanctions into statute, limited additional sanctions against Russians involved in the 2016 U.S. elections, and new measures targeting the Russian defense sector. A further deterioration in U.S.-Russia relations could compel Congress to moderately tighten sanctions on Russia's banking, energy, and other economic sectors dominated by state-owned firms.

The political realities in Washington are such that making any offer of sanctions relief absent major Russian concessions would be nearly impossible.

Third, the United States would be likely to ease sanctions only following a dramatic shift in Russia's approach toward Syria, Ukraine, or other areas of tension. For example, a Russian decision to cut support for Assad, or to substantially comply with the Minsk cease-fire agreements, would be met with U.S. sanctions relief. However, given the current political dynamics in Washington, the United States is unlikely to offer modest sanctions relief in exchange for modest improvements in U.S.-Russian relations. Even if some individual U.S. policymakers wanted to offer Russia limited and targeted sanctions relief in exchange for limited Russian concessions, the political realities in Washington are such that making any offer of sanctions relief absent major Russian concessions would be nearly impossible.

The European Union

While questions concerning transatlantic unity on Russia sanctions persist and will challenge the shifting political landscape on either side of the Atlantic, in Europe Brexit is generally seen as having the potential to shape the nature of sanctions policy most acutely in the near term, from both a practical and policy perspective.

The traditional view of observers is that much of the resolve, intellectual capital, and political will applied to sanctions by the European Union stems from London, and that London played a key role as a bridge between Washington and Brussels on Russia sanctions. It is therefore appropriate to assess whether, following Brexit, the U.K. and EU are likely to diverge on sanctions policies. If so, analysts should evaluate what might be the impact of such a divergence. Whatever happens, the U.K. will need to invest considerably in legal and diplomatic structures and in capabilities to implement and uphold sanctions that Brussels has managed almost entirely until now. An April 2017 U.K. government report on "the United Kingdom's future legal framework for imposing and implementing sanctions" affirmed this view.[35]

A high-level assessment of EU political rhetoric suggests that in contrast to the predominant views of states who are strong advocates of sanctions, such as the U.K. and the Baltic states, there is some popular sympathy for a reversal of Russian sanctions.[36] Trade and energy ties between Russia and some European states are close, though some of the countries with close trade ties, such as Germany, have governments that support sanctions on Russia.[37] Additionally, whereas the United States can impose sanctions on Russia with relatively limited damage to its own economy, the calculation is different in

Although post-Brexit coordination of Europe-wide sanctions policy will be difficult, showing weakness on Russia would be unwise. At a press conference, President of the European Council Donald Tusk and President of the European Commission Jean-Claude Juncker address the implications of British invocation of Article 50. (Dan Kitwood/Getty)

the EU. To date, the U.K. has played a key role in exerting persuasive influence in Brussels to bridge this divide.

Yet despite any rhetoric from European politicians and the more painful economic calculation for the EU by comparison with the United States, it seems unlikely that the EU's position on Russia sanctions will change. Challenging though it may be in a post-Brexit era to maintain Europe-wide coordination on policy, EU policymakers want to avoid the risk of appearing weak on Russia at a time when the Kremlin's subversion and interference around the world are mounting. Russia's lack of respect for sovereignty and for the international rules-based organizations that it increasingly defies serves to encourage EU cohesion and unity. Furthermore, France's Macron has expressed relatively hawkish views toward Russia, and, since the election, he has confronted President Putin over the role of Russian media organizations in spreading disinformation.[38]

While it seems unlikely the EU will weaken its resolve, notwithstanding the absence of the U.K., it also seems unlikely that the post-Brexit United Kingdom will adopt a more robust sanctions policy. Adopting stronger sanctions than the EU would damage the U.K.'s economic prospects with Russia and, given the loss of U.K. influence in Brussels, provide no obvious national benefit. While continued alignment with the EU may avoid unintended damage to national prosperity, the U.K. private sector, and those international companies that operate in Europe's second-largest economy,[39] will face added complexity in complying with a further (U.K. stand-alone) set of sanctions policies.

Ultimately, while rhetoric may vary as politicians seek voter support in an increasingly fragmented and nationalistic European political landscape, it is in the interests of neither the U.K. nor the EU to take diverging sanctions policy positions against Russia. In a turbulent time, policy toward Russia might be one of the few areas of stability.

It seems unlikely that the post-Brexit United Kingdom, led by Prime Minister Theresa May, will adopt a stronger sanctions policy that would damage its economic prospects with Russia and offer no clear national benefit. (Stefan Rousseau, WPA Pool/Getty)

Policy Recommendations

Policy leaders in the United States and in the European Union should take several steps to sustain the strategic utility of sanctions to their foreign policy posture as concerns with Russia's international aggression, adventurism, and intrusions proliferate. These steps involve measures to sharpen sanctions as a policy instrument, making them more effective and targeted. The steps also involve measures to uphold and strengthen coordination on the craft and enforcement of sanctions to enhance the cogency of the measures and reduce the potential for evasion. Private sector leaders also have a role to play in ensuring that sanctions are clear, implementable, and effective. Specific recommendations for U.S. policymakers, including the administration and Congress, as well as private sector leaders, are presented below. They are followed by recommendations for European policy leaders in Brussels, as well as member-state national leaders and private sector representatives.

Various sets of sanctions rules and the guidance associated with them have caused confusion. In a 2017 case involving Rosneft, the European Court of Justice clarified the previously vague term "financial assistance" in relation to technologies relevant to the oil and gas sector. Rosneft's chairman Igor Sechin is pictured above with a company employee and President Vladimir Putin in 2012. (Russian Government photo)

Recommendations for the United States

- The U.S. Treasury Department must enforce existing Ukraine-related sanctions on Russia, adding new companies and individuals to sanctions lists. This will add some financial pressure to existing sanctions and serve as a complement to the calls of senior administration officials for Russia to fulfill its Minsk agreement obligations.
- The U.S. Treasury Department and law enforcement community must bring forward legal action against violators of Russia sanctions to signal to Russia, European allies, and companies that it takes a firm stance on enforcement. Wherever possible, U.S. officials should attempt to coordinate such actions with their counterparts in the EU.
- The U.S. Treasury Department must prepare and announce sanctions on Russian entities and instrumentalities involved in the Russian intrusion not only into the 2016 U.S. election, but also into the elections of key U.S. allies. This will signal to Russia, and other U.S. adversaries, that the Trump administration will not tolerate interference into democratic processes.
- The White House should consider the establishment of new executive sanctions authorities, and other executive actions, to specifically expose and target Russian military support of the Assad regime.
- The U.S. State Department must lead a U.S. outreach effort to encourage EU partners to join the United States in crafting and implementing further, coordinated sanctions on Russia designed to target its intrusions into Western elections and its support for President Assad.
- The U.S. Congress must convene further hearings on Russian aggression and threats to U.S. interests, exploring the benefits of transatlantic coordination to counter such threats. It should summon the U.S. administration to outline its administration strategy on engagement with Russia in such a hearing and urge the administration to vigorously implement its existing sanctions authorities to counter, in particular, Russian aggression in Ukraine.
- The U.S. Congress should prepare new sanctions legislation to expand pressure on Russia for its cyber intrusions into U.S. and other electoral processes and to target Russian financial and material support for President Assad. Congress should also consider measures that would progressively increase pressure on Russia under appropriate circumstances, such as

by prohibiting lending to additional sectors of the Russian economy and carefully increasing sanctions on Russia's unconventional energy projects.

- Banking-, energy-, and other industry associations, particularly those that represent multinational companies, should play a more active role in informing congressional and administration leaders of the unintended consequences of proposed and current sanctions measures, the ways in which sanctions affect various companies and jurisdictions differently, and private sector implementation challenges. This will help to inform successful, targeted, future sanction design.

Recommendations for Europe

- The European Union must significantly increase its understanding of private sector industry and financial institutions to more effectively design sanctions that achieve implementation goals.
- The U.K. Government, led by HM Treasury and the Foreign and Commonwealth Office, must bring forward the legal and policy architecture that ensures its post-Brexit sanctions' influence and effectiveness.
- The U.K. Foreign and Commonwealth Office must dedicate itself to engaging with EU member states and Washington to ensure that the U.K. is not marginalized in future transatlantic sanctions dialogue and to persuade the EU of the merits of the U.K.'s position.
- With the private sector, the EU and U.K. must establish more effective partnership forums to ensure that the foreign policy goals of sanctions are effectively implemented. Specifically, government representatives can share case studies on suspected circumvention practices or corporate structure changes that are relevant to sanctions. Such forums would also help build confidence, facilitate the development of guidance, and help spread technical knowledge.
- Banking-, energy-, and other industry associations must play a more central role in informing members of their legal obligations to implement sanctions and informing national governments in Europe of the challenges faced by their members that undermine effective implementation, in order to inform future design.
- EU and U.K. national authorities for sanctions, the so-called competent authorities, must provide clearer guidance and more efficient and effective licensing to private companies in order to mitigate the unintended consequences that undermine effective implementation and the desired foreign policy outcomes.
- European enforcement agencies must significantly enhance their staffing and capabilities to ensure that guidance and licenses are provided in a timely fashion. Expanded skills, particularly in the areas of industry knowledge and languages, are also urgently needed. As related specifically to Russia, European enforcement officials should mandate that banks and nonbank financial institutions develop a better understanding of the business context, practices, and circumvention/evasion techniques.
- Both the EU and a future stand-alone U.K. must go beyond simply renewing existing sanctions against Russia, refining them to maintain pressure as Russian entities adapt to existing sanctions (e.g., via corporate restructuring) and reacting to the continued interference of the Russian state beyond its national borders.

Banking-, energy-, and other industry associations must play a more central role in informing members of their legal obligations to implement sanctions

Conclusion

As a policy enterprise, sanctions require creativity and rigor to be appropriately targeted and to produce sustained political and economic effect. The changing political circumstances in the West, and Russia's escalating aggression abroad, demand a renewed commitment by U.S. and EU policymakers to innovation in the crafting and delivery of sanctions. These policymakers must also redouble their efforts to expose and punish violations. Such steps will ensure that sanctions on Russia maintain their relevance and cogency.

Policymakers in Europe and the United States face a series of choices regarding their political approach to Russia strategy, the level of transatlantic coordination on this strategy, and the operational role that sanctions will play. While some U.S. and European decisionmakers have considered a diminution of pressure on Russia for various reasons, this prospect does not appear to be pragmatic in the near term. Sanctions almost certainly will remain a prominent feature of transatlantic policy given Russia's growing belligerence abroad and its defiance of international law and sovereignty.

The United States and Europe must be cognizant of the risks of Russian symmetric or asymmetric retaliation against economic measures.

The challenge political leaders in the West face on sanctions is how to craft new coercive economic measures that are forceful, enforceable, and truly reversible if Russia alters its behavior. Just as in the military arena, the United States and Europe must be cognizant of the risks of Russian symmetric or asymmetric retaliation against economic measures designed to challenge its projection of power in Eastern Europe and the Middle East. They must also be cognizant of the array of sanctions circumvention tactics used by Russian and other companies. Ideally, transatlantic policymakers will consider private sector leaders in Europe and the United States close partners so as to understand the economic effects of these measures and improve on their craft. Such methodologies are fundamental to the ability of transatlantic partners to develop and sustain a set of sanctions measures that will capably counter Russian security threats in the years ahead.

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