



# Post-COVID-19 Sanctions Policies: Are We in for Epidemics of Sanctions?

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# COVID-19 and the Sanctions Policy

The COVID-19 pandemic has given hope for international consolidation in the face of a common threat. Alleviating numerous sanctions and economic restrictions could be one step towards unification.

UN Secretary-General Antonio Guterres,<sup>1</sup> UN High Commissioner for Human Rights Michelle Bachelet,<sup>2</sup> UN Special Rapporteur on the Right to Food Hilal Elver<sup>3</sup> and UN Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights Alena Douhan<sup>4</sup> called for such steps. Similar proposals were made by many political leaders, including President Vladimir Putin at the G20 summit.<sup>5</sup> The EU authorities made declarations about the need for humanitarian exceptions.<sup>6</sup> In the United States, Democratic candidate Joe Biden spoke about this as well.<sup>7</sup> The US administration promptly released a list of exceptions to its sanctions, many of which were in place long before the pandemic. They concern Iran, Syria, Cuba, North Korea, Venezuela and Russia.<sup>8</sup> A joint US-Swiss relief supply channel for Iran has become

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<sup>1</sup> U.N. Department of Global Communications (2020) "Funding the Fight against COVID-19 in the Worlds' Poorest Countries." URL: <https://www.un.org/en/un-coronavirus-communications-team/funding-fight-against-covid-19-world%E2%80%99s-poorest-countries>

<sup>2</sup> U.N. News. "Ease Sanctions against Countries Fighting COVID-19: U.N. Human Rights Chief.", 2020. URL: <https://news.un.org/en/story/2020/03/1060092>

<sup>3</sup> U.N. News. "Economic Sanctions Should Be Lifted to Prevent Hunger Crises in Countries Hit by COVID-19: U.N. Rights Expert.", 2020. URL: <https://news.un.org/en/story/2020/03/1060742>

<sup>4</sup> U.N. Human Rights Office of the High Commissioner (2020) "U.N. Rights Expert Urges Governments to Save Lives by Lifting All Economic Sanctions Amid Covid-19 Pandemic." URL: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25769&LangID=E>

<sup>5</sup> Vladimir Putin. Remarks at the Extraordinary G20 Summit, 2020.: <http://en.kremlin.ru/events/president/news/63070>

<sup>6</sup> European Council. "Declaration by the High Representative Josep Borrell on Behalf of the EU on the U.N. Secretary General's Appeal for an Immediate Global Ceasefire", 2020. URL: <https://www.consilium.europa.eu/en/press/press-releases/2020/04/03/declaration-by-the-high-representative-josep-borrell-on-behalf-of-the-eu-on-the-un-secretary-general-s-appeal-for-an-immediate-global-ceasefire/>

<sup>7</sup> Biden, J. "Statement from Vice-President Joe Biden on Sanctions Relief during COVID 19", 2020. URL: <https://medium.com/@JoeBiden/statement-from-vice-president-joe-biden-on-sanctions-relief-during-covid-19-f7c2447416f0>

<sup>8</sup> U.S. Department of the Treasury. "Fact Sheet: Provision of Humanitarian Assistance and Trade to Combat COVID-19", 2020. URL: [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/covid19\\_fact-sheet\\_20200416.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/covid19_fact-sheet_20200416.pdf)

operational.<sup>9</sup> We saw the first transactions based on INSTEX, a long-awaited channel for humanitarian transactions with Iran created by Great Britain, France and Germany back in 2019.<sup>10</sup> The United Kingdom made humanitarian exceptions for the Syrian oil embargo.<sup>11</sup>

However, declarations and humanitarian exemptions are unlikely to reverse the sanctions policy or the existing restrictions. All resolutions, decisions and laws remained in force even at the peak of the epidemic. Exemptions apply only to isolated areas.<sup>12</sup> The relief channels focus on the “people” of the countries under sanctions, not the “authoritarian regimes.” However, the state plays the key role in fighting the epidemic or any other major challenge for that matter. It inevitably falls under the “regime” category thus becoming cut off from many essential resources. For example, in theory, an oil embargo is bad for the “regime.” In practice, the embargo makes a state less capable of fighting the epidemic. At the end of the day, firing at the “regime” means firing at the “people.” We should also bear in mind that the help in fighting the epidemic provided by the countries hit by the sanctions, such as Russia, Cuba and China, to the initiators of the sanctions will not make the latter lift the sanctions afterwards.

In other words, COVID-19 does little to change the way the sanctions are applied in practice. They remain an instrument of coercion and pressure which is used to attain foreign policy goals. As the epidemic subsides, the situation will get back to normal with fewer humanitarian declarations or exemptions.

Today, there are many publications on how COVID-19 is going to change the world and international relations. “The world will never be the same” has become a common tagline. Unfortunately, this has nothing to do with easing the sanctions policy. Moreover, the sanctions may even get tougher in a number of areas. At least, this threat can be seen in the US-China relations. Therefore, it is important to take an unbiased

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<sup>9</sup> U.S. Department of the Treasury. “United States and Switzerland Finalise the Swiss Humanitarian Trade Agreements”, 2020. URL: <https://home.treasury.gov/news/press-releases/sm919>

<sup>10</sup> U.K. Foreign and Commonwealth Office. “INSTEX Successfully Concludes First Transaction”, 2020. URL: <https://www.gov.uk/government/news/instex-successfully-concludes-first-transaction>

<sup>11</sup> U.K. Department of International Trade and Export Control Joint Unit. “Trade Sanctions on Syria”, 2020. URL: <https://www.gov.uk/guidance/sanctions-on-syria#crude-oil-and-petroleum-products>

<sup>12</sup> For the U.S., see Blanc, J. “Coercion in the Time of the Coronavirus”, Carnegie Endowment for International Peace, 2020. URL: <https://carnegieendowment.org/2020/04/08/coercion-in-time-of-coronavirus-pub-81495>

look at the long-term trends in using sanctions by key international players regardless of the current situation.

Over the past two decades, economic sanctions have become one of the key foreign policy instruments. The UN Security Council is their only legitimate source of sanctions.<sup>13</sup> However, they are widely applied unilaterally by developed states to achieve their goals in the international arena. The United States uses unilateral measures more often than other countries. Sanctions have become one of the most important EU foreign policy tools. Although China and Russia are opposed to unilateral sanctions, they are forced to respond to restrictions from third countries. China has a vast economic potential that makes it possible for it to be active in conducting its policies. Restrictive measures have become one of the key political risks for international businesses. This is especially true of using secondary sanctions and fines for violating existing restriction regimes.

At the same time, the perception of the sanctions and their place in the system of foreign policy tools, the possibilities of using them, as well as protection against them, vary significantly among the countries. National experience does not always fit in with the experience of international organisations, and occasionally contradicts it. Such inconsistencies give rise to a number of conflicts and contradictory situations. High level of legitimacy of the UN Security Council resolutions is not supported by adequate tools for implementing them. Sanctioned states often use response measures against the initiating countries, but their businesses try not to violate the sanctions imposed on their country. Major initiators of sanctions can at the same time be the targets for restrictive measures imposed even by their allies. The same goes for businesses. Being part

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<sup>13</sup> Ex., Jazairi, I. "Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights", United Nations General Assembly Human Rights Council Thirty Session, 2015. Article 103 of the UN Charter reads that "in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." Accordingly, sanctions introduced by the UN Security Council take precedence over international obligations of the states. Importantly, according to Article 53 of the UN Charter, the UN can utilize regional arrangements or agencies for "enforcement action under its authority." At the same time, "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council." In other words, Article 53 envisages that regional organizations have no right to introduce their own sanctions without approval of the UN Security Council, which should "at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security." (Article 54). For more detail, see Kiku D. V., "Sovremennye mezhdunarodnye mekhanizmy sanktsionnogo vozdeistviya//Politika sanktsii, tseli, strategii, instrumenty: khrestomatiya" / [ed. I.N.Timofeev, V.A.Morozov, Yu.S.Timofeeva]; Russian International Affairs Council (RIAC). Moscow, NP RSMD, 2000. P. 75. [https://russiancouncil.ru/upload/iblock/692/sanctions\\_policy\\_2020.pdf](https://russiancouncil.ru/upload/iblock/692/sanctions_policy_2020.pdf)

of jurisdiction of the initiating countries does not eliminate the risk of applying “sanctions for violating sanctions” in the form of fines or other measures.

The sanctions policy is a clear indicator of an unbalanced international relations system, or (using a metaphor provided in a Valdai Club report) a “crumbling world.”<sup>14</sup> It erodes legitimacy, and the rules take on a situational dimension.

The modern world is at a crossroads. Sanctions are no longer imposed based on international rules and procedures, but have instead returned to the logic of national egotism and promoting the interests of individual countries. However, they have not yet entered a stage of tough confrontation, when exchanging restrictions causes major damage to the global economy. However, such a scenario cannot be ruled out in the future. Eroding global governance instruments for economic constraints and the growing number of unilateral measures are fraught with an escalation of sanctions between major economic players. This primarily applies to the United States and China. At best, this will lead to a transformation of the international financial system, its departure from the dollar domination and diversification around several economic growth centres. At worst, sanctions may escalate into a tougher form of confrontation. We know from history that sanctions were combined with the use of force on numerous occasions.

In this paper, we will look at the sanctions policy from the perspective of the UN, the United States, the EU, China and Russia. These players have different capabilities and experience. So far, the use of restrictive measures by them has not resulted in major tensions. However, the risks for individual companies, industries and countries are fairly significant already. The key question is about the strategies, approaches and capabilities of the key players and how far the escalation of sanctions can take them.

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<sup>14</sup> Barabanov Oleg, Bordachev Timofei, Lissovolik Yaroslav, Luk'yanov Fyodor, Sushentsov Andrey, Timofeev Ivan. *Living in a Crumbling World Annual Report*. Valdai International Discussion Club, 2018.: <https://valdaiclub.com/a/reports/living-in-a-crumbling-world/>

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# The United Nations' Restrictive Measures

Today, the UN is the only international organisation with the authority, legitimacy and ability to use sanctions on behalf of the international community. Strictly speaking, the concept of sanctions is not enshrined in UN documents. Usually, we are talking about restrictive measures against acts of aggression and resolving problems of peace and security. The possibility of applying such measures is included in Article 41, Chapter VII of the UN Charter. They include “a complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”<sup>15</sup> The decision on such measures is taken by the UN Security Council and is binding for all UN member countries. In the political and media parlance, the concept of sanctions is identical to restrictive measures. There are currently 14 UN sanctions regimes in force, and each one is coordinated by a separate sanctions committee. Most such committees are supported in their work by expert groups and the UN Secretariat.<sup>16</sup>

Functionally, the UN sanctions seek to achieve three major goals: to force the target country to change its policy, to deter possible aggression or other actions, or to send a message to the target country that its actions are unacceptable.<sup>17</sup> In almost all cases, the UN sanctions concern security issues: military conflicts, civil wars, genocide, non-proliferation of weapons of mass destruction, terrorism and others. Compared with the unilateral restrictions imposed by individual countries, UN sanctions are more depoliticised, that is, they are imposed in response to a real acute problem. The decision-making mechanism in the UN Security Council virtually eliminates the possibility of taking decisions based on a country's interpretation of particular actions or speculations, as is often the case with unilateral sanctions.

However, the UN mechanism has a number of shortcomings. There may be major disagreements among the Security Council members which make

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<sup>15</sup> UN Charter, Chapter VII, Art 42: <https://www.un.org/en/sections/un-charter/chapter-vii/>

<sup>16</sup> United Nations Security Council. 'Subsidiary Organs of the United Nations Security Council', 2020. URL: [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/subsidiary\\_organ\\_factsheets.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/subsidiary_organ_factsheets.pdf)

<sup>17</sup> Ex., Giumelli, F. 'The Purposes of Targeted Sanctions' in T. Beirsteker, S. Eckert and M. Tourihno (eds). *Targeted Sanctions. The Impacts and Effectiveness of United Nations Action*, New York: Cambridge University Press: 38–59, 2016.

working on resolutions difficult. Some UNSC members may disagree with an overly soft resolution, while others may disagree with it being overly tough. The UN staffing and financial shortages preventing deployment of large-scale sanctions programmes is another problem. The total number of members of committees and expert groups as well as Secretariat staff involved in individual programmes does not exceed several dozen people, if that. This may be enough for monitoring and preparing decisions, but not for comprehensive monitoring the progress of their implementation. Using restrictions is the member countries' responsibility. However, they do what they need to do with varying degree of effectiveness depending on the available resources or political will. Given these circumstances, even the best decisions may stall at the level of implementation by a particular country. Occasionally, large countries go as far as ignore the UN Security Council resolutions, as was the case with the Iran nuclear deal. President Donald Trump effectively ignored Resolution 2231 and unilaterally resumed sanctions against Iran contrary to other Security Council members' opinion.

In other words, the UN remains the single most important supranational source of sanctions, but large states are often unable to achieve their political goals using UN mechanisms. They need more efficient and effective measures that are in line with their interests. The UN limits "national egotism," which nonetheless remains a major foreign policy incentive in the modern world. So, unilateral sanctions are widely used in the political practice. They are imposed by a single country or a coalition in circumvention of the UN Security Council resolutions.

Unilateral sanctions include a wide range of tools, such as export and import restrictions, bans on technological cooperation or financial restrictions. Financial sanctions are the most important mechanism for exerting pressure today. Restricting banking transactions with a country, individual organisations or persons under sanctions may cause significant damage to other sectors of the economy that are connected with the outer world. Indeed, without financial mechanisms to support the transactions, they will either become unfeasible or substantially hindered. In addition, targeted sanctions have been widely used during the post-Cold War period.<sup>18</sup> The restrictions are imposed on individuals, organisations or sectors of the economy rather than the entire country. In theory, this cuts the costs for the country in general, but, in practice, the most important sectors are hit, so in effect targeted sanctions are often comparable to a full-scale blockade.

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<sup>18</sup> Ex., Drezner, D. 'Targeted Sanctions in a World of Global Finance', *International Interactions* 41: 755-764, 2015.

Sanctions should not be confused with trade wars. The former are initiated by governments and seek to resolve political problems. The latter are aimed at increasing competitive advantages of national producers, are often lobbied by businesses and use a different set of tools, such as tariffs or duties. However, today we can see cases when the initiating country tries to achieve market advantages through sanctions. The US sanctions against the Nord Stream 2 project are a case in point. The line between sanctions and a trade war is becoming increasingly blurred in the US-China relations as well. However, even in such cases, political motives are strong and are not limited exclusively to the economy.

Adopted in circumvention of the UN Security Council, unilateral restrictive measures can be used by a coalition of states. For example, the United States often tries to enlist the support of its allies. From the UN perspective, this internationalisation does not make sanctions more legitimate. Some countries occasionally seek to use the UN to internationalise their unilateral measures.<sup>19</sup> However, the process doesn't always go in the opposite direction. The UN efforts to alleviate unilateral sanctions amid the COVID-19 pandemic have yielded modest results. Even with the emergence of a global challenge, political motives for using sanctions did not recede into the background.

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## The United States and Sanctions: Ideology, the Dollar, and the Legal Framework

For the United States sanctions are an important part of its foreign policy toolkit. The current National Security Strategy published in late December 2017 defines sanctions as an element of deterring and limiting the potential of its rivals in the international arena.<sup>20</sup> Over the past 100 years, Washington has gained vast experience in imposing unilateral restrictive measures. The United States has used them more often than all other countries and international organisations combined.<sup>21</sup> Most sanctions programmes have been in place

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<sup>19</sup> Ex., Brzoska, M. 'International Sanctions Before and Beyond UN Sanctions', *International Affairs* 91 (6): 1339–1349, 2015.

<sup>20</sup> *National Security Strategy of the United States of America*. 2017. – P. 34. URL: <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

<sup>21</sup> Ex., Hufbauer, G., Shott, J., Elliott, K., Oegg, B. *Economic Sanctions Reconsidered. Third Edition*, Washington DC: Peterson Institute for International Economics, 2009.

for decades. US sanctions present a risk for its opponents and allies alike. In terms of the scope and extent of using sanctions, the United States has gone farther than any other country. There are a few things that set the US practice of restrictive measures apart.

**First.** The US sanctions policy relies on instrumental and ideological foundations. Instrumentally, it is designed to achieve specific foreign policy goals ranging from coercing a country to change its political course to blocking supplies of critical resources or technology to a target country. Sanctions are a cheaper and less risky way of exerting pressure as compared with the use of military force, but they can be quite damaging.<sup>22</sup> Also, they can be combined with the use of force whenever needed.

Sanctions have been used by many countries for many centuries now, but the US model is somewhat different. Along with the pragmatic goals of coercing and deterring, US sanctions have a regulatory (ideological) background. The concepts of democracy and human rights underlie the legitimisation of many sanctions programmes. Accordingly, changing the political regime in the target country in the interest of democracy and supporting democratically-minded opposition or protecting human rights are major ideological goals in addition to purely foreign policy goals.

The United States is positioning itself as a leader of the free world and is making its sanctions policy part of this arrangement. Promoting democracy is a priority in the US foreign policy, and sanctions are one of the tools used to achieve this goal. One may agree or disagree with this statement. However, it is important to know that this is more than a front to achieve pragmatic goals for the Americans. Ideology is an independent factor in their decision making. Often, it is based on pragmatic goals, but is occasionally fairly independent, especially when it comes to the use of sanctions by the US Congress. This means that achieving a diplomatic compromise on a particular issue with the United States can be subject to adjustment (if not devaluation) based on ideological principles.

**Second.** US sanctions have taken on a global nature. The American leadership in the global financial system allows it to use sanctions far beyond the United States. Using the US dollar for international payments opens up numerous opportunities for businesses around the world. Many third countries carry out international payments in dollars, and these

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<sup>22</sup> Ex., Hatipoglu, E. and Peksen, D. 'Economic Sanctions and Banking Crises in Target Economies', *Defense and Peace Economics* 29 (2): 171–189, 2018.

transactions go through the US banks' correspondent accounts. Accordingly, US regulators receive information about these payments and may impose restrictions on them if they involve sanctioned countries, individuals or organisations.

The Americans loosely interpret the concept of national jurisdiction and apply it to the regions beyond their country's borders. For example, it encompasses the US financial system with its global reach. The United States is the only country in the world that uses extraterritorial restrictions in the form of blocking or imposing fines on foreign individuals or companies that have broken the US sanctions regimes. In theory, foreign companies may be protected from the US regulators by their respective national laws. In practice, it will translate into major costs in the form of "excommunication" from the US market and, most importantly, international payments.

Today, any major bank, regardless of nationality, conducts international transactions in compliance with US laws in all matters related to sanctions. In other words, the US role in the global economy makes it possible for it to create situations where its restrictive measures can affect both US citizens and third-country nationals.<sup>23</sup>

**Third.** The United States has a large, well-organised and professional sanctions apparatus. It is operated by several departments: the Treasury Department, the Department of Commerce and the State Department.<sup>24</sup> They work in close contact with the National Intelligence and the Department of Justice since criminal prosecution for violating sanctions is fairly common. The United States is far ahead of other countries and international organisations in terms of its sanctions policies as they apply to the scope, the quantity and quality of human resources, as well as financial and logistical support. The legal framework for imposing restrictive measures has been put in place. The US approach stands apart by its thoroughly formalised use of sanctions and a transparent inclusion of existing approaches and practices in the national law. Congress plays an active and independent part in this, making occasional and major adjustments to the executive branch's actions. The judiciary has a wealth of practical experience of working with various aspects of sanctions. The analytical support also seems to be the strongest both at the level of academic research and numerous think tanks.

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<sup>23</sup> Ex., Restrepo Amariles, D. and Winkler, M. 'U.S. Economic Sanctions and the Corporate Compliance of Foreign Banks', *International Lawyer* 51 (3): 497–535, 2018.

<sup>24</sup> See more at United States Government Accountability Office. 'Report to the Committee on Foreign Affairs, House of Representatives: Economic Sanctions. Treasury and State Have Received Increased Resources for Sanctions Implementation but Face Hiring Challenges', 2020. URL: <https://www.gao.gov/assets/710/705265.pdf>

The research papers widely cover the sanctions' effectiveness. A view that many restrictive measures are ineffective is fairly common, because they often do not result in the sought-after change in the political course of the target country or its political regime. Moreover, sanctions can produce diametrically opposite results. The political regime may well become consolidated, and economic support (explicit or clandestine) may come from the "black knights," that is other large countries that provide assistance for political reasons or in an attempt to profit from the situation.

There's another angle to it, though. Regardless of the "black knights," sanctions cause actual harm to the target country in one way or another. Their effect builds up over time. It is multiplied by other factors, such as adverse economic circumstances. Target countries can resist US pressure for years. However, it's a whole different story for international business. Faced with fines or other measures taken by the US government, companies and banks try not to repeat violations and avoid sanctions risks. Paradoxically, even in the countries under sanctions, big business avoids violating US sanctions regimes, especially if it's involved in international projects or operates on the US market.<sup>25</sup>

In other words, the United States remains the world leader in terms of the sanctions' frequent use and effectiveness. The future of US hegemony in this area will depend on the policies of other major players, such as the EU, China and Russia.

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## European Union: Sanctions as an Alternative to Diplomacy and Weapons

Sanctions are almost an ideal foreign policy tool for the EU. The EU is now mature enough to pursue a consolidated and vigorous foreign policy. Soft power in the form of an attractive EU integration and partnership with the EU is no longer enough to support this level of development. Brussels' foreign policy toolkit is in need of effective enforcement mechanisms. Otherwise, its policy will be seen as mere recommendations by other countries and boil down to declarations and good intentions. However, the EU has not yet attained the capabilities of sovereign states in terms of creating its own armed forces

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<sup>25</sup> Ex., Ivan Timofeev. *Why are secondary sanctions effective? The experience of coercive measures by US authorities against US and foreign businesses.* // *International Trends*, No. 3 (17), 2020. – pp. 21–35.

and other hard power tools. The discussion revolving around the creation of the “European army” has been going on for several decades now. Currently, NATO remains the mainstay of Euro-Atlantic security, and the EU is acting as its junior partner. In addition, the EU has several major military powers among its members that are unlikely to be willing to part with their sovereignty in matters of security.

In a situation where the EU is now capable of conducting an active foreign policy, but has not yet become a major military player, sanctions have become an important foreign policy tool for several reasons.

**First**, the EU has a powerful and diversified economy. The economic power makes it possible to use sanctions. The greater the economic weight and the role of the initiator of sanctions in the global economy, the more significant the damage to the target country will be if trade or financial restrictions are introduced.

**Second**, sanctions come much cheaper as compared with the military force with fewer costs that are inconvenient for public politicians in democratic societies. In the event of hostilities, the costs are quite specific and come in the form of losses in blood and treasure, let alone the moral side of the matter. In case of sanctions, losses for the initiating countries are much more difficult to spot, and public opinion is less sensitive to them.

**Third**, sanctions are easier to approve as a consolidated political decision, especially when it comes to preventive or warning measures with a minimal economic effect.

**Fourth**, sanctions are a convenient tool for coordinating the EU and US policies. Their restrictive measures may differ, but they are symbolically important for the Euro-Atlantic unity.

**Fifth**, sanctions are important for domestic purposes. When diplomacy fails, and there’s no military might, sanctions can be used to show that at least something is being done to deal with problems.

The EU sanctions are imposed in more than 30 countries and sectors.<sup>26</sup> Brussels is doing a good job duplicating UN sanctions and is imposing its own unilateral measures, such as, for example, restrictions on Russia for Crimea and Donbass. However, Brussels has run into two problems.

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<sup>26</sup> *European Sanctions Map Project*. URL: <https://www.sanctionsmap.eu/#/main?checked=>

**Problem No.1:** implementing the sanctions. The member countries' governments are in charge of imposing them. They can do this at various speeds and with varying efficiency and take their national interests into account while doing so. The European bureaucracy does not yet have a tool that is comparable to the corresponding departments in charge of the US sanctions policy in terms of power, staffing and financial capabilities. Likewise, the EU does not have similar global financial intelligence or transaction tracking tools, because the euro's international role cannot yet be compared with the role of the US dollar. In other words, the EU is so far unable to transform its economic power into political opportunities. It lacks single governance mechanisms, single tools to enforce restrictions and a role that can be compared to the United States in terms of global finance and access to financial information.

**Problem No.2:** vulnerability to extraterritorial sanctions of third countries, primarily, the United States. Washington is actively using extraterritorial measures against foreigners to force them into compliance with the US-imposed regimes. In a number of areas, the US and EU regimes overlap. However, they differ when it comes to other aspects. Sanctions against Iran are a case in point. In 2018, the United States unilaterally withdrew from the Joint Comprehensive Plan of Action, or the Iran nuclear deal. Secondary sanctions hit a large number of European companies that managed to return to Iran after the JCPOA was concluded. To protect its companies, Brussels renewed the 1996 blocking statute. However, the EU businesses chose to leave Iran en masse threatened by crippling fines imposed by US regulators.

These fears were well founded. According to the Russian International Affairs Council (RIAC), the US Treasury imposed fines on 43 EU companies over the past 10 years for working in various jurisdictions under the sanctions (deals with Iran are the most common occurrence). This is relatively few compared to 215 companies that were fined by the US Treasury, of which 142 were US-based. However, of the total amount of \$5.657 billion worth of fines, the Europeans paid \$4.677 billion, or 82.39 percent. If you throw Swiss companies into the equation on the side of the EU, the asymmetry will be even greater at \$5.321 billion out of \$5.657 billion or 94 percent of the fines while 142 companies and individuals from the United States account for only \$182.35 million, or 3.26 percent.<sup>27</sup> This asymmetry is rather due to the European business' specifics (mainly, banks with their complex structure and a large number of transactions were hit by the sanctions),

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<sup>27</sup> Timofeev Ivan. "European paradox": US sanctions policy towards EU businesses. // *Contemporary Europe*, No. 2, 2020 (in print)

as well as the European business' belated response to the very threat of secondary sanctions.

Tough measures employed by US regulators have had their effect and European businesses, especially banks, are now very alert to the US legal provisions and prefer not to get involved in transactions that may lead to sanctions. Moreover, the EU courts are on the side of the banks. The lawsuit filed by Boris Rotenberg, who is under US sanctions, is a case in point. As a citizen of Finland, he tried to challenge, in the Helsinki District Court, the actions of four European banks that refused to service his transactions because of the risk of sanctions. The court sided with the banks.<sup>28</sup> This situation calls into question the EU sovereignty. It turns out that the European companies were forced to comply with the US sanctions, and they don't find convincing the protection guarantees issued by the EU. We are talking about overlapping sanctions imposed by the United States and the EU in the case of Rotenberg, which is not applicable to Iran.

The EU sanctions policy faces dilemmas of governance and sovereignty. Both dilemmas are recognised by EU leadership. They were included, for example, in a recent letter by European Commission President Ursula von der Leyen to Valdis Dombrovskis, the European Commissioner for Financial Stability, Financial Services and Capital Markets Union. "To support our economic sovereignty, I want you to develop proposals to ensure Europe is more resilient to extraterritorial sanctions by third countries. I want you to ensure that the sanctions imposed by the EU are properly enforced, notably throughout its financial system."<sup>29</sup> The new President of the European Commission transferred a significant part of the authority to use sanctions and to protect against them to the EU financial authorities, while previously the corresponding unit (Unit FPI.5) was part of the Service for Foreign Policy Instruments.<sup>30</sup> Most likely, Brussels will consolidate in its hands the sanctions enforcement tools. However, protecting European businesses from the US remains a big question. An equally big question is transformation of European economic power into effective sanctions. At least until the euro takes a more prominent role in global finance.

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<sup>28</sup> Pohjanpalo, K. and Laikola, L. 'Russian Billionaire Loses Lawsuit Against Nordic Banks'. Bloomberg, 2020. URL: <https://www.bloomberg.com/news/articles/2020-01-13/helsinki-court-rules-in-favor-of-banks-in-rotenberg-case>

<sup>29</sup> Leyen, von Der, U. Mission Letter to Valdis Dombrovskis, 2019. URL: [https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-valdis-dombrovskis-2019\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-valdis-dombrovskis-2019_en.pdf)

<sup>30</sup> European Commission 2019-2024. Allocation of Portfolios and Supporting Services, 2019. URL: [https://ec.europa.eu/commission/sites/beta-political/files/allocation-portfolios-supporting-services\\_en\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/allocation-portfolios-supporting-services_en_0.pdf)

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# China: Sanctions That “Cannot Be Named”

China is at the heart of the sanctions policy’s suspense. There are several China-related trends.

**First**, China is becoming increasingly active in the international arena. Beijing has significantly beefed up its economic and technological capabilities, which causes considerable concern in Washington. The attempts to restrain China’s growth will include exerting pressure on the country, including via sanctions.

**Second**, China boasts an impressive economic potential and can widely use its own restrictive measures. It can impose them to respond to anti-Chinese sanctions or to achieve individual goals.

**Third**, the Chinese economy’s influence on the global economy is increasing. Economic and trade interdependence with the United States remains strong. Therefore, the entire world will feel the pinch if Beijing and Washington choose to exchange massive sanctions.

This is not the first time China has been targeted by Western sanctions. Tough restrictions have been in force against it since the PRC was established in 1947, although the United States had been gradually softening them starting in the late 1960s amid the differences between China and the Soviet Union. A new surge occurred following the 1989 Tiananmen Square events. In the 1990s, the restrictions were softened again and remained in place only in the form of bans on weapons supplies and some dual-use products. The relevant US departments do not have a separate sanctions programme for China (to put this into perspective, there are at least three such programmes for Russia). The number of Chinese individuals and companies on the US sanctions regulators’ lists remains low.<sup>31</sup>

Nevertheless, more trouble is in the offing for China. First, Chinese telecom companies were the first to come under pressure. They were hit by secondary US sanctions for delivering products containing US parts to Iran. That

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<sup>31</sup> See Timofeev Ivan. *Asia Under Fire of US Sanctions*. Valdai International Discussion Club, 2018. <https://valdaiclub.com/a/reports/asia-under-fire-of-us-sanctions/>

was the case with ZTE, which ended up with huge fines that were paid to US regulators and restrictions on future operations.<sup>32</sup> The Huawei case was even more high-profile. It also began with accusations of supplies to Iran and could well have ended in fines. But the Trump administration opted for a tougher approach. Huawei was blacklisted by the Department of Commerce.<sup>33</sup> Even though the regulator promptly issued a general license allowing US companies to continue to deal with Huawei, the company found itself hanging. After all, a license can be cancelled at any point or simply not be renewed. To top it all, US prosecutors brought charges against Huawei and its managers. They are charged not only with conspiracy to circumvent sanctions against Iran and the DPRK, but also with attempted industrial espionage<sup>34</sup> (these accusations and claims against China have been heard for a long time at the level of rhetoric, publications and judicial trials).

The US-China differences in the communications sector escalated fairly quickly. The first state of emergency that gave the US president the right to impose sanctions was declared on April 1, 2015 (Executive Order 13694)<sup>35</sup> in connection with the alleged theft of the US citizens' personal data by Chinese hackers. However, the Barack Obama administration chose not to make a big deal out of it. Trump, on the other hand, adopted a more aggressive stance. His Executive Order 13873<sup>36</sup> introduced a state of emergency in connection with communications-related threats. Although China was not explicitly mentioned in the document, the executive order directly focused on the Huawei case. Washington also made significant diplomatic efforts in an attempt to convince its allies to sever business ties with Huawei and several other Chinese IT companies. In the United States, Congress banned government imports of equipment manufactured by this Chinese company under the National Defence Authorisation Acts (in 2018 for defence departments, and in 2019 for civilian departments).<sup>37</sup> Problems have affected other firms as well. For example,

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<sup>32</sup> U.S. Department of Commerce. 'Order Activating Suspended Denial Order Relating to Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications LTD', 2018. URL: [https://craftmann.ru/upload/medialibrary/99c/ZTE\\_Denial\\_Order.pdf](https://craftmann.ru/upload/medialibrary/99c/ZTE_Denial_Order.pdf)

<sup>33</sup> U.D. Department of Commerce, 2020. URL: <https://www.commerce.gov/news/press-releases/2019/05/department-commerce-announces-addition-huawei-technologies-co-ltd>

<sup>34</sup> U.S. Department of Justice (2020) 'Chinese Telecommunications Conglomerate Huawei and Subsidiaries Charged in Racketeering Conspiracy and Conspiracy to Steal Trade Secrets'. URL: <https://www.justice.gov/opa/pr/chinese-telecommunications-conglomerate-huawei-and-subsidiaries-charged-racketeering>

<sup>35</sup> Executive Order 13694 of April 1, 2015. URL: [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber\\_eo.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber_eo.pdf)

<sup>36</sup> Executive Order 13873 of May 15, 2019. URL: <https://www.federalregister.gov/documents/2019/05/17/2019-10538/securing-the-information-and-communications-technology-and-services-supply-chain>

<sup>37</sup> Public Law 115-91 – December 12, 2017. Section 1656. URL: <https://www.congress.gov/115/plaws/publ91/PLAW-115publ91.pdf> Public Law 115-232 – August 13, 2018. Section 889. URL: <https://www.congress.gov/115/plaws/publ232/PLAW-115publ232.pdf>

the Committee on Foreign Investment in the United States (CFIUS) blocked several Chinese companies' or related firms' attempts to acquire US businesses (in one case, President Trump personally blocked the purchase of the US semiconductor manufacturer Qualcomm upon the CFIUS recommendation).<sup>38</sup> The year 2019 saw a series of bills banning Chinese-made unmanned aerial vehicles (drones). The administration is working on an executive order on this matter.<sup>39</sup>

At the same time, pressure on China grew in the human rights area, as well, which could be seen from the sanctions imposed in the wake of the Hong Kong protests in 2019.<sup>40</sup> Although these restrictions can be considered a token gesture, they may expand in the future. China became the first country to have targeted blocking sanctions for defence cooperation with Russia imposed on its organisations and citizens under the CAATSA.<sup>41</sup> These measures applied to the bitter trade war between the United States and China as well.

The COVID-19 pandemic has significantly exacerbated the anti-China sentiments in the United States. The US authorities and politicians openly blame China for spreading the virus. Bills regarding sanctions against China in connection with COVID-19 have made it to Congress.<sup>42</sup> The number of lawsuits against China is growing. The lawsuit filed by the state of Missouri was among the most notable and may be followed by other states. COVID-19 has aggravated the already complicated relations between Beijing and Washington.<sup>43</sup>

All this is forcing China to revise its sanctions policy. For a long time, it has been using unilateral measures very selectively and carefully. Like

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<sup>38</sup> *Presidential Order Regarding the Proposed Takeover of Qualcomm Incorporated by Broadcom Limited of March 12, 2018*. URL: <https://www.whitehouse.gov/presidential-actions/presidential-order-regarding-proposed-takeover-qualcomm-incorporated-broadcom-limited/>

<sup>39</sup> Whittaker, Z. 'U.S. is Preparing to Ban Foreign-Made Drones from Government Use', 2020. URL: <https://techcrunch.com/2020/03/11/us-order-foreign-drones/>

<sup>40</sup> *Public Law 116-76 – November 27, 2019*. URL: <https://www.congress.gov/116/plaws/publ76/PLAW-116publ76.pdf>

<sup>41</sup> U.S. Department of Treasury. 'CAATSA-Russia Related Designations', 2020. URL: [https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180920\\_33.aspx](https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180920_33.aspx)

<sup>42</sup> For example, U.S. Congress. 'A Bill to Require Imposition of Sanctions with Respect to Censorship and Related Activities Against Citizens of the People's Republic of China', 2020. URL: <https://www.cruz.senate.gov/files/documents/Letters/ROS20262.pdf>

<sup>43</sup> U.S. District Court for the Eastern District of Missouri Southeastern Division. 'The State of Missouri v. The People's Republic of China et al.', 2020. URL: [https://www.courtlistener.com/recap/gov.uscourts.moed.179929/gov.uscourts.moed.179929.1.0\\_1.pdf?fbclid=IwAR1QXlx-9okdZDq\\_T-tbnzQtnAG\\_WkYSIPXGYbQEoU0rRcLx6vi-up8mKQdo](https://www.courtlistener.com/recap/gov.uscourts.moed.179929/gov.uscourts.moed.179929.1.0_1.pdf?fbclid=IwAR1QXlx-9okdZDq_T-tbnzQtnAG_WkYSIPXGYbQEoU0rRcLx6vi-up8mKQdo)

Russia, China operates on the premise that the UN Security Council has priority when it comes to imposing restrictive measures. However, as a major power with an extensive foreign policy agenda, it inevitably uses them.

China's sanctions policy has its own specifics.

**First**, China prefers to impose sanctions informally. Whereas the United States and the EU have their sanctions policies carefully formalised and specific state bodies are involved in imposing them, in China, restrictive measures are imposed by various regulators and are often not referred to as sanctions. This approach is less transparent as a diplomatic bargaining tool. However, it does provide Chinese diplomacy with certain flexibility.<sup>44</sup> Negotiating partners may know for sure that the sanctions have been imposed or may be imposed, but they don't really know by whom, when, using what procedures, and for how long.

**Second**, they use different tools. As a leader in the global financial system, the United States is widely using financial sanctions. The financial leverage is combined with trade restrictions. China relies primarily on the size and appeal of its market, as well as targeted trade restrictions. Blocking access to the national market is a fairly heavy measure, especially for major global companies. In addition, China has become a sizable lender. Loans and assistance can be both an incentive for cooperation and a tool for coercion. The Chinese authorities are using tools that are unconventional in the West, such as an informal boycott of products made by certain firms or manufacturing countries, travel restrictions on Chinese tourists and others.<sup>45</sup>

**Third**, until recently, China has been using these measures to a limited extent. They were applied in cases where fundamental national interests were directly affected, such as the Taiwan issue, deploying weapons near the state borders, attempts to exert influence on the domestic policies or territorial disputes. China could introduce countermeasures on a tooth-for-tooth basis, but far from always strived to keep them proportionate.<sup>46</sup>

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<sup>44</sup> See more Kashin V.B., Pyatachkova A.S., Krasheninnikova L.S. 'Chinese Policy of Applying Economic Sanctions: Theory and Practice' // *Comparative Politics journal* No. 2(11), 2020. – pp.123–138.

<sup>45</sup> Ex., Nephew, R. 'China and Economic Sanctions: Where Does Washington Have Leverage?' *Brookings Report*, 2019. URL: <https://www.brookings.edu/research/china-and-economic-sanctions-where-does-washington-have-leverage/>

<sup>46</sup> See Rosenberg, E., Harrell, P., Feng, A. 'A New Arsenal for Competition. Coercive Economic Measures in the U.S.-China Relationships'. *Center for New American Security Report*, 2020. URL: <https://www.cnas.org/publications/reports/a-new-arsenal-for-competition>

**Fourth**, Beijing (up until now) has preferred not to aggravate relations with major players, primarily, the United States. In their international activities, Chinese companies comply with the US sanctions regimes and rarely violate them. When it comes to fines, or even the US SDN list, Chinese firms try to talk with the US authorities and to accept the US terms.<sup>47</sup> Response measures have so far been introduced only in the case of harsh and undisguised pressure against Huawei. At the same time, China can exert greater influence on US allies or neighbouring countries, but again, only when fundamental foreign policy issues are at stake.

**Fifth**, China's sanctions policy has so far remained separated from ideology. At a time where the United States is promoting democratisation and human rights abroad, China is not supporting left-wing parties or political systems.

There are a number of interesting precedents related to China's restrictive measures. For example, in 1993, French companies failed to win the bid for building a subway in Guangzhou, since France was supplying fighter jets and warships to Taiwan. In 2019, Beijing threatened to impose restrictions on the US firms supplying arms to Taiwan.<sup>48</sup> China's rather effective move to ban international airlines from calling Taiwan a state or even a destination came as an interesting development in its dealings with the Taiwan issue.<sup>49</sup>

In response to the US actions during and after the Hong Kong protests, China imposed a ban on activities of a number of US non-profit organisations (National Endowment for Democracy, Freedom House and Human Rights Watch). A tweet by the general manager of the Houston Rockets basketball club, Daryl Morey, in support of the protesters resulted in the revocation of broadcasting rights to China and a loss of \$7 million. The French BNP apologised publicly after posting words of support for the protesters on its page in social media. Czech businessmen were warned through the Czech ambassador to China about possible restrictions in case of a visit to Taiwan in the company of a Czech parliamentarian.<sup>50</sup>

A number of measures have been taken in response to restrictions against Huawei. According to various sources, Chinese regulators threatened to close

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<sup>47</sup> Ex., Timofeev Ivan, *Asia Under Fire of US Sanctions*. Valdai International Discussion Club, 2018. <https://valdaiclub.com/a/reports/asia-under-fire-of-us-sanctions/>

<sup>48</sup> Kashin V.B. et al. 2020. *Op.cit.*

<sup>49</sup> Harrell et al. 2020. *Op. cit.*

<sup>50</sup> Harrell et al. 2020. *Op. cit.*

entry to the Chinese market to the firms that would comply with US regulators' orders regarding Huawei. After Australia announced its plans to ban Huawei equipment to be used in 5G systems in 2019, several Chinese ports cut down the amount of incoming Australian coal. Germany was facing similar prospects, but involving retaliatory measures against German automakers. With the Huawei case in place and the arrest in Canada of the company's financial director Meng Wanzhou, China almost stopped importing a number of agricultural products from Canada. Two Canadian citizens were arrested. The Huawei case led to a number of more fundamental changes. China stepped up its efforts to develop its own software in order to reduce dependence on the United States or the need to search for alternative suppliers. Government agencies and institutions must replace foreign computer equipment within three years.<sup>51</sup>

Informal restrictions on Chinese tourism to South Korea and targeted measures against a number of large Korean companies came as a response to South Korea's plans to deploy a THAAD missile interception system. Tourism restrictions alone cost Korea \$15.6 billion. As a result, Seoul agreed to strike a compromise.<sup>52</sup>

Restrictions were imposed on other neighbours, such as Japan and the Philippines (territorial dispute), Norway and Sweden (support for Chinese dissidents), Mongolia (protest against Dalai Lama visits) and others.<sup>53</sup>

In the event of a sharp escalation by the United States, China is capable of scaling up its response. For example, Beijing may restrict exports of rare earth metals or use its position as a major US lender. However, both these steps will damage China and international markets alike. In all probability, China will fine-tune its sanctions policy in the near future based on new political realities, technological capabilities for monitoring economic activity at home and abroad, as well as its role in the global economy.

The US dominance in the global financial system is China's greatest challenge. China will remain vulnerable to US financial sanctions until it builds an alternative system or subsystem. However, this will require enormous resources, political will and time. The risk of mutual losses may, until a certain point, hold back the rivalry between Beijing and Washington and prevent radical sanctions against each other.

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<sup>51</sup> Harrell et al. 2020. *Op. cit.*

<sup>52</sup> Harrell et al. 2020. *Op. cit.* Hurrell, P., Rosenberg, E. and Saravalle, E. 'China's Use of Coercive Economic Measures'. Center for New American Security Report. URL: <https://www.cnas.org/publications/reports/chinas-use-of-coercive-economic-measures>

<sup>53</sup> Kashin V.B. et al. (2020) *Op.cit.*

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# Russia: “Sanctions from Hell” and Potential Counter-Sanctions

Russia has an unusual role to play in the global sanctions politics. On the one hand, the United States, the EU and several other countries imposed fairly tough sanctions on Russia after 2014. On the other hand, its own arsenal of sanctions and their practical use are still limited. Russia's economic potential cannot be compared to that of China. Russia needs to fine-tune its policy, maximise the use of its limited resources and be strong enough to be reckoned with internationally.

During almost the entire 20th century, Russia was under foreign sanctions. The country found itself in the grips of a trade and technology blockade from the time the Soviet power was first established. The process was fairly uneven. The restrictions were relaxed when the initiators critically needed the markets (the Great Depression) or allies, such as during World War II. However, with the onset of the Cold War, sanctions made it back to the arsenal of relations with Russia. The Soviet Union had a single universal response to sanctions: developing its own industry, technology, workforce and modern economy. In many ways, this challenge was successfully overcome, including by way of limited cooperation with the West. At least, the Soviet Union collapsed when the economy opened up and sanctions were lifted, not during the blockade. The Soviet Union imposed restrictions as well, but did so much less frequently than the United States.<sup>54</sup> It acted as a “black knight” much more willingly and supported the countries under Western sanctions.

Compared to the Soviet period, sanctions against Russia in the wake of the Ukraine crisis of 2014 were imposed in wholly different circumstances. The country remains closely integrated into the global economy and financial system. Self-reliance is possible and even desirable in a number of strategic sectors. However, a large-scale transition to using domestic resources is impossible today, plain and simple. Nevertheless, increasing competition in international relations will dictate such a need. The United

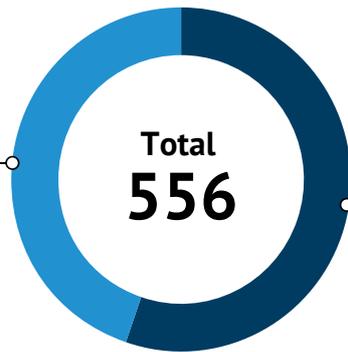
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<sup>54</sup> See database of the above paper by Hufbauer et al. 2009. *Op.Cit.*

SANCTIONS AGAINST INDIVIDUALS AND LEGAL ENTITIES FROM RUSSIA

Currently, the US Treasury’s sanction lists include 556 individuals and legal entities from Russia

**250** legal entities are on the list of sectoral sanctions



**306** individuals and legal entities are on the SDN list (under blocking sanctions)

Distribution of individuals and legal entities under US sanctions programmes



States and China prioritise their domestic production in a number of critical industries, primarily information technology and communications, and are doing their best to stop being dependent on each other. It appears that Russia will have to do the same and combine maximum reliance on its limited resources with maneuvering between the power centres or forging an alliance with one of them. This is a long-term perspective, but preparations must be made now, at least, in the strategic sectors that are critical to national security.

Ironically, close integration into the international division of labour and globalisation itself helped Russia alleviate the impact of the sanctions. The damage to the Russian economy caused by the sanctions remains the subject of fierce debate. It is difficult to estimate this damage as a separate factor that affects growth or stagnation.<sup>55</sup> Without a doubt, the sanctions caused some damage or exacerbated the impact of other negative factors, such as, for example, oil price fluctuations in 2014 and 2020. However, another factor needs to be considered. Blocking sanctions have not been imposed (except once as of this writing) on critically important Russian energy or financial companies. Indeed, they have been subjected to a set of sector-specific restrictions in a narrow technology segment and lending. This complicates Russian companies' operations, especially since these measures are also damaging their reputation. However, these sectors were not subjected to blocking sanctions. That is, they continue their export-import operations with their foreign partners as usual.

To date, the US Department of Treasury's sanctions list includes 556 individuals and legal entities from Russia. Of these, 250 legal entities are on the sectoral sanctions list (Executive Order 13662), that is, so far the restrictions have been fairly tolerable. Blocking sanctions, implying a ban on interaction, were imposed on 306 individuals and legal entities, of which 150 are related to Ukraine. Most of the blocked companies are from the defence or technology sectors and engage in manufacturing dual-use products. The SDN list includes a smaller number of companies blocked for violating US sanctions or interacting with Cuba, Syria, North Korea or Venezuela, including even subsidiaries of major Russian companies (for example, two Rosneft subsidiaries). But neither Rosneft, nor other Russian blue chips have been blocked yet.

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<sup>55</sup>For the discussion on sanctions damage calculations see: Ivan Timofeev. *Sanctions on Russia: escalation trends and counter policies.* // – M. RIAC reports, No. 37, 2018.

The anti-Russia “sanctions from hell” have long been discussed by the initiating countries. They boil down to the US DASKA and DETER bills.<sup>56</sup> An analysis of the expediency of measures against the Russian sovereign debt obligations made mandatory Article 242 of the CAATSA law, which is well known in Russia.<sup>57</sup> However, the US executive branch chose not to impose the “sanctions from hell.” Of course, this was not done out of love for Russia: Congress and the administration share a tough anti-Russian stance. The opinion about an “anti-Russian Congress” and an administration that is “loyal” to Russia is wrong and dangerous. The sanctions were not imposed due to possible losses for the US economy and international markets. The US Treasury Department described the potential costs of imposing sanctions on sovereign debt obligations<sup>58</sup> and the State Department estimated the losses from DASKA.<sup>59</sup>

As mentioned earlier, massive blocking sanctions were imposed only once, on April 6, 2018, when, under pressure from Congress and amid a scandal focusing on Russia’s alleged interference in the 2016 US elections, a number of major Russian companies (Rusal, En+, EuroSibEnergo and others), as well as a number of businesspeople from the earlier Kremlin list came under sanctions.<sup>60</sup> However, the premature nature of such a step was clear, since a number of blocked firms were closely integrated with the global economy and were systemic global companies. Later, some of them saw the sanctions lifted (conditional on ownership restructuring),<sup>61</sup> while others have been issued general licenses that allow them to conduct international activities, even though they are left hanging in the air.

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<sup>56</sup> U.S. Congress. ‘Defending American Security from Kremlin Aggression Act of 2019’, 2019. URL: <https://www.congress.gov/bill/116th-congress/senate-bill/482/text>

<sup>56</sup> U.S. Congress. ‘To Deter Foreign Interference in United States Elections, and for other Purposes’, 2019. URL: [https://www.rubio.senate.gov/public/\\_cache/files/848643fd-db7a-447a-8db0-aca2e080f555/CA616C85336870AEF1D5DC78D3980515.20190403-vanhollen-rubio-deter-act-as-introduced.pdf](https://www.rubio.senate.gov/public/_cache/files/848643fd-db7a-447a-8db0-aca2e080f555/CA616C85336870AEF1D5DC78D3980515.20190403-vanhollen-rubio-deter-act-as-introduced.pdf)

<sup>57</sup> Public Law 115 – August 2, 2017. URL: [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364\\_pl115-44.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl115-44.pdf)

<sup>58</sup> U.S. Treasury. ‘CAATSA Section 242 Report on Russian Sanctions’, 2018. URL: <https://publicintelligence.net/ustreasury-russia-sanctions-2018/>

<sup>59</sup> U.S. Department of State. ‘Views of the Administration Regarding the Amendment in the Nature of Substitute (ANS) to S.482 Defending American Security from Kremlin Aggression Act of 2019 (Daska)’, 2019. URL: <https://www.documentcloud.org/documents/6585483-DASKA-Letter.html#document/p2>

<sup>60</sup> U.S. Treasury. ‘Ukraine/Russia-related Designations and Identification Update’, 2018. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180406.aspx>

<sup>61</sup> U.S. Treasury. ‘OFAC Delists En+, Rusal, and EuroSibEnergo’, 2019. URL: <https://home.treasury.gov/news/press-releases/sm592>

In other words, the “sanctions from hell” are unlikely to be imposed in the future without a really important reason. In this regard, Russia and China are benefitting from integration with the global economy. But in the long run, this interdependence does not make them sanctions risk-free. Restrictions may be imposed gradually and take time. Therefore, adaptation to them will be needed in any case.

The new international reality will inevitably make Russia think about using restrictive measures in its foreign policy arsenal. Moscow has for a long time been reluctant to initiate sanctions. It followed a similar model to China. Russia adheres to the principle of supremacy of the UN Security Council when it comes to making decisions about imposing restrictive measures. It used sanctions indirectly by way of imposing market restrictions (for example, for Georgian-made products after the 2008 conflict) or enforcing sanitary standards. Russian counter-sanctions imposed after 2014 were proportionate and, as a rule, came as a response to the restrictions imposed on the country. Basically, they came down to restricting market access (for example, the well-known food embargo). There are not so many retaliatory measures in Russia’s arsenal due to the relative – compared to the United States or the EU – economic weakness. However, in narrow segments, Russia’s restrictions are still biting. The same applies to restrictions imposed on certain countries in the post-Soviet space, primarily, Ukraine.

Moscow believes that going too far with retaliatory measures is not a good choice as it may be bad for its economy and quality of life. The federal law of July 4, 2018 (No. 127-FZ)<sup>62</sup>, in fact, passed the initiative to impose sanctions to the President and the executive branch, giving them some leeway depending on the situation. The Russian authorities were in no hurry to amend the Criminal Code and include in it criminal prosecution for compliance with the Western-imposed sanctions.<sup>63</sup> However, they adopted a series of measures in the event of a financial blockade: created the Mir national payment system, the system for transmitting the Bank of Russia’s financial messages, and diversified national currency reserves.

Strictly speaking, Russia’s full-fledged sanctions mechanism is still in the making. Until 2014, it was mainly based on the Federal

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<sup>62</sup> Federal law of June 4, 2018 No.127-FZ <https://rg.ru/2018/06/06/kontrsankcii-dok.html>

<sup>63</sup> State Duma of the Russian Federation. Draft law No. 464757-7, 2018. [http://asozd2c.duma.gov.ru/main.nsf/\(Spravka\)?OpenAgent&RN=464757-7](http://asozd2c.duma.gov.ru/main.nsf/(Spravka)?OpenAgent&RN=464757-7)

Law No. 281-FZ On Special Economic Measures and Coercive Measures<sup>64</sup> of December 30, 2006. New circumstances called for new mechanisms. In particular, the External Restrictions Control Department was established at the Finance Ministry and has already done a great job systematising restrictive measures.

Russia is only beginning to create a full-fledged sanctions policy mechanism. A number of steps will have to be taken to improve it. One of the most important ones is to develop legislative practice regarding sanctions in both houses of the Russian parliament. To do so, a major training effort will need to be deployed at the State Duma and the Federation Council.

At the level of the executive branch, it will be necessary to make the Finance Ministry's achievements available to other departments and create at least some basic bodies in them to deal with the sanctions issue. Similar small groups (at the level of directorates or departments) should be set up at the Foreign Ministry, the Ministry of Economic Development and the Ministry of Industry and Trade.

Russia needs to expand its law enforcement practice and the national sanctions compliance mechanism at the level of administrative law and criminal law. Here, it will be necessary to find the middle ground between the need to effectively apply existing standards and to maintain a favourable investment climate. These tools cannot be turned into arbitrary reprisals at the discretion of the executors, but their absence devalues the restrictions regimes.

The Russian doctrine of using sanctions remains an open question. When should we impose them and against whom? How should we coordinate our actions with our allies and partners? This doctrine could be included, for example, in Russia's Foreign Policy Concept.

Finally, an extensive training and research base is needed, without which one can hardly count on adequate expertise and professional workforce that are so badly needed in Russia's foreign policy.

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<sup>64</sup> Federal law of December 30, 2006 No. 281-FZ. <http://base.garant.ru/12151317/>

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# In Place of a Conclusion. Indicator of Change

The policy of sanctions is a dramatic indicator of change in the “crumbling” modern world. National egotism, the pursuit of one’s own interests and survival in the face of external pressure have become one of the key behaviour standards. The UN-based global governance tools, on the contrary, are being eroded. “National” models of the sanctions policy are being formed.

Yet, it is premature to talk about sliding into “anarchy” or “war of all against all” as an irreversible process. Even the most powerful initiators of sanctions want their decisions to be legitimised by the UN Security Council. At the very least, they are trying to combine their actions with the decisions of the key global governance institution.

The interdependence and globalisation of the modern world have come so far that a sharp escalation of sanctions will entail grave consequences for both the initiating countries and the target countries. There will be a price to pay both in the case of escalation between large economies such as the United States and China, and in the case of radical measures taken against Russia with its relatively small input in the global economy.

The signs of “securitisation” of the economy, the attempts to become self-reliant and move away from globalisation in some strategic areas can be seen already today. The question is how far this autonomy can go. How far are major powers ready to go in their competition? What is the limit of their sensitivity to economic losses as they attempt to achieve political goals or considerations of prestige? The policy of sanctions is just one side of the global processes. History knows many instances when political will prevailed over economic reasons. And those were the times of extremes and great losses.

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