Sanctions on Russia: Are They Working, Workable, and Worth It?

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Abstract

Russian actions in Ukraine led to sanctions being imposed by the European Union, the United States, and several other countries. There is little evidence to date that these sanctions have had significant effect on Russia's economy or behavior. But the question of effectiveness is far from simple. This article addresses why effectiveness has been limited – is it a matter of scope, enforcement, or priority? What is meant by effectiveness in this context and what would it look like? The article will also look at the design of the sanctions – what effects if any were they meant to have and were they ever meant to have an economic impact? Is there evidence of sanctions evasion by Russia or are the volumes of affected trade so low as to make enforcement measures insignificant? If there is a political will to increase enforcement or to use sanctions as part of a policy to restrain Russian aggression, how might such aims be achieved? The article will engage systematically with existing literature, dealing both with the theory of sanctions and on studies undertaken on the subject of sanctions effectiveness, trade data and licensing statistics, and European Union reporting.

Keywords

Russia, sanctions, Office of Foreign Assets Control (OFAC), European Union, Ukraine

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Introduction

Following Russian intervention in the Ukrainian crisis in early 2014, sanctions were imposed on Russia by the European Union, the United States, and several other international partners. These sanctions have the stated objectives of hindering Russia's ability to legitimize its annexation of the Crimea and encouraging Russia to implement the Minsk Accords – the peace deal covering the Donets Basin region of East Ukraine.

Additional sanctions were imposed on Russia by the U.S. in retaliation for alleged interference in the 2016 U.S. election and these were further strengthened by the Countering America's Adversaries Through Sanctions Act (CAATSA) in 2017, and again in 2018 by the designation of various Russian oligarchs and officials. Sanctions were also imposed by the United Kingdom and 28 of its allies in response to the poisoning of Sergei Skripal and his daughter.

Lone voices, such as that of Liubov Nephop, currently Ukraine's ambassador to Hungary, claim that sanctions have curtailed Russian aggression and affected its economy.[2] Russia's economy has evidently experienced a downturn since 2014, but that may reflect the low price of oil rather than any effect of sanctions. Reluctance voiced by officials in Germany, Italy, and other EU Member States to maintain the EU's sanctions on Russia suggest that it is the EU, rather than Russia, that has suffered the more.

Russia's role as an energy supplier affects sanctions in four ways. First, oil and gas comprise the majority of Russia's exports and these are relatively untouched by the sanctions. Second, Russia's major oil and gas customers include those in the EU who are imposing the sanctions, leading to a clear conflict of conscience. Third, the restriction on the export to Russia of oil industry equipment is inconsistent with the EU's continued dependence on Russian oil. Fourth, Europe's future energy security may depend on a cooperative relationship with Russia that would be inconsistent with effective implementation of sanctions.

The political and economic interdependency of Russia with the rest of the world makes effective implementation of sanctions extremely challenging and raises the question of whether the sanctions were ever intended to have an economic impact.

Sanctions are by no means universally recognized as a useful tool of foreign policy. While Hufbauer, Schott, and Elliot calculated a success rate of nearly 35% for economic sanctions, this figure was questioned by Pape, whose re-examination of the same cases concluded a much

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2 Nephop expressed this view in an interview with The Budapest Times in November 2016: "I agree that sanctions have not yet achieved the desired result but I am convinced that they helped to stop the attack. If we want to increase their effectiveness, we must strengthen them. Recently Russia's President Putin requested Washington to lift the sanctions and compensate losses. What more proof is required that the sanctions are working?" The full text can be found at "Interview of Ambassador of Ukraine Liubov Nepop to Hungarian Newspaper 'The Budapest Times,'" Embassy of Ukraine in Hungary, November 26, 2016, <https://hungary.mfa.gov.ua/en/embassy/ambassador/interviews/5025-ugorshhino-nam-potribna-tvoja-dopomoga-intervju-posla-lyubovi-nepop-ugorsykij-anglomovnij-gazeti-the-budapest-times>.

lower rate of around five percent.[3] Opponents also point to the disproportionate effects felt by vulnerable, innocent parties – some analysts attributed over half a million child deaths in Iraq to the effects of sanctions. The Iraq experience is considered to have led to the development of smart, or targeted sanctions designed to target individuals deemed responsible for the offence, while sparing the innocent as far as possible.

In the case of the sanctions on Russia, all actors have broadly applied sanctions in a targeted manner through travel bans, asset freezes, lists of designated individuals, and restrictions on specific economic sectors. In this respect, the world builds on its previous experience – good and bad. Yet Russia is a special case, limiting the value of precedent: first, it is a powerful state, able to withstand economic pressures, particularly those designed to have low impact on the general public. Second, it is an oligarchy, in which the interests of big business cannot easily be separated from those of the state. Third, much of Europe depends on Russian energy.

Galtung, Taylor, Giumelli, and others have examined the purpose and value of sanctions in general, and how to measure their effectiveness. Galtung pointed to the symbolic purpose of sanctions alongside any desired change of behavior in the target country.[4] Taylor placed sanctions as part of the wider strategies that states must play, arguing in effect that they are designed as much to influence allies and partners as the targeted states.[5] Giumelli outlined three main purposes for sanctions: coercion, constraint, and signaling.[6] Evidently it is only by understanding the objectives of the sanctions – beyond the detail of the designation lists themselves – that we can assess how effective they have been.

It is perhaps to these less obvious impacts that we should look given that Russia clearly has not yet buckled under the weight of sanctions and acceded to EU and U.S. demands on Ukraine. Yet this article will also try to explain why the effects so far have apparently been so limited and examine what options might be available to the U.S., EU, and their allies, if there is political will, to influence Russian behavior.

The level of political will is difficult to gauge, particularly as it is subject to fluctuation in response to events. Sjursen and Rosen saw an unexpected cohesion and solidarity in the EU's collective imposition of sanctions. Yet as the Ukraine conflict looks increasingly intractable, such cohesion will be increasingly tested: first if Member States perceive that their national interests are at odds with the Common Position and second whether the Common Position itself

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3 Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberley Ann Elliott, *Economic Sanctions Reconsidered,* Second Edition, Vol. 1: History and Current Policy; Volume II: Supplemental Case Histories (Washington, DC: Institute for International Economics, 1990); Robert Pape, "Why Economic Sanctions do Not Work," International Security, Vol. 22, No. 2 (1997), pp. 90-136.

4 Johan Galtung,"On the Effects of International Economic Sanctions, With Examples from the Case of Rhodesia," World Politics, Vol. 19, N. 3 (April 1967), pp. 378-416.

5 Brendan Taylor, *Sanctions as Grand Strategy* (London: International Institute for Strategic Studies, 2010).

6 Francesco Giumelli, *Coercing, Constraining and Signalling: Explaining UN and EU sanctions after the Cold War (*Lanham: Rowman and Littlefield International, 2011).

is tenable.[7] The unintended consequences are also relevant – even if the targeted sanctions are smart enough to prevent unnecessary hardship among the Russian public, they cannot prevent China from moving into the vacuum left by the EU and its allies.[8]

In terms of its structure, the article first summarizes the scope and detail of the sanctions, and how they have evolved, mostly drawing on official U.S. and EU sanctions documentation. Using the same sources, as well as official statements surrounding them, the article then examines the intent behind the sanctions. It then turns to the question of how effective the sanctions have been. To do so, the author looks in some detail at the theories and history of sanctions, and applies these, where possible, to the sanctions on Russia. This is followed by a detailed examination of published trade figures for Russia, EU, and others, as well as licensing statistics, to attempt to reach a view to how much impact there has been on the Russian economy and that of its trading partners.

The article then explores the challenges facing effective sanctions implementation, drawing out the counter-pressures that Russia can exert and the risks of sanctions evasion. Particular attention is given to EU Member States' ongoing need for Russian oil and gas. From there, the article proposes steps that might enhance the effectiveness of the sanctions.

The Scope and Detail of Sanctions

The EU introduced a range of measures from March 2014 onwards, all of which remain in place. These comprise: an asset freeze and travel ban on 155 named people and 44 named entities for actions which "undermined Ukraine's territorial integrity, sovereignty and independence," an asset freeze on named individuals deemed to have embezzled money from the Ukrainian state; restriction of imports from, and exports to, Crimea and Sebastopol; and economic sanctions against Russia which limit the access of Russian banks and companies to EU markets, ban the trade in arms, ban the export of dual-use goods to Russia, and restrict sales to Russia of specialist oil industry equipment; and restrictions on economic cooperation.[9]

The EU built into these sanctions the conditions under which they would be lifted, stating its readiness to reverse its decisions and reengage Russia if the latter began actively and unambiguously to seek a solution to the Ukrainian crisis. Specifically, the duration of the economic sanctions was linked to Russian implementation of the Minsk Agreements.[10]

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7 H. Sjursen, G. Rosén, "Arguing Sanctions: On the EU's Response to the Crisis in Ukraine," *Journal of Common Market Studies*, Vol. 55, Issue 1 (2017).

8 Peter Rutland, "The Impact of Sanctions on Russia," *Russian Analytical Digest*, No. 157, (December 17, 2014), p 7.

9 "EU Restrictive Measures in Response to the Crisis in Ukraine," European Council, <http://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/>.

10 The following page, which is updated by the EU, gives up-to-date details on the details of the EU's restrictive measures. "EU Sanctions against Russia over Ukraine Crisis," European Union Newsroom, <https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis_en>.

In March 2014, the United States imposed asset freezes and travel bans against unspecified individuals who had "asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine," destabilized Ukraine, or contributed to the misappropriation of its assets.[11]

In April 2014, the U.S. imposed a transactions ban on seven Russian individuals and 17 Russian companies (mainly energy companies and banks). In July 2014, major energy firms Rosneft and Novatek and major Russian banks Gazprombank and Vnesheconombank were added to this list. Sectoral sanctions in September 2014 added numerous energy companies, including Gazprom and Lukoil, to the Office of Foreign Asset Control's list of Specially Designated Persons. [12]

Canada, Japan, Australia, and several European non-EU countries imposed sanctions around the same time. Iceland, Albania, Montenegro, Moldova, and Norway largely mirrored the EU measures while Ukraine drew up a more comprehensive list of Russian companies and individuals, a list which it has continued to expand up to the present day, and which, as of June 2018, stood at 1,762 individuals and 786 entities.[13,14]

The Stated Grounds and Intent Behind the Sanctions

To assess the effectiveness of the measures against Russia it is important to examine what the stated intended effects were, then to look for ways to examine how far these have been achieved. It will also be necessary to examine what is meant by "effective" in this context.
Statements issued by the countries imposing the sanctions at the time point to different agendas among them.

The sanctions imposed on Russia since 2014 are unusual in that they have been imposed by a variety of different actors, at various times, in response to a range of different events. The sanctions have cited various Russian offences against the norms of international law. The result is an amorphous collection of measures - the "sprawling catalogue of sanctions" criticized by Wolfgang Büchele, chairman of The Eastern Committee of the German Economy - imposed for

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11 "Executive Order -- Blocking Property of Certain Persons Contributing to the Situation in Ukraine," The White House, March 6, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/03/06/executive-order-blocking-property-certain-persons-contributing-situation>.

12 The persons and entities added to the US Treasury's Specially Designated Nationals List on April 28, 2014 can be found here: "Ukraine-related Designations, OFAC, <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140428.aspx>. The persons and entities added to the SDN List on September 12, 2014 can be found here: "Ukraine-related Sanctions," OFAC, <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140912.aspx>.

13 Radio Free Europe reported new Ukrainian sanctions against Russia. https://www.rferl.org/a/poroshenko-enacts-new-sanctions-against-russia/29234864.html, accessed 28 November 2018.

14 Ukraine's Council of National Security and Defense issued a statement on 22 June 2018 giving details of the latest presidential decree expanding sanctions. The statement is reported at <https://www.reuters.com/article/us-ukraine-russia-sanctions/ukraine-extends-its-russian-sanctions-list-idUSKBN1JI0F9>.

a range of reasons.[15] The following lists illustrate this.

List of senders

- United States
- European Union
- Ukraine
- Norway
- Albania
- Montenegro
- Australia
- Canada
- Japan
- Moldova

List of offences cited as grounds for restrictive measures/sanctions

- Annexation of Crimea
- Misappropriation of Ukrainian funds
- Undermining the democratic processes and territorial integrity of Ukraine
- Interference in US elections
- Activities of Russian special services in cyberspace
- Use of nerve agent in Salisbury, UK.
- Support for the Assad regime in Syria

List of measures

- Travel bans
- Asset freezes
- Arms embargo
- Ban of dual-use exports to Russia
- Restrictions on exports of oil industry equipment.
- Financial measures against selected Russian banks

Section 2A: EU Sanctions on Russia

From March 2014 onwards, the EU has been clear in linking its restrictive measures to the "illegal annexation of Crimea and Sevastopol" and to "actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine." Albania, Montenegro, and Norway quickly aligned themselves to the EU's position.

In Council Decision 2014/145/CFSP of March 17, 2014, the European Union adopted its first "restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine." These measures comprised travel bans and asset freezes applied to named officials deemed to have been involved in Russia's annexation of Crimea and Sebastopol.[16]

The EU clarified the general intent behind its restrictive measures in April 2014. A factsheet issued by the European Council stated that

> *"Sanctions are one of the EU's tools to promote the objectives of the Common Foreign and Security Policy (CFSP): peace, democracy and the respect for the rule of law, human rights and international law.*

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15 Ostaussschuss der deutschen Wirtschaft (OA).

16 "*Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*," European Council, March 17, 2014, <https://eur-lex.europa.eu/eli/dec/2014/145(1)/oj>.

> *They are always part of a comprehensive policy approach involving political dialogue and complementary efforts. EU sanctions are not punitive but designed to bring about a change in policy or activity by the target country, entities or individuals. Measures are therefore always targeted at such policies or activities, the means to conduct them and those responsible for them. At the same time, the EU makes every effort to minimize adverse consequences for the civilian population or for legitimate activities."*[17]

The EU's stated principle of using sanctions as a tool of foreign policy appeared to be borne out when, in March 2015, it linked economic sanctions to the complete implementation of the Minsk Agreements.[18] The economic sanctions (limiting access to capital, introducing an arms embargo, banning export of dual-use goods, and restricting the export of oil industry equipment) had already been in place since July 2014, but linking them to the Minsk Agreements underlined their targeted foreign policy function.

According to the European External Action Service (EEAS), full implementation was anticipated by the end of 2015.[19] When Russia failed to implement, the European Council extended the sanctions for a further six months – and has continued to do so every six months since.

Francesco Giumelli's definition of the aims of sanctions, as being to coerce, constrain or signal, may be usefully applied in this case.[20] The travel bans and asset freezes do not appear to have a coercive role; they are unlikely to coerce the named individuals, even less the Russian state, into any position of compliance. Elements of constraint and signaling, however, are both discernible: constraint, in that officials involved in what the EU publicly holds to be offences against international law are impeded from realizing their pretensions on the international stage; signaling, in that these are a concrete means for the EU to express its internal unity, its solidarity with Ukraine, its disapproval of Russia's actions in Ukraine, and its support for the norms of international law.

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17 "Factsheet: EU Restrictive Measures," Council of Europe, April 29, 2014, <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/135804.pdf>.

18 The Minsk Protocol was signed on September 5, 2014. The full text is available here: "Protocol on the Results of Consultations of the Trilateral Contact Group," September 5, 2014, <https://mfa.gov.ua/en/news-feeds/foreign-offices-news/27596-protocolon-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014>. A revised text was agreed on February 15, 2015, referred to variously as the Minsk II agreement and the package of measures for the Implementation of the Minsk Agreements for which the full text is available here: <https://peacemaker.un.org/sites/peacemaker.un.org/files/UA_150212_MinskAgreement_en.pdf>.

19 The European External Action Service (EEAS) is the EU's diplomatic service responsible for helping shape and carry out the EU's Common Foreign and Security Policy (CFSP). Its account of the EU's restrictive measures on Russia is found here: "EU Restrictive Measures in Response to the Crisis in Ukraine," EEAS, <https://eeas.europa.eu/delegations/russia_en/30963/EU%20restrictive%20measures%20in%20response%20to%20the%20crisis%20in%20Ukraine>.

20 Francesco Giumelli, *Coercing, Constraining, Signalling: Explaining UN and EU Sanctions after the Cold War (*Colchester: ECPR Press, 2011).

The EU's economic measures, however (and those of its partners) are less easy to map onto Giumelli's model. The linkage to the implementation of the Minsk Agreements clearly suggests a coercive intent, in that they make the lifting of sanctions contingent upon the restoration of full Ukrainian sovereignty. Put another way, the asset freezes and travel bans may be understood as aimed at preventing those who had assisted Russia's annexation of the Crimea from legitimizing that act. The economic sanctions, on the other hand, were ostensibly intended to persuade the Russian state to cease its involvement in the Ukrainian crisis and to reverse its illegal appropriation of Ukrainian territory. Giumelli is clear, however, that constraining and signaling elements may also be at play, even when policy change is a stated objective, and there are several factors in the EU's economic sanctions on Russia that appear to undermine a purely coercive interpretation of them. These are listed in summary form as follows:

- The question of whether full implementation of the Minsk Agreements is realistic (in the short, medium, or long term);
- The question of whether any coercive influence can be exerted on Russia at all;
- The fact that energy products which dominate both Russia's economy and the EU's trade with Russia are exempt from the direct scope of the sanctions, raises the question of whether the sanctions can ever be more than a pinprick;
- Whether, regardless of any sympathy for Ukraine, the EU's need for Russian energy, now and in the future, makes coercion not only impossible, but potentially undesirable.

H. Sjursen and G. Rosen found the EU's cohesiveness in its agreement to impose sanctions surprising as many Member States appeared to act against their national interest. They concluded that "neither a concern for security (as would be expected from a realist perspective) nor the institutionalization of a norm of cohesion (which would be the constructivist expectation) triggered the collective response. Instead, agreement was established due to concurrence over a fundamental breach of the Ukrainians' right to self-determination." In other words, a nobility of purpose, in which "norms may trump interests." However, many public statements at the time, and several of the interviews carried out for Sjursen and Rosen's study, refer explicitly to the need for the EU to have a coordinated response (Hague, House of Commons 2014), or stress the normative obligations that EU membership brings, suggesting that the need to act as a bloc, and put the CFSP into practice, was indeed a factor in bringing about consensus.

Likewise the pleas by the Baltic States for reassurance, answered most emphatically by NATO in setting up a rapid reaction force to deploy to the Baltics in the event of a military threat, suggest that the territorial integrity of EU Member States was perceived to be threatened and therefore that the EU's imposition of sanctions was, at least in part, motivated by a concern for security. Ultimately, exploring why the EU acted in unison to impose sanctions may be useful in examining the EU's potential to enact a common security and foreign policy, but it does not shed any light on what the EU, either as a collective or in its separate states, hoped to achieve from the sanctions.[21]

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21 Helene Sjursen and Guri Rosén, "Arguing Sanctions: On the EU's Response to the Crisis in Ukraine, *Journal of Common Market Studies*, Vol. 55, Issue 1 (January 2017).

Section 2B: U.S. Sanctions on Russia

Although Giumelli's analysis has focused most strongly on EU sanctions, his, and other analyses, are equally applicable to the unilateral measures imposed by the United States. In terms of the grounds cited for the imposition of sanctions on Russia, these have ranged from the annexation of Crimea (against individuals who had "asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine"), interference in the 2016 U.S. elections, involvement in Syria, the Skripal poisoning case, and offensive cyber activity. U.S. Treasury Secretary Steven Mnuchin summed this up in April 2018, saying that,

> *"The Russian government operates for the disproportionate benefit of oligarchs and government elites. The Russian government engages in a range of malign activity around the globe, including continuing to occupy Crimea and instigate violence in eastern Ukraine, supplying the Assad regime with material and weaponry as they bomb their own civilians, attempting to subvert Western democracies, and malicious cyber activities."*[22]

Clearly by 2018, the U.S. was using sanctions for a variety of perceived offences on Russia's part. The "malign activity around the globe" comment, however, shows two things: first, that while they may be separately listed, all offences come under the overall heading of illegal or unacceptable conduct against which political and economic measures may be justified; second, that the U.S., like the EU, is using sanctions as a tool of foreign policy.

The U.S. has been clear that the sanctions it was imposing were designed to have an economic impact. U.S. President Obama, in explaining his decision in April 2014 to extend sanctions to additional Russian officials and companies said that, while his goal was not to target President Putin personally, he was seeking to "change his [Putin's] calculus with respect to how the current actions that he's engaging in could have an adverse impact on the Russian economy over the long haul."[23] The intention to have an economic impact was underlined by Mnuchin in April 2018, who, announcing new sanctions, said that Russians "who profit from this corrupt system will no longer be insulated from the consequences of their government's destabilizing activities."[24] This shift, which justifies measures against oligarchs simply for being closely linked to the Russian state, was described by Elizabeth Rosenberg, a former US sanctions official, as follows: "It's designed to communicate seriousness and really up the ante with Russia."[25] H.R. McMaster, in his outgoing remarks as National Security Advisor to President Trump, stated that "we have failed to impose sufficient costs [on Russia]."[26]

Returning to Giumelli's model, in which sanctions have a coercive, constraining, or signaling

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22 "U.S. Punishes Key Putin Allies over Worldwide 'Malign Activity'," *BBC*, April 6, 2018.

23 "U.S. Sanctions Russians over Ukraine," *Reuters*, April 28, 2014.

24 "U.S. Punishes Key Putin Allies over Worldwide 'Malign Activity'," *BBC*, April 6, 2018.

25 "U.S. Sanctions Hit Putin Allies, Including Billionaire Deripaska," *Bloomberg*, April 6, 2018.

26 McMaster was speaking on April 3, 2018 to the Atlantic Council in Washington DC. Extracts are reported here: "McMaster: 'We have Failed to Impose Sufficient Costs' on Russia," *The Hill*, April 4, 2018.

function, it is clear that the U.S. travel bans and asset freezes are constraining and signaling measures, as they are for the EU. But equally, the economic measures are harder to map onto Giumelli's model. They do not appear to be aimed at achieving any specific single outcome, but nevertheless are clearly aimed at altering Russian behavior by weakening it economically and punishing (if that is not too strong a word) oligarchs for their ties to the Kremlin. In this respect they are coercive. There is clearly also an element of constraint – proportionate and achievable measures that might dissuade Russia from further interference in elections or sinister assassination attempts overseas. Clearly there is a strong element of signaling also: solidarity with Ukraine; solidarity with the EU and other international partners; solidarity with the UK over the Skripal case, and demonstration of support for international law.

A key feature of the U.S. sanctions is the "50% rule" operated by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). This rule states that if an entity is 50% owned by a sanctioned entity on the Specially Designated Nationals and Blocked Persons (SDN) list, then that entity also held to be sanctioned. In August 2014, (at the time of the Crimea measures) OFAC expanded the scope of the 50% rule to state that if an entity is 50% owned by multiple SDN-listed entities collectively, then that entity is also held to be sanctioned.[27] The onus for compliance with the 50% rule falls on companies, posing significant challenges. As law firm Gibson Dunn pointed out in April 2018 following the U.S. designation of 40 oligarchs, "the opacity of ownership in the Russian economy makes the 50% rule very difficult to operationalize."

Despite differences of detail, there is a strong coherence between the U.S. and the EU sanctions on Russia. Unlike previous sanctions regimes, the target is a powerful economic, political, and military force, and one moreover that is keen to project that power. There cannot be any suggestion that the sanctions are the bullying of the weak by the strong. The normative values align, and, for the most part, the stated objectives.

What sets the U.S. measures apart from the EU ones, in terms of how their objectives are defined, is the absence, in the case of the U.S. sanctions, of the complicating factor of energy dependence. Despite the allegations of ulterior economic motives, despite the array of targets and the growing list of offences, there are none of the contradictions that the energy trade puts in the path of EU sanctions implementation. An informed view as to whether the sanctions are working, worth it, and workable cannot overlook the importance of the Russia-EU trade in energy. The next section of the article will assess the results of the sanctions so far. It will try to isolate the contributing factors and then focus on the energy trade as a significant factor affecting the success of the sanctions.

How Successful Have the Sanctions Been (and What Would Success Look Like)?

This article might well dive into trade figures at this point, being arguably the most measurable and objective means to assess whether, or how well, sanctions on Russia have worked.

27 "Revised Guidance on Entities Owned by Persons whose Property and Interests are Blocked," OFAC, August 13, 2014, <https://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf>.

However, before doing so, it is worth considering how success might look. It is tempting to define Russia's failure to implement the Minsk Agreements as a failure of sanctions. The logic for such an analysis would be that the EU, by making the lifting of sanctions conditional upon the implementation of the Minsk Agreements, was aiming to induce a policy or behavioral change in Russia by inflicting economic penalties; but that as the desired change has not come about, the sanctions have therefore failed.

Such a conclusion would ignore several factors. First, as a benchmark from which to measure success, it would be useful to look at how successful sanctions can be expected to be, based on previous experience. Second, it may not be helpful to view effects in terms of complete success or total failure – there may be degrees of success. Third, there is the dimension of time, allowing for accumulation of effect, or progress towards success. Fourth, there are other measures of success beyond the extraction of political concessions.

To begin with, it may be helpful to consider how successful sanctions, at least economic sanctions, are expected to be. Robert Pape, in his 1997 paper "Why Economic Sanctions do Not Work," questioned previous studies, notably that of Hufbauer, Schott, and Elliot, (Economic Sanctions Reconsidered, 1985), who had determined a 34% success rate in a total of 115 identified cases of economic sanctions. Arguing that Hufbauer, Schott, and Elliot had overestimated the success of economic sanctions, Pape dismissed most of the claimed successes on various grounds, such as that the outcomes were determined by force, not sanctions, or that sanctions failed to extract any concessions, before arriving at a success rate of under 5%.

Pape argued that it is unrealistic to expect sanctions to "overwhelm a state's commitment to pursue important policy goals." Many states would endure considerable punishment rather than abandon their national interests or beleaguered leadership. Furthermore, governments might mitigate economic damage of sanctions through substitution and by ensuring that the ruling elites on which they depend are protected from the worst effects.[28]

This last point proved disastrously true for Iraq. A study published by Mary Smith Fawzi, a researcher at the Harvard University School of Public Health, and Sarah Zaidi, science director of the Center for Social and Economic Rights in New York, calculated that up to 576,000 children had died in Iraq as a result of UN sanctions by 1995.[29]

The humanitarian cost of sanctions led to the development of targeted, or smart sanctions. As Portela put it, "Targeted sanctions are designed to put pressure on the leaders or specific elites who are deemed responsible for objectionable behavior. They purport to channel harm toward specific public figures and their backers, while the population at large is spared."[30] A targeted approach was endorsed by the European Council in its 2004 note to the Committee of Permanent Representatives in the European Union (COREPER) on *Basic Principles on*

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28 Robert Pape, "Why Economic Sanctions do Not Work," International Security, Vol. 22, No. 2 (1997), pp. 90-136.

29 "Iraq Sanctions Kill Children, U.N. Reports," *New York Times*, December 1, 1995.

30 Clara Portela, "The EU's Use of Targeted Sanctions: Evaluating Effectiveness," CEPS Working Document No 391, March 2014, p 50.

the Use of Restrictive Measures in 2004, in which it stated that "Sanctions should be targeted in a way that has maximum impact on those whose behavior we want to influence. Targeting should reduce to the maximum extent possible any adverse humanitarian effects or unintended consequences for persons not targeted or neighboring countries."[31]

In 2011, Daniel Drezner hailed smart sanctions as "a rare success story of fruitful collaboration between scholars, policymakers, and diplomats." However, he went on to show that smart sanctions, though good in theory, were widely regarded as less effective in obtaining concessions from the target government.[32]

So how smart are the sanctions on Russia? The EU appears to have gone down the "smart" route in all respects. The arms embargo, travel bans, asset freezes, and designations lists are all measures designed to target with precision. The U.S. economic sanctions, particularly those imposed from April 2018 onwards (see previous comments from U.S. Treasury Secretary Steven Mnuchin) appear targeted more broadly towards major stakeholders in the Russian government.[33,34] Although the U.S. measures may therefore fall less easily into the definition of smart sanctions, they may represent an approach better tailored to the task of influencing an oligarchy.

In the case of the EU sanctions at least, it seems clear that the sanctions were not intended to cause any adverse humanitarian consequences to any of the population of Russia or Crimea - and no reporting suggests that any such unintended hardship occurred. So one of the conditions for the smartness of the sanctions - namely the avoidance of hardship inflicted on innocent parties – is met. The other condition – whether the sanctions have been smart enough to have a constructive effect on those targeted – is less clear.

Then there is the factor of time. Rather than to say that the Minsk Agreements have not been implemented, it is more true to say that they have not been implemented *yet*. Sanctions targeted at Iran's uranium enrichment program were put in place starting in 2006, under United Nations Security Council resolution 1696, yet it was not until 2015 that the Joint Comprehensive Plan of Action (JCPoA) was signed. It is not within the scope of this paper, or the skill of the author, to tease out the numerous strands of work that contributed to the agreement of the JCPoA, but it is arguable that sanctions deprived Iran of the option to maintain a long-term strategy of ambiguity, thus compelling it ultimately to negotiate. Likewise UN sanctions against North Korea have been in place since its first nuclear test in 2006, and while they may not have solved all of the foreign policy problems that the international community faces in respect of North Korea, Kim Jong Un's 2018 New Year speech suggested that sanctions were having a strong effect: "Last year the moves of the United States and its vassal forces to isolate and stifle our

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31 "Note from European Council Secretariat to COREPER on Basic Principles on the Use of Restrictive Measures (Sanctions)," Council of the European Union, Brussels, June 7, 2004, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010198%202004%20REV%201>.

32 Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review*, Vol. 13, Issue 1 (March 1, 2011), pp. 96–108.

33 "U.S. Punishes Key Putin Allies over Worldwide 'Malign Activity'," *BBC*, April 6, 2018.

34 "U.S. Sanctions Hit Putin Allies, Including Billionaire Deripaska," *Bloomberg*, April 6, 2018.

country went to extremes, and our revolution faced the harshest-ever challenges."[35] This is not to force any unsuitable comparison between the situation in Ukraine and those concerning Iran or North Korea; but to make the point that sanctions can be part of a long-term strategy, and that cumulative pressure may eventually contribute to the implementation of the Minsk Agreements.

Currently, it looks unlikely. Rutland's "interim assessment" in December 2014, that "if the Western leaders assumed that Putin would respond to carefully calibrated incentives for cooperation, they were … mistaken" might only have allowed the sanctions six months to take effect, but the intervening four years have not seen any more progress. The dispute remains unresolved, a stalemate flaring up occasionally, a situation not unlike the "frozen conflict" of Transnistria.[36]

The third factor to consider is whether the stated goal of full implementation of the Minsk Agreements was ever intended to be realistic. In his paper "How EU Sanctions Work: A New Narrative," Francesco Giumelli draws distinctions between the objectives of coercion and constraint. He argues that "the coercive aspect seeks a behavioral change on the part of targets" whereas constraining "aims at undermining the capabilities of targets to achieve policy objectives." He goes on to argue that "constraining sanctions are often used to fight groups or entities that are not willing to conform to the established norms of international society."[37]

This raises the question of whether the EU ever considered Russian implementation by the end of 2015 to be a realistic outcome. It is arguable that neither economic pressure, nor any other peaceful means, could have induced Russia to have restored Ukraine's pre-conflict territorial integrity. If so, then the EU's imposition of economic measures, and their subsequent linking to full Russian implementation of the Minsk Agreements, may be seen not as a coercive step, but as a mid- to long-term instrument of constraint (using Giumelli's terminology). In other words, if there is no realistic chance of Russian compliance (and this being understood at the outset by the imposers), then the criteria for success must also be assessed in different terms, such as how sanctions have enabled certain pressures to be exerted and maintained on targeted individuals, groups, and companies.

Leading on from the argument that the EU's economic measures against Russia may be seen as a constraining rather than a coercive step, it is useful to consider that, even if they have not (yet) brought about a reversal of Russia's actions in Ukraine, they may have helped to prevent further violations of international law by Russia. Brendan Taylor points out that "great powers employ sanctions not only to influence 'target' actor behavior … but also one another in the context of larger grand strategic games that nations notoriously play."[38] Giumelli argues that, in assessing

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35 The full text of the New Year speech can be found here: "Kim Jong Un's 2018 New Year's Address," National Committee on North Korea, <https://www.ncnk.org/node/1427>.

36 Peter Rutland, "The Impact of Sanctions on Russia," *Russian Analytical Digest*, No. 157, (December 17, 2014).

37 Francesco Giumelli, "How EU Sanctions Work: A New Narrative," EUISS Chaillot Paper, No. 129, May 2013.

38 Brendan Taylor, *Sanctions as Grand Strategy* (London: International Institute for Strategic Studies, 2010).

the effectiveness of sanctions, one must ask what would have happened had sanctions not been imposed.[39] Despite the evident weakness in this last point - that it is impossible to know the outcome of a chain of events that did not occur – the argument that measures must be judged in the context of the available alternatives is a good one, and certainly valid in this case. Latvia, Estonia, Lithuania, and Moldova all have significant Russian-speaking minorities, and within those countries there are areas where the ethnic Russian and Russophone population may be in the majority. This study will not attempt an exhaustive analysis of Russia's reasons, explicit or implicit, for intervening in Ukraine, but it is reasonable to assume that the ethnic Russian majority in Crimea and in other parts of Eastern Ukraine formed part of Russia's justification for intervention. It is impossible to know how far EU sanctions may have contributed to the absence, so far, of any equivalent Russian support for its populations in Moldova or the Baltic States, but clearly the restrictive measures are among the few tools that might aim to constrain Russia from further such acts of aggression.

Although "signaling" is perhaps the least tangible of Giumelli's three main roles of sanctions, its evident importance in the sanctions on Russia makes it essential to assess how far this function has been successful. As a general rule, no assessment of sanctions can afford to overlook their symbolic effect. It was Galtung who observed that sanctions could perform useful symbolic functions.[40] In Giumelli's model, "signaling" is one of the fundamental objectives of sanctions. In this case the signals comprise (at least) the following:

- The EU's internal solidarity and ability to follow a united foreign policy;
- Solidarity with Ukraine;
- The senders' solidarity with those countries, whether EU Member States or otherwise, that have significant Russian-speaking minorities, and which therefore might have particular reason to fear Russian interference;
- The senders' support for the norms of international law.

Various Russian actions since 2014 have resulted in a multilateral array of sanctions that respond to a variety of perceived violations, but in signaling terms, they all bear the same normative message: support for international law and non-acceptance of those who would violate it.

Giumelli proposes "salience" as a means to measure the effectiveness of signaling. Salience refers to the significance, importance, and urgency that an actor ascribes to a certain issue on the political agenda. According to Oppermann, the salience of a topic depends on how much media coverage it receives and how much it comes up for political debate.[41] The modern information environment clearly makes such a metric increasingly complicated and prone to

39 Francesco Giumelli, "How EU Sanctions Work: A New Narrative," EUISS Chaillot Paper, No. 129, May 2013.

40 Johan Galtung,"On the Effects of International Economic Sanctions, With Examples from the Case of Rhodesia," World Politics, Vol. 19, N. 3 (April 1967), pp. 378-416.

41 Kai Oppermann, "Salience and Sanctions: A Principal-Agent Analysis of Domestic Win-sets in Two-Level Games—The Case of British European Policy under the Blair Government," *Cambridge Review of International Affairs*, Vol. 21, N. 2 (August 13, 2008).

error, even if one ignores (at one's peril) any supposed distinction between real and fake news; so this study cannot see any objective means to measure the success of the signaling element of sanctions against Russia. Instead it must fall back on the following judgements:

- That in stating, and continually re-stating, the reasons for the sanctions, and Russia's failure to live up to the Minsk Agreements, the principal actors (EU and U.S.) maintain a strong narrative and affect the international discourse in favor of international law and the resolution of dispute by diplomatic means;
- That the cumulative statements by the actors assure Ukraine and all other international partners, especially those with significant Russian minorities, of EU and U.S. support for their territorial integrity;
- That the frequent addition of new entities and individuals to the designations listings, as well as the scheduled revisits to the sanctions, are a means for the topic to be kept in the news.

The Economic Effects of the Sanctions

Writing in 2014, Sergey Glazyev, Economic Advisor to the Russian President, described the sanctions as economic war declared on Russia by the U.S. and the EU and maintained that "the sanctions, in conjunction with the Bank of Russia's monetary tightening, are extremely dangerous for the Russian economy."[42]

Writing in December 2014, Peter Rutland claimed that "The sanctions are having a more serious impact than President Vladimir Putin anticipated, but have yet to induce Russia to engage in more cooperative behavior."[43]

Speaking in December 2014, Russian Prime Minister Dmitry Medvedev estimated that the Russian economy had lost tens of billions of U.S. dollars as a result of sanctions.[44] The arguments around coercion, compliance, constraint, and symbolism should not entirely overshadow the economic factors. The targeted sectoral economic measures imposed by the EU and its allies, and the designation of specific individuals, entities, and companies by the U.S. in particular, are designed, ostensibly at least, to have a targeted economic impact. Clearly an assessment of the effectiveness of such measures cannot be seen in binary terms – as absolute success or failure – but it may be possible to gauge how far the restrictive measures have affected the targeted entities, and indeed EU-Russia trade and the Russian economy more widely. This section of the article relies on published economic figures to shed light on the volumes of Russia-EU trade, the nature of that trade, and the performance of the Russian economy in general and its major companies in particular. It will then look for possible correlation with sanctions and with other external pressures such as global prices.

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42 Sergey Glazyev, "Sanctions of the USA and the Policy of Bank of Russia: Double Blow to the National Economy," *Problems of Economic Transition,* Vol. 58, Issue 3 (2016).

43 Peter Rutland, "The Impact of Sanctions on Russia," *Russian Analytical Digest*, No. 157 (December 17, 2014).

44 "Rouble Fall, Sanctions Hurt Russia's Economy: Medvedev," *Reuters World News*, December 10, 2014.

Economic performance has been undoubtedly affected by changes in the oil price and in changes to the steel market. The fluctuating oil price will have had a severe effect on Russia whose dependence on oil exports is high. According to Nasdaq, the price of a barrel of crude oil fell from around $108 USD in mid-2014 to a low of under $30 USD by early 2016. Since then it has slowly recovered to about $70 USD per barrel by mid-2018.[45,46] Given that many of the designated entities are energy companies, and that (certain exports to) the petrochemical sector are also covered by EU sectoral sanctions, distinguishing between sanctions and oil prices as factors affecting Russian economic performance over the period is problematic.

A similar difficulty applies to steel, more specifically on the effect of the U.S. changing the terms of steel imports. In late 2014, the U.S. terminated the Suspension Agreement which had allowed Russian steel companies to sell steel to the U.S. at prices well below those of domestic producers.[47] Huge Russian steel companies such as Severstal, Magnitogorsk Iron and Steel Works, and Novolipetsk Steel immediately faced anti-dumping duties as a result. As with oil, the presence of significant market pressures beyond sanctions complicates any attempt at assessing the effectiveness of the sanctions using economic data alone.

The World Bank's figures for the Russian economy as a whole report a slowing of economic growth from 2011 to 2014 and a recession in 2015 and 2016 followed by steady growth since.[48] The World Bank's figures for Russian gross domestic product follow a similar pattern showing falls from 2013 to 2016 followed by a steady increase that has continued to the present day.[49] These trends closely shadow the global oil price, suggesting that the latter has been a dominant factor in Russia's economic performance. True, Russia's economy shrank in the two years after sanctions were imposed, but any correlation to the EU or U.S. sanctions regimes against Russia looks entirely coincidental. The slowdown in the Russian economy was already underway before sanctions were introduced, and, even though sanctions have been progressively broadened to cover more entities, the Russian economy recovered in 2017 and 2018.

The relative importance of different factors has been a matter for debate. If Sergey Glazyev's analysis suggests a combination of sanctions and misguided domestic economic policy as the principal risk factors to Russia's economy, Rutland cites figures on the relative impact of sanctions and the oil price. According to Rutland, On November 24, 2014, Russian Finance Minister Anatoliy Siluanov estimated that the sanctions would cost the Russian economy $40

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45 "Stock Market Activity Today," NASDAQ, <https://www.nasdaq.com/markets/>.

46 "The World's Largest Oil And Gas Companies 2016: Exxon Is Still King," *Forbes*, May 26, 2016.

47 "Termination of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, Rescission of 2013-2014 Administrative Review, and Issuance of Antidumping Duty Order," Federal Register, December 12, 2014, <https://www.federalregister.gov/documents/2014/12/24/2014-30234/termination-of-the-suspension-agreement-on-hot-rolled-flat-rolled-carbon-quality-steel-products-from>.

48 "GDP Growth: Russia 1990-2017," World Bank, <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=RU>.

49 "Russian Federation," World Bank, <https://data.worldbank.org/country/russian-federation>.

billion USD over the course of a year—and the falling oil price another $100 billion USD.[50]

Figures for trade between Russia and the EU suggest that sanctions have indeed exerted cost, but that these costs have affected the EU as much as they have affected Russia and that the effects have been felt unevenly across the EU.[51]A September 2017 report commissioned by the European Parliament estimates the EU's export losses due to sanctions as $7.9 billion USD in 2014, $12.9 billion USD in 2015, and 13.9 billionUSD in 2016, amounting to a drop in EU exports to Russia of 11% and an overall loss of about 0.5% from the EU's GDP (although the report acknowledges the difficulty of isolating the effect of sanctions from all other factors).[52] According to a January 2018 briefing to the European Parliament, the EU sanctions may have cost the Russian economy between 1% and 2% of GDP. At the same time, according to the briefing, the drop in the price of oil caused a 4-5% drop in Russia's GDP.[53]

Figures from Eurostat (the Statistics Office of the European Union) appear to support the suggestion that the sanctions are eclipsed by other, more important factors. According to Eurostat, in 2014, when the EU introduced its economic measures, imports from Russia to the EU and exports from the EU to Russia had already been falling for three years. They continued to fall for another year before rising in 2016 and 2017. Between 2011 and 2014, imports from Russia dropped from a high of 215 billion euro to 136 billion euro, a drop of 79 billion, or 37%. Following the imposition of sanctions, the rate of fall slowed slightly, recording a drop of 17 billion euro, or 12%. The EU's exports to Russia fell by 40% between 2011 and 2014, continuing to fall slowly in 2015 (by a further 2%).[54]

The same difficulties in interpreting the downturn in EU-Russia trade in 2015 and 2016 apply equally when trying to interpret the recovery in 2017. Russian Foreign Minister Lavrov struck an upbeat note in an address in the margins of the Munich Security Conference in February 2018, claiming that "negative trends in our trade are being gradually rectified. In 2017, the volume of Russian-German trade increased by more than 20 percent and reached USD 50 billion"[55]. The World Bank figures already quoted bear out Lavrov's general point, if not the precise figures, but whether factors other than the oil price are in play is hard to determine.

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50 Peter Rutland, "The Impact of Sanctions on Russia," *Russian Analytical Digest*, No. 157 (December 17, 2014).

51 Francesco Giumelli, "The Redistributive Impact of Restrictive Measures on EU Members: Winners and Losers from Imposing Sanctions on Russia," *Journal of Common Market Studies*, Vol. 55, Issue 5 (September 2017).

52 Oliver Fritz, Elisabeth Christen, Franz Sinabell, Julian Hinz, "Russia and the EU's Sanctions: Economic and Trade Effects, Compliance and the Way Forward," European Parliament, September 2017, <http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2017)603847>.

53 "Sanctions Over Ukraine: Impact on Russia," European Parliament, 2018, <http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/614665/EPRS_BRI(2018)614665_EN.pdf>.

54 "Russia-EU – International Trade in Goods Statistics," EUROSTAT, <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Russia-EU_%E2%80%93_international_trade_in_goods_statistics#EU_and_Russia_in_world_trade_in_goods>.

55 "Foreign Minister Sergey Lavrov's Opening Remarks at a Meeting with Representatives of Russian and German Business Circles on the Sidelines of the Munich Security Conference," Munich, February 17, 2018, <http://www.mid.ru/en/press_service/video/-/asset_publisher/i6t41cq3VWP6/content/id/3078634>.

The figures from the report commissioned by the European Parliament appear consistent with Medvedev's 2014 comment – and the line taken consistently by President Putin – that sanctions also hurt those who impose them.[56,57] It is perhaps a self-evident truth that if trade operates for the benefit of both buyer and seller, it follows that preventing trade will harm both parties. A 2017 study by Francesco Giumelli focused on the costs inflicted on EU Member States by the sanctions on Russia. He found that while all Member States' exports to Russia had fallen since sanctions were imposed, some had lost more than others, with Germany, Italy, and Finland bearing most cost.[58] There are qualifying factors here. The relative extent of the harm would depend on how easily the seller might find other markets or the buyer other suppliers; and how reliant buyer and seller are on the goods and money, respectively, or on the volume of trade as a percentage of their economy.

The overall trade figures are useful as a measure of the effects of sanctions on the Russian economy as a whole (as well as on its EU trading partners). However, the Russian economy is unusual in respect of the dominant role that energy and other commodities play in it. Within these sectors Russia has some enormous companies, and these companies are, by and large, close to the Russian government. In assessing how far the Russian state may have been affected by the sanctions, it is useful therefore to examine how these huge energy and commodity companies are faring. The June 2018 edition of the Forbes Global 2000 list suggests that many of Russia's largest companies, despite being designated in sanctions, are continuing to prosper.[59] The list below lists all twelve Russian companies named on any of the sanctions listings which occur in the Forbes Global 2000 list.

- *Gazprom* is one of the world's largest suppliers of natural gas. It is majority-owned by the Russian government and was subjected to selective U.S. sanctions in September 2014. Its position on the Forbes Global List is almost unchanged in 2018 (43rd place) over 2017 (40th place).

- *Sberbank* is Russia's largest bank, state-owned, and named as providing material support to Russian officials designated for involvement in Ukraine. The U.S. imposed sanctions on it in September 2014. On the Forbes List, Sberbank rose from 56th place in 2017 to 47th place in 2018.

- *Rosneft* is one of Russia's biggest oil companies. It was subjected to a transactions ban by the U.S. in July 2014 and further U.S. sanctions in September 2014. It is also specifically named under EU restrictive measures and is designated by Canada, Australia, and others. Since imposition of sanctions, its position on the Forbes Global

56 "Rouble Fall, Sanctions Hurt Russia's Economy: Medvedev," *Reuters*, December 10, 2014.

57 Oliver Fritz, Elisabeth Christen, Franz Sinabell, Julian Hinz, "Russia and the EU's Sanctions: Economic and Trade Effects, Compliance and the Way Forward," European Parliament, September 2017, <http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2017)603847>.

58 Francesco Giumelli, "The Redistributive Impact of Restrictive Measures on EU Members: Winners and Losers from Imposing Sanctions on Russia," *Journal of Common Market Studies*, Vol. 55, Issue 5 (September 2017).

59 The 2018 version of the Forbes Global 2000 list was published on June 6, 2018. It takes into account sales, profits, assets and market value. See "Global 2000: The World's Largest Public Companies," *Forbes*, June 6, 2018.

2000 list has been 59th (2015), 75th (2016), 82nd (2017), and 73rd (2018).

- *Lukoil* is another of Russia's biggest oil companies. It was subjected to a transactions ban by the U.S. in July 2014 and further U.S. sanctions in September 2014. It is also specifically named under EU restrictive measures. On the Forbes Global 2000 list the company has risen from 129th place in 2017 to 98th in 2018.

- *Surgutneftegas*, like Rosneft and Lukoil, is a huge petrochemical company, designated by the U.S., EU, and others. On the Forbes Global 2000 list the company fell from 305th place in 2017 to 335th in 2018.

- *VTB Bank* is subject to sanctions by the EU, U.S., and Japan. On the Forbes Global 2000 list the company was almost unchanged in 2018 (396th place) from 2017 (397th place).

- *Novatek*, like Rosneft, was subjected to a transactions ban by the US in July 2014, but has not been designated under the EU's restrictive measures. On the Forbes Global 2000 list the company was almost unchanged in 2018 (551st place) from 2017 (542nd place).

- *Transneft* is another large energy company sanctioned by the EU, U.S. and others. Its position on the Forbes Global list was almost unchanged in 2018 (667th place) from 2017 (658th place).

- *Severstal* is a huge steel company. Its owner, Aleksei Mordashev, was included on the U.S. sanctions list in 2018. Its position on the Forbes Global list was almost unchanged in 2018 (982nd place) from 2017 (1022nd place).

- *Magnitogorsk Iron and Steel* was not subjected to sanctions but targeted by the U.S. termination of the Suspension Agreement in late 2014, which had waived anti-dumping tariffs. Its position on the Forbes Global list rose in 2018 (1214th place) from 2017 (1320th place).

- *Polyus*, a major gold producer, was included on the U.S. sanctions list in April 2018. In June 2018, it entered the Forbes Global 2000 list for the first time, at position 1552.

- *The United Aircraft Corporation* is a state-owned corporation sanctioned by the EU, U.S., and others. Its position on the Forbes Global list was almost unchanged in 2018 (1822nd place) from 2017 (1833rd place).

This is clearly only a partial picture. Many of the Russian entities and individuals designated by the U.S., the EU and others do not make the Forbes Global 2000 list, so their ranking and performance are not recorded using the Forbes criteria. Also, there is no context for the performance of a company, so its rise or fall may be due to factors unrelated to sanctions. However, what the list does suggest is that, to date, the effect on the major oil and gas companies is minimal, and that therefore, due to the oligarchic nature of the Russian state, the effect on the Russian government is also minimal.

Licensing figures offer a slightly different window onto the trade picture. They are useful in giving at least an indirect indication of the flows of dual-use and controlled goods to Russia. Figures published by the UK's Department of International Trade (DIT) show that 228 export license applications from the UK to Russia were refused between 2014 and 2017 compared to just eight refusals in the years 2010 – 2013.[60] The reasons for each refusal are not published, but it is fair to assume that the UK's adherence to the EU's restrictive measures on Russia has contributed to the sharp increase. While this indicates a strong adherence to the EU's measures in support of Ukraine, overall trade figures suggest that the UK and Russia have not been significant trading partners. According to the DIT's *UK Trade in Numbers* report, Russia does not make the UK's top 20, either as an importer from the UK, or exporter to it in 2016 and 2017.[61] The UK's lack of dependence on Russian energy explains this, but also somewhat simplifies the statistics, arguably making it easier to discern a sanctions effect – one that is presumably mirrored across the EU, but in many cases may be obscured by energy trade.

The conclusion from these trade figures appears to be that economic sanctions are having an effect on trade with Russia, and on the Russian economy, but the effect of sanctions is probably much less than other factors unconnected with sanctions, in particular the price of crude oil.

This conclusion has several ramifications. First, Russia has been relatively unaffected by the sanctions. Therefore, as the EU linked the economic sanctions to the full implementation of the Minsk Agreements, it is hardly surprising that the measures have failed to deliver. Second, while the sanctions continue at their current level, their imposers cannot expect their effect to change anytime soon. Third, if the EU is serious about wanting the Minsk Agreements implemented, it must look for more effective measures. Fourth, the dominance of energy products in Russia – EU trade, and the fact that Russian exports of energy to the EU are not covered by sanctions, limit the sanctions' capacity to "bite."

The U.S. sanctions, because they leverage access to the U.S. dollar, and because of their extraterritorial reach, are more global in effect than those imposed by the EU or other actors. In other words, they are designed to affect the worldwide fortunes of designated entities rather than just trade between, say, Russia and the EU. This article has been unable to find any figures that isolate and quantify the effects of the U.S. measures alone. Nevertheless, comments by analysts suggest there are signs of growing effectiveness. Writing for the Financial Times in April 2018, Tom Keatinge, the Director of Royal United Services Institute's (RUSI) Center for Financial Crime and Security Studies, assessed that the effects of the latest round of U.S. designations would be extensive. Shares in the newly-designated Aluminum giant Rusal had fallen 50% in a week and the Russian stock market as a whole had slipped by 10%. Globalization had meant that Russian banks, companies and oligarchs were dangerously exposed to the U.S. dollar. Moreover, the extraterritorial reach of the sanctions (thus applying "secondary sanctions" to anyone worldwide knowingly acting on behalf of the designated entities) would discourage banks and companies, whether U.S. or not, from any business that could be linked to designated entities.[62]

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60 The DIT's published figures are available here: "Annual Reports," Department of International Trade, <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data#annual-reports>.

61 The full report can be found here: "UK Trade in Numbers," UK Department of International Trade, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714346/180606_UK_Trade_in_Numbers_full_web_version.pdf>.

62 Tom Keatinge, "This Time, Sanctions on Russia are Having the Desired Effect," *Financial Times*, April 13, 2018.

In Keatinge's analysis, fear of punitive action by U.S. authorities contributes strongly to the pressure the U.S. is able to exert. Responsibility for compliance rests on companies themselves, so is likely to have a deterrent effect. Law firm Gibson Dunn, in its April 2018 advisory, points to the difficulties of extricating one's business from involvement with designated entities; "It is unclear how companies that seek to be compliant with OFAC regulations will navigate a world in which Rusal has been a primary or secondary supplier."[63]

The effects of the "50% rule" operated by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) compound the risk, and thus the deterrence factor. As previously noted, the 50% rule was modified in 2014 to include entities 50% owned by multiple SDN-listed entities collectively.[64] However, opacity of ownership structures in Russia makes applying the regulation challenging for companies and authorities alike, as sanctioned entities dilute or transfer ownership.

Other studies draw a distinction between short-term and long-term effects. Writing in the Washington Post in August 2018, Anton Troianovski considered that "sanctions are already crippling Russia's long-term economic prospects. But in the short term, it is far from certain that even the implementation of tougher measures could provoke a crisis severe enough to have a serious impact on Russian politics."[65] According to Fitch Ratings reported by Reuters inApril 2018, the new round of U.S. sanctions against Russia would have a "severe effect" on targeted companies and will limit Russia's potential economic growth."

Only one case has been reported so far of secondary sanctions being imposed by the U.S. with respect to Russia – the designation on September 20, 2018 of the Chinese entity Equipment Development Department and its director, Li Shangfu, for "engaging in significant transactions with Rosoboronexport, Russia's main arms export entity, which is on the LSP [List of Specified Persons]."[66] Using the number of secondary designations as a measure of sanctions effectiveness is problematic, however, as it does not take into account the deterrent effect, namely overlooks the primary goal of the legislation as being to encourage compliance rather than designate wrongdoers.

Despite the difficulty of reaching an empirical assessment of the effects of the U.S. sanctions on Russia, some specific conclusions seem clear. First, the designated entities are denied access to the U.S. dollar, which is the international standard for commodity trading, as well as the world's dominant currency in all international trading, so Russian commodity companies are likely to be hit hard. Second, even if the effects are hard to quantify, the measures exert a

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63 "Trump Administration Imposes Unprecedented Russia Sanctions," Gibson Dunn, April 12, 2018, <https://www.gibsondunn.com/trump-administration-imposes-unprecedented-russia-sanctions/>.

64 "Revised Guidance on Entities Owned by Persons whose Property and Interests are Blocked," OFAC, August 13, 2014, <https://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf>.

65 "Russia Keeps Getting Hit with Sanctions. Do They Make a Difference?," *Washington Post*, August 22, 2018.

66 "Statement of Assistant Secretary Marshall Billingslea Before the U.S. House Financial Services Subcommittee on Monetary Policy and Trade," U.S. Department of Treasury, September 26, 2018, <https://home.treasury.gov/news/press-releases/sm496>.

powerful deterrent influence, leading to a risk of “over-compliance.”

Sanctions Evasion

Throughout the history of sanctions, one of the classic impediments to effective implementation has been sanctions evasion. In the case of North Korea, for instance, the United Nations Panel of Experts reports extensively on instances of North Korean sanctions evasion[67]. In the case of the sanctions on Russia, little information seems to be available. The Austrian Institute for Economic Research (WIFO), by showing how EU food exports to Belarus, and food exports from Belarus to Russia, have uniformly grown since Russia imposed counter-sanctions on EU food products, points convincingly towards sanctions evasion in the food sector.[68] Beyond food, though, the picture is less clear, for instance on whether dual-use goods from the EU are being diverted to Russia through third countries. It would not be surprising to find cases, for instance, where deep-sea oil and gas exploration and extraction equipment is no longer sold to a former Russian customer, yet a new customer has emerged for similar goods in a third country. Nor is there often any indication of whether designated entities are operating through front companies or have altered their ownership arrangements.

Clearly an accurate view of the effectiveness of sanctions is incomplete without a reliable assessment of the extent of sanctions evasion. The absence of any equivalent body to the UN Panel of Experts set up to oversee the implementation of sanctions must contribute to the difficulty of ascertaining whether, or how much, such sanctions evasion might already be occurring.

Unless or until information becomes available suggesting significant sanctions evasion by Russia, there seems limited benefit to increasing enforcement in this area. One might argue, however, that it would only be by establishing a Panel of Experts that an investigation of such activity could be attempted. Portela argued for the EU to set up its own panels of experts, for continuous monitoring of the effects of sanctions, and to inform any adjustments to improve performance and minimize the humanitarian costs.[69] An equally important function of such a panel would be to investigate and report sanctions evasion by shedding light on cases, individuals, networks, and methodologies. One might go further than Portela to argue that, in this unique case, the impossibility of acting through the UN makes the case for a collaborative effort among the principal actors, particularly the U.S. and the EU.

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67 See for instance the Panel of Experts report, which may be found at: “Panel of Experts’ Final Report under Resolution 2276,” United Nations, February 2017, <https://www.securitycouncilreport.org/un-documents/document/s2017150.php>.

68 Oliver Fritz, Elisabeth Christen, Franz Sinabell, Julian Hinz, “Russia and the EU’s Sanctions: Economic and Trade Effects, Compliance and the Way Forward,” European Parliament, September 2017, <http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2017)603847>.

69 Clara Portela, “The EU’s Use of Targeted Sanctions: Evaluating Effectiveness,” CEPS Working Document No 391, March 2014, p 50.

Challenges Facing Western Countries in Applying Pressure to Russia

It may be argued that the focus on the economic effects risks reducing the analysis to the "pain-gain equation." However, cost-benefit analyses look beyond the economic factors, acknowledging that costs and benefits, pain and gain, are not limited to money. As previously noted, the sanctions on Russia are unusual in that they target a significant economic, political, and military power. In crude terms, this means that Russia is more able than other targets of sanctions to inflict costs and pressures of its own. This section will attempt to outline these pressures as they apply to each significant actor.

Before looking in more detail, the pressures can be summarized as follows:

- Ukraine: Dependence on energy and transit revenues
- U.S.: Requires Russian cooperation on highest foreign policy and global security priorities such as North Korea and Syria.
- European Union: Energy dependence
- Japan: Disputed Kurile Islands, and desire for WWII peace treaty
- European Union: Energy dependence

Ukraine-Russia relations are too vast a subject to cover here. However, in terms of Russian counter-pressure, Ukraine is still a large importer of Russian oil products (although it has achieved independence from Russia in its gas supplies).[70] Transit fees for Russian gas earned Ukraine 3 billion USD in 2017, according to Andriy Kobolev, Chief Executive of Naftogaz (revenues that are threatened by the planned Nordstream-2 pipeline, which will allow Russian supplies to bypass Ukraine).[71]

The U.S.-Russia relationship is more complex still. In terms of Russian counter-pressures, the U.S. has little economic dependence on Russia, so no pressure can be applied there. However, it is difficult to see progress on other high-priority foreign policy objectives such as the denuclearization of North Korea without active collaboration between the U.S. and Russia.

Figures published by the United States Census Bureau indicate that total trade between the U.S. and Russia was around 24 billion USD in 2017 with similar figures for 2015, 2016, and 2018. These are dwarfed by U.S. trade figures with other trade partners (the trade between the U.S. and the UK, for instance, was around USD 110 billion in 2017, according to the same source).[72] The point has already been made that the U.S. sanctions, by denying access to the U.S. dollar, are global in intent and effect, rather than intended to target U.S.-Russia trade, and the trade

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70 Wojciech Kononczuk "A Dangerous Energy Policy: Ukraine, Despite War, is Making Itself Dependent on Russian Oil," *EnergyPost.eu*, September 8, 2017, <http://energypost.eu/15647-2/>.

71 Andreas Walstad "Ukraine Eyes $3 bln for Russian Gas Transit in 2017," *Natural Gas Daily*, November 28, 2017.

72 "Foreign Trade" is "the official source for U.S export and import statistics." Information can be found at "Trade in Goods with Russia," U.S. Census, <https://www.census.gov/foreign-trade/balance/c4621.html>.

figures appear consistent with a model whereby Russian companies are integrated into global supply chains and finance yet do not necessarily have strong bilateral trade with the U.S. The economic effect of sanctions for the U.S. therefore appears minimal, thus it is not a source of counter-pressure by Russia. Counter-pressure can only be applied in areas where the U.S. needs Russian cooperation.

For Japan, the complication comes in the form of the Kurile Islands, currently under Russian control, but over which Japan claims sovereignty; and the signing of a peace treaty formally ending WWII hostilities. According to press reporting around the summit meeting between Russian President Vladimir Putin and Japanese Prime Minister Shinzo Abe in September 2018, both Abe and Putin say they want a solution to the disputes. Abe is reported to have said that a deal would unlock trade and investment from Japanese companies for Russia.[73]

This is not to suggest that Japan would unilaterally break the sanctions, more to demonstrate that, for Japan, the bargaining power of the sanctions is used, at least in part, for the pursuit of its own agenda; to demonstrate also how hard it is for a country to apply pressure in one area when it is itself under pressure in another. In terms of counter-pressure from Russia, Putin's recent hint that he is ready to sign a peace treaty played on Abe's preoccupation with the issue throughout his time in office, and demonstrates Russia's position of strength, and Japan's corresponding weakness, on both the Kurile Islands and the peace treaty. This may explain why Japan has tried so hard to normalize relations with Russia - in 2016 Japan became the first G7 country to grant Putin a state visit since Russia's annexation of Crimea.

For the EU, the obvious source of Russian counter-pressure comes as a result of the gas and oil it supplies to the EU. Figures from Eurostat (the Statistics Office of the European Union) provide the following key points:

In 2017, over three quarters of EU imports of goods from Russia were energy products, comprising crude and refined petroleum, natural gas, and coal. Also in 2017, Russia was the fourth-largest partner for exports from the EU. Germany and the Netherlands were the EU's largest trading partners with Russia. Countries on the EU's eastern border relied most on imports from Russia (Finland 46%, Lithuania 43%).[74]

For many years Russia has been the EU's largest supplier of natural gas and crude and refined petroleum. In 2017, the EU imported 37% of its natural gas from Russia and 30.9% of its petroleum oils. In terms of the quantity of energy products bought from Russia, the amount remained steady between 2011 and 2017, while the cost of it fluctuated as a result of global prices. The table below shows the quantities and costs of Russian energy supplies to the EU

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73 President Putin reportedly turned to Japanese Prime Minister Abe on the conference stage and offered to sign a peace treaty by the end of 2018. See "Russia's Putin tells Japan's Abe: 'Let's sign peace deal this year'," *Reuters*, September 12, 2018.

74 "EU and Russia in World Trade in Goods," EUROSTAT, <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Russia-EU_%E2%80%93_international_trade_in_goods_statistics#EU_and_Russia_in_world_trade_in_goods>.

between 2011 and 2017.[75]

Year	2011	2012	2013	2014	2015	2016	2017
Quantity of energy products bought from Russia by the EU (million tons)	315.0	310.9	313.3	288.1	290.0	310.9	324.5
Value of energy products bought from Russia by the EU (billion euro)	138.2	149.6	140.2	114.1	81.7	69.7	86.5

The EU's dependence on Russian oil and gas, and, mutually, Russian dependence on the EU as a major market for its oil and gas, go beyond a merely transactional relationship. The economic interdependency expresses itself across several long-term projects:

- Several gas pipelines supply Russian natural gas to the EU;
- EU commodity traders as major buyers of Russian oil;
- Major joint ventures, such as the GAZ-VW project to build German cars in Russia.

The EU's reliance on Russia for its energy security has been a concern for the EU long before the Ukraine crisis shone a spotlight on the risks of relying for one's energy supplies on a country that is prepared to violate international law. A 2011 communication from the European Commission to the European Parliament urged the EU to diversify its supply by engaging with the Caspian and Middle East regions and assisting suppliers such as Azerbaijan, Turkmenistan, Iraq, and Central Asian countries. A further point that "the EU must also work to establish a tri-partite cooperation at political and administrative level with Russia and Ukraine to ensure stable and uninterrupted gas supplies through the Eastern Corridor" indicates how important the issue of stability of Russian supply had already become.[76] Today, many EU Member States remain largely or totally dependent on Russian natural gas.

Despite calls for diversification of supply, the EU may be increasing its long-term reliance on Russia. Nowhere is this more evident than the Nord Stream 2 gas pipeline project. The project, which will double the capacity of the existing Nordstream gas pipeline to approximately 30% of EU gas demand, has been given German government approval to proceed.

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75 "Main Suppliers of Natural Gas and Petroleum Oils to the EU," EUROSTAT, <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_imports_of_energy_products_-_recent_developments#Main_suppliers_of_natural_gas_and_petroleum_oils_to_the_EU>.

76 "Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions - On Security of Energy Supply and International Cooperation - "The EU Energy Policy: Engaging with Partners beyond Our Borders," European Commission, COM/2011/0539, November 7, 2011, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0539:FIN:EN:PDF>.

Nord Stream 2 was criticized by Donald Tusk, President of the European Council, in 2016, as running counter to the EU's objectives of energy diversification and reducing dependency.[77] It is interesting that Tusk's criticism made no mention of any potential inconsistency between Nord Stream 2 and the economic sanctions against Russia. Yet inconsistencies there clearly are: first, Nord Stream 2 will allow Russia to avoid paying transit fees to Ukraine. This means cheaper gas to Europe, of course, but weakens Ukraine still further, and is hardly an expression of EU support for Ukraine. German Chancellor Merkel's statement on April 10, 2018 that the issue of gas transit across Ukraine must be resolved before Nordstream 2 could proceed appeared to be an attempt to address that contradiction.[78] Second, the potential increase in the already huge energy trade reduces ever further the proportion of EU-Russia trade affected by the sanctions. Third, Russia's considerable revenues from its sales to the EU and the long-term prospects for more make the coercive, constraining, and signaling aspects of the sanctions all look somewhat ineffectual, even irrelevant. Fourth, and most worrying, energy is not just about trade, it is part of critical infrastructure. Russia has repeatedly cut off gas supplies to Ukraine. Proponents of Nord Stream 2 argue convincingly that by increasing supply options, the EU is improving its energy security but this does not address the EU's dependence, the huge revenues flowing to Russia, or the long-term relationship that might eclipse any efforts by the EU to exert pressure through restrictive measures.[79]

One might make much of U.S. President Trump's remarks to NATO Secretary General Stoltenberg in July 2018.[80] Equally one may find countless claims that dismiss both Trump's words and U.S. threats of sanctions against Nord Stream 2 as an ill-concealed attempt to influence the market in favor of U.S. supplies of Liquefied Natural Gas. There are points to be awarded on all sides, but the key points from the EU's energy relationship with Russia, as relevant to the sanctions, are as follows:

- The EU and its U.S. ally are divided over the virtues of the EU's present and future dependence on Russia for oil and gas;
- The scale of trade in oil and gas dwarfs any effects economic sanctions might have;
- Several gas pipelines supplying Russian natural gas to the EU. Energy security considerations prompted the EU to set about diversifying its supply. Even if one views such a stance as alarmist (arguing that Russia is as dependent on the EU as a customer as the EU is on Russia as a supplier) the close inter-dependency relies on a long-term collaboration that looks inconsistent with the EU's restrictive measures.
- Contradictory signals - the sectoral sanctions target the very sector where Europe is

77 "Tusk: Nord Stream II Doesn't Help," *EU Observer*, December 18, 2015.

78 "Merkel Casts Doubt on Nord Stream 2 Gas Pipeline," *DW*, April 10, 2008.

79 "Nord Stream 2," <https://www.nord-stream2.com/>.

80 "It's very sad when Germany makes a massive oil and gas deal with Russia where we're supposed to be guarding against Russia and Germany goes out and pays billions and billions of dollars a year to Russia," Trump told NATO Secretary General Stoltenberg. Although the remarks were made in the context of NATO, they describe very well the duality of EU-Russia relations, a duality that affects the EU's ability to impose meaningful sanctions. See "Angela Merkel Hits Back at Donald Trump at Nato Summit," *The Guardian*, July 11, 2018.

dependent on current and future supply – oil exploration.

How Serious are the Imposers of Sanctions on Russia?

The inconsistencies described above make it appropriate to rephrase the earlier question on the Minsk Agreements. It is not just a question of whether the EU or its partners consider Russian implementation of the agreements to be realistic, but more whether they want implementation at all. This would be a much less charitable interpretation of the "signaling" function of sanctions, in which they are seen as a stunt rather than a signal; a scenario in which, for instance, an EU Member State might signal solidarity with its EU partners and show appropriate disapproval for violations of international law, yet at the same time make it clear to Russia that nothing is the matter. Germany's pursuit of Nord Stream 2, and Japan's attempts at winning Russian cooperation on the Kurile Islands, look like much stronger signals of support for Russia than the ostensible solidarity with Ukraine expressed through the medium of sanctions.

The implication of hypocrisy is unfair as it overlooks the genuine difficulty of exerting pressure on a powerful country with which one has, and must continue to have, a multi-faceted economic and political relationship. It is more realistic, as well as more charitable, to argue that the EU is genuinely aiming for implementation of the Minsk Agreements but is fatally constrained by its dependence on Russia.

As time goes on, this tension must presumably resolve itself in one of several ways. Either the EU will decide that implementation of the Minsk Agreements is both desirable and achievable and will take steps to achieve it. Or the EU will agree to Russia's map of Ukraine in the stated interests of Europe's long-term energy stability and political stability with Russia. There are strong arguments, such as those advanced by the Chairman of Germany's Eastern Committee of the German Economy, Wolfgang Buchele, that it is only through cooperation with Russia that any political settlement can be reached.[81] For now, the Council of Europe can continue to kick the can down the road every six months.

If Imposers are Serious, How Could Implementation Be Improved?

This section takes as its starting point the conclusion from the previous section that the EU is genuinely aiming for implementation of the Minsk Agreements but is fatally constrained by its dependence on Russian energy supplies. Options for further political and diplomatic measures are limited now that Russia has been expelled from the G8, and many Russian diplomats have been expelled by the UK and its allies in response to the Skripal case. Pressure looks possible only through economic means. In Europe, energy policy is central to this: if the EU genuinely

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81 Buchele's reported comments in response to U.S. threats of sanctions against Nord Stream 2 were "We consider the latest turn of the sanctions spiral incomprehensible and damaging. The sprawling catalogue of sanctions is causing increasing uncertainty for all companies that do business with Russia and takes us even further away from a political solution to the conflict with Russia." This is reported in "Deutsche Wirtschaft empört über U.S.-Sanktionsdrohungen gegen Pipelineprojekt Nord Stream 2," *Handelsblatt,* July 12, 2018.

wants Russia to implement the Minsk Agreements and considers such implementation to be realistic, the only meaningful economic pressure that the EU can apply is through the energy sector. This will take the form of reducing the EU's dependence on Russian oil and gas, on the one hand, and using Europe's bargaining power as an energy customer on the other. There are several elements to this:

- The supply of liquefied natural gas (LNG) from the U.S. and other suppliers. Some have seen U.S. opposition to Nord Stream 2 as an expression of U.S. commercial self-interest - a U.S. attempt to replace Russian energy with U.S. LNG supplies to Europe.[82,83] Other analysts see U.S. LNG expansion as the key to reducing Europe's risk-laden dependence on Russian energy. The Three Seas Initiative (3SI) in particular will nullify a specific threat that Nord Stream 2 introduces, namely that Russia might withhold energy from Eastern Europe while supplying it to Western Europe.[84] In the context of sanctions, the increased supply of U.S. Liquefied Natural Gas would unquestionably shift the coercive balance in favor of the imposing countries;
- Diversification of supply beyond the U.S. would contribute in the same fashion, as well as helping to counter any claim that the U.S. is putting commercial self-interest ahead of any concern about Russian behavior;
- Reduction of the EU's overall fossil fuel energy needs. Germany is at the forefront, with its Energiewende plan for a transition to a low-carbon economy;
- Potential challenges to Nord Stream 2, or at the very least the insertion of some conditionality into this and other existing or future energy projects, concerning implementation of the Minsk Agreement. It seems plausible that to link Nord Stream 2, rather than the EU sanctions, to the implementation of the Minsk Agreement would be rather more likely to achieve Russian implementation. Not only that, it would help dispel uncertainties over how serious EU Member States are about putting pressure on Russia.

Broadening the supply base would give the EU the option to reduce gas and oil purchases from Russia, but whether an impoverished Russian state would be more likely to implement the Minsk Agreements is debatable. On the contrary, there would be every chance of a retaliation. What seems beyond debate, however, is that without at least the option to reduce economic dependence on Russia, the Minsk Agreements, and the sanctions that aim to assist their implementation stand little or no chance of success. Diversifying the EU's energy supplies, and an EU-wide Energiewende, share the common feature that they are only achievable in the longer term. Steps in that direction, however, could be undertaken immediately.

Beyond the EU, where energy dependence is not a factor, stronger implementation would need to take a different form. The concept of targeted sanctions needs to take into account the particular points of vulnerability within the target country. The U.S. rationale for designating several more Russian oligarchs in April 2018 points at a strategy geared specifically at exerting

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82 "Opposition to Nord Stream 2 makes no sense for America or Europe," *Financial Times,* August 12, 2018.

83 "Germany and Russia gas links: Trump is not only one to ask questions," *The Guardian*, July 11, 2018.

84 "Trump Is Right on Nord Stream 2," *Wall Street Journal*, July 22, 2018.

influence on an oligarchy.[85] The extraterritorial reach of U.S. sanctions and U.S. control of access to the U.S. dollar makes this a powerful strategy and one with considerable room for expansion.

Emerging here is a picture in which U.S. sanctions on Russia, by reason of their leverage of access to the U.S. dollar, are relatively, and increasingly, effective, while the sanctions imposed by the EU, for a variety of reasons, are less so. This suggests a potential mismatch in the U.S. and EU positions. If so, there are two implications. First, the Council of Europe should take into account this possible mismatch in its scheduled or unscheduled revisits to the sanctions on Russia. Second, the EU and the U.S. might consider formal collaboration on the sanctions. The impossibility of coordinating these sanctions through the UN has not, so far, led to the establishment of an alternative structure through which to coordinate sanctions efforts.

There are risks to a more concerted implementation effort, and potential for unintended consequences. These may be summarized as follows:

- Retaliation, and not just in kind. Russia is keen to project its power;
- The potential risks to European energy stability (and stability in general) from worsened relations with Russia;
- Trying to bring about an indirect effect, - such as reducing EU dependence on Russian energy in order to exert pressure on Russia to abide by norms of international law, brings with it the risk of attracting a charge of general Russophobia. The measures could no longer be directly targeted at the problem of Ukraine, election interference or the use of chemical weapons on foreign soil, and therefore risk looking more like a general attack on Russia;
- The considerable costs to the EU, felt unevenly across its Member States, of a reduction in trade with Russia;
- Opportunities for other actors to capitalize on weak Russia-EU relations. Within two months of the UN vote condemning Russia's annexation of Crimea, China signed a $400 billion USD gas deal with Russia.[86] This allowed Gazprom to reduce dependence on Europe as a market. As Rutland put it, "perhaps the main beneficiary of the sanctions regime is China. The downturn in relations with the West may mean Russia's "turn to the east" is no longer an opportunity but a necessity;"[87]
- The potential growth in corruption, organized crime and sanctions evasion. Sanctions give rise to smuggling and other evasion techniques. Numerous cases are described

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85 "The Russian government operates for the disproportionate benefit of oligarchs and government elites." U.S. Treasury Secretary Steven Mnuchin was speaking after the latest round of U.S. sanctions in April 2018. Reports include "U.S. Punishes Key Putin Allies over Worldwide 'Malign Activity'," *BBC*, April 6, 2018.

86 S Lain, "The Significance of the China-Russia Gas Deal," *The Diplomat*, May 24, 2014.

87 P. Rutland, "The Impact of Sanctions on Russia," *Russian Analytical Digest*, No. 157, (December 17, 2014).

in detail by the UN Panel of Experts with respect to North Korea.[88] Drezner cites the UN's Oil for Food scandal to make the point that sanctions also weaken the rule of law in monitoring organizations.[89] Currently the information base is too thin to allow any reasonable estimation of how big a role sanctions evasion plays in the case of the sanctions on Russia.

Final Conclusions

Have the sanctions been successful as a tool of coercion? Russia has not implemented the Minsk Agreements nor restored Crimea to Ukraine. There has been no clear positive affect on Russian international behavior. On the contrary, other violations of international law that have occurred since 2014 point to worsening rather than an improvement of relations. However, implementation of the Minsk Agreements may never have been a realistic aim in the short term. The EU may see the sanctions rather as tools of constraint and symbolism.

As a tool of constraint, the sanctions look more successful. Crimean officials deemed complicit in the annexation by Russia are not internationally recognized. No further Russian takeovers of regions with significant Russian populations have occurred.

The sanctions have been used for signaling purposes. EU Member States have demonstrated internal solidarity and the ability to follow a united foreign policy. All imposers of the sanctions have demonstrated solidarity with Ukraine and with those countries that have significant Russian-speaking minorities, as well as support for the norms of international law.

Sanctions have had some effect on trade between Russia and the EU, with effects felt on both sides, and unequally among EU member states. However, the Russian economy appears to have been affected far more strongly by fluctuations in the global oil price than by sanctions. U.S. sanctions may prove more effective than EU ones, in that they inhibit a company's freedom to operate globally.

Running counter to, and fatally undermining, the sanctions is the ongoing need among EU countries for Russian oil and gas. The huge contracts, unaffected by sanctions, dwarf any sanctions-related trade losses, while in signaling terms the steady progress towards future pipeline deals throws into question whether EU Member States' declarations of solidarity with Ukraine can be taken seriously.

Imposers of the sanctions should be in no doubt that their support for the norms of international law justifies the measures taken. However, the practical difficulties of exerting pressure on Russia are immense. Even if the EU is genuinely aiming for implementation of the Minsk Agreements, it is hamstrung by its energy dependence on Russia, or rather, the need to work constructively with Russia in the interests of Europe's energy stability. If the EU is serious

88 See, for instance, the example of the M/V Jie Shun in "Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009)," United Nations, S/2017/150, February 27, 2017.

89 Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review*, Vol. 13, Issue 1 (March 1, 2011), pp. 96–108.

about the Minsk Agreements (or indeed about keeping the Russian state in check in any other respect) it might look to exert pressure through its power as an energy consumer by inserting conditions into any deals with Russia and by reducing dependence.

Sanctions regimes coordinated through the UN, such as those against Iran and North Korea, have benefited from the work of Panels of Experts set up to oversee implementation. As the sanctions on Russia, by necessity, do not involve the UN, principal actors might consider whether establishing a panel or some means of coordination among themselves would assist implementation.