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Sanctions Against Russia: A Look Into 2020



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Sanctions Against Russia: A Look Into 2020

Executive Summary

- The report assesses the risks of sanctions against Russia over the year.
- By 2020, the use of sanctions against Russia had gained much more stability compared to previous years. The damage caused by the new restrictive measures can be considered limited. *The key issue is whether the situation in the coming year will remain stable?*
- Given the scale of Russian economy, the current sanctions are unlikely to derail it. However, sanctions can cause grave problems for individual companies and projects. The risk of new sanctions stems from a series of political factors: the Ukrainian crisis and conflict in Donbass, the U.S. elections and the alleged meddling, the developments in the Middle East, etc.
- In the Ukraine the crisis has noticeably stabilized. However, we should not expect any significant breakthroughs in terms of compliance with the Minsk Agreements in the coming year. The stabilization of the situation in Donbass significantly decreases the risk of new sanctions, yet this improvement will not result in the proportionate lifting of current restrictions.
- The problem of Russia's alleged electoral meddling is likely to exacerbate in view of the upcoming 2020 presidential elections in the United States. The Congress, the media and think tanks will likely raise the question of preemptive sanctions against Russia. However, discussing possible measures does not mean they will automatically be adopted.
- Thus far, the situation in the Middle East is not fraught with a high risk of sanctions for Russia. However, the United States continues to impose sanctions on Iran, which increases the danger of secondary sanctions for international businesses, including Russian companies.
- The United States may very well crank up sanctions against China in 2020, although not exponentially. The effect of such sanctions on Russia will be limited.
- Our base scenario for 2020 envisions further stabilization of sanction risks for Russia. Even though the current sanctions are detrimental to the Russian economy and individual companies, it is unlikely that they will escalate. Sanctions might be introduced from time to time in response to individual developments, but they will not have a systemic effect on the overall development.
- It is unlikely that we will see a scenario in which relations between Russia and the West improve markedly. There is no reason to expect a significant easing of sanctions in the foreseeable future.

Introduction

The U.S. sanctions represent one of the key political risks for Russian and international businesses today. They create problems for foreign investors looking to pump money into the Russian economy and for foreign partners of Russian companies. The uncertainty over applying the existing restrictive measures or introducing new ones remains.

Russia has other political risks as well. However, unlike sanctions, they are either less probable or

more predictable. For instance, it is extremely unlikely that the country will experience severe domestic political shocks, although this possibility should not be disregarded entirely. The same is true for the risk of Russia participating in a major armed conflict, as any such development would change the rules of the game drastically. Such conflict is unlikely today. The risks for businesses stemming from the actions of individual regulators are possible. Still, they have been tak-

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ing shape for years, and companies know what to expect. Additionally, a radical change in the current situation is unlikely.

As for the sanctions, the uncertainty is higher even within a one-year outlook. Sanctions change along with shifts in the political situation. The problem is that the connection between sanctions and politics is non-linear. Once the sanctions

mechanism is launched, even a local event may lead to further restrictive measures. On the other hand, an improvement in political relations will not necessarily result in the lifting or easing of sanctions. Given the scale of the Russian economy, the current sanctions are unlikely to destabilize it. However, these sanctions can cause problems for individual companies and projects.

Sanctions against Russia: Perceived Stabilization?

By 2020, the use of sanctions against Russia has become much more stable compared to previous years. Last year was the quietest in terms of the introduction of new sanctions since the Ukrainian crisis broke out in 2014. Still, it can hardly be described as trouble-free. Restrictive measures, sometimes very unpleasant ones, were introduced against Russia, individual citizens and companies. However, for the first time in five years, the anti-Russian sanctions policy was not given a fresh political boost. Throughout 2019, sanctions were introduced on the basis of known political problems that had emerged in previous years. None of the existing problems in the relations between Russia and the West were solved, but none of them were exacerbated either.

In previous years, the situation had developed along entirely different lines. The Ukrainian crisis broke out in 2014, and the United States, European Union and several other states responded by imposing sectoral and individual sanctions on Russia. Despite the Minsk Agreements, the crisis worsened in 2015. The sanctions were now tied to agreements that were hard to comply with even theoretically. Then Russia launched its campaign in Syria, which became another reason, albeit a minor one, to impose sanctions. In 2016, a scandal broke out around hacker attacks on the DNC servers, which resulted in end-of-year sanctions. In 2017, the situation evolved into a full-fledged tsunami in connection with Russia's alleged meddling in the U.S. elections. Ukraine, Syria and the alleged meddling became fertile ground for the United States to codify its sanctions into law, which significantly complicated the prospect of lifting them. The 2018 was spent investigating the alleged interference. Members of Congress competed to see who could propose the harshest new sanctions bills.

The presidential administration kept up with the developments and steered a careful, yet consistent course for tightening the sanctions. Few people doubted Russia would interfere in the midterm elections. The first versions of the now-infamous Defending American Security from Kremlin Aggression (DASKA) and Defending Elections from Threats by Establishing Redlines (DETER) acts also appeared in 2018. On the whole, the European Union distanced itself from the American enthusiasm, although the topic of meddling did hurt relations between Moscow and Brussels. Just when these relations appeared to have hit yet another low, the Skripal case blew up, which generated its own track of anti-Russian sanctions. The "chemical" topic augmented the incidents involving the use of weapons of mass destruction (WMDs) in Syria: Moscow was accused of supporting the government of Bashar al-Assad. In late 2018, the Kerch Strait incident happened and foregrounded the Ukrainian situation once again.

The accumulation of all these events made for grim expectations regarding new sanctions. Indeed, virtually all the developments resulted in the United States and the European Union either imposing new restrictive measures on Russia in 2019 or preserving them as legal initiatives that may be developed further in the future. The United States was particularly active in terms of introducing restrictive measures, although the European Union did introduce some sanctions of its own.

The "chemical" topic related to the Skripal case was used to introduce sanctions under Executive Order 13883 of August 1, 2019, pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (the CBW Act).¹ At the working level, "chemical" sanctions

¹ Executive Order 13883 of August 1, 2019 "Administration of Proliferation Sanctions and Amendment of Executive Order 12851" // Federal Register. 01.08.2019. URL: <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13883.pdf>

were detailed in the subsequent decisions of the Department of the Treasury² and the U.S. Department of State.³ These involved prohibiting international institutions (the World Bank and the International Monetary Fund) from providing aid to Russia, banning American banks from buying Russian bonds denominated in foreign currency, and imposing restrictions on certain commodities. The European Union introduced sanctions against nine individuals who had allegedly been involved in the Skripal case. These restrictions were based on the framework decision concerning chemical incidents adopted on October 15, 2018.⁴ The new sanctions did not cause much damage to Russia, though. Russia's share of foreign bonds is rather small, the country does not require aid, and the imposed export restrictions were hardly extensive.

Following the Kerch Strait incident, the U.S. Department of the Treasury put eight Russian shipbuilding enterprises and three individuals, that the U.S. authorities believed to be involved in Russia detaining Ukrainian gunboats and one tugboat, on the Specially Designated Nationals and Blocked Persons List (SDN list).⁵ The Ukrainian situation⁶ prompted the European Union to put nine Russian officials on its existing list of persons under sanctions based on the EU Council Decision 145 of 2014.⁷ This is hardly a reason to talk about significant economic damage either. It is highly improbable that the officials and military officers on the list have assets in the United States or the European Union. Travelling back and forth is not relevant for them either. Shipbuilding companies hit by the sanctions work primarily for the domestic market. Being put on the SDN is neither particularly pleasant, nor critical for them.

Officially, Washington's actions against Russia's gas pipeline project in Europe are also

connected to Ukraine. Sanctions against Nord Stream 2 had been discussed throughout 2019 and were adopted in December as a section of the National Defense Authorization Act (NDAA 2020, sec. 7503).⁸ Restrictions apply to companies that supply specialized vessels designed for installing pipelines on the ocean floor. Fearing U.S. sanctions, the Swiss company Allseas suspended its participation in the project and recalled its specialized vessels, the *Pioneering Spirit* and the *Solitaire*. However, the project itself is nearing completion. Russia has its own vessels for pipeline installation (the *Fortuna* and the *Akademik Chersky*). The time required to prepare them for the job and their smaller capacity will delay construction, but will not derail the project. Additionally, the United States came under harsh criticism from Germany and the European Union, as the sides do not have the same stance on the issue, unlike on other troublesome topics connected to Russia. At the same time, it is highly unlikely that the criticism levied by Brussels and Berlin will sway the United States one way or another concerning the sanctions.

Russia's supposed meddling in the U.S. elections also led to decisions and proposals on the introduction of sanctions. The House of Representatives discussed the Sherman–Waters amendment, which proposed enshrining sanctions against Russia's sovereign debt in NDAA 2020. With some adjustments, the amendment was supported by senators Marco Rubio and Chris Van Hollen, as it reflected the key provisions of the DETER Act they had previously sponsored.⁹ However, the amendment did not make it into the final NDAA. The European Union adopted a framework sanctions document in response to incidents in the digital space, although it has not been used against Russia thus far.¹⁰

² Russia-Related Directive Under Executive Order of August 1, 2019 ("CBW Act Directive") // U.S. Department of the Treasury. 02.08.2019. URL: https://www.treasury.gov/resource-center/sanctions/programs/documents/20190803_cbw_directive.pdf

³ Imposition of a Second Round of Sanctions on Russia under the Chemical and Biological Weapons Control and Warfare Elimination Act // U.S. Department of State. 02.08.2019. URL: <https://www.state.gov/imposition-of-a-second-round-of-sanctions-on-russia-under-the-chemical-and-biological-weapons-control-and-warfare-elimination-act/>

⁴ Chemical Weapons: The EU Places Nine Persons and One Entity Under New Sanctions Regime. Press-release // The EU Council. 21.01.2019. URL: <https://www.consilium.europa.eu/en/press/press-releases/2019/01/21/chemical-weapons-the-eu-places-nine-persons-and-one-entity-under-new-sanctions-regime/>

⁵ Ukraine-/Russia-Related Designations // U.S. Department of the Treasury. 15.03.2019. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190315.aspx>

⁶ EU Restrictive Measures in Response to the Crisis in Ukraine // Council of the European Union. URL: <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/>

⁷ EU Council Decision 2014/145/CFSP // Official Journal of the European Union. 17.03.2014. URL: [https://eur-lex.europa.eu/eli/dec/2014/145\(1\)/](https://eur-lex.europa.eu/eli/dec/2014/145(1)/)

⁸ National Defense Authorization Act for the Fiscal Year 2020 // U.S. Congress. 20.12.2019. URL: <https://www.congress.gov/bill/116th-congress/senate-bill/1790>

⁹ S.1060 - Defending Elections from Threats by Establishing Redlines Act of 2019 // U.S. Congress. 08.04.2019. URL: <https://www.congress.gov/bill/116th-congress/senate-bill/1060/text>

¹⁰ EU Council Decision 2019 /797/ EUR-Lex. 17.05.2019. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2019.129.01.0013.01.ENG&toc=OJ.L:2019:129I:TOC>

Finally, all the above-listed political developments were concentrated in the new version of the DASKA bill, which was introduced twice in 2019 – once in February and again in December. Compared to other bills, acts and executive orders concerning the sanctions against Russia, DASKA proposes very harsh measures. Russian banks, LNG projects, sovereign debt obligations, crude oil production and the shipbuilding sector are all potentially at risk. Essentially, the bill proposes blocking the key sectors of the Russian economy. While the sectoral sanctions that are currently in effect under Executive Order 13662 and the relevant directives of the U.S. Department of the Treasury entail only restrictions on lending to the financial and energy sectors and the provision of goods, services and technologies for Russia's Arctic and shale energy projects,¹¹ DASKA threatens to block Russia's backbone companies in the financial, energy and shipbuilding sectors or intro-

duce large-scale prohibitions on investment and the provision of technologies, goods and services. However, even in its new version, DASKA has come under harsh criticism from the Bureau of Legislative Affairs of the U.S. Department of State.¹² In its current version, the State Department lawyers believe the bill to be excessive, while a number of measures are either not feasible, or are fraught with major damage of the United States itself, its allies and the international market.

In other words, Russia suffered relatively minor damage, which, in and of itself, mostly stemmed from the momentum of previous years. The key issue is *whether the relatively stable situation will continue in the coming year*. This will depend on the number of key issues (political factors) in relations between Russia and the West, and on the subsequent dynamics of trends in the sanctions policy.

Sanctions against Russia: Risk Factors in 2020

THE SITUATION IN UKRAINE

As for Ukraine, the situation has noticeably stabilized. The Kerch Strait matter was largely swept aside when Russia returned the detained sailors, gunboats and tugboat to Ukraine. There is no guarantee that similar incidents will not happen in the future. However, it is unlikely right now that either side will do anything to exacerbate the situation, as the political dividends are not apparent, and the costs might be too high. The freeing of the sailors developed into a series of detainee exchanges, which is one of the clauses of the Minsk Agreements. Sporadic skirmishes at the line of contact in Donbass continue. However, precedents for the disengagement of forces have appeared, even if their scale is still very small. The holding of another meeting of the Normandy format in December 2019 was an important political sign that the Minsk process is ongoing, and that there is no alternative to it. At the same time, the tendency towards normalization is starting to lose steam. The parties retain clear red lines, and crossing them is unacceptable. We should not expect any significant breakthroughs in terms of compliance with the Minsk Agreements in 2020.

Nevertheless, even the current level of stabilization appears to be a favourable option for the development of events. A significant chunk of the anti-Russian sanctions is connected to the Ukrainian crisis. Stabilization in Donbass significantly decreases risks of new EU sanctions and reduces the restrictive measures of the United States (albeit to a lesser degree).

Even if the situation improves somewhat, it will not result in the proportionate lifting of current restrictions, which will remain at the current level. The Kerch Strait incident was clear proof of this. After the detained sailors, gunboats and tugboat were returned to Ukraine, neither the United States nor the European Union lifted the sanctions imposed after the incident. Although these restrictions do not cause Russia severe damage, lifting them could demonstrate to Moscow that resolving political issues will lead to sanctions being lifted. However, this question did not even make it onto the political agenda. Both the United States and the European Union are determined to keep the Ukrainian sanctions

¹¹ Ukraine-/Russia-Related Sanctions // U.S. Department of the Treasury.
URL: <https://www.treasury.gov/resource-center/sanctions/Programs/pages/ukraine.aspx>

¹² U.S. Department of State. Administration Views Regarding the Amendment in the Nature of Substitute (ANS) to S. 482, Defending American Security from Kremlin Aggression Act of 2019 (DASKA), filed on December 12, 2019 for the Foreign Relations Committee's Business Meeting on December 18. 17.12.2019.
URL: <https://www.documentcloud.org/documents/6585483-DASKA-Letter.html#document/p2>

package in place until the Minsk Agreements are fully implemented. Given the difficulties in ensuring compliance with the Minsk Agreements, the sanctions will remain in place indefinitely.

The European Union periodically posits the question of gradually lifting the sanctions in proportion to the level of compliance with the Minsk Agreements. However, these ideas are thus far more declarative in nature and are voiced by individual politicians. The sanctions are an important symbolic aspect of the EU's united front on the Ukrainian issue. Brussels will be wary of introducing discord into the unity of its member states. Additionally, even at the working or expert level, there are no specific proposals as to which particular sanctions could be tied to specific clauses of the Minsk Agreements. Therefore, the prospect of partially lifting the sanctions is not in the offing.

On the other hand, stabilization does not mean conflict resolution. New incidents can happen at any time. In this case, new sanctions are indeed likely, even though they will hardly lead to a fundamental change in the current setup.

The only thing that can result in a radical revision of the sanctions is the open and large-scale involvement of the Russian military in a conflict that might spill beyond the Luhansk and Donetsk People's Republics. Such a prospect is thus far unlikely.

The possibility of fines for violating sanctions imposed by the United States because of the Ukrainian crisis remains. To date, there have been only three instances of the U.S. Department of the Treasury imposing fines on private businesses for violating the regime of anti-Russian sanctions imposed in the wake of the Ukrainian crisis: the Exxon Mobil case (2017);¹³ the Cobham Holdings case (2018);¹⁴ and the Haverly Systems case (2019).¹⁵ Exxon Mobil successfully fought the fine in court,¹⁶ which is something that rarely

happens.¹⁷ The number of Ukraine-related fines has been small so far, but it may grow in future.

THE ALLEGED ELECTORAL MEDDLING

After Special Prosecutor Robert Mueller published his report in March 2019, the topic of Russia's alleged meddling in the U.S. presidential elections and the supposed collusion of Donald Trump's team with Russia began to wane. The report did not take the question of Russia's meddling off the table. Moreover, several Russian citizens were indicted. However, expectations from the report had clearly been excessive. The lack of any confirmed facts that Russia interfered in the midterm elections in autumn 2018 was another critical factor. The topic of Russian meddling remained toxic, even if the political struggle inside the United States and the focus of public attention subsequently switched to the Ukrainian scandal involving Mr. Trump. The alleged attempts of the President of the United States to influence his Ukrainian counterpart, Volodymyr Zelensky, to obtain more favourable terms at the 2020 elections served as grounds for launching an impeachment procedure against him.

As for the sanctions for the alleged meddling, they were of a limited nature. Even prior to the midterm elections, Donald Trump signed the Executive Order 13848 regulating the procedure for assessing interference in the elections and the introduction of sanctions against the foreign states responsible. Therefore, the presidential administration forestalled the Congress in developing a legal framework for using sanctions in connection with the meddling. The issue of cybersecurity may be treated as related to that of the alleged interference. The United States has separate acts concerning cybersecurity, such as Section 224 of Public Law 115-44 of 2017 (CAATSA),¹⁸ and Executive Orders 13757 (issued on December 28, 2016, in response to Russia's alleged hacker attacks) and 13694 (issued on April 1, 2015, in response to the alleged actions of hackers with ties to China who stole the personal

¹³ ExxonMobil Assessment of Penalty for Violating the Ukraine-Related Sanctions Regulations // U.S. Department of the Treasury. 20.07.2017. URL: https://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20170720_exxonmobil.pdf

¹⁴ Settlement Agreement between Cobham Holdings Inc. and Office of Foreign Assets Control // U.S. Department of the Treasury. 27.11.2018. URL: https://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20181127_metelics.pdf

¹⁵ Settlement Agreement Between Haverly Systems Inc. and the Office of Foreign Assets Control // U.S. Department of the Treasury. 25.04.2019. URL: https://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20190425_haverly.pdf

¹⁶ Exxon Mobil vs. U.S. Department of the Treasury // U.S. District Court Northern District of Texas Dallas Division. 31.12.2019. URL: https://www.govinfo.gov/content/pkg/USCOURTS-txnd-3_17-cv-01930/pdf/USCOURTS-txnd-3_17-cv-01930-2.pdf

¹⁷ Timofeev I. Rethinking Sanctions Efficiency. Evidence from 205 Cases of the U.S. Government Enforcement Actions Against Business // Russia in Global Affairs. 08.10.2019. URL: <https://eng.globalaffairs.ru/number/Rethinking-Sanctions-Efficiency-20213>

¹⁸ PL-115-44. Countering America's Adversaries Through Sanctions Act // Federal Register. 28.07.2017. URL: <https://www.govtrack.us/congress/bills/115/hr3364/text1>

data of millions of U.S. citizens).¹⁹ Sanctions under Order 13848 were used only once in 2019.²⁰ Two individuals and three Russian companies allegedly tied to Yevgeny Prigozhin, as well as a yacht and two planes, were put on the SDN list. Seven legal entities and seventeen individuals were put on the list in connection with cybercrimes. However, these were all narrowly targeted measures, and they did not affect the Russian economy or market expectations.

The so-called “Kremlin List” published in 2018 and the restrictive measures imposed on individual companies did far more reputational damage to Russian businesspersons. The “Kremlin List” is not legally binding and, technically, is not linked with interference in the elections. Sec. 241 of CAATSA rather points to corruption and “closeness to the Russian regime.”²¹ However, merely being on the list had a negative impact on the reputation of Russian businesspeople. Unofficially, the list was also closely linked to the issue of meddling that Americans believe to be a centrally planned campaign orchestrated by the Russian leadership. Consequently, ties with the latter are considered compromising.

The most high-profile example was the “April 6 Case,” when 26 high-ranking Russian officials and businesspersons, as well as fifteen companies, including such global players as RUSAL, were placed on the SDN list. Officially, the sanctions were not connected with the electoral interference and were mostly related to the Ukrainian package (executive orders 13661 and 13662).²² Unofficially, however, they could easily be related to the “Kremlin List” and the heated atmosphere that ensued from the meddling issue.

This practice, however, was not taken further. Russian companies suffered some damage that was, however, mitigated by the general licenses of the U.S. Department of the Treasury. Moreover, in 2019 RUSAL, EuroSibenergo and En+ were removed from the SDN list altogether following the restructuring of the ownership and the implementation of the so-called “Barker Plan.”²³

The precedent of removing companies from the list demonstrated that the American side is not ready to transform the actions of April 6 into a systematic practice. It demonstrated flexibility after the ownership of these companies was restructured, and took the damage that may be caused to international markets when large companies are taken into consideration. For businesses, it meant that their risks had at least been stabilized, although not mitigated entirely.

In 2020, the topic of Russian interference will inevitably return to mainstream U.S. politics. Trump’s opponents will use it to discredit him during the electoral campaign. Meddling remains an important element of anti-Russian congressional bills.

The criticism levelled at DASKA by the lawyers of the Department of State does not mean that the executive power differs from Congress in its assessment of interference. Instead, the discussion focuses on the expediency of using particular instruments to put pressure on Russia, and those instruments include sanctions.

In other words, we cannot rule out new legislative initiatives being introduced or old legislative initiatives being expanded. The subject of meddling will be the key issue.

At the same time, Russia itself has no plans to exacerbate relations with the United States over the issue. It is highly likely that there will be no reason to levy new accusations following the 2020 election campaign, meaning that the risk of sanctions being imposed for interfering with the elections will not receive the required political boost.

THE SKRIPAL CASE AND THE EUROPEAN DIMENSION OF THE ISSUE OF INTERFERENCE IN ELECTIONS

The Skripal case gravely exacerbated animosity between Russia and the West. The most significant

¹⁹ Sanctions Related to Significant Malicious Cyber-Enabled Activities // U.S. Department of the Treasury. URL: <https://www.treasury.gov/resource-center/sanctions/Programs/pages/cyber.aspx>

²⁰ Foreign Interference in a U.S. Election Designations; Cyber-Related Designations; Ukraine-/Russia-Related Designations; North Korea Designations Update // U.S. Department of the Treasury. 30.09.2019. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190930.aspx>

²¹ PL-115-44. Countering America’s Adversaries Through Sanctions Act // Federal Register. 28.07.2017. URL: <https://www.govtrack.us/congress/bills/115/hr3364/text>

²² Ukraine-/Russia-Related Designations and Identification Update; Syria Designations; Kingpin Act Designations; Issuance of Ukraine-/Russia-Related General Licenses 12 and 13; Publication of New FAQs and Updated FAQ // U.S. Department of the Treasury. 06.04.2018. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180406.aspx>

²³ Ukraine-/Russia-Related Designations Removals // U.S. Department of the Treasury. 27.01.2019. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190127.aspx>

measures were mutual expulsions of diplomats and subsequent use of certain sanctions. The United States was the most active, invoking the CBW Act of 1991 mentioned above. By now, however, the Skripal problem as such is largely off the agenda. At least, we should not be expecting new sanctions in connection with this case.

The Skripal case and the discussion of the alleged Russian interference in the U.S. elections significantly exacerbated the subject of “Russian influence” in Europe. Russia is said to conduct systemic hybrid warfare against western countries and pro-Western post-Soviet states in order to weaken and sow discord among them. This interpretation finds its starkest embodiment in official U.S. documents including sanctions acts (for instance, sec. 251 of CAATSA).²⁴ In the EU countries, attention is also focused on the topic of meddling and “hybrid warfare.” However, it has thus far remained more of an ideological element. Individual European states and the European Union as a whole abstained from using this topic as a reason to introduce sanctions. The problem remained relevant in 2019 and was fuelled from time to time by spy scandals and isolated incidents. However, none of them reached the scale of the Skripal case.

Currently, the threat of Russian interference remains present in the information space, but it has clearly slid off the political decision agenda. It is highly doubtful that the European Union will introduce new sanctions in connection with the Skripal case in the near future.

It is more likely that the United States will work actively to protect EU states from “Russian aggression,” especially since this task involves specific funding (see, for instance, sec. 254 of CAATSA).²⁵ However, such activities do not currently pose a direct threat to international businesses working with Russia.

THE SITUATION IN THE MIDDLE EAST

Russia’s support for Bashar al-Assad’s government in Syria and its active participation in Middle Eastern affairs is another sanctions risk factor. This risk is limited at present. However, the EU regulatory documents do not envision anti-Russian sanctions in connection with Syria or the Middle East. Theoretically, sanctions can be imposed under the above-mentioned framework document on weapons of mass destruction. However, this document has not yet been applied to Russia after developments in Syria, despite the incidents involving chemical weapons there. Assad’s forces are blamed for these incidents, and Russia is criticized for supporting him.

The U.S. documents contain more specific references to the Middle East associated with sanctions against Russia. CAATSA is a prime example here (sec. 234).²⁶ There is also a precedent for placing Russian companies on the sanctions list in connection with Syria. In 2018, Rosoboroneexport and the Russian Financial Corporation were hit with sanctions as part of the “April 6 Case.”²⁷ The most high-profile case of 2019 involved five Russian vessels, several companies and a number of individuals being put on the SDN list for delivering fuel to Syria.²⁸ It should be noted that the Syria- and Ukraine-related sanctions were used as the legal grounds for this step (the “Crimean” Executive Order 13685). The Congress continues to debate tightening sanctions against Syria. American documents also mention individual sanctions against states supporting Assad.²⁹ The DASKA bill also touches upon Syria, but subsequent developments concerning the bill are not apparent yet.

Therefore, the Middle East is not a significant sanctions risk for Russian economy right now, but it does carry certain risks for individual companies that work with Syria.

Iran-related activities are just as risky, given that the United States is tightening sanctions against

²⁴ PL-115-44. Countering America's Adversaries Through Sanctions Act // Federal Register. 28.07.2017.
URL: <https://www.govtrack.us/congress/bills/115/hr3364/text>

²⁵ PL-115-44. Countering America's Adversaries Through Sanctions Act // Federal Register. 28.07.2017.
URL: <https://www.govtrack.us/congress/bills/115/hr3364/text>

²⁶ Ibid.

²⁷ Ukraine-/Russia-Related Designations and Identification Update; Syria Designations; Kingpin Act Designations; Issuance of Ukraine-/Russia-Related General Licenses 12 and 13; Publication of New FAQs and Updated FAQ // U.S. Department of the Treasury. 06.04.2018.
URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180406.aspx>

²⁸ Ukraine-/Russia-Related Designations; Syria Designation // U.S. Department of the Treasury. 26.09.2019.
URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190926.aspx>

²⁹ S.1 - Strengthening America's Security in the Middle East Act of 2019 // U.S. Congress. 05.02.2019.
URL: <https://www.congress.gov/bill/116th-congress/senate-bill/1/text?q=%7B%22search%22%3A%5B%22Israel%22%5D%7D&r=1&s=1>

that country, and U.S. regulators actively use secondary sanctions against foreign companies that violate the sanctions regime.

SANCTIONS AGAINST VENEZUELA AND NORTH KOREA

As with Syria and Iran, it is risky for Russian companies to do business in countries that are under unilateral sanctions of the United States and its allies, as well as with countries that are under UN sanctions. The United States is cranking up its sanctions against Venezuela. One of the most notable cases last year involved Russia's Evrofinance Mosnarbank being put on the SDN list.³⁰ Nonetheless, it is not a systemic player in the Russian financial system. Large banks avoid transactions with Venezuela and other states, thus bypassing U.S. sanctions. Risks in this area exist for large Russian companies working in Venezuela. However, they work within the framework of inter-country political relations and, by all appearances, have adapted to the risks.

Equally limited are the risks associated with sanctions in connection with ties to North Korea, especially since Russia itself is party to the UN sanctions against that country. However, several Russian companies have already been put on the U.S. sanctions lists. The sanctions against Gudzon,³¹ which resulted in further difficulties in the company's dealing with its foreign partners, are a particularly stark case here.³²

U.S.–CHINA RELATIONS

U.S.–China relations are becoming increasingly complicated. Despite the trade war gradually losing steam and the first phase of the so-called "trade deal" between the countries being signed, the United States is far more active when it comes to hitting Chinese manufacturers with sanctions. The most telling cases in this area last year were the sanctions against the Chinese technological giant Huawei (the company has been blacklisted by the U.S. Department of Commerce) and COSCO Shipping Tanker (which

was placed on the SDN list of the Department of the Treasury). Both are cases of secondary sanctions for an alleged violation of the U.S. sanctions against Iran. However, these steps have affected bilateral relations. Executive Order 13873, which allows for sanctions to be imposed on IT companies, is not aimed directly against China.³³ But it does create difficulties for Chinese companies by restricting the transfer of technology and containing China's growing competition in the IT sector.

It is highly likely that the United States will step up its sanctions against China and that China will reciprocate. At the same time, the scale of the sanctions will be smaller in 2020 compared to the package of sanctions against Russia and will primarily be used as signals or to target individual companies. Chinese companies have absolutely no desire to see the situation escalate and will seek ways to settle disputes with American regulators.

The animosities between the United States and China contradictions and the mutual sanctions between the two countries concern Russia only tangentially. Russia's NOVATEK could theoretically be affected by China's COSCO Shipping Tanker being put on the SDN list, but the problem with delivering specialized vessels for the Russian company was handled.³⁴ Targeted risks are relevant for companies working on joint projects with Chinese companies hit by sanctions, but the number of such companies is minimal, therefore so far this risk can be considered insignificant.³⁵

THE EVOLUTION OF SANCTIONS MECHANISMS IN THE UNITED STATES AND THE EUROPEAN UNION

In March 2019, the Office of Terrorism and Financial Intelligence (TFI) of the U.S. Department of

³⁰ Press-Release: Treasury Sanctions Russia-Based Bank Attempting to Circumvent U.S. Sanctions on Venezuela // U.S. Department of the Treasury. 11.03.2019. URL: <https://home.treasury.gov/news/press-releases/sm622>

³¹ Press-Release: Treasury Targets Russian Shipping Companies for Violations of North Korea-Related United Nations Security Council Resolutions // U.S. Department of the Treasury. 21.08.2019. URL: <https://home.treasury.gov/news/press-releases/sm463>

³² Vessel Owned by Russian Company Hit by U.S. Sanctions Arrested in Singapore // Intefax. 06.12.2019. URL: <https://www.interfax.ru/world/686899>

³³ Executive Order 13873 "Securing the Information and Communications Technology and Services Supply Chain" // Federal Register. 15.05.2019. URL: <https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-25554.pdf>

³⁴ Iran-Related Designations; Issuance of Iran-Related Frequently Asked Questions // U.S. Department of the Treasury. 25.09.2019. URL: <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190925.aspx>

³⁵ Timofeev I.V. Asia under Fire of Secondary Sanctions. Report for the Valdai Discussion Club // Valdai Discussion Club. 18.11.2019. URL: <https://ru.valdaiclub.com/a/reports/aziya-pod-ognyem-sanktsiy-ssha/>

the Treasury set up six Strategic Impact Units on sanctions against Russia, North Korea, Iran and ISIS (a terrorist organization that is banned in Russia), and on the issues of cryptocurrencies, human rights and combating corruption.³⁶ These units were established in order to buttress intra-agency coordination with the goal of improving the general efficiency of the U.S. sanctions regime.

The European Union has transferred the mechanism of implementing its sanctions (Unit FPI5) from the Service for Foreign Policy Instruments to the Directorate-General Financial Stability, Financial Services and Capital Markets Union (DG FISMA).³⁷ Previously, the European External Action Service was in charge of this unit. These bureaucratic changes are two-pronged and intended, first, to bolster the efficiency of restrictions already in place (be done through the coordinated actions of the European Union's financial authorities) and, second, to increase the European Union's economic sovereignty and its resilience in the face of third-party extra-territorial sanctions. Creating INSTEX,³⁸ and subsequently expanding its membership,³⁹ has not yet reduced the risks of U.S. sanctions imposed for interaction with Iran. Other innovations include creating a common mechanism for imposing sanctions in response to the use of chemical weapons,⁴⁰ and in response to cybercrimes.⁴¹

These administrative changes are unlikely to affect Russia in 2020 and, as far as the United States is concerned, they do not mean stepping up sanctions. Rather, it is about more efficient management of the existing sanctions regime. As regards the European Union, they are also unlikely to affect the level of risk for Russia seriously.

Developing the European Union's sanctions mechanism will have long-term consequences, such as building up the capabilities for monitoring violations and punishing the complicit parties. Those EU measures that are intended to boost its economic sovereignty are not guaranteed to succeed. In the long run, this will preserve the risk of the United States imposing extraterritorial sanctions on joint Russia–EU projects, such as Nord Stream 2.

HOW INTERNATIONAL BUSINESS REACTS TO SANCTIONS REGIMES

Large international business will continue to adhere to the existing sanctions regimes. Companies generally prefer to comply with sanctions rather than skirt them, and this is particularly true regarding U.S. sanctions, given the ability of U.S. regulators to monitor violations. The large number of fines imposed by the U.S. Department of the Treasury in 2019, the blacklisting of *Huawei* by the U.S. Department of Commerce, and the addition of COSCO Shipping Tanker to the U.S. Department of the Treasury's SDN list sent dangerous signals to businesses. Companies will continue investing in developing sanctions compliance instruments, such as hiring sanctions experts, improving transaction monitoring software, auditing transactions, holding training sessions for employees and other steps.

Overcompliance with regulatory requirements, i.e. abandoning transactions even in cases where they are formally allowed, is an essential factor for Russian businesses. One type of risk involves increasing transaction costs with due account of a partner's subjective assessment of the cost of risk. However, this risk has already been generated, and its growth will be restricted in 2020 due to the predicted stabilization of the sanctions policy against Russia.

³⁶ Statement of Under Secretary Sigal Mandelker Before the U.S. House Appropriations Subcommittee on Financial Services and General Government // U.S. Department of the Treasury. 12.03.2019.

URL: <https://home.treasury.gov/news/press-releases/sm624>

³⁷ Allocation of Portfolios and Supporting Services // European Commission 2019–2024. 07.11.2019.

URL: https://ec.europa.eu/commission/sites/beta-political/files/allocation-portfolios-supporting-services_en_0.pdf

³⁸ Skirting U.S. sanctions, Europeans open new trade channel to Iran // Reuters. 31.01.2019.

URL: <https://www.reuters.com/article/us-iran-usa-sanctions-eu/european-powers-launch-mechanism-for-trade-with-iran-idUSKCN1PP0K3>

³⁹ Joint Statement on Joining INSTEX by Belgium, Denmark, Finland, the Netherlands, Norway and Sweden // Ministry for Foreign Affairs of Finland. 29.11.2019.

URL: https://um.fi/current-affairs/-/asset_publisher/gc654PySnjTX/content/vain-englanniksi

⁴⁰ EU Council Decision 2019/86 // Official Journal of the European Union. 21.01.2019.

URL: <https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:32019D0086&from=en>

⁴¹ EU Council Decision 2019/797 // Official Journal of the European Union. 17.05.2019.

URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2019.129.01.0013.01.ENG&toc=OJ:L:2019:129I:TOC>

Sanctions against Russia: Scenarios for 2020

The considered trends and political factors allow proposing several scenarios of the unfolding dynamics of anti-Russian sanctions.

SCENARIO 1: "STABILIZATION"

Our base scenario envisions further stabilization of sanctions risks for Russia within the next year. Even though the current sanctions are detrimental to the Russian economy and individual companies, it is unlikely that they will escalate. Sanctions might be introduced from time to time in response to individual developments, but they will not have a systemic effect on the overall situation. Markets are unlikely to respond to such sanctions with significant fluctuations and will probably not even notice them. This scenario does not rule out the risk of secondary sanctions being levied against Russian companies as part of other sanctions packages. However, these risks are more directly related to the conduct of Russian actors themselves, rather than to foreign political factors.

SCENARIO 2: "ESCALATION"

At the same time, the unresolved fundamental problems in relations between Russia and the West remain a significant obstacle. Stabilization does not equal resolution. There are no safety mechanisms that make it possible to avoid new incidents. Naturally, the parties have accumulated certain "crisis" experience over the past six years and are very cautious.

Nonetheless, this does not rule out the possibility of such crises. It is difficult to predict when and where the next exacerbation will happen. Nearly all political crises appear unlikely and are easily explained only in hindsight. A crisis may very well be unlikely, but this is by no means a guarantee that one will not happen.

Possible crisis developments include:

(1) escalation in Donbass or any Ukraine-related incidents;

(2) a sudden worsening of Russia's relations with one or several post-Soviet states, with the crisis being internationalized subsequently;

(3) incidents in Syria or the Middle East;

(4) incidents in cyberspace, particularly in connection with sensitive infrastructure facilities;

(5) incidents related to a wide range of "hybrid" activities of western countries against Russia and vice versa. The latter include apparent or imaginary interference that could lead to existing instruments such as DASKA being taken further.

Strictly speaking, even these crises are manageable. New sanctions may very well come out of them. But the only way that they can escalate on a large scale today is in the event of global political shifts similar to the 2014 Ukrainian crisis. We cannot rule this out entirely.

SCENARIO 3: "DÉTENTE"

This scenario involves the phased lifting and/or easing of the existing sanctions against Russia. The key conditions for this to happen include: (1) full compliance with the Minsk Agreements; and (2) no evidence of Russian interference in the 2020 U.S. presidential elections, as well as the fading of this topic from U.S. domestic political discourse. What is crucial here is the absence of new crises or so-called "black swans" (such as the Skripal case) that could once again exacerbate relations between Russia and the West.

Given the current situation, this scenario appears unlikely. Relations between Russia and the West are not likely to improve considerably in the short or medium term. Even if fundamental improvements do take place (which itself is highly improbable), sanctions legislation and institutions will respond very slowly. We should not expect the sanctions against Russia to be relaxed any time soon.

Notes



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