THE NEW DETERRENT?

INTERNATIONAL SANCTIONS AGAINST RUSSIA OVER THE UKRAINE CRISIS

Impacts, Costs and Further Action

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Executive Summary

Sanctions in place against Russia, imposed in light of its 2014 annexation of Crimea and involvement in the conflict in south-east Ukraine, present a monumental challenge to policy-makers. Never before has such a powerful and strategically-important target been sanctioned to this degree. Its high level of integration in the global economy facilitates sanctions circumvention, while heightening political stakes. Russia's retaliatory counter-sanctions have proven divisive in Europe and led to calls by some member states and business lobbies for their lifting, irrespective of a political settlement.

In emphasising that sanctions never operate in isolation and must always be considered alongside other policy instruments, our report brings to the fore the following findings:

- The impact of international sanctions has been greatest in signalling to Russia and the world the consequences of violating norms on territorial integrity, international humanitarian laws, and the resolution of conflict through internationally convened and supervised negotiations. Application of individual and sectoral measures produced evidence of constraint in Russian political and military actions. Measures have improved over time in their ability to raise the costs of Russian involvement in the Ukraine crisis and contribute to a change in strategy. While continuing to send a clear signal, sanctions have been weakened somewhat since 2015 through poor coordination with other policy activities, including high level European Union trade visits to Moscow.

- Opposition to sanctions does not always correlate with heavier relative costs in export losses to Russia (since sanctions imposition) among EU member states. While Greece and Italy rank among those experiencing the lowest decline, they are among the states most vocal in calling for the lifting of sanctions (alongside Slovakia, Hungary, Austria and Slovenia). Central and Eastern European member states that have suffered the most include some of the staunchest supporters of sanctions (including Estonia, Latvia, Lithuania and Poland). Many of these costs have been offset by redirection of trade to new markets.

- Stronger financial measures against elites surrounding President Putin and better controls on money laundering networks could represent the most effective forms of sanctions tightening. A ban on SWIFT transactions would likely be counterproductive, while further measures against Russia's energy and defence sectors would arguably have less of an impact. An extension to the duration of current EU measures and a broadening to new purposes such as human rights violations and Russian actions in Syria could heighten impact. Measures could also benefit from a strengthened coalition of sanctioning actors – to include new and existing sanctioning powers.

- Closer coordination between sanctions and other policy instruments could be beneficial, including closer synchronisation with mediation efforts, referrals to legal tribunals and more creative use of assistance to member states and sectors negatively affected by sanctions. A more strategic use of the threat of sanctions could also be useful.

This report – the product of a multidisciplinary, international team of sanctions specialists –seeks to contribute to the debate on Russia sanctions (and their renewal) at a crucial time. It does so through exploring four key questions: (i) what impact have sanctions had to date and how effective have they been; (ii) what evidence is there that some EU countries and sectors are being hit harder than others; (iii) how could measures be adjusted to improve chances of success, and (iv) what are the most likely scenarios for sanctions on Russia in the months/ years to come? The report makes use of a rigorous methodological framework developed by the Targeted Sanctions Consortium, and also draws on analysis of trade statistics, detailed consultation of the specialist literature, interviews with officials involved in sanctions implementation and scenario-building.

It concludes that if sanctions were to be lifted in the absence of any political concessions, the long-term consequences for the EU and its allies could be profound. It could result in highly reduced leverage vis-à-vis Russia and would call into question global commitment to international norms, first and foremost the inviolability of sovereign territory. It could cause considerable strain on EU unity already under pressure from other ongoing challenges (refugees, Eurozone crisis, Brexit, instability in the Middle East and North Africa, terrorism). It could also compromise the international community's ability to respond credibly and effectively to future threats through its use of sanctions – which, for better or worse, have become the instrument of choice for many policy-makers in recent years.

Introduction

International sanctions on Russia – imposed in light of Russia's annexation of Crimea and involvement in the armed conflict in south-east Ukraine – are subject to waning unity among sanctioning powers. The coming months will be crucial in determining whether consensus can be found on their renewal by the EU later this year. Whether or not they are, and under which conditions, will have far-reaching strategic implications for relations between Russia and the rest of the world, and particularly the EU. A collapse in sanctions on Russia would likely translate negatively for the EU and its allies in their ability to continue using similar measures effectively and credibly in the future. It could raise questions over global commitment to upholding international norms and result in curtailed leverage vis-à-vis Russia going forward. In the EU, it could create further divisions at an already challenging time, which would further weaken the bloc's ability to formulate common responses to security problems in its vicinity.

Sanctions against Russia are unprecedented in terms of the challenges they present to policy-makers. Never before has a target of the strategic importance of Russia been sanctioned to this degree. Past cases show that large, well-resourced, authoritarian and more ideologically-driven targets are more difficult to coerce.[1] Russia's high degree of integration with world markets further heightens the stakes through mutual risk and the creation of opportunities for trade diversification, particularly in the armaments industry and energy sectors. Its strong industrial sector facilitates the development of domestic alternatives for many vital goods. Russia's ability to retaliate with counter-sanctions has also proved divisive in Europe.

The project represents a multi-disciplinary collaboration between seven sanctions scholars combining expertise in international relations, economics, political science, international law and human geography, from a range of countries (UK, US, Italy, Spain, Romania, Poland and Slovenia), based in Europe, North America and Asia. It draws on expertise and methods developed by the Targeted Sanctions Consortium (TSC), a group of over 50 sanctions specialists and policy practitioners worldwide, co-directed by Sue Eckert and report author, Thomas Biersteker. The TSC, based at the Graduate Institute, Geneva, has conducted the world's first comprehensive and systematic analysis of the effectiveness and impacts of all UN targeted sanctions imposed since 1991[2] (resulting in the production of the SanctionsApp,[3] used widely by sanctions policy practitioners). This report makes use of the same methods (for the first time outside the UN context) to offer informed, evidence-based analysis on the impacts of international sanctions in place against Russia since 2014. After a brief introduction to the sanctions imposed as a response to the Ukraine crisis (with further detail in annex), this report explores four key questions. First, have international sanctions on Russia been effective in achieving their stated aims to date? Second, what economic costs have been incurred by different countries and sectors within the EU and how does this correlate to opposition on sanctions renewal? Third, how could sanctions against Russia be improved to assist policy-makers reach stated policy objectives and what would be the most effective way to tighten them should the conflict continue to deteriorate? Four, what options exist for the sanctions going forward and what legal and technical constraints determine next steps?

International sanctions on Russia and Russian countermeasures

International sanctions imposed against Russia are multifaceted and involve two primary autonomous sanctions regimes – that of the US and the EU, against targets in Russia, Ukraine and the annexed Ukrainian territory of Crimea (Annex 1). Imposed with the purposes of ceasing hostilities, negotiating a peace agreement, enforcing a peace agreement and maintaining the territorial integrity of Ukraine, these closely-coordinated measures have included individual (asset freeze, travel ban) and sectoral measures (finance and oil services). They have been supplemented by a range of other states, including Canada, Australia, New Zealand, Japan and Ukraine; neighbouring Moldova and Georgia; candidate countries to the EU, Montenegro and Albania, and EFTA countries, Switzerland, Iceland, Liechtenstein and Norway, which have aligned themselves with the some of the EU's measures.[4] The sanctions have been renewed and extended on numerous occasions since their inception in March 2014. Primarily, they have been intended to impose a cost on Russian individuals and entities involved in the conflict, and to send a signal of disapproval of Russian activities in Ukraine. A second, and harder to achieve objective, has been to deter or constrain Russia from expanding its actions in the region. A third, and most challenging aim, has been to persuade or coerce Russia to alter or reverse its actions vis-à-vis Ukraine.[5]

In response to these sanctions, Russia has retaliated with diplomatic and economic measures, which they term "countermeasures" (see Annex 1 for more details). Targets include the US, the EU, Australia, Canada and Norway[6] and have latterly been extended to Albania, Montenegro, Iceland, Liechtenstein and Ukraine.[7] Russia has imposed visa bans on US, Canadian and European officials since March 2014, and in August 2014 began a ban on certain imports of agricultural products, foodstuffs, and raw materials from countries imposing economic sanctions against Russian citizens or entities. Russia's sanctions do not provide for any grace period or so-called "grandfather clause" with regard to supplies under pre-existing contracts (see Annex 2 for further detail on legal questions underpinning both EU and Russian sanctions). The Russian food ban against sanctioning powers has been renewed each year and is currently in place until the end of 2017. In addition to these measures, the Russian agricultural export watchdog, Rosselkahoznadzor, has launched a campaign to crack down on banned food products being smuggled or re-exported to Russia from Belarus and Kazakhstan (Eurasian Economic Union [EAEU] members to which the EU reportedly increased its food exports) in 2014/15.[8] Gazprom has also reduced its gas supplies to EU countries on a number of occasions in September 2014, including a 20% (followed by 45%) drop in supplies to Poland and an 8% drop in supplies to Slovakia.[9]

In November 2014, the Russian economy contracted for the first time since the imposition of international sanctions.[10] IMF growth projections for the country were downgraded twice in 2014, with major rating agencies revising the outlook on Russia's sovereign BBB rating from stable to negative (Moody's, Fitch) and to BBB minus (Standard and Poor's or S&P). Major Russian corporations such as Gazprom, Rosneft, and VTB Bank received ratings cuts.[11] Gazprom and Rosneft have requested financial assistance from the Russian government, forcing Moscow to make use of the National Welfare Fund (NWF).[12] Economic costs were also imposed on Russia during the early stages of sanctions in terms of capital flight, Rouble destabilization, increased borrowing costs, and a deteriorating investment climate.[13] The IMF reported that Russia's economic output contracted by nearly 5% in the second quarter of 2015[14] and Russian GDP is estimated to have fallen by over 1% between mid-2014 and mid-2015.[15] While the direct economic impacts of sanctions are always difficult to isolate from other factors, the IMF predicted in mid-2015 that sanctions and counter-sanctions had removed between 1-1.5 % from Russian GDP.[16] In June 2015, Russian Economy Minister, Alexei Ulyukayev, stated that he expected the economy to contract by -2.8% and admitted that the investment level in Russia would have been higher had sanctions not been imposed.[17] Like with the case of oil production, Russia's defence production rose in 2014-15 given mounting global demand (and in spite of sanctions). This came most notably from India as its largest foreign defence customer as well as from a rise in domestic orders.[18] Recently, S&P revised Russia's credit outlook bringing it back to "stable".[19] The IMF has predicted that Russian GDP would return to the growth path of about 1% in 2017.[20] Nevertheless, when this is compared to the extent of Russian economic growth prior to 2014, this in fact amounts to a contraction of the economy. Russia is also expected to exhaust its NWF by 2017 and is reportedly considering tapping into pension funds and central bank assets; largely due to the drop in global oil prices.

2014 2015 2016

Events In Ukraine

21 November: President Yanukovych suspended preparations for the EU trade agreement. By late November 100,000 people gathered to protest government's move.

22 February: government resigns. President Yanukovych leaves the country.

24 February: large protests in Sevastopol. Pro-Russian protesters blocked the Crimean Parliament demanding a referendum on Crimea's independence.

1 March: Russia's parliament approved military action on Ukrainian territory.

3 March: Panic on the financial markets.

16 March: referendum in Crimea.

17 March: Russia formally accepts Crimea as a subject of the Russian Federation.

20 March: sanctions imposed by Russia on US officials.

24 March: The G8 summit in Sochi was cancelled.

11 May: The Donetsk and Luhansk "People's Re-publics" declare independence after referendums.

25 May: Petro Oleksiyovych Poroshenko is elected president of Ukraine.

23 June: Pro-Russian separatists agree to honor Ukraine ceasefire.

25 June: Russian parliament revoked the authorisation to use Russian troops on the territory of Ukraine.

27 June: EU-Ukraine Association Agreement is signed.

1 July: Ukraine begins military offensive which concludes a 10-day period of unilateral cease fire.

17 July: Malaysia Airlines Flight MH17 is shot down in eastern Ukraine.

6 August: Russian retaliatory sanc-tions are imposed.

27 August: Rebels supported by Rus-sian heavy armor seized the town of Novoazovsk and threatened the seaport city of Mariupol.

5 September: The Minsk I Agreement is signed.

21 January Ukraine lost control over Donetsk airport.

29 January The Foreign Affairs Council in Brussels prolonged the EU sanctions over Russia until September 2015.

30 January The Minsk peace talks were cancelled once again.

12 February: Minsk II Agreement is signed.

18 February: Russia-backed troops took control over the key town of Debaltseve.

8 September: The fighting at lowest level since conflict began.

3 October: Both sides of the conflict started to withdraw the "smaller weapons".

5 November: OSCE reported increased ceasefire violations.

9 November: First direct military engagement in months.

18 December: Ukraine Defaults on $3 Billion Bond to Russia.

25 May Nadiya Savchenko released from Russia.

Summer 2016 the fights between separatists and Ukrainian forces intensified and Russia started a military build-up in Crimea and along the shared boarder with Ukraine.

3 August UN reported casualties hitting highest since August 2015.

1 September Cease fire agreement reached.

5 September G20 summit in China's Hangzhou.

Sanctions EU

6 March: EU suspended bilateral talks with the Russian Federation.

17 March: sanctions imposed by the EU.

21 March: EU expanded its sanctions list.

15 April: The Council decided to strengthen sanctions.

28 April: EU expanded its sanctions list.

12 May: EU expanded its sanctions list.

23 June: EU imposed a complete import ban on goods from Crimea.

18 July: The Council widened the legal basis for EU restrictive measures.

25 July: EU sanctions strengthened.

31 July: Adoption of third tier sectoral sanctions against Russia.

8 September: EU adopts new package of restrictive measures.

28 November: EU expanded its sanctions list.

18 December: EU expanded its sanctions list.

13 March: The Council extended until 15 September 2015 the application of EU restrictive measures.

19 March: the European Council agreed to link the duration of the sanctions to the complete implemen-tation of the Minsk agreements.

19 June: The Council extended until 23 June 2016 the EU restrictive measures.

22 June: The Council extended EU economic sanctions until 31 January 2016.

14 September: The Council extended until 15 March 2016 the application of EU restrictive measures.

21 December: The Council prolonged EU economic sanctions against Russia until 31 July 2016.

10 March: The Council extended until 15 September 2016 EU restrictive meas-ures against 146 people and 37 companies.

17 June: EU extends sanctions until 23 June 2017.

1 July: EU extends economic sanctions targeting specific sectors until 31 January 2017.

16 September: EU extends sanctions until 15 March 2017.

Sanctions US

6 March

16 March

17 March: SDN extension

20 March

20 March: SDN extension

11 April: SDN extension

28 April: SDN extension

20 June: SDN extension

16 July: SSI & SDN extension. *Sectoral sanctions imposed by the US. Directives 1 and 2.*

29 July: SSI & SDN extension

31 July: SDN extension

12 September: SSI & SDN extension. *Directives 1 and 2 amended. Directives 3 and 4 published.*

19 December

29 December: SDN extension

11 March: SDN extension

30 July: SSI & SDN extension

22 December: SSI & SDN extension

1 September: SSI & SDN extension

Oct. - Dec. | Jan. - Mar. | Apr. - Jun. | Jul. - Sep. | Oct. - Dec. | Jan. - Mar. | Apr. - Jun. | Jul. - Sep. | Oct. - Dec. | Jan. - Mar. | Apr. - Jun. | Jul. - Sep. | Oct.

Part 1: Impacts and effectiveness of sanctions against Russia

A commonly-heard narrative on international sanctions on Russia is that they do not appear to be working and therefore should be lifted. The annexation of Crimea has not been reversed, Putin's popularity ratings have soared and Ukrainian sovereignty and territorial integrity have been disrupted for the foreseeable future. Thus, they must be a failure, so the logic goes. This assumption is based largely on military thinking that holds that impacts of sanctions should be identifiable and immediate, which is very rarely the case.[21] Although prevalent, this view is simplistic and belies the complex nature of how and when sanctions work to best effect. Indeed, sanctions are rarely the most important driver in political outcomes and, as such, should only be measured against their stated aims, which are often far more modest or specific than might be expected.

In addition, Sanctions never operate in isolation and must always be combined with other policy instruments for them to stand a chance of succeeding in meeting their stated aims. They should be considered as part of a series of measures (including dialogue, mediation, diplomatic pressure, peacekeeping, use of force, covert methods and referrals to international legal tribunals). In the case of the Ukraine crisis, policy-makers have made use of a combination of diplomacy, OSCE negotiations and monitoring, the European Commission plan of assistance to Ukraine, NATO, IMF and World Bank support to Ukraine, talks under auspices of the Normandy Format (Russia, Ukraine, France and Germany) and support for Ukrainian military operations (see Annex 3 for more detail).

Analysis of cumulative international sanctions against Russia conducted for this report reveals some useful findings on their effectiveness according to different stages, or episodes, of the measures, as well as in relation to the three categories of purposes of sanctions: *coercion*, *constraint* and *signalling*. The key findings from our case study, outlined below, should be read alongside the table of results on sanctions type, purpose, effectiveness and policy outcome, contained in Annex 4. Our case study revealed the following key findings on the impact and efficacy of international sanctions on Russia:

- *Threat Stage (23 Feb-15 Mar 14):* The threat of sanctions was ineffective in coercing Russia into withdrawing its forces in Crimea, constraining it from undermining the territorial integrity of Ukraine, and sending a clear signal about international norms.

- *Episode 1 (16 Mar-15 Jul 14):* The application of individual restrictions in the first episode of sanctions in early 2014 achieved better results than those of the threat stage. Although limited in scope, the sanctions were effective in sending a signal articulating concern about the violation of international norms. They were ineffective in coercing Russia to negotiate with Ukraine and withdraw from the country, but there is evidence to suggest that Russia was constrained by the measures and the uncertainty about their possible future extension.

- *Episode 2 (16 Jul 14-10 Mar 15):* After sectoral sanctions were introduced in the second episode, the measures achieved better results. They continued to be effective in sending a powerful signal on the willingness to bear costs to support international norms about territorial integrity, the laws of war, and conflict resolution. They also showed partial success in both constraining Russia from expanding beyond the ceasefire lines and coercing it to provide access to the MH17 crash site, remove some heavy weaponry from eastern Ukraine, and agree to a second round of Minsk negotiations.

- *Episode 3 (11 Mar 15-6 Oct 16):* Since the sanctions were explicitly linked to implementation of key provisions of the Minsk II process, they have proven ineffective in coercing Russia to withdraw all equipment and personnel from eastern Ukraine. The signal has also been weakened, as sanctions fatigue has set in among some parties in Europe. The continuation of sanctions and their linkage to Minsk II has proven effective, however, with regard to constraining the resumption of intensive fighting, constraining further advances into the territory of Ukraine, and contributing to restraint on the part of Russia with regard to recognition of the break-away republics.

Differentiating the effectiveness of sanctions by purpose also reveals some interesting patterns and trends.

- *Coerce:* Consistent with the experience in other countries, sanctions have proven least effective in coercing Russia to change its behaviour. Only in the second episode, after sectoral measures were introduced, was the result mixed, that is showing some evidence of accommodation to resolve the dispute. In all other instances, from the threat phase to the first and third episodes, sanctions were ineffective in coercing significant changes in Russian behaviour.

- *Constrain:* There is evidence of improvement over time in the ability of sanctions to constrain Russian behaviour, that is, to raise the costs of its activities and/or force a change in its strategy. The threat of sanctions was ineffective, but the application of individual and sectoral measures in episodes one and two produced mixed results, or some evidence of constraint. Significantly, the continuation of sanctions into the third episode and linking their suspension to progress in the implementation of key provisions of the Minsk II negotiations outcome has proven effective.

- *Signal:* Sanctions have been most effective in signalling to Russia and the world the consequences of violating norms about territorial integrity, the laws of war, and the resolution of conflict through internationally convened and supervised negotiations. While threats of sanctions in early 2014 were ineffective, the introduction of individual targeting followed by sectoral measures, sent powerful signals about international norms and stigmatised Russia and its allies in eastern Ukraine. The continuation of sanctions into episode three has continued to send a strong signal, but it has been weakened by the lack of coordination with other activities (high-level EU trade delegations to Moscow), producing only a mixed result.

In summary, these results suggest that sanctions have been most effective in signalling to Russia and the world the consequences of violating norms about territorial integrity, the laws of war, and the resolution of conflict through internationally convened and supervised negotiations. There is some evidence of improvement over time in the ability of sanctions to raise the costs of Russian activities and force a change in strategy. The application of individual and sectoral measures produced some evidence of constraint. The continuation of the sanctions in March 2015 and linking their suspension to progress in the implementation of key provisions of the Minsk II negotiations outcome, has proven effective. The continuation of sanctions from March 2015 has continued to send a strong signal, but it has been weakened by the lack of coordination with other activities (high-level trade delegations). The patterns observed above are consistent with trends observed elsewhere in the majority of sanctions cases, including in the UN context, whereby sanctions tend to be far less effective at coercing (10% effective) than constraining (27% effective) and signalling (27% effective).[22]

Part 2: Economic costs of sanctions and EU opposition

When sanctions were first imposed in early 2014, Russia was ranked as the EU's third biggest trading partner (8.4% of total trade) and, in turn, the EU was Russia's most important investor (some 75% of foreign direct investment) and biggest trading partner (at around 48% of total Russian foreign trade).[23] Russia supplies around a third of all EU hydrocarbon needs and shares a closely integrated financial sector with the bloc.[24] It also represents Europe's second biggest market in terms of exports of European agricultural products (at around 9%).[25] In 2013, Russia imported USD 15.8 billion of agricultural products from the EU, compared to USD 1.3 billion from the US.[26] Other key exports from the EU to Russia include machinery, cars, chemicals, medicines and electrical goods (total value of EUR 103 billion in 2014).[27]

While some EU member states and sectors are thought to have been affected worse than others, the overall European economy appears resilient to the negative impacts of decreased trade with Russia caused by a combination of international sanctions and Russian countermeasures.[28] This is likely due to the redirection of exports to new markets[29] and financial support offered by the EU to affected sectors such as the agri-food industry. Redirection of trade has been estimated at an increase of 5.7% of overall EU exports to third countries since sanctions were put in place.[30] Further still, the fall in global oil prices is also thought to have offered some benefits to the EU, including lower production costs and increased purchasing power.[31]

Nevertheless, global policy-makers have been faced with a conundrum of how to avoid overly unbalanced economic costs to different sanctioning powers given the great variation in exposure to the Russian market of different geographical regions. The US and parts of Western Europe are at the lower end of the spectrum, with Eastern Europe, the Baltics and Finland at the highest, and Central Europe sitting somewhere in between. In 2014, EU exports to Russia fell by 12.1% and Russia exports to the EU dropped by 13.5%, combined with a fall in total trade value from EUR 326 billion to EUR 285 billion.[32] Sanctions are not thought to be the main cause, however, with the drop in the global oil price and Russia's subsequent recession thought to have played precipitating roles.[33] Other factors, according to one European Parliament report, include the conflict in eastern Ukraine, Russian countersanctions, long-standing trade barriers and diminished Russian demand sparked by currency devaluation.[34] Others cite a drop in investor confidence, worsening bilateral trade relations, a drop in tourism, a difficult business environment in Russia and over-reliance on commodities as further mitigating factors.[35] As such, EU exports to Russia are highly likely to have contracted in 2014, regardless of sanctions.[36]

Opposition to sanctions renewal and economic costs

A number of EU member states and business sectors have shown a stronger preference than others to lift (or not tighten) the sanctions. Russia has strong historical and cultural ties with the Balkans and continues to count on political support from Serbia, Montenegro, Bulgaria, Greece and Cyprus.[37] Visegrad countries in Central Europe are more divided, particularly as their economic ties to Russia place pressure on them to adopt a more conciliatory approach. Poland tends to take a harder line, with Czech and Slovakia showing more mixed stances. Hungary has traditionally adopted a stronger pro-Russian stance, which is currently concentrated among Prime Minister Viktor Orbán and his Fidesz party as well as the far right party Jobbik.

France and Italy have traditionally been key sites of Russian influence in Western Europe, in part due to the role of Communism in intellectual circles and a lack of direct economic dependency on Russia.[38] In Italy, Moscow counts on the support of former Prime Minister Silvio Berlusconi and his business contacts, as well as the Northern League.[39] In France, pro-Russian sentiment has been expressed by a number of French politicians and members of Les Républicains party reportedly have close Russian business ties (particularly in defence, investment and communications).[40] Exact details of Russian financing of extreme parties in Europe is not known, but in the case of France's far-right National Front (FN), its leader Marine Le Pen reportedly asked President Putin for a loan of USD 27 million from a Russian bank to help fund the FN's 2016 electoral campaign.[41]

Officials in several EU countries have voiced considerable opposition to the renewal or tightening of sanctions against Russia. This has included the Slovak and Italian Agriculture Ministers, the Hungarian Prime-Minister, the Greek Prime Minister, the Austrian Vice-Chancellor and President, the Slovenian Foreign Minister, parts of the German Social Democratic Party, as well as parts of France's Les Républicains party[42] and the French Senate, which recently passed a vote calling for the lifting of sanctions on Russia.[43] President Putin has paid high-profile visits to a number of EU member states since the start of the Ukraine crisis, including to Hungary in

February 2015, Greece in April 2016 and Slovenia in July 2016.

Opposition to the EU's sanctions on Russia is concentrated among specific sectors and among businesses and business associations with economic interests in the country, particularly those linked (both directly and indirectly) to the energy industry and manufacturing. Nord Stream AG (joint stock with Russian, German, Dutch, and French shareholders) and British Petroleum have called on Brussels to hold off tougher sanctions against Russia.[44] Several businesses, such as Volkswagen (in Germany), International Business Machines Corporation and Exxon Mobile (in the US), have called for caution to avoid a potentially escalating tit-for-tat sanctions war between Russia and the West.[45] Associations of companies with business interests in the former-Soviet region, such as BDEx or Ost Ausschuss der Deutschen Wirtschaft (Committee of Eastern European Economic Relations) in Germany have lobbied the German government and European Commission to avoid the prolongation of measures against Moscow.[46]

This section proceeds to explore this seeming dichotomy in more depth. What are the demonstrable economic costs of two-way Russia sanctions on EU members? How does this differ according to EU member state and sector? And how does this correlate with opposition to continued sanctions on Russia?

It is notoriously difficult to determine the impact of sanctions on an economy in isolation from other factors.[47] The European Commission claims that damage to Europe's economy from its sanctions imposed against Russia and the countersanctions will "remain contained" and has estimated costs to the EU at EUR 40 billion (or -0.3% of the EU's GDP) in 2014 and EUR 50 billion (-0.4% of EU GDP) in 2015.[48] The Institute of Economic Forecasting at the Russian Academy of Sciences cites the potential adverse effect of sanctions on the EU economy of around 0.5% of GDP.[49] Some high-profile business deals have been postponed or cancelled in light of sanctions, though they have typically been recouped through new markets. France's high-profile cancellation of a EUR 1.2 billion contract to supply Russia with two *Mistral* amphibious helicopter carriers, for example, reportedly cost France a penalty of up to EUR 250 million, though France later agreed to sell the ships to Egypt for EUR 950 million, helping to offset the cancelled transaction costs.[50]

Analysis conducted by report author, Francesco Giumelli, on the so-called "winners" and "losers" of export losses to Russia during the period since sanctions imposition helps shed light on the uneven impact of costs among EU member states and sectors.[51]

Table 1: Variation in export losses to Russia from EU member states in 2015 compared to 2013

STATE	%	STATE	Nominal*
MALTA	-91.07%	GERMANY	-13,957
CYPRUS	-63.05%	ITALY	-3,663
DENMARK	-52.31%	FRANCE	-3,186
GREECE	-47.52%	NETHERLANDS	-3,132
ESTONIA	-45.19%	POLAND	-2,982
SWEDEN	-42.44%	FINLAND	-2,203
IRELAND	-42.16%	BELGIUM	-2,076
FRANCE	-41.26%	LITHUANIA	-1,730
FINLAND	-41.11%	AUSTRIA	-1,700
SPAIN	-40.65%	CZECH REPUBLIC	-1,609
BELGIUM	-40.59%	UNITED KINGDOM	-1,337
HUNGARY	-40.39%	SWEDEN	-1,158

SLOVAKIA	-40.24%	SPAIN	-1,144
PORTUGAL	-39.97%	SLOVAKIA	-1,028
AUSTRIA	-39.47%	HUNGARY	-1,020
NETHERLANDS	-39.37%	DENMARK	-817
GERMANY	-39.00%	ESTONIA	-638
POLAND	-36.76%	LATVIA	-512
CZECH REPUBLIC	-35.97%	ROMANIA	-392
LITHUANIA	-35.53%	SLOVENIA	-329
ITALY	-34.01%	IRELAND	-267
BULGARIA	-31.98%	GREECE	-193
CROATIA	-29.61%	BULGARIA	-186
LATVIA	-29.10%	PORTUGAL	-105
UNITED KINGDOM	-28.64%	CROATIA	-84
ROMANIA	-28.38%	LUXEMBOURG	-44
LUXEMBOURG	-28.07%	MALTA	-32
SLOVENIA	-27.65%	CYPRUS	-15

- In millions

Source: Statistical Office of the European Union (EUROSTAT).

Table 1 illustrates the drop of exports from EU member states to Russia in 2015 compared to 2013 (not accounting for changes to total export figures). Analysis of nominal values confirms that the largest losses in absolute terms were suffered by Germany (EUR 14 billion less in exports in 2015 than in 2013), Italy (EUR 3.6 billion), France, Netherlands and Poland (around EUR 3 billion). These figures are not surprising as these countries are among the EU's biggest exporters to Russia.[52] In absolute terms, Greece, as prominent opponent to renewed sanctions on Russia, ranks (in 22nd place) as one among the least affected, and has actually increased exports to Russia in some areas, along with Luxembourg and Sweden.[53] In relative terms, Malta, Cyprus and Denmark were most affected during the period under reference and Slovenia, as a somewhat vocal opponent to renewed EU sanctions on Russia, lost the lowest of any EU member state (at -27.65%), followed by Luxembourg, Romania and the UK. Italy also lost a comparatively low 34.01%.

Table 2: EU Member States Exports to Russia per SITC Classification – Variation 2015 compared to 2013

EU MEMBER STATE	SITC 0	SITC 1	SITC 2	SITC 3	SITC 4	SITC 5	SITC 6	SITC 7	SITC 8	SITC 9
AUSTRIA	-55%	-10%	21%	3%	-86%	-29%	-43%	-43%	-39%	104%
BELGIUM (and LUXBG -> 1998)	-72%	74%	-2%	-40%	-93%	-35%	-48%	-50%	-42%	-52%
BULGARIA	6%	-36%	68%	-19%	3%	-30%	-39%	-36%	-33%	-85%
CYPRUS	-100%	-100%	42%	NA	236%	-26%	-92%	-10%	37%	-65%
CZECH REPUBLIC (CS->1992)	-5%	-38%	15%	-40%	-45%	-13%	-22%	-43%	-15%	79%
GERMANY (incl DD from 1991)	-47%	-33%	-32%	-43%	-83%	-20%	-32%	-47%	-39%	7%
DENMARK	-78%	89%	-26%	-39%	-99%	-30%	-28%	-43%	-23%	-23%
ESTONIA	-67%	-48%	-26%	-11%	33%	-25%	-48%	-48%	-48%	-48%
SPAIN	-70%	47%	50%	-54%	-48%	-26%	-31%	-53%	-16%	3%
EU28	-62%	-29%	-32%	-44%	-66%	-21%	-33%	-43%	-36%	3%
FINLAND	-75%	-56%	-75%	-56%	-59%	-29%	-36%	-37%	-39%	-92%
FRANCE	-59%	-48%	-47%	9%	-98%	-29%	-33%	-47%	-42%	353%
UNITED KINGDOM	-35%	-29%	-23%	-80%	-66%	-5%	-32%	-33%	-35%	-47%
GREECE	-90%	258%	-34%	190%	-55%	-26%	-11%	-18%	-47%	0%

CROATIA	-60%	38%	1281%	-100%	-96%	-10%	-44%	-63%	35%	36%
HUNGARY	-31%	-61%	-31%	-28%	-100%	-33%	-3%	-56%	-33%	-97%
IRELAND	-82%	-36%	-61%	NA	-100%	14%	-79%	-30%	-11%	44%
ITALY	-46%	-42%	-34%	4%	-60%	-5%	-37%	-32%	-40%	66%
LITHUANIA	-82%	-30%	32%	79%	-57%	23%	-34%	-28%	-30%	-39%
LUXEMBOURG	-34%	54%	-64%	-15%	NA	278%	-52%	-51%	18%	NA
LATVIA	-65%	-34%	19%	35%	-47%	-13%	-40%	-25%	-23%	444%
MALTA	NA	-97%	NA	-100%	NA	522625%	-64%	-42%	-28%	54900%
NETHERLANDS	-52%	-36%	-40%	-59%	-27%	-18%	-25%	-47%	-29%	-37%
POLAND	-71%	-36%	9%	-64%	-69%	-16%	-25%	-39%	-33%	70%
PORTUGAL	-52%	-48%	-19%	938800%	-21%	-25%	-22%	-47%	-51%	NA
ROMANIA	13%	88%	-5%	0%	NA	-8%	-54%	-27%	-39%	-39%
SWEDEN	-46%	-9%	10%	71%	61%	-33%	-35%	-48%	-30%	336%
SLOVENIA	-27%	-37%	-65%	-84%	-40%	-28%	-19%	-20%	-50%	-81%
SLOVAKIA	-49%	12%	122%	-97%	-99%	-19%	-31%	-45%	-6%	-36%

Red = (<-50%), Brown = (>0%)
The value "NA" refers to cases where no exports occurred both in 2013 and 2015.

Source: Statistical Office of the European Union (EUROSTAT).

Table 2 shows export flows from EU member states to Russia between 2013 and 2015, split according to nine Standard International Trade Classification (SITC) categories.[54] Although the general trend is negative, this data shows that there have been specific countries and sectors that suffered more than others in the period under question. Those worst affected are SITC 4 (Animal and vegetable oils, fats and waxes) and SITC 0 (Food and live animals). The drop in SITC 0 can be explained (in large part) by the Russian countersanctions on agricultural products. At the same time, other sectors were less affected, such as SITC 5 (Chemicals and related products) and SITC 1 (Beverages and tobacco), which lost less than 30% in 2015. Overall, the data suggests there are many EU member states that increased their exports share in specific sectors, such as in SITC 9 (Commodities and transactions not classified elsewhere) and SITC 2 (Crude materials, inedible, except fuels). Some, like Romania and Bulgaria, increased their exports in SITC 0 in 2015 compared to 2013.

Table 3 – Volume of exports from the EU to Russia in 2013 in EUR by SITC

SITC	Value
7 - Machinery and transport equipment	56,557,348,182
5 - Chemicals and related products	20,114,612,324
8 - Miscellaneous manufactured articles	14,875,524,958
6 - Manufactured goods classified chiefly by material	12,561,319,408
0 - Food and live animals	8,756,432,299
2 - Crude materials, inedible, except fuels	1,741,289,709
3 - Mineral fuels, lubricants and related materials	1,104,684,612
9 - Commodities and transactions not classified elsewhere in the SITC	1,028,463,234
4 - Animal and vegetable oils, fats and waxes	443,080,597
1 - Beverages and tobacco	34,402,226

Source: Statistical Office of the European Union (EUROSTAT).

Table 3 shows that in 2013, SITC 7 (Machinery and transport equipment) had by far the largest volume in terms of EU trade with Russia, with EUR 57 billion worth of exports. Also important were SITC 5 (Chemicals and related products), 8 (Miscellaneous manufactured articles), 6 (Manufactured goods classified chiefly by material) and 0 (Food and live animals) with volumes of exports between EUR 20 and EUR 8 billion. This data suggests that sources of domestic opposition to sanctions on Russia are likely to come especially from sectors in SITC 7 (Machinery and transport equipment), which appears to ring true in relation to some opposition shown among car manufacturers and exporters.

Table 4: Share of total export outside EU of EU member states to Russia in 2013, 2014 & 2015			
EU MEMBER STATE	2013	2014	2015
AUSTRIA	10.9%	9.9%	6.3%
BELGIUM	4.9%	3.9%	3.0%
BULGARIA	6.5%	6.4%	4.8%
CYPRUS	3.8%	2.4%	1.1%
CZECH REPUBLIC	19.4%	17.5%	12.1%
GERMANY	7.6%	6.1%	4.3%
DENMARK	5.1%	3.8%	2.2%
ESTONIA	39.5%	35.4%	26.8%
SPAIN	3.2%	2.9%	1.9%
EU28	6.9%	6.1%	4.1%
FINLAND	21.4%	19.4%	14.2%
FRANCE	4.3%	3.9%	2.4%
UNITED KINGDOM	2.0%	2.1%	1.4%
GREECE	2.8%	2.5%	1.8%
CROATIA	7.8%	7.2%	5.0%
HUNGARY	14.1%	12.4%	9.1%
IRELAND	1.7%	1.7%	0.7%
ITALY	6.0%	5.3%	3.8%
LITHUANIA	44.5%	46.2%	35.4%
LUXEMBOURG	5.9%	5.1%	4.5%
LATVIA	48.1%	46.5%	37.4%
MALTA	2.4%	0.3%	0.2%
NETHERLANDS	6.5%	5.4%	3.9%
POLAND	21.0%	18.7%	13.8%
PORTUGAL	1.9%	1.5%	1.2%
ROMANIA	9.2%	9.6%	6.9%
SWEDEN	5.1%	4.7%	3.0%
SLOVENIA	18.5%	16.9%	12.4%
SLOVAKIA	23.2%	20.9%	15.5%
Green: least dependent in a given year Red: most dependent in a given year			

Source: Statistical Office of the European Union (EUROSTAT).

Table 4 shows the relative importance of Russia for each EU member state in export terms in the years following sanctions imposition. This indicates that the higher the dependency on Russia, the higher the likely interest in events relating to Russia (though not necessarily translating into a foreign policy stand in support or opposition of sanctions). Analysis on the relative weight of exports to Russia of each member state in 2013-15 indicates that five countries are substantially interconnected with Russia (Latvia, Lithuania, Estonia, Slovakia and Finland), while others have very limited trade with the country (Ireland, Malta, Portugal, the UK and Cyprus [since 2014]). This highlights variation between costs borne by EU member states and their foreign policy stances towards Russia sanctions. For instance, only a fraction of Italy's exports is destined for Russia, and yet its government has been vocal in its opposition to the measures at various times. At the same time, Baltic countries tend to be more in favour of maintaining sanctions on Russia, despite being most interconnected in trade terms with Russia.

Table 5: Extra EU exports for EU member state in 2013, 2014 and 2015			
EU MEMBER STATE	variation 2014	variation 2015	2015 on 2013
AUSTRIA	2.4%	2.1%	4.5%
BELGIUM	-1.2%	-3.3%	-4.5%
BULGARIA	-7.2%	0.1%	-7.1%
CYPRUS	-7.5%	35.5%	25.4%
CZECH REPUBLIC	1.5%	1.6%	3.2%
GERMANY	1.5%	6.0%	7.6%
DENMARK	0.4%	9.3%	9.7%
ESTONIA	-6.1%	-14.0%	-19.2%
SPAIN	-0.3%	0.1%	-0.3%
EU28	-1.9%	5.2%	3.1%
FINLAND	-4.7%	-7.3%	-11.6%
FRANCE	-1.9%	7.7%	5.7%
UNITED KINGDOM	-13.8%	16.3%	0.3%
GREECE	-4.8%	-15.4%	-19.5%
CROATIA	5.0%	4.3%	9.5%
HUNGARY	-7.2%	-0.3%	-7.4%
IRELAND	10.2%	26.4%	39.3%
ITALY	-0.2%	3.6%	3.4%
LITHUANIA	0.6%	-19.5%	-19.0%
LUXEMBOURG	-4.2%	-1.6%	-5.7%
LATVIA	-5.6%	-3.4%	-8.8%
MALTA	-27.0%	15.8%	-15.5%
NETHERLANDS	-0.8%	2.1%	1.3%
POLAND	-3.0%	-0.8%	-3.8%
PORTUGAL	-0.1%	-3.1%	-3.2%
ROMANIA	0.8%	-5.4%	-4.6%
SWEDEN	-3.6%	1.9%	-1.8%
SLOVENIA	3.9%	3.4%	7.4%
SLOVAKIA	-7.6%	-3.1%	-10.4%
Green: Best performing countries in a given year			
Red: Worst performing countries in a given year			

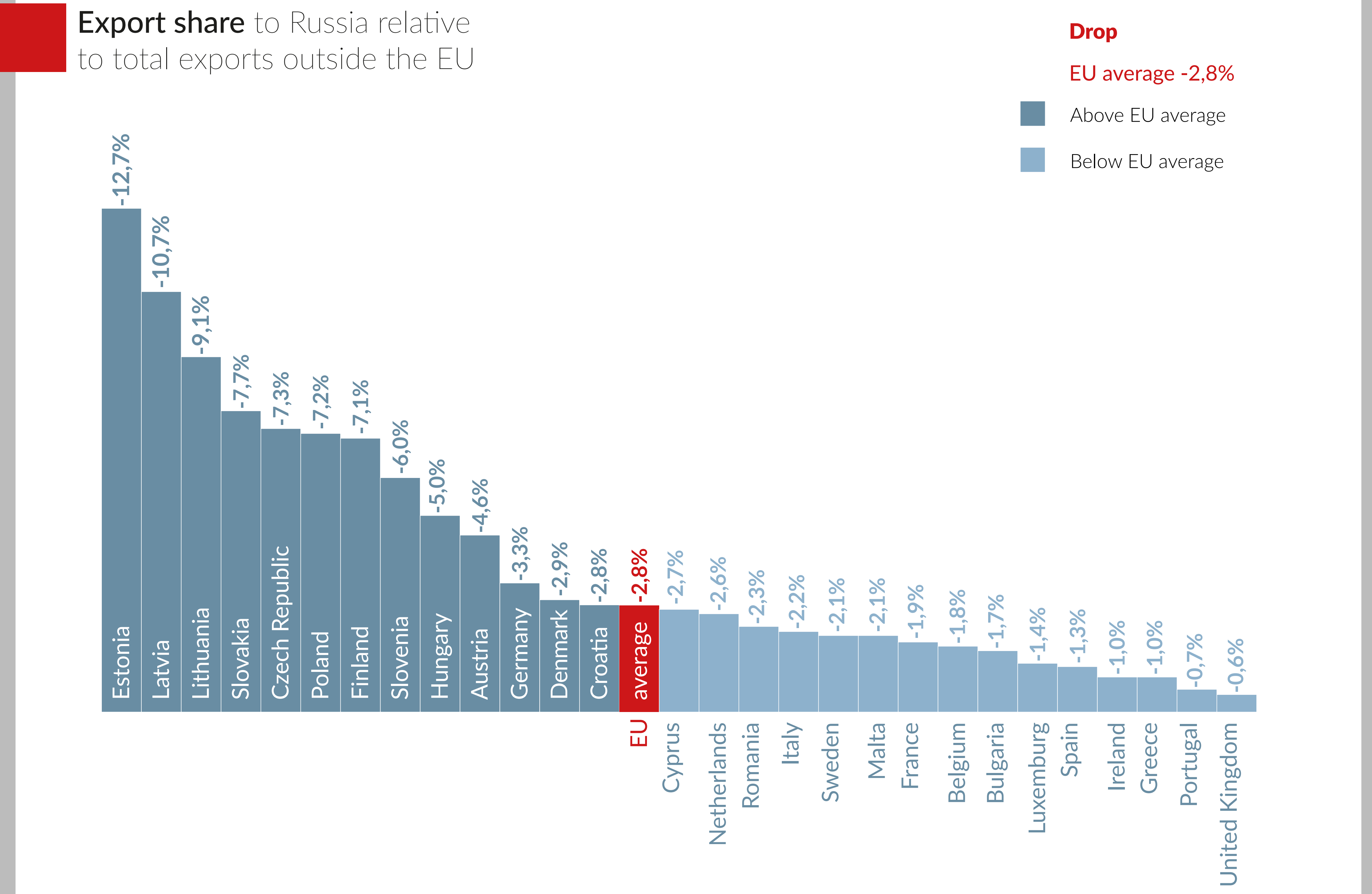
Source: Statistical Office of the European Union (EUROSTAT).

Table 5 controls for adjustment dynamics that could have taken place since Russian sanctions were imposed and suggests that even when member states lost trade with Russia, the shock can be absorbed through diverted trade elsewhere. Global EU exports have increased to EUR 1,791 trillion in 2015 compared to EUR 1,736 trillion in 2013, which suggests that losses in exports to Russia have only partially affected the EU as a whole. Furthermore, most losses could have been compensated for by 2015. However, these trends affected EU members unevenly. While certain countries are bearing lower costs in 2015 than in 2013 (Ireland, Cyprus, Croatia, Denmark and Germany), others have suffered more (Greece, Estonia, Lithuania, Malta and Finland).

The graph and map below highlight losses in EU-external exports due to the decrease of exports to Russia. Those that appear to have suffered the greatest losses are in Central and Eastern Europe. Nevertheless, these are among the staunchest supporters of sanctions and include Estonia, Latvia, Lithuania and Poland. Only Hungary stands as an outlier, and within the Central and Eastern European camp, its drop in exports is significantly lower than most of its neighbours. While Greece, Italy and Cyprus rank among those countries that have experienced the lowest decline, they are among those states (like Slovakia, Hungary, Austria and Slovenia) that are most vocal in calling for the lifting of sanctions. These results suggest that there is little correlation between economic costs suffered during sanctions impositions and the policy of that member state towards sanctions. They highlight that other factors, including political or security considerations, may frequently play a more vital role than economic considerations.

It could be helpful for policy-makers to have access to more detail on how these dynamics work. For instance, what percentage of people in the worst hit sectors and member states are affected detrimentally by the loss of exports and how easily can they access new markets or alternative sources of funding? How elastic are the goods that were formerly sold to Russia and how easily can they be redirected to new markets? Who is suffering the bulk of the economic pain in a given country (private companies or the state?) and does this vary across Europe? Forging a better understanding of how potential economic fallout from sanctions are dealt with in different parts of the EU could help provide policy-makers with a clearer picture of what is driving opposition to the sanctions and how additional measures could be designed to alleviate costs to exporters that might be linked to sanctions (expanded further below in Part 3). In doing so, this could be a useful way of helping mitigate member state and business sector concerns and help better support those who have been hardest hit.

The next section continues in this vein to explore how sanctions against Russia could be altered, tightened or better combined with other policy instruments in order to improve chances of meeting stated policy aims.


Export share to Russia relative to total exports outside the EU
Drop
EU average -2,8%
Above EU average
Below EU average
Estonia -12,7%
Latvia -10,7%
Lithuania -9,1%
Slovakia -7,7%
Czech Republic -7,3%
Poland -7,2%
Finland -7,1%
Slovenia -6,0%
Hungary -5,0%
Austria -4,6%
Germany -3,3%
Denmark -2,9%
Croatia -2,8%
EU average -2,8%
Cyprus -2,7%
Netherlands -2,6%
Romania -2,3%
Italy -2,2%
Sweden -2,1%
Malta -2,1%
France -1,9%
Belgium -1,8%
Bulgaria -1,7%
Luxemburg -1,4%
Spain -1,3%
Ireland -1,0%
Greece -1,0%
Portugal -0,7%
United Kingdom -0,6%

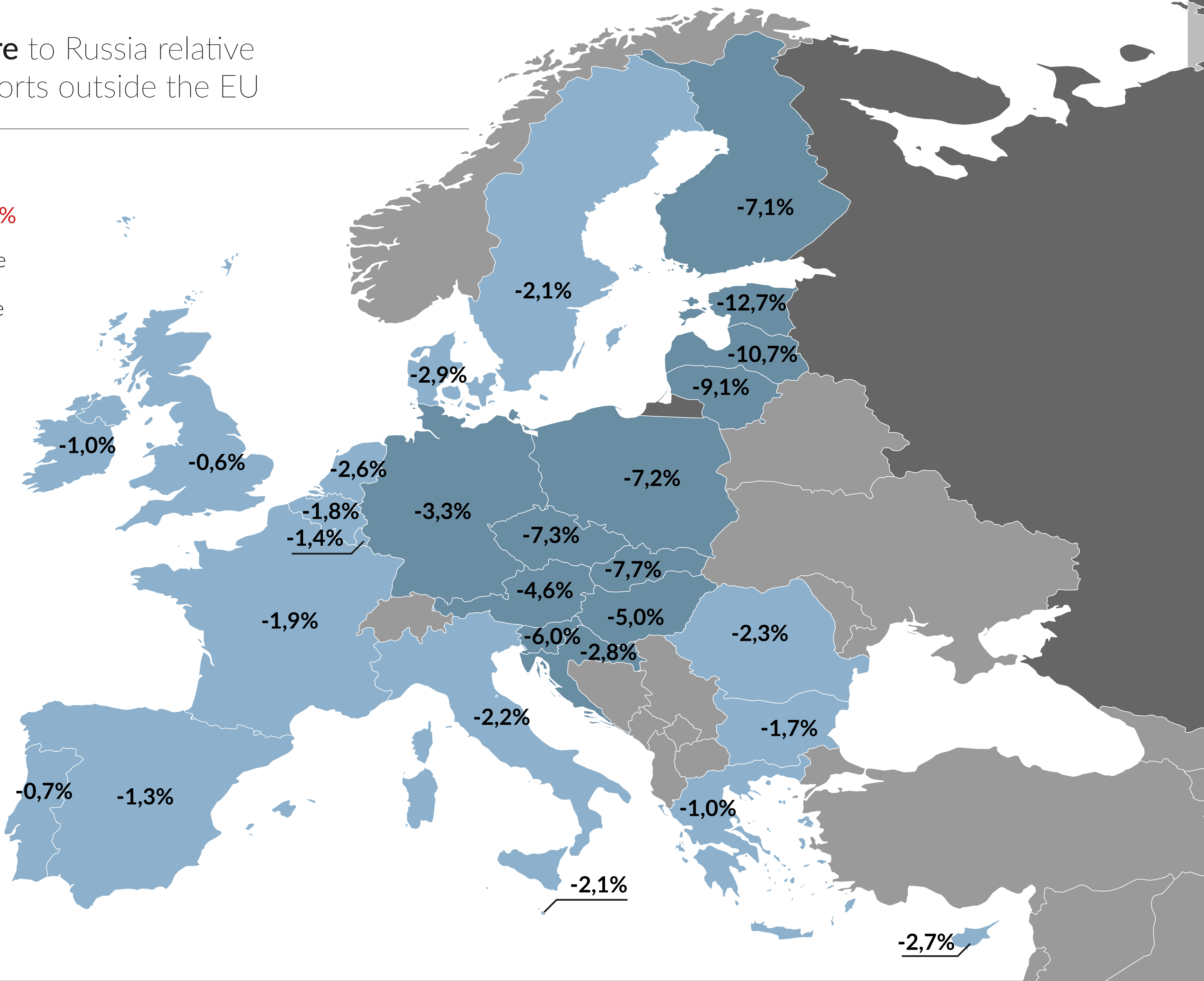
Export share to Russia relative
to total exports outside the EU

Drop

EU average -2,8%

Above EU average

Below EU average



Part 3: How to improve effectiveness of sanctions against Russia

Strengthening of current measures

Sanctions against Russia could be adapted or tightened to heighten their chances of success, particularly in the event of an escalation in fighting or further serious breaches of international law by Russia. The following section considers some of the options that could be considered, with a particular focus on the EU.

Tightening of sanctions

Sanctions could be tightened by *deepening* (entailing the strengthening of only one or a number of the existing measures) or *broadening* (involving the expansion of current measures to new categories or sectors). The EU's design criteria[55] asserts that current measures in place have been designed "to be scaled up if necessary, with different gradation possible for action in…capital markets, defence, dual use goods and sensitive technologies". In the Russia example, a more detailed understanding of the target's coping and evasive measures, as well specific vulnerabilities faced with regard to the sourcing of certain goods, services, technologies or components, could make sanctions more targeted and potentially harder-hitting with fewer unintended ramifications.[56] This, in turn, would require detailed industry analysis and legal consultation.

One of the most effective forms of deepening of sanctions could be to further limit Russia's financial room for manoeuvre.[57] This could include targeting of the so-called "siloviki" or business financiers of President Putin and his regime, given that a small group of powerful associates operate around the president who influence policy-making but also contribute substantially to financing both his political wealth and political endeavours. Further substantial financial pressure exerted on President Putin's inner circle could amount to some degree of political pressure on him. These measures would also be strengthened through extensions of blacklists of other Russian elites responsible for the support to Eastern Ukraine separatists and measures against Russian money-laundering and corruption networks whose operation hampers the effectiveness of sanctions. This could be teamed with closer monitoring of evasion techniques and the use of side payments and secondary sanctions (while the EU has traditionally opposed sanctions with extraterritorial effects, contending that they are illegal under international law, the EU would be permitted to apply measures against its own members).[58] While not impossible, energy imports are less likely given their importance to central European countries. Further sanctions on arms would be unlikely to have anything more than a marginal symbolic impact, given that only a small fraction arms exports are destined for Russia from countries imposing sanctions and vice-versa (and despite sanctions, Russia remains the world's largest exporter of armaments).[59]

Steps to tighten sanctions would need to be planned with great care, however, given the multitude of inherent risks, including unforeseen damage to the EU economy; imposition of additional Russian countermeasures; risk of defaults by Russian companies or banks that receive loans from European financial institutions;[60] legal challenges[61] (see Annex 2) and unintended civilian consequences.[62] Without appropriate planning, current sanctions against Russia could also run the risk of becoming less effective over time due to Russian efforts, already underway, to prioritise import substitution, alternative finance channels and domestic alternatives as a way of mitigating the threat of further sanctions in the years to come, irrespective of whether current measures relaxed or lifted.[63] This "economic securitisation" was described by Russia's National Security Council as a vital measure to protect Russia's national interests.[64]

Widened range of sanctions objectives

Expanding the current sanctions regime to incorporate new objectives is also something which could be contemplated in the event of new types of breaches of international law on the part of Russia. The Ukrainian government has recently called for international partners to consider the implementation of sanctions against Russia to address reported human rights violations in Crimea and Donbass, for example.[65] Germany is also reportedly considering a push for additional sanctions on Russia in light of its actions in Syria.[66]

Extension in duration

Unlike US economic sanctions, which have an open-ended duration,[67] economic sanctions on Russia were initially imposed on 1 August 2014 for a limited duration of 12-months and were strengthened, without modification of the expiry date, from 12 September 2014 following escalation of Russian activities in eastern Ukraine. They were then prolonged for an additional six months in July 2015 and again in December 2015. Imposing a six-month duration on current sanctions on Russia was linked to the original deadline for the complete implementation of the Minsk agreements and also represented a political decision taken at the EU to allow Member States to monitor the impact of sanctions more frequently.[68] The uncharacteristically short (six-month) duration of EU sanctions in place on Russia at present arguably increases the likelihood of their being lifted without a political settlement in the current political climate given the need to regularly rebuild consensus. It also renders them vulnerable to upcoming elections in France and Germany as well as possible changes in UK sanctions policy linked to Brexit. The departure from the bloc of the UK, as a leading advocate of sanctions against Russia in the EU and innovator on financial sanctions in the case of Russia,[69] could pose a risk to the ongoing weight of European measures in place against Moscow. The UK losing its say over future EU foreign and security policy (and sanctions policy) could impede decision-making on the renewal of future sanctions on Russia and would also lead to a loss of leverage for the EU,[70] given the City of London notably adds weight to its financial sanctions.[71] Although it could prove politically-contentious at the present time, extending the duration of the EU's sanctions on Russia in the future could represent a form of strengthening without having to implement any new measures. This would bring them in line with a large part of other EU sanctions regimes and avoid the inherent risks of bi-annual reviews at the EU.

Better neighbourhood engagement

The range of EU neighbouring state countries routinely invited to align with Common Foreign and Security Policy (CFSP) sanctions have shown varying degrees of commitment in joining the EU (and others) in sanctioning Russia. Those usually expected to align with EU autonomous measures are: EU accession candidate states, Serbia, Turkey, Montenegro, Albania and Former Yugoslav Republic (FYR) of Macedonia; EFTA-members, Norway, Liechtenstein and Iceland; Bosnia-Herzegovina as a country of the Stabilisation and Association Process and potential accession candidate, and Moldova, Georgia, Azerbaijan, Ukraine and Armenia as neighbours outside any specific category. Of the 23 sanctions decisions on Russia adopted by the Council since 2014, only Norway and Albania have aligned with the EU on all occasions.[72] Iceland, Montenegro, Ukraine, Liechtenstein, Moldova and Georgia have aligned with some decisions only. Moldova has aligned with measures concerning the misappropriation of state funds from the former Ukrainian government, while Georgia has associated itself with the import ban on Crimea.[73] Finally, Serbia, FYR Macedonia, Turkey, Azerbaijan, Armenia (a EUAU member and close Russia ally, thus unlikely to align with EU sanctions) and Bosnia and Herzegovina have not aligned themselves with any EU sanctions against Russia.[74] This pattern shows how sanctions against Russia have proved divisive in the neighbourhood, as normally the CFSP records a higher number of alignment declarations by these countries. It also suggests that more could be done to secure the increased support of some, particularly as multilateral commitment has been shown to strengthen the weight of sanctions in other cases.[75]

Stepped-up support from existing sanctioning powers

Japan's response to sanctioning Russia has been lukewarm.[76] In March 2014, Tokyo suspended its talks with Moscow relating to the easing of visa requirements and froze negotiations to conclude international agreements on investment, space the prevention of dangerous military activities.[77] It went on to issue visa bans, asset freezes and sanctions on goods from Crimea and Sevastopol. Some have adopted a critical stance of Tokyo's far lighter sanctions against Russia than the US, EU and others,[78] suggesting "Tokyo's participation in the Western response to the crisis belies a desire to engage more substantively with Moscow."[79] Japan needs to maintain working relations with Russia to resolve territorial disputes over the islands of the "northern territory", however, and hopes to prevent China from ascending to an ever-more dominant position in the region that could emerge as a result of a sharp decline in Russian hegemony. Switzerland is an interesting case, which has imposed (since April 2014) an ordinance on measures to prevent circumvention in Swiss territory of international sanctions connected with the situation in Ukraine.[80] Switzerland held the presidency of the OSCE in 2014 and did not want to jeopardise its position of neutrality in the only negotiation forum in which both Russia and Ukraine were participating in 2014. While it has not imposed other sanctions, there has been no need in the case of travel restrictions as those imposed by the EU also have an effect on Switzerland via the Schengen Association Agreement.[81] South Korea has failed to impose sanctions against Russia to date, despite pressure from the US, though its government has joined others in criticising Moscow's actions.[82] Again, some of these powers might be persuaded to support additional measures on Russia under the right conditions.

Role of regional powers

As argued by Russia specialist Richard Connolly, "[i]n the event that the existing sanctions regime is maintained, the key issue is whether Russia can successfully replace existing Western technology and finance, either domestically (through import substitution or the use of state financial resources) or from 'friendly' states (in the form of equipment or loans)".[83] Some studies suggest that Russia has turned to China to address shortfalls left by sanctions, including the securing of new credit lines, financing required for capital-intensive projects and equipment required for the energy sector.[84] Following the 2014 sanctions, Moscow signed a multi-billion-dollar deal with Beijing on the building of a gas pipeline and a rise in Chinese imports of Russian oil by 36%.[85] Observers in Russia and the West have raised questions about the terms of the arrangement, however, which is overly favourable to China. India now represents Russia's largest foreign defence customer (Russian defence exports rose in 2014-15, in spite of sanctions, given mounting global demand and in light of a rise in domestic orders).[86] Russia has also reportedly turned to China, Brazil and Turkey, alongside Argentina, Belarus and Chile, to fill gaps left by its own sanctions on European agricultural producers, particularly regarding pork and beef.[87] Iran, India and China have also helped Russia adapt to sanctions by switching their transactions with Russia from dollars to national currencies.[88] In light of the EU's threat to ban Russia from the SWIFT financial messaging system, Deputy Governor of the Russian Central Bank, Olga Skorobogatova, announced in June 2015 a proposal to establish a SWIFT alternative for BRICS countries;[89] a move also publically supported by the Russian Ministry of Finance. Assumptions regarding a pivot away from the West should not be made in haste, however, given a lack of solid evidence for a broad-based change in trade patterns.[90] These trends (and past experience with Iran sanctions) suggest that policy-makers could do more to encourage other regional powers, particularly India, Turkey and Brazil, to support (or at least not fill trade gaps of) sanctions currently in place; their own geopolitical considerations notwithstanding.[91] This lobbying could be carefully-coordinated between the US, the EU and relevant EU member states, depending on the nature of each power's bilateral relations and bargaining sway with each regional power in question.

Use of other instruments of foreign and security policy

Strategic use of threat

Psychological factors have been shown to play an important role in sanctions efficacy. Recent analysis by authors of this report, Dawid Jarosz and Thomas Biersteker, suggest an important, though frequently overlooked role for the threat of sanctions.[92] They found that the signal about sanctions' imposition began to affect the Russian stock market on the day that the signal became public in February 2014, a number of days prior to the first sanction being officially announced, not to mention imposed. In this instance, however, it appears the threat of sanctions had more of an impact on the Russian markets and the value of Russian stocks on other markets than it did on Russian policy on Crimea and eastern Ukraine. A better understanding of the role of the threat of sanctions could be useful in helping policy-makers use it more prudently and to best effect. In particular, a threat of sanctions from the EU (with EUR 326 billion in trade with Russia in 2013) would be of more powerful comparative value than a threat of sanctions on Russia by the US (with EUR 21 billion in the same year). [93] Our case study found that the threat of sanctions prior to implementation was ineffective in coercing, constraining or signalling. This does not rule out, however, that the threat of additional measures later on in the sanctions regime may have had some impact on calculations made by Moscow. Some observers suggest that the threat of further sanctions may have contributed to impede Russian non-recognition of the results of the elections held in November 2014 in the self-proclaimed Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR); ensure a relatively quiet period in fighting in February 2015 (despite the takeover of the key transport hub of Debaltseve) – allowing Ukraine to strengthen defence and security services and elect a new political leadership – and prevent a major military offensive in Donbass in the Spring of 2015.[94] The threat of excluding Russia from SWIFT is also thought by some to have affected strategic planning in Moscow,[95] although in the longer-tem it will have served as a counterproductive measure given Russia's ensuing search for alternative financial messaging systems.

Improved public communication

Better public communication by sanctioning powers regarding the purpose of sanctions in relation to wider political strategies is a vital, and often overlooked factor. In the case of the EU, promoting a more nuanced understanding of how sanctions work could help to counter narratives that pre-emptively call for their lifting. Improved communication on the goals of sanctions could help counter mistaken perceptions in Russia that the agricultural ban has been applied by the EU, rather than by Russia (albeit a difficult task given widespread state control of media outlets). It could also help to challenge and highlight the contradiction in Russian calls for the cessation of international unilateral sanctions based on claims of illegality given their own extensive, albeit less publicised, use of such measures in recent years (Annex 2). Public acknowledgement by US policymakers on the disproportionate burden being carried by European partners on Russia sanctions could also help maintain transatlantic solidarity on sanctions.[96]

Referral to legal tribunals

Sanctions used for the purpose of conflict resolution have been more effective in cases that have included referrals to legal tribunals.[97] In the case of Russia, some have argued that combining sanctions more closely with impartial legal mechanisms could heighten the success of sanctions in place, particularly given the possibly debilitating political and economic ramifications of a series of legal defeats for Moscow.[98]

More creative assistance to worst-hit sectors

In response to Russian agricultural countermeasures, special mechanisms were developed within the EU to support European exporters, which the European Commission said would "help farmers with cash-flow difficulties, stabilize markets and improve the functioning of the supply chain" (including a grant for EUR 500 million in September 2015).[99] Some observers have advocated the use of further "creative solidarity mechanisms" to help maintain unity on EU sanctions,[100] including additional support extended to other sectors suffering from sanctions in force. For instance, Spain's recent bilateral fruit deal with China serves an example of ways in which trade diversification away from Russian markets have helped alleviate costs to European sectors hardest hit by Russian countersanctions.[101]

Better coordination between sanctions and mediation

Sanctions can sometimes complicate meditation efforts linked to delicate political negotiations regarding conflict situations, if not carefully coordinated.[102] This is sometimes the case when sanctions policy may be slower and more cumbersome to adapt than the faster moving world of mediation[103] or when sanctions are put in place with little or few direct links to peace efforts. This occurred in the cases of UN sanctions on the Taliban during early phases of talks on Afghan transition; with the DPRK (North Korea) when it withdrew from the 2009 Six Party talks, and during negotiations between the Democratic Republic of Congo (DRC) and M23 rebels in 2013.[104] Nevertheless, in the cases of post-conflict Sierra Leone, Cote d'Ivoire and Liberia, UN sanctions signalled support for the peace process and constrained would-be spoilers from derailing it and resuming violence.[105]

Part 4: Scenarios

The following scenarios are constructed using as parameters the criteria that guided the design of the EU sanctions package, specified in a joint letter by the President of the European Council and the European Commission. These include: "effectiveness, cost/benefit, balance across sectors and Member States, international coordination, reversibility/scalability, legal defensibility/ease of enforcement".[106] These are complemented with insights from the specialist literature on sanctions. The following scenarios are designed as possible options,[107] and conceived in a neutral fashion. Each scenario includes an assessment of the likelihood that each will materialise.

Scenario 1: Abrupt lifting in the absence of compliance

Under this scenario, consensus collapses in the European Council. Those countries most opposed to the continuation of sanctions, harden their stance and veto the renewal of the measures. Brexit and elections in France and Germany, contribute to a further weakening of unity on the measures.

Feasibility
Decision-making rules at the Council allow for the collapse of sanctions regimes. This is thanks to the routine insertion of sunset clauses, which foresee the expiration of the legal period of validity of twelve months normally, but only six months in the present case. In the absence of a positive decision in favour of a new legal act, the sanctions regime can end on its expiration date. As the Council agrees sanctions by unanimity, any Member State can precipitate the collapse of the regime.

Likelihood
This scenario has never happened before in the EU context. The closest it has come to this scenario was the uncoordinated collapse of the 2011 Syria arms embargo in 2013, on account of a few member states' unpreparedness to renew the measure. Still, this concerned only one of the many bans in place.[108] The main factor militating against this scenario is the antagonising effect that the veto would have on the member states of the pro-sanctions camp, including Germany, Poland and Sweden. This scenario would be even more unlikely in the absence of a similar decision by the US, as transatlantic sanctions policy is routinely coordinated.

Benefits and disadvantages
Advantages for the EU would be the resumption of normal trade and financial relations. However, it would represent a major setback for the Common Foreign and Security Policy (CFSP), including a loss of leverage against Russia and a significant loss of credibility in the EU's future use of sanctions. It would also have an alienating effect on the EU's partners in the post-Soviet space, particularly Ukraine and Moldova. To mitigate the loss of face for the EU, this scenario could be combined with the maintenance of diplomatic sanctions (which do not affect commercial exchanges) as a residual, minimalistic layer of condemnation of Russian behaviour.

Scenario 2: Easing in the absence of compliance, or following concessions in unrelated fields

This scenario foresees a situation that takes two possible routes. In Option 1, the pro- and anti-sanctions camps agree on a partial lifting of the measures by way of compromise, despite no sign of compliance by Russia. Those opposed successfully call for the removal of sanctions that affect their economies negatively and lobby for the de-listing of those officials and businesspeople from whom they expect to extract benefits. By contrast, they display less opposition to the maintenance of measures that do not affect their economies. In Option 2, alteration of the sanctions package is prompted primarily by the need to reciprocate concessions made by the target in a different domain, such as the Syria crisis. It presupposes a previous process of successful negotiation with the target, or at least some major step in progress in an unrelated and politically-important and difficult domain.

Feasibility
Partial lifting can take place in several forms, even in the absence of any signs of compliance by the target. The easing can be agreed in reward for cooperation in unrelated domains, and as a first step in a phased lifting of the package. This occurred most recently with Belarus, which was rewarded for the positive role it played by hosting the talks in Minsk, without initiating pro-democracy reforms.[109] Those few member states opposing the lifting gave up their resistance in the interest of consensus. Alternatively, the easing can take the form of a temporary suspension in an attempt to incentivise progress, an approach the EU experimented with on Myanmar in the 1990s[110] and with the Transnistrian statelet in Moldova.[111]

Likelihood
The scenario of partial lifting or suspension is common in the EU context. Easing in reciprocity for progress made in unrelated fields is rare, however, in contrast to its more typical use by Washington.[112]

Benefits and disadvantages

Easing sanctions in the absence of compliance with the Minsk agreements presents several disadvantages. The record for such suspensions has been mixed: temporary suspensions that do not reciprocate compliance, but are intended as "carrots" to provide the target with an incentive for accommodation failed with Myanmar in 2003[113] and with Moldova in 2010-13[114], but helped to overcome the impasse with Cuba in 2008. It allows for the articulation of a minimally joint EU stance, but is still associated with credibility-loss, given the ostensible lack of compliance by the target, particularly if no concessions have been forged. This scenario might have the undesirable effect of undercutting incentives for Russian restraint. In future, it could be interpreted by different actors as an indication that EU sanctions regimes are vulnerable to (time) pressures.

Scenario 3: Phased lifting in response to partial compliance

Under this scenario, the EU negotiates the easing of some of its bans in return for bite-sized concessions on the part of Russia in the form of de-escalation in the battlefield and progress towards compliance with Minsk agreements. It involves reciprocal concessions, whereby sanctions could be re-applied should progress be reversed by Moscow.

Feasibility

This scenario is feasible as it has been witnessed on several occasions. The most representative illustration was the phasing out of the 2006 sanctions on Uzbekistan, after the original demand of allowing an international investigation into the Andijan events got watered down to a joint "expert mission" combining Uzbek and EU officials. The lifting is typically gradual, and is preceded by one or two rounds of suspension. A more recent example is the phasing out of sanctions on Myanmar, initiated in 2010. After most sanctions had been removed, a residual regime was left in place, including an arms embargo and visa ban. The lifting of the 1993 UN sanctions on Libya started with a suspension. Similarly, a residual package of EU and US sanctions was left in place after the UN measures on Yugoslavia were lifted. Also, some US sanctions remain in place on Iran after the relief package agreed on 2015, where the easing of measures is thought to have played an important role in the talks' success.[115]

Likelihood

Lifting the sanctions in response to only partial compliance by the target is the norm rather than the exception in EU practice, as witnessed both in its CFSP and Art. 96 records.[116] It represents a compromise solution between opposing camps in the EU and could deliver results when more ambitious aims have reached a stalemate; again, facilitated by similar behaviour by Washington.

Benefits and disadvantages

The present scenario maintains the credibility of the sender vis-à-vis domestic audiences and third parties, while it opens opportunities for European companies to resume business with the target, and assuages those EU Member States most opposed to sanctions renewal. It also allows Russia to negotiate concessions without being seen to 'lose face' among domestic audiences. Negotiation of the sanctions' lifting with Russia would likely include reciprocal easing of the Russian ban on perishables, despite the boosting effect that this measure has had on the Russian agricultural sector.[117]

Scenario 4: Continuation of the current package

Under this scenario, resistance by individual EU Member States weakens as a result of successful pressure, secondary sanctions, side payments, and lobbying by the US and pro-sanctions member states with the result that the current package is kept in place. European firms have adjusted to the post-2014 situation, securing alternative markets for their products and lobby efforts to loosen sanctions lose vigour.[118]

Feasibility

Scenarios of very protracted EU sanctions regimes have been witnessed, but they are increasingly rare. An undeniable political will exists to limit, if not eliminate, situations of prolonged stalemate as facilitated by the introduction of sunset clauses. Sanctions regimes tend to be extended on account of unwavering pressure by Washington (China arms embargo, Sudan) or the UK (Zimbabwe), but only reluctantly and never without some degree of friction and resistance.

Likelihood

In addition to the general reluctance to keep ineffective sanctions regimes in place, unease at the negative externalities expressed by certain EU members make this scenario ostensibly unlikely. Yet, in the event of sustained pressure by Washington and further serious breaches of international norms by Russia, the prolongation of the package could become more likely.

Advantages and disadvantages

This features the benefit of maintaining EU (and possibly transatlantic/ global) cohesion and commitment to international norms, but long-term benefits are limited as sanctions tend to have most impact in the early stages of implementation. Russia would be likely to continue to develop a diverse import substitution programme, providing targeted sectors with financial aid and developing alternative economic and trade ties. On the other hand, a longer duration needn't be equated to the immobility that has characterised the long-term sanctions regimes imposed by the EU on targets such as Belarus, Myanmar or Zimbabwe. Instead, it could allow the EU to better monitor and tackle evasion techniques and Russian money-laundering/ corruption networks, whose operation hampers the effectiveness of sanctions. The political impetus for mounting such efforts would be easier to garner if the renewal intervals of the sanctions legislation were to be modified from the current six months to the EU's standard of twelve months.

Scenario 5: Tightening

A scenario of tightening could entail a number of options, including broadening (to include new categories such as a ban on investments, a prohibition of joint ventures, a flight ban, or a commodity embargo); deepening (tightening of only one or a number of the existing measures); lengthening (to 12 months); an expansion to new objectives (e.g. human rights abuses), and strengthened support by existing and new sanctioning powers. Legal considerations (as outlined in Annex 2), would need to play a central role in the designation of new targets.

Feasibility

The deepening of sanctions through the inclusion of new entries to agreed blacklists is a routine technique in EU sanctions practice and sometimes does not entail more than the addition of a handful of individuals. This took place repeatedly in the course of the Iran sanctions. The lightest form would entail the blacklisting of additional members of the Russian military and political elites, whereas the most severe would involve tighter financial sanctions, further restrictions on technology exports, or the blacklisting of additional state banks and enterprises.

Likelihood

Tightening of the current package is unlikely in the absence of significant changes on the ground, such as a sudden escalation of the armed conflict, evidence of human rights abuses and/or Russian annexation of new territories. While the tightening is rendered more likely if Washington further upgrades its measures, the EU could also conceivably lead the way in deepening or broadening their own, in case of a major escalation, as it has already done on several occasion. The need to maintain energy supplies and avoid severe economic damage would dictate the intensity of the measures as would the EU's aforementioned design criteria. Tightening of sanctions by other (non-EU/US) powers is a possibility, albeit one likely to face opposition in the absence of considered diplomatic pressure.

Benefits and disadvantages

The tightening of EU sanctions would continue to position the EU as a supporter of the territorial integrity of Ukraine. While broadening appears to have worked in the case of Iran, when UN sanctions on Haiti were made comprehensive in 1994, the target increased its proscribed activities because it calculated that it had little to lose. This suggests that deepening of measures could be more effective than a broadening, though each sanctions regime should be judged on a case-by-case basis. TSC research into UN targeted sanctions suggests decreasing returns in effectiveness when a given sanctions regime exceeds a particular threshold of measures.[119] Results suggest that the optimal combination of measures are those that target key export commodities in the targeted economy (apart from oil), or sizeable companies that affect whole sectors of that economy. Sanctions that are composed of only one measure (e.g. an arms embargo) are never effective and those at the other end of the scale (e.g. full-blown comprehensive sanctions or embargoes) show a decreasing level of effectiveness.[120]

ANNEX 1: Background to sanctions imposition

EU and US sanctions on Russia

The first to impose sanctions on Russia in response to the Ukrainian conflict was the US on 6 March 2014, in adopting Executive Order 13660, which declared a national emergency and authorised targeted sanctions on "individuals and entities responsible for violating the sovereignty and territorial integrity of Ukraine, or for stealing the assets of the Ukrainian people".[121] US sanctions were further expanded by Executive Order 13661[122] on 17 March and Executive Order 13662 on 20 March, blocking property from "individuals from Russia and Crimea Contributing to the Situation in Ukraine".[123] The US went on to issue Directives 1 and 2 to the Executive Order 13622 on 16 July with an open-ended duration, which banned "transacting in, providing financing for, or otherwise dealing in new debt of longer than 90 days" (later reduced to 30 days on 12 September 2014 in line with similar measures taken by the EU) for individuals and entities operating in Russian energy and financial sectors.[124] This included leading Russian energy companies, Novatek and Rosneft, and two Russian banks, Gazprombank and Vneshekonom.[125] Measures imposed by the US include blocking property of specific individuals; sectoral sanctions against certain entities operating in sectors of the Russian economy, an investment ban and prohibition on the exportation or importation of goods, technology, or services to or from the Crimean region of Ukraine and in support of exploration or production for Arctic offshore, deep-water or shale projects.[126] Measures have been tightened on a number of occasions since.

On 17 March 2014, the EU imposed diplomatic sanctions,[127] travel restrictions and the freezing of funds and economic resources of individuals deemed responsible for actions which have undermined the territorial integrity, sovereignty and independence of Ukraine.[128] In the subsequent months, measures were extended and expanded in terms of enlisting new individuals.[129] On 23 June 2014, the EU imposed a complete import ban on goods from Crimea.[130] However, more serious sanctions were imposed only after the downing of Malaysian Airlines Flight MH17 in July 2014 due to "Russia's actions destabilising the situation in Ukraine" relating to non-cooperation of Russia in an independent investigation of the plane crash and continued flow of weapons across the Russian border to Ukraine.[131] It was not until the tightening of financial measures on 12 September 2014 that the sanctions, known as "Tier III", were seen as more "decisive" and hard-hitting.[132] New measures included restrictions concerning access to EU financial markets, as well as import and export of certain types of goods (arms, dual-use goods, technology for military use and energy-related equipment and technology).[133] Subsequently, sanctions were increased and amended numerous times; most recently (for Tier III sanctions) through a Council Decision from 1 July 2016 extending their application until 31 January 2017.[134] Sanctions regarding actions against Ukraine's territorial integrity are currently in force until 15 March 2017,[135] whereas sanctions relating to the response to the illegal annexation of Crimea and Sevastopol by Russia are valid until 23 June 2017.[136] The EU links the duration of Tier III sanctions to the compliance of Russia with the Minsk II Agreement.[137]

US & EU sanctions implementation & coordination

There is an inter-agency process in the US through which sanctions designations are made. The Department of Treasury takes the lead, working along the Secretary of State, National Security Council, the intelligence community and Justice Department. All agencies of the US government are directed to take all appropriate measures within their authority to carry out the provisions of executive orders authorising sanctions and allowing the US Secretary of the Treasury, in consultation with the Secretary of State, to determine targets.

Decisions on adopting new EU sanctions or suspending/lifting previous ones are taken by the EU Foreign Affairs Council. Implementation is delegated to competent authorities in each EU member state,[138] usually national/central banks and ministries of finance and/or foreign affairs, with guidance and coordination from the European Commission.[139] National authorities are also responsible for monitoring the application of sanctions and the adoption of rules determining penalties for violations of sanctions (so-called "secondary sanctions").[140] This gives rise to possible inconsistencies in the application of the measures.[141] However, the list of individuals and entities is prepared by working groups of the Council, especially by the Sanctions Formation of the Foreign Relations Counsellors Working Group (RELEX), which negotiates and compiles the list of specific terms and individuals/entities subjected to the EU's restrictive measures.[142] The RELEX group also offers recommendations on sanctions implementation.[143] Under the Lisbon treaty, EU sanctions are adopted on the basis of a complex two-step procedure, essentially depending on the division of competences between the EU and its member states. In the first step, a political decision in the course of the CFSP is taken by the EU Foreign Affairs Council on the basis of Article 29 of the Treaty on European Union

(TEU).[144] Following this Decision, there are two possible ways forward to implement sanctions, depending on the content of the sanctions and the question of competences. In cases where EU has no competences measures are implemented directly by member states (e.g. sport sanctions, culture sanctions, travel bans and arms embargoes) and no further procedure on the EU level is necessary.[145] In all other cases, further decision on the basis of Article 215 of the Treaty on the Functioning of the European Union (TFEU)[146] in the form of a regulation is necessary. This is a binding legislative act, directly applicable in all Member States.[147]

In the Russia case, the US has imposed more sweeping measures on more targets, often playing the role of "bad cop" in both its sanctions policy and rhetoric towards Russia. In contrast to the EU, which began its sanctions against Russia targeting only individuals, the US included businesses from an early stage.[148] In contrast, the EU was more cautious and conciliatory in the early stages of sanctions imposition, placing more of an emphasis on dialogue. The EU's gradual unrolling of sanctions against Russia has been intended as a way of leaving open the door for dialogue with Moscow.[149] This stood EU members France and Germany in good stead for their role in ongoing Normandy Format talks. The EU has increasingly taken a tougher stance on Russia sanctions, however, particularly since the downing of the Malaysian Airlines MH17 flight. In recent rounds of sanctions, the US has sometimes taken the unusual step of following the EU's lead, at least in chronological terms, in imposing new measures.[150] The US and EU have formerly relied on a trans-governmental network that met regularly and included the chief regulatory officials responsible for sanctions.

Russian countermeasures

Russia first introduced diplomatic sanctions (visa bans) against nine US officials on 20 March 2014, including a number of senators and presidential assistants.[151] Moscow also imposed visa bans on 13 Canadian officials, including members of the Parliament of Canada, on 24 March 2014.[152] Diplomatic sanctions against European officials were not formally implemented until at least January 2015, even if EU visa bans against Russian citizens have been active since March 2014.[153] It was only on 26 May 2015, that Moscow released a blacklist to the EU Delegation in Moscow of 89 EU officials and member state politicians banned from entry into Russia.[154] The list remains active. On 6 August 2014, Russia declared the start of economic sanctions, consisting of a one-year ban on agricultural products and foodstuffs. The EU protested what it considered to be the arbitrary nature of the Russian visa-ban list, in contrast to its own list based on individuals involved in the violation of Ukraine's sovereignty and territorial integrity, and insisted that no "information on legal basis, criteria, and process of decision, were communicated to the EU" in relation with the visa-ban list.[155] Sergei Lavrov, the Russian Foreign Minister, insisted that the list was a reciprocal action.[156] The Russian government argues that its sanctions represent a legitimate form of retaliation against outside intervention in its "domestic affairs" (the annexation of Crimea) and an external war (the conflict in Eastern Ukraine). Russian countersanctions came in response of the so-called "Tier III" of sectorial (financial, defence and energy sanctions imposed by the US [17 July 2014] and EU [25 July 2014] in response to the escalation of the war in Donbass in June and July 2014 and the downing of MH17 in Eastern Ukraine). The Federal Customs service, charged with carrying out the enforcement of the Presidential Executive Order, released a list of products that were banned from importation into the Russian Federation from the abovementioned countries. The list includes, among others, poultry, fish, seafood, milk and milk products, vegetables, fruits, nuts, meat of bovine animals, pork and products of meat (such as sausages, meat offal or blood). Russian sanctions have sparked a minor trade war between Russia and Belarus after Russia accused its neighbour of re-packaging European foodstuffs and exporting them to Russia; temporarily banning food exports from Belarus in November 2014.

ANNEX 2: Legal considerations of EU and Russia sanctions on one another

Legality of EU sanctions on Russia

EU sanctions on Russia are considered autonomous or unilateral measures, imposed in the absence of a United Nations Security Council Resolution under Chapter VII of the UN Charter.[157] The same is the case for other international sanctions against Russia and those imposed by Russia in retaliation. There is no consensus in the international community on the legality of autonomous sanctions, despite their widespread (and ever growing) use. While some argue that sanctions are measures of foreign policy not contrary to international law,[158] others question their legal basis.[159] The prevailing view among international law specialists, however, is that autonomous sanctions cannot be legal *per se* and thus require international legal justification for their imposition. The legal basis for the use of sanctions against third (non-member states) under EU primary law is unequivocal,[160] whereas their classification under international law is dependent on the type of sanction. They can be qualified as an act of retorsion (diplomatic sanctions); third-party countermeasures under the international law on responsibility (e.g. sanctions adopted as a response to the serious breaches of international law, such as the use of force); security exceptions under the law of World Trade Organization (WTO) (until now, the EU did not rely on these exceptions) or security exceptions allowing for termination or suspension of treaty obligations in existing bilateral agreements (for example, under Article 99 of the 1994 Partnership and Cooperation agreement between the EU and Russia).

Ongoing and future EU sanctions on Russia and Crimea risk being subject to legal challenges at the European Court of Justice (ECJ). EU measures are regularly being challenged before the ECJ by individuals and entities targeted by EU sanctions.[161] These applications are often successful in annulling EU measures on the grounds of lack of a legal basis and merits for their imposition against individuals or a disproportionate infringement of fundamental rights.[162] This arguably puts considerable pressure on the EU sanctioning system.[163] To date, the most notable legal case regarding Russia sanctions has been that of Rosneft, Russia's state-controlled oil company, brought before the UK High Court on grounds of illegality of EU's sanctions.[164] The case concerns the validity and interpretation of Council Decision 2014/512/CFSP of 31 July 2014 and of Council Regulation (EU) No 833/2014 of 31 July 2014. The Court referred the case to the ECJ for a preliminary ruling.[165] Judgement has not yet been rendered, but the EU Advocate General concluded that the measures were legal.[166] The Advocate General stressed that the EU "enjoys a broad discretion in the field of foreign and security policy that must also apply whenever it concludes that there is serious international tension constituting a threat of war".[167] The conclusion was also reached that the EU made a proper assessment of the seriousness of the international tension in the case of Russia.[168] It cannot be foreseen to what extent the ECJ will follow the Advocate's General reasoning, but the decision which is expected at the end of 2016 on the Rosneft case will have serious implications for EU's future sanctioning policy. Such cases also impact upon the EU's appetite for targeted sanctions against individuals and entities and highlights the need for more careful planning on their designation.[169] In the past, decisions of the ECJ on sanctions were criticised by the US on the account of undermining the overall effectiveness of international sanctions.[170]

Legality of Russian countermeasures

What, in turn, is the legal basis underlying Russian countersanctions? Russia couches its retaliatory actions as countermeasures (by a state directly affected by the wrongful act under the law of responsibility), though the legal basis of this argument is somewhat problematic. If one assumes that the EU's actions are justified under international law, then Moscow's measures cannot be legally-justified as countermeasures. The legality of Russian measures under international law is also controversial from the point of view of WTO rules. While Russia claims that all its measures are compatible with WTO regulations,[171] they have been condemned by the EU[172] and, according to Ukraine, they violate GATT provisions.[173] Incidentally, Russia, in turn, claims that US sanctions against it are illegal under WTO rules and in breach of GATS rules.[174] Similar measures employed by Russia against the EU in former trade disputes (regarding a 2013 pork ban) were ruled by a WTO panel as in violation of WTO rules,[175] which suggests that recent measures would also likely fall under similar legal reasoning should a WTO panel concerning measures imposed by Russia in the aftermath of the Ukraine crisis be formally requested by the EU. Russia's measures against those sanctioning it also violate the rules of its customs union with Belarus, Kazakhstan, Kirgizstan, and Armenia (known as the Eurasian Economic Union or EAEU). Legally speaking, Russia is bound by the rules of the customs union (EAEU) and cannot sign new trade deals, nor impose trade restrictions outside of the EAEU.[176] Russia initially attempted to use the EAEU to implement sanctions against the EU in the summer of 2014, but the proposal was met with the threat of veto from Belarus and Kazakhstan in the Eurasian Supreme Council (the highest level of decision-making in the EAEU, equivalent to the EU Council). Russia's decision to implement sanctions unilaterally, thus violating the EAEU Treaty, was met with "disappointment and frustration within the Eurasian Commission"[177] (the EAEU's executive body, equivalent to the European Commission).

Russian prior use of unilateral sanctions

Russia has developed a policy of rejecting autonomous sanctions, claiming their illegality.[178] This policy has roots in the historical position of the Soviet Union in opposing any form of economic coercion.[179] Nevertheless, like other regional powers, Moscow has often implemented its own unilateral sanctions, most commonly on its neighbours in the former Soviet Union, as forms of punishment for actions which the Kremlin considered to counter to its interests. Russian use of its gas leverage to advance geopolitical interests represents a long-established and public feature of its foreign policy, either through temporary halts to gas supplies or the setting of disproportionately high prices (compared to the range of negotiated prices in Russian-third state contracts or real market prices) for states such as Belarus, Estonia, Georgia, Romania, Moldova and Ukraine. The majority of Russia's gas sanctions are frequently connected with factors that include EU- or NATO-related negotiations; the assumption of power by pro-European regimes, or the implementation of policies that Moscow considers "anti-Russian".[180]

Beginning with the second mandate of Vladimir Putin, Moscow has also employed the aforementioned Rosselkhoznadzor, or Federal Service for Veterinary and Phytosanitary Surveillance, to justify the imposition of sanctions on various economic sectors of its neighbouring trade partners. For example, in 2006 Russia temporarily banned the import of all Georgian and Moldovan wines, brandy, water and some foodstuffs, after pro-European governments assumed power in both countries. Although Russia initially claimed that pesticides were found in wines originating from the former Soviet countries, both of which exported almost 80 percent of their wines to Russia, the Russian Duma had demanded a ban on wines from the two countries for "pursuing anti-Russian policies".[181] Russia has imposed similar sectoral trade bans on Belarus, Lithuania and Ukraine. At the Commonwealth of Independent States (CIS) Summit in Minsk in October 2014, President Putin announced an expansion of the ban on imports from Moldova and threatened to limit the access to the job market in Russia for Moldovans in retaliation for their signing of the Association Agreement with the EU in June 2014.[182] In response, the European Commission doubled the export quotas for Moldovan fruits beginning 2015.[183]

In July 2013, Russia imposed a ban on imports from over 40 Ukrainian companies in response to Kiev's decision to enter negotiations for an Association Agreement with the EU, with Russian Presidential Adviser Sergey Glazyev warning that the import ban would expand should Kiev continue its negotiations.[184] After the annexation of Crimea in late March 2014, Russia imposed a ban on imports of Ukrainian chocolate, cheese, sugar, and other foodstuffs, as well as imposing a strict and long check of all Ukrainian cargo transport. In December 2015, Russia also imposed harsh unilateral sanctions against Turkey after a Russian fighter jet was shot down by the Turkish air-force near the Syrian border based on claims that it had violated Turkish airspace. Moscow suspended a visa-free regime with Ankara; banned certain Turkish food products, including fruits, vegetables, poultry and salt; imposed a ban on hiring Turkish nationals and the extension of residency permits for Turkish nationals in Russia; banned Turkish citizens from participating in state purchases in Russia, and prohibited future Turkish-Russian joint investment project.

ANNEX 3: Mediation employed alongside sanctions in relation to the Ukraine crisis

A range of other policy mechanisms are active alongside sanctions intended to tackle the crisis in Ukraine and support Kiev's plans for sweeping reforms.

The Organisation for Security and Cooperation in Europe (OSCE), of which both Ukraine and Russia are participating states, has played an important role in the crisis. This has included the deployment of the Special Monitoring Mission (SMM) of Unarmed Civilian Observers to Ukraine (21 March 2014, extended in February 2016 to 31 March 2017, with the possibility of further extension). The SMM aims to gather information and establish and report on the security situation and specific incidents on the ground. The ultimate goal of the SMM, which covers the entire territory of Ukraine, is to help the country reduce tensions and facilitate dialogue between all sides.[185] The OSCE went on to deploy an Observer Mission to the two Russian Checkpoints of Gukovo and Donetsk at the Russian-Ukrainian border (24 July 2014). This Mission gathers information and reports on the security situation at the border.

The OSCE also chairs the Trilateral Contact Group (TCG), which included representatives of Ukraine and Russia. The TCG signed the Protocol on a Ceasefire and on Launching a Political Process to Resolve the Crisis (the so called Minsk I Agreement)[186] on 5 September 2014. Following immediate violations of the Protocol, further negotiations were held, and on 19 September 2014 a Memorandum outlining parameters for the implementation of the ceasefire commitments laid down in the Minsk Protocol was signed. Fighting continued regardless. Due to continuing violence, the TCG, including leaders from France, Germany, Ukraine and Russia, agreed on 12 February 2015 on the Package of Measures for Implementation of the Minsk Agreements (Minsk II Agreement) providing new impetus for the ceasefire, withdrawal of heavy weapons and political and legal processes aimed at normalisation of the situation. However, the ceasefire was immediately breached and fighting continued. Implementation of the agreement therefore remains unsolved and was extended beyond 31 December 2015 (the original deadline) into 2016.[187] Most sanctioning countries condition their withdrawal of sanctions on the full implementation of the agreement accords. The Agreements provides for:

- Immediate and comprehensive ceasefire in certain areas of the Donetsk and Luhansk regions of Ukraine and its strict implementation as of 15 February 2015.
- Withdrawal of all heavy weapons by both sides.
- Effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons by the OSCE from day one of the withdrawal.
- Dialogue, from day one of the withdrawal, on modalities of local elections in accordance with Ukrainian legislation.
- Release and exchange of all hostages and unlawfully detained persons.
- Definition of modalities of full resumption of socio-economic ties.
- Reinstatement of full control of the state border by the government of Ukraine throughout the conflict area.
- Withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine.
- Carrying out of constitutional reform in Ukraine.

The EU has also imposed a range of measures designed to support Ukraine reform. In March 2014, the European Commission approved a multi-billion plan of assistance for Ukraine and opened its market to Ukrainian goods by implementing unilateral trade preferences. It also formed a "Support Group" to facilitate cooperation with Kiev.[188] On 27 June 2014, the EU-Ukraine Association Agreement was signed which provides the legal basis and framework for EU-Ukraine relations, aiming for political association and economic integration. Both sides accepted mutual commitments to develop a close and lasting relationship based on common values. The European Council also suspended negotiations with Russia on visa liberalisation matters as well as negotiations on establishing a new EU-Russian Partnership and Cooperation Agreement which is due to expire in early 2017. In addition, the EU is also implementing a number of projects to support Ukrainian reforms, including the EU Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine).

Other diplomatic measures adopted by the EU against Russia include exclusion from the G8; cancellation of the EU-Russia summit; encouragement of member states to cease from holding routine bilateral meetings and summits with Russia, and the retraction of support for Russian membership of international organisations, including the OECD and International Energy Agency (IEA).[189] The European Parliament has also underlined that the need to lower the EU's dependency on Russian gas.[190]

Ukraine is not a member of NATO, but its relations with the organisation date back to the early 1990s and now represent one of the Alliance's most substantial partnerships. Since 2014, NATO has frozen all practical cooperation with Russia, while retaining some elements of political dialogue. At the same time, NATO has increased its assistance to Ukraine, giving priority to "comprehensive security and defence sector reform, strengthening national capability to defend itself by providing a wide range of advisory, technical, financial assistance, conducting training and joint military exercises, establishing new trust funds".[191] NATO has supported the Minsk agreements of September 2014 and welcomed the adoption of the Package of Measures for their implementation in February 2015. On 20 April 2016, during the meeting of the NATO-Russia Council, Allied Ambassadors reiterated NATO's "firm position on Ukraine's territorial integrity and sovereignty".[192] In addition, NATO established five trust funds in "critical areas of reform and capability development of the Ukrainian security and defence sector".[193] NATO is also providing advisory and financial assistance to Kiev in the realms of "public diplomacy, media relations and strategic communications".[194]

The IMF has also provided support to Ukraine by opening a two-year USD16.7 billion credit line (stand-by) to restore the county's macroeconomic stability. The World Bank has provided a USD 3.5 billion loan in addition to a number of other projects (including in energy efficiency and urban infrastructure development).[195]

ANNEX 4: Case study findings on sanctions effectiveness

	Sanctions type threatened	Purpose	Effectiveness	Policy outcome[196]	Sanctions Contribution
Threat Phase 23 Feb–15 Mar 14	• Individual sanctions • Diplomatic measures • Suspension of on-going political-economic negotiations • Retraction of support for Russian membership of international organisations	**Coerce** Russia to follow international norms in handling the Crimea situation.	**Ineffective**	**1/5**, Russia did not withdraw its military forces and did not follow international norms with regard to secession.	**1/5**, Russia was not intimidated by the threat of sanctions and appeared resolved to accept their potential costs.
		Constrain Russia from annexing Crimea and undermining the territorial integrity of Ukraine.	**Ineffective**	**1/5**. Russia proceeded quickly with the annexation of Crimea, both militarily and politically (through the referendum process).	**1/5**, Russia was not constrained by the threat of sanctions and appeared willing to accept their potential economic and financial costs. Russia did not stop supporting activities leading to annexation of Crimea and on 27 February Russian servicemen took the Crimean parliament building in Simferopol.
		Signal the violation of the international norm of territorial integrity to an international audience, and signal the interests of the EU and US in the matter to Russia, with specific reference to the 1994 Budapest Memorandum on Security Assurances.	**Ineffective**	**4/5**, Signals to Russia and the international community were clearly articulated and Russia was stigmatised by the diplomatic restrictions applied, particularly by the threat of cancellation of the G8 meeting in Sochi. There was some uncertainty about the strength of resolve (and possibly degree of coordination) between the EU and the US, but the explicit threats of sanctions strongly signalled international commitment to defend the Budapest Memorandum and established a negotiations stance of not-accepting the annexation attempt.	**2/5**, Diplomatic measures (G8), suspension of negotiations, and retraction of support for Russian membership in international organisations were more significant to the outcome than the threat of sanctions.
First Episode 16 Mar–15 Jul 14	• Individual and Diplomatic • Travel ban and assets freeze • The US maintained diplomatic sanctions, limiting the travel of designated diplomatic or government personnel	**Coerce** Russia to negotiate a resolution of the crisis with the government of Ukraine, withdraw from eastern Ukraine, and cooperate with international organisations (particularly the OSCE).	**Ineffective**	**2/5**, High-level talks to negotiate a resolution of the conflict were initiated in April and continued under the Normandy Format in both June and July, but there was only limited disengagement of Russian forces in eastern Ukraine and limited cooperation with the OSCE (allowing some observers into the region).	**3/5**, Sanctions were applied in conjunction with strong diplomatic efforts, first under the OSCE and later with the US before the 4 party arrangement (Normandy Format) was established. There were also some efforts to aid Ukraine financially and militarily.
		Constrain Russian capacities to annex and absorb Crimea (raising the costs) and from further territorial expansion in eastern Ukraine.	**Mixed**	**3/5**, Costs to the Russian economy are visible and there is some evidence of Russian restraint (recognition of the Poroshenko election results and revoking parliamentary authorisation for use of Russian military forces in Ukraine.	**3/5**, The application of individual measures and uncertainty about future sanctions affected the Russian economy, but diplomatic initiatives in Geneva, Normandy and Berlin, and improvements in Ukrainian military performance on the ground, also contributed to the constraint.
		Signal concern about the violation of the international norm of territorial integrity to an international audience, and signal the continued interests of the EU and US in the matter to Russia.	**Effective**	**4/5**, Norms are clearly articulated, additional countries begin to apply restrictive measures, and UN General Assembly passes resolution 68/262 reaffirming Ukraine's territorial integrity.	**3/5**, Sanctions reinforced diplomatic efforts (both statements and negotiations), as well as international stigmatisation from the adoption of UN General Assembly Resolution 68/262 reaffirming Ukraine's territorial integrity.
Second Episode 16 Jul 14–10 Mar 15	• Individual sanctions remained and increased in number. • Diplomatic restrictions continued.	**Coerce** Russia to halt its continued destabilisation of eastern Ukraine, to "use its influence over the illegally armed groups in order to achieve full, immediate, safe and secure access to the site of the downing of Malaysian Airlines Flight MH17 in Donetsk," and reach a negotiated settlement with Ukraine.	**Mixed**	**3/5**, Following the downing of MH17 and imposition of sectoral sanctions, there was a noted de-escalation of fighting in Eastern Ukraine, with reports of heavy weaponry being removed from Donbass. Crash investigators were eventually granted access to the crash site, Nevertheless, pro-Russian separatists captured the remains of the strategically-important Donetsk airport in a renewed offensive which violated the terms of the Minsk I Agreement. Russia reluctantly agreed to a second round of Minsk negotiations.	**3/5** Russia reduced its support for the Donbass separatists after the downing of MH17, however separatists retained sufficient strength to overpower the Ukrainian army in Donetsk in January 2015. Sanctions were frequently brought up in negotiations, suggesting that sanctions played a role in the talks. Ukrainian military advances in August 2014 were also important,

	• Sectoral sanctions	**Constrain** Russia from being able to destabilise Ukraine. The EU decision asks Russia to “stop the increasing flow of weapons, equipment, and militants across the border.”	**Mixed**	**3/5**, The first Minsk agreement produced a ceasefire which was continuously violated (by both sides). Fighting continued with the capturing of Donetsk airport by separatists as well as Debaltseve, nevertheless separatists did not continue their offensive beyond Debaltseve (as originally intended) and a decision was taken not to seize Mariupol and other locations beyond the ceasefire line. [197] Russia did not disassociate itself from Donbass and Russia sent advisors to the break-away republics.	**4/5**, By late 2014 and early 2015 the Russian economy felt the effects of a weak Rouble, falling oil prices, and lack of financial market access, the latter attributable to sanctions. Sanctions arguably imposed considerable costs on Russia’s ability to sustain and push forward with military escalation in eastern Ukraine, but economic and financial support for Ukraine also played a role in raising the costs for Russia.
		Signal to Russia that the EU and US are willing to pay economic and/or political costs to support international norms on territorial integrity, laws of war, and conflict resolution.	**Effective**	**4/5**, Russian-backed separatists were held responsible for the downing of MH17 which dealt a serious blow to the worldwide perception of Russian policies. The Russian government became increasingly defensive about its actions, compared to its previously confrontational attitude.	**4/5**, EU sectoral sanctions were imposed after the downing of MH17, suggesting that EU governments perceived Russia to be chiefly responsible of serious violations of international conduct with regard to the laws of war. Several statements issued by EU leaders underlined that Russia violated international agreements by threatening the independence and integrity of a sovereign country. Sanctions clearly set the tone for the negotiation between the EU and Russia, but the fact that Russian-backed separatists shot down a civilian airliner contributed as much to the stigmatisation of Russia as sectoral sanctions.
Third Episode 11 Mar 15–3 Oct 16	• Individual sanctions remained and were extended and expanded. • Diplomatic restrictions continued. • Sectoral sanctions continued	**Coerce** Russia to implement the Minsk II Agreement which calls for an immediate ceasefire and the withdrawal of all equipment and personnel from the area.	**Ineffective**	**2/5**, Russia initially reduced its presence, but has not fully complied with the protocols of the Minsk agreement. Russia insists that Ukraine is not implementing its share of commitments to Donbass (serious constitutional reform and decentralisation has not been implemented) and links its own concessions to those of Ukraine. The Minsk II ceasefire has been only partially observed, and Russia continues its presence in Ukraine. The separatists have not accepted the Minsk II provisions to take part in elections under Ukrainian electoral law.[198]	**2/5**, The risk of sanctions escalation has arguably pushed Moscow to pressure separatists to observe the ceasefire at the outset, and linking sanctions to the Minsk agreement contributes to making Russia a responsible partner in the resolution of the crisis. However, the EU has linked negotiations on a new trade agreement with EAEU to progress on Minsk and potential linkages to Russian behaviour in Syria have also contributed to the outcome.
		Constrain Russia and its Donbass allies from advancing into eastern Ukraine by *imposing* costs on Russia for what would have otherwise been a relatively low-cost victory against the Ukrainian army in Donbass.	**Effective**	**4/5**, Intensive fighting has not resumed in eastern Ukraine since Minsk II (more precisely, since the fall of Debaltseve) and there has been no expansion further into eastern Ukraine. However, recent reports suggest a Russian military build-up on the Ukrainian border, as well as within Donbass. While Russia has not disassociated itself from Donbass and sent advisors to the break-away republics,[199] it did not make formal attempts to annex the DNR/LNR and has continued a policy of non-recognition of the breakaway republics.	**3/5**, Russia has been experiencing serious economic hardship since late 2014/early 2015, but much of this is due to the decline in the price of oil, not only sanctions. Sanctions have increased the costs of violating the Minsk agreement, but the costs of military intervention in Syria have also contributed.
		Signal to Russia that the EU and US are willing to pay economic and/or political costs to support international norms on territorial integrity, laws of war, and conflict resolution.	Mixed	**3/5**, Russian behaviour towards the independence of Ukraine is still being stigmatised, but the clarity of the signal has been reduced with the shift in focus away from Crimea and high level visits to Moscow by senior level European trade delegations.	**4/5**, The continuation of sectoral sanctions imposed in EP2 suggests continuity in the signal that Russia is chiefly responsible for serious violations of international norms in Ukraine. High level senior visits to Moscow also contribute to the outcome.

[1] Reasons include the rally-around-the-flag effect (particularly when media are state-controlled) and scope for the targeted regime to control the allocation of resources to strengthen support from elite groups and the wider population while punishing opponents. Portela, Clara (2010). *European Union sanctions and foreign policy*. Routledge, New York/ London.

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[22] Targeted Sanctions Consortium Database, *supra* n 2.

[23] *Ibid*.

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