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BY RICHARD NEPHEW
MARCH 2019

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Cover Image: G-7 Economic Summit leaders at Lancaster House in London, United Kingdom, (left to right) Francois Mitterrand, Margaret Thatcher and President Reagan, June 8, 1984, Courtesy of the Reagan Library

ABOUT THE AUTHORS

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EXECUTIVE SUMMARY

Though many commentators have suggested that the Trump administration's approach with respect to sanctions threats against Europe is "unprecedented," the relative comity in US-European sanctions policy making in recent years may be the aberration. The United States and Europe have often disagreed about whether, when, and how to impose sanctions against even common adversaries and in order to resolve mutually recognized problems. One of the most serious examples of this occurred in 1982, when the United States and its European allies broke sharply over the US decision to impose sanctions on the Soviet Union over the crackdown on the Solidarity Movement in Poland. The crisis that emerged tested the NATO Alliance, European governments, and the Reagan administration.

This paper reviews the 1982 example and then sets some lessons from it against the current US-European relationship. It offers an assessment not only of the changing political, economic, and social factors that have contributed to greater compliance with US sanctions dictates on the part of Europe over the last few years, but also the relatively brittle nature of this cooperation. It underscores that, though the United States may be in a relatively predominant economic position at present, this situation may not and likely will not persist indefinitely.

From this perspective, it concludes with three recommendations for how to modify current US sanctions practice in order to help manage partner concerns and avoid future crises.

- ***Adopting a process more akin to the Federal Register notice procedure for new sanctions programs.*** There is a yawning need for more consultation in advance of US sanctions decisions that could have major market moving and alliance shaking potential. It is not necessary, nor would it be prudent, to have a process that required public scrutiny of individual or entity asset freeze scenarios, but for other, more broad sanctions initiatives, it would help to avoid unintended consequences and ensure a more comprehensive debate. Exceptions could also be made to this rule in the event of a legitimate emergency.

- ***Establishing an independent commission to evaluate US sanctions policies and challenges.*** Congress should set up an independent, bipartisan commission to examine the issue of US sanctions policy now and for the next twenty-five years. Its assignment would be to evaluate how sanctions have been used in the recent past, the international operating environment for sanctions now, and the dimensions of the sanctions policy challenge in the future.

- ***Improving congressional oversight of the sanctions process.*** Congress should also require evaluation reports for individual sanctions regimes as a standard part of the executive branch's use of the International Emergency Economic Powers Act (IEEPA). Of course, similar requirements ought to be considered a standard part of congressionally mandated sanctions as well.

INTRODUCTION

The Trump administration's decision to break with the European Union over Iran and the reimposition of sanctions has been rightly treated as a mistake. However, some have taken their criticism of the Trump administration too far, suggesting that this is a break without precedent in US-European affairs. In fact, with respect to sanctions policy, the level of cooperation enjoyed by the United States and Europe in confronting Iran, North Korea, and Russia—to name a few—may be the anomaly. Over the past half century, there are myriad examples of the United States and Europe diverging in their views of the nature of a foreign policy problem and the use of sanctions to correct it. From Iran, Libya, and Cuba in the mid-1990s to Myanmar, Zimbabwe, and Iran today, the United States and Europe often do not agree on how sanctions can best be employed or whether their application will help or hurt a situation.

One particular incident stands out, however, insofar as it involved a difference in view between the United States and Europe on a commonly held threat—the Soviet Union—and the best means of confronting it after its support for intensified repression in Poland. In the early 1980s, the Reagan Administration took aim at West European energy imports from the Soviet Union and, both through diplomacy and eventually through sanctions, sought to persuade Western Europe to discontinue its investments and purchases. The effort failed. Though some readers may have participated in these events, the incident itself has largely slipped the minds of many of those who are interested in energy, in sanctions, or in US-European affairs. But it has important resonance today in all three areas, not least due to the persistent interest in the United States to police European energy security and the simmering resentment such endeavors breed in Europe.

This paper will first outline the relevant historical facts around the early 1980s sanctions episode, identifying a few key themes and conclusions. It will then consider these themes and conclusions against the current US-Europe issues of Iran and Russia sanctions in order to identify important parallels as well as differences between the cases and their historical settings. It will then offer recommendations on how to approach the use of sanctions in the future to prevent or at least better manage such confrontations.

Europe and the United States share far more in common than in opposition. From security policy to economic relationships, the transatlantic bond has enabled both sides to reap tremendous benefits. In fact, the very fundamental nature of the relationship may have inspired some on both sides of the Atlantic to take it for granted. By identifying our history of disagreement and the means by which we overcame our differences—and, in some ways, failed to do so—we can better learn how to tend and maintain this relationship in the future.

HISTORICAL BACKGROUND

On December 13, 1981, Poland's Communist leaders declared martial law in a bid to restore order in the midst of ongoing protests led by Solidarity, the Polish labor union. This was not entirely unanticipated. Over the previous year, Solidarity had led protests and strikes aimed at reforms of the Polish system, built on a foundation of common resentment and frustration with the corruption and inefficiencies of the Polish Communist Party and government. Solidarity was also very large, with "nine million members, out of an electorate of twenty-six million."[1] For Poland's government, Solidarity represented a potent threat, not least because—in an alleged worker's paradise—it appeared to have substantially more support of the Polish laborer than the Communist Party.

Recognizing that the Soviet Union might view Solidarity as a threat to the cohesion of the Warsaw Pact and mindful of past interventions in Hungary and Czechoslovakia, the United States and its NATO allies sought to deter Soviet intervention into Poland. They issued a communiqué on December 12, 1980, that warned, "any intervention [in Poland] would fundamentally alter the entire situation. The Allies would be compelled to react in the manner which the gravity of this development would require."[2] NATO also began to prepare a contingency plan for its response, centered on the use of "strong, coordinated economic sanctions, including halts to exports of grain, [Western Bloc] technology, and oil and gas equipment."[3] However, there was no coordinated approach for a Soviet intervention that "fell short of invasion, or in case of internal repression…"[4]

Consequently, when Poland declared martial law and began arresting Solidarity leaders in the absence of an overt Soviet role, there was initial confusion and—ultimately—disagreement within NATO about whether and how to react to the Soviet Union in particular. Some within NATO believed that it was imperative to impose real costs on the Soviets in addition to the Poles; others did not see a need to impose costs on the Soviet Union itself, arguing that "they needed more time to evaluate the situation in Poland and determine appropriate responses."[5]

Within the Reagan administration, a debate emerged that pitted those who believed that alliance cohesion was paramount and others who saw the Polish crisis as an opportunity to impose real costs on the Soviet Union. Perhaps not surprisingly, the State Department under Secretary Alexander Haig led the first group while the Defense Department under Secretary Caspar Weinberger led the second. Importantly, there was little disagreement about the need to respond to the situation in Poland or the righteousness of confronting the Soviet Union; instead, the disagreement centered on the means and level of acceptable disruption to the NATO alliance.[6]

This is an important distinction because, though NATO remained fully engaged in its mission of deterring Soviet aggression and being prepared to fight a war in Europe if need be, there were important differences within the alliance as to how to manage relations with the Soviet Union. A US Special National Intelligence Estimate (SNIE) from 1982 captures the cleavages between NATO allies directly, noting that "it will be difficult to enlist Allied cooperation in restricting trade with the USSR. Beyond the economic incentives, there are political considerations which fuel the West Europeans' reluctance to accept restrictions on trade and credits to the USSR."[7] For some in Europe, there was a prevailing interest in détente with the Soviets, which trade could potentially facilitate. Others were concerned about maintaining access to Eastern Europe. But, in sum, the absence of an overt Soviet role in the Polish crisis made it difficult for the United States to convince its partners in Europe that these prevailing interests ought to be set aside in furtherance of a more coercive approach to the USSR.

European-Soviet trade was relatively modest by the early 1980s in most categories, as could be expected by the terms of the Cold War.[8] European trade with the United States, Canada, and even Africa was larger than with the Soviet Union. That said, one notable exception lay in energy and, in particular, natural gas. After the 1970s energy crisis, several European countries had prioritized investing in natural gas as a means of lessening its dependence on oil from the Middle East while others sought other means of electrification, such as nuclear power in France.[9] Geography and availability pushed Europe to seek gas from the Soviet Union, and by the late 1970s, Europe was importing over twenty-five billion cubic meters (bcm) of gas from the Soviet Union. (Of course, some purchases of Soviet natural gas predated the oil crisis, but it remained an inflection point for increased investment in this area.) At the same time, Europe was also exporting billions of dollars' worth of natural gas extraction and pipeline-related equipment to the Soviet Union, a substantial portion of which used US proprietary technology.[10] The primary objective of this trade was intended to support the construction of a new pipeline that would go from the Urengoy Siberian gas field through Ukraine and thence throughout Western Europe. Natural gas development and export, therefore, was of value not only insofar as the gas itself was concerned, but also as a source of European exports, employment, and support for détente with the Soviets.

At the same time, within the United States, the idea of confronting the Soviet Union was generally ascendant. This same SNIE articulates well the logic behind confrontation. It outlined the manner in which the Soviets were beholden to trade with the West for hard currency as well as technology. It suggests that a strategy of technology denial and trade limitation could put pressure on the Soviet Union and hinder its ability to develop and field new military hardware.[11] Moreover, advocates for a tougher approach to Moscow were also concerned in particular about the perceived, growing dependence of Europe on Russian natural gas for their economic well-being. They feared that this would provide leverage to the Soviets in a future crisis, perhaps contributing to fractures in the alliance.[12] They pointed to estimates that European imports of Soviet gas would go from approximately 25.5 bcm in 1980 to nearly 54 bcm by 1988, should the Urengoy pipeline be completed.[13] Such imports would constitute approximately 30 percent of the natural gas used by Germany, France, Italy, and Spain for a total of 5 to 6 percent of the total energy consumed in Western Europe.[14] For those convinced that the Soviet Union's intent was to divide and subjugate Western Europe, this threat was too significant to ignore. Of course, they also saw an opportunity, with the Soviet Union experiencing "increasingly pronounced economic difficulties that seemed endemic to its system,"[15] to put real pressure on the Soviet Union. At a minimum, "the Reagan Administration reasoned that the West should do nothing to help the USSR out of its dire economic straits."[16]

The United States and its European partners met shortly after the Polish crackdown to establish a common approach on both Poland and the Soviet Union. With respect to Poland, sanctions imposition largely targeted ongoing streams of economic aid, particularly those that would have otherwise gone directly to the Polish government. Instead, both prioritized aid for the Polish people via private mechanisms.

With respect to the Soviet Union, however, the United States and Europe were on very different pages from the start. The United States sought support for a robust sanctions approach while European partners suggested more patience to suss out the Soviet role.[17]

In the meantime, however, the Reagan administration met internally and decided that it would undertake a series of unilateral sanctions. These were announced on December 29 and included:

- suspension of Aeroflot flights to the United States;
- closure of the Soviet Purchasing Commission;
- suspension of licenses for all high technology exports, including for oil and gas equipment;
- expansion of the list of oil and gas equipment requiring export licenses;
- suspension of negotiations on a new long-term grain agreement;
- suspension on negotiations on a new US-Soviet maritime agreement; and
- allowance of technical exchange agreements to lapse (energy and space in May, science and technology in July).[18]

Secretary Haig, while announcing the sanctions, also stated that these constituted an "interim step that hardly exhausts the list of potential actions."[19]

These sanctions came as a surprise to the Europeans, reportedly with only five hours' warning, but it was hardly a complete one given the conversations held the days and weeks after the crackdown. Most troubling for Europe was the inclusion of sanctions prohibiting high technology export licenses. As noted previously, a substantial element of the pipeline construction depended on the provision of US-origin technology, especially turbines and compressors. A prohibition on the supply of these goods would sharply delay the construction of the pipeline and consequent provision of gas.

Herein a major question loomed: Would the United States apply these sanctions retroactively, covering licenses already issued and business deals already made or prospectively? The State and Commerce Departments argued in favor of a prospective approach, at least insofar as non-US firms were concerned, so that the sanctions would be focused on future trade and construction agreements. In deference to their concerns, Reagan held off on a retrospective, extraterritorial approach until after consultations with Europe could be held. Thus enabled, Secretary Haig and his staff sought to convince European governments to adopt sanctions of their own and to at least respect US sanctions on pipeline-related equipment for future deals. State believed that European commitments to undertake a combination of these steps—particularly with the addition of a commitment to "refrain from undercutting American sanctions" with new contracts—constituted a "solid success."[20] Buttressing these steps, the European Community adopted a resolution on March 15, 1982, that reduced imports by 25 percent for some goods and 50 percent for others, involving approximately sixty products in total. The effect would be to reduce imports from the Soviet Union by about $150 million.[21]

But overall, the Reagan administration was not satisfied with the severity of sanctions adopted. It wanted to secure more stringent measures, including the suspension of ongoing negotiations over trade agreements with the Soviet Union and restrictions on Soviet access to credit.

By virtue of its stagnant economy, the Soviet Union was considerably dependent on credit to finance imports. The Reagan administration sought to increase the interest rate on Soviet credit, which the Organization for Economic Cooperation and Development (OECD) was able to do by May 1982. State Department officials explicitly used the possibility of applying the gas pipeline sanctions retrospectively to secure European concessions on this front, anticipating that obtaining a higher credit rate in exchange for agreeing to forgo retrospective sanctions on the pipeline this would constitute an acceptable outcome for US hardliners. In particular, they negotiated with the French government—which sought US intervention in currency markets to bolster the franc—and agreed that, with the pipeline issue set aside, France would push for restrictions on Soviet credit and the United States would support French monetary policy.[22]

Unfortunately for the State Department, "Defense and the NSC remained adamantly opposed to the pipeline and refused to endorse any deal."[23] Reagan prevaricated during talks with the Europeans and, either in earnest ignorance of the many-layered negotiations that the State Department was undertaking or out of a desire to jettison an agreement that he found to be insufficient, subsequently refused to honor the agreement reached on the French franc.[24] French President Mitterand responded by holding a press conference acknowledging that France had taken all the steps that it would take to impose economic costs on the Soviet Union. In turn, the United States announced on June 18 that it would be extending its pipeline sanctions to include foreign subsidiaries of US companies and anyone else operating under a US export license.[25]

Predictably, Europe was aghast at this decision. Reactions ranged from the stoic West German statement that "the pipeline will be built" to the more emotive French foreign minister's description of the situation as a "progressive divorce," with the United States and Europe "no longer speak[ing] the same language."[26] He also suggested that "this day, June 18, 1982, could well go down as the beginning of the end of the Atlantic Alliance…the United States has just declared what amounts to economic warfare on her allies in Western Europe."[27] Making things worse, the United States had announced less than two weeks prior that "it would levy stiff penalties on steel imports from the European Economic Community to offset government subsidies that permitted the European countries to sell the steel in the United States below cost, in the view of the Commerce Department"[28] and refused to apply its own embargo of exports of grain to the Soviet Union in conjunction with the pipeline sanctions. This last point was especially galling to European interlocutors, who demanded that the United States be prepared to exact similar costs on its own economy as those being sought from Europe.

Reagan, having campaigned against the Carter-era grain embargo (which was established in response to the Soviet invasion of Afghanistan in 1979), refused to countenance sanctions that would be seen as breaking a campaign promise. Moreover, he argued that the embargo was "not having the desired effect of seriously penalizing the USSR for its brutal invasion and occupation of Afghanistan…" in part because of undercutting by non-American suppliers.[29] Even if true, the sum total of these steps was to create an impression in Europe that the United States was hypocritically defending its own economic interests while demanding Europeans make sacrifices. Moreover, the extraterritorial nature of the sanctions—enacted by Washington but enforced on European firms—grated, especially since there was a perception of the United States using its licensing authority selectively to advance its own economic interests. Reagan's request in 1981 to the Japanese government that its firm, Komatsu, refrain from completing a contract to sell pipelayers to the Soviet Union seemed to serve as a case in point: ten days after Japanese Prime Minister Suzuki agreed, the Commerce Department gave Caterpillar, Komatsu's direct competitor, a license to proceed with the same export.[30]

Notwithstanding their frustration, European companies began to move to comply with the US demands. The Reagan administration likely believed that, though European governments may complain, they would not persist in their defiance of the United States, especially since the sanctions targeted firms rather than countries. As Drezner notes, "The coercion of firms is usually easier than the coercion of nation-states. CEOs do not care about relative gains or political reputation; they care about profits."[31] Moreover, the absence of concrete steps by the Europeans to combat US sanctions throughout June and July may have suggested to Reagan administration officials that European resistance was crumbling. More likely, European officials probably believed that they would be able to dissuade the United States from taking its reckless course of action or damaging their interests with the United States in other areas if they kept the dispute largely rhetorical and behind closed doors.

At the end of July, however, British Prime Minister Thatcher opened the door to more direct defiance of the United States by stating in the House of Commons that "it is wrong" for "one very powerful nation [to] prevent existing contracts being fulfilled."[32] Other leaders soon echoed her comments in what Martin called "negative bandwagoning," "in which European governments followed one another in formally ordering their firms to ignore the American sanctions."[33] In addition to decrying the legal principles upon which the sanctions were imposed, the Europeans argued that the Soviets would be able to construct the pipeline in any event and further incentivized to develop their own technology to the detriment of Western firms. The result was that Europe went farther than admonishing their firms to ignore the US sanctions imposed and instead took direct steps to ensure that they would fulfill the terms of their contracts. At the end of August, the French took the extraordinary step of threatening "to requisition [Dresser-France] facilities and carry out the order anyway."[34] Other European firms likewise fulfilled their contracts.

The United States swiftly imposed sanctions on all of the offenders, banning them from commerce with the United States. But, solidarity within the United States was fleeting. Both within the Reagan Administration and between the executive and legislative branches, the dispute was highly polarizing. The imposition of sanctions against those European firms, after all, did not just apply to their ability to conduct business in the United States, it also affected

US firms and their bottom lines. Members of Congress began to mull legislation to reverse the imposition of sanctions and to require that any such measures be "contingent on approval and joint action from the allies."[35] This, in turn, sent Europeans a signal that their resistance to US sanctions was bearing fruit inside of Washington. Studies conducted by the State Department and the Defense Intelligence Agency suggested first that these measures would hurt Western exports more than Soviet imports as "newly industrialized countries (NIC) could make up most of the shortfall"[36] and, second, that "imports of technology were so important to the Soviets that they would inevitably find ways to overcome hard currency constraints."[37]

By November 13, the Reagan administration had had enough. The president announced that he would drop both the original sanctions on supply of goods for gas pipelines as well as their expansive interpretation from June. Though Reagan stated in the radio address announcing the decision that "the understanding we and our partners have reached and the actions we are taking reflect our mutual determination to overcome differences and strengthen our cohesion,"[38] both the British and French foreign ministers were clear in their corresponding statements that this was a unilateral decision on the part of the United States rather than as a result of any negotiation.[39] Moreover, European firms continued to do business with the Soviets, signing contracts worth $1.5 billion in the six months after the incident[40]; instead of slowing down the Soviet Union, "US firms encountered greater difficulties trying to export to European companies fearful of a future embargo [and] foreign direct investment in the European Community also became a sensitive issue."[41]

LEARNING FROM THE PAST

Rather than serve as an example for how the United States can use its economic might and superior control over technology, the pipeline sanctions episode should serve as a cautionary tale for those overly enamored with US unilateral action. The United States endeavored to exert its will over its foreign partners by virtue of their companies' economic interests and found that European governments were not only able to but also willing to resist aggressively. Presently, there appears to be both less political will to confront the United States on the part of European governments (at least in any meaningful, nonrhetorical sense) and continued deference to its preferences by European economic actors. This suggests that the United States has been able to overcome whatever restraints exist to its freedom of action with respect to sanctions imposition.

In this section, we'll consider six main points that should be taken from this episode. In the next, we'll test those lessons against modern sanctions cases to establish whether things have, indeed, changed or whether limitations on US sanctions policy still exist, if in different form. This section will also include consideration as to what factors may have changed the balance of power between Europe and the United States.

To begin, the pipeline episode showed the difficulty of getting sanctions to work when the process used to design them is flawed and incoherent. Put another way, this sanctions program failed multiple steps in the design process I articulated in *The Art of Sanctions*, and its performance shows some of the dangers in doing so. Key elements include:

- Failure to offer a clear elucidation of goals and objectives. The Reagan administration said that its objective was to punish the Soviet Union for its involvement in the Polish crackdown. But it did not articulate a vision for how imposing sanctions would further prevent such crackdowns or remediate the existing one. Logically, one could infer from the use of sanctions that the Reagan administration thought the Soviets would back down from their involvement and persuade the Polish government to ease its crackdown. But the Reagan administration talked about the use of sanctions mainly insofar as the imposition of punishment rather than to change Soviet or Polish behavior.

  In fact, key members of the Reagan administration thought that the pipeline was a problem well before the events of December 1981. These officials believed that Europe was opening itself to coercion from Moscow on a fundamental level with respect to a vital national industry. From this perspective, it would appear—and did so to some in Europe—that the United States was merely using the Poland episode as an excuse to do something it had already decided was essential.

  The absence of corroborative evidence to prove that the Polish crackdown was ordered by Moscow helped to create further disagreement with Europe. European partners did not agree that the Soviets were behind the decision or that they were responsible for its execution. Consequently, from their perspective, sanctions against the Soviets suffered a legitimacy crisis that made it that much harder to build a consolidated sanctions coalition. This undermined the use of sanctions.

- Failure to achieve agreement internally as to what was intended. Simply put, the Reagan administration itself did not agree on its end goals or the appropriate instrument to obtain them, and was therefore unable to convince members of Congress—let alone foreign partners—as to the imperatives driving US policy or the utility in doing so. European officials saw the United States as aiming at the pipeline solely, while US officials believed that they were helping to establish the kind of pressure mechanism that might improve US and Allied ability to triumph in the Cold War. Some measure of internal disagreement is always going to emerge in policy making, given the different priorities and interests held by various members of a team. However, the pipeline sanctions episode demonstrated a serious lack of internal cohesion from start to finish. The result was that the Europeans were able to first target individual parts of the administration and, eventually, members of Congress for appeals intended to fracture support for and implementation of the sanctions.

- Failure to demonstrate readiness to absorb costs for sanctions imposition. Notwithstanding its broader readiness to confront the Soviets, the Reagan administration was unwilling to absorb pain itself for the imposition of sanctions against the Soviet Union. The Reagan administration refused to consider reimposing the grain embargo, which many in Europe expected would at least be on the table if they were to go forward with pipeline sanctions. This struck Europe—as it often does now—as if the United States had alternative reasons for the policies it pursued, not least its own self-serving economic needs. This undermined alliance cohesion as well as signaled that it would be possible for the Europeans themselves to inflict punishment on Washington that the administration would find it hard to handle.

- Failure to anticipate and manage resistance. The Reagan administration's approach to sanctions expected that European companies would respect their larger interest in the United States and desist from business that would compromise this access. And, to some extent, the Reagan administration was quite right to do so. The initial corporate response to US sanctions threats was to back down, agreeing not to supply the contracted goods in deference to US sanctions prerogatives. This is not, in and of itself, surprising, given the different interests and risk tolerances that exist between companies and governments.

  But the Reagan administration failed to recognize that European resistance to US sanctions would exceed the tolerances of their companies. It did not appreciate the degree to which other differences of view on the Soviet Union and even unrelated issues (such as exchange rate management for France or steel tariff policy) would determine the trajectory of European resistance to US sanctions. Consequently, the Reagan administration was backed into a corner, forced to sanction European companies that were of value to the United States and creating the firestorm of political pressure that led to Congress preparing to reverse the sanctions.

> What's worse is that the Reagan administration failed to recognize that European partners would feed on one another's confidence and resistance, leading to the kind of bandwagoning behavior that made it even harder for European partners to back down than the United States. Indeed, instead of picking off one or two countries that might otherwise have been more willing to comply with the United States than others, the US frontal assault on Europe inspired pushback that was mutually reinforcing.

Complaints notwithstanding, the use of sanctions against Moscow did pass a few of the tests for sanctions design that I would apply.

- Identification and exploitation of a core target vulnerability. As the US SNIE made clear, the acquisition of hard currency was a key priority for the Soviet Union at the time. Its comparative export advantage lay in the field of energy production, and the pipeline would have been a key element of the Soviet strategy to generate income. Moreover, the Soviets used their technology import activities to flesh out their own technical capacities and fill their shortcomings. From this perspective, closing off Soviet access to technology and another source of export earnings would create hardship for Moscow and, consequently, was a reasonable target for pressure.

  That said, this was a vulnerability that the Soviets understood as well as which they were working hard to close. The fact that the Soviets were assessed as being able to develop and field their own technology, and to be able to scavenge from other projects in order to complete the offending one on their own, meant that this vulnerability was less significant than the Reagan administration thought. Moreover, it undermined the case made to the Europeans that these sanctions would put a permanent crimp in Moscow's plans. Instead, European officials were able to convincingly argue—with US intelligence community backing—that the Soviets would be able to finish their work regardless. This sapped some of the significance behind the sanctions and undermined the case at home. (In retrospect, it may also have encouraged the Russians to seek their own technological solutions to the challenges they faced.)

  The result was that, even had the Soviets been in a position to reverse course in Poland (a debatable point, at least), the type of sanctions pressure applied by the United States was unsustainable along any time horizon necessary to make it functional. The Soviets were in a position to simply endure US sanctions.

- Use of incrementalism for signaling and resolve purposes. The Reagan administration did—if inadvertently and as a result of internal compromises—create a stepwise approach for the imposition of sanctions against the Soviet Union. First curtailing US companies' access to the Soviet pipeline project and then eventually including foreign subsidiaries and partners created an escalation ladder that the Soviets—had they been in a position to manage the Polish crackdown—could have potentially avoided. Moreover, by consistently threatening to expand the scope of the US sanctions, the United States engaged in the kind of signaling behavior to Europe that ought to have avoided strategic surprise when the United States decided to act.

However, the Reagan administration also undercut its success in this regard by sending very mixed signals as to what would constitute an acceptable set of Soviet-focused sanctions for Europe to take. The fact that agreements were apparently reached with the Europeans—or, at a minimum, perceived to have been reached—and then discarded only further reinforced the message confusion that, in the end, probably contributed to the European refusal to cooperate and to resist actively.

APPLYING TO THE PRESENT

Given that some of these problems are particular to the modalities of applying sanctions in the Soviet case and that it took place over thirty-five years ago, it is reasonable to ask whether these lessons have any bearing on US sanctions policy today. Fortuitously, the US application of sanctions has—if anything—increased over the past thirty-five years, such that we have a wealth of examples to examine.

Failure to offer a clear elucidation of goals and objectives

Since the Soviet pipeline experience, there have been sanctions programs in which the US aim is well established and definitively stated. Sanctions against Iraq in 1990, for example, were motivated by Iraq's invasion of Kuwait and intended to coerce Saddam to withdraw from the country, while in the meantime, an international coalition was assembled to ensure this objective could also be achieved by force. Likewise, sanctions imposed against those who have undermined democratic governance (e.g., in Western Africa), tested nuclear weapons (i.e., India, Pakistan, and North Korea), and supported the use of terrorism (e.g., all State Sponsors of Terrorism and the disparate terrorist groups that have formed in the last thirty five years) have all been announced with some degree of explanation as to their purpose.

However, the US sanctions endeavor remains plagued by two interlocking problems:

1. Ambiguity as to what would merit relief
2. Mission creep

On the first, the United States has continued to fail to outline as part of sanctions imposition the constellation of actions that the sanctioned party could undertake in order to acquire sanctions relief. Or, at any rate, the United States has yet to consistently provide this information with any specificity so as to offer practical guidance for those sanctions targets. The practical result has been unpredictability in sanctions enforcement and the creation of mixed messages.

India and Pakistan, for example, were sanctioned for their testing of nuclear weapons in 1998 but almost as swiftly relieved of those sanctions, either because of the strategic necessity of cooperation (as with Pakistan post-9/11) or because of the strategic opportunity for engagement (as with India). North Korea, by contrast, has been subjected to increasing sanctions punishment due to its nuclear weapons developments and tests, with no clear signal that relief may be in sight. Of course, there are differences in the threat presented to the United States from these three nuclear arsenals, with the North Koreans being aimed explicitly at US allies and perhaps the US homeland. There are also distinctions in the US relationship with the countries, not least that the United States and North Korea remain technically at war. Still, all three nuclear weapons programs have generated some margin of instability in their respective regions and, arguably, the Indian and Pakistani nuclear weapons programs have the greatest chance of contributing to a nuclear exchange than any other current nuclear weapons programs today given the perpetually simmering border confrontation between the two countries. It may also be possible that some degree of realism is present in the US decision to target North Korea and not India or Pakistan, as the former's nuclear weapons ambitions were still nascent when sanctions were first imposed, while the latter had established substantial nuclear weapons programs when testing them in 1998. But from purely a sanctions perspective, this is no great comfort when it comes to the necessity of outlining a clear rationale for sanctions imposition or the rationale for eventual relief; to the contrary, it would seem to corroborate the long-held proposition that US sanctions policy is primarily dictated by their use against whoever is either weaker or more consistently crosswise of the United States rather than more principled positions of policy and adherence to international law. The degree to which US sanctions also target Iran, its nuclear weapons advances having been suspended voluntarily since 2003–2004 (a fact known since December 2007), also contribute to the sense that US sanctions policy is opportunistic and bullying, rather than principled and consistent.

This relates directly to issues of mission creep. Though sanctions are sometimes imposed for discrete reasons, over time, there are incentives for expanding their application as additional problems emerge with their targets and powerful disincentives to relieve sanctions, particularly against targets with which one has a strong adversarial relationship. New reasons to keep sanctions in place and perhaps even to expand their application are found, with the consequence being that sanctions may never actually be released. Moreover, given the credibility issues that are sometimes cited with sanctions relief (such as the idea that adversaries will believe their sanctioning opponents to be weak if they agree to release sanctions), there are often also domestic political reasons why—in the United States in particular—sanctions have a tendency to stick around.

Failure to achieve agreement internally as to what was intended

So long as government administrations are run by human beings, it will likely prove impossible to avoid internal disagreements on whether and how to impose sanctions, just as is the case with any other policy instrument. (In fact, it is arguably far better to have these sorts of disagreements, which can sort out whether and how to use such instruments, than to seek their elimination.) In this, while sanctions imposition against the Soviet Union was no doubt undermined by internal splits, the Reagan administration was neither the first nor the last administration to have to deal with the ramifications of the split.

Two other dimensions of the Reagan-era internal turmoil, however, are more important and merit examination:

1. The degree to which Reagan policy makers believed that the United States was capable of driving international policy by fiat

2. Lack of harmonization with Congress

On the first, the historical record is strongly suggestive that some officials in the US government believed that, regardless of their own views on the subject, US allies would be forced to comply with US dictates if backed with economic force. Their perspective was buttressed by an understanding of the traditional US leadership role in confronting the Soviet

Union, particularly in Europe, and the relative weight of the US economy versus that of the Soviet Union. Their view was, in essence, that the United States could make decisions for other sovereign nations and that, grudgingly perhaps, those countries would be forced to follow where the United States led.

Of course, the historical record also demonstrates that these officials were wrong. But it is not evident that the United States has learned much from this experience, in that it persists as a substantial element of US sanctions policy, especially since the late 1990s, when “secondary sanctions” entered their vogue. Such sanctions are unique in that they seek to deny foreign companies from doing business with other foreign companies, regardless of the degree to which there is US involvement in the transaction or even illicit conduct. Though foreign governments in 1982 perceived US sanctions as an unacceptably extraterritorial application of US law, the reality is that denial of US-origin goods from being transferred to a designated adversary is a fairly routine element of export controls and one that all countries with national export control regimes possess. What was controversial and different in 1982 was the degree to which the United States was exercising its national prerogatives after contracts were signed and transfers were authorized, and threatening foreign companies with punishment to boot. By contrast, what the United States has done since the mid-1990s is far more aggressive: seeking to transform international foreign policy through domestic economic leverage.

That this effort has been deemed successful only deepens the degree to which US officials have come to internalize the notion that such a state of affairs is not only normal, but also tacitly accepted by the rest of the international community. Though some officials may still argue that foreign partner buy-in is an essential element for success (and, in my experience, both the Bush and the Obama administrations made concerted efforts to obtain such cooperation), the unilateralist streak in US sanctions policy is evident both in the range of sanctions bills on offer at any particular moment in time and the degree to which it is now commonly expected that the US president can coerce foreign cooperation against foreign will. In fact, in this way, the executive branch and Congress have become far more likeminded in their consideration of sanctions, in that politicians of both parties have encouraged and endorsed exactly this treatment of US sanctions efforts over the last few decades.

Of course, it is worth considering whether those supporting this kind of approach to sanctions have a point. After all, it is a separate matter whether there are risks and costs to this approach; the initial question is whether the United States can, in fact, determine the foreign policy of its allies through sanctions fiat.

If we look mainly at sanctions cases, they present a mixed bag. Since the early 1980s, dozens of sanctions regimes have been installed or dismantled. But in most cases, the United States and its allies (European ones, in particular) were largely on the same page, or their disagreements were sufficiently narrow so as to avoid a major blowup. Sanctions regimes as diverse as those against Burma/Myanmar, Somalia, Yugoslavia, Guatemala, The Gambia, Niger, the Ivory Coast, North Korea, Libya, and Iran were developed and executed as part of a collaborative effort.[42] The range of sanctions targets meant that there were varying degrees of economic interest and concern among the participants in the imposition of sanctions, any of which could have potentially imperiled the effort. But after the normal diplomatic to-ing and fro-ing, they were resolved.

But looking at the final outcome of the sanctions push leaves us unclear whether cooperation or coercion achieved the results in question, particularly since there were elements of both along the way. Pre-2011 Libya is a useful case in point. As I developed further in my paper[43] on the subject from 2018, the United States was well out in front of Europe when it came to the application of sanctions against Libya. The reasons for this were myriad, including the imperative of obtaining access to Libyan oil. But a result of this separation was considerable friction on Libya sanctions until the Libyans crossed major European redlines through their terror attacks on civil aviation. Yet even when commonly held problems are identified, disputes over the means can still develop, as was certainly the case with Iran in 1996, when the United States imposed sanctions that would have affected European business with Iran contrary to European government wishes.

In this context, it is worth recalling Hufbauer, Elliott, and Schott's work on the subject of international cooperation in sanctions implementation. They concluded that, given their analysis of the litany of sanctions cases after the Second World War, "sanctions should be either deployed unilaterally, because the need for one's allies is slight, or designed in genuine cooperation with one's allies in order to reduce backlash and evasion."[44] They noted further that "pressing too hard to corral reluctant allies can have the perverse effect of undermining the impact of the sanctions, if multilateral agreement takes too long to achieve or requires watering down the sanctions imposed."[45] Put another way, if a likeminded coalition does not already exist prior to a decision to impose sanctions, it may be difficult to obtain such cooperation through sanctions threats, and the resulting conflict can undermine the chances of success. This, it is clear, is what happened in part during the Soviet case and which may yet occur with respect to Iran under the Trump administration.

Failure to demonstrate readiness to absorb costs for sanctions imposition

Of course, one way that countries can avoid splits is if there is a shared burden. Hufbauer, Elliott, and Schott quoted nineteenth century Prussian strategist Von Moltke as saying of coalitions "as soon as one of the allies has to make sacrifices for the attainment of a large common objective, one cannot usually count on the coalition's efficacy."[46] This is particularly true if one side of a coalition is perceived to be paying more for victory than another.

But of the major sanctions cases of the last twenty years, it appears as if something has changed in this fairly sensible assessment of human nature, particularly as relates to the United States. If we look to those sanctions episodes that have driven UN Security Council debates or been considered as necessary elements of avoiding war, we actually have several in which the economic burden to be imposed was not on the country cheerleading the most for sanctions—the United States. From Russia to Iran to North Korea to Myanmar, the United States has been active in pushing for sanctions that would minimally affect its economy but disproportionally affect those of our partners or allies. This is particularly pronounced with respect to Iran and Russia, where the United States has minimal trade relations and yet very aggressive sanctions either in place or on the table.

By itself, this is not a surprising phenomenon and is rather logical: it is far easier to advocate sanctions solutions when one's companies and citizens are unlikely to be affected.

What is strange is the degree to which, notwithstanding this asymmetry of interests, the United States has been successful in securing such sanctions measures. The 1982 case shows clearly that European allies held the refusal of the United States to impose a grain embargo on the Soviet Union as indicative of its weak will in sanctions enforcement and, worse, its unwillingness to share the costs of coercion. Consistent with this, one argument that the United States frequently used during my time in government was that though it was true that US trade with Iran, for example, was marginal and there was little to cut, this reflected a previous sanctions decision on our part. Put another way, the United States was able to argue that it had already undertaken its own sanctions-led cutoff in trade ties and that while the timing of the action was different, the United States had in fact absorbed similar costs. The need to balance the burden was actually for Europe and others, not for the United States. But in practice, this was received as a tepid, unconvincing argument, in part because those receiving it were facing an imminent demand to cut off business while those doing the demanding had long since moved on. Certainly, it was true that the United States was inoculated against charges of hypocrisy, which was helpful, but probably not decisive in securing significant concessions by US partners.

That said, it is important to note that the entire concept of burden sharing is far from obsolete. In fact, in many of our interactions with foreign governments when advocating on behalf of sanctions—whether against Iran, Russia, North Korea, or others—a major source of frustration was not the absence of burden sharing by the United States but that of other countries. Notably, many governments were interested not only in whether other countries would be undertaking the same cuts, restrictions, or impediments in their normal trade, but also whether the United States would treat those who refused to comply with US demands equally. In this, the imperative of burden sharing somewhat shifted from a situation in which countries wanted to see the United States absorb its share of the costs and to one in which the United States was entreated to serve as an objective and impartial referee. This likely speaks to the next issue, the degree to which the United States is in more of a position today than in 1982 to anticipate and manage resistance to its sanctions drives and, if it is, why.

Failure to anticipate and manage resistance

Simply put, the Reagan administration did not expect as much resistance as it received to its sanctions initiative and was ill equipped to respond to concerted pushback from its European allies. The consequence was that the United States was forced to back down in the confrontation. Similar patterns can be seen in other cases, such as the 1996–1997 incidents with respect to Cuba and Iran (and, to a lesser extent, Libya). In those cases, the United States met with resistance and then was forced to calibrate its approach.

Similar concerns motivated US sanctions officials from 2000 through 2010, where there was a willingness to push Europe and other allies, but an awareness that there may be limits to how far US leverage may take us. Even one of the great successes in the use of US sanctions pressure—the threatened access to the US financial system if countries refused to reduce their purchases of Iranian oil—occurred at the same time as the European Union voted on its own measure to halt the purchase of Iranian oil altogether. Consequently, though the United States was able to claim European oil reductions as an element of success for the sanctions strategy, the responsibility for the action was perceived to be a European initiative contemporaneous with an American one. In fact, a careful review of the history underscores that then–French President Sarkozy was discussing an oil cut-off three weeks before US sanctions legislation was passed. A similar story of cooperation, perhaps with some coercion from Washington playing a role, exists with respect to a raft of other sanctions cases, including those against North Korea and Russia.

The Trump administration, by its own admission, is prepared to entertain cooperation with countries but is not conditioning its policy decisions on that cooperation. Instead, US officials have talked cavalierly about sanctioning European companies with some frequency, up to and including the President in an August 7, 2018, tweet in which he said, "The Iran sanctions have officially been cast. These are the most biting sanctions ever imposed, and in November they ratchet up to yet another level. Anyone doing business with Iran will NOT be doing business with the United States. I am asking for WORLD PEACE, nothing less!"

Setting aside the Trump administration's contributions to world peace, if past practice served as precedent, then logically one would anticipate a robust retaliatory approach by the European Union. In fact, the coincidence of a broader trade battle—over steel tariffs, no less—in both scenarios would argue strongly in favor of at least a similar approach. But aside from theoretically blocking its companies from complying with US sanctions against Iran, the European Union and its leaders have largely stuck to rhetorical jousting with the United States. They have condemned US policy but done little to demonstrate that the United States would bear a cost for its enforcement of it. This is a circumstance not limited only to Iran policy. With respect to Russia, for example, European officials have expressed their opposition to US unilateral sanctions that would target Nordstream-2, Russian energy exploration and extraction, and Russia's financial sector on the whole. Their confrontation with the United States has been muted by the Trump administration's own reluctance to pair rhetoric with action against Russia, but the result has been a marked absence of reluctance on the part of the US Congress to significantly dial back its sanctions pressure against Russia. Face-saving words about cooperation and consultation may obscure the extent of US congressional rejection of European concerns, but this rejection remains evident in new legislation being considered now by Congress (such as the Defending American Security from Kremlin Aggression [DASKA] Act of 2019), which would—among other things—establish a US sanctions regime on Russian oil production that is similar to that against Iran, which prompted a major US-Europe confrontation in 1996.

It is possible that European reticence to take on the United States now is attributable to the character of its leaders and those of the United States'. In 1982, for example, the United States was led by Ronald Reagan who, despite being a firm Cold Warrior, also attempted to maintain a positive relationship with Europe. In 2018, we have Donald Trump, whose views on European leadership are decidedly less warm. In 1982, we had Margaret Thatcher, Francois Mitterrand, and Helmut Schmidt as leaders in the United Kingdom, France, and West Germany; of them, Schmidt's political future was the most questionable at the time, and he would soon be replaced by Helmut Kohl. By contrast, in 2018, the United States faces Theresa May as the prime minister of the UK, facing the Herculean tasks of managing BREXIT while preserving her political coalition; Chancellor Angela Merkel, whose last victory in German elections was the weakest of her tenure; and Emmanuel Macron as the president of France, who is probably the most popular of the lot but still facing a variety of internal challenges in France and within the EU. But if anything, the rise of populism in Europe would generally argue in favor of a *less* deferential approach to US policy than one which is *more* conciliatory. Moreover, Trump is himself deeply unpopular in Europe, with a 23 percent approval rating as of January 2018.[47] Arguably, it would also be in the political interest of many European leaders to distinguish themselves from the United States, particularly on a policy issue like sanctions and their extraterritorial effects. Moreover, attributing the difference to pure personality differences obscures the degree to which the United States strong-armed its partners into tougher sanctions on Iran from 2008 to 2011.

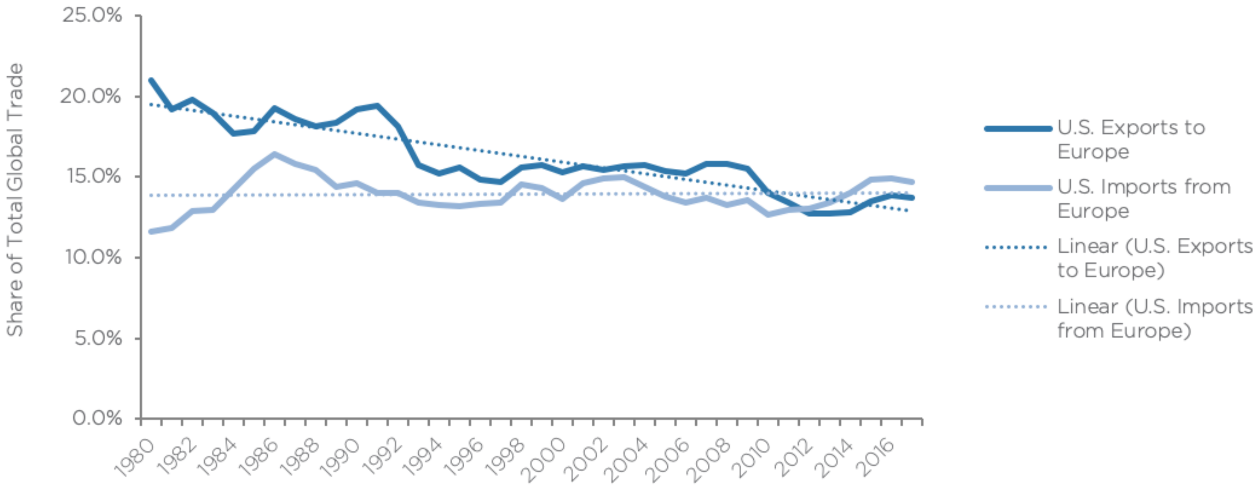
Consequently, though politics and personalities may play a role, a far more likely reason for the absence of concerted resistance lies in more fundamental interests. Trump's own willingness to walk away from NATO and take more extreme actions that would threaten European security could be one such interest that is perceived at risk. At a time when Europe does face legitimate security threats, not least being terrorism and a potentially revanchist Russia, European officials may be unwilling to challenge the United States to the extent possible (which, in conversations held with European officials in May 2018, would appear to be a significant factor). Similar considerations are likely behind Japan's and South Korea's readiness to join the US sanctions campaign against Iran again in 2018, and their reluctance to challenge threatening rhetoric from the United States in overt fashion; their interests in maintaining good US ties, particularly in managing the threat of North Korea and the challenge of China, may be paramount.

But a more likely element is the degree to which the United States is simply more able to damage key elements of foreign economies in the absence of cooperation than it used to.

If we compare the situations in 1982 and 2018, particularly with respect to France, Germany, and the United Kingdom (the three countries that opposed US sanctions against the Soviet Union's pipeline most vociferously and the US withdrawal from the JCPOA and reimposition of sanctions against Iran), a few things jump out.

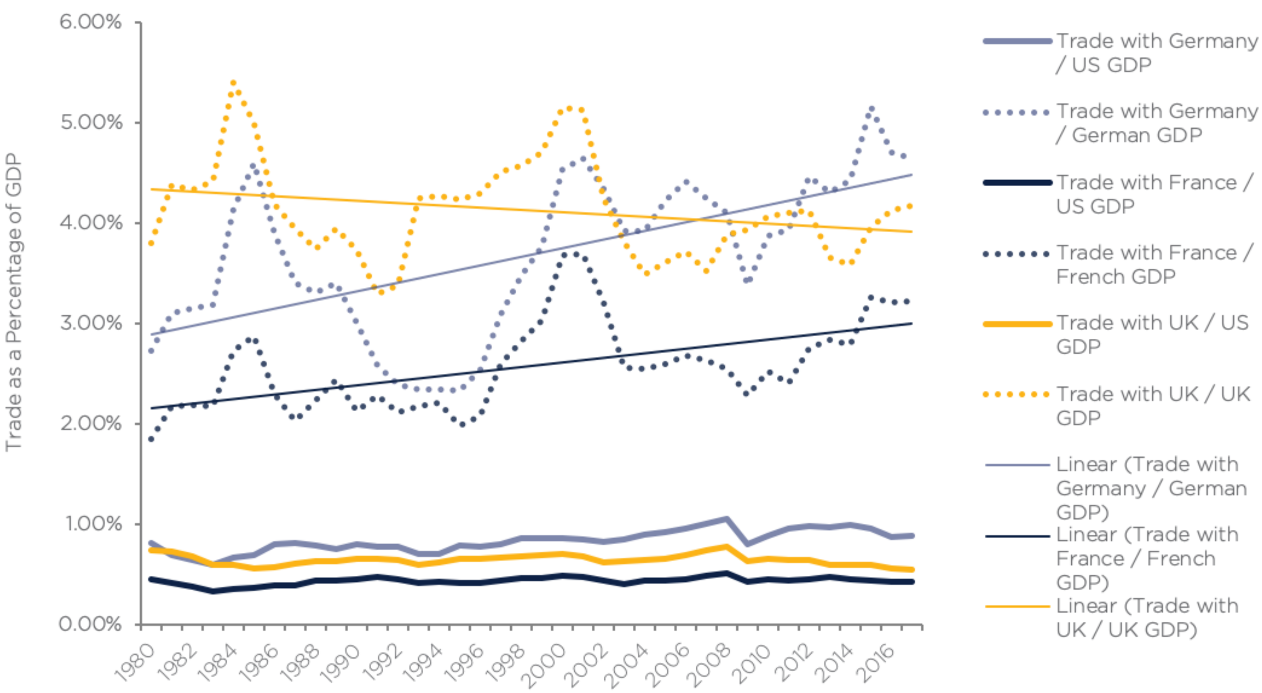
First, while the United States and Europe remain close trading partners, the relationship has gotten relatively less important for the United States and more so for the Europeans. Chart 1 demonstrates that though US imports from Europe have remained largely static as a percentage of its total imports, exports to Europe have fallen off, relative to the rest of the world. Chart 2 shows this with respect to France and Germany, in particular. Though there is considerable variation year to year over the thirty-seven years' worth of data captured, the overall trajectory is reasonably clear.

Figure 1: Share of Europe in overall US trade in goods, 1980–2017



Source: Haver Trade Data

Figure 2: European-US trade in goods as a share of respective GDP, 1980–2017



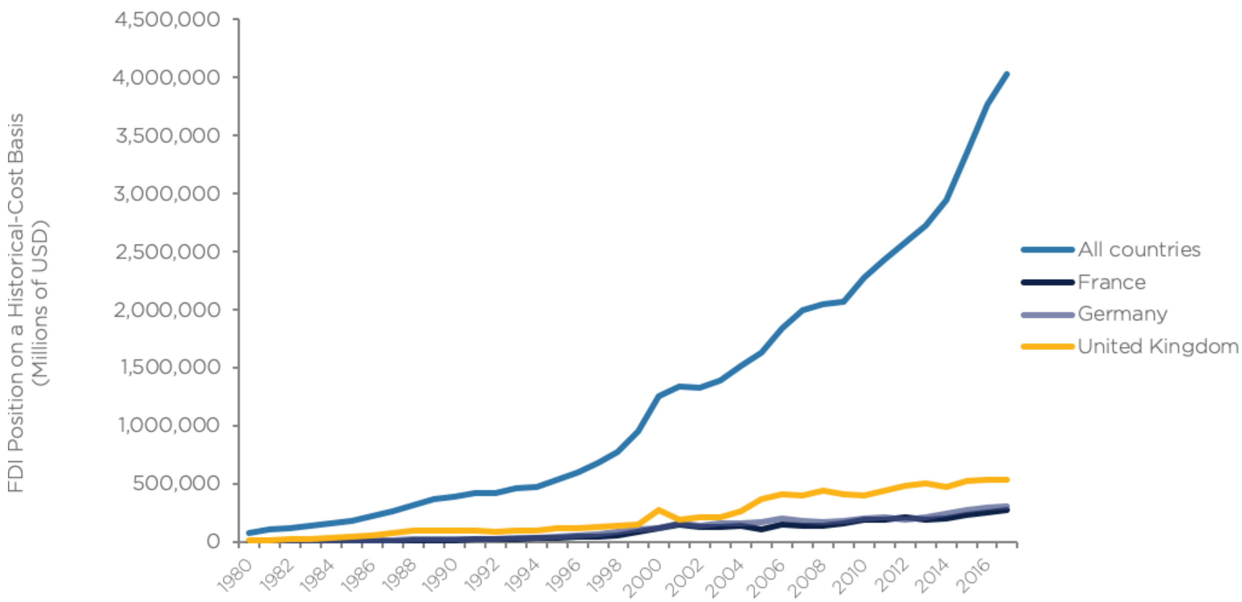
Source: Haver Trade Data

For the United Kingdom, trade in goods actually fell off during the period measured, suggesting that it should be somewhat less dependent on business with the United States.

But, when investment—both by Europeans in the United States and Americans in Europe—is factored in, the degree of European vulnerability to US pressure can be seen more distinctly, particularly for Europe.

Starting with Foreign Direct Investment (FDI) in the United States, the overall picture is of a significant increase in FDI generally over the last twenty years, but relatively static levels for France, Germany, and the United Kingdom (Chart 3).

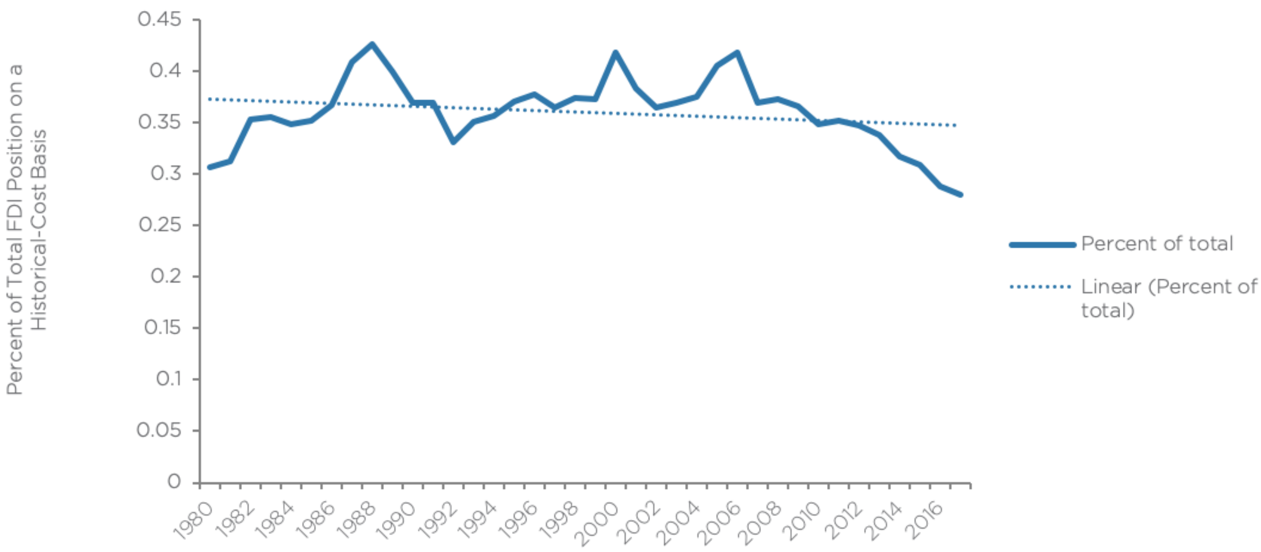
Figure 3: FDI in the United States on a historical-cost basis, 1980–2017



Source: Bureau of Economic Analysis

In fact, when examined as a percentage of overall US FDI inflows, the three European countries show relative similar levels from 1980 to 2017 (chart 4). Or, put another way, though the overall amount in 2017 was only 27 percent of the total US FDI inflow that year, this is relatively similar to the 35 percent of 1982.

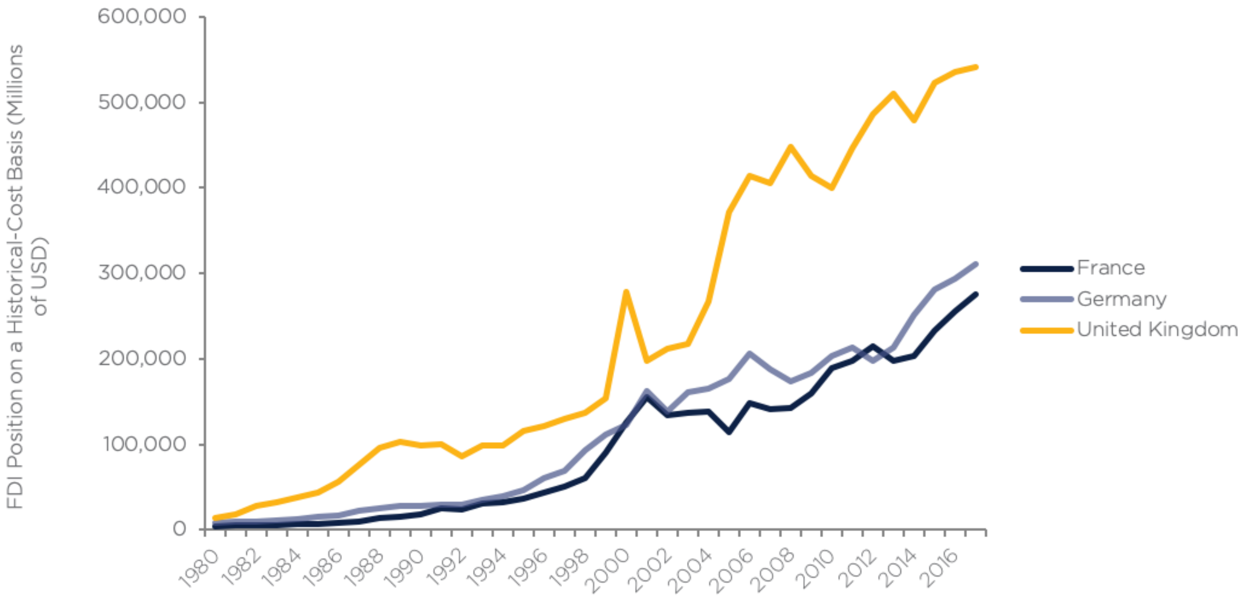
Figure 4: European share of total US FDI inflows, 1980–2017



Source: Bureau of Economic Analysis

But in absolute terms, the amount of investment by those three European countries in the United States has gone up considerably. For the United Kingdom, for example, the British Office of National Statistics has reported that "[the United States] specifically accounts for around one-third of the total from 2014 to 2016."[48] For France and Germany, the percentage is less (roughly 19 percent for each[49]); still, the amounts in question are considerable, particularly given the recent economic difficulties in Europe after the 2008 Great Recession and in the United Kingdom over BREXIT.

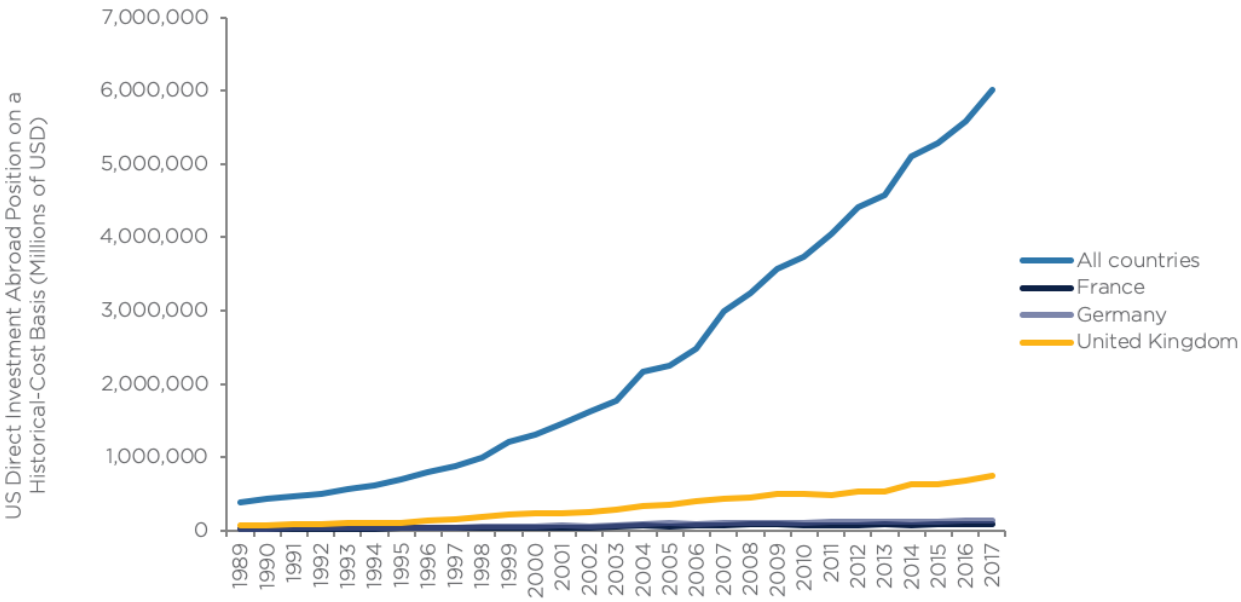
Figure 5: French, German, and British FDI in the United States, 1980–2017



Source: Bureau of Economic Analysis

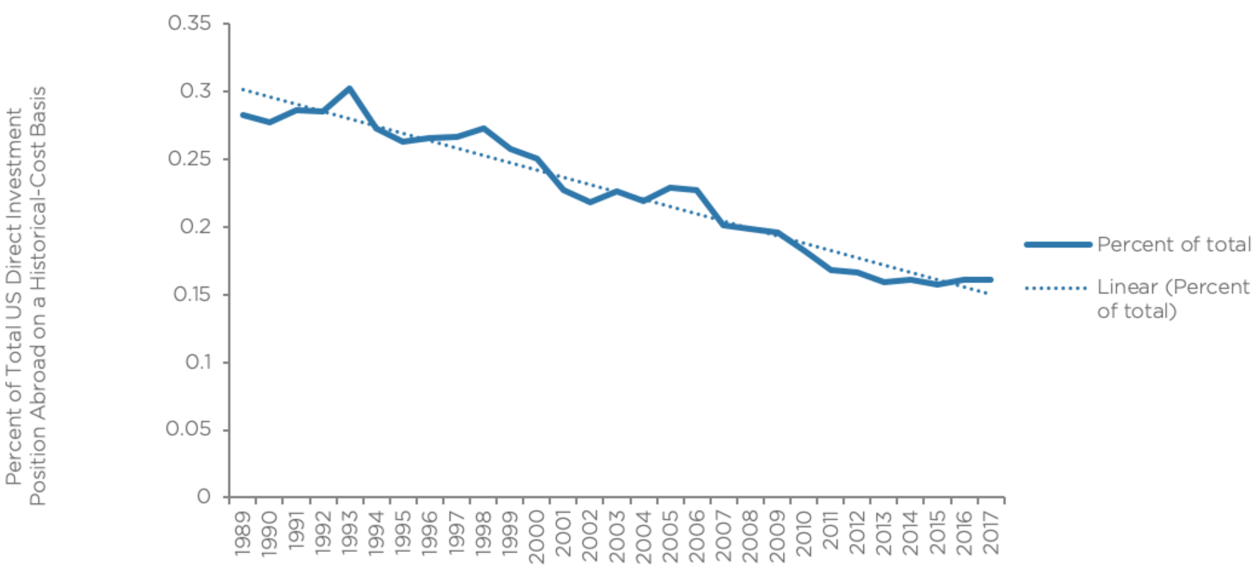
By contrast, the US direct investment position in each of these three countries is markedly less than in the past.* On a global perspective, US direct investment in these countries has been largely static when viewed in comparison to the rest of the world (chart 6). Moreover, as a share of overall US investment abroad, these three countries have fallen precipitously from nearly 30 percent of US investment in to barely 15 percent in 2017 (chart 7).

Figure 6: US direct investment abroad on a historical-cost basis, 1989–2017



Source: Bureau of Economic Analysis

Figure 7: Percent of total US direct investment abroad on a historical-cost basis, 1989–2017

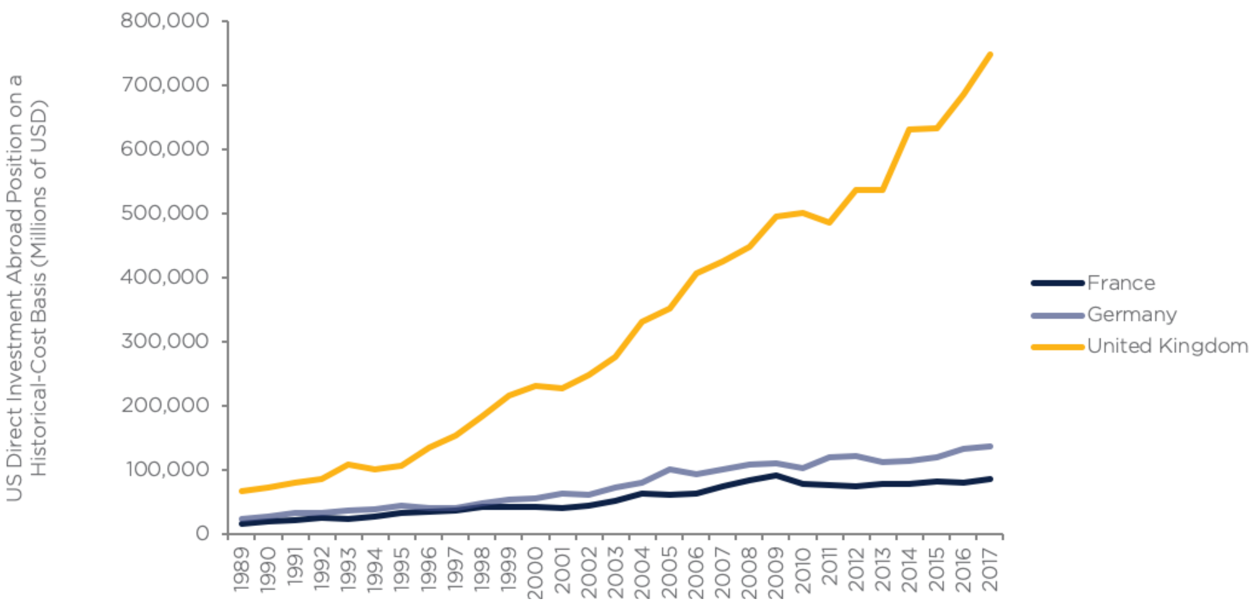


Source: Bureau of Economic Analysis

**Data from before 1989 were unavailable from the Bureau of Economic Analysis, but the overall trend is demonstrated regardless.*

Moreover, the disproportionate value of US investment in the United Kingdom (shown in chart 8) tilts the overall percentage. With the United Kingdom removed, the total US direct investment in France and Germany combined has fallen from over 10 percent in 1989 to just over 3 percent in 2017.[50]

Figure 8: US Direct Investment in France, Germany, and the UK, 1989–2017



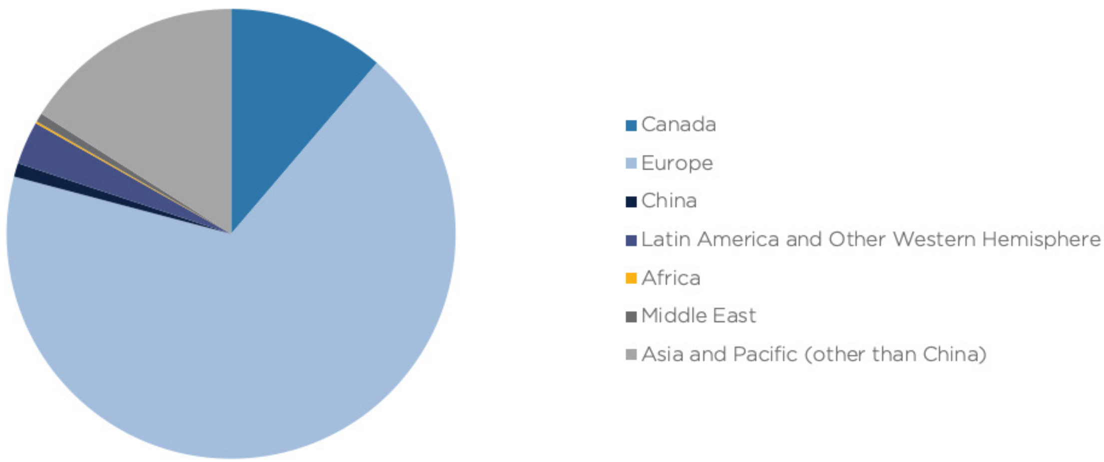
Source: Bureau of Economic Analysis

Taken in combination, the picture is one of relative European dependence on retaining access to the United States and relative US indifference to the same, at least in pure economic terms. Were the United States to cut off Europe—or, at least, these three European economies—from its markets, they would suffer comparatively more in terms of lost goods and investment than the United States would. The United States could risk its services trade surplus with the EU—$54.8 billion in 2016, up 0.8 percent from 2015[51]—but, under current US law, these are less in the crosshairs of US sanctioners than goods, investment, or financial flows. It would probably take a European decision to target these activities to put them at considerable risk, a step that, to date, Europe has been ill disposed to take. This, in part, underlies the contention by those advocating US withdrawal from the JCPOA as well as a host of other aggressive US sanctions steps that it would be foolish for other countries to put at risk their abilities to conduct business with a nearly $20 trillion economy in order to do business with $400 billion or similar-sized economies.

But, as I have written about elsewhere, this is an interpretation that both minimizes the contribution of foreign business activity for US prosperity and overstates the ability of the United States to utilize its economy for leverage without cost.

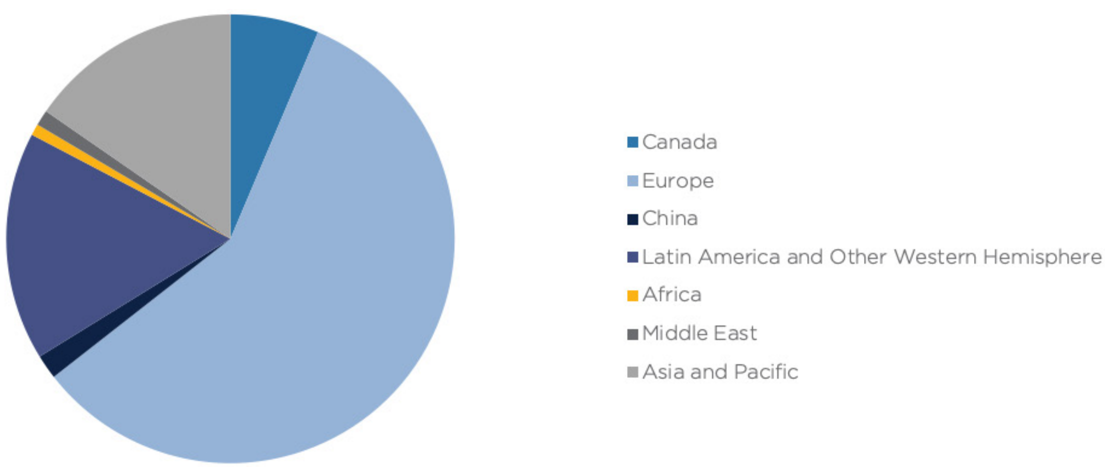
On the former, US businesses do receive substantial benefits from their abilities to invest abroad and from their abilities to receive investment form abroad. Roughly 2–3 percent of US GDP is derived from FDI, and US investment abroad generates billions in income. But, taken in aggregate, US sanctions and trade policy have targeted over 75 percent of the sources of FDI (shown in blue hues below) since Donald Trump was elected president and countries in which 67 percent of US direct investment has been made.

Figure 9: US FDI by region, 2017



Source: Bureau of Economic Analysis

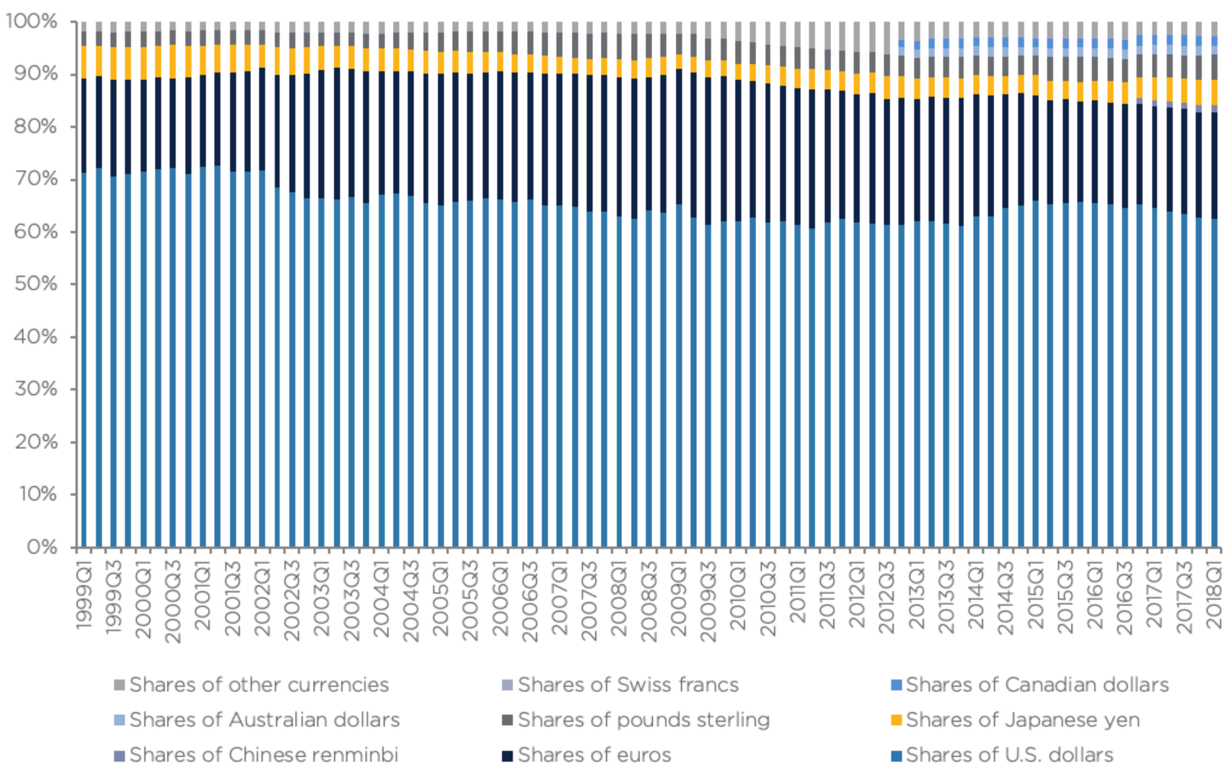
Figure 10: US direct investment by region, 2017



Source: Bureau of Economic Analysis

To date, their governments have sought solutions to the trade and sanctions disputes with the United States, and to selectively apply retaliatory tariffs after formal notification to the World Trade Organization (WTO). But this need not be the sum total of their response, nor is it necessarily likely to remain such, particularly if US sanctions start to undermine the ability of these countries to pursue their own independent economic policies. Some European officials have already begun to speculate about the possibility of developing alternative financial models to avoid involving the US financial system, joining Russian and Chinese officials who have encouraged the same for years. Though we are unlikely to witness a sensational reduction in foreign investment in the United States or in permitting US direct investment abroad in the near term, given the size of the US economy, this does not mean that policy changes abroad might not be taken to reduce vulnerability to US sanctions. Taken in the context of a broader change in global economic conditions and the end of the US economic unipolar moment of the 1990s, it is possible that this sort of approach to policy making could contribute to a reordering of trade and investment priorities and even to a reduction in the global role of the dollar. To the latter point, since 1999, the share of the US dollar in global currency reserves has fallen from 71 percent to 62 percent (chart 11), and this before the United States began over-leveraging its economic position in pursuit of America First.

Figure 11: World foreign exchange reserves, 1Q 1999–1Q 2018



Source: International Monetary Fund

But, even here, there are certain factors that still contribute to tremendous US advantage. The centrality of New York and the dollar to trade flows, for example, will still accord to the United States substantial influence and gravity in affecting global economic activity that can and will be used for sanctions purposes, even if only latently. Moreover, even if we assume a more bullish role for non-US dollar reserve currencies, the absence of any reasonable, near-term competitor suggests an outsized role still for the United States. In fact, as a member of the European Central Bank's Executive Board, Benoit Coeure, noted in a February 15, 2019, speech to the Council on Foreign Relations, "while the euro is the second most used currency by most measures, it often lags behind the dollar by a wide margin."[52]

Simply put, for the moment, the United States has the edge on its allies and partners, and therefore, its ability to manage resistance, because that resistance is more brittle than thirty-five years prior. As a consequence, this has fundamentally reshaped the degree to which that resistance is meaningful.

Identification and exploitation of a core target vulnerability

As with the US ability to manage resistance, the US ability to target sanctions on core vulnerabilities has improved markedly since 1982. This is a development that occurred on a less-than-linear trajectory, given the far more comprehensive approach taken to sanctions against Iraq in 1990–2003. But in the new "targeted sanctions" era, the United States and its partners have become very agile and nuanced in their application of sanctions. The Russia sanctions of 2014–2018, for example, have been characterized as "microtargeted" sanctions in that they did not even seek to impose pressure on entire sectors of the Russian economy or entire operations of individual companies. Instead, the United States and Europe targeted specific elements of business—debt, finance, and technological transfer—in a bid to apply pressure in ways that would not affect entire markets or create unintended consequences. Similar approaches have been seen in other sanctions regimes.

To some extent, this improved approach reflects tactical changes on the part of sanctioners, not least a desire to avoid some of the collateral damage witnessed in the Iraq case. But it also reflects two other factors: first, the increasingly complex and global nature of business, which opens itself to disruption in manifold ways, and second, the degree to which the United States and its partners sit at the intersection of these patterns of trade, in nodes that can be compressed or released with greater control than perhaps in the past. The high concentration of finance, for example, in New York has even created a situation in which the local banking regulator has become known as a tough enforcer of international sanctions, affecting business decisions as a result. The same can be said of the pools of finance in which most banks operate: one reason why the European Investment Bank (EIB) refused to do business in Iran after the US May 2018 decision to withdraw from the JCPOA is that, though the EIB is a European institution, 30 percent of its outstanding debt is denominated in dollars, which the United States could have targeted with sanctions.[53]

Consequently, both because of better targeting and more discrete vulnerabilities, the US performance in sanctions enforcement has substantially improved over the last few decades. That said, there are still incidents that demonstrate that ideology and conviction can sometimes swamp facts. The decision to impose sanctions on Iran's import of gasoline in 2010, for example, was reasonable as a first step into the oil and gas sector, but it was billed as something that might have a "silver bullet" effect. Similarly, threats of sanctions against North Korean banking have taken on a magical aura, with advocates implying that this one step—which probably would require imposing significant sanctions on large Chinese financial institutions—will resolve the situation altogether. For this reason, though targeting has gotten more precise and effective, it is still imperative for sanctioners to restrain their optimistic projections of success until facts bear them out. To fail to do so is to risk sanctions being seen as having failed, when their realistic chances of success may have been marginal from the start.

Use of incrementalism for signaling and resolve purposes

Likewise, though there has been some research that suggests incremental approaches more frequently fail than the overwhelming use of sanctions, the prevailing US approach to sanctions from 1982 through 2018 has been to favor an incremental approach in which credibility is built over time and leverage expended via negotiations. What's less clear is that the United States has become any more proficient about assigning objectives for the introduction of pressure, as was outlined at length above, or in assessing when patience and prudence have run their course.

North Korean sanctions from the late Bush administration through until the last year of the Obama administration and Russia sanctions from 2015 to 2017 are examples where the United States has taken a far more reserved and cautious posture than incrementalism would itself require. In each of these cases, the United States has exercised patience (indeed, the North Korea effort was called Strategic Patience) in its application of sanctions, prioritizing other instruments and direct diplomatic activity in order to seek desired outcomes. The results were far less than optimal, with the North Koreans advancing in their development of both nuclear weapons and ballistic missiles, and the Russians finding new ways of inoculating their economy from Western sanctions.

More than anything, however, this underscores a deeper, significant point about the use of sanctions and pressure: the imperative of embedding the tools into a coherent, organized, and methodical strategy. Absent this connection, patience becomes first a crutch for inaction and eventually a justification to avoid action that might otherwise rile a situation. The benefit is avoiding reckless action, to be sure, but with the consequence of potentially turning patience to lethargy.

LOOKING TO THE FUTURE

Overall, since 1982, there have been crucial developments that affect the future of US sanctions policy. The first, irreducible fact is that, at least for the moment, the extent of globalization and US dominance in key nodes makes it far harder for those in opposition to push back against the United States. This is hardly news, as it has been a part of US strategic calculus since the early 2000s, as Juan Zarate points out in his book *Treasury's War*.[54] But it is still a conclusion for which there is often considerable doubt. Though some believed after the Joint Comprehensive Plan of Action (JCPOA) was agreed upon in July 2015 that the ability for the United States to snap back the application of sanctions against Iran would be muted by the sanctions relief that Iran would enjoy under the agreement, the Obama administration and JCPOA supporters argued—it would appear correctly—that no such risk existed due to US economic dominance. And, in fact, when the United States withdrew from the JCPOA, though some argued that the United States would never be able to reconstitute sanctions pressure against Iran or that the multilateral nature of the agreement rendered such pressure moot, the ability of the United States to wreak havoc via sanctions has been reaffirmed in developments in Iran's economy.

All of this suggests that, for the time being, the United States has materially changed the balance of global economic power, less because of macroeconomic factors such as GDP, growth, or employment, but more because at fundamental levels, allied economic health is dependent on a good relationship with the United States.

But herein also lies the problem for the United States: European leaders especially are well aware of their captive status and have begun mulling options for reducing their vulnerability and risk, as indeed any target of sanctions usually does. More than anything, this may be the sharpest insight of the 1982 sanctions campaign insofar as its applicability to today: by making Europe and other US partners the targets of sanctions, the United States has created common cause between its allies and its adversaries in defeating US sanctions.

The question, now, is what will happen as a result.

In 1982, the United States quickly ascertained that it was going to be on the losing side of the argument, due to both foreign and domestic pressure. Consequently, the United States backed down and, to a large extent, avoided creating pressure on systemic fixes to prevent future US adventurism. Likewise, in the mid-1990s, the United States adjusted to partner frustration with sanctions over Cuba and Iran. Europe mulled taking action, including a suit at the World Trade Organization that would have complicated US sanctions' imposition for future scenarios if it had been found in breach of its obligations. But in the end, there was no such suit, and the blocking statute passed against compliance with US sanctions by European companies largely went unheeded.

Today, a combination of policy decisions and general stance make it more likely than not that the confrontation between the United States and its partners around the world on trade and sanctions will persist, even in the face of resistance. As I concluded in an article with former Treasury Secretary Jack Lew recently, the Trump administration's conviction that it can force the rest of the world to bow to its prerogatives is potentially self-defeating in the long run, even if it results in short-term wins, such as the increased pressure on Iran's economy through sanctions. This is particularly the case given the chaotic nature of current policy making and the degree to which decisions taken in one area—for example, trade and tariffs—conflict violently with objectives in other areas (such as, for example, in seeking solutions to other foreign policy topics).

Beyond addressing these fundamental problems of statecraft—requiring, as Lew and I concluded, a refreshed commitment to multilateralism, reluctance to use coercive instruments until after diplomacy has been tried, and a willingness to assess policy trade-offs—there are other steps the United States can and should pursue in short order to more adequately apply the lessons of 1982 and avoid future problems. These should include the following:

- ***Adopting a process more akin to the Federal Register notice procedure for new sanctions programs.*** As I suggested in 2015[55] and other former US officials have likewise noted,[56] there is a yawning need for more consultation in advance of US sanctions decisions that could have major market moving and alliance shaking potential. It is not necessary nor would it be prudent to have a process that required public scrutiny of individual or entity asset freeze scenarios, but for other, more broad sanctions initiatives, it would help to avoid unintended consequences and ensure a more comprehensive debate. Exceptions could also be made to this rule in the event of a legitimate emergency, but such exceptions could also be limited by an automatic expiration of the authority within six months unless endorsed by Congress or subjected to the same postaction review process.

- ***Establishing an independent commission to evaluate US sanctions policies and challenges.*** Though Congress can sometimes be the source of US sanctions overuse, it also remains the most effective debating chamber for US policy and a place in which policy can be scrutinized in the open. Congress should set up an independent, bipartisan commission to examine the issue of US sanctions policy now and for the next twenty-five years. Its assignment would be to evaluate how sanctions have been used in the recent past, the international operating environment for sanctions now, and the dimensions of the sanctions policy challenge in the future. The commission should be empowered to submit to Congress and the president recommendations for structural, procedural, and legal reforms for sanctions policy in order to streamline its execution and permit serious reflection of its results. It should also identify ways in which international countermeasures could be adopted to undermine US sanctions policy and to recommend options for addressing them.

- ***Improving congressional oversight of the sanctions process.*** Congress should also require evaluation reports for individual sanctions regimes as a standard part of the executive branch's use of the International Emergency Economic Powers Act (IEEPA); such sanctions have to be renewed annually anyway, and a short, substantive report on implementation can and should be part of the associated submission to Congress. Congress can use other organizations, like the Congressional Research Service or Government Accountability Office, to issue companion evaluation reports. Of course, similar requirements ought to be considered a standard part of congressionally mandated sanctions as well.

NOTES

1. Mason, David S. "Solidarity as a New Social Movement." *Political Science Quarterly* 104, no. 1 (1989): 41–58. doi:10.2307/2150987.
2. Hufbauer, Gary Clyde and Jeffrey J. Schott with Kimberly Ann Elliott. *Economic Sanctions Reconsidered: History and Current Policy*. First Edition. Institute for International Economics: Washington, DC 1985: 696.
3. Martin, Lisa L. *Coercive Cooperation: Explaining Multilateral Economic Sanctions*. Princeton University Press: Princeton, NJ: 1992, 206.
4. Ibid.
5. Ibid., 209.
6. Ibid., 209–210.
7. Special National Intelligence Estimate. *The Soviet Gas Pipeline in Perspective*. 21 September 1982. SNIE 3-11/2-82.
8. http://ec.europa.eu/eurostat/documents/3217494/5642633/KS-CV-03-001-EN.PDF/7e4ada1c-9803-4c36-bd48-e55dd1adc935
9. Martin, 230–231.
10. Martin, 229.
11. Ibid.
12. Martin, 207.
13. SNIE.
14. Gelb, Leslie H. "US hardens curbs on Soviet gas line." *The New York Times*. Page A1, June 19, 1982.
15. Blinken, Antony. 1987. "Ally versus Ally: America, Europe and the Siberian Pipeline Crisis." Praeger; New York: 6.
16. Ibid.
17. Martin, 210.
18. Hufbauer et al., 697.
19. Ibid.
20. Martin, 212.

21. Martin, 213.

22. Martin, 216.

23. Ibid.

24. Martin, 217.

25. Hufbauer, 697.

26. Drezner, Dan. *The Sanctions Paradox: Economic Statecraft and International Relations*. Cambridge University Press: Cambridge, 1999: 81.

27. Blinken, 3.

28. Gelb.

29. Hufbauer, 664.

30. Martin, 208.

31. Drezner, 83.

32. Martin, 220.

33. Martin, 221.

34. Drezner, 83.

35. Martin, 223.

36. Martin, 223.

37. Ibid.

38. Hufbauer, 703.

39. Martin, 225.

40. Drezner, 82.

41. Ibid.

42. Hufbauer, Appendix 1A.

43. https://energypolicy.columbia.edu/research/report/libya-sanctions-removal-done-right-review-libyan-sanctions-experience-1980-2006.

44. Hufbauer, Chapter 6.

45. Ibid.

46. Ibid.

47. https://www.newsweek.com/trump-even-more-unpopular-europe-he-us-survey-shows-790700.

48. https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/articles/ukforeigndirectinvestmenttrendsandanalysis/july2018#foreign-direct-investment-in-2017.

49. https://data.oecd.org/fdi/fdi-stocks.htm.

50. Bureau of Economic Analysis Data.

51. https://ustr.gov/countries-regions/europe-middle-east/europe/european-union.

52. https://www.ecb.europa.eu/press/key/date/2019/html/ecb.sp190215~15c89d887b.en.html.

53. https://www.bloomberg.com/news/articles/2018-06-06/europe-seeks-exemption-from-u-s-sanctions-as-iran-deal-teeters.

54. Juan Zarate, Treasury's War, 2013, Public Affairs Publishing, USA.

55. https://gallery.mailchimp.com/20fec43d5e4f6bc717201530a/files/Issue_Brief_The_Future_of_Economic_Sanctions_in_a_Global_Economy_May_2015.pdf.

56. https://www.foreignaffairs.com/articles/2018-09-11/us-using-sanctions-too-aggressively.

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