

EVALUATING THE TRUMP ADMINISTRATION'S APPROACH TO SANCTIONS CASE: RUSSIA

BY RICHARD NEPHEW
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Introduction

Since taking power in January 2017, the Trump administration has overseen [dramatic escalation of sanctions](#) to pressure and punish US adversaries, including high-profile cases against Iran, North Korea, Russia, and Venezuela.

Against this background, the Center on Global Energy Policy launched a short series of critiques of the Trump administration's sanctions in the four cases mentioned. The series uses findings from the author's book, *The Art of Sanctions*, which recommends policy makers evaluate their sanctions decisions regularly to assess whether they are using sanctions effectively. It counsels that policy makers should have alternative strategies under development for use if they determine sanctions have or will likely fail to achieve their objectives. Further, the author enjoins those intent on using sanctions to recall that, like all foreign policy instruments, sanctions are only as good as the underlying strategy being pursued.

This commentary, the third in the series, examines the effectiveness of the sanctions put in place against Russia. It assesses the sanctions approach within the parameters of the framework outlined in *The Art of Sanctions* and concludes with two recommendations for the Trump administration and Congress.

In sum, there are three principal defects in US sanctions policy toward Russia at present. First, starting in 2015 and worsening significantly under the Trump administration, there has been a marked reduction in the momentum behind the sanctions campaign, sapping its effectiveness. In the latter part of the Obama administration and first year of the Trump administration, there was some reason to withhold further sanctions measures in hopes of advancing nascent diplomatic efforts. The fruits of this patient approach have been modest, verging on negligible. The result has been a period of policy atrophy that has done nothing to restore a sense of deterrence in Moscow, security in Kiev, or economic connections between all sides. Second, Congressional involvement has tended toward the symbolic rather than the significant. This is not necessarily a bad thing, as flexibility has remained in the executive's hands to formulate and implement policy. But in the context of Trump administration lethargy, the lack of congressional enthusiasm has only contributed to the diminishing returns

sanctions have produced in the last five years. Third, the confluence of Trump administration incoherence, bureaucratic issues, congressional involvement, and US business interest have created a renewed (and toxic) sense in Europe that US sanctions policy is geared toward US economic advantage. Beyond damaging prospects for US-European policy harmonization on Russia in the immediate future, this also undermines long term the use of sanctions as a policy instrument and reinforces the cynicism with which many European officials and businesses perceive US sanctions in general.

Assessing the Trump Administration's Sanctions Approach for Russia

The Art of Sanctions recommends “a six-element process for developing a case-by-case approach for the imposition of sanctions.”¹ Under these best practices, a state considering or developing a sanctions regime should do the following:

1. Identify objectives for the imposition of pain and define minimum necessary remedial steps that the target state must take for pain to be removed;
2. Understand as much as possible the nature of the target, including its vulnerabilities, interests, commitment to whatever it did to prompt sanctions, and readiness to absorb pain;
3. Develop a strategy to carefully, methodically, and efficiently increase pain on those areas that are vulnerabilities while avoiding those that are not;
4. Monitor the execution of the strategy and continuously recalibrate its initial assumptions of target state resolve, the efficacy of the pain applied in shattering that resolve, and how best to improve the strategy;
5. Present the target state with a clear statement of the conditions necessary for the removal of pain, as well as an offer to pursue any negotiations necessary to conclude an arrangement that removes the pain while satisfying the sanctioning state's requirements; and
6. Accept the possibility that, notwithstanding a carefully crafted strategy, the sanctioning state may fail because of inherent inefficiencies in the strategy, a misunderstanding of the target, or an exogenous boost in the target's resolve and capacity to resist. Either way, a state must be prepared to acknowledge its failure and change course or to accept the risk that continuing with its present course could create worse outcomes in the long run.

Identify Objectives

The sanctioning state should identify objectives for the imposition of pain and define minimum necessary remedial steps that the target state must take for pain to be removed.

The objectives that lay behind US sanctions have been well defined and articulated in official policy statements and congressional legislation. In fact, legislation on Russia sanctions has been unusually careful to separate sanctions concepts according to their impetus and



consequent objectives. For example, in its various forms, the Defending Elections through Establishing Redlines Act has made clear that its sanctions against Russia would be triggered only upon reports from the Intelligence Community that confirmed Russian attempts to interfere in US elections. Considering that these sanctions could be read—in some versions—as an attempt to establish a global embargo against Russia, this is an important nuance that helps to ensure separation from other sanctions bills that would impose more targeted measures against Russian officials for human rights, the energy sector for Ukraine-related issues, or oligarchs and their businesses for corruption. Likewise, the Trump administration—like the Obama administration—has continued with the practice of elucidating separate and distinct rationales for sanctions against various Russian actors, whether for sanctions evasion on behalf of North Korea or cyber-related crimes.

A bigger issue comes from the political messaging around the sanctions. Here, there are two distinct problems with the Trump administration's approach:

1. First and foremost, it is not at all clear that the president himself supports the use of sanctions against Russia. During his presidential campaign, he advocated for a renewed, positive relationship with Russia and—at times—reportedly has prevented the use of sanctions against Russian entities and individuals.² He has even advocated for setting aside the annexation of Crimea, if the result would be improved relations.³ Certainly, one could argue that establishing a conceptual desire for better relations can go hand in hand with effective sanctions use (as will be examined further below), but—taken in combination with broader questions as to the president's relationship with Russia—the result is a fairly widespread sense that he is not on board with sanctions as a policy tool vis-à-vis Russia.

This has consequences in policy making, as it contributes to a more general perception that any US sanctions action against Russia will be halfhearted and grudging, notwithstanding what the law itself says. Various other factors only add to this impression, including the use of broad general licenses to minimize the costs of sanctions actions,⁴ willingness to cut deals with Russian sanctions targets,⁵ reluctance to move forward with congressionally mandated sanctions related to Russian chemical weapons use,⁶ and opposition to the passage of new congressional legislation that would impose sanctions on Russia.⁷ It also reduces the sense of deterrence that Russia would ideally perceive from US sanctions actions and instead gives it an incentive to try to play for time and/or make proposals that split the administration. All of this undermines the sense of common objective for sanctions policy.

2. Second is the perception that there is a common Washington view and that it is in favor of US business interests, especially in energy supply to Europe. From policy statements in the 2017 Countering America's Adversaries through Sanctions Act (CAATSA)⁸ to the text of the 2020 National Defense Authorization Act, which includes sanctions on the Nordstream-2 pipeline, the United States has given the strongest impression that its primary priority is to take over Russia's share of the European energy market. European government and business representatives have used this impression to argue against working with the United States on Russia policy; some have also suggested that the



Russia case is only an example of the much larger US phenomenon of using sanctions to eliminate European competition (an argument that the author has heard with respect to Iran, for example, and the presence of US branded products in Tehran shops).

In the past, this argument was used mainly by sanctions skeptics as a means of deflecting the conversation away from sanctions use in general and toward a more conciliatory policy. The conflated objectives articulated in the last three years and their heavy-handed articulation (such as when former Energy Secretary Rick Perry invoked the 75-year anniversary of the liberation of Europe from Nazi Germany to advocate for purchases of US “freedom” gas⁹) have given such accusations new life, salience, and credibility..

Understand the Target

The sanctioning state should understand as much as possible the nature of the target, including its vulnerabilities, interests, commitment to whatever it did to prompt sanctions, and readiness to absorb pain.

Substantively, there is little reason to doubt that the United States is fully aware of Russia's vulnerabilities, interests, and commitment to its various policy courses. The United States has considerable intelligence and analytical resources targeted against Russia, including its economy, and has demonstrated an ability to target Russian economic vulnerabilities with fine precision (e.g., with the 2014 sanctions against Russian debt instruments). Likewise, though relations between the Russian and American governments have become more fraught and hostile in recent years, there are sufficient means of communication and information dissemination to ensure there is reasonable understanding in Washington about Russian views and intentions with respect to Ukraine and its other policy choices. There may be debates as to individual incidents and developments, and their meaning, but this is normal.

The Trump administration has demonstrated some understanding of these vulnerabilities and the right means of targeting them. The sanctions against Oleg Deripaska imposed in April 2018, for example, created major turmoil for Russian markets and a sense of fear among foreign companies doing business in Russia that they could have their business interests compromised by US sanctions next. But the Trump administration's rapid decision to halt the most significant legal effects of those sanctions and then to pursue an agreement with Deripaska's companies to relieve the sanctions imposed may have undermined some of that effect. Likewise, though the targeting of the oligarch vulnerability has been a key focus of congressional legislation, the absence of a similar endeavor by the administration suggests that it, too, understands the effects such sanctions can have and has determined to avoid them in the future.

Develop a Strategy

The sanctioning state should develop a strategy to carefully, methodically, and efficiently increase pain on those areas that are vulnerabilities while avoiding those that are not.

More than anything, this area demonstrates the most consistent failing aspect of the Trump administration's sanctions approach in general, and with respect to Russia in particular. Simply put, there is no rhyme or reason to the Trump administration's approach toward Russia and



sanctions against Russia especially.¹⁰

On the one hand, the administration has moved forward with measures that are directly contrary to Russian interests. Sanctions on Russian entities and individuals, provision of military support to Ukraine, withdrawal from the Intermediate-Range Nuclear Forces Treaty and threat to let the New Strategic Arms Reduction Treaty lapse, and the reactivation of the Second Fleet have all been cited by those inclined to see an administration with a tougher approach to Moscow than its predecessors. In fact, the foundational document for the administration's overall national security approach—the 2017 National Security Strategy—emphasizes that great power competition will be the focus of its efforts, with Russia at the center of US concerns.

On the other hand, there are ample indications that the administration is not nearly as committed to a firm strategy with Russia. Aforementioned delays, reversals, or modifications of US sanctions against Russia are particularly illustrative—they have been ceded to the Russians without any identified national quid pro quo. Moreover, the administration has been reluctant to move forward with sanctions authorities granted to it—such as in CAATSA—even in areas where it shares strategic sympathy with the terms of the legislation, such as sanctions on Nordstream-2. The president's own personal views on Russia and attempts to build a positive relationship with President Vladimir Putin and his envoys have also suggested a less than firm commitment toward a tough strategic posture. The 2018 Helsinki press conference underlines this point, as the president refused to side with the US Intelligence Community over Putin in their description of Russian attempts to interfere with the 2016 presidential election.

The resulting picture formed is of an administration that is pursuing two simultaneous strategies: accommodation alongside confrontation. This need not present a completely problematic policy stance, as the United States has demonstrated an ability to both engage with and counter other adversaries in various arenas (such as with the Soviet Union in the Cold War, China in the South China Seas presently, Iran throughout 2006–2015, etc.). But, taken in combination with ambiguity and confusion as to US sanctions objectives, it is hard to see a common thread. Moreover, the seemingly random approach taken to sanctions application also creates confusion within markets and industries regarding the US sanctions intention, creating incentive structures to do business with Russia now (especially if current agreements would be grandfathered under any future sanctions structure, as several congressional bills would do) and yet raising potentially confusing and counterproductive compliance burdens on firms.

Monitor Implementation

The sanctioning state should monitor the execution of the strategy and continuously recalibrate its initial assumptions of target state resolve, the efficacy of the pain applied in shattering that resolve, and how best to improve the strategy.

The US government probably continues to monitor the implementation of its sanctions against Russia as vigorously as in the past; as noted earlier, significant resources continue to be dedicated to information collection and analysis on Russia.



What is less obvious is the degree to which this monitoring is generating policy revision or reexamination. The policy choices made by the Trump administration, as discussed earlier, contribute to this ambiguity. But if it is assumed that the Trump administration means to implement a thorough and aggressive sanctions policy against Russia (as its officials¹¹ and the president¹² have argued), then this calls into question the efficacy and utility of that monitoring. The Russian economy remains stagnant¹³ but is no longer suffering the same sorts of turbulence as occurred in 2014 in the heat of the US and European sanctions campaign while oil prices were collapsing. Even if that year represented a particular moment of Russian vulnerability that the Russians took pains to correct, there were still vulnerabilities that could have been exploited for sanctions pressure.¹⁴ Moreover, existing sanctions—if aggressively enforced—could have undermined the Russian economy further. But, as forecast in 2016, the degree to which sanctions would contribute to real policy change in Moscow was linked to the determination in US and European capitals to press forward with new measures, something that seemed unlikely then and far less so today.¹⁵ One could point to pending congressional legislation as a counterpoint to this trend, except that, for a variety of reasons—including the need to take up the cause of impeachment and the Senate Republican leadership's disinclination to challenge the president over Russia sanctions—there have been innumerable delays to moving forward with such legislation since 2017.

The overall result has been sanctions stagnation in which even limited actions, such as the designation of new Russian entities and individuals affiliated with cybercrimes or extension of European sanctions regimes, are seen as significant. Absent any sense of dynamism or unexpected danger, international business has returned to Russia, and investors have “growing confidence that the United States government isn't going to take further actions that would imperil Russia's economy.”¹⁶

Explain Removal

The sanctioning state should present the target state with a clear statement of the conditions necessary for the removal of pain, as well as an offer to pursue any negotiations necessary to conclude an arrangement that removes the pain while satisfying the sanctioning state's requirements.

A consequence of US sanctions stasis has been free sanctions relief for the Russians. Rather than be forced into making major concessions on key issues—which may or may not have been forthcoming in any event—the Russians have simply been able to adapt to the sanctions in place and pocket restored external confidence in its market.

This has also had the effect of reducing the utility of articulating to Russia precisely the means by which sanctions removal would be achieved or turning it into a useful part of international diplomacy, at least on the part of the United States and with respect to its various priority areas, such as election interference, arms control, and Ukraine. There have been rote policy statements that sanctions imposed over Ukraine, for instance, would be removed only upon a termination of Russian interference in the country. However, there has been a lack of the publicly enunciated, well-defined terms for sanctions removal or the grounds of future talks that mark good sanctions policy.



However, the conflict in eastern Ukraine is one topic on which European governments are intent on asserting their own interests and endeavors. Chancellor Angela Merkel and Presidents Putin, Emmanuel Macron, and Volodymyr Zelensky met in December 2019 to seek a resolution to the crisis. They were unable to achieve a comprehensive solution but did establish the terms for a renewed cease-fire as well as prisoner exchange. They committed to work further on a comprehensive solution in 2020. This process, which coincides with frequent European commitments to maintain sanctions the EU has imposed on Russia until the situation in Ukraine is resolved, has allowed for some coherence to enter into international diplomacy with Russia.

Prepare Alternatives

The sanctioning state should accept the possibility that, notwithstanding a carefully crafted strategy, it may fail because of inherent inefficiencies in the strategy, a misunderstanding of the target, or an exogenous boost in the target's resolve and capacity to resist. Either way, a state must be prepared to acknowledge its failure and change its course or to accept the risk that continuing with its present course could create worse outcomes in the long run.

The Trump administration's preparation for an alternative approach is hard to rate because, in effect, it does not have a primary approach with which an alternative can be compared. Sanctions enforcement has been largely lackadaisical and uncoordinated at the top, undermining its claim to be a primary element of the policy. It may be a primary area of *activity* but not of *policy*.

Conclusions

The fact that the situation in eastern Ukraine in particular has yet to disintegrate into worse bloodshed has made the absence of a coherent, effective US sanctions policy toward Russia less problematic to this point than it might have been. Likewise, the reality that Europe, too, fears the consequences of an unconstrained Russia has meant that the absence of real coordination between Brussels and Washington during the Trump administration has been less damaging. Similar observations could be made about election interference, Syria, Iran, North Korea, or any other number of foreign policy problems involving Russia that might have been managed through the more directed and coherent use of sanctions. Put another way: the Trump administration has been able to get by without a real Russia sanctions policy or approach, but this was neither inevitable nor the most sensible way to govern.

Based on the approach to strong sanctions policy outlined in this paper, the Trump administration should design, develop, and articulate a clear sanctions strategy with respect to Russia. This strategy does not need to include an expansion of existing measures to have value (though the author believes it should); identifying why they are in place and how they will be used to advance US national security would in itself provide value. It should also explain how the administration sees congressional and international partner activities playing in this strategy, the manner in which sanctions relief would be granted, and other elements of this strategic framework to ensure that everyone—from US citizens to global businesses to the Russian government itself—understands what the Trump administration seeks to achieve. It would also provide a conceptual road map for the development of new sanctions concepts



and/or the shaping of those concepts emerging from Congress and civil society to ensure coherence with the broader US-Russia policy.

Most important, the Trump administration and Congress should take steps to disabuse US partners and others that the intent in using sanctions as a policy tool is to advance US economic—rather than foreign policy—interests. Even if US economic interests can be furthered by the use of sanctions, their invocation as part of the basic sanctions approach undermines the sense of common sacrifice that makes sanctions use more attractive with international partners. It also grants US adversaries the ability to paint US intent more cynically. This hinders US sanctions strategy toward Russia as well as the overall effectiveness of sanctions as a tool.

Acknowledgments

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Notes

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About the Author

Richard Nephew joined the Center on Global Energy Policy in February 2015 directly from his role as principal deputy coordinator for sanctions policy at the US Department of State, a position he had held since February 2013. Nephew also served as the lead sanctions expert for the US team negotiating with Iran. From May 2011 to January 2013, Nephew served as the director for Iran on the national security staff, where he was responsible for managing a period of intense expansion of US sanctions on Iran.

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