

The US and the EU need a stronger dialogue on Russia sanctions

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Following its annexation of Crimea and its military intervention in Ukraine, Russia has been sanctioned by the European Union (EU) and the United States (US). They have often stressed the coordination in their decisions, which has given more weight to the sanctions' political message and impact. While the initial rounds of measures were not identical, differences in US and EU sanctions have amplified in the past two years. Washington has been readier to reinforce sanctions, the effect of which partially weakens over time. Some of the new actions are based on mounting evidence of the Kremlin's involvement in the 2016 US presidential elections. The latest US sanctions, adopted in April 2018, further accentuated the differences between the two sanction regimes. The growing discrepancy tests the transatlantic partners, weakens their common stance, and risks portraying the EU as a more amenable player. The EU's credibility on the Russia file would benefit from updating its sanctions. Transatlantic coordination also needs to be stepped up, including through increased engagement between administrations and at the level of the Congress.

On 6 April 2018, the US imposed new sanctions on seven Russian oligarchs, 14 companies and 17 senior government officials. These measures are a response to Russia's actions in Ukraine and Syria and its attempts to destabilise Western democracies, including through malicious cyber activities. The latest sanctions were significant since the restrictions have hit publicly traded multinational companies, such as those controlled by Russian oligarch Oleg Deripaska. Their impact was immediate: the value of the Deripaska-controlled Rusal, the leading aluminium producer outside China, fell by more than 50% in the following days and his wealth decreased by USD 1.3 billion. The Russian stock market also dropped significantly, and the rouble suffered its most significant single-day drop in more than three years. Even Russian companies that are not on the sanctions list lost billions following the announcement of the sanctions, worsening Russia's economic outlook. In the end, the sanctions had a broader impact than expected as they disrupted commodities markets, with global metal prices rising sharply.

The extraterritorial dilemma

The economic effects of the new US sanctions have been significant but their extraterritorial character, while increasing their bite, is also problematic for EU-US cooperation. The US Treasury-driven sanctions extend the restrictions to non-US companies who "knowingly facilitate significant transactions [...] for or on behalf of" the individuals or organisations sanctioned. Their reach, therefore, goes far beyond the US and Russia, with most banks and other financial institutions deterred from conducting transactions with the sanctioned entities.

The debate over the legality of US extraterritorial (or secondary) sanctions is not new. In the 1980s, US sanctions over Soviet pipelines in Europe prompted transatlantic controversies. Some of the extraterritorial aspects of the Countering America's Adversaries Through Sanctions Act (CAATSA) – the 2017 Congress sanctions bill – have been criticised both by the European Commission and, more vocally, by the (then) German and Austrian foreign ministers. CAATSA has been amended to take on board some of the European concerns. On 23 April, the US Treasury Department eased some of the sanctions on Rusal, one factor in the decision being a stronger than expected impact on US "partners and allies". Despite the easing of these sanctions, they will continue to affect European companies with links with targeted Russian companies and business leaders.

Differences in motivation and scope

Disparities in the sanction regimes can also be found in their justification and their "exit" conditions. While the latest US sanctions mention Russia's "malign activity" in several fields, the EU sanctions are more focused. They are explicitly linked to Russia's behaviour in Ukraine and tied to the full implementation of the 2015 Minsk II agreements. As the motivations for US sanctions become more complex, the clarity of the political message sent to Moscow (and to US allies), as well as the measures Russia should take for the sanctions to be lifted, become less clear.

Over the last couple of years, as the scope of US sanctions on Russia has been broadened, European sanctions have not seen major changes. The member states have managed to maintain the sanctions adopted in 2014 and 2015 – a no small feat given the diverse views among the EU28. The leading European powers (Germany, France and the UK) are supporting the sanctions regime, with the new German foreign minister appearing more critical of Russia's behaviour than his predecessors. However, divisions on Russia among the EU-28 have not subsided, as exposed by the reaction to the recent nerve gas poisoning in Salisbury. While the coordinated Western response of expelling over 130 Russian intelligence officers and diplomats has sent a clear political message to Moscow, one-third of EU countries have not participated.

The need for a stronger dialogue

As the settlement of the conflict over Ukraine is at a standstill, the EU sanctions on Russia will most likely be maintained for the time being. However, sanctions should be seen as tools of foreign policy and not become the only policy. Lack of progress in the negotiations over the conflict in Donbas is fuelling negotiation fatigue in Europe. The two EU powers involved in the Normandy format (France and Germany) seem prepared to pass the responsibility to the US and the Surkov-Volker format of talks. This further diminishes the role of the EU, already only partially represented, but suits the Kremlin, who for reasons of status often prefers to negotiate directly with the US.

Furthermore, the increase in tensions between Russia and the US is also marginalising the EU, bringing back to life old Cold War type of dynamics for which the consensus-driven European institutions seem ill fit. This is evident in the military realm but also at the diplomatic level. Following the attack in Salisbury, the first statement came from the leaders of Britain, the US, Germany and France. In such rapidly evolving situations, EU statements often look like an afterthought.

As the US and European sanction regimes continue to diverge, as Washington shows less attention to the interests of the EU, and as US soft power decreases in Europe, it will become more challenging to maintain a united transatlantic front on this dossier. This trend should be reversed. Dialogue between the leaders is necessary, but a stronger engagement between administrations and at the level of the Congress will be essential for a better appreciation of respective positions and their coordination. To uphold the initial level of pressure on the Kremlin and preserve its credibility in this dossier, EU sanctions will also need to be reinforced, for example by modestly enlarging the list of individual restrictive measures. Otherwise, further transatlantic divergence on the Russia file will weaken the effectiveness of the actions taken, increase EU dis-unity on the issue and potentially create tensions between the transatlantic partners. Moreover, an EU out of step with Washington, affected by US sanctions but not participating in their design, will be worse off and will ultimately be more vulnerable to Russia's pressure.

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