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Why New Russia Sanctions Won't Change Moscow's Behavior

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On October 31, 25 days after the deadline set by Congress, the administration of U.S. President Donald Trump finally released guidance about the implementation of new sanctions on Russia. These new measures will add to existing sanctions on Russian businesses and individuals dating back to the 2014 seizure of Crimea. Unfortunately, the previous restrictions have been only mildly successful in their economic impact and have produced no substantive policy changes from Moscow. It is unlikely that the new penalties will prove any different. Their central contribution is to tie Trump's hands, preventing the president from removing many of the sanctions against Russia without congressional approval. In many ways, the legislation is merely a reflection of the broader problems with formulating any coherent U.S. policy toward Russia: confrontation remains the path of least resistance, policy is focused as much on domestic political needs as on foreign policy needs, and sanctions offer no real incentive to improve the status quo.

THE LIMITS OF SANCTIONS

Russia's meddling in the 2016 U.S. election is only the most recent impetus for new sanctions legislation. The United States has long had some form of sanctions imposed on Russia. The 2012 Magnitsky sanctions, for example, target individuals tied to human rights violations. The Magnitsky Act was itself connected to the repeal of the Jackson-Vanik amendment, a Cold War-era sanctions bill dating back to 1974 that denied Russia the most favored nation status in trade so long as the emigration rights of Soviet Jews were denied. Jackson-Vanik impeded Russia's accession into the World Trade Organization long into the post-Cold War period.

It was only in 2014, after Russia invaded Crimea and Ukrainian separatists downed Malaysia Airlines Flight 17 using Russian anti-aircraft weapons, that sanctions became the defining feature of the U.S.-Russian relationship. Over a period of six months, as the conflict in Ukraine deepened, the Obama administration put in place a wide-ranging and ambitious set of sanctions that penalized energy companies, arms manufacturers, and banks, with the ultimate aim of undermining the Russian state's revenue stream and ending its aggressive behavior.

Unfortunately, the episode has been an object lesson in the limitations of sanctions as a policy tool. As academic research has long shown, sanctions are often ineffective, particularly those

focused on national security issues. Exceptions, such as the Iranian sanctions preceding the negotiation of the Joint Comprehensive Plan of Action (JCPOA), are typically multinational, economically effectual, and explicit in stating the criteria and circumstances under which policy change would yield sanctions removal.

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That U.S. and European sanctions on Russia have been far less successful should not come as a surprise. To be sure, they have caused some economic pain: the International Monetary Fund (IMF) assessed in 2015 that sanctions would likely be responsible for about a 1.5 percent loss per year in Russia's GDP. Nonetheless, low oil prices, not sanctions, explain the majority of Russia's economic decline in recent years. Recent oil price increases have allowed the Russian economy to return to modest, if anemic, growth in 2017.

Meanwhile, the sanctions have produced no concrete policy gains. The Kremlin retains its foothold in Crimea, and the war in eastern Ukraine grinds on. It's possible that sanctions encouraged Russia not to seek further territorial gains in Ukraine, but the counterfactual nature of this claim is impossible to assess. At the same time, Russia has engaged in several substantial and aggressive ventures since 2014, from its bloody intervention in the Syrian civil war in 2015 to its meddling in the U.S. election in 2016. It's hard not to conclude that U.S. sanctions have done little to improve Russian behavior in the three years they've been in place.

A MUDDLED STRATEGY

The October 31 announcement is the culmination of a process that began last December. As evidence of Russian meddling in the electoral process began to emerge, the Obama administration sanctioned individuals, companies, and Russia's two intelligence agencies, the Main Intelligence Directorate (GRU) and the Federal Security Service (FSB), for their involvement in "malicious cyber-enabled activities." The administration also expelled a number of Russian diplomats and seized two diplomatic compounds suspected of use in Russian intelligence gathering.

Since coming into office, the Trump administration has taken alternately conventional and controversial approaches to these sanctions. In June, the Treasury Department quietly added a number of Russians to existing sanctions lists. Yet the president has also argued against further restrictions, and repeatedly suggested that he might consider returning, in December, the compounds that he had previously confiscated.

In response, Congress passed a new sanctions bill in July that effectively nullifies the president's power on sanctions policy, traditionally an area of executive discretion. In addition to new mandatory sanctions, Congress also codified the existing sanctions put in place by the Obama administration and added requirements preventing the president from lifting them without congressional review.

Again, a comparison to Iran is instructive here. To comply with the JCPOA, Obama issued an executive order waiving the sanctions, allowing the nuclear deal to enter into force without explicit congressional action to lift them. With the Russia sanctions bill, Congress has removed this loophole, implicitly acknowledging that it simply doesn't trust Trump's judgment on this issue.

The bill also adds a number of new, draconian restrictions, such as sanctions against foreign firms engaged in joint ventures with Russian energy companies on the development of shale or other unconventional oil and gas projects, and against companies and countries that purchase Russian arms. These provisions have raised serious concerns among U.S. allies such as Turkey and Saudi Arabia, as they buy Russian armaments.

The new sanctions' energy restrictions were watered down after European countries lobbied against them, fearing that the limitations would impact pipeline projects that involve cooperating with Russian firms. Companies could avoid penalties by keeping the Russian stake in any given project under one-third or quibbling about the definition of shale production. The guidance finally released by the State Department on October 31 also suggests that the Trump administration will take a fairly loose interpretation of these requirements, given his recent statement that “any implementation of Section 232 sanctions would seek to avoid harming the energy security of our partners or endangering public health and safety.”

Nonetheless, the restrictions are concerning, as they have the potential to alienate U.S. allies in Europe. The Nord Stream II pipeline between Russia and Germany, in particular, could face serious barriers to obtaining future funding under the new sanctions. Senior German politicians such as Foreign Ministry Spokesman Martin Schaefer have even questioned whether the congressional sanctions are in fact a tool of “U.S. industrial policy,” aiming to increase U.S. energy exports to Europe by limiting Russian supplies.

The new sanctions are also no more likely to produce policy change than their predecessors. In fact, they may be less likely to do so if only because they have no clear goals. The Obama administration’s Crimea- and Ukraine-related sanctions were at least nominally focused on ending Russian aggression in Ukraine, but the new sanctions are far less specific and more open-ended. Congress seems more focused on punishing Russia for its actions in the 2016 elections, and perhaps in weakening the country over the long-term, than on any concrete policy goals.

As a result, it’s hard to see when and how the United States will end these sanctions, leaving little incentive for the Kremlin to change its behavior. The sanctions may even be beneficial for Russian President Vladimir Putin, allowing him to portray his country’s economic problems as Western-imposed rather than the result of his own poor mismanagement. Putin is facing a presidential election in March, and although no one expects that it will be free or fair, sanctions may boost his popularity and reduce the perception that the election is rigged.

WILL POLICY PARALYSIS CONTINUE?

The sanctions are also emblematic of a larger problem in U.S.-Russian relations. Everyone acknowledges that the relationship is at its worst point since the Cold War, but few have any idea of how to improve it. A series of poor decisions over the last 20 years by policymakers on both sides—particularly Russian aggression in its near abroad and growing domestic repression, but also Western expansion of NATO—have undermined the potential for anything like a working partnership. With the world’s largest arsenal of nuclear weapons, Russia remains the only country capable of utterly destroying the United States, but is a vital interlocutor on issues such as nonproliferation and the global arms trade.

Russian interference in the 2016 election, whatever its true impact, only adds to this policy paralysis. By tying Trump’s hands on sanctions, Congress has made clear that it does not trust

this president to manage the United States' ties with Russia. It will not be possible for the administration to advance a new approach to Russia while hamstrung by allegations of collusion. In this politically charged environment, new sanctions—and confrontation more generally—have become the path of least resistance in the U.S.-Russia relationship.

Yet in limiting the president's ability to repeal the sanctions, Congress has also tied the hands of future administrations, and set the United States up for disagreements with its European allies in the long term. Just as the Jackson-Vanik amendment poisoned U.S.-Russian relations long after the Cold War ended, this sanctions bill reduces future flexibility in negotiations with Russia and inhibits the ability to cooperate in key areas, whether on arms control or conflicts in Syria, Ukraine, and elsewhere.

Congress' decision to punish Russia for its actions—and to constrain Trump's abilities to reverse that punishment—is understandable, but it locks U.S.-Russian relations into a path of confrontation and offers no off-ramp from rising tensions. As a result, things may get worse before they get better.

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