

Why We Should Be Wary of Export Controls

Denying Russia access to U.S. goods is justified. But we should generally be wary of citing ‘national security’ to restrict trade.

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In recent weeks, the United States and its allies have levied unprecedented economic sanctions, including multilateral export controls, against Russia in response to its invasion of Ukraine. In announcing its export controls, the U.S. Department of Commerce noted, “Russia’s invasion of Ukraine flagrantly violates international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security.” It added that the goal of U.S. export controls is to “restrict Russia’s access to items that it needs to project power and fulfill its strategic ambitions.”

In theory, export controls can be a potent tool to protect and advance U.S. interests, including foreign policy and technological considerations. By restricting the export of certain products or services, the United States can prevent a foreign adversary from obtaining a tool it could use against U.S. interests, or we can stall a competitor’s technological progress such as Huawei’s 5G products. At the same time, excessive use of export controls can easily backfire. Obviously it makes sense for the United States to prohibit the export of materials necessary to make a nuclear weapon, but it is a thornier calculus where the product or service in question has both civilian and military applications, such as semiconductors. Policymakers in the United States considering future export controls should implement some basic guardrails to ensure a proper calibration between national security and ensuring the relative free flow of goods and services across borders, which is instrumental to ongoing American prosperity—and ultimately, national security.

First, policymakers should be judicious about invoking “national security” as a justification to restrict international trade. The Trump administration’s misguided “national security” tariffs on steel and aluminum imported from basically every country in the world, including Ukraine, was a clear abuse of the relevant statute. The tariffs triggered predictable foreign retaliation, made steel-using domestic producers less globally competitive due to higher input prices, and fostered distrust among longstanding allies. They also undermined future U.S. invocations of “national

security” by establishing a precedent that Washington can cloak aggressive protectionism under a defense-related banner. Policymakers should provide a narrow definition of “national security” tied to defense and defense-related goods and services, unlike the Trump administration’s tariffs, which covered non-defense related products like steel rebar.

Second, policymakers must consider the economic implications of their actions. Some in Washington treat sanctions and export controls as costless. However, like import tariffs, export restrictions can harm domestic exporting firms (who lose foreign sales or are forced to sell at lower prices) or importing firms denied access to inputs by foreign retaliatory “copycat” actions, thus lowering domestic investment and economic growth. An overly restrictive export control regime thus poses significant long-term risks to the U.S. economy. Eric Hirschhorn, under secretary of commerce for industry and security during most of the Obama administration, observed, “when we unilaterally control *any* technology too tightly, there’s a good chance that we will drive research and development, and ultimately production, offshore.” Likewise, a stringent export control regime could dissuade foreign firms from setting up operations in the United States. While there is a stronger national security nexus involved with Russia’s invasion of Ukraine than, say, steel imports from Canada, our recent history of security-based trade restrictions should give pause to policymakers thinking about imposing export controls going forward. The economic concerns should not be taken lightly.

Third, even where a legitimate national security item is involved and the threat outweighs the potential economic costs of export restrictions, unilateral sanctions should be avoided in all but the rarest of circumstances. In a globalized world with various suppliers of virtually every product, unilateral export controls can lose their efficacy and simply harm U.S. firms and the domestic economy more broadly. If a foreign adversary, for example, can source a product from a non-U.S. supplier not subject to sanctions, the export control simply denies sales to its U.S. competitor, diverts trade to a less efficient producer, and does nothing to enhance U.S. national security or other interests. For example, Martin Chorzempa of the Peterson Institute for International Economics recently noted that less than 3 percent of Russian imports came from the United States in 2020. With such little trade with Russia, it is unlikely that unilateral export controls would have their intended impact. In this case, given that the European Union (a much larger trading partner with Russia) and other governments are working in conjunction with Washington, it is much more likely that the controls will achieve their stated aims than a unilateral effort by the United States.

Fourth, policymakers should establish transparent procedures before and after export controls have been implemented to ensure they are not unduly burdensome. On the front end, the executive branch should work closely with the private sector to determine whether there are ways to mitigate potential national security risks in exporting the product or service in question, as well as to understand the full economic effect of the proposed export control. In addition, establishing an efficient and orderly judicial review process that allows appeals to be heard quickly makes sense. Once a control has been imposed, there should be a straightforward annual review process to determine if the national security risks still justify the export control. Likewise, the export control should sunset after a period of time with the burden switching to the government to demonstrate that lifting the export control jeopardizes national security.

Finally, sanctions should be as narrowly targeted as possible. There is a high potential for sanctions to hurt average citizens without achieving the desired policy aims. Serious scholars have questioned the efficacy of various sanctions over time. But where broad sanctions are justified, as they are in Russia, they should be vigorously enforced to ensure compliance.

The United States is a global leader in research and development of cutting-edge technologies. Such products and services reach consumers all around the globe and allow the United States to dominate the commanding heights of the 21st century economy. They also rely on access to global supply chains and talent. A strong and vibrant domestic economy, moreover, is imperative to protecting U.S. national security and to ensure that the nation has sufficient resources in times of real national emergency. These basic guardrails can help ensure the United States does not hinder its long-term competitiveness by unduly restricting exports of goods and services.

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