Russia-U.S. relations: A look back and the year ahead


U.S. concern regarding the ongoing situation in Crimea means that sanctions against Russia are unlikely to be relaxed, despite ongoing Syria-related developments, write Nancy Fischer and Matthew Rabinowitz.

In 2014, as a result of the military confrontation in the south east of Ukraine and Russia's annexation of Crimea, the West imposed economic sanctions against Russia. These sanctions were meant to target critical sectors of Russia's economy, including the financial, energy, and defence sectors. Over the past year, both the U.S. and EU have continued to expand their sanctions, adding more individuals and entities to their respective sanctions lists. As we move into 2016, U.S. government officials have indicated the sanctions will remain in place for the time being, potentially limiting opportunities for U.S. companies seeking to engage in specified activities in Russia.

Diplomatic relations

Throughout 2015, the U.S. Department of State has condemned Russia's actions in the Ukraine and refused to recognise Russia's attempted annexation of Crimea. In a statement marking the one-year anniversary of Russia's occupation of Crimea, the State Department reiterated that 'sanctions related to Crimea will remain in place as long as the occupation continues. The United States continues to support Ukraine's sovereignty, territorial integrity, and right to self-determination.'[1]

Overall, U.S. concern over the crisis in Crimea continues to grow. While the leaders of Ukraine, Russia, France, and Germany agreed to a second ceasefire deal in February 2015 (a.k.a. 'Minsk II'), Western powers continue to accuse Russia of failing to implement the agreement and abide by its terms; for example, in August 2015, the United States condemned the sentencing in a Russian military court of Ukrainian film director Oleh Sentsov and activist Oleksandr Kolchenko.[2]

However, there have been some signs that Russia will indeed implement Minsk II. In October 2015, Russian President Vladimir Putin agreed to postpone the allegedly 'fake' elections set to take place in Ukraine, committed to withdraw heavy weapons from the region, and consented to full access to the Organisation for Security and Co-operation in Europe ('OSCE').[3]

Sanctions on Russia

When Russia annexed Crimea in the summer of 2014, the West responded with a coordinated effort to introduce economic sanctions. The sanctions imposed not only included traditional asset freezes and visa bans for designated individuals and entities, but also carefully crafted sanctions targeting key sectors of Russia's economy. Generally speaking, the U.S., EU, Canada, and its Western allies sought to:

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- Restrict access to Western financial markets and services for designated Russian state-owned enterprises in the banking, energy, and defence sectors;
- Place an embargo on exports to Russia of certain high-technology oil exploration and production equipment; and
- Place an embargo on exports to Russia of designated military and dual-use goods.

This coordinated action led to the designation of several Russian and Ukrainian entities, including 14 defence companies and individuals in President Putin's inner circle, as well as targeted sanctions limiting certain financing to six of Russia's largest banks and four of its biggest energy companies. In particular, the U.S. and its allies geared its prohibitions towards suspending long-term financing for economic development projects in Russia, and prohibiting the provision of goods, services, or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in Russia.

Throughout the past year, the U.S. Treasury Department's Office of Foreign Assets Control ('OFAC') has continued to designate individuals and entities on both its Specially Designated National ('SDN') and Sectoral Sanctions Identification ('SSI') lists.

On 30 July 2015, OFAC added 25 individuals and entities to its SDN List, pursuant to various executive orders issued by President Obama in response to Russia's actions in Crimea. Of the newly listed parties, eight entities and people were added for their alleged support to Gennady Timchenko, a prominent — and previously sanctioned — gas trader. The U.S. also targeted two entities it said were providing support to Boris Rotenberg, a Russian businessman and ally of President Putin. Moreover, the U.S. sanctioned four former Ukrainian officials and their close associates linked to former Ukrainian President Viktor Yanukovych, as well as five Crimean port operators and one ferry operator who were sanctioned for operating in the Crimea region of Ukraine.

OFAC also updated its SSI List, adding several subsidiaries of previously listed entities. While these companies may technically have been subject to OFAC sanctions as they are owned by an SSI-listed entity, the listings confirm the restrictions currently apply to those entities.

Focus: Russia

Relatedly, the U.S. Department of Commerce's Bureau of Industry and Security ('BIS') amended the Export Administration Regulations ('EAR'), adding many of the aforementioned parties to its Entity List and thus further prohibiting the listed companies from receiving U.S.-origin goods.'[4] BIS also took an unusual step in adding a Russian oil and gas field, the Yuzhno-Kirinskoye Field located in the Sea of Okhotsk, to the Entity List. BIS further imposed a presumption of denial for exports of any items subject to the EAR. BIS explained that because the Yuzhno-Kirinskoye Field contains substantial reserves of oil, exports to this field presented 'an unacceptable risk' of being used in or diverted to prohibited Russian deepwater projects.[5] This action represented the first instance where BIS relied on diversion as a basis for designating a Russian energy company on the Entity List, and was the first time a physical location was added to the list.

The EU has also kept its sanctions in place. On 2 September 2015, the EU agreed to a six-month extension of the asset-freeze and travel bans directed at Russian and Ukrainian persons and entities deemed to be involved in the ongoing crisis in the Ukraine. These sanctions have the stated purpose of putting economic pressure on Moscow to implement the Minsk ceasefire agreement with Ukraine by the end of 2015. Additionally, the EU extended its broader industry sector sanctions to January 2016.

Importantly, the sectoral sanctions imposed by the U.S. and other Western nations do not completely prohibit persons under their respective jurisdictions from doing business in Russia. Rather, the sanctions block certain designated individuals and entities, and more broadly prohibit specific types of transactions with certain entities in key industries, such as the energy, financial, and defence sectors. Additional sanctions more broadly restrict most transactions in the Crimea region of Ukraine.

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Economic impact

While targeted, Western sanctions appear to have effectively impacted Russia's overall economy. According to a recent World Bank report, in the first half of 2015, foreign direct investment in Russia fell by over $20 billion compared to 2014.[6] Additionally, an International Monetary Fund ('IMF') report found that Russia's GDP is expected to decline by 3.4%, in large part due to existing sanctions.[7] It goes on to state that model-based estimates suggest sanctions and counter-sanctions (i.e. Russia's ban on food imports) could initially reduce real GDP by between 1% and 1.5% and that prolonged sanctions could lead to a cumulative output loss over the medium term of up to 9% of GDP.

The year ahead

Moving forward, emerging issues such as combating terrorism, Iran's nuclear programme, and the current conflict in Syria could open dialogue between Russia and the West. While talks of a 'grand coalition' to fight recent terrorist threats will likely be a hot topic of discussion in 2016, U.S. government officials indicate that sanctions on Russia will remain for the time being.

The U.S. sanctions are open-ended, and U.S. officials have repeatedly maintained that sanctions will not be lifted unless Russia ends its occupation of Crimea and the Minsk agreement is fully implemented.[8] Similarly, President of the European Council Donald Tusk rejected speculation that the EU would ease its sanctions in exchange for Russia's help in fighting the war in Syria, stating this 'would not only be immoral but also ineffective.'[9] Tusk went on to state it is 'clear that the Minsk agreements (are) not yet fully implemented. This will need to be reflected in upcoming EU sanctions review.'

Russia's economy as a whole would likely continue to be affected by a continuance of sanctions. Recent events, such as the November 2015 Paris attacks, could drive cooperation with Russia in combating ISIS. This could ultimately put pressure on the U.S. government and other Western nations to modify existing sanctions on Russia. Should sanctions continue, Western companies will remain prohibited from engaging in certain types of transactions with designated individuals and entities, and most transactions involving the Crimea region of the Ukraine. However, Russia is not entirely closed for business. Barring an expansion of existing sanctions, companies can continue to engage in dealings in or with Russia provided they act consistently with U.S., EU, and other applicable sanctions laws.

Links and notes

1 See press release, U.S. Department of State, State Dept. on 1st Anniversary of Russia's Occupation of Crimea (16 March 2015), available at: http://translations.state.gov/st/english/texttrans/2015/03/20150316314037.html#axzz3t06PIZMV

2 See press statement, U.S. Department of State, Sentencing of Oleh Sentsov and Oleksandr Kolchenko (25 August 2015), available at: http://www.state.gov/r/pa/prs/ps/2015/08/246322.htm

3 See Senate Foreign Relations Committee. Testimony on Ukraine (8 October 2015) (statement of Victoria Nuland, Assistant Secretary, Bureau of European and Eurasian Affairs).

4 See 80 Fed. Reg. 52963 (2 September 2015).

5 See 80 Fed. Reg. 46402 (7 August 2015).

6 The World Bank, Russia Monthly Economic Developments (October 2015), available at: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=9&cad=rja&uact=8&ved=0ahUKEwj8qYmwi7vJAhXE7CYKHSlFC8EQFghLMAg&url=http%3A%2F%2Fpubdocs.worldbank.org%2Fpubdocs%2Fpublicdoc%2F2015%2F10%2F843901444734422147%2FRussia-Monthly-Economic-Developments-October-2015-eng.pdf&usg=AFQjCNHLX1YDYHLGNZOQNVSFOvXUYpS7nQ&sig2=Unl_qZJvq4spmqZUC6v4kg

7 IMF Country Report No. 15/211 (August 2015), available at: http://www.imf.org/external/pubs/ft/scr/2015/cr15211.pdf

8 See Remarks of Victoria Nuland, Berlin Security Conference (17 November 2015), available at: http://www.state.gov/p/eur/rls/rm/2015/nov/249587.htm

9 See Reuters, 'EU's Tusk says Russia does not abide by Minsk deal on Ukraine' (4 November 2015), available at: http://www.reuters.com/article/2015/11/04/us-ukraine-russia-eu-sanctions-idUSKCN0ST1YR20151104

Nancy A. Fischer is a partner and Matthew R. Rabinowitz an associate in the International Trade Group at Pillsbury Winthrop Shaw Pittman LLP in Washington, DC.

nancy.fischer@pillsburylaw.com

matthew.rabinowitz@pillsburylaw.com