Economic warfare and U.S. policy

by Jonathan Chanis

People line up at Moscow's Rostokino IKEA on March 3, 2022, after the Swedish company announced plans to close its Russian stores. (VLAD KARKOV/GETTY IMAGES)

After the second Russian invasion of Ukraine in February 2022 and the imposition of U.S. and allied sanctions, Russians lined up to purchase western consumer goods and remove dollars and rubles from their bank accounts. Although the panic did not last long, the imposition of harsh sanctions prompted the Kremlin to accuse the United States of waging economic war. Over the years, this accusation has been made against the United States by many states including Venezuela, Cuba, and Iran. Even China now wonders if it will be the next U.S. target.

Economic warfare is a persistent feature of international politics and many states, including the United States, utilize it. China regularly employs sanctions against countries deemed hostile, including Australia, Japan, Lithuania, Mongolia, Norway, South Korea, and especially now Taiwan. After House of Representative Speaker Nancy Pelosi's August 2022 Taiwan visit, China limited trade with Taiwan and even temporarily blockaded Taiwan's ports and airspace. More significantly, many view China's foreign economic policy as disguised economic warfare. China steals foreign industrial secrets, extorts proprietary technologies from foreign multinationals, discriminates against non-Chinese companies in their domestic market, and ensnares less-developed nations with subsidized loans and aid packages in order to compel favorable political and military agreements.

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Russia also utilizes economic warfare against, among others the Baltic states and Ukraine. In Ukraine, it blockades seaports, destroys transportation and communications networks, obstructs food production, attacks or occupies power plants, and cyber-attacks Ukrainian government and business operations. Besides economic warfare measures during combat, Russia has long practiced energy-economic warfare. According to a Baker Institute estimate, Russia has used energy as a weapon against European countries at least 22 times between 1990 and 2017 alone.

Even lesser powers such as Iran, Saudi Arabia, and Israel utilize economic warfare. Iran intermittently and covertly attacks Israeli and Saudi Arabian ships and infrastructure, and Israel and Saudi Arabia regularly reciprocate. Often these attacks are kinetic (e.g., missiles and sea mines), but increasingly they occur in the cyber domain.

Economic warfare is attractive because it is a "gray-zone" or "below threshold" type of warfare. States or non-state actors can engage in hostilities that constitute low intensity warfare while minimizing the risk of escalating violence. The key is not to provoke a full military confrontation or meet the definition of belligerency under international law.

The primary rationale for using economic warfare is that it is a "better alternative than going to war," and even if it is less effective than desired, it can "signal" disapproval of another's actions. However, there is disagreement about the role economic warfare should assume in U.S. policy, and this disagreement is reflected in the academic and policy communities, and in Congress and the Biden administration. Critics argue that the most prominent form of economic warfare, sanctions, "don't work," and often just strengthen a state's resolve to resist U.S. demands. Others argue that the policy aims sought often do not justify the enormous humanitarian disasters economic warfare often entails. They see the strategy as immoral and a violation of international law. Civil libertarians also raise concerns over the unchecked power economic warfare gives the U.S. president and federal bureaucrats.

In order to better understand these deliberations and decisions, this essay will 1) define economic warfare and provide historical context 2) provide an overview of U.S. sanctions programs 3) delineate the case for and against economic warfare, and 4) examine current economic warfare programs against Russia and China.

Definitions and context

Defining economic warfare is complicated because it describes both the target or ends of a strategy, and a means of coercion. As an end, it entails attacking an adversary's economy with all tools deemed appropriate, including militarily. As a means, it focuses on economic ways to undermine an adversary's military, political, or social organization. In both cases, the goal is to weaken the will or ability of an adversary to resist one's demands and coerce a behavioral change through regime change, or by forcing an elite or population to pressure its leadership to accept the initiating state's demands. Table 1 contains a typology of contemporary economic warfare tools.

Economic warfare has been a feature of global history since before the Peloponnesian War (431–404 BCE), and it increased in sophistication as people urbanized and supply chains became more complex. It evolved from burning an adversary's grain fields; to blocking a town, city, or country's food supply through armed siege or blockade; to restricting the natural resources necessary for industrial production, originally by surface ship interdiction but later by submarine and airplane; and now to interrupting the financial flows necessary for managing a modern economy in a globalized world.

Economic warfare usually has been a predecessor or adjunct to military operations, and during actual combat economic warfare is almost always utilized. Accordingly, the U.S. military integrates economic and infrastructural elements into most all U.S. strategic and operational plans. However, lethal force (e.g., sinking cargo ships or bombing factories), especially outside physical combat, need not be utilized for something to constitute economic warfare. The 19th and 20th centuries saw "pacific blockades" or naval coer-

Table 1: Economic Warfare Measures (Not Exhaustive)

OVERT

Conventional Measures – Sanctions

- Denial of foreign assistance, loans, and investments
- Trade embargoes and/or boycotts
- Shipping and insurance restrictions
- Freezing or seizing assets under U.S. or allied jurisdiction
- Restricting or prohibiting arms transfers
- Denial of credit, including by third parties
- Prohibiting economic transactions involving targeted countries, citizens, or businesses
- Travel restrictions
- Pressure on partner countries to also engage in the above ("secondary sanctions")

Extraordinary Measures

- Blockading ports and other transportation nodes
- Attacking / sabotaging national infrastructure
- Attacking / sabotaging others supporting the target
- Attacking industrial and agricultural production capabilities
- Interfering with government operations and communication networks through cyber-attacks
- Killing non-combatants to weaken morale and disrupt production

COVERT

All "Extraordinary Measures" Plus:

- Industrial espionage (state sponsored)
- Intellectual poverty theft (state sponsored)
- Fomenting labor unrest and strikes
- Counterfeiting currency
- Bribing / entrapping government officials or business leaders for favorable economic decisions
- Talent / labor recruitment or sponsoring defection

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! Before you read, download the companion **Glossary** that includes definitions, a guide to acronyms and abbreviations used in the article, and other material. Go to **www.fpa.org/great_decisions** and select a topic in the Resources section. (Top right) cion with no or a minimum of violence. The Soviet Berlin blockade (1948–49) was not overtly violent, and, more recently (2016), Iran used cyberattacks—a new and distinct form of economic (and hybrid) warfare—to damage U.S. financial institutions and threaten U.S. financial stability. Particularly since 9/11 and increased sanctions use, the historic nexus between economic warfare and violence has weakened.

The term economic warfare was commonly used during the Second World War when the United States and others maintained boards, offices, and ministries of economic warfare. Since that time, and especially from the 1960s, the term was eclipsed by the word "sanctions," a specific type of economic warfare. Sanctions usually seek their objectives through bureaucratic manipulation of international trade and finance relationships and usually involve less use of force. The preference is to coerce change by limiting the economic gains available through global engagement. This reliance on bureaucratic measures creates the illusion that sanctions are a more sanitized form of warfare, or not even warfare at all. Governments utilizing sanctions often explicitly try to separate sanctions from economic warfare. As a senior Biden administration official said in response to Russia's economic warfare charge, "we need to stay sober with our rhetoric." The point was not that the Russia sanctions are not economic warfare, but that to publicly acknowledge it as such would legitimize an overt violent response from Russia.

Sanctions, especially trade sanctions, which are a type of blockade, do not rest exclusively on the use of economic tools in the absence of lethal force. Sanctions are predicated upon deterring violations through force, and the United States, like others, intermittently uses force to implement sanctions. Among other U.S. examples are the 1990s Iraqi no-fly zone, and the periodic stopping of Iranian and North Korean cargo ships by the U.S. Navy. As Vice Adm. Karl Thomas, commander of the U.S. Seventh Fleet recently said, "a blockade is less kinetic," it is not non-kinetic; it only remains nonviolent if it is not challenged.

Perhaps more important than the violence underlying sanctions, is the often equivalent results. U.S. use of sanctions has killed (at a minimum) hundreds of thousands of people, especially children. (See below.) From the perspective of the initiator, sanctions seem non-violent, but from the perspective of the target, sanctions can be extremely violent. It makes little difference to the target if someone dies of hunger or inadequate medical care, or from a bullet or bomb. Contemporary sanctions lethality stems from their post-World War I (WWI) evolution, when both Britain and Germany tried to destroy each other by precipitating social collapse through economic deprivation. The point, as historian Nicholas Mulder said, was to sever a country from the global economy and wait "...for it to exhaust itself or succumb to political revolution or social collapse. [The] effects on civilian society—immiseration, starvation, disease, bankruptcy...produce measures whose function and consequences are identical to war."

One of the longest U.S. economic warfare programs was the effort to restrict the acquisition of products and technologies by the Soviet Union and other Cold War adversaries. The aim was to restrain adversarial military power by limiting the ability to procure or produce weapons. From 1949 until 1994, the U.S. restricted exports of strategic products and technologies to communist countries through the Coordinating Committee on Multilateral Export Controls (CoCom). CoCom eventually included 15 NATO countries and Japan.

CoCom was replaced in 1996 by the Wassenaar Arrangement. However, unlike CoCom, Wassenaar does not give each member a veto over another country's sales, and its membership include a U.S. adversary, Russia, and three problematic states, India, Hungary, and Turkey. As a result, some in the U.S. Congress think that the Unite States and its allies are insufficiently vigilant about technology transfers, especially to China, and they are advocating for a new version of CoCom to control multilateral exports.

Equally important as export controls was the management of Western European energy needs after World War II (WWII). As the world moved increasingly toward petroleum as the dominant transportation fuel, Western Europe needed ever larger amounts of oil, and the country that helped them obtain it was going to gain greater influence over European affairs. At that time, however, the United States was losing its capacity to export oil due to declining domestic production and rapidly increasing demand. Its solution was to promote Middle East oil development and guarantee the flow to Europe. This oil policy worked for two decades until the 1973 oil shock.

Even before the oil shock, West Germany began seeking closer economic and political ties with the Soviet Union. While there were many reasons for the country's new *Ostpolitik*, gaining access to Soviet energy was clearly one. With growing momentum for *Ostpolitik* and the 1973 oil shock, West Germany and others increasingly integrated Soviet energy into their economies. Despite U.S. opposition, beginning with the Kennedy administration, the Soviet Union succeeded in building a major oil pipeline in 1964 and a gas pipeline in 1978. By

California gasoline prices, June 2022. Crude oil and by extension gasoline has been a tool of economic warfare for over 100 years. Often, such as in the 1950s, the U.S. has successfully used this tool; In other instances, such as the 1970s and in 2022, the U.S. has been less successful. (PHOTO BY J. CHANIS.)

European leaders symbolically turn Nord Stream 1's valve starting the flow of additional Russian natural gas to Europe in 2011. Then German Chancellor Angela Merkel and Russian President Dmitry Medvedev are in the photo's center (left and right). (PHOTO BY SASHA MORDOVETS/GETTY IMAGES)

the early 1980s, when the Soviet Union wanted to construct another major pipeline, U.S. policymakers became extremely alarmed. As a 1981 CIA report noted, the deepening energy relationship can "...provide the Soviets one additional pressure point they could use as part of a broader diplomatic offensive to persuade the West Europeans to accept their viewpoint on East-West issues". In response, the Reagan administration attempted to block the pipeline's construction by prohibiting American companies from selling necessary components. The prohibition eventually included European subsidiaries of American companies, and European products manufactured under U.S. license.

Given the priority this pipeline had for Europe, American sanctions were seen essentially as a declaration of economic war, and the dispute was one of the worst U.S.-European crises since the end of WWII. Unwilling to accept American "exterritorial laws," West Germany, Britain, France, and others passed laws prohibiting companies operating on their territory from complying with U.S. sanctions. Ultimately, the Reagan administration yielded and the pipeline was completed in 1983.

Around this time, the Reagan administration learned of a multi-year covert Soviet program to acquire products and technologies prohibited under CoCom. In response, the administration established a covert CIA program to sabotage these acquisitions by selling materials that "would appear genuine but would later fail." There even was an unconfirmed report that altered software caused a massive explosion on a Soviet pipeline in 1982. According to Thomas Reed, a former Air Force secretary, the explosion was just one

Box 1: Selected U.S. Economic Warfare Programs, 1960–84

Cuba: After the 1961 failed Bay of Pigs invasion, the Kennedy administration launched Operation Mongoose. This was an attempt, as a senior CIA official said, to conduct "...maximum possible sabotage of major Cuban industries and public utilities with priority attention being given to transportation, communications, power plants, and utilities." While many of the plans, such as using biological or chemical agents against Cuba's sugar crop never happened, numerous targets including petroleum and electric generating facilities were attacked. Even during the Cuban Missile Crisis, a CIA sponsored team attacked a Cuban copper mine. The CIA eventually lost control of several Cuban émigré groups that went on to attack numerous targets, particularly cargo ships. President Lyndon Johnson began phasing out the program in 1964. Some, including U.S. Army veteran and anti-war critic Andrew Bacevich, see Operation Mongoose as "... in effect...state-sponsored terrorism ...."

Chile: While the U.S. may not have organized and directed the 1973 overthrow of Chilean President Salvador Allende, it helped create conditions that made the coup more likely. According to declassified documents, the United States launched an "invisible economic blockade" and clandestine war to "destabilize" Chile's economy. These efforts included curtailing or terminating credits and loans from U.S. and other lenders; fomenting labor discord and strikes; and making payments to local business leaders for purpose still unknown.

Nicaragua: Between September 1983 and April 1984, the CIA and local proxies conducted at least 21 direct attacks on Nicaraguan oil facilities and pipelines, grain storage facilities, bridges and ports, and ultimately placed mines in Nicaragua's harbors. The CIA trained and armed the rebels, selected the targets, and supervised the attacks. After the covert economic war became public, the U.S. Congress prohibited the use of any funds for overthrowing Nicaragua's government." In order to evade this restriction, the Reagan administration sold arms to Iran and used part of the proceeds to fund the Nicaragua war. After the operation was disclosed and multiple investigations, 14 senior administration officials were convicted of various crimes including destroying government documents and lying to Congress.

example of "cold-eyed economic warfare" waged by the CIA against the Soviet Union.

It is difficult to gauge the effectiveness of Reagan's covert economic warfare program, but some believe it to have been successful. In any event, the current European energy crisis demonstrates that the United States lost this multi-decade energy-economic struggle.

Compared to U.S. overt economic warfare efforts against the Soviet Union, the U.S. program against China was even more hostile. Rather than just limit the supply of products and technologies that could strengthen China's military capabilities, the U.S., beginning with the Korean War (1950–53), attempted to bring about the internal collapse of China by restricting all products that could help it industrialize. Accordingly, the U.S. created the "China Differential," an extra list of CoCom items that all communist countries could buy, except China. The aim was to cause sufficient economic pain in China to compel regime change, or if this failed, to split the Sino-Soviet alliance because of China's rising economic aid needs.

While the China export sanctions were the template for later U.S. sanctions on Cuba, Iraq, Iran, and North Korea, it is difficult to know what role they played in turning China toward economic reform. However, both the Eisenhower and Kennedy administrations thought the denial of U.S. trade caused great harm to China, including worsening periodic famines. Under this policy, additional Chinese starvation deaths were not collateral policy damage, they were central to it. As Walt Rostow, a prominent development economist then at the State Department said: "We maintained…a position tantamount to economic warfare" aimed directly at the Chinese people. In the 1970s as the two countries drew closer in order to combat growing Soviet power, the China Differential was phased out.

Before the end of the Cold War, there were other programs particularly in Cuba, Chile, and Nicaragua that changed how the U.S. conducts covert warfare, including economic warfare. (See Box 1.) After they were revealed, these programs undermined public trust in the CIA and executive branch, and resulted in Congress limiting the executive branch's ability to conduct covert actions, including economically. The permanent establishment of House and Senate oversight committees, the creation of a CIA Inspector General, stronger executive branch internal vetting procedures, and mandatory congressional reporting requirements curtailed unaccountable and often extreme covert actions.

Since U.S. covert programs generally are not disclosed for 50 years, it is difficult to know how significantly the intelligence reforms of the 1970s and 1980s reduced covert economic warfare programs. However, given the lack of strong contrary evidence, it is probable that the most aggressive U.S. economic warfare programs, such as covert physical attacks on vital economic infrastructure during peacetime, are less common than they were in the 1970s and 1980s. While it might be coincidence, after the last major covert action reforms took effect under the George H.W. Bush administration, sanctions use by the subsequent Clinton and George W. Bush administrations began to increase. Consequently, one can posit that the difficulty of mounting covert economic operations led to sanctions becoming the dominant form of U.S. economic warfare.

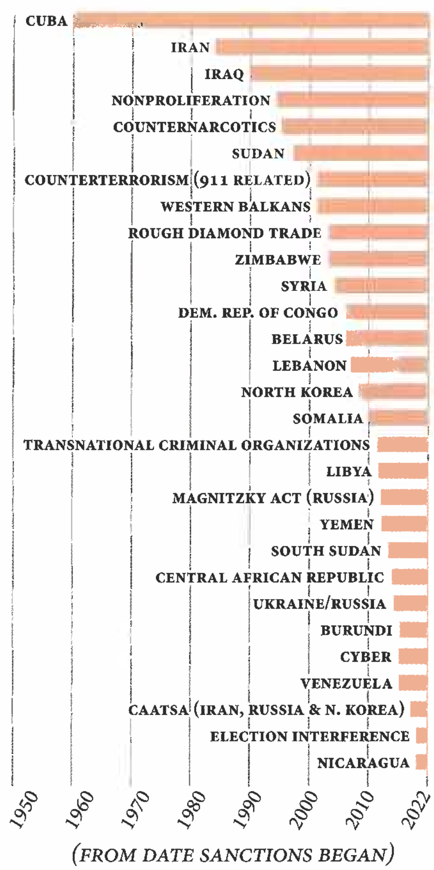
U.S. sanctions program overview

While most countries do not acknowledge the weaponization of economics for national security purposes, the United States indirectly did when it said (in the U.S. Treasury Department *2021 Sanctions Review)* that since the 9/11 attacks, economic and financial sanctions have become a "tool of first resort" that "allow U.S. policymakers to impose a material cost on adversaries." When effective they "…disrupt, deter, and prevent actions that undermine U.S. national security."

According to Drexel University's "Global Sanctions Data Base," the United States imposed more than 35% of all global sanctions between 1950 and 2019, and sanctions use increased significantly after 9/11 (see Graph 1.) Currently there are 37 separate U.S. Treasury sanctions programs, each sanctioning multiple individuals, companies, or entities. Most of these sanctions can be grouped into programs for: nuclear arms proliferators; international terrorism support; threatening regional stability; human rights and democratic governance violations / corruption, and; fulfillment of United Nations Security Council resolutions.

Between 2000 and 2021, the United States increased sanctions use by a factor of ten, from 912 designations to 9,421. (See Graph 2.) The Treasury's list of "Specially Designated Nationals and Blocked Persons" (SDN) contains more than 20 countries, approximately

Graph 1: U.S. Sanctions Programs



SOURCE: Council on Foreign Relations

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6,300 individuals, and thousands of companies. U.S. persons are prohibited from dealing with an SDN, and all SDN assets accessible to the U.S. government are frozen. Prohibited transactions include supply of any product or services to a specified country, regime, or foreign national; importation of products originating from a subject nation or produced by an SDN; transfering money to or from financial accounts located in a designated nation, or in which an SDN has an interest; and provision of credit or financial services to an SDN.

Over 60% of sanctions are authorized under the National Emergencies Act. The president simply declares that an "unusual and extraordinary threat" exists and then typically invokes the International Emergency Economic Powers Act to craft a sanctions program. Other programs are legislated by Congress and they either authorize or require the President to act.

Violating U.S. sanctions laws can have draconian consequences. Fines can exceed $330,000 per violation, or twice the violation transaction value. In the event of willful criminal violations, violators may face fines up to $1 million, and/or 20 years' imprisonment. The Justice Department also may use forfeiture authorities to seize proceeds or assets connected to the conduct, even in the absence of a criminal conviction. U.S. law also allows the Office of Foreign Assets Control (OFAC) to penalize foreign entities trading with sanctioned entities. These "secondary sanctions" are a powerful incentive for non-U.S. parties to comply with U.S. sanctions since the government can stop an entity from transacting in U.S. dollars. The largest sanctions penalty, almost $9 billon, was levied in 2014 when French bank BNP Paribas pleaded guilty to processing payments for Cuba, Iran, and Sudan.

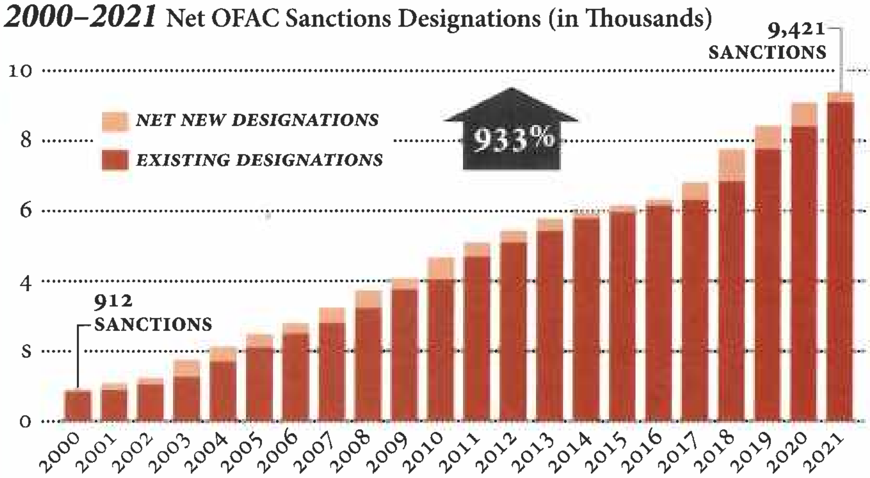
More than a dozen other government departments and agencies are involved in managing U.S. economic warfare programs. Most important are the Commerce and State Departments. Besides supporting Treasury's financial efforts, these departments are involved in more traditional economic warfare programs such as restricting exports of military and dual use products, and controlling arms sales and military and foreign aid disbursements.

The case for and against economic warfare

Although the case for and against economic warfare needs to be broken down into sanctions and more traditional economic warfare, it is useful to recognize that both are hostile, often violent acts that can and have disrupted or destroyed millions of lives. Their utilization must therefore be approached with as much seriousness as a decision to use force. Given that U.S. policy uses economic and financial sanctions as "a tool of first resort," it is legitimate to ask if the U.S. government has approached sanctions with sufficient deliberation. Regarding the use of overt economic warfare, such as blockading ports or sabotaging a country's infrastructure, U.S. policymakers do appear to approach the use of such measures with more thoughtfulness. An example was the Obama administration's consideration and rejection of blockading Iranian ports in 2009–10. Regarding covert economic warfare, it is difficult to know what U.S. government deliberations or actions occurred over the past few decades. However, given the general absence of suspicious incidents, and the ability of unlimited (i.e., "maximum pressure") sanctions to functionally replace much previously sought through covert economic warfare, perhaps one can assume that the U.S. is extremely good at these types of operations, and they remain secret, or fewer have occurred. One major exception probably is covert cyber warfare, where there are repeated public hints that a good deal more occurs than is being publicly disclosed.

The criticism of sanctions can be broken down into: 1) effectiveness / cost 2) humanitarian concerns, and 3) constitutional abuses.

Graph 2: U.S. Sanctions Use Increases Substantially from 2000–2021 Net OFAC Sanctions Designations (in Thousands)



SOURCE: US Treasury, 2021 Sanctions Review. October 2021, p.2

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Effectiveness / Cost

The empirical evidence of sanctions' effectiveness is sufficiently ambiguous to make the case for supporters, as well as opponents. According to Drexel University's database, when considering all types of sanctions, the objectives were achieved approximately 35% of the time, and partially 14% of the time. Only in 22% of the cases did sanctions completely fail. The remaining cases have yet to generate an outcome. This means that most cases with outcomes were either fully or partially successful. Additionally, proponents note that in many cases when sanctions are threatened, the target "pulls back" and does not continue with the action(s) that precipitated the sanctions threat.

There were notable differences in outcomes depending on the objectives. As illustrated in Graph 3, the sanctions with the highest probability of success were those related to promoting democracy and human rights. Those least successful related to combating terrorism, destabilizing a regime, and resolving a territorial conflict.

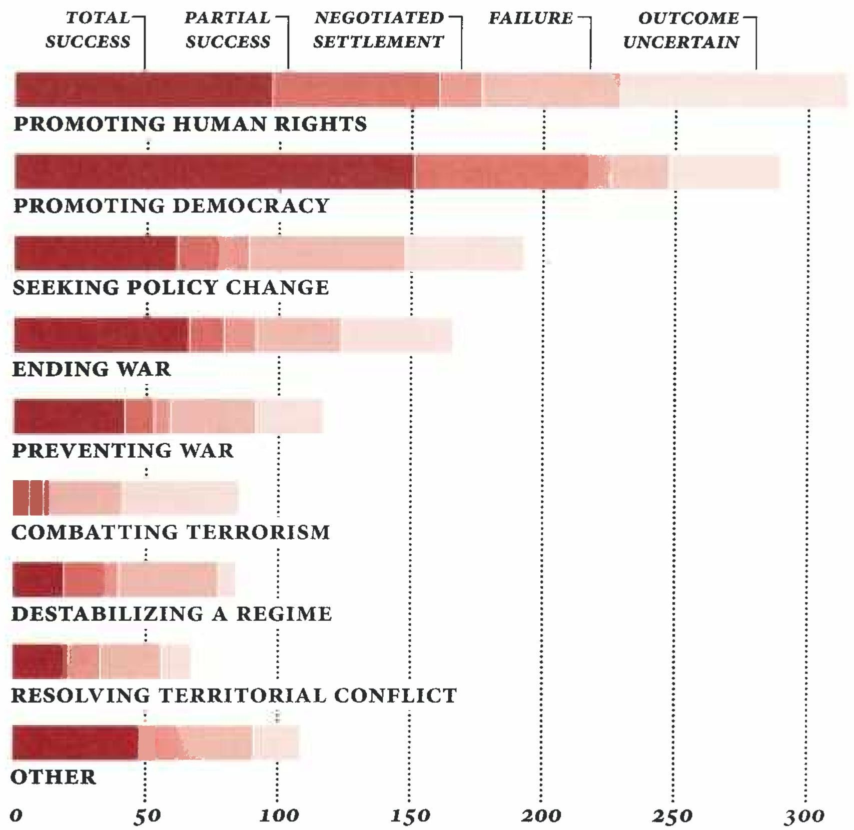
In pioneering research, Gary Hufbauer and his colleagues identified the conditions necessary for sanctions to be effective. Accordingly, a target is more vulnerable when it has a small economy with a large foreign trade sector; little possibility for substitution or conservation of the sanctioned products or services; weak alliances and inconsequential military power; and an inability to block third party compliance or mount counter-sanctions. The chances of sanctions succeeding increase when they are undertaken multilaterally, and when the initiating state is willing to incur substantial domestic economic costs.

If one considers failed cases (22%) and those without an outcome (29%), then sanctions' effectiveness seems more dubious, particularly since sanctions with "no outcome" can persist for decades (e.g., North Korea since 1950 and Cuba since 1960). Sanctions often fail because states adapt by making do with substitute products or technologies, or by using existing resources more productively. They often also evade sanctions with the help of others. Commodity producers, in particular, often find buyers for their sanctioned products who "backfill" the market vacated by companies from sanctioning states. These failures point to the "translation problem," i.e., sanctions can generate enormous economic pain, but still not coerce a policy change; they may succeed economically, but fail politically, and in some cases, they may even increase a target state's resistance to policy change.

Opponents say sanctions can make the world less safe by driving countries toward autarkic economic solutions that may encourage states to choose war rather than risk seeing their power position degraded through sanctions. The prime historical example of this was Italy, Germany, and Japan before WWII.

Graph 3: Assessing the Effectiveness of Sanctions

An analysis of 1,100 sets of sanctions between 1949 and 2019



SOURCE: Drexel University's Global Data Base; Research Handbook Economic Sanctions, 2021; Bloomberg Economic News

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Another concern is that efforts to reduce supply chain vulnerability by the U.S and China can accelerate deglobalization and bifurcate the global economy into U.S. and Chinese spheres. This can encourage U.S.-China decoupling and economic autarky. As a Chinese finance professor said: "The comprehensive economic sanctions against Russia after its invasion of Ukraine have only added urgency to [China] achieving self-sufficiency in technology, finance, food and energy. Self-sufficiency as a phrase has regained currency in the party's publications." Deglobalization and decoupling would slow global growth, reduce economic efficiency, raise production costs, and stimulate inflation. Both China and Russia have developed alternative payment systems they hope will make SWIFT (the U.S. dominated global payment messaging system) obsolete. Russia and China, Saudi Arabia and China, and Russia and India increasingly seek and often find ways to minimize U.S. dollar use in bilateral trade, especially for oil.

Humanitarian concerns

Some argue that a policy that often deliberately targets civilians is immoral and illegal. The most prominent example of this is the U.S 1990s Iraq sanctions. While the Iraqi sanctions death toll is not precisely known, and the original Saddam Hussein inflated figures have been disproven, a study by Columbia University's Richard Garfield estimated a minimum of 100,000, and more likely 227,000, excess deaths of Iraqi children from August 1991 through March 1998. These deaths were attributed among other things to contaminated water, lack of high-quality food, and inadequate supplies in the curative health care system. Ethics and legal scholar Joy Gordon writes that the Iraq sanctions were "the worst humanitarian catastrophe ever imposed in the name of global governance...." Jeffrey Sachs and Mark Weisbrot cite Venezuela's devastation and argue that U.S. sanctions caused more than 40,000 deaths from 2017 to 2018. They assert that the sanctions fit "...the definition of collective punishment of the civilian population as described in both the Geneva and Hague international conventions [and are] illegal under international law [and U.S. treaties, and] appear to violate U.S. law...."

Without even criticizing the purpose of U.S. sanctions policy, many humanitarians aid organizations complain that the slow response of OFAC in granting humanitarian aid export licenses aggravates humanitarian crises by hampering the logistical and financial activity of aid organizations operating in sanctioned jurisdictions. As a result, innocent people suffer and die. Between OFAC's slow response and aid agencies and financial institutions "overcompliance" due to fear of falling afoul of the regulations, it is difficult to get humanitarian aid, including vaccines, to countries like Afghanistan, Burma, Iran, Somalia, Syria, and Venezuela.

Constitutional concerns

The constitutional critique argues that the executive branch uses the National Emergency Act (NEA) and the International Emergency Economic Powers Act (IEEPA) to evade congressional oversight. According to a review by the Brennan Center for Justice's Andrew Boyle, the issue is not the sanctions themselves, but a process that increasingly gives unchecked power to the executive. He argues that the process needs better transparency and more considered deliberation, especially by Congress.

This critique also highlights how U.S. sanctions policy can violate designated Americans' constitutional rights, especially the Fourth and Fifth amendments (unreasonable seizure and due process). While the overwhelming number of individuals and entities sanctioned are foreign, dozens of U.S. citizens and entities also are sanctioned. According to Boyle, some of these designations have been made without evidence, and procedures for getting off the SDN list are essentially non-existent. Similarly, asset seizures have occurred without criminal convictions and there is no process to contest such seizures.

Boyle proposes legislative reforms such as separating the IEEPA from the NEA thereby making it more difficult to use IEEPA in non-emergency situations. He advocates making Congress affirmatively approve within 90 days every presidential sanction action and then renew such approval annually. Boyle wants OFAC to develop transparent, specific, written standards and regulations for granting licenses, and he wants a 60-day decision period for any such decision. He thinks Congress should consider restricting the use of IEEPA against U.S. persons to cases only involving criminal conduct.

Russia, China, and U.S. economic warfare

Despite economic warfare and especially sanctions' problems, after Russia invaded Ukraine a second time, U.S. policymakers immediately instituted an extensive sanctions response. Since the Biden administration determined that a direct U.S. military response was not (at least at that point) justified, economic warfare represented a third option between using military force and doing nothing. Moreover, four decades of increasing sanctions use conditioned the U.S. to use sanctions as a "first resort."

The U.S. now has a large bureaucratic interest, both in government and in the private sector, predisposed toward ever greater sanctions use. Besides the institutional interests of the many departments and agencies now involved in sanctions policy, many people built careers in sanctions work, and this creates momentum for sanctions adoption regardless of any policy rationale. While comprehensive figures are unavailable, the sanctions economy easily employee tens of thousands of people. Besides the thousands working for multiple governments, most every major bank, corporation, and law firm has people dedicated to sanctions compliance, and there are numerous "sanctions experts" in academia and consulting.

With a low level of international trade relative to Gross Domestic Product (GDP), the costs of sanctions to the U.S. economy have been marginal, and the threat of economic retaliation by targeted states negligible. Heretofore, this relative invulnerability has allowed the U.S. to impose sanctions on others with minimal consequences for its own economy. This has allowed the U.S. to act with less concern that threatening another state's interests would precipitate a meaningfully punitive response by that state or its allies. The current cases of Russia and China, however, are different. Making economic war on these countries—the eleventh and second largest global economies—risks greater economic disruption and hostile counteractions.

Even before the second Ukraine invasion, the United States had substantial sanctions on Russia, including placing numerous individuals and entities on the SDN list; restricting Russian debt trading; and prohibiting certain oil and gas investments and equipment sales. After the second invasion, the United States vastly increased the number and types of sanctions imposed. A partial list is found in Table 2.

These actions constituted the most comprehensive sanctions against a country in decades. When these sanctions were imposed, the Biden administration said they would be "crippling" and deprive Russia of funds and components necessary for sustaining the Ukraine invasion. A senior official even suggested that Russia's GDP would de-

Table 2: Sanctions Imposed on Russia After Its February Invasion of Ukraine

- Denial of foreign assistance, loans, and investments
- Russian Central Bank asset freeze
- Add additional government and private persons/entities (including numerous "oligarchs") to U.S. SDN list
- Limit access to SWIFT
- Partial ban on Russian oil purchases
- Block most U.S. exports, including high-tech components
- Ban Russian airlines from U.S. airspace
- Prohibit U.S. investment in Russia
- Sanction Nord Stream 2 pipeline
- Prohibit Russian ruble and foreign denominated bonds trading

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cline by 50%. The ruble and stock market would collapse (and stay down) and inflation would overwhelm the population. Mulder wrote: "The overall effect has been unprecedented...in all but its most vital products [Russia has been] decoupled from 21st-century globalization." Hufbauer wrote "...the sanctions have proven among the most powerful in modern history.... [T]he economic hardship now inflicted on Russia ranks among the brutal episodes of modern times.... [O]nly North Korea, Cuba, Iraq, and Iran have suffered comparable losses...." But Russia's economy has not collapsed and the sanctions, thus far, have not been nearly as effective as many first thought.

In a prescient *Wall Street Journal* op-ed, the historian Nicholas Lambert questioned the euphoric rhetoric and compared the Russia sanctions to WWI British sanctions. He wrote: "On a Richter scale of economic warfare, Britain aimed at a 10 and achieved an 8 before scaling back to a 5; what the West is doing to Russia now is maybe a 3...."

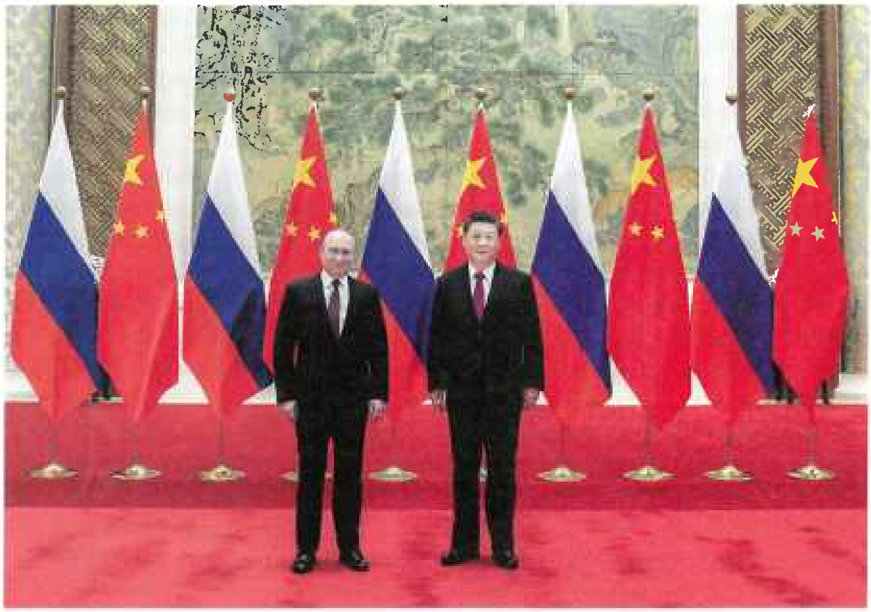
Ironically, one can use Hufbauer's criteria to discern why Russian is not an ideal candidate for sanctions: Russia has a large economy; it depends on few vital imports; there is substantial scope for conservation and substitution of sanctioned products and services; and it has significant ability to mount counter-sanctions. Most importantly, the sanctions largely have not stopped Russia's oil exports and its attendant revenue generation because they are not fully multilateral.

Oil is the life blood of the Putin regime and if Russia can sell it and collect revenue, it has a good chance of avoiding truly catastrophic outcomes, at least in the near term, especially for its elite. Sanctions have been very inconvenient for Russia's oil trade and the total volume sold is down slightly, but according to International Energy Agency calculations, Russian oil export revenue is up 50% from pre-war levels. The higher global price more than offsets any volume decline. China, India, and others are more than willing to purchase Russian oil at discounted prices. Only half of the G-20 countries (which constitute approximately 85% of global output) are sanctioning Russia. Among the non-sanctioners are China, India, Turkey, South Africa, Saudi Arabia, Indonesia, Mexico, and Brazil. And several countries are also actively helping Russia evade the sanctions including Iran, North Korea, and Turkey.

The latest estimates for Russia's 2022 GDP see a decline of 4–8%, and inflation is expected to be approximately 15%. This is hardly a catastrophic economic collapse and Russia has experienced higher inflation in the past and survived. There are reports of increasing consumer shortages and an inability to source critical parts for military equipment and civilian production, but it is unclear how severe these bottlenecks will become, or if they can be translated into a policy change. Some, such as Jeffery Sonnenfeld, think Russia already is in a desperate economic situation. Others think sanctions are a longer-term proposition that will wear Russia down over time. Some think no real policy change will occur until Russian oil exports are completely restricted.

Rich Goldberg of the Foundation for Defense of Democracies argues sanctions need to be intensified by removing *all* Russian banks from SWIFT and imposing secondary sanctions on any company buying or helping Russia sell oil. A "maximum pressure" campaign would steadily force global buyers to reduce Russian oil purchases and when combined with an escrow program, would deprive Russia of oil revenue. This would be a repeat of the "successful" 2011 and 2017 U.S. sanctions

Tugboats help an oil tanker dock at China Petrochemical Corporation's (Sinopec's) Zhoushan, China terminal. November 4, 2020. As the U.S. and Europe have reduced purchases of Russian oil, other states, particularly China and India, have vastly increased their purchases. (YAO FENG/VCG VIA GETTY IMAGES)



Vladimir Putin and Xi Jinping meet in Beijing just before the second Ukraine invasion and Xi declares that the Chinese-Russian partnership has "no limits." (LI TAO/XINHUA VIA GETTY IMAGES)

against Iran, and if Russia decided to withhold oil from the market in retaliation, the United States and its allies would win the "standoff" because Putin needs the revenue more than the world needs the oil.

Goldberg's logic is consistent, but some have argued that the risks in this approach are enormous. First, the global oil market today is very different than in 2011 and 2017. U.S. shale oil production was increasing substantially in 2011, and by 2017 it helped oversupply the market. Today, the world is desperately short of oil. The removal of Russian exports would have a dire price impact. According to a J.P. Morgan estimate, in the case of a total loss of Russian exports, prices would reach $380/barrel. This implies U.S. gasoline prices well in excess of $12/gallon. Even if one discounts the J.P. Morgan number by 50%, this still implies a deep U.S. and global recession. Coercing China, and especially India, to go along with what is close to economic suicide over Ukraine also would be problematic. A possible outcome might be a humiliating U.S retreat, like 1983, or the long-discussed destruction of the U.S.-dollar-based global financial system. Price cap schemes might avoid the worst of these outcomes, but Chinese, Indian and others' self-interest is going to make it difficult to keep Russia from earning oil revenue, at least until the world no longer needs its oil.

Despite decades of heavy sanctions use, the United States has never stopped utilizing other forms of economic warfare. It has redoubled efforts to restrict sensitive technologies exports, especially to China (e.g., 5G telecommunication equipment), and in one of the more creative programs encouraged approximately 7,000 Cuban doctors and nurses on overseas assignments to defect. In 2020, Senator Robert Menendez tried unsuccessfully to revive this program. While efforts to lure Russian technology workers to the United States has yet to received much U.S. government attention, other countries such as Poland, Uzbekistan, Kazakhstan are actively recruiting these workers.

The United States also is taking steps to reduce its vulnerability to economic warfare by others, particularly China. This is defensive economic warfare includes: using the Federal Bureau of Investigation to thwart Chinese corporate espionage; identifying Chinese and other state sponsored hackers and criminally charging them with attacking U.S corporations; curtailing Chinese recruitment of U.S scientists; and strengthening procedures for vetting inbound foreign investment with national security aspects.

A possible next step in U.S. offensive economic warfare is to limit outbound U.S. investment to "any country of concern," especially China. This is a reaction to the narrowing technical and industrial gap between the United States and China, and the de facto funding of China's military buildup by U.S. investors. According to a pending Presidential Executive Order, U.S. corporations and investors would be required to disclose certain outbound investments and seek authorization from a new interagency panel that could block any investment on national security grounds. The law would apply to greenfield investments including joint ventures, and private equity transactions funding Chinese companies. The requirement covers "critical and emerging technologies" including semiconductors, large-capacity batteries, rare-earth elements, pharmaceuticals, biotechnology, artificial intelligence, quantum computing, and financial technologies. According to an analysis by Rhodium Group, had this legislation been in affect over the last two decades, it would have covered up to 43% of all U.S. foreign direct investment in China.

Although economic warfare is central to interstate competition, it is a difficult tool to integrate into U.S. foreign policy. Economic warfare, even without extreme violence, is still warfare, and gaining widespread international support can be difficult. Most important economic warfare targets now also are major economic powers with better abilities to resist U.S. actions and retaliate. It also is unclear what the American public, businesses, and investors are willing to sacrifice in order to support any such measures. Regardless, a desire to avoid direct military force while at the same time pursing U.S. national interests continually pushes the country back toward the use of economic warfare.

discussion questions

1. How effective has U.S. use of economic warfare been in achieving U.S. foreign policy goals? Have the civilian deaths caused by sanctions been justified?

2. Has the sanctions process become unaccountable to the American public and the Congress? Is it in need of reform?

3. Are sanctions the best policy tool the United States has to use against Russia? If not sanctions, what policy should the United States pursue in response to Russia's invasion of Ukraine? Should the United States utilize other forms of economic warfare?

4. Should the U.S. design a CoCom like structure to deal with China? If yes, should it be limited to military product applications, or more expansive to retard China's growing economic power?

5. Should the United States take a more assertive role in limiting outbound U.S. investment to China?

suggested readings

Boyle, Andrew, **Checking the President's Sanctions Power**. Brennan Center, June 10, 2021. A comprehensive look at the libertarian and humanitarian problems with U.S. sanctions policy.

Funakoshi, Minami and Hugh Lawson and Kannaki Deka, **Tracking sanctions against Russia**. Reuters, Updated periodically. A comprehensive timeline of sanctions against Russian broken down by initiating country.

Gordon, Joy, **The Hidden Power of the New Economic Sanctions**. *Current History,* January 2019. The moral case against sanctions.

Hufbauer, Gary, Jeffrey Schott, Kimberly Ann Elliot, and Barbara Oegg, **Economic Sanctions Reconsidered**. Washington D.C.: The Peterson Institute for International Economics, June 15, 2009. 248 pp. The definitive empirical analysis of the efficacy of almost 200 economic sanctions cases.

Kirilakha, A. and C. Felbermayr, C. Syropoulos, E. Yalcin and Y. Yotov, **The Global Sanctions Data Base: An Update that Includes the Years of the Trump Presidency**. Drexel University. The Global Sanctions Data Base. A comprehensive review of over 700 sanctions cases.

Lambert, Nicholas, **What Real Economic Warfare Looked Like**. *Wall Street Journal,* March 18, 2022. A prescient first take on the Russia sanctions enthusiasm.

Hanemann, Thilo, Mark Witzke, Charlie Vest, Lauren Dudley, and Ryan Featherston. Two Way Street – An Outbound Investment Screening Regime for the United States? Rhodium Group. Jan 26, 2022. A deep dive into the merits of outbound investment restrictions.

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