EU SANCTIONS AGAINST RUSSIA

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EUROPE BRINGS A HARD EDGE TO ITS ECONOMIC POWER

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- The EU has responded to the Ukraine crisis with a set of political and economic sanctions against Russia which constitute a qualitatively new step in the EU sanctions policy.
- The EU sanctions against Russia are exceptional and have strategic importance due to a combination of three factors: big power rivalry, the context of a major European crisis with global ramifications, and the costs of the sanctions for the EU itself. The EU has managed to maintain its fragile unity and has applied its collective diplomatic and economic weight in very difficult circumstances.
- The sanctions have not provided an alternative to diplomatic efforts to solve the crisis – on the contrary, hardening sanctions have been used as a way to put pressure on Russia to seriously engage in diplomacy.
- The impact of the sanctions on daily developments in Ukraine has been limited and uncertain, but the sanctions have imposed a long-term cost on Russia for violating key international norms.
- The policy process of Russia sanctions has exposed problems of leadership and coordination. The latest reform of the EU foreign policy machinery has streamlined the preparation of sanctions, but the current system still lacks the necessary resources to match the growing importance of the EU sanctions policy.

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Introduction[1]

The Ukraine crisis has brought sanctions to the fore of EU foreign policy. Faced with a severe threat to European security, the EU and its member states have responded to the crisis with a double-track approach combining diplomacy and sanctions. As the former failed to produce a solution, or even prevent further escalation of the crisis, the EU gradually tightened the latter during March–September 2014. In a piecemeal manner typical of the Union of 28, the EU hardened its position while managing to maintain its fragile unity.

According to the European Council, the primary goal of the EU sanctions against Russia is to bring about change in Russia's actions in Ukraine, namely the illegal annexation of territory and the deliberate destabilization of a neighbouring sovereign state. With Russia being the EU's largest neighbour and an important trading partner, this case is the most challenging test of the EU's sanctions policy to date, as well as its foreign policy at large. Against its own wishes, the EU has become drawn into a geopolitical confrontation with a major regional power. Although arguably lacking a clear strategy, it has been using its economic clout in an unprecedented manner and with major strategic implications.

This paper examines what the sanctions (or restrictive measures) against Russia reveal about the EU's foreign policy capability and performance, addressing both the political and institutional aspects. It will first introduce key steps in the evolvement of the Russia sanctions, followed by an analysis of their political goals and context in light of earlier experiences of EU sanctions policy. The paper then turns to the institutional mechanism of adopting and implementing EU sanctions. It is argued that although the recently streamlined EU foreign policy machinery has passed the test thus far, the process of Russia sanctions has underlined the leadership and coordination challenges.

1 The authors are grateful to Francesco Giumelli, Paul Ivan and Teija Tiilikainen for their helpful comments on earlier drafts of this paper, and to Teemu Rantanen for his excellent research assistance.

Russia sanctions step by step

The first set of restrictive measures against Russia, adopted by the EU in response to the annexation of Crimea in March 2014, were regarded as largely symbolic. At the same time, however, the EU indicated its readiness to impose tougher sanctions. It stated that 'any further steps by the Russian Federation to destabilize the situation in Ukraine would lead to additional and far-reaching consequences for relations in a broad range of economic areas between the European Union and its Member States, on the one hand, and the Russian Federation, on the other hand'.[2]

As the crisis continued to escalate, the EU did extend the sanctions, while continuing efforts to advance a diplomatic solution. Yet the EU only took the decisive step towards serious economic sanctions in response to the downing of MH17 on 17 July 2014, a tragedy in which 298 people were killed, including 210 citizens of EU member states. By that time, the Western and Ukrainian media had reported that several Ukrainian military aircraft had been downed in the separatist-controlled areas. The downing of MH17 was the final wake-up call that exposed the broad-ranging implications of the crisis, and the danger of events spiralling out of control. A shift in the position of Germany, which had been playing a crucial role in fostering the EU-wide consensus, was crucial for the decision. Chancellor Angela Merkel had already lost trust in Russian President Vladimir Putin over the annexation of Crimea. However, the death of EU citizens created a qualitatively different situation, where even the strongest opponents of sanctions among the member states could no longer deny the need to send a clear signal to Russia.

Another critical juncture for the European sanctions debate was the more flagrant and extensive incursion of Russian fighters into Ukraine in late August,[3]

2 European Council, Conclusions 20/21 March 2014, http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/141749.pdf, accessed 14 Oct 2014.

3 Office of the United Nations High Commissioner for Human Rights, *Report on the human rights situation in Ukraine*, 16 September 2014, http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf.

Box 1. EU sanctions against Russia over the Ukraine crisis: key steps

3.3. Suspension of preparations for the G8 Summit in Sochi in June

6.3. Suspension of EU–Russia talks on visa matters and on the New Agreement

17.3. First travel bans and asset freezes, 21 individuals.

- More individuals and entities added on 21.3. (12 individuals), 29.4. (15 individuals), 12.5. (13 individuals and 2 entities), 12.7. (11 individuals), 25.7. (15 individuals and 18 entities), 30.7.(8 individuals and 3 entities).
- 12.9. the travel bans and asset freezes were renewed for a further 6 months; 24 individuals were added. Total number of targets: 119 persons and 23 entities.

25.6. Ban on import of goods originating in Crimea and Sevastopol

- 30.7. amendment to the ban: embargo on key equipment and technology for certain infrastructure projects and for the exploitation of certain natural resources in Crimea and Sevastopol; ban on related investments and provision of related services

1.8. Economic sanctions targeting (1) capital markets (restrictions on issuance of and trade in certain 'bonds, equity or similar financial instruments'), (2) defence sector (arms embargo), (3) dual-use goods (embargo on dual-use goods and technology), (4) oil industry (embargo on certain technologies related to deep water, Arctic and shale oil)

- 12.9. widening of the economic sanctions

which led to further deepening of sanctions. Tenuous steps towards peace made in September were not sufficient to turn the tide.

Considering the gravity of the annexation of Crimea, why didn't the EU take a tougher stance at an early stage? Above all, many member states were motivated by a general wish to avoid confrontation with Russia, a major power and trade partner. More specifically, arguments were put forward about the need to prioritize diplomacy. However, the diplomatic track was not an alternative to sanctions – on the contrary, as the situation escalated, tighter sanctions were seen as a way to put pressure on Russia to seriously engage in diplomacy. Germany played a key role not only over sanctions, but was actively engaged in diplomatic efforts to facilitate a political solution.[4]

Another explanation for the initial leniency of EU measures was concern about the economic costs of sanctions for the EU itself, including costs stemming from possible Russian counter-measures. Making matters more complicated, the sanctions hit different member states in different ways; so achieving a balance across member states and the question of how to compensate those countries that would suffer the most was part of the preparations.

The sanctions are kept under constant review, with both further tightening and (gradual) lifting or suspension being possible further options, depending upon Russia's actions. The sanctions will be in force for a period of time specified in the relevant decisions, unless the EU decides to change or lift them sooner. So, as of mid-October 2014, the Russia sanctions will expire in March (travel bans and asset freezes), June (economic sanctions against Crimea) and July 2015 (economic sanctions against Russia), in the unlikely event that no new decisions are taken before then. Any change requires a unanimous decision by the member states (more on the procedures below).

What makes the Russia sanctions exceptional?

The EU sanctions against Russia are exceptional and have strategic significance due to a combination of three factors: big power rivalry, the context of a major European crisis with global ramifications, and the costs of the sanctions for the EU itself.

With rare exceptions, the EU has not imposed sanctions on major powers in the past. In such rare cases, the scope of the sanctions has been limited (arms embargo on China since 1989; limited and vague

4 A Rinke, 'How Putin Lost Berlin', *DGAP IP Journal*, 29. September 2014; U Speck, 'Germany Plays Good Cop, Bad Cop' Carnegie Europe, http://carnegieeurope.eu/publications/?fa=56011, accessed 14 Oct 2014.

trade sanctions on the Soviet Union in 1982[5]). A mild and practically insignificant set of sanctions was adopted against Russia in 2000 due to the conflict in Chechnya.[6] Harsh EU sanctions have been imposed on relatively weaker subjects and have caused no substantial harm to the economies of the EU and its member states.

By contrast, the sanctions against Russia were introduced in the context of geopolitical and even ideological rivalry between major regional actors, although the EU never wished to see the crisis in such terms. For the first time, the EU imposed serious sanctions on a major power in response to a crisis that was triggered by conflicting goals of the EU and Russia in their shared neighbourhood. The confrontation was exacerbated by differences between the political systems of Russia and the West, with Ukraine aspiring towards the Western model of democracy and the rule of law, as opposed to Russia's authoritarian system.

Second, in contrast to previous cases, the EU was addressing an exceptionally grave international crisis as a key actor, and was pushed by the US – its closest strategic partner – to lead the way in responding to the crisis. What was at stake was much more than just Ukraine; the crisis undermined the post-Cold War security order in Europe and tested the EU's readiness to stand up in defence of key international norms such as territorial integrity and the sovereignty of states, which Russia was gravely violating.

Thirdly, the EU gradually moved towards strong economic sanctions which, together with countermeasures imposed by Russia, had a decidedly negative impact on its own economy, above all on certain member states and business sectors.[7] It was thus exerting its economic weight in a strategic manner against a major regional and global player, and important trading partner. While the option of using military force was excluded, economic sanctions were the hardest form of power that the EU could apply, alongside softer diplomatic measures.

Looking back at past experiences, sanctions have been a widely used instrument of the Common Foreign and Security Policy (CFSP) since 1993. The EU currently has restrictive measures in force against 36 countries, groups or entities.[8] The EU has most often imposed sanctions in order to address human rights violations (e.g. Belarus since 1998, Burma/Myanmar 1991–2013, Uzbekistan 2005–2009) or to promote post-conflict institutional consolidation (e.g. targeting the former leadership after the fall of Hosni Mubarak in Egypt in 2011 and after the fall of Viktor Yanukovych in Ukraine in 2014). Prior to the sanctions against Russia over the Ukraine crisis, conflict management has been the motivation for sanctions in some other cases, including Afghanistan (1996–99), Libya and Syria (both since 2011).[9]

While strengthening and streamlining its sanctions policy, the EU has followed the broader international trend of moving away from general trade embargoes and employing targeted political and economic sanctions. The aim of this shift is to limit the impact of sanctions predominantly to the actors held responsible for the unacceptable behaviour instead of the broader populations. Apart from these CFSP measures, the EU can also use suspension of assistance, trade preferences and trade and cooperation agreements as a form of sanctions to

5 J Kreutz, *Hard Measures by a Soft Power?* BICC, Bonn, 2005, http://www.pcr.uu.se/digitalAssets/67/67097_1paper45.pdf, accessed 14 Oct 2014.

6 H Haukkala, *Multi-Causal Social Mechanisms and the Study of International Institutionalisation: The Case of EU-Russia Strategic Partnership*, University of Turku, Turku, 2008, pp. 185–186.

7 Felbermayr et al. 'Economic Aspects of the Russia Conflict: Causes, Costs, Options', *ifo Schnelldienst* 67 (14), pp. 35–43 (in German); Finnish Ministry of Finance, *The economic effects of the EU's Russia sanctions and Russia's counter-sanctions*, September 2014.

8 European Commission, Restrictive measures in force (Article 215 TFEU), 2 September 2014, http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf, accessed 14 Oct 2014.

9 F Giumelli, 'How EU sanctions work: A new narrative', Chaillot Paper 129, EUISS, Paris, 2013, (p. 12) provides an overview up to 2013.

put pressure on the targeted government (see three policy tracks in Table 1).

With all these forms of sanctions, the EU's unity is essential for their credibility and effectiveness: the EU being a common market, and most member states belonging to the Schengen area, an EU visa ban or restrictions of economic and financial relations only make sense if implemented by the whole Union. Furthermore, restrictions on trade can only be adopted by the EU, since trade policy belongs to the EU's exclusive competence.

The increased use of sanctions has given rise to an intense scholarly and policy debate on whether sanctions work. While the scholarly literature delivers a predominantly negative verdict on the effectiveness of sanctions in bringing about a desired behavioural impact, recent research on the EU's sanctions policy has nonetheless highlighted the importance of sanctions as part of the broader foreign policy toolbox, and the need for a more nuanced understanding of the purposes and contexts of different sanctions regimes.[10] Importantly, sanctions are the main coercive instrument at the EU's disposal, but they are not used in isolation from softer instruments such as diplomacy and financial assistance.

Against this background, EU sanctions have been linked to three important functions of foreign policy: coercing, constraining and signalling. Sanctions seeking behavioural change from groups and individuals held responsible for wrongdoings are clearly coercive in nature. Sanctions aimed at undermining the capacities of their targets to achieve their objectives fall within the realm of constraining. Thirdly, sanctions are used to signal disapproval of certain actions. Apart from having concrete effects on the ground, sanctions are also intended to show commitment to a certain cause and coherence of EU policies. The EU has imposed sanctions mostly in terms of constraining and signalling.[11]

10 C Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* Routledge, London and New York, 2010; F Giumelli, 2013; K Gebert, *Shooting in the Dark? EU Sanctions Policies*, European Council on Foreign Relations, 2013.

11 Giumelli, op. cit.

The sanctions against Russia have primarily been aimed at changing Russia's behaviour in the Ukraine crisis. Judging by the continued deterioration of the situation on the ground, it is easy to conclude that the sanctions have failed to produce the desired results. However, a more nuanced and long-term assessment is necessary. All three above-mentioned functions have been represented in the debate on Russia sanctions. First, the sanctions were deemed necessary as a signal in response to fundamentally unacceptable behaviour. The EU's failure to act would have implied tacit approval. Second, the constraining impact means above all that economic losses registered by Russia are expected to constrain military action, possibly stopping Russia from using force more intensively or in broader areas. Third, the coercive impact is uncertain and not imminent, but in the longer term (months or even years), Russia will arguably find it very hard to cope with the economic effects of sanctions and will consequently be pushed to find a solution. Hence, the sanctions may have little impact on daily developments in Ukraine, but they impose a high longer-term cost on Russian aggression.

The challenge of institutional coherence and effectiveness

The complex nature of EU foreign policy, with contested divisions of power between the EU and national levels, and between policy areas inside the EU's institutional structures, poses further challenges to the adoption and implementation of sanctions. The policy process of Russia sanctions has underscored the challenges of leadership and coordination and the need for different parts of the EU institutional machinery to work smoothly together. While the Lisbon Treaty and the creation of the European External Action Service (EEAS) have streamlined the preparation of sanctions, the current system still lacks the necessary resources to match the growing importance of the EU sanctions policy.

The 2009 Lisbon Treaty streamlined the EU's sanctions policy, as it formally abolished the European Communities, taking a further step in integrating the different foreign policy dimensions. Yet, the Lisbon Treaty differentiates between economic and financial instruments that stayed within the remit of the Commission, and CFSP instruments, which are

Table 1. Three policy tracks of EU sanctions

	I) EU-only sanctions	II) CFSP-only sanctions	III) Interruption of economic and financial relations
Scope	Suspending EU's financial and technical assistance as well as international agreements	Visa bans, arms embargoes	Interruption or reduction, in part or completely, of economic and financial relations
Legal basis	Depending on instrument (e.g. Art. 218 TFEU, Art. 215 TFEU)	Council decision (Art. 29, 30, 31 TEU)	Council regulation (Art. 215 TFEU)
Preparatory working groups	Respective geographical working group, Political and Security Committee		Relex group (following CFSP decision)
Decision-making	Depending on instrument	Unanimity (with exceptions)	Qualified majority (following CFSP decision)
Implementation	Commission and EEAS	Sanctions enter into force immediately after adoption by Council and publication; national authorities control their implementation	
Restrictive measures against Russia	Suspension of talks on visa matters and on new EU-Russia agreement; suspension of some cooperation programmes	Visa ban against 119 individuals; arms embargo	Asset freeze against 142 individuals and entities; economic sanctions targeting capital markets, defence, dual use of goods and sensitive technologies

subject to different procedures and closely monitored by member states. The persistent complexity can best be captured if we distinguish between three policy tracks that also apply to sanctions against Russia (see Table 1).

In some cases, sanctions can be decided on and implemented by the EU alone, because they fall entirely within its competences. EU-only sanctions include the interruption of EU financial and technical assistance programmes, as well as the suspension of international agreements. Member states only need to decide on the particular measure in the Council, while the Commission and the EEAS take care of the implementation.

Secondly, many restrictive measures fall within the CFSP framework and need to be implemented by member states. CFSP-only sanctions can cover visa bans or arms embargoes. Thirdly, if sanctions touch on the EU's economic or financial relations, they need to be further defined by a Council regulation, setting out the specifics and binding the member states to its proper implementation. The procedure had to be followed, for example, in order to block the trade of certain financial and industry products with Russia.

While the division of tasks and competences might still seem confusing, the joint preparation of the decisions by units attached to the EEAS is a significant improvement. Two sanction teams in the EEAS and the Commission, both under the authority of the High Representative, prepare the documents for the working groups and closely cooperate with EU delegations and the services of the EEAS and Commission. While the High Representative-led system streamlined the decision-making across different actors and policy fields, the new arrangement has its flaws. An important issue concerns the available resources of the EEAS to prepare and administer the growing number of sanction regimes. Overall, only eleven officials work in the two teams in the EEAS and the Commission. Increasing the personnel in Brussels, for example through the secondment of national officials, would help make the EU sanctions policy fit for purpose.

First, the EEAS sanctions team has the potential to play a crucial role in the integration of the policy instrument into the overall EU foreign policy toolbox. Sanctions stand a chance of having an effect only if they are used in concert with diplomatic advances, a communication strategy to the public,

and in close coordination with international partners that may wish to act in parallel with the EU (as for example in the case of Russia sanctions). The EEAS is theoretically in a position to coordinate the restrictive measures with the diplomatic tools of the EU and the services of the member states. In practice, however, the EEAS was criticized, for example in the case of the sanctions against Iran, where their communication strategy to the wider public failed.

Second, the secondment of national diplomats would strengthen the common institutional apparatus, which has thus far relied heavily on resources and intelligence from the big member states (especially Germany, France and the United Kingdom). To some extent their commitment is a positive development. The third stage of Russia sanctions would hardly have been possible without the engagement of Germany and a consensus of the 'big three'. After Angela Merkel wanted to send a clear signal as a response to the downing of MH17, the final political breakthrough came following a phone call with British prime minister David Cameron and French president François Hollande. In the next step, the President of the European Council, Herman Van Rompuy, instructed all heads of state and government to advise their ambassadors to work towards an agreement on 'stage three' sanctions.

While leadership is needed, the dominant role played by the big member states is raising eyebrows in Brussels. The big member states have the ability to influence the drafting of restrictive measures due to their better intelligence, seats in the UN Security Council (in the cases of France and the UK) and close US ties. The EU officials, in turn, have to rely on their input. While the EU's power balance will not change with the secondments of a few national diplomats to the EEAS, a broad representation of member-state officials would offer small and medium-sized member states increased ownership of the sanctions policy. Leadership by the big member states is welcomed in order to secure the political agreement; yet, in the long run, sanctions can only be sustainable if strong leadership is balanced by strong institutions.

Third, the EU sanction regime is in need of a centralized capacity to monitor the implementation of sanctions. The restrictive measures leave room for interpretation by the national authorities, which have an incentive to apply them less rigidly in order not to unnecessarily constrain their own export industry. Implementation might be particularly hampered in the event of uncertainties over how other member states apply the sanction rules to their industries. The EEAS and the national authorities need resources to systematically share information and adopt European-wide implementation guidelines on particular restrictive measures in order to alleviate uncertainties and foster a mutual understanding of the sanction regimes. Despite the existing dedicated Relex sanctions working group, the system lacks a centralized capacity in the EEAS that would gather and evaluate the knowledge on the implementation and impact of sanctions that exists at the national level.

Conclusions

Over the last few decades, the EU has increased and refined the use of sanctions as one among many instruments to reach its foreign policy goals. As argued in this paper, the sanctions against Russia over the Ukraine crisis constitute a qualitatively new step in EU sanctions policy. Albeit with great difficulty, the EU has remained united (also with the US) throughout the Ukraine crisis and has gradually developed a policy that has been stronger than many experts anticipated. While it may still lack a clear vision about its goals in the region, its gradually hardening response to the crisis has important strategic implications and shows that the EU is capable of demonstrating unity and strength, and making use of its collective diplomatic and economic weight amid very difficult circumstances.

Unsurprisingly, the Russia sanctions confirm that EU foreign policy suffers from lack of leadership and institutional weaknesses. The role of the biggest member states (in this case particularly Germany) is dominant especially in crisis situations. Institutional coherence has improved somewhat since the latest treaty reform, but the structures and resources struggle to respond to the demands (internal and external) for EU action. At the same time, the ability of EU foreign policy structures, notably the EEAS, to draw on member states' resources, is a considerable asset with further potential use.

As the Ukraine crisis has continued and trust towards the Russian leadership has evaporated, hopes for a speedy solution have faded. There is a

fundamental contradiction between the goals of Russia, which seeks to defend its sphere of influence in the post-Soviet space, and Ukraine, backed by the West, which insists on its right to self-determination and pursues closer ties with Europe. Longer-term tensions are hard to avoid. The EU is faced with a complex crisis where its security interests, economic interests and normative goals are intertwined but not easily reconciled, calling for strategic vision and a prudent combination of a variety of policy tools, with sanctions being just one of them.

The evolvement of EU positions on the Russia sanctions, including the strong impact of the MH17 tragedy and preoccupation with economic costs, makes the EU appear more selfish and realist than its own rhetoric on defending European values and international norms might suggest. Like other international powers, the EU is primarily concerned with defending its own political and economic interests, and struggles to strike the right balance between competing goals such as defending the norms of territorial integrity and national self-determination (in this case, of a neighbouring country), defending democratic values, ensuring peace and stability, and safeguarding economic interests. At the same time, defending international norms can be defined as one of the EU's core interests, which has motivated the incremental hardening of sanctions as a result of grave violations of these norms. What is at stake is much more than the fate of Ukraine. Indeed, the sanctions have done little to help Ukraine in its struggle for self-determination, but have rather served to impose a longer-term cost on Russia for violating the European security order.

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