RuAssetsWatch

MONITORING INITIATIVES TO CONFISCATE RUSSIAN ASSETS FOR THE RECOVERY OF UKRAINE

September 2023

In this release:

- **The U.S. Departments of Treasury and Justice gathered in Washington, D.C., members of the Russian Elites, Proxies and Oligarchs (REPO) Task Force to reinforce sanctions efforts and support ongoing initiatives to confiscate the assets of Russian oligarchs.**
- **International experts have presented convincing arguments that it is the multibillion-dollar frozen sovereign assets of the Russian Federation located in foreign jurisdictions that should be used to rebuild Ukraine's critical infrastructure, residential buildings, schools and hospitals, as well as to compensate victims of Russian aggression.**
- **The EU continues its policy of strengthening control over the enforcement of sanctions and preventing violations of the sanctions regime. The European Commission has issued a guidance for exporters on checking business partners for the risk of Russian sanctions circumvention. In particular, the guidance sets out what European exporters should do for due diligence of trade transactions to avoid violating EU sanctions.**
- **The EU is preparing to introduce a new, 12th package of sanctions against Russia. New restrictive measures, which could be presented as early as next month, are likely to include a ban on imports of Russian diamonds, and possibly a proposal to use the proceeds of the frozen assets of the Russian Central Bank to support Ukraine.**

- **The International Working Group on Russian Sanctions (the "Yermak-McFaul Group") has released a paper "Using Energy Sanctions to Shorten the War". Inter alia, the experts proposed to strengthen compliance with the price caps on Russian oil and limit Russia's use of the "shadow fleet" of tankers.**
- **The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has imposed sanctions on five entities and two individuals from Iran, China, Hong Kong, Turkey, and the UAE involved in the procurement of sensitive spare parts for Iran's unmanned aerial vehicle (UAV) program.**
- **The United States arrested a Russian citizen for illegally purchasing a significant amount of US-made dual-use microelectronics for delivery to Russia. The U.S. Department of Justice reported he violated the law by using a network of shell companies to smuggle US dual-use technologies to Russia, including sights, night vision goggles, thermal optics and weapons systems.**
- **ARMA has finally opened the Register of Seized Assets and the SPFU has launched a test operation of the Register of Sanctioned Assets. These measures will improve the efficiency of managing these assets and ensure public control over the work of the authorised state bodies.**
- **ARMA also put forward a legislative initiative to improve the process of managing seized assets: to remove the provision requiring the manager to coordinate its actions with the owner of the seized property.**

The material was prepared with the support of the International Renaissance Foundation within the framework of the project "Advocacy for the Green Recovery of Ukraine through Increased Support for Ukraine and Weakening of Russian Influence in the EU". The material reflects the position of the authors and does not necessarily reflect the position of the International Renaissance Foundation.

1. Why is the United States regarded as a leader in the confiscation of Russian sovereign assets? Possible mechanisms for the use/confiscation of such assets

Description of the situation

The U.S. Departments of Treasury and Justice gathered in Washington, D.C., members of the **Russian Elites, Proxies and Oligarchs (REPO) Task Force** to strengthen sanctions efforts and support ongoing initiatives to confiscate the assets of Russian oligarchs.

According to a press release from the U.S. Department of Treasury, participants from Australia, Canada, the European Commission, France, Germany, Japan, Italy, the United Kingdom, and the United States discussed ongoing sanctions enforcement initiatives and noted the need to counter Russian elites and their proxy networks that continue to enable and profit from Putin's war economy. Deputies emphasized that those profiting from Russia's war should not be able to be able to live lives of luxury, and that Task Force members will continue to identify and disrupt proxy networks that attempt to use global financial centers to store and access wealth. Deputies also discussed ongoing efforts to counter sanctions evasion and disrupt Russian efforts to acquire critical dual-use technologies.

Following the G7 Leaders commitment in May, the REPO Task Force has completed its initial effort to map and account for Russian sovereign assets that are immobilized and held in REPO member jurisdictions. REPO members committed to taking steps to fully map these holdings and ensure that, consistent with their respective legal systems, Russia's sovereign assets held in REPO member jurisdictions will remain immobilized until Russia pays for the damage it has caused to Ukraine. **The total value of assets in this mapping exercise is estimated at around $280 billion**, the majority of which is held in the European Union. Given the complexity of this exercise, Task Force members expect to **refine the asset mapping through the end of the year**, leveraging new reporting requirements and enhanced information sharing arrangements.

U.S. Deputy Attorney General Lisa Monaco said in an interview with CBS NEWS: "Since the start of the war, the U.S. has moved to seize more than a billion dollars of sanctioned assets around the world. We are seeking the authority from Congress to allow us to use the proceeds for the benefit of the Ukrainian people."

In addition, Monaco announced the extensive cooperation of the U.S. Department of Justice's KleptoCapture task force with partners: " We need the cooperation of our international allies and partners. We need their cooperation on investigations—and we're getting it. What we're seeing is this really unprecedented, galvanized international community coming together to isolate the Putin regime, to condemn its incredible brutality against the Ukrainian people."

Analysis

Atlantic Council analysts Kimberly Donovan and Charles Lichfield have published a study in which they note that the debate over how to put the funds blocked in Western countries to good use remains unresolved. Influential voices have called for Ukraine to use the funds for its reconstruction but no executive branch has been convinced yet, the authors conclude.

Arguments in favor of giving the money to Ukraine are often well-put and compelling. But so are the counterarguments, which officials voice, usually but not only off the record. US Treasury Secretary Janet Yellen hinted she still has strong doubts about such a measure as she mildly endorsed alternative proposals under discussion in the European Union (EU). European Central Bank President Christine Lagarde has also expressed skepticism that such a measure can be taken without affecting the financial stability of the eurozone—which is where most of the money is stored.

With regard to the blocking of the Central Bank of Russia's reserves, as of the last reporting period (March 2023), cash is accumulating in Euroclear, as the coupon and principal payments on safe government bonds bought by the Russian central bank came in and sanctions prevented Euroclear from crediting these to the central bank's cash account. So far, it has already tripled Euroclear's balance sheet and allowed it to earn interest on this cash by depositing it in eurozone central banks. Acknowledging the positive effect this has had on Euroclear's profits, and therefore on the tax it owes, the Belgian government has made additional financial commitments to Ukraine to the tune of a hundred million euros.

Useful though it may be, one hundred million euros is a drop in the ocean compared to the three hundred billion dollars of assets of the Russian Federation. In March 2023, a well-publicized leak from the European Commission revealed that thinking inside the European Union (EU) about what more can be done was advancing. As the pile of money grows, the leaked documents outlined, it could be invested much more profitably, with the goal of creating an annuity for Ukraine of at least two billion dollars a year. Recent reports, however, suggest member states are dragging their feet on this plan.

In such a high-interest-rate environment, it would be a terrible shame to miss such an opportunity to invest the money, analysts at the Atlantic Council say. Of course, concerns for the precedent this would create also exist, as the EU or any other power taking this step would notionally have to compensate Russia should the investments that are made lose value. Some also fear that such a move would pit the EU against Euroclear shareholders. n this very special case, however, it's hard to see why the collective of large European banks and governments would not make an exception for Ukraine.

The International Working Group on Russian Sanctions (the "Yermak-McFaul Group") has released a Paper #15 "Why and How the West Should Seize Russia's Sovereign Assets to Help Rebuild Ukraine". In particular, the group of experts provides convincing arguments for the need to seize the frozen assets of the Central Bank of the Russian Federation and use them to rebuild Ukraine and compensate the victims of the war.

They argue that this this could be done on the basis of two alternative legal approaches. The seizure of Russian sovereign assets could be carried out as a transfer of these assets on the basis of an executive order to escrow accounts with a central bank. Alternatively, these assets could be confiscated on the basis of new or existing legislation. Since this is state property, no legal protection of private property rights applies. Western countries that hold Russian sovereign assets should first declare these as a matter of full disclosure and transparency. The EU has done so in May 2023, but the United States, Canada, the United Kingdom, and Japan have not.

The Group has put forward several counterarguments relating to international law. For example, since these assets have already been immobilized, they cannot be protected as private property because they are not. Another objection is that the Russian assets are sanctioned, and the idea of sanctions is to compel the sanctioned party to change behavior after which the sanctions will cease, and the assets will be returned. The atrocious acts of the Russian state contradict everything in international law; in the same way, a thief should not be allowed to protect his loot with reference to any property rights.

Countermeasures are acts of state that have long been recognized as extrajudicial means of self-help in the international system. As long as the countermeasures are proportionate to the wrongs, they do not require judicial or arbitral processes to implement compensation. Ironically, Russia has already begun using state countermeasures, but against private property and in violation of international law. In April 2023, through a presidential decree, Russia began more openly taking control of foreign companies and private assets over which it has jurisdiction. This decree, first applied to companies from Finland [Fortum] and Germany [Uniper], authorizes the Russian government to grab all private property owned by companies from countries defined as "unfriendly". Russia has justified this policy in the language of a state countermeasure, claiming it is 'a response to the aggressive actions of unfriendly countries'. Russia has proceeded to nationalize Russian assets of the Danish company Carlsberg and French Danone.

The obligation to pay reparations for a violation of international law is a well-established norm. There is ample historical precedent for war reparations, and the legal grounds for confiscating the currency reserves of the Central Bank of Russia have been established. Russia's unprovoked invasion and attempted annexation of Ukraine in 2022 shares many similarities with Iraq's unprovoked invasion and attempted annexation of Kuwait in 1990. At the end of that war, Iraq was forced to pay substantial reparations to Kuwait. Similarly, Russia should be required and forced to pay war reparations for all the damage it has caused Ukraine.

Russia is different from Iraq in two central ways, raising doubts among some about the ability of the international community to compel the Russian government to pay reparations.

First, some argue that Russia cannot be defeated militarily because of its nuclear arsenal, and only clear-cut losers in wars pay reparations. A second concern is that Russia is one of the five permanent members of the United Nations Security Council and therefore can always veto any international proposal about reparations. Both these issues can be overcome by confiscating Russian government assets already frozen outside of its jurisdiction.

One of the most common objections is that seizing Russian Central Bank reserves would constitute a violation of property rights. Each country has its own constitution, which protects property rights. International institutions, including the European Convention on Human Rights, have also advocated for similar protections. But these protections do not apply to sovereign assets. The property rights of an individual are different from the property rights of a state.

Experts have argued that the laws and legal mechanisms for this asset transfer are already in place in the United States. Gary Hufbauer and Jeffrey Schott of the Peterson Institute for International Economics note that the United States has two powerful laws for seizing foreign assets: *The Trading with the Enemy Act of 1917* and the *International Emergency Economic Powers Act (IEEPA) of 1977*. Both these laws focus on the freezing of foreign assets. The USA Patriot Act of 2001 also gives the US government additional powers to seize assets of belligerent countries, as well as to dispose of them as the president sees fit. The alternative approach is that the US Congress amends IEEPA and authorize the President to confiscate Russian state assets.

On June 15, 2023, U.S. Senators Jim Risch and Sheldon Whitehouse, together with U.S. Representatives Michael McCaul and Marcy Kaptur, introduced the *Rebuilding Economic Prosperity and Opportunity (REPO) for Ukrainians Act*. This bipartisan legislation aims to provide additional assistance to Ukraine by using assets confiscated from the Central Bank of the Russian Federation and other sovereign assets of the Russian Federation. The Act would authorize the U.S. President to confiscate Russian state assets through an executive act to a central bank escrow account. A global compensation fund is also to be established to compensate Ukrainian citizens for losses incurred. The group of experts hopes that the law will be adopted in the fall of 2023.

Experts also argue that there is no valid economic reason to fear that the Western utilization of the reserves of the Central Bank of Russia will undermine the status of the US dollar or the euro as long as the US and the EU act together as they have done in the G7 in defense of Ukraine. For no good reasons, the ECB has warned "that using interest rate proceeds from immobilized Russian assets could encourage other central banks that hold large reserves of money to 'turn their back' on the euro." Concretely, this means that the ECB is serving kleptocracies around the world rather than defending Europe and its supposed values. Economically, these concerns are unwarranted, since no non-Western currencies are credible reserve currencies. The US and the EU need to coordinate their confiscation of Russian state assets, since they possess the two relevant reserve currencies.

If the US Congress adopts the REPO Act in the fall of 2023, the European Union is likely to follow suit. However, the problems that the EU leadership is facing illustrates that the United States needs to lead, with Canada, possibly the UK and Japan following in coordination with the G7. The entire international legal system will be changed with the shift from sanctions to countermeasures, which should be the new standard.

Laurence H. Tribe, emeritus University Professor at Harvard Law School, and Raymond P. Tolentino in an article for Time magazine, criticize the half-hearted approach to transferring profits/interest from the use of sovereign Russian assets to Ukraine rather than confiscating all frozen assets. In particular, they note that accepting this proposal would be sorely mistaken. For one thing, the estimated $3 billion a year generated by Russian assets comes nowhere close to the hundreds of billions of dollars that Ukraine needs immediately for its defense and eventual reconstruction. For another, it's hard to see why transferring the interest and profits earned on

Russia's frozen assets to Ukraine would avoid the purported legal pitfalls of an outright and complete seizure. After all, Russia has just as much an ownership claim to its interest/profits on its frozen assets as it does to the underlying principal. The authors call this compromise "false".

In summary, international experts provide convincing arguments for Western governments that it is the multibillion-dollar frozen sovereign assets of the Russian Federation, which are in a passive state under the jurisdiction of foreign jurisdictions, that should be used to rebuild Ukraine's critical infrastructure, residential buildings, schools and hospitals, as well as to compensate victims of Russian aggression.

2. The sanctions policy of Ukraine's partners is aimed at strengthening enforcement measures. But does everyone support this policy?

Description of the situation

The EU continues its policy of strengthening control over the enforcement of sanctions and preventing violations of the sanctions regime. The European Commission has issued a Guidance for exporting companies on checking business partners for circumvention of sanctions imposed on Russia.

As a reminder, the document "Tri-Seal Compliance Note: Cracking Down on Third-Party Intermediaries Used to Evade Russia-Related Sanctions and Export Controls" was published on 2 March 2023 by the U.S. Department of Commerce's Bureau of Industry and Security (**BIS)**, the U.S. Department of Justice (**DOJ),** and the U.S. Department of the Treasury's Office of Foreign Assets Control (**OFAC**). This document details how the Russian Federation uses third-party intermediaries and transshipment points to circumvent restrictions and obscure the true identities of end users, and highlights various tactics to assist the US private sector in identifying red flags and implementing appropriate preventive measures.

Now the European Union has issued similar warnings for its own businesses. The guidance outlines what exporters should do when implementing due diligence on their trade transactions to avoid violating EU sanctions and facilitating prohibited activities involving Russia. This increased risk justifies the development of an enhanced due diligence model, particularly for high-risk sectors and complex supply chains. Operators registered or established under the laws of an EU Member State have direct requirements to comply with EU sanctions legislation.

In particular, each EU operator must develop, implement and routinely update a sanctions compliance programme that reflects their individual business models, geographical areas of operations and specificities and related risk-assessment regarding customers, business partners and staff. Exporters are advised to pay attention to indicators such as a complex route of transportation of goods, atypical documentation, complex payment schemes, etc.

The Guidance includes a list of indicators ("red flags") that may indicate that new trading partners are likely to circumvent EU sanctions:

- ✓ Indirect transactions (such as those using intermediaries, shell companies, etc.) that make no or little economic sense;
- ✓ New customer/transactions with companies located in countries known as "circumvention hubs" and involving items listed as high-priority battlefield items;
- ✓ Transit though territories known as “circumvention hubs” based on the information available;
- ✓ Complex corporate or trust structures linked to countries friendly to Russia or whose complexity is not justified by the business profile of the customer. Use of trust arrangements or complex corporate structures involving offshore companies;

- ✓ Business partner has been recently established or has merged with a sanctioned entity or an entity linked to sanctioned entities or persons;
- ✓ Business partner shares address with multiple different companies (e.g, it is likely a shelf company);
- ✓ Changes of ownership of a corporate holding to reduce ownership stakes below the 50 percent threshold;
- ✓ Change of ultimate beneficial owner shortly before or after sanctions are imposed;
- ✓ Movement of assets previously associated with a sanctioned person, by family members or otherwise on their behalf;
- ✓ Numerous transfers of shares from sanctioned entities to non-sanctioned entities involving corporations incorporated by the same individuals or entity (often with a registered office at the same physical address);
- ✓ Potential control of an entity by a designated person, despite apparent direct ownership under the 50 percent threshold (member of Board of Directors, beneficial owner, managing director, other entities or persons on the ownership structure linked with a designated person);
- ✓ CEO/manager is never available for discussions, i.e. all communications go via a regular employee or a representative who seems to have a general Power of Attorney (PoA).

According to APNews, US Treasury Secretary Janet Yellen is facing growing skepticism from some leading rich and developing nations as the residual impact of sanctions against Russia is deepening divisions among the Group of 20 countries. The G20 summit in India not only exposed differences, but also strengthened alliances among some nations that have long been resistant to the efforts of the United States and its allies.

E.g. the United States and its allies among the G7 insist that the sanctions and a price cap on Russian oil have been successful at restricting revenue for the Russian economy, even though it grew, in a year-to-year comparison, by 4.9% in the second quarter of 2023. At the same time, largely due to the impact of Western sanctions, trade between Russia and China and India, which can buy Russian energy at reduced prices, has increased.

Nevertheless, Ukraine's allies continue to put pressure on the Russian economy and limit Russia's attempts to circumvent sanctions through intermediary countries. According to Bloomberg, the EU is preparing to introduce the 12th Russian sanctions package. The new restrictive measures are likely to include a ban on imports of Russian diamonds, as well as a long-awaited proposal to use the proceeds from the frozen assets of the Russian Central Bank to help Ukraine.

According to the newspaper's sources, a group of EU member states, including Poland and the Baltic states, called for additional sanctions on Russian liquefied natural gas and IT services. The group of countries has also urged restrictions on Russia’s nuclear sector. But those attempts have been resisted many times before, as too many member states are opposed. According to Bloomberg, Poland also wants to tighten sanctions on some commodities adopted in previous packages: proposals include lowering import quotas for synthetic rubbers, making steel restrictions more effective and introducing a ban on solid caustic soda. Warsaw is also seeking a new sanctions package against Belarus.

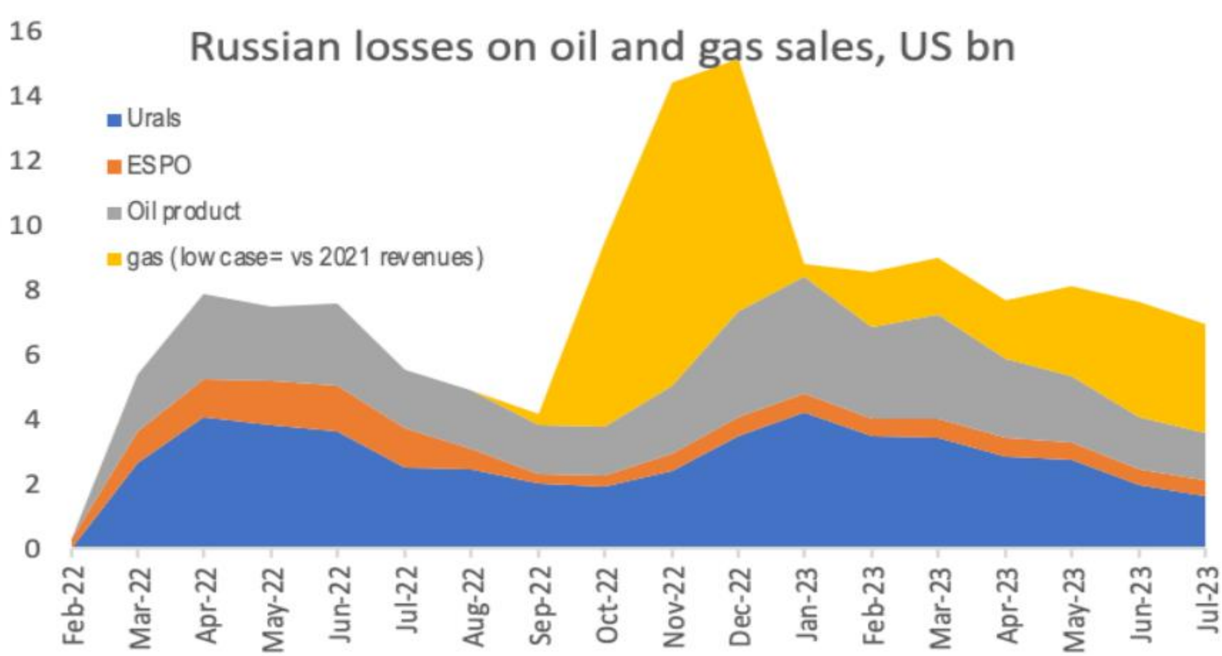
The new package could come during the first half of October, or be announced during the planned EU-US summit (the date has not yet been set). Any new package is also likely to include further moves to crack down on Russia's ability to get round the EU's sanctions through third countries.

Analysis

The International Working Group on Russian Sanctions (the "Yermak-McFaul Group") has published an analytical paper #14 "Using Energy Sanctions to Shorten the War". As the Head of the Office of the President of Ukraine Andriy Yermak noted: "Energy sanctions are working, but they need to be significantly strengthened. In a new analytical paper, the Group provides detailed proposals for improving and strengthening the sanctions pressure on the aggressor country's energy sector. Improving compliance with the sanctions and adopting the new proposals of the Group will help to further reduce Russia's energy revenues by at least half."

The document proposes, among other things, to strengthen price-cap compliance, in particular, by requiring that price attestations for Russian oil cargoes can only be issued by a whitelist of approved traders. It is also proposed to limit Russia's use of its "shadow" fleet of tankers. To this end, all tankers transiting through ecologically sensitive European territorial waters should be required to prove that they have adequate oil spill insurance.

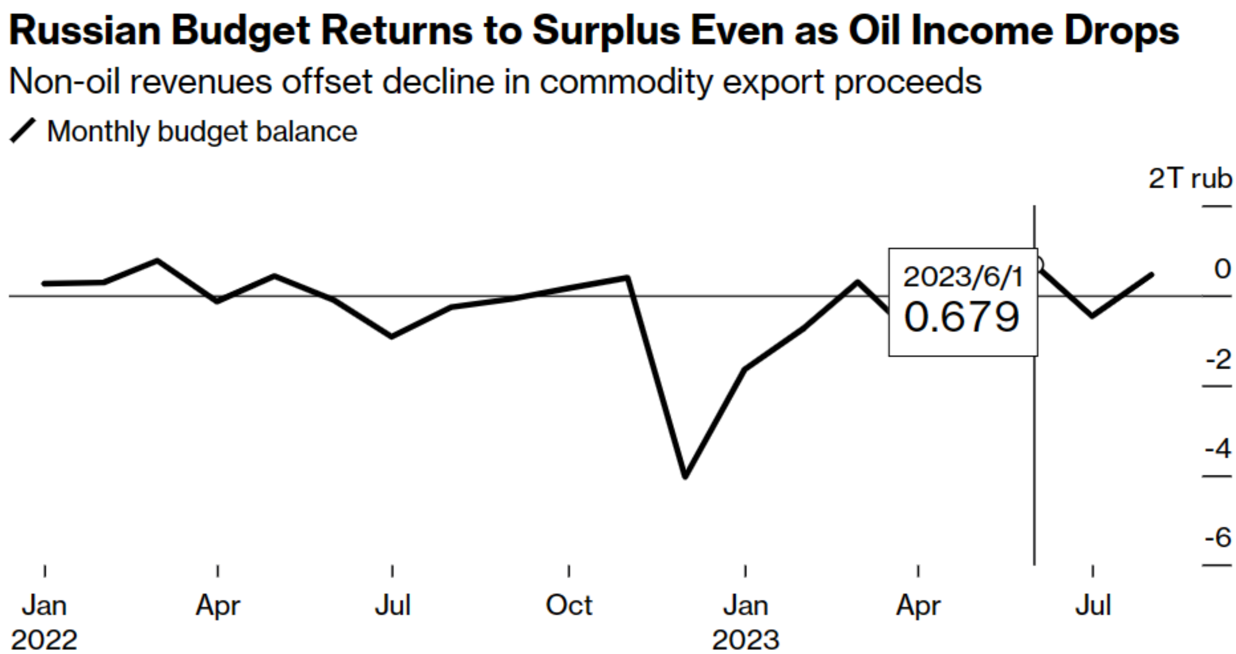
Monthly Russian losses on oil and gas sales, USD bn.



Source: Kyiv School of Economics, based on IEA data

Experts also noted that the total loss of Russia's revenues from oil and gas exports cannot be accurately estimated. Nevertheless, according to the Kyiv School of Economics, the total loss of oil and gas revenues of the Russian Federation since February 2022 has reached $140-170 billion, and the current monthly losses are $5-7 billion.

Despite these measures, the Russian economy is showing resilience. According to Bloomberg, Russia's budget moved back into the black last month, as the government dials back spending and a surge in non-oil income makes up for a drop in energy revenues. According to Bloomberg's calculations based on data from the Russian Finance Ministry, the budget surplus in August reached 456 billion rubles ($4.7 billion), one of the largest monthly figures this year.



Source: Bloomberg, Russian Finance Ministry

Atlantic Council analysts Brian O'Toole and Daniel Fried write in their study "Five ways the West might increase pressure on the Russian economy": although the drop in the ruble's exchange rate since Russia's full-scale invasion of Ukraine is an imperfect indicator of true financial health, there is no denying that the West's financial sanctions, export controls, and other economic measures have had a significant impact on the Russian economy. Russia's macroeconomic woes are only increasing as its export revenues—especially hydrocarbons—continue their decline and its internal economy is increasingly fixated on wartime production at the expense of real economic development.

The authors identify **five** core areas in which economic pressure on Russia could be intensified further:

1) Increase enforcement of export controls

Prohibited technology and goods reach Russia through elaborate third-country schemes to evade export controls. Stopping these illicit channels is labor intensive. The US administration has stepped up efforts to meet the challenge. Since February 2023, the US Department of

Commerce's Bureau of Industry and Security and the US Department of Justice have increased their cooperation. In addition, senior US officials are traveling the globe to caution governments to avoid becoming transit points for illicit trade.

However, unlike financial sanctions that act as a bottleneck in a relatively small number of major global financial institutions, exporters of goods are much more widely spread and, crucially, have not been subject to the same intense US enforcement glare as the banking sector. More effective enforcement would require more ambition with and significant investment in the existing export control coordination and enforcement infrastructure across the G7 countries.

2) Tighten the oil price cap

In September 2022, the G7+ coalition launched a novel measure intended to reduce Russia's revenues from oil sales while maintaining the supply of Russian oil to avoid shortages and price shocks. Despite numerous allegations of cheating, the price cap seems to have worked as intended: Russian oil revenue has dropped substantially—due to some combination of external macroeconomic factors, risk aversion in the market, and the G7 price cap—and without a major price shock.

However, recent reports suggest that the price cap's enforcement is being tested as global energy prices climb. Indeed, the average price of Russian crude has recently surpassed the sixty-dollars-per-barrel cap, and Russia is reportedly attempting to circumvent the cap by inflating shipping costs. US Treasury officials have argued before that without adjustments to the price cap, the effectiveness of economic pressure tends to weaken over time. If Western countries want to keep the pressure on Russia's economy consistent going forward, and to do so without spiking global energy markets, then one way is to focus on enforcement efforts that target price cap cheating.

3) Tap immobilized Russian foreign exchange reserves for Ukrainian reconstruction

The direct effects on Russia of being permanently deprived of these assets might not affect Moscow in the short- to medium-term; Russia may have considered them as lost in any case. But the symbolic effects of taking more than half of Russia's sovereign assets to compensate the victim of Russia's illegal war would be enormous. Moreover, it could reduce the degree of criticism of Western governments for providing financial and military assistance to Ukraine.

4) Follow (and uproot) the money

Since 2014, Western sanctions have targeted Putin's corrupt inner circle. The assets of some of Putin's cronies have been frozen and even seized. But uncovering hidden Russian assets—private and state-linked—cannot be done simply by chasing sanctioned persons.

Legislation and regulation to create greater transparency in the global financial system has been under discussion for decades within the intergovernmental groups. This has resulted in advances in beneficial ownership identification legislation and elimination of financial obfuscation techniques like bearer shares. But there are other areas identified by transparency advocates that have yet to become law in major jurisdictions such as the United States. One idea would be to extend anti-money laundering regulation to non-bank financial intermediaries such as lawyers, accountants, and real estate firms.

5) Impose a full financial embargo (with carve-outs)

A formal financial embargo would likely isolate the Russian economy even more—its symbolism perhaps more powerful than the actual impact. It would certainly ease enforcement of existing sanctions and export controls. It is easier, for example, for enforcement authorities to quash all financing involving Russia and all exports to Russia (except specific carve-outs) rather than just certain types of exports falling under specific product codes.

Russia would likely seek to mitigate the impact of such an embargo by using the Chinese yuan or the Indian rupee. However, these attempts would be limited, as those currencies are useful chiefly for purchases only from China or India, not in global markets.

Against this backdrop, the U.S. Department of the Treasury's Office of Foreign Assets Control **(OFAC**) sanctioned five entities and two individuals based in Iran, the People's Republic of China, Hong Kong, Türkiye, and the United Arab Emirates involved in the procurement of sensitive parts for Iran’s one-way attack unmanned aerial vehicle (UAV) program. This network has facilitated shipments and financial transactions in support of the Islamic Revolutionary Guard Corps Aerospace Force Self Sufficiency Jihad Organization’s (IRGC ASF SSJO) procurement of servomotors, a critical component used in Iran’s Shahed-series UAVs. Iran supplied Russia with Shahed-136 UAVs to support Russia's illegal invasion of Ukraine. Iran has been supplying Russia with Shahed-136 UAVs to support Russia’s illegal invasion of Ukraine. One of the servomotors procured by the network was recovered in the remnants of a Russia-operated Shahed-136 that was shot down in Ukraine. Since September 2022, OFAC has issued nine rounds of designations targeting Iran’s UAV program.

Case: arrest of Russian citizen Maxim Marchenko

According to a press release from the U.S. Department of Justice, Marchenko violated US law by using a network of shell companies as part of a network to smuggle U.S.-manufactured dual-use technology into Russia, including sights, night vision goggles, thermal optics and weapon systems. In particular, Marchenko and other members of the conspiracy acquired the dual-use OLED micro-displays from U.S.-based distributors using Marchenko’s Hong Kong-based shell companies, including Alice Components, Neway and RG Solutions.

Members of the conspiracy, including Marchenko, procured these sensitive microelectronics by falsely representing to the U.S. distributors (who, in turn, are required to report to U.S. agencies) that Alice Components was sending the shipments to end users located in China, Hong Kong and other countries outside of Russia for use in electron microscopes for medical research. In reality, the OLED micro-displays were destined for end users in Russia.

“Disrupting the efforts of facilitators and procurement agents like Marchenko, who use their skills and connections to advance the agenda of the Russian war machine, is one of the most important priorities of this task force. Today’s arrest should serve as another reminder that we will leverage and deploy every tool to bring these criminals to justice,” said Task Force KleptoCapture Co-Director David Lim.

Despite these measures, components manufactured by Western companies are increasingly found in Russian military products. These parts reach Russia through intermediaries in countries such as Tajikistan, the UAE, Türkiye, China and Kyrgyzstan – none of which have joined Western sanctions against Russia.

According to The Guardian, the European Commission has warned European companies and governments that it could ban the sale of certain components to Turkey and other countries from where Iran and Russia are sourcing parts for drones and other weapons striking Ukrainian cities. Five European companies including a Polish subsidiary of a British multinational were named as the original manufacturers of the identified components for Iranian UAVs. Customs information was said to show that "almost all the imports to Iran originated from Turkey, India, Kazakhstan, Uzbekistan, Vietnam and Costa Rica".

According to the publication, a European Commission spokesperson said evidence that components were being sourced via such countries showed that EU sanctions were creating "significant pressure on their targets" but there needed to be tougher enforcement by member states. This means keeping a close eye on foreign operators that are re-exporting EU sanctioned goods without the knowledge of the EU exporter.

Moreover, the West criticizes companies that continue to operate in Russia or supply technological products there. According to APNews, the head of the U.S. Senate Foreign Relations Committee, Bob Menendez, asked the top three oilfield services companies (SLB, Baker Hughes and Halliburton) to explain why they continued doing business in Russia and demanded that they commit to "cease all investments" in Russia's fossil fuel infrastructure. Customs data showed that in the year following the invasion in February 2022, Russia imported more than $200 million in technology from these companies. SLB even slightly grew its Russian business. Much of Russia's oil is hard to reach, and analysts say that had U.S. oilfield services companies all pulled out, its production would have taken an immediate hit.

Despite the increased sanctions pressure and export controls, Russian assets are actively migrating. According to Swissinfo, Russian millionaires, who now doubt the real value of Swiss neutrality, are turning away from the country. In its Global Wealth Report 2023, the Boston Consulting Group (BCG) spoke of a "significant exodus of Russian assets from Europe to the Middle East", evidenced by a $100 billion rise in wealth deposited in the United Arab Emirates last year, the fastest annual growth of any offshore booking centre.

Nobody appears able to say exactly how much money wealthy Russians have salted away in Switzerland. The Swiss Bankers Association estimates the total at around CHF150 billion, which pales in comparison to the CHF2.2 trillion in offshore assets that are managed by Swiss banks.

An obligation to report deposits of over CHF100,000 belonging to Russians who do not reside in the EU or Switzerland, Norway, Liechtenstein and Iceland has turned up CHF46 billion. Switzerland has frozen CHF7.5 billion of sanctioned Russian bankable assets along with some 15 properties.

"The sparse information on Russian assets in Switzerland suggests that the authorities are not active enough in looking for hidden assets of sanctioned persons," said Martin Hilti, head of

Transparency International Switzerland. "However, the authorities should implement sanctions proactively by joining international task forces." Switzerland has so far rejected this type of international cooperation, arguing that Swiss sanctions already function perfectly well without joining the REPO taskforce. The Swiss chapter of Transparency International demands that lawyers, financial advisors plus real estate and art transactions be subject to the same exacting anti-money laundering measures as banks.

3. State registers of assets seized in criminal proceedings and sanctioned assets have been launched in Ukraine

Description of the situation

After almost six years of development and launch, the Asset Recovery and Management Agency (ARMA) has finally opened public access to a fully functional Register of Seized Assets.

The Register is a complex information system that provides for integration with other registers and databases. This allows it to accumulate all the necessary information on the status, condition of assets, criminal proceedings in which they were seized, procedural actions with assets, and information on all asset management measures taken by ARMA. In other words, the Register reflects information from the seizure of an asset to the results of its management in the form of specific monetary amounts transferred to the state budget.

The Register is not only a database of assets managed by ARMA. It contains information on all assets seized by the law enforcement system. The total number of asset records currently stands at over 129,000. Of these, 36,000 records relate specifically to assets that have been transferred to ARMA's management.

In turn, the State Property Fund of Ukraine (SPFU) has launched the Register of Sanctioned Assets for test operation. The SPFU is the authorised state body for the management of sanctioned assets, and it is the body that receives assets confiscated from sanctioned persons in accordance with the Sanctions Law following a decision of the High Anti-Corruption Court. And it is the SPFU's work that will determine how effectively these confiscated assets will be used to rebuild Ukraine, rather than generate profits for their former owners.

Source: SPFU

136 items of sanctioned property		17 sanctioned persons	
Stage 1 Assets are placed under the Fund's management	Stage 2 Registration of property rights	Stage 3 Preparation for privatisation or lease of property	Stage 4 Holding an auction on publicly accessible platforms

The effectiveness of the work of authorised state bodies in managing property depends, among other things, on the regulatory framework. Thus, ARMA appealed to the Prime Minister of Ukraine Denys Shmyhal to facilitate the adoption of Draft Law No. 6233 No. 6233 as soon as possible.

Under current law (Article 21(7) of the ARMA Law), managers of property in the form of shares in the authorised capital or shares and units of legal entities must coordinate their actions with the owners of the seized assets. In particular, this concerns the exercise of the powers of the owner of such assets in the supreme governing bodies of the relevant legal entity.

According to ARMA, such legislative requirements appear illogical and outdated, as:

1) In many situations, the owners of the assets are Russian residents or persons related to them;

2) A large number of seized assets related to the state that unleashed unprecedented military aggression against Ukraine were transferred to the management of the ARMA.

Thus, the requirement for the manager to coordinate its actions with the owner of the seized property completely paralyses the process of managing such assets. Back on 29 October 2021, ARMA secured the registration in the Parliament of Draft Law No. 6233, which was intended to improve the process of managing seized corporate assets.

In 2022-2023, ARMA received 321 decisions on transferring assets to the management, including 201 decisions on transferring assets from Russia and Belarus. In almost every decision, the ARMA received corporate rights of legal entities, most of which play an important role in such sectors as agriculture, construction, industry and transport (for example, Karpatnaftokhim LLC, Morshyn Mineral Water Plant Oscar PJSC, Myrhorod Mineral Water Plant PJSC, Lvivska Izoliatorna Kompaniia LLC, Aerok LLC, Pentopak PJSC and others).

Analysis

Undoubtedly, improving the work of government agencies that, in the context of unprovoked Russian aggression against Ukraine, are conducting multi-stage work with the assets of sanctioned persons, is of great importance both for Ukrainian society and for partners who help Ukraine in its fight against the aggressor.

In an article for Ekonomichna Pravda, Yevhen Magda, Director of the Institute of World Policy, analyses the position of Stephen Blank, a reputable Atlantic Council researcher. He wondered why most of the sanctions adopted by the National Security and Defence Council have not yet been supported by the EU and the US. Blank also analyses the danger of corruption in the public administration system.

His conclusion is that **most of the sanctions adopted by Ukraine are not supported by Western partners** due to the lack of transparency, inconsistency, legislative unregulation and, so to speak, "arbitrariness" of the sanctions process.

The author notes the achievements of Ukraine, which is leading global sanctions efforts by its example and the valuable research done by the bilateral Yermak-McFaul International Expert Group. However, Blank also emphasises that the "independence" of sanctions imposed by Ukraine from the judicial system plays a cruel joke.

He explicitly calls for the sanctions process to be protected from corruption and outside influence and to have safeguards in place in case of mistakes. After all, there is a great temptation to use sanctions to destroy competitors or settle personal scores. "Sanctions enforcement should be protected from corruption and state capture. If Ukraine wrongly sanctions domestic or foreign companies, it must provide for a clear and legitimate appeal process, observing the rule of law. This is one of the main differences between the Ukrainian and Western sanctions regimes that awaits harmonization. If wartime sanctions abuse proliferates and becomes an excuse to settle accounts, or subvert business competition, neither Ukraine nor the West benefits," Blank says.

He also emphasises that these "deficiencies are not indictments of the Ukrainian cause or sanctions" and suggests ways to solve the problems. They can be resolved with **more interagency cooperation inside Ukraine and multilateral consultations and cooperation**, which would impart transparency and synchronize sanctions.