

Sanctions against Russia: 2018 Review and Forecast for 2019

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Sanctions against Russia: 2018 Review and Forecast for 2019

Sanction's Policy: Six Trends in 2018

The past year was characterized by growing number of sanctions against Russia. In 2019, the pressure on Russia will still be increasing, and the scenario when sanctions grow further is considered among the main ones. However, the escalation of sanctions may get intensive or super-intensive. The quality of this process will be determined by political and legal factors. When it gets to politics, the basis is the possible worsening of the situation in Ukraine, Syria, on cyber security issues and other sensitive topics in relations between Russia and the West. The legal factors include the implementation of existing and the adoption of new legal norms defining sanctions against Russia. It is obvious that the legal factors will be closely connected to the political context. We characterize the basic tendency as self-reinforcement and self-reproduction of sanctions due to the accumulated legal base, extremely low probability of resolving political contradictions, and high sensitivity towards provocative actions and events. In this situation, local and peripheral crises can have disproportionately serious consequences.

Currently, 37 states have imposed sanctions against Russia. The key initiators are the United States and the European Union. Historically, the United States proved to be the most active initiator of sanctions — during the 20th and early 21st century, Washington imposed sanctions more often than all other countries and international organizations, including the UN, together¹. The EU can be viewed as a new and a “rising” player in the sanction's policy. Often, EU sanctions correlate with the U.S. ones, but differ in many details. Thus they cannot be regarded as truly identical.

By sanctions, we understand the use of economic restrictions by the initiating country upon the target country to change its domestic or foreign policy course. In other words, sanctions are an instrument of power and coercion in international relations, a means to force the target country to fulfill the political demands of the initiating country through trade and financial restrictions, as well as involvement in third country sanctions regimes. Sanctions are different from trade wars. The governmental structures traditionally initiate sanctions, while business is usually passive in the process. Trade wars, on the contrary, mainly pursue economic goals and are often lobbied by business². In legal terms, sanctions can also be quite clearly differentiated from trade wars: at least in the legal environment of the U.S. and the EU, sanctions have clear legal boundaries. From the point of view of international law, the use of unilateral sanctions by individual states or their coalitions, bypassing the decisions of the UN Security Council, has questionable legitimacy³. However, they have become a significant foreign policy tool, which is reflected in the doctrinal documents of both the United States and the EU⁴. Today, unilateral sanctions are freely imposed bypassing the UN Security Council.

By 2018, the policy of sanctions against Russia had acquired several important trends:

1. Sanctions against Russia are imposed in multi-speed mode. The gap between the U.S. and the EU towards Russia is growing. On the U.S. side, there has been an exponential escalation of anti-Russian sanctions. On the EU side one can track consistent implementation of previously adopted decisions on the “Ukrainian package” with a limited increase in new sanctions.

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¹ Hufbauer, Gary; Shott, Jeffrey; Elliott, Kimberly; Oegg, Barbara. Economic Sanctions Reconsidered. Third Edition // Peterson Institute for International Economics, 2009. P. 5, 17.

² Timofeev I.N. Economic Sanctions as a Concept of Power Politics // MGIMO-University Vestnik, 2018, № 2.

³ See: Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights // UN General Assembly. Human Rights Council. August 10, 2015.

⁴ National Security Strategy of the United States of America // The White House. December, 2017. P. 34. URL: <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>; National Security Strategy of the United States of America. February 2015. P. 4, 11, 23.

The multi-speed mode trend was shaped at the end of 2016, when the Executive Order of President Obama No. 13757⁵ imposed sanctions following the alleged Russian cyber-attacks. In 2017, Public Law 115-44 (CAATSA)⁶ supported the escalation trend. In addition to the “Ukrainian package”, other restrictive measures related to Russia’s Middle East policy, the alleged interference issues, “Russian propaganda” and “undermining” democratic institutions in the West, violation of human rights and corruption were added. In 2018, CAATSA and other regulations were used against Russian private and state-owned companies, as well as against physical entities on almost the whole range of new reasons. The most noticeable imposition of sanctions was on April 6, 2018. New restrictions reverberated across the world because of significant international role of such companies as *Rusal*, *En+*, etc.

Another area of escalation was the use of Public Law 102-182⁷ against Russia, in particular, the Chemical and Biological Weapons Control and Warfare Elimination Act. The main reason was the “Skripal case”, although in addition to the Salisbury incident, the Americans are appealing to Russia’s support of the Assad government, accused by Western governments of using chemical weapons. In addition, Russia is blamed for “slowing down the investigation” of chemical incidents in Syria.

Further development of this trend is associated with bills to expand sanctions on the subject matter of “interference”, the use of WMD, and Russia’s countermeasures in the digital environment. Two bills were drafted in Congress reflecting a new round of sanctions (*DETER*, *DASKAA*).

The United States have come to a strong bipartisan consensus on containing Russia. The administration generally adheres to the requirements of the Congress regarding sanctions against Russia, and in some aspects even

goes ahead of them. In addition to the use of the 1991 law, there are two Trump’s executive orders (No. 13848 and 13849). The first creates a mechanism for imposing sanctions in response to the interference in the U.S. elections, and the second contains measures to implement CAATSA in relation to Russian defense industry, pipeline projects, privatization programs, etc.⁸

The European Union has kept its policy of sanctions on the Ukrainian issues unchanged. Key decisions of the European Council on restrictive measures have been consistently implemented and extended.⁹ However, the EU did not bring its sanctions beyond the “Ukrainian package”. Politically, Brussels supported claims to Russia on “interference”, “The Skripal Case”, Syria, and other topics. Nevertheless, it desisted from imposing sanctions upon these reasons. The European Council adopted decision 2018/1544 on restrictive measures in response to the use of chemical weapons. However, the document has a framework nature. Russia is not directly mentioned in it, and it is not yet used against Russian citizens or organizations.

The cautious policy of the EU is, of course, determined by pragmatic reasons, and not by its kind attitude towards Moscow. In particular, EU countries and companies incur much more serious losses from sanctions and Russia’s counter sanctions compared to the U.S. because of the higher trade turnover. Sanctions in such broad categories as “interference” can be the subject of legitimate disagreement among member countries. In addition, some EU countries are not interested in breaking joint projects under pressure from the American side. They primarily touch upon the “Nord Stream 2” project. However, its fate is becoming less certain. Both purely political reasons and the struggle for long-term prospects in the European energy market play against it. The United States is a consistent lobbyist for eliminating “Nord Stream 2”.

⁵ Executive Order № 13757 of December 28, 2016. Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities. // The U.S. Department of the Treasury. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber2_eo.pdf

⁶ Countering America’s Adversaries Through Sanctions Act // The U.S. Department of the Treasury. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl115-44.pdf

⁷ PL 102-82, Section 301. Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 // The U.S. Congress. URL: <https://www.congress.gov/bill/102nd-congress/house-bill/1724/text>

⁸ Executive Order 13848 of September 12, 2018 // The U.S. Department of the Treasury. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/election_eo_13848.pdf

⁹ In particular, the Decisions of the European Council No. 2014/145, 2014/933, 2014/512. See Council Decision 2014/145/CFSP of 17 March 2014 Concerning Restrictive Measures in Respect of Actions Undermining or Threatening the Territorial Integrity, Sovereignty and Independence of Ukraine. // Official Journal of the European Union. URL: <https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1521625455688&uri=CELEX:02014D0145-20171121> Council Decision 2014/386/CFSP of 23 June 2014 Concerning Restrictions on Goods Originating in Crimea and Sevastopol, in Response to the Illegal Annexation of Crimea. // Official Journal of the European Union. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0386&from=EN> Council Decision 2014/512/CFSP of 31 July 2014 Concerning Restrictive Measures in View of Russia’s Actions Destabilizing the Situation in Ukraine. // Official Journal of the European Union. URL: <https://eur-lex.europa.eu/eli/dec/2014/512/oj>

2. Sanctions have a direct or indirect impact on Russia's partners, such as China, India, and other. Governments and private business in partner countries have different approaches to sanctions against Russia: governments criticize sanctions, while private business is forced to adjust to the U.S. sanctions regime and generally implement it.

Partnerships in defense industry are facing the most serious impact from sanctions. The U.S. sanctions are extraterritorial in nature, that is, in the event of non-compliance, counterparties of Russian companies may suffer. In particular, CAATSA can be used against buyers of Russian weapons. The year 2018 has shown that the attitude of the United States to transactions with Russia will be determined by the context of the relations between Washington and certain partners of Moscow. The Americans made some exceptions for the countries considered possible strategic allies and partners of the United States. Such exceptions were made for India, Indonesia, and Vietnam requiring to reduce purchases from Russia¹⁰. However, none of the countries has directly declared its readiness to fulfill Washington's requirements so far. Existing contracts remain in force, although the parties are trying to find alternative means of making payments on these. New major contracts are being signed: for example, India signed a large contract with Russia for the supply of S-400 surface-to-air missile systems.

The overall tone in the approach of the United States to China is quite different though. For the first time, extraterritorial sanctions were imposed against Beijing for defense deals with Russia on Su-35 aircrafts and S-400 surface-to-air missile systems. The Equipment Development Department of the Central Military Commission of the PRC and its Director Li Shangfu were added to the "SDN list". Moreover, both deals had been concluded before CAATSA even appeared. Sanctions are unlikely to harm China. However, they signal the general attitude of Washington towards Russia–China partnership and are aimed at "warning" other countries.

In the short and medium term, Washington's actions to press Russians out of the arms market will hardly bring any results. When it comes to

security issues, Russian partners will seek ways for conclusion and implementation of transactions. Competition for quality and price of weapons will be of greater importance. The same applies to other areas of cooperation at the level of state-owned companies. Washington's activities will have little effect, especially in the case of such large countries as China or India, as the government has a direct impact on business, and trade deals with Russia directly meet national interests.

The situation is different at the level of private business. And the U.S. sanctions are a significant factor here, especially if the company has interest in the U.S. market or in international activities in general. The prospects of being "blacklisted", e.g. fined or banned in dollar transactions for relations with Russia is a serious concern for private business. In a situation when companies develop a culture of "overcompliance" in managing the risk of sanctions, they refuse to cooperate with Russia even in areas that are not subject to sanctions. This situation is worsened in some countries by regulatory requirements for accounting related to national and foreign sanctions regimes. The issues Russian companies were having in settlements with Chinese counterparties through Chinese banks are a good example. In some cases, banks refuse to carry out transactions, regardless of their attitude to sectoral sanctions of the United States and other countries. The paradox is that the governments of the Russian Federation and the People's Republic of China are taking similar positions on the unacceptability of unilateral sanctions and the influence of laws of the United States and other countries on bilateral relations, but at the same time private business is moving in the opposite direction.

3. The Russian government is taking steps to adapt to sanctions. They retain opportunities for foreign companies to work in the Russian market, create new mechanisms for international economic relations, bypassing sanctions, and allow the use of targeted counter sanctions. At the same time, preventing the impact of sanctions on Russia remains an extremely difficult task due to the significant asymmetry of economies in comparison with the initiator states, as well as to the U.S. dominance in the global financial system.

¹⁰ Department of Defense Budget Posture // U.S. Senate Committee on Armed Services. 26.04.2018.
URL: <https://www.armed-services.senate.gov/hearings/18-04-26-department-of-defense-budget-posture>

In 2018, Russian legislation on countering sanctions was updated. Previously, the policy of responses was based on the Russia's Federal Law No. 281-FZ "On Special Economic Measures" as of 2006,¹¹ as well as the Presidential Order¹² and subsequent government decrees in 2014.¹³ The United States escalating sanctions against Russia (especially the case of April 6, 2018) raised the question of updating the legislative framework. The Federal Law "On Measures for Reaction (Counteraction) to Unfriendly Actions of the United States of America and Other Foreign States",¹⁴ signed by the President, adapted the legislation to new realities, providing the Russian government with a wide range of opportunities to respond to the changes. In general, the law does not discriminate against foreign companies and gives the authority to the executive power to act according to the situation.

Another positive development was the withdrawal of the proposed amendments to the Russian Criminal Code, which implied punishment for the implementation of sanctions. Such amendments could seriously damage the country's investment climate. Freezing the amendments was positively perceived by Russian business.

The Ministry of Finance of Russia proposed a number of other measures for further harmonization of legislation in order to counter sanctions. It includes a new specialized department on control of external restrictions, and the ministry itself is coordinating the activity to reduce the negative impact of financial restrictions against Russian legal entities¹⁵. Resolutions on reduction of sanctions against insurance companies and banks were adopted.

4. The pressure of sanctions on other countries is growing. Among the key indicators are the U.S. withdrawal from JCPOA and the resumption of sanctions against Iran. Given this background, the United States and the EU started facing certain disagreements. Brussels

is taking measures to protect EU businesses, and is also considering the possibility of long-term solutions to enhance the role of the Euro in global settlements.

Unilateral withdrawal of the United States from the Iranian nuclear deal (JCPOA) means the resumption of the U.S. sanctions regime against Iran that had been in force till 2015. The effectiveness of these restrictions will be lower compared to the beginning of the 2010s. However, the United States relies on the principle of extraterritoriality, imposing its regime on other countries. Washington's actions are aimed at undermining the Iranian economy with the goal of a massive change in its foreign policy, and under certain conditions, the political regime in the country. Apparently, the Americans assume that, despite the sanctions, Iran will remain committed to the JCPOA. The launch of a military nuclear program as a response to the sanctions will keep Tehran in isolation and put Iran in danger of an American military strike. By imposing sanctions, the United States once again gets Iran hooked by the restrictions, while forcing it to fulfill its obligations under JCPOA.

The key issue for Iran is the U.S. ban on imports of Iranian oil. Washington made temporary exemptions for eight major importing countries. But the condition for extending the exemption is a reduction in purchases, which will inevitably affect the Iranian economy.

U.S. actions have caused a wave of criticism from the EU states, Russia, China, and several other countries. The EU has performed significant work to protect business from possible U.S. sanctions. In particular, the blocking statute of 1996 was resumed. Some politicians voiced the idea of creating an alternative *SWIFT*. Apparently, the EU is seriously considering measures to trade in Euro with countries under U.S. sanctions in cases when Washington's sanctions are not supported by Brussels. It is too early to talk about the parameters, and especially about the effectiveness of these measures. However, the U.S. activity on the

¹¹ Federal Law No. 281-FZ "On Special Economic Measures" as of December 30, 2006 // Rossiiskaya Gazeta. URL: <https://rg.ru/2007/01/10/specmeri-dok.html>

¹² Executive Order On Special Economic Measures to Protect the Russian Federation's Security as of August 6, 2014 // Kremlin.ru. URL: <http://kremlin.ru/events/president/news/46404>

¹³ On measures to implement the Decree of the President of Russian Federation as of August 6, 2014 No 560 «On Special Economic Measures to Protect the Russian Federation's Security» // Government of the Russian Federation. URL: <http://static.government.ru/media/files/41d4f8cdfceb731522d2.pdf>

¹⁴ Federal Law No. 127-FZ "On Measures for Reaction (Counteraction) to Unfriendly Actions of the United States of America and Other Foreign States" as of June 4, 2018 // Official web-portal of legal information. URL: <http://publication.pravo.gov.ru/Document/View/0001201806040032?index=0&rangeSize=1>

¹⁵ Decree of the Government of the Russian Federation No. 845 as of 18.07.2018 "On Amendments to Certain Acts of the Government of the Russian Federation" // Official web-portal of legal information. URL: <http://publication.pravo.gov.ru/Document/View/0001201807200029?index=2&rangeSize=1>

Iranian issue raised the question of strengthening the elements of financial sovereignty in the EU. One shouldn't overestimate the depth of the split between Brussels and Washington — there were cases of disagreement over sanctions in the 1990s and 1980s. However, the EU has now created a powerful monetary union that other players will have to take into account. Weaponization of the U.S. dollar will inevitably stimulate discussions about the possibilities for the Euro to become an alternative currency in global settlements.

Similar issues arise in China, especially in the context of introducing sanctions against individuals and companies. The trigger for the escalation of the issue for China is the politicization of American claims against Chinese telecommunication companies *ZTE* and *Huawei*.

5. Large international business remains committed to the requirements of the U.S. regulators and U.S. sanction legislation, regardless of the country of business origin and the political positions of national governments. The powerful lever of influence on business through the use of sanctions remains in the hands of the United States.

Political activities to protect companies from the U.S. sanctions are largely leveled by the significant disciplining U.S. influence on international business. Special focus is given to large global companies and enterprises interested in international economic activity. In particular, the attempts of the EU to protect its business in Iran after the introduction of unilateral sanctions are accompanied by a mass exodus of private European companies from the country. In fact, they have to make a choice: either leave Iran and incur losses, or lose access to the American market, pay huge American fines, and have difficulty with dollar transactions.

A wide variety of companies is subject to the activity of U.S. regulators for violation of sanctions on a regular basis. For example, in 2018, six companies, including three American, as well as Chinese, Swedish, and French resolved disputes with the Ministry of Finance.¹⁶ Usually penalties for violating sanctions do not lead to political complications. In the overwhelming majority of

cases, business prefers to choose total cooperation with Americans, facilitating the investigation, adopting the U.S. standards for monitoring compliance with sanctions, and paying fines. Therefore, the United States retains a powerful lever of influence on business, even when national governments criticize Washington.

That being said, the politicization of *Huawei* case is very sensitive. From being purely administrative it turned into a political scandal. Both the arrest of *Huawei* top manager and the campaign to discredit the company were negatively perceived in Beijing. China suspects the United States of using sanctions as an instrument of competition. In the future, this may lead to the fact that the Chinese government will be much less tolerant of administrative cases against their companies. In the long term, this can lead to the formation of a focused policy towards national business, aimed at prohibiting compliance with the requirements of American regulators. Business will lose the most in this case. It will have to maneuver between the threat of U.S. sanctions and the punishment for their implementation by the government. In this case Washington might face a decrease in the effectiveness of regulatory measures towards business. However, this can only happen in the long term.

6. Political uncertainty is growing and crisis situations are getting exacerbated. It provokes new sanctions, especially in cases when diplomacy is inefficient and the opportunities to use military force are limited. "The Skripal Case", the use of chemical weapons in Syria, the situation around "interference in the elections", and the incident in the Sea of Azov show vulnerability to local crises and generate "automatism" of the sanctions policy.

The threat of escalation of sanctions is generated by an unstable political environment. Local issues and disagreements that would be mitigated by diplomats and administrative mechanisms in more stable conditions today generate a disproportionately wide response. In these unstable conditions, diplomatic channels for resolving issues are becoming less effective. There is a temptation to either use force or use sanctions as an alternative to the use of force. In 2018, the number of such events was quite big. They are

¹⁶ Civil Penalties and Enforcement Information // Office of Foreign Assets Control of the U.S. Department of the Treasury. URL: <https://www.treasury.gov/resource-center/sanctions/CivPen/Pages/civpen-index2.aspx>

difficult to predict. However, their general orientation shows Russia's vulnerability to them. Some episodes include the following:

- "The Skripal Case". Generated enormous political and informational pressure was the reason for the introduction of the U.S. sanctions.
- Chemical attacks in Syria. Led to the U.S. strikes on the government forces of Bashar Assad, for a short period seriously increased the risk of a direct military clash between Russia and the United States in Syria, and became one of the reasons for the new sanction bills against Russia.
- Fake accounts in American social networks. Pointed out the topic of "Russian interference" in the United States, became one of the reasons for Trump's executive decree on sanctions for interfering with elections, as well as some new sanction bills against Russia (along with previous incidents).
- The incident in the Sea of Azov with the detention of Ukrainian warships and a ship that violated the passage of the Kerch Strait. Led to a political campaign against Russia, raised the question of introducing new sanctions.

Almost all cases listed show that crisis management mechanisms did not work, it was extremely difficult to predict their occurrence and to prevent them, and moreover, public opinion and the position of the elites were charged with automatic blaming on Russia. Sanctions become part of the automatic response to such incidents. It will take time and effort of the official and public diplomacy from all sides to find the solution to the existing political contradictions and bring a fundamental change in the current trends. Finding the solution to this problem is unlikely to happen in the foreseeable future.

Of course, the six indicated tendencies can hardly cover the whole spectrum of events connected with the imposition of sanctions against Russia and other countries.

Sanctions Policy Against Russia: 2019 Forecast

The use of sanctions against Russia in 2019 will be determined by a combination of political and legal factors.

The political factors include:

The situation in Ukraine, the risks of conflict escalation in Donbass, provocations in the Azov and Black Seas, on the borders with the Crimea, etc.

Given the fact that a significant part of sanctions against Russia is tied to the Ukrainian issue, its aggravation will each time bring the question of expanding sanctions against Russia on the agenda. The events of the end of 2018 show that the Minsk process is significantly discarded in comparison with the beginning of the year. The improvement of the situation on the Ukrainian issue is not likely to happen within the framework of Minsk-2.

Our basic forecast for Ukraine in 2019 implies a decrease in stability in Donbass, deterioration in relations with Kiev, and further degradation of Minsk agreements. The likelihood of a sharp aggravation of the situation increased due to incidents and military provocations, which can lead to a sudden escalation of the conflict.

Sectoral sanctions against Russia on the "Ukrainian package" in 2019 will persist in any case. Along with the gradual deterioration of Russia-Ukraine relations, the expansion of sanctions will affect only the lists of Russian physical and legal entities, which is considered a basic forecast on sanctions in the framework of the "Ukrainian package". At the same time, the risk itself or the increase of the risks for a sudden escalation will raise the question of the qualitative expansion of sanctions in relation to new sectors of the economy. In the event of an open military conflict between Russia and Ukraine, the policy of sanctions against Russia will be strengthened qualitatively.

THE MIDDLE EAST

The main risks are related to the situation in Syria and the probability of provocations with the use of chemical weapons. The probability of "chemical" and other incidents is estimated as high. The consequence will be a local political crisis in relations between Russia and Western countries. There is practically no political settlement in Syria, so the risks of worsening relations on this issue will remain.

However, our baseline forecast is that the Syrian issue will not lead to a radical increase in sanctions

against Russia. Their escalation can be limited to targeted measures of the United States against certain Russian physical and legal entities.

The United States will also actively pursue violators of the sanctions regime against Syria, especially with regard to the supply of oil and weapons to Assad's government.

DOMESTIC POLITICAL SITUATION IN THE U.S. AND THE EU

The topic of "Russian interference" will remain part of the news background and anti-Russian information campaigns. However, in the U.S., this interference has already fulfilled the demand. News related to investigations into interference will still draw attention to it, but the topic is unlikely to have a resonance comparable to 2017 and even 2018. However, this will obstruct the congressmen's intention to consider and adopt new laws on sanctions against Russia based on the interference topic.

Our basic outlook is that, despite the general decrease in the severity of the topic of interference in 2019, it will be reflected in legislation with a "delay", with the prospect of a serious escalation of sanctions up to new sectoral restrictions. We expect new restrictions from the U.S. against the energy and financial sectors. The introduction of such restrictions will be facilitated by discussions about possible impeachment of the incumbent president and the start of the election campaign at the end of 2019.

In the EU, the "Russian interference" factor will be less critical. Our basic forecast is preservation of the topic in the information field in the absence of political crises and new sanctions on this topic.

RUSSIA'S POLICY

Russia will not change its foreign policy and domestic policy course under the influence of sanctions. We do not expect tough actions against foreign business as a response to sanctions. At the same time, it is possible to expand the set of counter sanctions in response to the new legislation in the United States, as well as to the activity of the executive authorities in the United States on restrictions against certain physical and legal entities.

Radical tightening of the response measures on the part of Russia is only possible if there is a

qualitative change in the international situation (conflict, crisis) in relations with the West.

A likely development of the events would be introduction of sanctions against Russia in connection with allegations of human rights violations in accordance with the "Magnitsky Act" and the "Global Magnitsky Act". However, in this case, it will be a question of sanctions against physical entities and not legal ones.

POLITICAL «BLACK SWAN»

Political relations between Russia and the West are in a state when local events and provocations can exert a strong influence, deepen the conflict and, as a result, cause a new round of sanctions. In 2018 "the Skripal Case" takes the global lead among the "black swans". The incident in Salisbury did not result in the formation of crisis management mechanisms to deal with such problems. Moreover, it created room for new incidents.

The risks of the "new Salisbury" in 2019 are estimated as high. Such incident or a series of incidents can take place anywhere. It is extremely difficult to predict the time and nature of the event itself. However, with a high degree of certainty, it may be said that it will lead to even greater polarization of Russia and the West. The escalation of sanctions in this context will address the list of physical and legal entities, modification of laws (especially in the United States), as well as the actions of the U.S. executive authorities against the alleged "perpetrators".

Legal factors include:

Regulatory documents, the very existence of which implies legislative enforcement or executive activities in 2019.

IMPLEMENTATION OF PUBLIC LAW 115-44 (CAATSA)

The law provides for a series of routine activities by the executive power on its application. In particular, until 2021, the U.S. Treasury Department must annually prepare a report on illegal financial transactions related to Russia. The Department of State must report on the use of funds allocated to counter "Russian influence in Europe and Eurasia." Other activities include creating the black lists of the Russian media, as

well as reports on the Russia's "interference with elections" and energy security in Ukraine. The latter is directly related to the prospects of the "Nord Stream 2" project. Some of the CAATSA enforcement activities are also reflected in the Executive Order 13849 issued by the U.S. President, which determines the effects of restrictions on the Russian defense industry and pipeline projects. The "Nord Stream 2" is most at risk.

IMPLEMENTATION OF PUBLIC LAW 102-182 AS OF DECEMBER 4, 1991

The main reason is the "Skripal Case" and chemical incidents in Syria. The use of regulations against Russia in terms of application of sanctions is a settled political issue. However, it is unpredictable what sanctions will be used and to what extent. The current version of the regulations is outdated in comparison with the actual practice of imposing sanctions. Of course, this does not negate their use. In particular, the U.S. can prohibit financial institutions to offer credit to Russia (which is already limited by sectoral sanctions), decreasing exports and imports (which is small anyway), or ban Russian airlines to fly to the United States (which is unprofitable for the Americans themselves). However, the question of finalizing the law will probably be raised, or its rules will be incorporated into the new sanctions legislation against Russia in a modified form, in particular, *DASKAA* and *DETER*. The main area of development of the regulations is their extraterritorial nature.

CONGRESS DISCUSSIONS OF *DETER* AND *DASKAA* BILLS

Adoption of new sanction legislation to develop PL 115-44 and PL 102-182. The adoption of new, more stringent U.S. laws regarding Russia is a baseline forecast. *DASKAA* bill, which is deeper and more developed, is likely to be taken as the basis and its adoption will strengthen the

apparatus role of the Department of State, especially regarding digital issues. The main problem for Russia will be the prospect of strengthening sanctions against the energy and financial sectors. A full embargo on the energy sector and sanctions against the obligations of Russian sovereign debt could potentially harm American business, which may require softer language. The adoption of the law in its current version will lead to a shock on the Russian stock market. Softer wording is a baseline forecast. The law is likely to require the Department of State to give an opinion on whether Russia is a state sponsoring terrorism. It is most probable, that such classification will not be given unless the "black swan" factor works.

IMPLEMENTATION OF THE EXECUTIVE ORDER No. 13849

The document obliges U.S. intelligence to give an opinion on the interference in the midterm elections to Congress. Based on the conclusion, personal and then sectoral sanctions can be imposed. Our baseline forecast implies a high probability that Russia will be accused of trying to interfere in mid-term elections of November 2018, although specific cases will be characterized as insignificant and sporadic. Personal sanctions are possible. Sectoral sanctions under this decree are still unlikely.

FURTHER APPLICATION OF EXECUTIVE ORDERS No. 13660, 13661, 13662 AND DIRECTIVES

Like other regulations, these orders will be applied as "penalties for violation of sanctions", i.e. the use of fines by the U.S. Department of the Treasury against companies violating the sanctions regime. In 2018, the first case of settling the claims from Department of the Treasury for violation of the Ukrainian package sanctions (the case of *Cobham* Company) appeared. In the future, the number of such cases will only increase.

CONCLUSIONS AND SCENARIOS

The most important factor in the policy of sanctions against Russia will be Washington's attempt to "bring EU sanctions under the American denominator", i.e. facilitating the harmonization of the EU sanctions legislation with similar U.S. legislation.

One of the main tasks of the U.S. foreign policy towards Russia will be balancing the multiple-speed U.S. and EU sanctions. If the EU maintains the status quo, new U.S. sanctions may turn out to be unilateral, and therefore less effective. And vice versa, EU joining the new U.S. sanctions will lead to an increase in consolidated pressure on Russia. However, this will hardly lead to complete isolation of Moscow, that is, the sanctions coalition will still be limited. The following scenarios of the EU further steps can be delineated:

Scenario 1. The EU partially joins the U.S. sanctions

Any new formal document of the European Council on the expansion of sanctions will be a diplomatic victory for the United States, since it will mean that the EU line has become closer to the American course.

Scenario 2. Maintaining the status quo

The EU does not join the new sanctions. In this scenario, the U.S. can still achieve some success even if Brussels doesn't formally introduce sanctions against Russia. The case of Iran shows that private business prefers to reduce risks and leave the target country under the threat of U.S. sanctions even in the case when the EU is opposed to unilateral American measures.

Scenario 3. The EU lifts the sanctions against Russia

Given the progress in resolving the conflict in Ukraine, the EU lifts sanctions against Russia. This scenario is unrealistic. However, it remains as a clear political alternative, whereas the Americans don't have such alternative — the sanctions on the "Ukrainian package" have already been mixed with measures on other issues and have moved to the state of "perpetual".

Scenario 1 is considered as the basic one, in the event the political situation worsens. Scenario 3 is totally unrealistic for 2019 in practical terms after the incident in the Sea of Azov.

Finally, another important area is the impact of sanctions on Russia's partnership with third countries. We anticipate strengthening of the dualistic approach. The official government of China, India, and other countries will strengthen political dialog and interaction among state-owned companies. Steps will be taken to create new mechanisms for mutual settlements, in particular, in national currencies. However, private business with international ambitions will remain committed to the U.S. sanctions regime.

An important task for Moscow is to put an end to excessive following the American rules by private business and to ensure work in sectors not affected by sanctions. This task is difficult to implement, but it must be among the priorities for the medium term.



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