

POLICY BRIEF

Russia – India Cooperation against the Background of Sanctions: Adverse Effects and New Opportunities

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Russia – India Cooperation against the Background of Sanctions: Adverse Effects and New Opportunities

Impact of the U.S. Anti-Russian Sanctions on the Russia– India Cooperation in the Military-Technical Area

Before the United States introduced sanctions against the Russian defence sector, military-technical cooperation between Moscow and New Delhi had been progressing steadily. Even though Russia lost a significant share of the Indian defence market after the collapse of the USSR in 1991, it was nevertheless able to partially restore its positions from 2000 onwards. At the BRICS Summit in Goa in October 2016, Prime Minister of India Narendra Modi and President of the Russian Federation Vladimir Putin reached an agreement on the delivery of Russian *S-400 Triumph* anti-aircraft systems to India, the creation of a joint venture to produce *Ka-226* helicopters and the construction of four frigates under Project 1135.6 for India. Negotiations were also held in other areas of cooperation.¹

In January 2017, the bill Countering America's Adversaries Through Sanctions Act (CAATSA), imposing restrictions on banks that carry out operations with individuals and legal entities under sanctions, was introduced in the United States Congress.² CAATSA caused concerns in India: according to Indian legislation, domestic banks must allocate funds to guarantee the supply of defence purchases made abroad. Given the strong ties that Indian banks enjoy with the American financial sector, as well as their general involvement in the global financial system, providing such guarantees to Russian enterprises that are under sanctions would lead to restrictive

measures being introduced against these banks, and this would significantly complicate their operations.

The Indian government while anticipating this problem adopted a decision at the end of May 2017 to introduce a temporary exemption for weaponry deals that had already been concluded with Russia.³ For such agreements, it is no longer required that Indian banks guarantee funds for the purchases as the sovereign guarantees provided by Russia now suffice. Precisely which contracts were covered by this decision is unclear.

However, the Indian authorities did not consider the possible expansion of the sanctions and were unable to protect the country's banks from punitive measures in time. In April 2018, the sanctions imposed in 2017 were extended to include Concern VKO "Almaz-Antey" (which produces the *S-400* systems), the United Shipbuilding Corporation (which is delivering the frigates), Russian Helicopters and Rosoboronexport,⁴ thus placing all military-technical contracts between Russia and India in jeopardy. This leads to Indian banks freezing⁵ approximately \$100 billion intended for the contracts with Russia. As a result, the possibility for delays in the delivery of weapons under the contracts that had already been concluded arose, prompting the Indian and Russian sides to set up urgent consultations to find a way out of the situation.

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¹ Russia and India Agreed on S-400 Delivery and Ka-226 Production // Lenta.ru, October 15, 2016. URL: <https://lenta.ru/news/2016/10/15/c400/> (In Russian).

² Sec. 231. America's Adversaries Through Sanctions Act (CAATSA) // Library of Congress, August 2, 2017. URL: <https://www.congress.gov/115/plaws/publ44/PLAW-115publ44.pdf>

³ Before Modi's Russia Visit India Gave Special Waiver to Russian Defence Entities // The Economic Times, July 15, 2017. URL: <https://economictimes.indiatimes.com/news/defence/before-modis-russia-visit-india-gave-special-waiver-to-russian-defence-entities/article-show/58952664.cms>

⁴ Laxman K Behera, G. Balachandran. Implications of CAATSA for India's Defence Relations with Russia and America // Institute for Defense Studies and Analysis, April 26, 2018. URL: <https://idsa.in/issuebrief/caatsa-for-india-defence-relations-with-russia-america-lbehera-balachandran-260418>

⁵ US Sanctions Rain on India-Russia Defence Parade // The Economic Times, May 5, 2018. URL: <https://economictimes.indiatimes.com/news/defence/us-sanctions-rain-on-india-russia-defence-parade/articleshow/64036673.cms>

The approval and subsequent adoption of CAATSA put the United States in an ambiguous position. U.S. lawmakers tried to ensure that consistent pressure was exerted on Russia, which meant that they had to create the most hostile environment for Russian companies. However, countries that Washington wants to see as allies were also attacked through this policy, specifically India, Indonesia and Vietnam. These countries have been purchasing Soviet and Russian technology for years and are not in the position to abandon this practice immediately. The ideal solution for the United States would be to oust Russian manufacturers from these markets altogether and ensure these countries' transition to NATO standards.

Indian experts and politicians have tried to explain their predicament to the U.S. authorities – that the country cannot drop its contracts for the supply of Russian weapons immediately even if it wanted to. Not to mention the fact that India has no intention of doing so, as it plans to continue its policy of diversifying its defence imports. By forcing India to abandon its contracts, the United States is undermining the country's defence potential, which runs counter to the declared goal of turning India into a major player in Asia. What is more, the very tone of the U.S. statements aroused the indignation of the Indian media, politicians and the expert community: an external state tried to force its interests on a country that plans to become a great power. At the same time, Russian counter-sanctions do not harm third parties. New Delhi repeatedly stressed that India would follow only the sanctions imposed by the United Nations. The Indian authorities declared that they would continue to purchase weapons from Russia, regardless of the position of the United States.

U.S. Secretary of Defense James Mattis supported New Delhi's position, having stated at Senate hearings that by forcing India, Vietnam and Indonesia to participate in the sanctions against Russia, Washington was actually "paralysing itself."⁶ U.S. Secretary of State Mike Pompeo

has also been critical of the policy. They proposed including a provision in the National Defense Authorization Act (NDAA-19) that releases these countries from the purview of CAATSA.⁷ The proposal was shut down by the members of Congress and the Senate. The text of the NDAA-19 was revised during the hearings to include a provision (Par. 1236)⁸ amending Sec. 231 of CAATSA. The amendment states that the President of the United States has the right to suspend actions against a given country for 180 days if that country is clearly working to reduce its trade ties with Russia in the military sphere. This clarification did nothing to improve India's position – the country's leaders have repeatedly stated that New Delhi seeks a complete lifting of the sanctions and has no intention of ceasing military-technical cooperation with Russia. Final wording of the amendment stipulated that the President could suspend actions against a given country for 180 days if it was in line with American foreign policy priorities. However, as the Pentagon's Assistant Secretary of Defence for Asian and Pacific Security Affairs Randall Schriver said, it does not mean that the waiver will be used for future Indian purchases from Russia,⁹ since Washington is interested in ending the strategic partnership between Moscow and New Delhi.

Another source of tension in U.S.–India relations is linked to the restrictions imposed by the United States on the import of a number of commodity items from India.¹⁰ These restrictions mostly affect Indian ferrous and nonferrous metallurgy. In addition, the withdrawal of the United States from the nuclear deal and the announcement of sanctions against Tehran have jeopardised Indian infrastructure and energy projects in Iran.

One way that Indian financial institutions could avoid sanctions from the United States would be to consider abandoning the U.S. dollar for purchases of Russian weapons and switching to settlements in roubles and rupees. The countries could use Singapore dollars for the transitions. Another option could be to effect payments to Russian companies that are not under the U.S.

⁶ Imposing Sanctions on India over Defence Deal with Russia Will Hit US: Jim Mattis // The Times of India, April 27, 2018. URL: <https://timesofindia.indiatimes.com/india/imposing-sanctions-on-india-over-defence-deal-with-russia-will-hit-us-jim-mattis/articleshow/63936894.cms>

⁷ US Secretary of State Mike Pompeo Pushes for CAATSA Waiver so that Countries Like India Aren't Affected // The Times of India, May 25, 2018. URL: <https://timesofindia.indiatimes.com/world/us/us-secretary-of-state-mike-pompeo-pushes-for-caatsa-waiver-so-that-countries-like-india-arent-affected/articleshow/64317376.cms>

⁸ National Defense Authorization Act for Fiscal Year 2019 // Document Repository, U.S. House of Representatives, May 15, 2018. URL: <https://docs.house.gov/bills20180521/CRPT-115HRPT-676.pdf>

⁹ CAATSA: Will India Receive Waiver from US' Russia Sanctions? // The Hindu Business Line, August 30, 2018. URL: <https://www.thehindubusinessline.com/news/world/caatsa-will-india-receive-waiver-from-us-russia-sanctions/article24818487.ece>

¹⁰ India Takes U.S. Steel Tariffs Complaint to the WTO // Reuters, May 23, 2018. URL: <https://www.reuters.com/article/us-usa-trade-india/india-takes-u-s-steel-tariffs-complaint-to-the-wto-idUSKCN1101WP>

sanctions (e.g., Krayinvestbank, Bank “Rossiysky capital” (PJSC), Khanty-Mansiyskiy Bank Otkritie). The first option is preferable, as it would allow the countries to free themselves from their dependency on the U.S. dollar in bilateral trade. Although the bank that carries out financial transactions for the purchase of Russian weapons will nevertheless run the risk of falling under the sanctions. This problem would be eliminated in the second case; however, there is no guarantee that the receiver company will not be included in an updated sanctions list.

However, these are all temporary solutions. There is no doubt that the United States is committed to depriving Russia of its access to the Indian market and is prepared to toughen the sanctions regime to achieve this if such actions are needed. New Delhi must thus work out how friendly U.S. policy is towards India, and how willing Washington is to allow India an independent foreign policy. The United States threatens India through financial sanctions to buy American weapons, forcing India to either disarm themselves in front of China or get into debt. This means that New Delhi needs to make a choice that will directly affect the future of the country’s military-technical cooperation with Russia.

There are three possible scenarios here. The first involves accepting all the conditions set by the American side, and continue the line of further rapprochement with the United States, with the caveat that the country may become severely dependent on the United States in the military and political sense. In this case, India will become a sub-hegemon of the United States in the region and will rely entirely on the U.S. assistance, thus ending India’s military-technical cooperation with Russia.

The second scenario involves the U.S. and Indian leadership furthering their current policy. India will continue along the path to becoming a great power, but this will require the expansion of contacts with Russia as well as further normalization of relations with China, which requires settlement or, at least, freezing of border disputes, defining spheres of influence and respecting each other’s interests in the region, adopting measures aimed at strengthening mutual trust. This scenario will further imply non-expansion or even limitation of military cooperation with the U.S. that could be replaced by closer ties with Russia and third

countries in sectors that are now dominated by the U.S. items.

Finally, the third scenario involves a compromise between the United States and India. In exchange for satisfying a number of conditions set by Washington – increasing orders from the U.S. military-industrial complex, signing the Communications Capability and Security Agreement (COMCASA)¹¹ and the Basic Exchange and Cooperation Agreement (BECA) allowing India and the United States to exchange geospatial intelligence and receive access to encrypted communications systems, as well as a number of concessions in other areas – India could be temporarily exempted from the purview of the CAATSA.

The first scenario would have the worst impact on the cooperation between Russia and India, while the second is the most positive. If the latter scenario comes to pass, the two countries could achieve deeper integration of their military-industrial complexes leading to increased military technology sharing and a qualitatively new level of cooperation. Meanwhile, the third scenario would likely see Russia lose a share of the market but retain a foundation for continuing collaboration. The intermediate scenario appears to be the most likely. It would allow India to promote strategic cooperation with both Russia and the U.S. at the same time normalizing its relations with China, balancing its policy in the military cooperation and developing its own military complex. This would allow India to minimize the arms import in future.

At present, both countries are interested in developing military-technical cooperation. India, for example, needs modern fighter jets to replace the obsolete *MiG-21* models that are still operated by the Indian Air Force. Russia could thus take part in the *MMCR-2* tender with *MiG-35* model and increase deliveries of fighter jets as part of inter-governmental agreements before the tender winner is announced. Additionally, Russian manufacturers of military transport aircraft are willing to expand cooperation, as the need for such equipment is increasing in the face of the poor infrastructural development in the regions under threat.

The Indian land forces are in a dire need of light tanks that can be used in mountainous terrain, primarily on the border with China. The Chi-

¹¹ India Close to Signing COMCASA with US // The Hindu Business Line, March 27, 2018.

URL: <https://www.thehindubusinessline.com/economy/india-close-to-signing-comcasa-with-us/article23366048.ece>

nese People's Liberation Army (PLA) has already tested and deployed light tanks that can operate in mountainous conditions, which gives it a clear advantage in an armed border conflict. Russia could offer India 2S25 *Sprut-SD* self-propelled tank destroyers, which are classed as light tanks and suitable for use in the mountains and capable of fighting enemy tanks, including with the help of *Refleks-M* guided missiles. Finally, Russia also has something to offer the Indian Navy – from assistance in creating new aircraft carriers to the supply of Project 1135.6 frigates and other promising projects including Project 11661 guard ships.

However, the development of military-technical ties depends directly on which of the possible scenarios of relations with the United States the Indian authorities choose. Obviously, if New Delhi opts to follow the U.S. sanctions policy, then expanded cooperation with Russia will be impossible. Indian authorities need to secure the country's release from the CAATSA, either through negotiations or by demonstrating the intention to defend its national interests: India could force the U.S. to choose – either lose a potential ally in the region or accept India's unwillingness to sacrifice strategically important ties with Russia in favor of American arms export.

U.S. Sanctions on Russia and their Impact on India – Russia Cooperation

The U.S. and its European allies have steadily increased economic sanctions on Russia since first imposing them in March 2014. The stated purpose of sanctions is to punish Russia for its involvement in Ukraine, as well as its alleged cyber-meddling in the 2016 U.S. elections and its transfer of arms to Syria and alleged human-rights abuses, also in Syria.

While the measures initially prohibited Westerners from doing business with Russians who were deemed to have undermined democratic processes in Ukraine, the reasons given for the sanctions have grown and the list of potentially prohibited Russian partners has increased to include officials and businesses in Russia's defence, energy and finance sectors generally. Washington has applied the sanctions flexibly, imposing them strictly in sectors where U.S. firms are major competitors of Russia and ignoring them in others where the U.S. relies on Russia. For instance, the U.S. has exempted Russian agencies that supply titanium for Boeing's commercial aircraft and rocket engines for the National Aeronautics and Space Administration (NASA), where the U.S. has no indigenous capacity.

This means individuals and businesses outside of the western alliance – including ones from India – now may face sanctions themselves if they don't comply with the new rules.

As the economic battle wages, India is caught in the crossfire. Russia is its long-standing strategic partner and for the foreseeable future its irreplaceable supplier of defence equipment and weaponry. The sanctions pose significant risks to this vital relationship. Under the sanctions, Indian companies doing business with critical Russian defense suppliers like Rosoboronexport, United Shipbuilding, and Almaz-Antey could find themselves locked out of the dollar-based global financial system controlled by the U.S. Even the activities of Indian companies in areas not directly covered by sanctions could be affected.

Given the risks, India must make some hard calls in deciding a present and future strategy. First,

because the sanctions can block violators from doing business with U.S. banks, India must find ways to circumvent the dominant dollar-based financial system – like specialist European banks with no exposure to the U.S. market, which are willing to facilitate payments to Russia. Second, India can deepen its investments in Russian energy and resource assets, to generate dividend income in roubles. This will be used to pay Russia for defence hardware. Third, there are ample precedents for introducing a dose of economic self-interest into American decision-making on the sanctions issue, taking advantage of the deal-making and transactional nature of the current administration in Washington. India must build its profile in the U.S. market, and Indian companies in the U.S. must actively create local jobs, building a goodwill that can influence policy-makers to consider Indian concerns before imposing sanctions.

I. Introduction

Economic sanctions imposed by the U.S. and the European Union on Russia have escalated into a virtual economic war, and India may get caught in the crossfire. India's access to essential military hardware and technology and to a potential source of energy security stands threatened.

As the world's top importer of military hardware, India depends heavily on Russia for its purchases of equipment, maintenance of the existing equipment and joint ventures for manufacturing and technology transfer. Between 2007 and 2017, India's defence imports from Russia totalled about \$24 billion out of a total of \$34 billion. U.S. sanctions, which target most of Russia's top arms manufacturers, threaten this vital relationship.

The sanctions also stand to jeopardize a budding partnership between India and Russia in the energy sector. Companies from both countries have invested over \$20 billion in each other's oil industry in the last ten years, steadily expanding their cooperation in this sector.

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The threat that the sanctions pose to India comes from provisions contained in legislation passed by the U.S. Congress in August 2017.¹² This law authorizes the President of the U.S. to impose “secondary sanctions” on non-U.S. and non-European entities that deal with Russian defence and intelligence partners or engage in certain transactions in Russia’s energy sector. The U.S. has been pushing India to increase its defence procurement from the U.S., and it could use the sanctions to add pressure. In the energy sector, America’s ally, the European Union, is a big importer of Russia’s oil and gas; perhaps, as a result, sanctions on Russia’s energy sector have been relatively mild and have not affected India.

So far, the U.S. has not imposed secondary sanctions against non-U.S. or non-European individuals or companies for doing business with a sanctioned Russian entity. The U.S. administration might overlook violations of the sanctions by India to meet its critical defence requirements. The proposed National Defence Authorization Act for Fiscal Year 2019 (NDAA-19)¹³ allows the U.S. president to allow waivers to CAATSA in the ‘interests of U.S. National Security’ – in a likely reference to India’s concerns. However, India’s long-term defence policy cannot be predicated on waivers granted by a third party or assumptions about how the U.S. will act in a certain situation. Moreover, by seeking a waiver, India tacitly gives credibility to unilateral sanctions.

This policy research paper analyzes the Western sanctions on Russia and their implications for India-Russia relations. It argues that India must devise mechanisms to ensure its ability to purchase Russian military hardware and services despite U.S. sanctions. To avoid being sanctioned, it must be able to process payments to Russia via banks in the European Union. It also needs to earn income in roubles so that it can bypass third-party banks entirely and deal directly with Russia.

Finally, India must leverage its status as a large market for energy and defence hardware to conclude strategic deals to raise its profile within the U.S. so that Washington is less inclined to include it in its sanctions regime.

II. Overview of Sanctions on Russia

1. PRIMARY SANCTIONS: RESTRICTING AMERICAN DEALINGS WITH RUSSIA

The U.S. first imposed sanctions on Russia through a Presidential Executive Order in March 2014 following the accession of Crimea. The sanctions prohibit U.S. individuals and entities from dealing with any sanctioned Russian entity. Initially imposed on individuals and entities deemed to have undermined democratic processes and threatened the security and sovereignty of Ukraine,¹⁴ the sanctions were extended to include private and state-owned businesses, government officials and select sectors of the Russian economy, including financial, defence and energy.¹⁵

In December 2016, new sanctions were imposed for alleged cyber-meddling in the 2016 U.S. elections.¹⁶ The Executive Orders will continue to apply unless terminated by the U.S. President. *Annex I* contains a list of the orders and legislation passed for sanctions against Russia.

Persons and entities sanctioned are on a Specially Designated Nationals and Blocked Persons List (SDN) maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC). Under OFAC directives the assets of those on the SDN list are blocked, and no U.S. person is allowed to conduct any transactions with those on that list. A separate Sectoral Sanctions Identifications (SSI) List, drawn up pursuant to Executive Order 13662,¹⁷ prohibits named persons and entities from carrying out certain transactions. (See *Annex II*).

The sanctions mentioned above prohibit U.S. persons from dealing with sanctioned Russian

¹² Countering America’s Adversaries Through Sanctions Act (CAATSA) // US Department of the Treasury, Government of the United States of America. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl1115-44.pdf

¹³ National Defense Authorization Act for Fiscal Year 2019 // Document Repository, U.S. House of Representatives, May 15, 2018. URL: <https://docs.house.gov/billsthisweek/20180521/CRPT-115HRPT-676.pdf>

¹⁴ E.O. 13660 – Blocking Property of Certain Persons Contributing to the Situation in Ukraine // Office of the President of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo.pdf

¹⁵ E.O. 13661 – Blocking Property of Certain Persons Contributing to the Situation in Ukraine // Office of the President of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo2.pdf

¹⁶ E.O. 13757 – Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities // Office of the President of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber2_eo.pdf

¹⁷ E.O. 13662 – Blocking Property of Additional Persons Contributing to the Situation in Ukraine // Office of the President of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo3.pdf

entities mentioned on the SDN List and therefore, do not affect Indian companies unless they are registered and have operations in the U.S.

2. SECONDARY SANCTIONS: POWER TO TARGET FOREIGNERS

The Presidential Executive Orders that initially imposed sanctions (primary sanctions) against Russia were codified by the Countering America's Adversaries Through Sanctions Act (CAATSA) enacted in August 2017. CAATSA, which prevents the President from lifting the sanctions without congressional review, specifically requires the U.S. President to impose sanctions on foreign persons who either purposefully violate the sanctions against Russia or deal with Russia's intelligence, defence and energy sectors. These "secondary sanctions" could affect India. (See *Table 1*).

Section 231 of CAATSA potentially could affect any dealings India has with Russian defence sector entities. A list of Russian defence sector companies published by the U.S. Department of State as required by Sec. 231(d) of CAATSA, includes companies like Rosoboronexport, Almaz-Antey, Russian Helicopters and Military-Industrial Corporation (MIC) NPO Mashinostroyeniya. These are some of India's major Russian defence partners.

Restrictions imposed by Sec. 225 and 226 on investments in offshore and shale projects in Russia will curb opportunities for India to strengthen its energy security. The threat of sanctions will deter Indian private and state-owned energy giants from venturing into any restricted activities.

Indian companies and global businesses will be wary of dealing with Russia given that the penalties for violation of U.S. sanctions could be substantial. For instance, in 2012, HSBC Holdings and Standard Chartered Bank paid fines

amounting to \$227 million¹⁸ and \$1.26 billion¹⁹ respectively for transactions with persons in sanctioned countries such as Libya, Iran and Myanmar. Chinese telecom equipment company ZTE was fined \$1.2 billion in 2017 for violating U.S. sanctions on Iran and North Korea. When ZTE made false statements during the probationary period, U.S. companies were barred from supplying any equipment to it for seven years.²⁰

3. EUROPEAN UNION'S SANCTIONS AGAINST RUSSIA

The European Union on March 17, 2014, imposed travel bans and froze assets of persons deemed responsible for actions that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine.²¹ The EU sanctions prohibit its members from dealing with sanctioned Russian individuals and entities. The sanctions were first enacted for six months and have been extended regularly since, with the latest extension due to expire on September 15, 2018.²²

On July 29, 2014, the EU adopted a comprehensive package of economic sanctions²³ to:

- a) prohibit exports of dual use goods and technology for military use into Russia;
- b) restrict export of technology related to deep water oil exploration and production;
- c) prevent Arctic oil exploration and production, or shale oil projects in Russia;
- d) restrict dealings with transferable securities and money-market instruments.

The economic sanctions have been extended regularly, and are set to expire on January 31, 2019. Unlike the U.S., the EU conditioned its sanctions solely on a resolution to the Ukraine conflict.²⁴ It also did not impose secondary sanctions. As the European sanctions are designed to expire automatically unless renewed, they would be easier to unwind than the U.S. sanctions.

¹⁸ Standard Chartered Bank Agrees to Forfeit \$227 Million for Illegal Transactions with Iran, Sudan, Libya, and Burma // United States Department of Justice, Press Release. URL: <https://www.justice.gov/opa/pr/standard-chartered-bank-agrees-forfeit-227-million-illegal-transactions-iran-sudan-libya-and-burma>

¹⁹ HSBC Holdings Plc. and HSBC Bank USA N.A. Admit to Anti-Money Laundering and Sanctions Violations, Forfeit \$1.256 Billion in Deferred Prosecution Agreement // United States Department of Justice, Press Release. URL: <https://www.justice.gov/opa/pr/hsbc-holdings-plc-and-hsbc-bank-usa-na-admit-anti-money-laundering-and-sanctions-violations>

²⁰ Secretary Ross Announces Activation of ZTE Denial Order in Response to Repeated False Statements to the U.S. Government // United States Department of Commerce Bureau of Industry and Security, Press Release. URL: <https://www.commerce.gov/news/press-releases/2018/04/secretary-ross-announces-activation-zte-denial-order-response-repeated>

²¹ Concerning Restrictive Measures in respect of Actions Undermining or Threatening the Territorial Integrity, Sovereignty and Independence of Ukraine // Council of the European Union, Council Decisions. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0145&from=EN>

²² Council Decision (CFSP) 2018/392 of 12 March 2018 Amending Decision 2014/145/CFSP concerning Restrictive Measures in respect of Actions Undermining or Threatening the Territorial Integrity, Sovereignty and Independence of Ukraine (Brussels: Council of the European Union, 2018) // Council of the European Union. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018D0392>

²³ Ibid.

²⁴ EU Restrictive Measures in response to the Crisis in Ukraine // European Council, Council of the European Union. URL: <http://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis>

TABLE 1: SECONDARY SANCTIONS PROVISION UNDER CAATSA

SECTION	CAUSE FOR IMPOSITION OF SANCTION	IMPACT ON INDIA
225	This section amends the Ukraine Freedom Support Act of 2014 which provides as under – Persons making significant investment in crude oil projects that are: 1) in the exclusive economic zone of the Russian Federation in waters more than 500 feet deep; 2) in Russian Arctic offshore locations; or 3) in shale formations located in the Russian Federation	Indian energy sector companies may lose out on investment opportunities if they are not allowed to invest in certain energy projects in Russia
226	Foreign Financial Institutions that facilitate significant investments in Russian crude oil projects prohibited by the Ukraine Freedom Support Act will be sanctioned	Indian banking and financial institutions will be wary of financing Indian companies investing in Russian crude oil projects cited in Sec. 225
228	The Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 was amended to sanction the following: 1) persons who violate any license, order, regulation, or prohibition issued under any Executive order, or the Ukraine Freedom Support Act; 2) persons who facilitate a significant transaction including deceptive or structured transactions, for or on behalf of any sanctioned person or their child, spouse, parent, or sibling; 3) persons responsible for commission of serious human rights abuses in any territory forcibly occupied or otherwise controlled by the Government of the Russian Federation	Powers under this are wide and could target any company that deals with a sanctioned Russian person or entity
231	Persons engaging in a significant transaction with a person that is part of, or operates for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation, including the Main Intelligence Agency of the General Staff of the Armed Forces of the Russian Federation or the Federal Security Service of the Russian Federation	Defence procurement and joint ventures of Indian companies with Russia could come under scrutiny and affect India's national interests
232	Any person who makes an investment or sells, leases, or provides to the Russian Federation, for the construction of Russian energy export pipelines any goods, services, technology, information, or support which: 1) has a fair market value of \$1,000,000 or more; or 2) during a 12-month period, have an aggregate fair market value of \$5,000,000 or more	At present, no Indian energy company is involved in any Russian pipeline projects
233	Persons making an investment of \$10,000,000 or more (aggregate in any 12-month period), or facilitates such an investment, if the investment directly and significantly contributes to the ability of the Russian Federation to privatize state-owned assets in a manner that unjustly benefits – 1) officials of the Government of the Russian Federation; or 2) close associates or family members of those officials	
234	A person that has exported, transferred, or otherwise provided to Syria significant financial, material, or technological support that contributes materially to the ability of the Government of Syria to: 1) acquire or develop chemical, biological, or nuclear weapons or related technologies; 2) acquire or develop ballistic or cruise missile capabilities;	

SECTION	CAUSE FOR IMPOSITION OF SANCTION	IMPACT ON INDIA
	<p>3) acquire or develop destabilizing numbers and types of advanced conventional weapons;</p> <p>4) acquire significant defense articles, defense services, or defense information;</p> <p>5) acquire items designated by the President for purposes of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act</p>	

III. Selective Enforcement of the U.S. Sanctions against Russia

The U.S. has imposed sanctions on major military, finance and banking institutions of the Russian Federation. Many of Russian defence companies are important suppliers of equipment to India and partners in joint ventures with Indian defence entities. (See Table 2).

Energy-sector companies in Russia have not been fully sanctioned, but certain restrictions have been imposed on entities²⁵ including giants like Gazprom and Rosneft. The restrictions include prohibition on any support for Arctic offshore or shale projects by these entities. Further, these entities cannot obtain debt from U.S. financial institutions with maturity longer than 60 days. These restrictions have so far not affected India or Indian energy companies, but if the U.S. clamps down further on Russia's energy sector, India could take a blow.

The partial sanctions on the energy sector seem to favour U.S. allies such as Germany and Italy, which depend heavily on Russian energy exports, even though the U.S. has been pushing these countries to move away from Russia and source their energy from the U.S. instead. This U.S. interest is further evinced by American opposition to the proposed NordStream 2 gas pipeline between Russia and Germany.²⁶

Sanctions on defence and energy-sector companies do not adversely affect the U.S. Russian energy companies that have strong ties with the EU have not been fully blocked. This shows the selective approach adopted by the U.S. in impos-

ing sanctions against Russia. Further, the U.S. has left out sectors and companies of Russia that are closely tied with its own interests.

1. U.S.'s Dependence on Russian Titanium

Titanium, a strong and light-weight element, has become a vital material for manufacturing aircraft. The Russian titanium producer Verkhnyaya Salda Metallurgical Production Association (VSMPO-AVISMA) is the major supplier of titanium products to the world's largest aircraft manufacturer, the U.S.-based Boeing Company. In 2017, Ural Boeing Manufacturing, a joint venture between Boeing and VSMPO-AVISMA, established a large production unit in the Titanium Valley Special Economic Zone in the Sverdlovsk region of Russia.²⁷

Boeing is projected to purchase titanium worth \$18 billion from Russia for its next generation 787, 737 MAX and 777X commercial aircraft.²⁸ Anticipating close collaboration and economic commitments, the U.S. did not include VSMPO-AVISMA among companies it has sanctioned. But if the U.S. further tightens its sanctions grip, Russia could leverage its control on titanium supplies and look at other interested partners like China.

Commercial Aircraft Corporation of China (COMAC) and the United Aircraft Corporation (UAC) of Russia are partnering to build the CR-929 wide-body, long-haul aircraft. VSMPO-AVISMA is already exporting titanium components for COMAC's smaller regional jet CR-919.²⁹ Considering China's influence over its Belt and Road Initiative partners in Asia and Africa, which promise to become regional aviation markets,

²⁵ Restrictions are imposed only on entities mentioned in the Sectoral Sanctions List maintained by OFAC of the U.S. Department of Treasury.

²⁶ Section 257 of CAATSA also makes a mention of this opposition.

²⁷ Ural Boeing Manufacturing Has Become a Resident of Special Economic Zone "Titanium Valley" // Titanium Valley. URL: http://titanium-valley.com/eng/media/novosti/ural_boeing_manufacturing_has_become_a_resident_of_special_economic_zone_titanium_valley_

²⁸ 15% or More of Titanium Being Used by Three Leading Aircraft Manufacturers Boeing, Embraer, and Airbus for Their Airplanes Comes from Russia // VSMPO-AVISMA. URL: http://www.vsmo.ru/en/news/182/Tri_vedushih_proizvoditelja_passazhirskih_samoletovjrbas_na_15_i_bolee_procentov_sostojat_iz_rossijskogo_titana

²⁹ VSMPO-AVISMA Corporation and Shanghai Aircraft Manufacturing Co. Ltd.(SAMC) Have Signed the Long Term Contract for Purchase of the Forging Products in titanium for COMAC C919 Aircraft // VSMPO-AVISMA. URL: http://www.vsmo.ru/en/news/181/Korporacija_VSMPOAVISMA_i_kompanija_Shanghai_Aircraft_Manufacturing_Co_Ltd_SAMC_podpisali_dolgosrochnij_kontrakt_o_zakupke_titanovih_shtampovannih_izdelij_dlja_samoleta_COMAC_C9

TABLE 2: SOME OF THE MAJOR RUSSIAN DEFENCE COMPANIES UNDER THE U.S. SANCTIONS

COMPANY	RELATION WITH INDIA
Rosoboronexport	Partner in manufacturing of Kamov Helicopters with India's Hindustan Aeronautics Limited (HAL)
MIC "NPO Mashinostroyenia"	Partner of India's Defence Research and Development Organization (DRDO) in Brahmos Project
Uralvagonzavod	Supplier of military hardware like T-90 and T-72 tanks to India
United Shipbuilding Corporation	Cooperation in shipbuilding (civil and military) with Hindustan Shipyard Limited
Almaz-Antey	Manufactures the S-300 and S-400 air defence systems
Kalashnikov Concern	Largest manufacturer of small arms in Russia

Russian titanium would find profitable markets outside of the West.

2. U.S. Dependence on Russian Rocket Engines

The United Launch Alliance (ULA) is a leading U.S. satellite and spacecraft launch service provider for commercial, civilian and military agencies. It was formed through a joint venture between Boeing Defense, Space and Security and Lockheed Martin Space Systems. The mainstay of the ULA is the *Atlas-V* expendable launch system, which is capable of lifting satellites up to 20 tonnes to low-Earth Orbit (about 200 km from the Earth's surface) and nine-tonne ones to geostationary transfer orbit (42,000-35,000 km from the Earth's surface). At present, the *Atlas-V* uses Russian-made *RD-180* rocket engines supplied by a limited-liability company RD-AMROSS, a joint venture between Russian manufacturer NPO Energomash and the U.S.-based Pratt & Whitney.³⁰

Recognizing its lack of indigenously-built rocket engines, the U.S. categorically exempts the National Aeronautics and Space Administration (NASA) and other non-defense agencies and customers from Russia sanctions.³¹ Neither the Russian space agency, the Roscosmos State Corporation nor RSC Energia, a prominent shareholder in NPO Energomash, have been sanctioned by the U.S.

Titanium and rocket-engines are only two examples where the U.S. has been lax on certain Russian entities on which it is dependent, and hence vulnerable to possible counter-sanctions.

The continuing trade and co-operation between the U.S. and Russia in these sectors, critical to both their economies, demonstrate that Moscow-Washington tensions have not reached a breaking point.

IV. Impact of Sanctions on India

India's relationship with Russia is developing mainly in the defence and energy sectors, and Indian entities in these sectors are potentially in the line of fire. The consequences Indian companies face in dealing with Russia, whether through trade or investment, could be on three fronts.

1. Companies that are not exposed to the Western markets may not fear being directly sanctioned for business dealings with Russian companies, but they will be affected by the restrictions on the access to Western financial and banking systems. Further, companies with exposure to the U.S. may not be willing to deal with them.

2. Most Indian multi-national companies have a significant exposure to American and European markets. They will not risk irking the U.S. government. This is especially true if their turnover in Russia is less than in the Western markets.

3. If sanctioned, an Indian company will be unable to receive loans exceeding \$10 million or engage in other banking or foreign-exchange transactions with American financial institutions.³² They also will be prohibited from receiving investments from a U.S.-based person or entity.³³

³⁰ RD-180 Engine Specifications // Engine Space. URL: <http://engine.space/eng/dejatelnost/engines/rd-180/>

³¹ Sec. 237. Countering America's Adversaries Through Sanctions Act (CAATSA) // US Department of the Treasury, Government of the United States of America. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl115-44.pdf

³² Sec. 235. Countering America's Adversaries Through Sanctions Act (CAATSA) // US Department of the Treasury, Government of the United States of America. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl115-44.pdf

³³ Ibid.

1. DEFENCE SECTOR

India's engagement with Russia in the defence and energy sectors includes bilateral trade and investment involving joint ventures and manufacturing. Each of these can be affected differently.

a. Procurement of Spare Parts, Sub-systems (Existing Deals)

India's military imports from Russia for 2017 totalled \$1.9 billion. The majority of this went for spare parts for existing military equipment and sub-systems for equipment being built in India.

The Indian Air Force (IAF) will soon be upgrading its fleet of *Sukhoi Su-30MKI* air superiority fighter jets, its front-line aircraft. The *Su-30MKI* is currently equipped with *N011M* passive electronically scanned array (PESA) radar developed by the Tikhomirov Scientific Research Institute of Instrument Design. The IAF intends to upgrade almost 40 of its *Su-30MKI* with a highly superior *Zhuk* active electronically scanned array (AESA) radar, which is developed by Phazotron, a subsidiary of the Concern Radio Electronic Technologies. All these Russian companies are sanctioned by the U.S.

Under a very strict reading of CAATSA, all of this trade could be subject to sanctions. However, the U.S. Department of State, in a briefing on secondary sanctions, said there will be a "significance threshold to the implementation of the law."³⁴ This suggests that such imports relating to existing equipment and sub-systems may not incur sanctions from the U.S.

b. Procurement of New Equipment (New Deals)

Purchases of major new systems, such as the *S-400* ballistic missile defence system developed by Russia's Almaz-Antey, which India proposes to acquire, could cross the significance threshold mentioned in CAATSA. The authority to determine whether a transaction is significant lies with the U.S. Department of State which has stated that it "will consider the totality of the facts and

circumstances surrounding the transaction and weigh various factors on a case-by-case basis."³⁵

This could lead to sanctions on Indian entities acquiring new equipment. The U.S. effectively could prevent any dollar-based payment for these systems. Admiral Phil Davidson, Commander of the U.S. Indo-Pacific Command, opined that imposing sanctions under CAATSA on partners like India, Vietnam and Indonesia for buying Russian equipment could have an adverse effect on their relationship with the U.S.³⁶ The steps the U.S. President and the Secretary of State will take remain to be seen.

India's purchase of the *S-400* system in the future can cause complications, in addition to violation of the sanctions. First, the *S-400* is an advanced system which can keep the U.S. air force out of large chunks of global airspace. Second, India uses hardware from multiple sources – Russia, France, the U.S., UK and Israel. In the digital world where systems interact with each other and need to be integrated, rival vendors like Russia and the U.S. will not be at ease, sharing top-of-the-line hardware with customers operating competing systems.

c. Joint Ventures

India is building a domestic defence industrial base to reduce its dependence on imports. Forming joint ventures with foreign military suppliers for access to technology and knowhow is an important strategy for achieving this goal. Russia, which has developed and manufactures advanced land, water and air systems, is a natural partner. India's Defence Research and Development Organisation and Russia's MIC NPO Mashinostroyenia have already developed a successful partnership to manufacture the *BrahMos* missile.³⁷ India's Hindustan Aeronautics Limited (HAL) has formed a joint venture with Rosoboronexport and Russian Helicopters for manufacturing *Ka-226T* helicopters in India.³⁸ NPO Mashinostroyenia and Rosoboronexport are both sanctioned by the U.S. Department of Treasury.

So far, there are no reports that the India–Russia joint ventures will be targeted by the U.S. under

³⁴ Briefing on Sanctions with respect to Russia's Defense and Intelligence Sectors under Section 231 of the Countering America's Adversaries Through Sanctions Act of 2017 // US Department of State, Government of the United States of America. URL: <https://www.state.gov/r/pa/prs/ps/2017/10/275164.htm>

³⁵ Public Guidance/FAQs on Sanctions with respect to Russia's Defense and Intelligence Sectors under Section 231 of the Countering America's Adversaries Through Sanctions Act of 2017 // US Department of State, Government of the United States of America. URL: <https://www.state.gov/t/isn/caatsa/275118.htm>

³⁶ Advance Policy Questions for Admiral Philip Davidson, USN Expected Nominee for Commander, U.S. Pacific Command (Declassified) // US Senate Committee on Armed Services, Government of the United States of America. URL: https://www.armed-services.senate.gov/imo/media/doc/Davidson_APQs_04-17-18.pdf

³⁷ Joint Venture Partners // Brahmos Aerospace. URL: <http://www.brahmos.com/content.php?id=1&sid=20>

³⁸ India-Russia Joint Venture for KA 226 T Helicopters Incorporated // Embassy of India, Moscow, Press Release. URL: <http://www.indianembassy.ru/index.php/media-news/press-releases/1886-india-russia-ka-226-t-joint-venture-incorporated>

the secondary sanctions provisions. However, if the sanctions are strictly implemented, the U.S. may sanction these Indian entities. Again, payments for these systems may be difficult if dollar-based transactions are prohibited.

Finally, a long-term issue that India must evaluate for its defence preparedness is the evolution of old and new alliances: deteriorating U.S.–Russia and U.S.–China relations, a simultaneous improvement in Russia–China ties.

2. ENERGY SECTOR

India is the world's third largest consumer of energy and a major importer of oil and natural gas, and its demand is growing. Russia is the world's second largest exporter of oil and the top exporter of gas.

India's energy imports from Russia are minimal because of logistical issues: Russia has large energy consumers (Western Europe, China, Japan and South Korea) right at its borders, while India finds it much cheaper to import oil from West Asia, which is far more accessible.

Indian companies have invested more than \$10 billion in acquiring stakes in Russian oil fields. (See Table 3). Russia's oil major, Rosneft, acquired India-based Essar Oil (now Nayara Energy) with its 20-million-ton petroleum refinery, in 2016 for \$13 billion.

Russia's Rosneft is the parent company of two Russian energy companies that have received Indian investment: Vankorneft and Taas-Yuriakh. Rosneft and Vankorneft are both on the SSI list and are subject to restrictions, including prohibition on U.S. persons from extending new debt for a maturity period longer than 60 days and any support in exploration or production for deepwater, Arctic offshore, or shale projects.

India can choose to make further investments in Russia's oil and gas industry to reduce its vulnerability to high oil prices subject to the restrictions under Directives 2 and 4. (See Annex II).

3. COUNTER SANCTIONS BY RUSSIA

On June 4, 2018, Russian President Vladimir Putin signed the Federal Law No. 127-FZ on Counter-Measures for Hostile Actions of the

United States and Other Foreign States.³⁹ Russia has not enlisted the names of the companies that will be sanctioned but these counter-sanctions could hit the U.S. in sectors that have not been sanctioned by the U.S. so far, including important metals exports (e.g. titanium) and technology such as rocket engines. India could be affected in turn, as several Indian companies have partnered with U.S. companies in these sectors. For example, Mahindra Defence Systems and Hindustan Aeronautics Limited have recently entered into a joint venture with Boeing to build the *F/A 18 Super Hornet* fighter aircraft in India.⁴⁰

Since India has been vocal in not accepting unilateral sanctions by the U.S. and EU against Russia, it needs to examine whether counter-sanctions implemented by Russia will affect Indian firms.

V. Navigating the Sanctions

1. ALTERNATE FINANCIAL INTERMEDIARIES

If India, as expected, decides to ignore the U.S. sanctions and proceed with military purchase or collaboration with Russia, the primary problem will be payment to Russian entities outside the dollar-based system. Sanctions make payment in dollars impossible. This is similar to the problem India faced in its energy trade with Iran in the last decade.

India might seek to revive the rupee-rouble trade, which it had with the former Soviet Union. But in the absence of significant export products from India to Russia, this is not an option in the short term. Moreover, there were issues relating to calculation of repayment of the amounts due to the Soviet Union. Unless an equitable calculation mechanism is set in advance, this option does not seem viable.

Payment in euros might be possible. Most leading European banks would not facilitate these transactions for fear of falling foul of U.S. financial regulators. But a number of smaller European banks without a presence in the U.S. could be used to make payments for Russian spare parts and other support until India can put longer term measures in place. Some of these banks do not deal in dollars and in some cases have been set up to facilitate dealings

³⁹ Federal Law No. 127 – Measures of Counteracting Unfriendly Actions of the United States of America and Other Foreign States // Consultant Plus. URL: http://www.consultant.ru/document/cons_doc_LAW_299382/ (In Russian).

⁴⁰ Boeing Partners with HAL and Mahindra for F/A-18 Super Hornet 'Make in India' // The Boeing Company. URL: <http://www.boeing.co.in/news-and-media-room/news-releases/2018/april/boeing-partners-with-hal-and-mahindra-for-fa-18-super-hornet-make-in-india.page>

TABLE 3. INDIAN INVESTMENTS IN RUSSIA’S ENERGY SECTOR

Sr. No.	Russian Entity / Gas Field	Indian Entity (Stake)	Investment (Year)	Sanctioned
1	Vankorneft	ONGC Videsh (26%)	\$2.2 billion (2016)	SSI – Directive 2, Directive 4
		Oil India, Indian Oil Corporation and Bharat PetroResources (23.9%)	\$2.02 billion (2016)	
2	Taas-Yuriakh	OIL-IOC-BPRL (29.9%)	\$1.121 billion (2016)	No
3	Licence 61	Oil India (50%)	\$85 million (2014)	N.A.
4	Imperial Energy	ONGC Videsh (100%)	\$2.1 billion (2009)	No
5	Sakhalin	ONGC Videsh (20%)	\$1.7 billion (2001) + \$1.1 billion (2004)	N.A.

Source: Collated and analyzed by Gateway House from various sources.

with specific countries.

Some examples are:

1. EIH Bank (Europäisch-Iranische Handelsbank AG): a specialist bank with three branches, one in Germany and two in Iran, to facilitate business with Iran.
2. Bank of Cyprus: this bank has three representative offices in Russia apart from its branches in China.
3. RCB Bank: based in Cyprus, this bank is co-promoted by Russia’s VTB (46.29%) Bank along with Crendaro Investments (49.9%). It has a representative office in Moscow.
4. Banca Popolare di Sondrio: an Italy-based bank that has facilitated transactions with Iran in the past and has representation in Russia.

2. GENERATING ROUBLE INCOME

The long-term option for India is to pay for Russian hardware in roubles, bypassing the dollar-based system entirely.

Given India’s limited exports to Russia, generating the volume of roubles will be a challenge. This can be partially worked around. India’s state-owned oil companies – ONGC Videsh (OVL), Bharat Petroleum Corporation Limited (BPCL) and Indian Oil – have stakes in several Russian oil and gas fields. Dividends accruing to these three companies will be in roubles.

India also can set up a specialised bank which will facilitate trade and money transfer with Russia

and which has no exposure to the U.S. financial market. The dividends accruing to Indian firms could be deposited into this bank and then be remitted to India in rupees. Simultaneously, payments to Russian weapons manufacturers can be made by this bank in roubles on behalf of India’s defence entities – even though this amount will be limited. OVL’s total profit for FY18 was rupees 916 crores (\$134 million).

This amount can be increased if the Indian government, through an investment arm, acquires a minority (less than 5%) stake in resource companies such as Rosneft. Rosneft produces more than six million barrels/day of oil – and has committed to paying out 50% of its profits as dividends. In 2017, Rosneft paid out 104 billion roubles⁴¹ (\$1.78 billion at 2017 exchange rates⁴²). Income (and dividends) for 2018 will be higher, as oil prices have firmed up sharply this year. Rosneft’s income is in U.S. dollars, while expenses are in roubles – so the depreciation of the rouble against the dollar would not undermine profitability. Since energy investments are not prohibited by the U.S. sanctions, these investments can be made freely. Also, an investment in Rosneft would protect India against high oil prices to some extent. (See Table 4).

India must invest in other natural resources in addition to the oil industry. With one-sixth of the world’s population, India will need almost all types of resources in large quantities as it grows. One other example of a potential investment could be PhosAgro – a manufacturer of phos-

⁴¹ Financial Results for 2017 (Quarterly and Year-round) // Rosneft Oil Company (Russia), Press Release.
URL: <https://www.rosneft.com/press/releases/item/190105>

⁴² Management’s Discussion and Analysis of Financial Condition and Results of Operations for the Three Months Ended December 31 and September 30, 2017 and for the Twelve Months Ended December 31, 2017 and 2016 // Rosneft Oil Company.
URL: https://www.rosneft.com/upload/site2/document_cons_report/MDA_ENG_4Q2017.pdf

TABLE 4. POTENTIAL REVENUE FROM RUSSIAN INVESTMENTS FOR PAYMENTS FOR INDIAN DEFENCE IMPORTS

ENTITY	SHARE PRICE*	DIVIDEND/SHARE **	DIVIDEND YIELD	YIELD FOR EVERY \$1 BILLION INVESTMENT IN COMMON STOCK (\$ MILLION)
Gazprom	145.6	8.00 ⁴³	5.50%	55
Rosneft	436	9.80 ⁴⁴	2.20%	22
Surgutneftgas	28.2	0.65 ⁴⁵	2.30%	23
Novatek	1,067	14.95 ⁴⁶	1.40%	14
Phosagro	2,531	81.00 ⁴⁷	3.20%	32
Tatneft	784.8	39.94 ⁴⁸	5.10%	51

* As on 28 August 2018.

** Dividend/Share for 2017.

If \$1 billion is invested in each of the five Russian companies, Gazprom, Rosneft, Surgutneftgas, Phosagro, Tatneft, it would have yielded an annual dividend to India of \$183 million in 2017.

Given that India's total defence imports from Russia for FY 2017 was \$1.9 billion, a \$10 billion investment in Russian companies would have yielded \$366 million – enough to cover approximately 20% of annual payments owed to Russia.

phate fertilizers, which India imports.⁴⁹ Since food products are not covered by sanctions, these investments could help secure resources for the future and guarantee a rouble income to support India–Russia trade.

3. INCREASE INDIA'S PROFILE IN THE U.S.

India needs to raise its profile in the U.S. so that its concerns about defence preparedness and energy security carry more weight in Washington. One way is to create U.S. dependence on India for jobs. The current U.S. administration has shown itself willing to cut 'deals' and is headed by a president who prides himself as a deal-maker. Offering the U.S. tangible gains at home can help India generate the political capital to bypass the sanctions. In a recent visit to the U.S., India's Union Minister of Commerce and Industry and Civil Aviation, Suresh Prabhu, spoke of enhanced trade cooperation with the U.S., especially purchase of civilian aircraft and oil and gas procurement⁵⁰ – these will generate jobs on U.S. soil.

India can follow a similar, pragmatic approach in

other areas like gas and defence procurement:

1. Source American Gas

Increased dealings of Indian energy companies in Russia will surely come in for scrutiny in the U.S. The potential risk on this front can be reduced by linking U.S. energy jobs with Indian energy companies like Indian Oil, ONGC Videsh, and Bharat PetroResources. The U.S. has become an exporter of Liquefied Natural Gas (LNG) due to shale gas production. During FY18, India imported merely 300,000 tons of the U.S. LNG out of total imports of about 20 million tons. India sourced five million tons of LNG from Nigeria, Angola, Equatorial Guinea and Australia last year; this volume can be shifted to U.S. suppliers, in the process making the U.S. more engaged with India's energy sector.

2. Military Procurement

India will have to alter its defence procurement needs, given the reality of CAATSA. An unwritten American objective of CAATSA is to get a larger share of India's defence imports

⁴³ Earnings Conference Call Fourth Quarter 2017 IFRS // PhosAgro.

URL: https://www.phosagro.com/upload/iblock/3b0/4Q17_IFRS_Presentation%20-%20ENG%20Final.pdf

⁴⁴ Dividends Paid out per Share as at the Year End // Gazprom. URL: <http://www.gazprom.com/investors/dividends>

⁴⁵ Rosneft Oil Company IFRS Results Q4 and 12M 2017 // Rosneft Oil Company.

URL: https://www.rosneft.com/upload/site2/document_cons_report/FY2017_Results_ENG.pdf

⁴⁶ Significant Events, Including Insider Information Disclosure // Surgutneftgas.

URL: <https://www.surgutneftgas.ru/en/investors/sushchestvennye-sobytiya-v-tom-chisle-insayderskaya-informatsiya>

⁴⁷ Dividends // Novatek. URL: <http://www.novatek.ru/en/investors/dividends>

⁴⁸ Dividends // PhosAgro. URL: <https://www.phosagro.com/investors/capital/dividends>

⁴⁹ 2017 Growth Strategy TATNEFT Annual Report // TATNEFT Group.

URL: http://www.tatneft.ru/storage/block_editor/files/39cd59cfc338ee789d325e8a58298ff8b625eacf.pdf

⁵⁰ Discussions on Bilateral Trade and Commercial Relations during Suresh Prabhu's USA Visit on 10-12 June 2018 // Press Information Bureau, Government of India. URL: http://commerce.gov.in/writereaddata/uploadedfile/MOC636644845880754130_CIM_USA_visit_10-12_June_2018.pdf

for American manufacturers. India can use this lever strategically to link American defence jobs to Indian defence public sector undertakings (PSUs) as a counterweight against potential U.S. action against Indian companies. This leverage can provide cover for India's dealings with Russia till India is able to develop more permanent bypass mechanisms to facilitate trade with Russia.

The U.S. formed the India Rapid Reaction Cell to expedite bilateral ties with India. The U.S. has already cleared the sale of *F-16* and *F/A-18* fighter jets to the Indian military in an arrangement that includes a proposal to shift production lines to India. Given the Indian Navy's rejection of the Tejas aircraft, India should seriously consider procuring *F/A-18 Super Hornet* fighters. HAL, which has joint ventures with Russian defence companies, must partner in any such arrangement. This will give India a cushion and tie HAL into high-tech, export-oriented manufacturing jobs in the

U.S., giving it political cover against sanctions. Also, India must consider sourcing non-critical defence equipment from U.S. vendors – and again route these purchases through the PSUs that are handling Russian imports.

India also must leverage its partnership with Israel's defence sector. Private Indian companies like Larsen & Toubro have partnered with Israel Aerospace Industries, Rafael Advanced Defense Systems and Elbit Systems. Israeli backing for India is likely to mitigate the threat of sanctions.

India may face an uphill battle if the economic war between the U.S. and Russia intensifies. Adopting the short-term and long-term strategies recommended in this paper will alleviate some of the pain of possible U.S. actions against India. Insulating private-sector and state-owned entities from U.S. sanctions must be the priority while ensuring the smooth flow of trade in the defence and energy sectors.

Annex I. U.S. Sanctions against Russia

DATE	LEGAL DOCUMENT	SANCTIONS IMPOSED
6 March 2014	E.O. 13660 ⁵¹	Sanctions imposed on persons directly or indirectly involved in any actions that: 1) undermine democratic processes and institutions in Ukraine; 2) threaten peace, security, stability, sovereignty, and territorial integrity of Ukraine; 3) amount to misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine; 4) assert governmental authority over any part or region of Ukraine without the authorization of the Government of Ukraine; This includes any person or leader or an entity who has materially assisted, sponsored, or provided financial, material, or technological support towards any action mentioned above
16 March 2014	E.O. 13661 ⁵²	This E.O. expanded the scope of sanctions to include: 1) officials of the government of the Russian Federation; 2) persons operating in the arms or related material sector. An annex to the E.O. listed the names of seven Russians including then the Deputy PM Dmitry Rogozin
20 March 2014	E.O. 13662 ⁵³	Sectoral sanctions introduced to impose prohibitions of certain activities in sectors like financial services, energy, metals and mining, engineering, and defense and related material. The Sectoral Sanctions Indications list contains a list of entities sanctioned under this E.O.
3 April 2014	Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act ⁵⁴	Enacted to provide for cost of loan guarantees and other assistance to Ukraine. Amended by CAATSA to impose sanctions on foreign persons purposefully violating the sanctions against Russia and those who facilitate a significant transaction including deceptive or structured transactions on behalf of any sanctioned person
8 May 2014	Ukraine-Related Sanctions Regulations ⁵⁵	OFAC issued a set of regulations to implement E.O. 13660, E.O. 13661, and E.O. 13662
19 December 2014	E.O. 13685 ⁵⁶	Prohibition on export or import of any goods, services, or technology to or from the Crimea region; new investment in the Crimea region by a U.S. person, wherever located

⁵¹ E. O. 13660 – Blocking Property of Certain Persons Contributing to the Situation in Ukraine // US Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo.pdf

⁵² E. O. 13661 – Blocking Property of Additional Persons Contributing to the Situation in Ukraine // US Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo2.pdf

⁵³ E.O. 13662 – Blocking Property of Additional Persons Contributing to the Situation in Ukraine // US Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo3.pdf

⁵⁴ Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 // United States Congress. URL: <https://www.congress.gov/113/plaws/publ95/PLAW-113publ95.pdf>

⁵⁵ Electronic Code of Federal Regulations, Part 589 – Ukraine Related Sanctions Regulations // Government of the United States. URL: <https://www.ecfr.gov/cgi-bin/text-idx?SID=5540cddca60a12835566d63f780cbe6a&mc=true&node=pt31.3.589&rgn=div5>

⁵⁶ E. O. 13685 – Blocking Property of Certain Persons and Prohibiting Certain Transactions with respect to the Crimea Region of Ukraine // US Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo4.pdf

1 April 2015	E.O. 13694 ⁵⁷	Sanctions imposed on persons engaging in significant malicious cyber-enabled activities. This included: 1) actions that harm the critical infrastructure sector; 2) misappropriation of funds, trade secrets, personal identifiers, or financial information
28 December 2016	E.O. 13757 ⁵⁸	E.O. 13694 expanded to include misappropriation of information with the intent of undermining election processes or institutions of the U.S.
2 August 2017	Countering America's Adversaries Through Sanctions Act ⁵⁹	This Act passed by the U.S. Congress: 1) codified all previous Executive Orders with respect to Russia; 2) introduced Congressional review mechanisms for waiver or termination of any sanctions imposed against Russia; 3) introduced secondary sanctions to target any foreign person or entity that has dealings with a Russian individual or entity sanctioned by the U.S.

Source: U.S. Treasury website, collated and analyzed by Gateway House.

⁵⁷ E. O. 13694 – Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities // United States Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber_eo.pdf

⁵⁸ E. O. 13757 – Taking Additional Steps to Address the National Emergency with respect to Significant Malicious Cyber-Enabled Activities // United States Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber2_eo.pdf

⁵⁹ Congressional Report H.R.3364 // US Department of the Treasury, Government of the United States. URL: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hr3364_pl115-44.pdf

Annex II: Prohibition on Activities and Limitation on Transactions under E.O. 13662

S.No.	SECTOR	PROHIBITION/LIMITATION (AS PER LATEST AMENDMENT)	DIRECTIVE
1.	Financial	For new debt or new equity issued on or after November 28, 2017, all transactions, including financing for new debt of longer than 14 days maturity or new equity of persons determined to be subject to this Directive, their property, or their interests in property	Directive 1
2.	Energy	For new debt issued on or after November 28, 2017, all transactions, including financing for new debt of longer than 60 days maturity or new equity of persons determined to be subject to this Directive, their property, or their interests in property	Directive 2
3.	Defence and related material	All transactions, including financing, for new debt of longer than 30 days maturity of persons determined under this Directive, their property, or their interests in property	Directive 3
4.	Energy	Export or re-export of goods, services (except for financial services), or technology in support of exploration or production for deep-water, Arctic offshore, or shale projects that have: 1) the potential to produce oil in the Russian Federation; 2) the potential to produce oil in any location and where a person sanctioned under this directive has 33% of greater ownership or majority voting rights	Directive 4

Source: U.S. Treasury website, compiled by Gateway House.

Notes

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