

WORKING PAPER

A PROPOSAL FOR RUSSIAN ASSET SEIZURE

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This working paper was produced as part of a May 2024 event organized by Brookings' Economic Studies and Foreign Policy programs entitled, "Sanctions on Russia: What's working? What's not?" This report and others presented at the event can be found online at <https://www.brookings.edu/events/sanctions-on-russia-whats-working-whats-not/>.

Kosenko an unpaid member of Economists for Ukraine, A global nonprofit. The authors did not receive financial support from any firm or person for this article or from any firm or person with a financial or political interest in this article. The authors are not currently an officer, director, or board member of any organization with a financial or political interest in this article.

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A proposal for Russian asset seizure

Joseph E. Stiglitz and Andrew Kosenko

Introduction

Over the last decade, the Russian Federation has repeatedly violated international law and norms, beginning with the occupation and annexation of the Crimean Peninsula¹ in 2014 and continuing with the devastating full-scale invasion of Ukraine in 2022. In response, an international coalition (including the U.S., the U.K., the EU, Japan, Australia, and other allies) imposed broad sanctions against the Russian Federation. Sector-wide sanctions against key Russian industries (targeted particularly towards oil and natural gas but also including Russian nuclear energy and information technology sectors) were introduced, in addition (eventually) to price caps on oil of Russian origin, financial and banking sector sanctions (such as the restriction of access to cross-border financial transactions—the SWIFT system ban—for some Russian banks), travel restrictions, technology restrictions, and other import and export controls.

To be fully effective such sanctions need to be comprehensive and adequately enforced. We believe that sanctions on the Russian government are working, but the current sanctions regime can be improved and additional sanctions may be warranted. We focus on one particular measure—the seizure of Russian assets—and argue that the Russian breaches of international law and norms justify and necessitate this forceful action.

We start by considering the broad determinants of sanction success, each with an application to the Russian case, and then turn to our main proposal—seizure of Russian sovereign assets held in jurisdictions of the international coalition. We discuss why this measure is a particularly good move in these circumstances, especially considering the strengths and weaknesses of other measures, and conclude by considering some of the impacts of such confiscation on Russia, on Ukraine, on the international coalition, and on other countries.

In general, sanctions are successful to the extent that they impose costs on the sanctioned country, to the extent that they do *not* impose costs on the sanctioning country, and to the extent there are any further, additional costs or benefits. Imposing costs on a rogue state necessitates a comprehensive sanctions regime, with broad international support and cooperation and a limited ability of the target state to mitigate the measures. Unfortunately, in the case of Russia, these conditions are not fully satisfied.

¹ This was done using military force, coercion, and various acts of subterfuge in direct contravention to the 1994 Budapest Memorandum on Security Assurances (which involved the U.S. and the U.K., in addition to Ukraine and Russia) and the 1997 treaty on friendship, cooperation, and partnership (often known as the “big treaty”), as well as several others. A cornerstone principle of both the 1994 and the 1997 treaties was mutual respect of territorial integrity and sovereignty, which Russia blatantly violated by these actions. These actions follow the Russian invasion of Georgia in 2008; about 20% of Georgia is occupied by the Russian military to this day.

Imposing costs on the sanctioned country: Reforming export controls and import sanctions

Much of the initial 2022 sanctions were focused on Russian oil, gas, and financial sectors. Especially for a country like Russia, where the major exports are commodities, and where it is difficult to impose global sanctions, import sanctions may be more effective than those on exports. At least in the short run, supply chain interruptions can have large adverse effects.

Sanctions in the area of commodity exports are difficult, and their partial failure is not a surprise, especially given low elasticities of demand and supply.² While elasticity can change over time (due to technology, preferences, or availability of substitutes), in the very short run, sanctions on commodities with low elasticities may not have the hoped-for adverse effect on those being sanctioned but have a marked adverse effects on the sanctioning countries as well as “bystanders.” When the global short run elasticity of demand and supply is low, a successful attempt to restrict the quantity of exports results in an increase in the price of the good, resulting in increased revenues—just the opposite of what was intended. (In the short run, this seemed to be true in the initial phase of the restrictions on the export of Russian oil and gas. For such a storable commodity, there can be further price effects as speculators gamble that the price will go still higher by putting more of the commodity into storage, exacerbating the decrease in supplies available for usage. This too seemed to have happened in the initial phases of the imposition of sanctions. If price increases are disproportionate to the curtailment of supply, the sanctioned country will actually have more foreign exchange as a result of the sanctions.)

Commodity sanctions may thus not impose costs that are high enough to deter a rogue state—indeed there may be no costs—and certainly not without collateral damage. For this reason, we explore other measures—and focus on asset seizure—below.

Avoiding costs for the sanctioning countries

Those imposing sanctions should try to minimize the costs to the sanctioning countries (and “bystanders”). If the costs are too high, it may be difficult to sustain political support for the sanctions; this is especially true if there is no apparent deterrence effect on the sanctioned country. One way of reducing these costs is by providing substitutes. This was done, with some success, in the area of liquified natural gas, with the U.S.

² “Elasticity” (here, the price elasticity) is a measure of how responsive quantities demanded and supplied are to changes in the price. If the price changes by a little, and the quantity (say, demanded) changes by a little, economists say that the good has *inelastic* demand, and the price elasticity of demand is low. This is relevant because for commodities such as oil and natural gas there are no immediate substitute commodities, and thus, if the price rises, consumers will be forced to purchase more or less the same amount of the commodity as before (since it is *inelastic*), which means that there is a price increase that is not accompanied by a (large) quantity decrease, meaning that total revenue (price times quantity) goes *up*.

providing liquified natural gas exports to replace natural gas imported from the Russian Federation.

The adverse impacts on energy consumers in Europe would have been reduced, too, by better policies of electricity pricing (adapting them to this unusual situation) and by governments taking stronger actions in expanding renewable and other energy sources.

In the case of Germany—a large economy that was heavily reliant on Russian energy—the complete decoupling from Russian oil and natural gas did not result in the predicted shock. “Not even a recession,” as Benjamin Moll and colleagues wrote.³ While the German economy *may* have entered into a brief technical recession in 2024, the reasons cited by the Bundesbank—low external demand, high inflation, and high interest rates—mostly were unrelated to energy costs.⁴ While inflation in Germany was related to energy costs, much of its inflation was due to the German electricity pricing policy.

Russian sanctions circumvention

Russia has used two main strategies to counteract existing sanctions: adjustment and evasion. Adjustment to sanctions may be defined as responding to the sanctions by adaptation—for instance, import substitution and other domestic “industrial” policies to restructure the economy—and evasion, continuing the activity, often covertly.⁵

As a result of the European restriction on imports of Russian oil and gas, Russia has sought and found new buyers (most importantly China, India, and Brazil⁶) for its exports who were able to take advantage of Russia’s weakened negotiating position to extract significant discounts. While in the months immediately following the full-scale invasion, Russian hydrocarbon revenues *rose*,^{7 8} driven by world oil price increases, total revenue from the value of the exports fell in 2023 as a result of the price decreases as well as the price cap on oil of Russian origin that was imposed by the G7. Sanctions were announced in mid-2022 and entered into force around January 1, 2023. In the first quarter of 2023 Russian fossil fuel revenue was roughly half (\$25.6 billion) of the revenue in the last quarter of 2022 (\$52.9 billion)⁹ and total export revenue was about a third lower across the same quarters.¹⁰ Total hydrocarbon revenue for 2022 was

³ https://www.econtribute.de/RePEc/ajk/ajkpbs/ECONtribute_PB_048_2023_EN.pdf

⁴ [https://www.reuters.com/markets/europe/germany-likely-recession-recovery-delayed-says-bundesbank-2024-03-21/#:~:text=FRANKFURT%2C%20March%2021%20\(Reuters\),regular%20economic%20report%20on%20Thursday.](https://www.reuters.com/markets/europe/germany-likely-recession-recovery-delayed-says-bundesbank-2024-03-21/#:~:text=FRANKFURT%2C%20March%2021%20(Reuters),regular%20economic%20report%20on%20Thursday.)

⁵ The distinction, while useful, is not always unambiguous. Evasion is one way of minimizing the need for adjustment.

⁶ Brazilian imports of diesel fuel of Russian origin have surged 6000% (six thousand percent) in 2023.

⁷ <https://energyandcleanair.org/february-2024-monthly-analysis-of-russian-fossil-fuel-exports-and-sanctions/>

⁸ https://kse.ua/wp-content/uploads/2024/04/Chartbook_April2024.pdf

⁹ Op. cit.

¹⁰ Op. cit.

\$194.1, while total hydrocarbon revenue for 2023 was \$120.9 billion; the sanctions had a significant effect.

However, Russia has been able to evade these sanctions to a considerable extent (as predicted by many economists), continuing to export these commodities to new buyers by exploiting enforcement loopholes.¹¹

To address this situation, the Biden administration issued an executive order in late 2023 aimed at entities outside Russia that facilitate sanctions evasion (in many cases these are firms, often financial, that have Russian firms as counterparties) and thus engaging in limited secondary sanctions. Some of these Russian firms are likely front companies for the Russian military.¹² These sanctions appear to have had an appreciable effect by early 2024, with Moscow's imports from China and Turkey declining significantly.¹³

This situation underscores a key point: States adjust to and evade sanctions, and their effect therefore declines significantly over time.¹⁴ For this reason, sanctions are effective only to the degree they are comprehensive, and they need to be complemented with other measures. In the case of sanctions against, say, Russian oil, it is not possible for them to be comprehensive given the failure of the U.S. and Europe to persuade much of the rest of the world to join the opposition, and given that, for the fraction of the world that has not embraced these sanctions, secondary sanctions (on those who break the sanctions) may be too costly. While sanctions on companies providing flagging services, insurance, and other services to Russian exporters may be feasible and sanctions lowering the price of Russian exports would even be welcome by Russia's "new" customers—China, India, Brazil, and Turkey—further secondary sanctions on these countries are likely to hurt more than they help.

Asset seizures

Asset seizures can be an important part of a sanctions regime because, while they impose significant costs on the sanctioned country, they have little adverse effect on the sanctioning country, and they can provide substantial additional benefits for the

¹¹ Tania Babina, Benjamin Hilgenstock, Oleg Itskhoki, Maxim Mironov, and Elina Ribakova, "Assessing the Impact of International Sanctions on Russian Oil Exports," February 2023, working paper, available at <https://ssrn.com/abstract=4366337>; Benjamin Hilgenstock, Elina Ribakova, Nataliia Shapoval, Tania Babina, Oleg Itskhoki, and Maxim Mironov. "Russian Oil Exports Under International Sanctions" April 2023, working paper, available <https://ssrn.com/abstract=4430053>; and Simon Johnson, Lukasz Rachel & Catherine Wolfram, "A Theory of Price Caps on Non-Renewable Resources," NBER working paper 31347, June 2023.

¹² <https://www.whitehouse.gov/briefing-room/statements-releases/2023/12/22/fact-sheet-biden-administration-expands-u-s-sanctions-authorities-to-target-financial-facilitators-of-russias-war-machine/#:~:text=The%20E.O.,bans%20on%20certain%20Russian%20goods.>

¹³ <https://www.ft.com/content/b4a556b0-0402-4114-9428-869bd49cf23c>

¹⁴ The flip side of this observation is that, by the very same token, whatever adverse impacts on the United States exist as a consequence of sanctions (such as increased commodity prices, trade disruptions, or political effects), they also lessen over time.

sanctioning country. They may be particularly important when other measures are limited in their effectiveness because of evasion/circumvention and adjustment.

We argue, in particular, that asset seizure should be pursued in the case of the Russian Federation and its invasion of Ukraine and, more generally, considered whenever circumstances arise necessitating the imposition of sanctions. And we explain why the arguments put forward by those opposing such seizure are unpersuasive.

The U.S. Congress took a major step toward pursuing comprehensive asset seizure with the passage of the “Rebuilding Economic Prosperity and Opportunity for Ukrainians Act” of 2024 (or simply the REPO Act), signed into law by President Biden on April 24, 2024, as part of a package of aid to Ukraine. The law outlines a path for seizure of assets of the Central Bank of Russia (CBR), assets of Russian state-owned entities, and potentially other Russian government assets (such as assets of the Russian sovereign wealth fund) and outlines three key principles. First, this law designates the Russian Federation an “aggressor state,” finding that:

The extreme illegal actions taken by the Russian Federation, including an act of aggression, present a unique situation, justifying the establishment of a legal authority for the United States government and other countries to confiscate Russian sovereign assets in their respective jurisdictions.

This step, in turn, paves the way for the doctrine of countermeasures to be applied by the United States and other countries to bring the Russian Federation back in line with its international obligations. Second, the Act stipulates that “...the president may seize, confiscate, transfer, or vest any Russian aggressor state sovereign assets, in whole or in part, and including any interest or interests in such assets, subject to the jurisdiction of the United States.” And third, the Act directs the president to

[...] take such actions as the president determines appropriate to coordinate with the G7, the European Union, Australia, and other partners and allies of the United States regarding the disposition of immobilized Russian aggressor state sovereign assets, including seeking to establish an international mechanism with foreign partners, including Ukraine, the G7, the European Union, Australia, and other partners and allies of the United States, for the purpose of assisting Ukraine [...]

Thus, the law explicitly creates presidential authority to seize Russian assets and charges the executive branch of the United States with carrying out the relevant steps.

We now turn to certain legal aspects of such asset seizure, with particular attention to the implications of recent legislative action in the United States, looking at these issues through the lens of an economist.

This asset seizure is undertaken with an aim to help Ukraine fight back and to defend the principle that borders cannot be changed by force—a principle that has been a

cornerstone of peace since World War II. Whether even the toughest sanctions regime will be able to do that in this case is problematic, but at the very least, the sanctions regime weakens Russia's ability to wage this war, and the proposed actions—seizure of its assets—helps Ukraine respond to Russia's aggression and provides resources for its recovery. Not to pursue asset seizure because of a concern that such an act violates “sovereign immunity” seems on the face of it absurd: One cannot violate the sovereignty of another nation only to use sovereign immunity as a shield against countermeasures.

Notably, Article 50 of the International Law Commission's (ILC's) Articles on the Responsibility of States for Internationally Wrongful Acts (to list but one corpus of international law that supports such action) excludes sovereign immunity from the list of obligations that may not be affected by such countermeasures.

Moreover, as noted above, the Act views this asset seizure as unique (referencing particular UN Security Council and General Assembly resolutions condemning the Russian invasion of Ukraine), and thus, it applies only to the circumstances surrounding this invasion (though obviously it would set a precedent for other cases where one country invades another—something that should be viewed positively since it might act as a deterrent). Furthermore, the Act advocates for a broad multilateral coalition in pursuing such asset seizure, “undertaken alongside international allies and partners as part of a coordinated, multilateral effort, including with G7 countries, the European Union, Australia, and other countries in which Russian sovereign assets are located.”¹⁵ Thus, the REPO Act constructs a legal framework for a multilateral coalition that, in a narrowly defined instance, seeks to fulfill its international obligations by creating conditions designed to bring an aggressor state back to adherence with the international obligations of that state.

By contrast, the EU has so far focused mainly on using the *proceeds* from frozen Russian sovereign assets to aid Ukraine rather than using the funds themselves.¹⁶ Of course, the impact of seizing the interest earned on the assets will be much smaller than seizing the assets, and this is especially true if we are concerned with the immediate impact: the availability now of funds to finance Ukraine's war effort and reconstruction.¹⁷ As the bulk (around \$200 billion) of the funds are being held in Belgian jurisdiction,¹⁸ Belgian affirmative support is a necessary condition for a comprehensive

¹⁵ <https://www.congress.gov/bill/118th-congress/house-bill/815>

¹⁶ <https://www.reuters.com/world/europe/eu-envoys-agree-use-profits-frozen-russian-assets-ukraine-2024-05-08/>

The legal position of the European Commission with regard to seizing the proceeds is that, “The generation of unexpected and extraordinary revenues that are not the property of the Central Bank of Russia, as there is no legal or contractual provision for interest to be paid to the owners of the principal. Since these revenues only exist as a result of the restrictive measures, there can also be no legitimate expectation that they should remain with the central securities depositories and their shareholders.”

¹⁷ Europe has allowed the capitalization of the future interest proceeds, thus providing substantially more funds *now* for Ukraine. Moreover, in doing so, they impede a reversal of policy by the sanctioning countries, an important benefit of seizure of assets.

¹⁸ Belgium holds the rotating presidency of the council of the EU from January to July 2024, and as such, may hold a “first among equals” sway over decisionmaking.

asset seizure, and so this difference of approach highlights the importance of multilateral action on seizure of the underlying assets.¹⁹

Europe's concerns are about setting a bad precedent (with countries pulling out of European financial institutions or stopping using the euro for international transactions), as well as about the legality of such a move.²⁰ But there seems to be some tension in this position—why is seizing some assets (the interest) legal while seizing other assets (the principal) is not? It seems legal hairsplitting. Some of the European Parliament's own research outlines the ways in which the sovereign immunity argument can be overcome.²¹ Furthermore, there has been support from international legal experts for confiscation of the underlying assets.^{22 23} The letter²⁴ from several experts concludes that

...it would be lawful, under international law, for States which have frozen Russian State assets to take additional countermeasures against Russia, given its ongoing breach of the most fundamental rules of international law, in the form of transfers of Russian State assets as compensation for the damage that has resulted directly from Russia's unlawful conduct.

In mid-May of 2024, Estonia has become the first EU member to call for seizure of the immobilized assets themselves, with the Estonian parliament voting to approve the relevant measure.²⁵ This may be perhaps the first of many such moves; the Parliamentary Assembly of the Council of Europe has also (unanimously) called for confiscation of the principal.²⁶

Proposal

Our main proposal is that the president, acting in concert with the international coalition, should exercise the authority granted to him by the REPO Act to seize Russian assets.

¹⁹ There is a further technical point for those concerned that the seizure of assets violates the critical principal of sovereign immunity: Sovereign immunity is a doctrine that prevents courts of one state from issuing legally binding judgements in the jurisdiction of another state, a doctrine that is applicable only in juridical settings—and pointedly, not applicable in executive settings. Furthermore, the sovereign immunity doctrine was not designed to shield a nation from the consequences of waging offensive war in violation of core principles of international law.

²⁰ Note that the REPO act provides an explicit legal basis for this move for the United States.
²¹

[https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU\(2024\)759602_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU(2024)759602_EN.pdf)

²² <https://www.justsecurity.org/93004/past-time-to-liquidate-russian-assets/>

²³ <https://www.bloomberg.com/news/articles/2024-02-21/seizing-frozen-russian-assets-over-ukraine-war-wins-endorsement-of-legal-experts?leadSource=uverify%20wall>

²⁴ <https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/r.FjnWGtOKvc/v0>

²⁵ [https://www.reuters.com/world/europe/estonia-parliament-backs-using-frozen-russian-assets-ukraine-reparations-2024-05-](https://www.reuters.com/world/europe/estonia-parliament-backs-using-frozen-russian-assets-ukraine-reparations-2024-05-15/#:~:text=TALLINN%2C%20May%202015%20(Reuters),the%20EU%20for%20Ukraine's%20defence.)

[15/#:~:text=TALLINN%2C%20May%202015%20\(Reuters\),the%20EU%20for%20Ukraine's%20defence.](https://www.reuters.com/world/europe/estonia-parliament-backs-using-frozen-russian-assets-ukraine-reparations-2024-05-15/#:~:text=TALLINN%2C%20May%202015%20(Reuters),the%20EU%20for%20Ukraine's%20defence.)

²⁶ <https://www.euractiv.com/section/europe-s-east/news/council-of-europe-unanimously-votes-to-use-seized-russian-assets-to-fund-ukraine-reconstruction-compensation/>

The seizure of the sovereign assets of the CBR that are deposited in Western financial institutions is the right legal, economic, and moral move, using the fund to benefit the Ukrainian war and recovery efforts. There is now considerable support for this measure among academics, policymakers, and political leaders.²⁷

Reserves of the CBR, totaling approximately \$300 billion denominated in U.S. dollars, euros, and British pounds, are held in U.S., EU, and other G7 jurisdictions. About \$200 billion are held in Euroclear (a clearinghouse under Belgian jurisdiction). Shortly after the full-scale invasion these assets were “frozen” by the relevant authorities. Given that only about \$5 billion are held in a U.S. jurisdiction, it is imperative that the president coordinates with international allies to ensure that asset seizure is comprehensive, as we have already argued.

We now turn to the incentive effects of this measure. Confiscating Russian sovereign assets *has no effect* on the incentives of peaceful nations to take part in the global financial system. To the extent that there is any effect, such confiscation affects only states that are aiming to take measures that drastically undermine the world order.

To the extent that there is any detrimental effect on the international or American financial system, as a result of which nations would not want to participate in the system (and it should be noted that there are no real alternatives to the existing financial system), that effect would already have taken place, as the Russian government has already lost control of the assets when they were frozen. The fact that doing so had no discernible effect on others is consistent with this perspective.

Furthermore, consider the incentives of a nation (for instance, China or India) that is considering “leaving” the current financial system. Setting up an alternative financial system will, without a doubt, be costly, and the costs of provision of financial and insurance services—given the competitive advantages of the existing system—will be higher. Should there be some diversion away from the U.S. or Europe, the U.S. and its allies will undoubtedly incur some losses, mainly in the form of commissions on financial services, but these losses are small—indeed, if we assume that financial markets are competitive, little more than the costs of providing the services.²⁸

Moreover, one must consider the consequences of the status quo—that is, of not seizing these assets. If Russian assets are not confiscated, bad actors will continue to abuse the financial system while pursuing activities (of which the Russian invasion is but one example) that strain the entire international system and inflict large costs on allied governments. As of May 2024, U.S. and allies have committed or delivered about \$340 billion in military, financial, and humanitarian assistance to Ukraine.²⁹ As such,

²⁷ For an earlier discussion of these ideas, see <https://www.project-syndicate.org/commentary/seizing-russia-foreign-assets-could-help-fund-ukraine-reconstruction-by-joseph-e-stiglitz-and-andrew-kosenko-2024-01>

²⁸ And to the extent that they exceed the costs of providing the services, the rents accrue to the providers of these services, not to society as a whole.

²⁹ See <https://www.ifw-kiel.de/topics/war-against-ukraine/ukraine-support-tracker/> for data until February 2024, as well as the relevant U.S. legislation passed in April 2024.

societies around the world are bearing the financial burden of responding to the Russian invasion. These costs—as well as the costs of other possible scenarios such as an invasion of Taiwan by China, a scenario made more likely because of the West’s preoccupation with the war in Ukraine—must also be taken into account.

By not pursuing Russian asset seizure, the developed world will send a strong signal that rogue actors can, on one hand, threaten, intimidate, and go to war at will, while on the other, they can enjoy all of the legal and financial protections that peace and the global financial system bestows upon its participants. Thus, a further consequence of not seizing these assets is the fact that, to the extent that asset seizure increases the costs of conflict and countries weigh the cost of conflict when deciding to engage in war, avoiding assets seizure will lead to more, rather than less, violent conflict worldwide, contributing to further destabilization. In short, the decision to stick with the status quo is not neutral. It, too, is a choice with consequences.

The concerns that such asset seizure will set a “bad” precedent are unfounded. (Of course, such confiscation already has (albeit imperfect) precedents—the U.S. seized a portion of frozen Cuban assets in 1996 for the benefit of relatives of U.S. nationals killed when Cuban jets shot down two American airplanes; \$1.4 billion frozen Iraqi sovereign assets were seized in 2003; and assets of Da Afghanistan Bank were seized in 2022, consequent to the fall of the Afghan government to the Taliban in 2021. These assets were later designated to be used to the benefit of the people of Afghanistan.)

In fact, we believe it might set a good precedent: Seizure of Russian assets will send a strong signal that states cannot have it both ways (to both benefit from the international legal and financial system while undermining it), deterring future conflicts. Furthermore, asset seizure will likely make it more difficult for Russia to wage war (as we outline below in the Impact section) and to continue to cause destruction.

To put it another way, the fear of setting a bad precedent is unfounded because once one looks carefully at the situation and the consequences (as we describe above) it becomes abundantly clear that there is nothing to fear at all: In no event is it to the benefit of a state that is not willing to wage war to leave the financial system, and for states who are intent on waging war, leaving the financial system would only increase their costs.

In discussing asset confiscation, it may seem that there is a tradeoff between a static efficiency (punishment of a bad actor) and dynamic inefficiency (declining future trust and participation in the financial system—central banks will be unwilling to deposit funds in another country). This view is incorrect. As we’ve already explained, if there were a reputational effect, it has likely already been sustained with the freezing of the assets—and the effect appears to have been nil. There is no dynamic inefficiency.³⁰ *De facto*, Russia has been operating as if the assets have already been confiscated, even if *de*

³⁰ Provided, of course, that such asset seizures are limited to truly rogue states; the REPO Act provides such protection.

jure they have not been taken. Other countries have, without a doubt, taken note, but there has been no withdrawal, say, from the U.S. financial system.

We turn now to the European concerns that we described in the Introduction. It does not appear that the European position is straightforward, since it still involves asset seizure; the European authorities propose (and are, in fact, moving forward with) confiscating the *interest* on immobilized Russian assets. Even if one believes that freezing an asset and taking the interest is OK but taking the asset itself is not, even rule-bound legalists recognize the right to put a lien on an asset to ensure payment for what is due or likely to be due. If the European authorities are wary of seizing and selling the assets, they may put a collateralizable lien against the assets so that if there ever is a judgment (in any court) against Russia or if other governments join the U.S. in passing similar acts, then the asset is there to be captured. Ukraine, the U.S., or the EU could then underwrite any loan, saying that if it were to turn out that Russia were not found liable for the enormous damages they have done—an event that is hard to fathom—the loan would be underwritten.

Asset seizure as a weapon of last resort: If there ever was a time to use this instrument, it is now

Finally, if one considers asset seizure to be a “punishment of last resort,” one must also consider long-run strategic implications. There is always the consideration that a tool such as this should be saved for next time, and therefore, this instrument is *never* used. Because the adversary may reason similarly, the existence of such an instrument may not actually affect the adversary’s incentives in the way one hopes. Thus, if a threat is never carried out, it is not a threat, and it can be ignored by the adversary. In this scenario, rogue states may continue to use deadly force on a massive scale to pursue their aims without worrying much about the full potential financial implications. Using this tool now would send an important signal to would be aggressors.

Broader lessons going forward

The moral case for asset seizure is clear. The economic case for asset seizure is, we believe, clear in this case as well. Rebuilding the devastated Ukrainian regions will be an enormous task. The cost of reconstruction in Ukraine will likely top \$1 trillion. And needless to say, no amount of damage can truly undo or compensate for the unthinkable damage that Russia’s war of choice has caused on the Ukrainian people, Europe, and world peace. There will be no rebuilding of the millions of traumatized lives. This is a clear liability of Russia, from which it should not be allowed to walk away. The seized assets are but a fraction of this liability. Russia must be held accountable for its actions. It should be Russian (and not European, American, and East Asian) assets that are used to pay for the reconstruction project.

Turning to broader lessons from these considerations, we propose “forward-looking” sanctions that consider the best-response of the target state or entity and the global environment in which sanctions occur.

- 1) Sanctions are (only) effective to the degree they are comprehensive. Sanctions should include commodity imports and exports, sports competitions (sports victories are often used by authoritarian governments to tout their achievements), personal sanctions, and other measures warranted by the situation. A key element of such a comprehensive approach is asset (including sovereign asset) seizures. Export restrictions should be particularly targeted at areas where supply-side interruptions may be particularly costly to the sanctioned country (especially to the defense establishment), where there do not exist alternative sources of supply (from countries not participating the sanctions regime), and where the sanctioned economy does not have the capacity (in the short to medium term) to develop an import substitution strategy. The difference between the costs imposed on the sanctioned country and the sanctioning countries is crucial, and actions to reduce the latter are essential.

Comprehensiveness includes the imposition of sanctions by *all* or as many other countries as possible. That means the sanctioning country or countries need to seek the cooperation of others. It is best if that cooperation can be achieved through the UN or other international bodies, but obviously, with Russia's veto in the Security Council, that is not a realistic possibility. When there is widespread agreement about the sanctions regime, secondary sanctions on non-sanctioning countries or firms breaking the sanctions may be a cost effective way of making the sanctions effective. U.S. did so in the case of the Cuban boycott, much to the resentment of even some of our allies.³¹ But when the set of sanctioning countries are small relative to the non-sanctioning countries, even secondary sanctions are unlikely to be effective and can create enormous antipathy with potentially large costs, as the Cuban secondary sanctions illustrate.

In the case at hand, Europe and the U.S. would have been well advised to have a broader cooperative spirit with the rest of the world well before the conflict: One never knows when one will need the cooperation of others. Unfortunately, in a variety of arenas, they have engendered antipathy—from the failure of the WTO Development Round to Vaccine Apartheid during the pandemic, when U.S. and Europe put the profits of the pharmaceutical companies over the lives and livelihoods of those in the rest of the world, to the attempt to create a fair global tax regime for multinationals. It is accordingly not a surprise that so few countries have joined the sanctions regime.³²

- 2) Continuing and flexible (changing as the target entities adapt) enforcement to prevent evasion. There needs to be multi-stage enforcement. As evidenced by the 2022-2024 experience, there is a significant degree of sanctions evasion at the firm level, at the export level, and at the import level. The Kimberley Process

³¹ The European Parliament condemned an act (Helms-Burton) that strengthened the embargo against Cuba in 1996; the UN regularly votes on a measure calling for an end to the embargo.

³² The countries that imposed sanctions are mostly in North America, Europe, East Asia, and the Pacific region (Japan, Taiwan, South Korea, Australia, and New Zealand.)

that strives to prevent so-called “conflict diamonds”—diamonds from which proceeds may fuel conflict in the places of origin—from being traded provides (an imperfect) benchmark for this. While the sanctions regime against Russia has been dynamic, responding to evidence of limited and declining effectiveness, it has not done as good a job at anticipating the adjustments/evasion/circumvention that has occurred. Much of this should have been anticipated, given the limited participation in the sanctions and that Russia’s main export is a commodity with a low level of short run demand and supply elasticity.

- 3) Sanctions should also restrict provision of services that enable sanctions evasion. Examples include restrictions (or prohibitions) of provision of financial (credit, insurance) and legal (compliance, taxation, auditing) services. This component may also require placing part of the burden of implementing sanctions on the firms that provide services that could be used by the target entity³³ to evade sanctions. Thus, sanctions on those who break or help evade initial sanctions must be part of a comprehensive approach that is robust to evasion and adjustment.

Impact

We hope that such sanctions will not only be effective in the short term but may continue to be effective over time. An important source of such “robustness” may be the reluctance of firms to participate in transactions that expose them to sanctions risk. Thus, announcements of unspecified tightening of the sanctions regime going forward may have impacts even before being implemented.

The seizure of sovereign Russian assets would have one benefit not achieved by other sanctions being considered: The funds could be used to help Ukraine fight off a brutal invasion and to reconstruct the country after the war. It could be viewed as a down payment on the reparations that the Russian Federation should have to pay to help Ukraine recover from the War and restore its infrastructure, and more broadly its economy.

It will also send a message to the Kremlin and other authoritarian regimes that they cannot simultaneously appeal to (and attempt to benefit from the use of) international order and rule of law on one hand while on the other pursuing activities that undermine it.

Such an asset seizure will have several serious consequences for the Russian economy that might contribute to the end of the War or at least make Russia realize that they, too, will have to bear significant costs. Asset seizure will lead to a deterioration of

³³ Which services would depend on the application. For example, in the case of Russian sanctions evasion these are shipping, flagging, and insurance services. In a technological sanctions setting, these may be various internet services (security, privacy), technology, or advertising services.

the balance sheet of the Central Bank of Russia. There is some debate about how significant the costs will be. Some even suggest that the ruble would be devalued, and because of the weakness in the CBR, transactions between Russian and other financial institutions would be impeded, though typically Central Bank balance sheets have minimal effects since Central Banks are ultimately underwritten by the government. Of course, the seizure of the assets would be an important signal of the resolve of the West, and this itself might have consequences.

The attendant fall in reserves of the CBR will increase the probability of a binding shortage of foreign currency. Given that the ruble is not convertible, this could place a significant constraint on Russia's ability to pay for certain imports were there an effective constraint on its exports or, say, a significant fall in the price of oil and gas. Prevention of a foreign exchange crisis might induce more precautionary behavior on the part of the Russian financial authorities now.

It is even possible that both popular misunderstandings of the role of central bank balance sheets and a proper understanding of Western resolve could instigate bank runs within Russia, destabilizing its financial system.

For similar reasons, it is possible (but not necessarily the case) that the CBR's ability to extend credit will be adversely affected. This, in turn, might have significant effects on the Kremlin's efforts to increase military production. Russia is relying on exports to finance the war and plans on increasing military spending sharply; limiting the ability to extend credit would limit the Kremlin's ability to regenerate its military power. For these reasons, limiting the use of Russian funds will indirectly limit the military capabilities of the Kremlin, doing so without relying on military means. Needless to say, this would also lessen the suffering in Eastern Europe and decrease the need for military support of Ukraine.

What asset seizure will *not* do is lead to the adverse consequences that some are worried about.

Concluding comments

Well-designed sanctions, including the seizure of assets (in the case at hand, that of Russia's central bank) can weaken the rogue country, its resolve, the support of its citizens, and even its capacity to wage war, thereby reducing the costs imposed by the country suffering from the attack and those providing support to it.

Recalling out initial desiderata for a sanctions regime and the discussion of sanctions evasion, Russian asset seizure has three additional advantages (on top of the issues we discussed above). First, asset seizure cannot be circumvented. As we saw earlier, sanctions evasion is a major constraint in imposing meaningful costs on a rogue state. Seizure of immobilized assets—to put it bluntly—cannot be evaded. Secondly, asset seizure has no costs to the G7 and EU countries, now or likely in the future, as we have

shown.³⁴ Thirdly, directing the seized assets to Ukrainian reconstruction and war efforts would relieve many world governments from paying the price for Russia's war of choice and, perhaps, bring a modicum of justice to this war.

The brunt of the cost of Russia's invasion of Ukraine is being felt by Ukraine and its people, but those in Europe, the United States, and indeed all over the world have been adversely affected. Russia should be made to pay the maximum price that can be imposed on the country. Unfortunately, there are severe limits short of joining the war directly. Designing the most effective set of sanctions, including the seizure of assets, is one of the few peaceful weapons within our arsenal.

³⁴ With the notable caveat of the fact that these are private, not public, assets, perhaps, it is ironic that it is Russia itself that has been seizing (private) assets. Russian assets of Germany's Deutschebank, Commerzbank, and Italy's UniCredit have been confiscated by Russian authorities. Other foreign entities operating in Russia have either already been in effect, seized (Heineken's Russian operations were sold for a token 1 euro, and numerous other firms have also either been forced to sell their Russian assets for symbolic prices, or to transfer ownership and control to Russian managers), or are awaiting that fate. There are likely significant future incentive effects of such seizures, of orders of magnitude greater than those associated with the seizure of Russia's sovereign assets: they should disincentivize future foreign investments in the country. The fact that Russia is willing to do so implies that the benefits outweigh those costs. If that is true for Russia, the calculus of benefits and costs are overwhelmingly in favor of the seizure of Russia's sovereign assets.