

**United States House of Representatives**  
**Committee on Financial Services**  
**Sub-Committee on National Security, Illicit Finance,**  
**and International Financial Institutions**

*Hearing*

“Restricting Rogue-State Revenue: Strengthening Energy Sanctions on  
Russia, Iran, and Venezuela”

2129 Rayburn House Office Building

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Chairman Luetkemeyer, Ranking Member Beatty, and Members of the Subcommittee:

Good morning and thank you for inviting me to testify before the Subcommittee on this important topic.

As I will discuss, in order to assess the best means to enhance energy sanctions on Russia, Iran, and Venezuela we must first acknowledge the current status of these measures and the impact of the efforts that the Biden Administration has already undertaken in this regard. And then we must assure that any strengthening of measures against these jurisdictions balances the clear need to pressure Russia, Iran, and Venezuela, with broader national security and energy security concerns faced not just by the United States but also by our allies and partners. This balancing has been a clear goal of the Biden Administration and in my view such a balancing of interests going forward remains challenging but is no less critical.

There is no question that the regimes in Moscow, Tehran, and Caracas continue to engage in activities that undermine regional and global security, as well as the human rights and safety of their own residents as well as innocent parties around the world. There is similarly no question that the regimes’ continued abilities to sell and monetize their energy resources helps fund these activities.

Despite this and the reflexive attractiveness of making drastic moves towards a potential complete cessation of energy sales by these three jurisdictions we must keep in mind the collateral

consequences of such a policy. Such moves would almost certainly lead to meaningful blowback to U.S. consumers (who could face increased energy prices at the onset of winter) and our European and Japanese partners who could face outright shortages. Such moves could also undermine the multilateral sanctions approach that the Biden Administration has pursued which has greatly enhanced the strength of U.S. measures – against these jurisdictions as well as across a wide spectrum of U.S. sanctions programs and targets. In short, if the United States decides to act unilaterally and to go meaningfully further than its partners are willing to go in imposing new restrictions, the effectiveness of our sanctions tools as deployed across a wide range of our core national security interests could be harmed.

I have been analyzing the intricacies of sanctions issues for several years. My views are informed by my position in the private sector where over the last several years I have advised private sector companies, non-governmental organizations, and others on sanctions issues, as well as my prior government services at the Treasury Department’s Office of Foreign Assets Control (“OFAC”) and on the National Security Council under President Obama. While in the Administration, I was honored to be one of the architects of the enhancement of oil and financial sanctions on Iran leading up to the Joint Comprehensive Program of Action, the first round of sanctions deployed against Russia following its invasion of Crimea and the Donbas in 2014, and the increasing pressure the Obama Administration placed on the government in Caracas. I have spoken and written extensively about sanctions, sanctions effectiveness, and sanctions compliance – in general, and as related to the specific sanctions programs at issue in today’s hearing. Over the years, I have written and lectured extensively on these issues, been honored to testify on related issues before Congress and the UK Parliament, and to speak about sanctions before institutions including the Naval War College and the Foreign Service Institute.<sup>1</sup>

### **Existing Biden Administration Efforts – At Home and Abroad**

As we assess strategies for the way forward it is important to recognize where we are and where we have been.

In this regard, it is self-evident that the Biden Administration has not been shy in imposing new sanctions restrictions on Iran, Russia, and Venezuela nor in enforcing violations of these sanctions. The Biden Administration has imposed sanctions at a faster rate than any other administration in history.<sup>2</sup> Since it came into office in January 2021 the Administration has added nearly 5,500 names to OFAC sanctions lists – a yearly average nearly two times that of the Trump Administration, and more than three times that of the Obama Administration.<sup>3</sup> This year will see

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<sup>1</sup> Please see my attached curriculum vitae for an overview of this experience.

<sup>2</sup> Data, Office of Foreign Assets Control, U.S. Treasury Department. Available at: <https://sanctionssearch.ofac.treas.gov/> (collated and analyzed by Adam M. Smith / Gibson, Dunn & Crutcher, LLP).

<sup>3</sup> *Id.*

more additions to OFAC sanctions lists than any other year – except for last year. A plurality of these additions have focused on Russia, Iran, and Venezuela – with a large proportion of the additions coming from the energy sector and energy-related entities. Just in the past few months, the Biden Administration has added numerous entities to the sanctions list due to evidence that they have violated the Russian Oil Price Cap rules.<sup>4</sup>

Regarding enforcement, the Biden Administration has imposed record civil enforcement actions on parties violating these sanctions. Since January 2021 OFAC has finalized nearly 50 actions against violators, with an average penalty of over \$33 million dollars (including issuing its largest ever penalty).<sup>5</sup> Again, a significant portion of settlements have focused on violations of the Russia, Iran, and/or Venezuela sanctions programs. During the Biden administration, the average civil penalty imposed has been 50 percent higher than that seen in any prior administration.<sup>6</sup>

In addition to the Administration’s aggressive use of its sanctions lists and pursuit of enforcement actions, there are three other strategies in the sanctions arena that the Biden Administration has pursued to significant effect.

First, in 2022, Deputy Attorney General Lisa Monaco announced that “sanctions are the new FCPA,” pledging to devote similar attention and resources to sanctions and export controls enforcement as has been deployed over the last many years in support of the enforcement of the Foreign Corrupt Practices Act.<sup>7</sup> The Justice Department has backed up this statement with the hiring of more than two dozen new sanctions prosecutors.<sup>8</sup> Several of the 93 U.S. Attorneys’

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<sup>4</sup> See, e.g., “Treasury Sanctions Entities for Transporting Oil Sold Above the Coalition Price Cap to Restrict Russia’s War Machine,” Press Releases, U.S. Department of the Treasury, October 12, 2023 (available at: <https://home.treasury.gov/news/press-releases/jy1795>); “Treasury Sanctions Additional Maritime Companies, Vessels Transporting Oil Sold Above the Coalition Price Cap,” Press Releases, U.S. Department of the Treasury, Nov. 16, 2023 (available at: <https://home.treasury.gov/news/press-releases/jy1915>); “Treasury Imposes Additional Price Cap-Related Sanctions,” Press Releases, U.S. Department of the Treasury, December 1, 2023 (available at: <https://home.treasury.gov/news/press-releases/jy1940>).

<sup>5</sup> Data, Office of Foreign Assets Control, U.S. Treasury Department. Available at: <https://ofac.treasury.gov/recent-actions> (collated and analyzed by Adam M. Smith / Gibson, Dunn & Crutcher, LLP); the largest OFAC penalty in history was issued on November 21, 2023 related to Binance Holdings, Ltd. “OFAC Settles with Binance Holdings, Ltd. for \$968,618,825 Related to Apparent Violations of Multiple Sanctions Programs,” November 21, 2023 (available at: [https://ofac.treasury.gov/system/files/2023-11/20231121\\_binance.pdf](https://ofac.treasury.gov/system/files/2023-11/20231121_binance.pdf)).

<sup>6</sup> Data, Office of Foreign Assets Control, U.S. Treasury Department. Available at: <https://ofac.treasury.gov/recent-actions> (collated and analyzed by Adam M. Smith / Gibson, Dunn & Crutcher, LLP).

<sup>7</sup> “Deputy Attorney General Lisa O. Monaco Delivers Keynote Remarks at 2022 GIR Live: Women in Investigations,” Press Releases, U.S. Department of Justice, June 16, 2022 (available at: <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-delivers-keynote-remarks-2022-gir-live-women>).

<sup>8</sup> D. Tokar, “Justice Department Hiring Dozens of New Prosecutors to Enforce Russian Sanctions,” *Wall Street Journal*, March 2, 2023.

Offices have also increased their focus on sanctions and related cases.<sup>9</sup> The Department of Justice’s criminal enforcement has provided an increased avenue of pressure and deterrence working alongside OFAC’s civil enforcement. Many of the Department’s initial targets have focused on Russia (aided in part by its Kleptocapture Initiative), Iran, and Venezuela.<sup>10</sup>

Second, the Administration has promoted unprecedented inter-agency cooperation resulting in the formalization of a joint-agency “strike force” on sanctions and export control enforcement,<sup>11</sup> and the publication of numerous dual, tri-, quad-, and quint-seal alerts and notices informing the business community, *inter alia*, of sanctions and export control diversion risks, compliance best practices, and the consequences of non-compliance.<sup>12</sup> Several of these notifications have been made either in conjunction with those of allies and partners or issued simultaneous with similar messages from our allies and partners.<sup>13</sup>

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<sup>9</sup> See, e.g. for the District of Connecticut and the Eastern District of New York, “Justice Department Announces Charges and Arrests in Two Cases Involving Export Violation Schemes to Aid Russian Military,” Press Releases, U.S. Department of Justice, October 19, 2022 (available at: <https://www.justice.gov/opa/pr/justice-department-announces-charges-and-arrests-two-cases-involving-export-violation-schemes>).

<sup>10</sup> See, e.g., “Task Force KleptoCapture Unseals Two Cases Charging Evasion of Russian Economic Countermeasures,” Press Releases, U.S. Department of Justice, February 24, 2023 (available at: <https://www.justice.gov/opa/pr/task-force-kleptocapture-unseals-two-cases-charging-evasion-russian-economic-countermeasures>); “Former President of Venezuelan Supreme Court Indicted on Charges of Accepting Bribes to Resolve Court Cases,” Press Releases, U.S. Department of Justice, January 26, 2023 (available at: <https://www.justice.gov/usao-sdfl/pr/former-president-venezuelan-supreme-court-indicted-charges-accepting-bribes-resolve>); “United States Files Forfeiture Action Against Over Nine Thousand Rifles and Over 700,000 Rounds of Ammunition Enroute from Iran to Yemen,” Press Releases, U.S. Department of Justice, July 6, 2023 (available at: <https://www.justice.gov/opa/pr/united-states-files-forfeiture-action-against-over-nine-thousand-rifles-and-over-700000>).

<sup>11</sup> “Justice and Commerce Departments Announce Creation of Disruptive Technology Strike Force,” Press Releases, U.S. Department of Justice, February 16, 2023 (available at: <https://www.justice.gov/opa/pr/justice-and-commerce-departments-announce-creation-disruptive-technology-strike-force>).

<sup>12</sup> See, e.g., “Department of Commerce, Department of the Treasury, Department of Justice, Department of State, and Department of Homeland Security Quint-Seal Compliance Note: Know Your Cargo: Reinforcing Best Practices to Ensure the Safe and Compliant Transport of Goods in Maritime and Other Forms of Transportation,” U.S. Department of the Treasury, December 11, 2023 (available at: <https://ofac.treasury.gov/media/932391/download?inline>); Iran Ballistic Missile Procurement Advisory, Departments of Commerce/Justice/State/Treasury, October 18, 2023 (available at: <https://ofac.treasury.gov/media/932206/download?inline>).

<sup>13</sup> See, e.g., members of the coalition that has implemented the Russia Oil Price Cap have issued numerous guidance documents both independently and jointly: “the May 2020 Sanctions Advisory for the Maritime Industry, the Office of Financial Sanctions Implementation (OFSI) December 2020 Maritime Guidance, the Office of Foreign Assets Control (OFAC) February 2023 Guidance on Implementation of the Price Cap Policy, OFAC’s April 2023 Alert on Possible Evasion of the Russian Oil Price Cap, OFSI’s UK Maritime Services Ban and Oil Price Cap Industry Guidance, and the European Commission’s Oil Price Cap Guidance.” “Price Cap Coalition Advisory of the Maritime Oil Industry and Related Sectors,” Press Releases, U.S. Department of the Treasury, October 12, 2023 (available at: <https://home.treasury.gov/news/press-releases/jy1797>).

Third, despite the fact that United Nations action has proven impossible in almost all cases (due to the veto power held by Russia and China on the Security Council), the Administration has worked to multilateralize as many of its sanctions and export control policies as possible. In some cases, such as against Russia, this has resulted in a broad coalition of measures including almost all of the world’s major financial centers.<sup>14</sup> Moreover, the Administration has also focused on developing other countries’ capacities to target and enforce sanctions – including assisting the United Kingdom’s Office of Financial Sanctions Implementation to get up to speed and begin to aggressively assert its own authorities.<sup>15</sup>

As noted, the Administration has structured its sanctions policies to balance the clear need to impede the ability of target regimes to continue their activities, while limiting collateral damage for the United States and our partners and allies. Although there are several examples of this balancing (including the unique way in which G7 states have hindered, though neither blocked nor seized, Russian Central Bank assets),<sup>16</sup> the Russian Oil Price Cap is perhaps the clearest example of balancing in action. The Oil Price Cap – designed and implemented in conjunction with G7 states and others – recognizes the challenge to global markets if Russian-origin fuels were completely restricted. Consequently, the rules allow for the continued flow of Russian oil – which makes up 14 percent of the global market<sup>17</sup> and thus prevents supply shocks – so long as the oil is being sold at a price cap which diminishes the economic benefit to Russia of its sales.<sup>18</sup>

Simultaneously, and not a focus of this testimony though equally important to the Administration’s balancing, have been the Administration’s efforts on the domestic front to increase oil and gas production at home. The result has been a steady rise in domestic production of both oil and gas since January 2021 to record levels.<sup>19</sup> As a consequence, despite the significant pressure on major

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<sup>14</sup> See, e.g., “Joint Statement by the G7 Announcing Further Economic Costs on Russia,” Press Releases, The White House, March 11, 2022 (available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/11/joint-statement-by-the-g7-announcing-further-economic-costs-on-russia/>).

<sup>15</sup> “One Year On: The OFAC-OFSI Enhanced Partnership,” Featured Stories, U.S. Department of the Treasury, November 15, 2023 (available at: <https://home.treasury.gov/news/featured-stories/one-year-on-the-ofac-ofsi-enhanced-partnership>).

<sup>16</sup> In February 2022, the G7 announced restrictions on transactions with the Central Bank of the Russian Federation – however, it did not freeze its assets. See, Directive 4 (as amended) Under Executive Order 14024, Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation, May 19, 2023 (available at: <https://ofac.treasury.gov/media/918806/download?inline>).

<sup>17</sup> “Energy Fact Sheet – Why Does Russian Oil and Gas Matter,” IEA, November 30, 2023 (available at: <https://www.iea.org/articles/energy-fact-sheet-why-does-russian-oil-and-gas-matter>).

<sup>18</sup> “OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin,” February 3, 2023 (available at: <https://ofac.treasury.gov/media/931036/download?inline>).

<sup>19</sup> U.S. Energy Information Administration, Domestic Crude Oil Production / Domestic Natural Gas Production.

energy producers (Russia, Iran, and Venezuela) such sanctions measures have not led to significant impacts either on global production levels or energy prices.<sup>20</sup>

## **The Impact of the Biden Administration’s Sanctions Measures on Iran, Russia, and Venezuela**

While the fact that Iran, Russia, and Venezuela continue to engage in highly troubling activities is alarming and more can and should be done, it is nonetheless clear that the Biden Administration’s measures have had real impact on these regimes’ abilities to continue their activities in the manner and at the level and cadence that they would prefer.

For example, in Russia, oil and gas production has fallen over the past year (following its expanded invasion into Ukraine in February 2022).<sup>21</sup> Russian oil and gas sales also continue to decline.<sup>22</sup> Clearly President Putin continues to prosecute his war on Ukraine – sanctions and export controls have not sent his troops back to their barracks. Indeed, disturbing reports suggest that Russia’s monthly income from oil exports have actually increased, despite the sanctions.<sup>23</sup>

However, it is evident that these measures have made it so that President Putin is not fighting the war he wants to fight. Dozens of multinationals have fled Russia, even if the law has not required them to do so.<sup>24</sup> And President Putin’s decade-long efforts to modernize his military have seen significant reversals due to his war of choice in Ukraine. He has run low on munitions and hardware, faces meaningful morale challenges, and is forced to turn to convicts to fill his army’s ranks and third-rate suppliers of goods (including North Korea and Iran) to fill its arsenal.<sup>25</sup> His

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<sup>20</sup> U.S. Energy Information Administration, Oil and Natural Gas Spot Average Prices.

<sup>21</sup> V. Soldakin, “Russia to Decide in November Whether to Deepen Oil Output Cuts or Raise Production – Novak,” *Reuters*, October 4, 2023 (available at: <https://www.reuters.com/business/energy/russia-decide-november-whether-deepen-output-oil-output-cuts-or-raise-production-2023-10-04/>).

<sup>22</sup> See, e.g. C. Heussaff, et al, “Russian Crude Oil Tracker,” *Bruegel*, October 11, 2023 (available at: <https://www.bruegel.org/dataset/russian-crude-oil-tracker>).

<sup>23</sup> A. Nightingale, et. al., “How Russia Punched an \$11 Billion Hole in the West’s Oil Sanctions,” *Bloomberg*, December 5, 2023 (available at: <https://www.bloomberg.com/news/features/2023-12-06/oil-prices-how-russia-punched-an-11-billion-hole-in-west-s-sanctions-regime>).

<sup>24</sup> “Over 1,000 Companies Have Curtailed Operations in Russia – But Some Remain,” *Yale School of Management*, December 7, 2023 (available at: <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>).

<sup>25</sup> See, e.g., J. Jackson, “Russian Troops Deliver Bad News about Army’s Morale,” *Newsweek*, August 11, 2023 (available at: <https://www.newsweek.com/russian-troops-deliver-bad-news-about-armys-morale-1819195>); K. DeYoung, “North Korea Provided Russia with Weapons, White House Says,” *Washington Post*, October 13, 2023 (available at: <https://www.washingtonpost.com/national-security/2023/10/13/north-korea-russia-weapons-ukraine/>); D. De Luce, “Recovered debris offers ‘undeniable’ proof Russia is using Iran-made one-way drones in Ukraine, U.S.

military has also resorted to harvesting sub-par, non-defense grade materiel from commercial products (still allowed to be sold into Russia) to imperfectly repurpose them towards military ends.<sup>26</sup> This is not the 21<sup>st</sup> Century military President Putin had been building. On a macro level, Russian GDP per capita has stalled which represents a relative decline when compared with many other petroleum producing states and remains far below that of the largest economies (the former G8) with which Moscow had long compared itself.<sup>27</sup> The Ruble has lost significant value against the US Dollar since before Moscow’s expanded invasion into Ukraine began in February 2022.<sup>28</sup>

In Iran, the story is more mixed. Oil production has increased recently with reports suggesting that Tehran now produces nearly 3 million barrels a day.<sup>29</sup> This has provided Iran funding – some of which has likely been used to support its domestic oppression apparatus as well as its “Axis of Resistance” across the Levant and the Arabian peninsula. Hamas, Hezbollah, and the Houthis are principal beneficiaries of Tehran’s largesse.<sup>30</sup>

Despite this, it remains clear that Iran continues to suffer under the pressure of U.S. measures. A country so certain of its ability to continue producing and selling on the world market would be unlikely to have expressed such dire need for either the \$6 billion in humanitarian aid that the U.S. was planning to release from Qatar, nor the \$10 billion in electricity-related payments from Iraq.<sup>31</sup> This is all more so the case given that the \$6 billion was not even destined to be formally repatriated to Iran but rather was to remain in a bank account only to be used for U.S.-approved humanitarian purposes. On a macro level, Iran’s GDP per-capita growth remains stalled, over the past year its

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intel analysts say,” *NBC News*, August 4, 2023 (available at: <https://www.nbcnews.com/news/world/recovered-debris-proof-russia-using-iran-made-shahed-drones-rcna98245>); M. Luxmoore, “The Violent Homecoming of Russian Convicts Freed to Fight in Ukraine,” *Wall Street Journal*, December 5, 2023 (available at: <https://www.wsj.com/world/russia/russia-convicts-ukraine-wagner-storm-z-prigozhin-0fe28acc>).

<sup>26</sup> J. Whalen, “Sanctions forcing Russia to use appliance parts in military gear, U.S. says,” *Washington Post*, May 11, 2022 (available at: <https://www.washingtonpost.com/technology/2022/05/11/russia-sanctions-effect-military/>).

<sup>27</sup> Constant GDP Per Capita for the Russian Federation, *St. Louis Fed*, July 4, 2023 (available at: <https://fred.stlouisfed.org/series/NYGDPPCAPKDRUS>); Gross Domestic Product per Capital of G7 Countries, Statista (available at: <https://www.statista.com/statistics/1370625/g7-country-gdp-levels-per-capita/>).

<sup>28</sup> “Wall Street Journal Markets: Russian Ruble/US Dollar,” *Wall Street Journal* (available at: <https://www.wsj.com/market-data/quotes/fx/RUBUSD/historical-prices>).

<sup>29</sup> *OPEC Monthly Oil Market Report*, November 13, 2023 (available at: <https://momr.opec.org/pdf-download/>).

<sup>30</sup> A. Lane, “Iran’s Islamist Proxies in the Middle East,” *Wilson Center*, September 12, 2023 (available at: <https://www.wilsoncenter.org/article/irans-islamist-proxies>); J. Landley, “Biden Aid Says Iran Helps Plan, Execute Attacks by Yemen’s Houthis,” *Reuters*, December 7, 2023 (available at: <https://www.reuters.com/world/middle-east/us-imposes-sanctions-iran-backed-network-funding-yemens-houthis-2023-12-07/>).

<sup>31</sup> See, e.g., M. Nazzaro, “Iranian President: Funds Unfrozen by US Would be Spent ‘Wherever We Need It,’” *The Hill*, September 12, 2023 (available at: <https://thehill.com/policy/international/4200033-iranian-president-raisi-unfrozen-funds-us-wherever-we-need-it/>).

economy has been convulsed by protests, and there is a material spread between the “official” and “market” rates of the Iranian Rial to U.S. Dollar exchange rate.<sup>32</sup>

In Venezuela, oil and gas production continues to be a shadow of its potential – a result of U.S. restrictions, designations (including of the government and state-owned oil company PdVSA), and longstanding mismanagement and corruption by the Chavez and Maduro regimes. Venezuelan GDP per capita remains anemic, but has settled in 2023 after several years of precipitous decline.<sup>33</sup>

Until very recently, the United States’ principal policy concern regarding Venezuela rested on Mr. Maduro’s abuse of the Venezuelan people and his push against democracy.<sup>34</sup> However, very recently, there has been a troubling move from Caracas that could lead to greater regional destabilization resulting from Mr. Maduro’s inflammatory referendum declaring Venezuelan sovereignty over a resource-rich region of its neighbor Guyana.<sup>35</sup>

### **Taking into Account the Global Security Context in Which U.S. Sanctions are Deployed**

Assessing the strategic direction to enhance U.S. sanctions against Iran, Russia, and Venezuela relies on understanding the current status of these measures and their impacts, while also keeping in mind other core regional and international foreign policy and national security imperatives.

First, while recognizing the severity and urgency of the challenges emanating from these three jurisdictions, the United States must remain focused on enduring foreign policy, economic security, and global threats emanating from outside these states. In this context, we must make sure that no matter the strategies employed we do not lose our focus on China, the pacing challenging for our national security going forward. This does not mean that sanctions and enforcement with respect to Iran, Russia, and Venezuela cannot include Chinese entities (indeed, in this regard the Biden

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<sup>32</sup> Constant GDP per capita for the Islamic Republic of Iran, *St. Louis Fed*, July 4, 2023 (available at: <https://fred.stlouisfed.org/series/NYGDPPCAPKDIRN>); see, e.g. “Back to Having No Basics: Iranians Tighten Belts as the Economy Tanks and Protests Continue,” *Los Angeles Times*, February 3, 2023 (available at: <https://www.latimes.com/world-nation/story/2023-02-03/iran-economy-tanks-protests-continue>).

<sup>33</sup> Venezuela GDP per Capita, Statista (available at: <https://www.statista.com/statistics/371876/gross-domestic-product-gdp-per-capita-in-venezuela/>).

<sup>34</sup> See, e.g., Executive Order 13884, August 5, 2019, “Blocking Property of the Government of Venezuela” in which President Obama declared a national emergency “in light of the continued usurpation of power by Nicolas Maduro and persons affiliated with him, as well as human rights abuses, including arbitrary or unlawful arrest and detention of Venezuelan citizens, interference with freedom of expression, including for members of the media, and ongoing attempts to undermine Interim President Juan Guaido and the Venezuelan National Assembly’s exercise of legitimate authority in Venezuela,” 84 FR 38843, August 5, 2019.

<sup>35</sup> R. Garcia Cano and J. Rueda, “Venezuelans Approve a Referendum to Claim Sovereignty Over a Swathe of Neighboring Guyana,” *Associated Press*, December 3, 2023 (available at: <https://apnews.com/article/venezuela-guyana-essequibo-territory-dispute-maduro-referendum-90a4f0f962a83620903987a68a7d39b0>).



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Administration has sanctioned and enforced against many entities in and related to China<sup>36</sup>). However, it does mean that we do not further our long-term national security aims if we pursue strategies that result in any currently “fence sitting” states to rush into the arms of Beijing.

Second, while the United States is undergoing an energy transition and our domestic petroleum production are at record levels, we must be conscious that any efforts to drastically constrain, let alone remove, production from these three jurisdictions from the world market could result in both supply and price shocks felt by U.S. consumers and likely more directly by consumers and governments in our allies through Europe and Australasia – and especially among the poorest residents of those countries. To the greatest extent possible we must remain aware of the potential of such shocks and work to mitigate them.

Third, we have learned since the early 2000s and the successful build up of measures against Iran (culminating in the JCPOA in 2015) that multilateral measures are far more coercively effective and diplomatically palatable than are unilateral measures. True unilateral measures with which partners do not agree can in fact have the counterproductive effect of pushing erstwhile supporters of our policies away from compliance and diminishing the overall effectiveness of our tools. The Biden Administration has built a broad sanctions coalition against Russia and such an effort should be maintained with respect to Moscow and encouraged with respect to Tehran and Venezuela.

And, fourth, we need to remain aware of both the purpose of sanctions and the true targets of sanctions. Regarding the former, sanctions are a tool principally of behavior change and deterrence – they are not designed to be punitive tools nor as permanent. We have seen them deftly used in this way in the context of Venezuela and Iran as carrots leading to agreements by Maduro to support democracy (on which he may more recently have reneged – see below) and to the nuclear deal with Iran. Sanctions must have an off-ramp if they are going to be successful.

Regarding the targets of our measures, none of our sanctions against any of these three highly troubling jurisdictions are directed against the innocent peoples in those countries. Our complaints are with the governments of those countries. As a consequence, any sanctions enhancements must, to the greatest extent possible, recognize this distinction and aim to help (or at least not hurt) innocent civilians.

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<sup>36</sup> See, e.g., “Treasury Sanctions Multinational Network Supporting Iran’s UAV and Military Aircraft Production,” Press Releases, U.S. Department of the Treasury, September 19, 2023 (available at: <https://home.treasury.gov/news/press-releases/jy1745>).

## **Potential Strategic Directions**

While Russia, Iran, and Venezuela each disproportionately rely on energy sales for their finances and current sanctions restrictions on these countries share similarities, the sanctions programs implemented against each are both legally distinct<sup>37</sup> and driven by diverse geopolitical factors. Consequently, the strategic and tactical decisions regarding enhancements of the sanctions tools deployed against each need to be assessed separately – even if similar measures may be imposed.

### *Russia*

U.S. sanctions against Russia are amongst our most complex deployed against any jurisdiction. This complexity reflects the balance mentioned above and is driven in large part by the recognition that Russian energy remains critical to world supplies – especially in parts of Europe and Asia. Even so, the administration and its multilateral partners have worked diligently and quickly to significantly pivot away from reliance on Russian energy. The direction of travel in this regard is clear and the European Union on its own volition is continuing this movement. For example, in the European Union there is currently under discussion a directive which would allow Member States to unilaterally prevent Russian companies from buying capacity at gas terminals on their territory.<sup>38</sup> While the text would require unanimous approval by the EU-27, that it would allow unilateral action by Member States would be a meaningful departure. The EU is signaling that it is serious about continuing to pressure Moscow. Taking advantage of this momentum, strongly encouraging the EU to diversify its imports of oil derivative products from third countries (like India) which are often made from Russian crude but are not caught by the sanctions restrictions could also reduce demand.<sup>39</sup>

Other jurisdictions are more challenging. India has become Russia’s principal oil export market, followed by China. The Washington-Delhi relationship is of increasing importance to both states and while we should address India’s role in supporting Russia, it is important to keep our bilateral relationship in mind – especially as a counterpoint to India’s ties with Beijing and its role in the broader BRICS. As such, even if the benefit to Russia of sales to India is limited (given that the

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<sup>37</sup> Each sanctions program is governed by a separate set of regulations. In the preamble to each, OFAC notes that “[d]iffering foreign policy and national security circumstances may result in differing interpretations of similar language” between different sanctions programs. *See, e.g.*, Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR §587.101, “Relation of this Part to Other Laws and Regulations.”

<sup>38</sup> “EU to Give Member States Authority to Halt Russian Gas Imports—FT,” *Reuters*, December 8, 2023 (available at: [https://www.reuters.com/business/energy/eu-give-member-states-authority-halt-russian-gas-imports-ft-2023-12-08/#:~:text=Dec%20%20\(Reuters\)%20%2D%20The,Financial%20Times%20reported%20on%20Friday](https://www.reuters.com/business/energy/eu-give-member-states-authority-halt-russian-gas-imports-ft-2023-12-08/#:~:text=Dec%20%20(Reuters)%20%2D%20The,Financial%20Times%20reported%20on%20Friday)).

<sup>39</sup> M. Narayan and N. Verma, “Fuels from Russia Oil Gets Backdoor Entry into Europe via India,” *Reuters*, April 5, 2023 (available at: <https://www.reuters.com/business/energy/fuels-russian-oil-gets-backdoor-entry-into-europe-via-india-2023-04-05/>).

latter pays for the oil in hard-to-use Indian rupees)<sup>40</sup> one idea to address India’s continued reliance could be to borrow a page from the Iran sanctions playbook and revisit a “Significant Reduction Exception” (SRE) model.<sup>41</sup> In that case, in order to account for the continued need of allies principally in East Asia for Iranian fuel, sanctions that would otherwise be risked by financial institutions and others in the region were held in abeyance so long as the jurisdictions in question were “significantly reducing” their imports of Iranian crude. India clearly values its growing strategic relationship with the United States, even as it remains formally agnostic with respect to Russia’s invasion of Ukraine<sup>42</sup> and relishes its independent foreign policy. As such, an SRE model – that would threaten but hold off on sanctions against parties involved in the importation of Russian oil so long as India would be reducing its Russian oil imports – might be an effective strategy to speak to Delhi’s and our interests. Financial institutions and other actors in India may also appreciate such formal guidance and a soft-landing as they hopefully move away from dependence on Russian production.

For China (and indeed for all other parties continuing to procure Russian fuel contrary to G7 interests) an SRE model may also be a potential avenue. However given the historic challenges in effectuating meaningful sanctions against some jurisdictions (and the collateral risks of doing so), an effective strategy would be to enhance efforts to enforce existing regulations related to Russia and Russian oil – especially as they concern key intermediaries in the crude oil market. While Russia’s deployment of a ghost fleet of tankers operating seemingly outside the bounds of traditional insurance, shipping, and other markets makes such efforts difficult,<sup>43</sup> it remains the case that various counterparties and facilitators of Russian oil trade continue to rely on the West’s financial, shipping, insurance, and technical infrastructure. Consequently, a *continued* focus by OFAC on parties flouting the Oil Price Cap, by the Department of Commerce’s Bureau of Industry and Security on parties violating export controls via complex diversion schemes, and by the Department of Justice on activities that rise to a criminal level will do much to further U.S. policy interests while maintaining that critical balance. Encouraging our allies and partners to pursue their own enforcement activities will further strengthen these measures.

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<sup>40</sup> G. Gavin, “India has Russia over an Oil Barrel,” *Politico (EU)*, September 14, 2023 (available at: <https://www.politico.eu/article/india-has-russia-kremlin-over-crude-oil-barrel/>). “Russian Foreign Minister Sergey Lavrov acknowledged the dilemma. ‘We’ve accumulated many billions of rupees that we haven’t yet found a use for....’”

<sup>41</sup> See, e.g., P. Brown, “Oil Market Effects from U.S. Economic Sanctions: Iran, Russia, Venezuela,” *Congressional Research Service*, February 5, 2020, pg. 7 (available at: [https://www.everycrsreport.com/files/20200205\\_R46213\\_7bb76e54df206bce64dd8b2f4b4c8543148720df.pdf](https://www.everycrsreport.com/files/20200205_R46213_7bb76e54df206bce64dd8b2f4b4c8543148720df.pdf)).

<sup>42</sup> L. Frayer, “A Year Into Ukraine War, the World’s Biggest Democracy Still Won’t Condemn Russia,” *National Public Radio – Morning Edition*, February 20, 2023 (available at: <https://www.npr.org/2023/02/20/1156478956/russia-india-relations-oil-modi-putin>).

<sup>43</sup> R. Harvey and N. Grover, “World’s Ghost Fleet in Focus Over US Russian Price Cap Crackdown,” *Reuters*, October 26, 2023 (available at: <https://www.reuters.com/markets/commodities/worlds-ghost-fleet-focus-over-us-russian-price-cap-crackdown-2023-10-26/>).

An enhanced effort to publicize how Russia is using its energy-derived funds to support its war machine may have limited purchase in oil importing states. However, such public shaming could work to increase the anxieties of certain parts of the upstream, mid-stream, and downstream sectors which could make it difficult for parties intent on continuing to secure Russian fuel, and/or facilitate those who do, to continuing to do so at a price and risk worth taking.

### *Iran*

There are two principal challenges with respect to Iran sanctions. First, the United States has limited multilateral support in its Iran sanctions. UN Security Council sanctions have all but expired<sup>44</sup> and other core allies, especially the European Union and the United Kingdom, have never had meaningful measures against Iran outside of UN sanctions. Indeed, in Europe and the United Kingdom rules exist that prohibit parties from complying with aspects of U.S. sanctions on Iran.<sup>45</sup> As such, one of the primary means to strengthen our sanctions tools with respect to Iran will be to push for the EU and the UK (and others) to join us in our efforts. While historically reticent to do so, the recent highly-publicized and highly-troubling uptick in human rights violations in Iran along with the growing instability Iranian proxies are fomenting globally might incentivize Brussels, London, and others to come on board. If they were to join the United States not just in imposing sanctions but also in robustly enforcing them – against parties who purchase or facilitate the purchase of Iranian fuels – could lead to a meaningful impact. Most Iranian oil is already sold at a significant discount<sup>46</sup> – increasing the risk for any potential counterparties could cause this discount to grow even further.

The second challenge with respect to Iran is the difficulty in targeting and calibrating sanctions measures so that the government is hit but innocent civilians – such as those protesting against Tehran’s human rights abuses – are spared. This is complex because of the fungibility of money. For example, if Iran gains access to its \$6 billion in Qatar for humanitarian goods, that means that \$6 billion becomes available in other parts of the Iranian budget that Tehran could use to further human rights abuses, regional destabilization, its nuclear program, or any other nefarious activities.

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<sup>44</sup> H. Rome and L. Dugit-Gros, *The Iran Deal’s October Sunsets: Sanctions Without Snapback*, *The Washington Institute for Near East Policy*, July 28, 2023 (available at: <https://www.washingtoninstitute.org/policy-analysis/iran-deals-october-sunsets-sanctions-without-snapback>).

<sup>45</sup> Council Regulation (EC) No 2271/96; Council Regulation (EC) 2271/96 and Implementing Regulation (Commission Implementing Regulation (EU) 2018/1101), which form part of the retained body of European law applying in the United Kingdom by virtue of the European Union (Withdrawal) Act 2018, as subsequently amended by the Protecting against the Effects of the Extraterritorial Application of Third Country Legislation (Amendment) (EU Exit) Regulations 2020 (together, the “UK Blocking Regulation”).

<sup>46</sup> A. Dawi, *Iran Boosts Cheap Oil Sale to China Despite Sanctions*, *VOA NEWS*, January 26, 2023 (available at: <https://www.voanews.com/a/iran-boosts-cheap-oil-sale-to-china-despite-sanctions-/6935635.html>).

While there is no perfect solution to the dilemma, the most effective path forward would be to focus on two tactics simultaneously. First, it is evidently in the United States’ interests to ensure that innocent Iranians are not denied medicine, food, or the technology they need to communicate with each other and those outside Iran. While there are clear moral arguments to support the flow of these goods, the soft power impact of such exports is a further reason to support humanitarian trade. Though U.S. law is clear that humanitarian goods are broadly exempt from sanctions<sup>47</sup> the reality is that few private sector businesses are willing to engage in transactions related to Iran due in part to the fear of missteps that could give rise to liability. If the United States developed a clear practice of providing “comfort letters” and formal assurances to vetted exporters of U.S.-approved goods and services some private sector reticence could be overcome. A comfort letter would provide exporters a legal safe harbor from liability if certain due diligence and end-use certifications are provided.

As noted above, such humanitarian exports could indeed allow Iran to devote “freed up” monies to malicious activities. However, the ability for Iran to do so could be reduced if comfort letters were pursued alongside a meaningful increase in U.S. and multinational diligence of goods and flows *into* and *out* of Iran, and increased interdiction efforts regarding the same. After all, the problem of fungibility as it relates to U.S. national security interests emerges principally once “freed up” funds are spent by Iran to acquire troubling items or export goods or funds to parties like Hamas, Hezbollah and the Houthis. Iran is not self-sufficient – it requires external networks of financial intermediaries and front companies to provide goods and funds to its proxies and to receive critical inputs for its tools of oppression and the development of its nuclear and missile programs.

The United States ought to redouble its efforts to monitor and crackdown on flows across the Iranian border – both into and out of Iran. OFAC’s designations and civil enforcement, the Department of Justice’s recent pursuit of criminal actions, the military’s and intelligence community’s engagement in weapons and materiel interdiction have all been effective. More could be devoted to these efforts. If the European Union and United Kingdom joined us, combined actions could further limit the ability of Iran to deploy any fungible assets to malevolent ends.

### *Venezuela*

Of the leaders of Russia, Iran, and Venezuela, President Maduro is the one whose hold on power appears most uncertain. While Russia and Iran have effectively crushed dissent and maintain a stranglehold on the media space in their countries, in Venezuela there has long been opposition and Caracas has had a difficult time in controlling Venezuelans’ access to non-state-media. Moreover, unlike in Iran and Russia, the United States has played a critical role in the economy of Venezuela for decades. As a result of these conditions, the United States has leverage. Evidence

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<sup>47</sup> “Treasury Implements Historic Humanitarian Sanctions Exceptions,” Press Releases, U.S. Department of the Treasury, December 20, 2022 (available at: <https://home.treasury.gov/news/press-releases/jy1175>).

of this has been seen in recent months with the emergence some hopeful signs of President Maduro’s willingness to at least temporarily agree to various democratization efforts in exchange for U.S. sanctions relief.

It is, however, clear that over the last several weeks President Maduro has both seemingly reneged on aspects of agreements that gave rise to sanctions relief by interfering with his erstwhile opponent in planned 2024 elections<sup>48</sup> and threatened the territorial integrity of a neighboring state.<sup>49</sup> This is unacceptable. Fortunately, we have seen that sanctions (and the promise of sanctions relief) can move Mr. Maduro.<sup>50</sup> While we want to be judicious to avoid ceding Venezuela to Russia or China – both of whom have companies operating in Venezuela – Venezuela prefers (and in many respects likely needs) U.S. and western technology to resurrect its moribund oil and gas sector that has been wracked by underinvestment and neglect. Consequently, the United States has leverage. Again, if our allies and partners were willing to join the United States – which, as with the Iranian sanctions programs is essentially on its own with respect to Venezuela restrictions – this leverage would be even stronger.

## **Conclusion**

The *goal* of our policy with respect to these three troubling jurisdictions is not to increase energy sanctions for their own sake. Rather these are *means* to our goal: reduce the ability of these states to engage in activities that result in regional and global instability and mass violations of the human rights of their citizens and those worldwide. To that end we need to remember that sanctions are only one tool in the policy arsenal and sanctions alone are highly unlikely to achieve such outcomes. However, when paired with broader efforts in the military, intelligence, law enforcement, diplomatic, development, and trade domains, sanctions can be a powerful force multiplier and prove determinative.

While enhancing sanctions in the ways suggested above – and in the manner provided in the STIFLE Act, the Countering Cyber Crimes Act of 2023, the International Financial Institution Counter-Terrorism Accountability Act, the Prevent the Financing of Terrorism through the Drug Trade Act, and the Strengthening Financial Crimes Enforcement Act – could play an important role, any success will rely upon a whole-of-government effort while also bringing in the efforts (and recognizing the concerns and limitations) of our partners and allies around the world.

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<sup>48</sup> “Top Court in Venezuela Suspends Outcome of Opposition Primary,” *France 24*, October 31, 2023 (available at: <https://www.france24.com/en/americas/20231031-venezuelan-court-suspends-outcome-of-opposition-primary>).

<sup>49</sup> “Venezuela’s Maduro Pledges to Permit Oil, Mines Development in Disputed Territory, Reuters, December 5, 2023 (available at: <https://www.reuters.com/world/americas/venezuelas-maduro-push-oil-exploration-disputed-territory-2023-12-06/>).

<sup>50</sup> D. Buitrao, et. al., “Venezuela, Opposition Sign Election Deal; US Weights Sanctions Relief,” *Reuters*, October 17, 2023 (available at: <https://www.reuters.com/world/americas/venezuela-opposition-sign-election-deal-paving-way-us-sanctions-relief-2023-10-17/>).

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Thank you again for this opportunity to testify. I look forward to answering your questions.

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