U.S. Chamber of Commerce
Principles for Sanctions as a Tool of Effective Statecraft

Economic sanctions have become a frequently-used tool of U.S. foreign policy in the post-war era, and with good reason: Policymakers need to have options that lie between diplomacy and military action—alternatives that lie between dialogue and open warfare—to advance key American interests overseas.

Too often, though, sanctions are used as a blunt instrument when circumstances call for a scalpel. At times, the United States has applied sanctions in a sweeping manner without sufficient regard for their effectiveness or possible collateral harm to other U.S. interests.

The risk is not only that sanctions will fail to achieve their primary foreign policy objectives but that they will erode U.S. credibility in the long haul and harm international economic ties that sustain economic growth and jobs at home.

With Congress considering new sanctions legislation targeting a range of foreign governments, the Chamber offers these principles to maximize the effectiveness of these measures and minimize any collateral damage to U.S. interests:

Sanctions Should Target Specific Foreign Policy Goals. To be effective, sanctions legislation and executive action should be calibrated carefully to achieve specific, clearly articulated objectives. Fundamentally, these objectives center on altering the future behavior of a foreign government (for this reason, sanctions should not be retroactive).

The aim of sanctions should not be punitive: Sanctions that do nothing but impose hardship on the citizens of another country will only undermine U.S. interests in the long run, erode America's international standing and "soft power," and are at odds with America's humanitarian values and support for human rights. In addition, close consultation between Congress and the executive branch, in the inter-agency process, and between government and the private sector will help enhance effectiveness and limit collateral harm.

Sanctions Must Be Multilateral to Achieve Their Aims. Success in bringing economic pressure to bear on a given country through sanctions increasingly depends on support from a broad range of foreign governments, only some of which are close U.S. allies. After all, the United States is a minor trade and investment partner for most of the countries targeted with sanctions in recent years.

History demonstrates that unilateral sanctions uncoordinated with other significant economies immediately present opportunities for non-U.S. competitors to "backfill" commercial opportunities as U.S. firms are forced to exit the market. In these circumstances, U.S. governmental action simply hands lucrative foreign markets to American companies' competitors on a silver platter, with real-world implications for jobs, competitiveness, and earnings back home. In the worst case scenario, U.S. sanctions may obligate American companies to sell foreign assets suddenly at fire-sale prices—an outcome that is not just lamentable but often beneficial to bad actors.

Sanctions Should Be Conduct-Based, Not Broad or Sectoral. Sanctions should focus on documented malign conduct and those who engage in it. Some of the most effective sanctions employed by U.S. authorities in recent years have been focused on foreign government officials, executives of state-owned or state-directed enterprises, and specific foreign firms.

Targeting foreign individuals and entities and their financial holdings and ability to travel has been highly motivating in many instances. Given that these sanctions are generally applied to undemocratic regimes that tend to be unmoved by blunt sanctions that harm their own citizens, this targeted approach has added attractiveness.

Sanctions Should Allow Flexibility for Swiftly Changing Circumstances. Sanctions legislation must allow a level of discretion for the executive branch. Sanctions are often contemplated in a context of armed conflict, which can shift rapidly, and executive branch officials must be provided the leeway to alter course. Failing to provide a degree of discretion for the executive branch would constrain its ability to direct U.S. foreign policy as provided by the Constitution.

Discretion should be provided with regard to sanctions-related decisions involving the initiation of investigations, which sanctions on a menu will be imposed, the possible issuance of waivers, OFAC licenses, and alteration of sanctions. If a sanction or threat of sanction induces a behavior change consistent with a foreign policy objective, the efficacy of the overall sanctions regime will benefit if the executive branch has the ability to remove or adjust a sanction swiftly.

Sanctions Should Seek to Avoid Spillover to Third-Country Markets. The application of U.S. sanctions to joint ventures and other enterprises in third countries exacerbates the “backfill” problem mentioned above and multiplies the harm to U.S. industry without adding in any way to the sanctions’ effectiveness.

For instance, the reach of secondary sanctions into third countries incites economic, diplomatic, and legal conflicts with U.S. allies and frustrates joint action. Indeed, imposing sanctions on entities in countries that U.S. officials are often attempting to enlist to assist U.S. efforts is inimical to the very aims of sanctions.

Sanctions Must Avoid Overreach or Risk Eroding U.S. Influence. U.S. influence and leverage are substantial, but they are finite resources that may be exhausted through overuse.

For example, the United States retains substantial economic leverage through its leadership role in the Society for Worldwide Interbank Financial Telecommunication (SWIFT) financial messaging network that financial institutions use to transfer information securely. However, U.S. use of this influence in ways that lacked broad support has led allies and other countries to begin the development of alternate systems that will allow commerce to flow around the barriers raised by U.S. sanctions. In the end, sanctions overreach puts at risk the country’s future ability to impose sanctions.