CHAPTER 3

Confronting the Implementation and Enforcement Challenges Involved in Imposing Economic Sanctions

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Abstract

This chapter examines the practical challenges associated with the implementation and enforcement of economic sanctions. It develops a conceptual framework that distinguishes between sanctions violations on the basis of whether they were unintentional or deliberate and whether they occurred within the jurisdiction of the sanctions or outside of it. After discussing the specific characteristics of each category of violation, the chapter presents implementation and enforcement strategies that governments can employ to make their sanctioning efforts more effective. These strategies focus on improving the implementation of sanctions to minimize unintentional sanctions violations, closing sanctions loopholes and maximizing the scope of their jurisdiction, and investing in the detection and punishment of deliberate, illegal sanctions violations. The chapter also discusses the challenges posed by third-party sanctions-busting and how governments can try to mitigate the often intractable problems it poses to sanctioning efforts. The chapter draws on insights from sanctioning efforts undertaken by the United States and European Union to provide numerous policy-relevant insights that can aid governments in adopting more effective economic sanctions.

Keywords

economic sanctions – policy implementation – sanctions busting – sanctions busters – United States – European Union

1 Introduction

Economic sanctions are easy to adopt, but difficult to implement policies. Imposing effective sanctions requires drafting well-crafted sanctions policies that are capable of imposing sufficient costs upon a target actor to force
concessions. Policymakers often try to strike a careful balance in imposing sanctions costly enough to affect the target’s behavior but that do not also significantly harm their own countries’ economic interests. They frequently err, though, by expecting that their sanctions will be more effective than they actually are. Implementation and enforcement challenges are a major reason for this. Imposing sanctions requires governments to find effective ways of informing the parties subject to sanctions of what commercial transactions are no longer allowed, convince those parties to stop engaging in them, and then prevent third-party actors from undercutting whatever sanctions they have imposed. Governments thus face a number of domestic and international obstacles to employing effective sanctions policies. As such, economic sanctions that appear strong on paper often end up being far weaker in practice due to implementation and enforcement problems. This study offers a conceptual explanation of the implementation and enforcement challenges that governments face in imposing sanctions and presents a number of strategies for overcoming them.

Addressing the problems associated with the implementation and enforcement of sanctions is of crucial importance given the widespread usage of these policies by the United States, European Union (EU), and United Nations (UN). The United States and EU have emerged as the two leading international actors that rely on economic sanctions the most. Problematically, though, scholarly analyses have repeatedly shown that economic sanctions have a poor track record of success.1 Despite this knowledge, policymakers keep using sanctions anyway. Since policymakers remain committed to using sanctions, it is imperative to understand how sanctioning efforts can be made more effective.

While a large body of scholarship has sought uncover the key factors correlated with the success of sanctioning efforts, a much smaller number of works have explored the practical impediments to enforcing them and fewer still have examined the challenges involved in implementing them.2 Adopting

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