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# International Sanctions on Petroleum Producing Countries vis-á-vis Private Investments: A Comparison Between Iran, Russia, and Venezuela

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# International Sanctions on Petroleum Producing Countries *vis-à-vis* Private Investments: A Comparison Between Iran, Russia, and Venezuela

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## I. Introduction

As an industry that relies largely on capital, the oil and gas (O&G) sector inevitably has to contend with a wide range of risks.[1] Consequently, host governments (which commonly own such resources) tend to encourage private investments in these sectors so as to protect public funds and interests and as a result, private investment is crucial in order for the O&G industry

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[1] J England, G Bean, A Mittal, 'Following the capital trail in oil and gas: Navigating the new environment' (Deloitte US, 11 April 2015) <https://www2.deloitte.com/insights/us/en/industry/oil-and-gas/capital-investment-in-oil-and-gas-sector.html> last accessed on 10th of March 2020.

to survive.[2] In addition, this industry deals with complex equipment, as well as highly skilled personnel and technology, all of which are required to achieve the best possible output in terms of standards, efficiency and maximum return from each production field.[3] *Prima facie*, the O&G sector remains a major source of income for many O&G-producing countries in the world like Saudi Arabia, the United Arab Emirates[4] or even the Caribbean twin-island Republic of Trinidad and Tobago,[5] *inter alia*.[6] It is made up of three major sectors: Upstream- this involves the exploration, drilling and extracting of O&G;[7] Midstream- which involves the transportation, storing and processing of O&G[8] and Downstream- which involves the refining and further transportation of O&G.[9] All of these sectors within the O&G industry rely heavily on funds, in order to operate, which is generated through mostly private investments.[10]

Petroleum is the generic name for combustible hydrocarbon, such as crude oil or natural gas, found within the earth's surface.[11] The modern O&G industry began in the mid-19th century. Colonel Edwin Drake discovered the first underground oil reservoir near Titusville, Pennsylvania, on August 27 1858, where he drilled to 21 metres using an iron pipe.[12] Drake worked for the Pennsylvania Rock Oil Company of New York, later renamed Seneca Oil Company of Connecticut that wanted to use the oil for lighting street lamps.[13] The success of oil discovery marked the modern days of the oil industry. In subsequent years, other major oil fields were discovered in other countries and scientist turned their attention to crude oil where they developed initial products such as kerosene, which was an alternative to coal and whale oils since it was reliable and inexpensive for fuelling lamps.[14] The technological breakthrough of the 20th century led to the further inventions of gasoline and diesel for running engines in automobiles and electricity.[15] Other products were discovered from crude oil later in the century.

Importantly, less developed nations with O&G resources are heavily dependent on private investments locally and internationally because they often lack the capital or technology to

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[2] "The net new capital is defined as the sum of net equity and net debt issued", J England, G Bean, A Mittal, 'Following the capital trail in oil and gas: Navigating the new environment' (Deloitte US, 11 April 2015) <https://www2.deloitte.com/insights/us/en/industry/oil-and-gas/capital-investment-in-oil-and-gas-sector.html> last accessed on 10th of March 2020.

3 Ibid.

[4] OPEC, 'Member Countries' (*Organization of the Petroleum Exporting Countries*, 2021) <https://www.opec.org/opec_web/en/about_us/25.htm> accessed 12/06/2021.

[5] Trevor Boopsingh et al, 'Caribbean Energy Sector: Review and Perspectives', Caribbean Dialogue (1994) Vol. 1, No. 1; GORTT, 'Historical Facts on the Petroleum Industry of Trinidad and Tobago' *(Ministry of Energy and Energy Industries*, 2021) <https://www.energy.gov.tt/historical-facts-petroleum/> accessed 12/06/2021.

[6] Rosamond Hutt, 'Which economies are most reliant on oil?' (2016) World Economic Forum <https://www.weforum.org/agenda/2016/05/which-economies-are-most-reliant-on-oil/> accessed 12/06/2021.

[7] Adam Muspratt, 'Introduction to Oil and Gas Industry' (2019) Oil and Gas IQ <https://www.oilandgasiq.com/strategy-management-and-information/articles/oil-gas-industry-an-introduction> accessed 12/06/2021.

[8] Ibid.

[9] Ibid.

[10] William Eddy and Joseph Kadane, 'The Cost of Drilling for Oil and Gas: An Application of Constrained Robust Regression (1982) vol 77 262.

[11] Patrick Martin and Bruce Kramer, *Oil and Gas Law Cases and Materials* (2011) 9th edn 1.

[12] Halfdan Carstens, 'The Birth of the Modern Oil Industry' (2009) vol 6 No 3.

[13] Ibid.

[14] R Lukasz, 'History of the Modern Oil Industry' (2021) EKT Interactive <https://ektinteractive.com/history-of-oil/#> accessed 13/06/2021.

[15] Ibid.

develop the resource.[16] Petroleum is primarily used for various fuels for cars, jets, as well as other products such as pharmaceutical, fertilizers, solvents, textiles and plastics which are all essential products for O&G producing countries since they generate revenue.[17] Therefore, a sanction by an international body and/or a powerful nation might cause serious disruptions to the flow of capital, expertise and technology in the O&G sector.

Sanctions are penalties or restriction placed on certain countries with the intention of limiting its economic, trade and political behaviour[18] to achieve compliance with international law.[19] Sanctions can be identified and categorized according to the body that issues them, such as the United Nations, an intergovernmental organization or either a country like the United States or United Kingdom.[20] This paper will seek to explain the importance of private investments in the O&G sector and the negative impact that foreign sanctions might cause to it, and it will go on to analyse three case studies, namely Iran, Russia and Venezuela, – looking at the impact of economic sanctions on the O&G sectors in those countries. Although the precise situation and challenges might differ from each of these countries, they have common similarities as well as they may face sanctions from the international community and/or unilateral sanctions imposed by the United States of America. This discussion must take into account the extraterritorial effects of The Office of Foreign Assets Control (OFAC) sanctions which are designed to penalize any third player that engages in or with a sanctioned target. This is why this paper will highlight the lessons learnt and provide recommendations based on the analysis followed by the conclusion of the said paper. This paper will focus on economic sanctions. It will not explore other types of restrictions like the ones which occurred after the coronavirus in China in 2021.

## II. Sanctions *vs* Private Investments

An internationally imposed sanction is a penalty or restriction generally placed on a country with the intention of limiting its economic, trade and political behaviour.[21] In other words, such mechanisms are often used "*to limit opportunities for undesirable behaviour and to deter other countries from choosing an undesirable course of action*."[22] Economic sanctions are frequently used in a "carrot on a stick" approach, serving as a tool of foreign policy that aims to apply economic pressure to a country.[23] Sanctions can have multiple forms, such as tariffs, quotas, embargoes, non-tariff barriers (NTBs) as well as restrictions on loans, technology and credit for certain people or companies.[24] For instance, a steel-producing country, in an attempt to

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16 Vernetta Calvin-Smith, 'The Legal Regulations of Foreign Investment in the Petroleum Industry of Trinidad and Tobago' (1979) Institute of International Relations, UWI 18.

17 Adam Muspratt, 'Introduction to Oil and Gas Industry' (2019) Oil and Gas IQ <https://www.oilandgasiq.com/strategy-management-and-information/articles/oil-gas-industry-an-introduction> accessed 13/06/2021.

18 Hossein G. Askari, etal, *Economic sanctions: examining their philosophy and efficacy* (Greenwood Publishing Group 2003).

19 Cambridge University Press. *'Definition of sanction'*. (n.d.). Cambridge Dictionary. Retrieved [October 10 2022] from https://dictionary.cambridge.org/dictionary/english/sanction

20 Jonathan Masters, 'What Are Economic Sanctions?' (CFR, 12 August 2019) <https://www.cfr.org/backgrounder/what-are-economic-sanctions> last accessed on 14/06/2020.

21 Hossein G. Askari, etal, *Economic sanctions: examining their philosophy and efficacy* (Greenwood Publishing Group 2003).

22 Ibid.

23 Roger Hardy, 'Barack Obama applies carrot and stick to Iran', *BBC News* (21 September 2010), <https://www.bbc.com/news/world-middle-east-11384982> last accessed on 10th of March 2020.

24 Government of the Netherlands, *Sanctions* <https://www.government.nl/topics/international-peace-and-security/compliance-with-international-sanctions> last accessed on 10th of March 2020.

protect its own national industry, might implement a quota on foreign steel imports; or a government can prevent its citizens from selling goods to another country by setting up an embargo on that country.[25] It should be noted that these restrictive measures are sometimes applied by the sanction-imposing state, even when they might be at variance with the rules governing trade under the World Trade Organization (WTO). Sanctions are usually applied when diplomatic attempts have failed. Even if there is an option to use military threat as a bargaining tool, sanctions can be more effective as they create an economic cost for the target country, while not employing military force against that nation.[26] Sanctions may also be employed as a softer tool, especially as a dissuasive measure against human rights violations, such as the US-imposed sanctions against South Africa during the apartheid era,[27] or the more recently imposed sanctions on certain Burmese parties in response to the Myanmar military's coup against the democratically elected civilian government.[28]

Sanctions can be categorized according to the issuer. They can be imposed either by international bodies, such as the United Nations (UN) and the European Union (EU),[29] or national governments, such as the United States or Germany.[30] Multilateral sanctions are imposed by a group of countries, while unilateral sanctions are enacted by only one country.[31] More specifically, multilateral sanctions can be delivered by the General Assembly and the Security Council of the United Nations, or the European Commission, whereas in the UK for instance, British unilateral sanctions can be adopted by the Border Agency, His Majesty's Treasury or the Export Control Organisation (ECO).[32]

Unilateral sanctions can also prevail despite the will of an overwhelming majority of members of the international community and their inconsistency with, for example, the Charter of the United Nations. This is seen with the continued implementation of the economic, commercial and financial embargo imposed against Cuba by the United States, despite repeated calls for its abolition by the United Nations General Assembly, as follows:

> *"Reiterates its call upon all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution, in conformity*

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[25] James Mc Whinney, 'The Impact Of Ending The U.S. Embargo On Cuba' (*Investopedia*, 10 January 2020) <https://www.investopedia.com/articles/investing/022415/impact-ending-us-embargo-cuba.asp>

[26] UNSC, 'Sanctions' (United Nations Security Council, 2020) <https://www.un.org/securitycouncil/sanctions/information> accessed 12/06/2021.

[27] Joseph F. Jordan, 'Sanctions were crucial to the defeat of Apartheid', *The New York Times* (19 November 2013) <https://www.nytimes.com/roomfordebate/2013/11/19/sanctions-successes-and-failures/sanctions-were-crucial-to-the-defeat-of-apartheid> last accessed on 10th of March 2020.

[28] US Treasury Department's Office of Foreign Assets Control ("OFAC") published by the Burma Sanctions Regulations at 31 C.F.R, 1 June, 2021.

[29] Jonathan Masters, 'What Are Economic Sanctions?' (*CFR*, 12 August 2019) <https://www.cfr.org/backgrounder/what-are-economic-sanctions> last accessed on 10th of March 2020.

[30] European External Action Service, *Consolidated list of sanctions* (EEAS, 18 August 2015) <https://eeas.europa.eu/headquarters/headquarters-homepage_en/8442/Consolidated%20list%20of%20sanctions> last accessed on 10th of March 2020.

[31] Sylvie Matelly, 'Performance des sanctions internationales' (IRIS, March 2017), <https://www.iris-france.org/wp-content/uploads/2017/06/persan_-_typologie_-_etudes_de_cas_juin_2017_0.pdf>. Last accessed on 10th of March 2020.

[32] Impact of economic sanctions on international oil and gas development (*Esanda Engineering*, 2020) <http://esandaengineering.com/Esanda-training-courses/economics-finance-commercial-and-accounting/impact-of-economic-sanctions-on-international-oil-gas-development.html> last accessed on 10th of March 2020.

*with their obligations under the Charter of the United Nations and international law, which, inter alia, reaffirm the freedom of trade and navigation;*"[33]

The WTO has frowned upon sanctions imposed by its members on other members since it limits the ultimate goal of free trade and may be discriminatory to that country or conflict with provisions of the General Agreement on Tariffs and Trade 1994 (GATT 1994), such as 'Most Favoured Nation Treatment' as seen under Article I (1) of the GATT, 'National Treatment under article III (4) and 'General Elimination of Quantitative Restrictions' under article XI (1).[34] However, GATT 1994, has included, within its provisions, the allowance of sanctions once they come under its 'General Exceptions' as seen under Article XX or 'Security Exceptions under article XXI.[35] Countries often resort to imposing sanctions under Article XXI of the GATT 1994, since it deals with 'security issues' and is the first resort for non-UN sanctions since requirements for implementation under Article XXI is less strict than under Article XX.[36]

Regarding the application of Article XX of GATT 1994, it should be noted that the Article provides general exceptions from stated obligations under the agreement, only where they are not applied "in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on trade", as was observed in US-Shrimp.[37]

Similarly, the Dispute Settlement Understanding (DSU) of the WTO has also resorted to 'authorizing' trade sanctions on member countries, in limited circumstances, where they have been in direct violation of WTO rules.[38] The plaintiff government would have to seek authorization from the Dispute Settlement Body (DSB) of the DSU, "*to suspend the application to the Member concerned of concessions or other obligations under the covered agreements*."[39] It is seen here that, while the word sanction is not explicitly used within the text, its meaning is boisterous since with authorization from the DSB, WTO members can impose 'legal' sanctions on another member. This was seen in the case of *Export Financing Programme for Aircraft*, where the DSB authorised Canada to impose trade sanctions on Brazil because of an aircraft dispute.[40]

In order to define the use of domestic sanctions, the WTO objectively considers and reviews the economic disputes between countries, as economic sanctions can turn into "*damaging trade wars that can spill over into countries uninvolved in the original dispute*."[41] Studies have

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[33] UNGA resolution, A/75/L.97 para 2., Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, 9 June 2021.
[34] Andrew D Mitchell, 'Sanctions and the World Trade Organization' (2017) Monash University Australia, Research Gate 283.
[35] Ibid.
[36] Michael J Hahn, 'Vital Interests and the Law of GATT: An Analysis of GATT's Security Exception' (1991) 12(3) Michigan Journal of International Law 558, 559; Ryan Goodman, 'Norms and National Security: The WTO as a Catalyst for Inquiry' (2001) 2(1) Chicago Journal of International Law 101, 104.
[37] WTO Appellate Body Report, US-Shrimp, 160.
[38] Ibid.
[39] Understanding on Rules and Procedures Governing the Settlement of Disputes [hereinafter DSU], art 22, in Agreement Establishing the World Trade Organization, April 15, 1994, Annex 2, available in WTO Results of Uruguay Round of Multilateral Trade Negotiations (1999).
[40] *Aircraft Recourse to Arbitration by Brazil under Article 22.6 of the DSU and Article 4.11 of the SCM Agreement, Decision by the Arbitrators,* WTO Doc. WT/DS46/ARB, Aug. 28, 2000 [hereinafter Brazil Aircraft Article 22 Decision].
[41] Ibid.

shown that the weight of a sanction on a country is closely linked to the scale of international coordination. Sanctions also vary depending on the target, whether it be a country as a whole, specific industries, companies and/or individuals such as political and business leaders. Primary economic sanctions frequently target States, whereas secondary sanctions can be also enacted for third-parties.[42] It is important, therefore, for O&G companies, as well as organizations, to be aware of the parties listed for such sanctions, might they be governments,[43] individuals or commercial entities. Thus, these sanctions "*entail increased compliance obligations both for state institutions and private organizations which if not met carry significant fines and penalties*."[44]

Moreover, economic sanctions can be classified according to the kind of trade they impact, and whether they are export or import sanctions. For instance, the United States and the European Union have jointly prohibited the trade of certain goods and services to and from Iran since 1979.[45] In so doing, by introducing import regulations, the initiating countries aim to block a specific country's exports which will result in a considerable economic burden. In the O&G sector, sanctions might be, "*restricting light oil and gasoline exports", "prohibiting the use of currency to pay for petroleum transactions*,"[46] restricting the transfer of technology or simply preventing them from doing business in the relevant sector.

Finally, the imposition of multiple and repetitive economic sanctions can lead to trade disputes, such as those initiated by former US President, Donald Trump, against China in 2018.[47] The recent US-China trade war is primarily characterized by increasing tariffs and setting up other trade or non-trade barriers. "*To target China, Trump has dusted off a cold war weapon: section 301 of the US Trade Act of 1974, which lets the president unilaterally impose tariffs.*"[48] More recently, the trade war has been steadily escalating between the two countries, as President Trump had announced in 2019 that the US was going to "*hit China with tariffs on an extra $300bn (£248bn) worth of imports.*"[49] Unsurprisingly, this trade war has not only affected the two countries concerned, but the overall global economy. After Trump's announcement, "*global stock markets have been hammered by fears of a deepening trade war*"[50] between the two major economies. As a result, "*companies and business groups have urged the US and*

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[42] Impact of economic sanctions on international oil and gas development (*Esanda Engineering*, 2020) <http://esandaengineering.com/Esanda-training-courses/economics-finance-commercial-and-accounting/impact-of-economic-sanctions-on-international-oil-gas-development.html> last accessed on 10th of March 2020.

[43] Restructuration du paysage conventionnel et négociation: quels impacts? (*Agence France Trésor*, 2020) <https://www.tresor.economie.gouv.fr/Ressources/File/447836> last accessed on 10th of March 2020.

[44] International Economic Sanctions Overview (*EIMF*, 2020) <https://eimf.eu/courses/international-economic-sanctions-1/> last accessed on 10th of March 2020.

[45] Josh Levs, 'A summary of sanctions against Iran', *CNN* (23 January 2012) <https://edition.cnn.com/2012/01/23/world/meast/iran-sanctions-facts/index.html>accessed 12/03/2020.

[46] Impact of economic sanctions on international oil and gas development (*Esanda Engineering*, 2020) <http://esandaengineering.com/Esanda-training-courses/economics-finance-commercial-and-accounting/impact-of-economic-sanctions-on-international-oil-gas-development.html> last accessed on 10th of March 2020.

[47] B Haas, B Jacobs, E Helmore, 'US imposes sanctions on China, stocking fears of trade war', *The Guardian* (22 March 2018) <https://www.theguardian.com/world/2018/mar/22/china-us-sanctions-trade-war> last accessed on 10th of March 2020.

[48] Ibid.

[49] Ben Chapman, 'Trump imposes tariffs on $300bn more Chinese goods in sharp escalation of trade war', *The Independent* (2 August 2019) <https://www.independent.co.uk/news/business/news/trump-china-trade-war-tariffs-chinese-goods-economy-a9036526.html> last accessed on 10th of March 2020.

[50] Ben Chapman, 'Business live - Global stock markets rally as fears of trade war and recession ease', *The Independent* (19 August 2019) <https://www.independent.co.uk/news/business/news/business-news-live-world-stock-markets-latest-trade-war-pound-recession-trump-a9064911.html> last accessed on 10th of March 2020.

*China to continue negotiations to end the trade war.*"[51] Current US President, Joe Biden, met with Chinese President, Xi Jinping, on 14 November 2022. The main concerns were, among others, specific issues in US-China bilateral relations and the US intention to prevail with the competition (responsible and with communication) with the People's Republic of China (PRC) by investing in sources of strength at home and aligning efforts with allies and partners around the world.[52]

Regarding the complexity of the economic sanctions framework, it is interesting to consider the impact on the O&G sector, and especially on private investments in petroleum. The most important step, however, is to understand the economic weight of such investments in a sector that is often controlled by the countries producing oil and gas.

## *1. Context of Private Investments in the Oil and Gas Sector*

The last few decades have seen considerable investment fluctuations in the O&G industry. Since 1986, the increase in private equity investment in the industry has largely been beyond expectations, mainly due to the global growth in energy demand and the rise of new supplies that have generated "*record inflows of capital into the energy and resources (E&R) industry since 2008.*"[53] The E&R industry has "*become the biggest issuer of net new capital,*"[54] in particular, the booming oil and gas sector which has raised more than $850 billion between 2009 and 2013.[55] This influx of capital, along with the US shale boom, has significantly increased oil and gas supplies throughout the world.

More recently, the O&G sector has been caught up in a "*period of capital disturbance*"[56] as demand failed to reach the levels predicted, increasing global supply from the shale boom in the US-Permian Basin, and in management terms, the Organization of the Petroleum Exporting Countries (OPEC) did not act "*correctly to adjusting*" the market, which caused the crude oil prices to drop by 50% in 2014.[57] This collapse of oil prices severely downgraded the O&G sector's market capitalization in the following years, sharpened with the more recent price war between Russia and Saudi Arabia and in sequence, the demand crash caused by the COVID-19 pandemic. After several years of growth, investments in exploration and production (E&P) historically faltered in 2015 and 2016 and again in 2020.[58] This downturn is highly visible in

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[51] Peter Stubley, 'Trump says he will raise tariff rates on Chinese goods in furious rant as trade war escalates', *The Independent* (23 August 2019) <https://www.independent.co.uk/news/world/americas/us-politics/trump-china-tariffs-us-trade-twitter-tax-latest-a9077081.html> last accessed on 10th of March 2020.
[52] The United States Government. *'Readout of president Joe Biden's meeting with president Xi Jinping of the People's Republic of China'*. (2022, November 14). The White House. https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/14/readout-of-president-joe-bidens-meeting-with-president-xi-jinping-of-the-peoples-republic-of-china/, Retrieved November 20, 2022.
[53] J England, G Bean, A Mittal, 'Following the capital trail in oil and gas: Navigating the new environment' (Deloitte US, 11 April 2015) <https://www2.deloitte.com/insights/us/en/industry/oil-and-gas/capital-investment-in-oil-and-gas-sector.html> last accessed on 10th of March 2020.
[54] J England, G Bean, "The net new capital is defined as the sum of net equity and net debt issued"; A Mittal, 'Following the capital trail in oil and gas: Navigating the new environment' (Deloitte US, 11 April 2015) <https://www2.deloitte.com/insights/us/en/industry/oil-and-gas/capital-investment-in-oil-and-gas-sector.html> last accessed on 10th of March 2020.
[55] Ibid.
[56] Ibid.
[57] Ibid.
[58] G Maisonnier, G Hureau, S Serbutoviez, C Silva, *Investment in exploration-production and refining in 2017*, (IFP Énergies Nouvelles, January 2018) <https://www.ifpenergiesnouvelles.com/sites/ifpen.fr/files/inline-

the investment rates of major O&G companies, such as British Petroleum (BP), Shell, Chevron and Exxon.[59] Globally, the context of lower oil prices has become a new challenge for O&G companies, as well as for countries that are exporting oil; such as Iran, Angola, Venezuela and Nigeria. Moreover, since the drop in oil prices (the price per barrel went from $120 to $27 in 2014-2015), investments in new fields have been greatly reduced.[60] According to Wood Mackenzie, around $380 billion in investment linked to new development projects has been withheld or withdrawn following the downturn in oil prices.[61] This collapse in investments has affected 68 new projects, especially in the high seas offshore development sector.[62] The most striking example is the North Sea region where investments in new projects were down by 90% in 2016.[63]

According to the International Energy Agency (IEA), the lack of investment in the O&G industry will lead to the instability of the global oil market in the medium term.[64]As global demand accelerates in the years to come,[65] the IEA has expressed concern about the distortion that might appear if the oil and gas supply is unable to meet the increasing demand from developing nations. The Agency has predicted that this instability may cause escalating prices for oil and gas in the near future.[66] More generally, the IEA's Executive Director, Dr Fatih Birol, has stated that, "*energy investments now face unprecedented uncertainties, with shifts in markets, policies and technologies.*"[67] It seems that "*for the third year in a row, the power sector attracted more investment than the oil and gas industry.*"[68] Therefore, it is clear that the O&G industry is going through a profound transformation that impacts the business models of investors. For instance, banks have been changing their investment strategies while "*reducing their exposure to oil and gas-related assets.*"[69] Those who were detaining numerous

images/NEWSROOM/Regards%20économiques/Notes%20de%20conjoncture/2017-Investment-exploration-production-refining.pdf> last accessed on 10th of March 2020.

59 Sia Partners, 'Crise pétrolière: comment le sous-investissement d'aujourd'hui prépare-t-il la rareté de demain?' (*Energies & Environment par Sia Partners*, 12 May 2016) <http://www.energie.sia-partners.com/20160512/crise-petroliere-comment-le-sous-investissement-daujourdhui-prepare-t-il-la-rarete-de-demain> last accessed on 10th of March 2020.

60 Sia Partners, 'Crise pétrolière: comment le sous-investissement d'aujourd'hui prépare-t-il la rareté de demain?' (*Energies & Environment par Sia Partners*, 12 May 2016) <http://www.energie.sia-partners.com/20160512/crise-petroliere-comment-le-sous-investissement-daujourdhui-prepare-t-il-la-rarete-de-demain> last accessed on 10th of March 2020.

61 Ibid.

62 Ibid.

63 Jillian Ambrose, 'North Sea oil investment to slump 90pc this year as losses mount', *The Telegraph* (23 February 2016)<https://www.telegraph.co.uk/business/2016/02/23/north-sea-oil-investment-to-slump-90pc-this-year-as-losses-mount/> last accessed on 10th of March 2020.

64 Antoine Izambard, 'Vers un effondrement de la production de pétrole d'ici 2025?', *Challenges* (14 November 2018) <https://www.challenges.fr/entreprise/energie/vers-un-effondrement-de-la-production-de-petrole-d-ici-2025_626052>

65 International Energy Agency, *Oil Market Report* (IEA, August 2019) <https://www.iea.org/oilmarketreport/> last accessed on 10th of March 2020.

66 Ibid.

67 'Global energy investment stabilised above USD 1.8 trillion in 2018, but security and sustainability concerns are growing', *IEA* (14 May 2019) <https://www.iea.org/newsroom/news/2019/may/global-energy-investment-stabilised-above-usd-18-trillion-in-2018-but-security-.html> last accessed on 10th of March 2020.

68 Ibid.

69 Mark Venables, 'New oil and gas entrants need new funding sources', *Forbes* (26 November 2018) <https://www.forbes.com/sites/markvenables/2018/11/26/new-oil-and-gas-entrants-need-new-funding-sources/#27bc883478be> last accessed on 10th of March 2020.

hydrocarbon assets have started to diversify their portfolios as they fear a global downturn in the O&G industry along with climate change issues.[70]

Nevertheless, there are still "*large capital needs within the oil and gas sector going forward,*"[71] as declared by Pål Reiulf Olsen, senior partner in P&E.[72] The US shale revolution highlights the urgent need for capital, as it will require about $5 trillion in investment in the near future.[73] If private investments continue to be essential in the O&G industry, it is crucial to understand how international sanctions against petroleum producing countries might affect them.

## *2. Context of Sanctions in the O&G Sector*

Historically, the Athenian Empire was one of the first to impose economic sanctions when it did so against neighbouring Megara through a trade embargo, in 432 BC.[74] Subsequently international sanctions were used on occasion until the 1960s when the US implemented sanctions against Cuba in an attempt to disrupt the established Castro regime.[75] Following these initial unilateral sanctions, the United Nations Security Council imposed historic measures first against Rhodesia in 1966, and then against the apartheid system in South Africa in 1977.[76] Afterwards, other countries have implemented economic sanctions, such as Europe against Turkey in 1981 and the UK against Argentina during the Falklands War in 1982.[77] Compared to the current period, the use of this foreign policy tool along the Cold War was reduced given the risk of escalation of geopolitical tensions. The dismantling of the Union of Soviet Socialist Republics (USSR) in 1990-1991 marked the resurgence of 'comprehensive' international sanctions alongside the reaffirmation of a new multi-polar international order.[78]

In recent decades, multilateral and unilateral economic sanctions have been inflicted on specific industries, especially the O&G industry. The imposing countries have focused on the energy sector due to its strategic and key role within a nation's economy.[79] In September 2017, the UN Security Council unanimously voted for a partial trade embargo on North Korean

[70] Hiroko Tabuchi, 'Oil Giants, Under Fire From Climate Activists and Investors, Mount a Defense' *The New York Times* (23 September 2019) <https://www.nytimes.com/2019/09/23/climate/oil-industry-climate-investment.html> last accessed on 10th of March 2020.
[71] Mark Venables, 'New oil and gas entrants need new funding sources', *Forbes* (26 November 2018) <https://www.forbes.com/sites/markvenables/2018/11/26/new-oil-and-gas-entrants-need-new-funding-sources/#27bc883478be> last accessed on 10th of March 2020.
[72] Ibid.
[73] Ibid.
[74] Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions> last accessed on 10th of March 2020.
[75] Ibid.
[76] Ibid.
[77] Ibid.
[78] Nenani N. Sichone, *Sanctions and world polarity: an analysis of the efficacy of sanctions as the world shifts from unipolarity to multipolarity and how this change affects the order of the international political economy* (ePublications at Regis University Spring 2014) <https://epublications.regis.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1609&context=theses>last accessed on 10th of March 2020.
[79] B Bimbetove, Y Tyurina, M Troyanskaya, etal, 'The Impact of International Sanctions on National Economic Regime of Target States: The Case of Energy Sector (Oil, Gas and Renewable Energy)' (2019) 18(4) Academy of Strategic Management Journal <https://www.abacademies.org/articles/the-impact-of-international-sanctions-on-national-economic-regime-of-target-states-the-case-of-energy-sector-oil-gas-and-renewable-8366.html> last accessed on 10th of March 2020.

petroleum products in response to the ongoing missile and nuclear testing in that country.[80] The UN Security Council passed a number of other resolutions dealing with similar issues.[81] Although these sanctions have caused serious disruption to North Korean business and ambitions they have failed, for several reasons, to achieve the final goal which was to have an "*immediate impact on the Korean Peoples' Army's (KPA's) nuclear or missile programs.*"[82] Firstly, Pyongyang was still able to import hydrocarbon products, albeit to a lesser extent, from certain countries like China. Secondly, even if these two countries had implemented "*energy strangulation with massive cuts,*"[83] to North Korea, studies have shown that the immediate primary impacts would have been on welfare and thus could have led to social instability and scarcity of crucial resources for the population.[84] Indeed, economic sanctions might have had "a crippling effect"[85] on a targeted country while increasing political instability and causing unavoidable and significant civilian suffering.

In a recent study, Tamas Dudlak of Corvinus of the University of Budapest highlights that Western sanctions on the Iranian energy sector might have nurtured "*a regressive energy policy*,"[86] in the country since 1979 as well as having reinforced "*a wave of anti-Western sentiment*"[87] that favoured the incumbent Islamic government.[88] After the partial lifting of international nuclear-related sanctions in 2015, the investment climate became more favourable. Following the signature of the agreement on July 14th 2015, international oil companies (IOCs) have once more started prospecting the Iranian petroleum market. Since 2016, the Islamic Republic has "*managed to up its production capacity to pre-sanctions levels of 3.9 million barrels per day,*"[89] as well as managing to regain a relevant market share with the EU. The Joint Comprehensive Plan of Action (JCPOA) signed in 2015 allowed the "*long-embargoed economy*"[90] to develop its energy infrastructure thanks to increasing foreign direct investments and a reintegration in the financial markets.

Nevertheless, the re-imposition of US sanctions on Iran, as ordered by former President Trump in May 2018, has strongly impacted the economic resurgence of the Iranian O&G industry, as

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[80] Sébastian Seibt, 'Corée du Nord: un embargo pétrolier aux effets très limités', *France 24* (12 September 2017) <https://www.france24.com/fr/20170912-coree-nord-embargo-petrole-effets-limite-nucleaire-bombe-kim-jong-onu-etats-unis> last accessed on 10th of March 2020.

[81] Sébastian Seibt, 'Corée du Nord: un embargo pétrolier aux effets très limités', *France 24* (12 September 2017) <https://www.france24.com/fr/20170912-coree-nord-embargo-petrole-effets-limite-nucleaire-bombe-kim-jong-onu-etats-unis> last accessed on 10th of March 2020.

[82] P Hayes and D von Hippel, 'Sanctions on North Korean oil imports: impacts and efficacy' (*NAPSNet Special Reports*, 05 September 2017) <https://nautilus.org/napsnet/napsnet-special-reports/sanctions-on-north-korean-oil-imports-impacts-and-efficacy> last accessed on 10th of March 2020.

[83] Ibid.

[84] Ibid.

[85] Gary C Hufbauer, and others, 'US economic sanctions: their impact on trade, jobs and wages' (*Peterson Institute for International Economics (PIIE)*, April 1997) <https://www.piie.com/publications/working-papers/us-economic-sanctions-their-impact-trade-jobs-and-wages> last accessed on 10th of March 2020.

[86] Nilanjana Bhattacharya, 'The Impact of Sanctions on Iran's Energy Sector' (*Chicago Policy Review*, 4 February 2019) <http://chicagopolicyreview.org/2019/02/04/the-impact-of-sanctions-on-irans-energy-sector/> last accessed on 10th of March 2020.

[87] Ibid.

[88] Tamás Dudlák, 'After the sanctions: Policy Challenges in transition to a new political economy of the Iranian oil and gas sector' (October 2018) *121 Energy Policy* <https://www.sciencedirect.com/science/article/pii/S0301421518304221>

[89] Jennifer Gnana, 'How US sanctions on Iran may impact energy markets', *The National* (3 May 2018) <https://www.thenational.ae/business/energy/how-us-sanctions-on-iran-may-impact-energy-markets-1.726741> last accessed on 10th of March 2020.

[90] Ibid.

it will deprive the country of *"much needed foreign currency"* and technology.[91] The US government's aim is "*to cut the country off from the international financial system.*"[92] Furthermore, these new sanctions are also "*extraterritorial*"[93] which means that "*non-US firms that do not comply with them could face fines and be cut off from the American-dominated global financial system*."[94]

According to Wood Mackenzie, the Iranian government offered discounts to big importers such as China and India,[95] in order to get around the economic sanctions imposed by the former Trump Administration. Another critical aspect for Iran is that it is European and Asian countries, not the US, which are the main clients for Iranian petroleum. As these countries are more likely to preserve the JCPOA agreement signed in 2015,[96] the new US sanctions might have a significantly lower impact on the Iranian economy than expected, at least to a lesser extent than in the 1980s.[97] Nonetheless, the EU has not yet managed to avoid "*a steady withdrawal of major companies from the Iranian market,*"[98] due to the global dominance of US business and finance, such as Total and other large foreign companies which have recently left Iran.[99]

Empirical studies have shown that the average success rate of economic sanctions implemented between 1915 and 2006 is below 30%,[100] which prompts us to question the effectiveness of such comprehensive sanctions. Besides, "*the longer these sanctions are in place, the less likely they are to be effective*"[101] as the targeted countries tend to adapt to the new situation.[102] Throughout recent decades, sanctions have appeared to be either successful, such as in Iran where the UN convinced the government "*to limit its uranium enrichment programme,*"[103] or ineffective, such as in Rwanda during the 1990s. According to multiple sources of empirical

[91] Ibid.

[92] Chase Winter, 'US reimposes sanctions on Iran: What does that mean?', *DW* (7 August 2018) <https://www.dw.com/en/us-reimposes-sanctions-on-iran-what-does-that-mean/a-44967074> last accessed on 10th of March 2020.

[93] Ibid.

[94] Ibid.

[95] 'Pétrole: les solutions de l'Iran face aux sanctions américaines', *Capital* (13 September 2018) <https://www.capital.fr/entreprises-marches/petrole-les-solutions-de-liran-face-aux-sanctions-americaines-1306804> last accessed on 10th of March 2020.

[96] Holly Ellyatt, 'Europe stands by Iran nuclear deal for now, defying US calls to abandon it', *CNBC* (13 January 2020) <https://www.cnbc.com/2020/01/13/jcpoa-europe-stands-by-iran-nuclear-deal.html> last accessed on 10th of March 2020.

[97] 'Sanctions contre l'Iran: quels effets sur le marché pétrolier?' *RFI* (5 September 2018) <http://www.rfi.fr/moyen-orient/20180509-iran-accord-vienne-sanctions-secteur-petrole-centre-interrogations> last accessed on 10th of March 2020.

[98] Chase Winter, 'US reimposes sanctions on Iran: What does that mean?', *DW* (7 August 2018) <https://www.dw.com/en/us-reimposes-sanctions-on-iran-what-does-that-mean/a-44967074> last accessed on 10th of March 2020.

[99] 'France's Total Leaves Iran Amid Sanctions Threat From U.S.', *RFERL* (20 August 2018) <https://www.rferl.org/a/france-s-total-leaves-iran-amid-sanctions-threat-from-u-s-/29443405.html>last accessed on 10th of March 2020.

[100] Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions> last accessed on 10th of March 2020.

[101] Ibid.

[102] S Segal, D Gerstel, 'The Economic Impact of Iran Sanctions', *CSIS* (5 November 2018) <https://www.csis.org/analysis/economic-impact-iran-sanctions> last accessed on 10th of March 2020.

[103] Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions> last accessed on 10th of March 2020.

evidence, it is clear that multilateral measures are more efficient than unilateral ones.[104] If a sanction is made unilaterally, the targeted country will be able to continue to do business with a third-party country, thereby avoiding the negative impact of blocked imports or exports.[105] For instance, although the EU and the US might support certain sanctions, many other major countries, such as India or China, might not participate in these sanctions and therefore keep the targeted economy afloat.[106] This was the case with the western sanctions imposed on Russia in 2014, as the country continued to trade with some of the largest Asian economies.[107] Christopher Davis, lecturer in Russian and East Asian Political Economy at Oxford University, has calculated that imposing countries "*have a GDP totalling around $42trn, whereas non-participants have a total GDP of $31trn.*"[108] Even if the Russian economy suffered from these sanctions in the first place[109], the nation has simply shifted its trade towards the Asian markets, with an emphasis on trading with China. This new business focus might result in the generation of further revenue and trade and therefore result in the sanctioned countries being better off than the outcome intended by the western countries.

This fact has recently changed due to the Russian geopolitical situation with Ukraine which began on 24 February 2022.[110] Since the Russian entrance in Ukrainian territory and the several sanction packages imposed on Russia, Russian oil and gas markets went down, making India and China the mayor buyers of Russian crude oil.[111]

It is also important to take into consideration the objective for the imposition of sanctions and whether it has achieved the intended purpose. In the case of Russia, sanctions imposed on Russia's oil sector generally target longer-term oil production – such as the provision of services to E&P in the offshore area north of the Arctic Circle and for potential oil production from shale formations by way of hydraulic fracturing –, and to date have not reduced Russian oil supply or trade. It may be premature to fully conclude on the impact of these sanctions until the geopolitical situation with Russia and Ukraine changes. Oil production in Russia has increased since oil-sector sanctions began in 2014, although the country has arguably incurred economic costs in order to incentivize and support oil output levels".[112]

Another crucial concern is whether these sanctions impact private foreign direct investment (FDI) decisions and to what degree of effectiveness. Financial sanctions might also result in a

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[104] S Heine-Ellison, 'The Impact and Effectiveness of Multilateral Economic Sanctions: A Comparative Study' (2001) 5(1) The International Journal of Human Rights <https://www.tandfonline.com/doi/abs/10.1080/714003707> last accessed on 10th of March 2020.

[105] Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions> last accessed on 10th of March 2020.

[106] Ibid.

[107] Ibid.

[108] Ibid.

[109] "Between 2014 and 2015, the country's GDP growth contracted by 3.8 percent while inflation accelerated to 15.5 percent," See for further information: Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions> last accessed on 10th of March 2020.

110 The United Nations. *'The UN and the war in Ukraine: Key information. United Nations Western Europe'*. (2022, November 22). Retrieved November 26, 2022, from https://unric.org/en/the-un-and-the-war-in-ukraine-key-information/

[111] Menon, S. '*Ukraine crisis: Russian oil and gas turn to Asia. BBC'*. (2022, November 15). Retrieved November 26, 2022, from https://www.bbc.com/news/world-asia-india-60783874.

[112] Phillip Brown, 'Congressional Research Service, Oil Markets Effects from US Economic Sanctions: Iran, Russia and Venezuela' (2020).

decrease in trade "*by denying investment, foreign exchange or credit to the target country or by raising its cost of credit.*"[113] Private FDI going to countries facing economic sanctions are often negatively affected, especially those coming from companies located within the imposing countries. While "*using panel data for 171 countries from 1965 to 2000.*"[114] A study led by Cambridge University showed that US investors withdraw from countries targeted by American sanctions before the implementation of these sanctions.[115] In fact, US sanctions hold significant weight within the international sanction's framework mainly due to financial and corporate dominance in the global stage.[116] Thus, the sanctioning power of the US is less likely to be matched by any other unilateral sanction. In addition, disrespecting these economic measures can cost a company by way of multi-million-dollar lawsuits,[117] as well as causing a deterioration in their credibility in the long term. International economic sanctions can lead to extensive disinvestment from companies located either in the imposing countries or elsewhere.

In 2018, the re-implementation of US sanctions against Iran triggered changes in the investment strategy of several companies established in the Islamic Republic of Iran. For instance, the South African group, MTN, a major player in the Iranian telecom sector, announced the withdrawal of its $750 million investment plan to set up high speed connection in several cities in 2019.[118] Furthermore, IOCs must conduct costly legal monitoring so as to comply with international sanctions and measures. Regarding its oil and gas activities in Russia, the French multinational, Total, has submitted applications for authorizations required by the European restrictive measures on technical assistance, brokerage services and financial assistance relating to certain technologies used.[119] According to the Yale's Chief Executive Leadership Institute, since the Russian invasion, more than 1,000 companies have curtailed operations in Russia,[120] some other companies are attaching to the exception on Article 3(m) of the Council Regulation (EU) 2022/879 of 3 June 2022 amending Regulation (EU) No 833/2014. This exception concerns restrictive measures in view of Russia's actions destabilising the situation in Ukraine, which prohibits the purchase, import, transfer, directly or indirectly certain Russian products. Since 2014, Total has closely monitored the evolution of international economic sanctions against Russia, as these are likely to have an impact on operations in the country.[121] Within this context, the Yamal LNG project funding plan is

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[113] Ibid.

[114] G Biglaiser and D Lektzian, 'The Effect of Sanctions on U.S. Foreign Direct Investment' (2011) 65(3) International Organization <https://www.researchgate.net/publication/227392760_The_Effect_of_Sanctions_on_US_Foreign_Direct_Investment> last accessed on 10th of March 2020.

[115] Biglaiser G and Lektzian D, "The Effect of Sanctions on U.S. Foreign Direct Investment" (2011) 65 International Organization 531.

[116] Ibid.

[117] Nenani N. Sichone, *Sanctions and world polarity: an analysis of the efficacy of sanctions as the world shifts from unipolarity to multipolarity and how this change affects the order of the international political economy* (ePublications at Regis University, Spring 2014) <https://epublications.regis.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1609&context=theses> last accessed on 10th of March 2020.

[118] Aboubacar Yacouba Barma, 'Sanctions contre l'Iran: le sud-africain MTN, victime collatérale', *La Tribune Afrique* (8 August 2018) <https://afrique.latribune.fr/entreprises/2018-08-08/sanctions-contre-l-iran-le-sud-africain-mtn-victime-collaterale-787325.html> last accessed on 10th of March 2020.

[119]'Pays sous sanctions économiques', *Total* (2014) <http://publications.total.com/document_de_reference_2014_VF/facteurs-de-risques/autres-risques/pays-sous-sanctions-economiques.html> last accessed on 10th of March 2020.

120 Yale School of Management. '*Over 1,000 companies have curtailed operations in Russia-but some remain'*. (2022, November 9). Yale School of Management. Retrieved November 26, 2022, from https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain

[121] Ibid.

currently under review, in order to comply with all relevant regulations.[122] In December 2011, after the EU imposed economic and financial sanctions on Syria, the French petroleum firm has ceased any activities that contributed to O&G production in the country.[123] Similarly, Total has recently ceased to operate in Iran.

Additionally, empirical studies have proven that the anticipation of sanctions "*produces trade-deteriorating effect comparable to imposed sanctions.*"[124] Thus, these economic sanctions might have a strong impact on the level of private FDI even before they are officially implemented.

In conclusion, economic sanctions targeting the O&G sector might not always have the desired effect, even though the economic consequences have been clearly noted. As a "crippled" country which has been severely affected by international sanctions is more likely to "*be a breeding ground for extremism,*"[125] the initiating countries have turned their broad sanctions towards much more targeted measures.[126] So as to limit the collateral damage, international sanctions are now mostly targeting specific "*high-profile individuals or powerful groups.*"[127] However, in most cases, the international companies are often deeply affected by these regulations, as seen with companies such as Total or MTN, where international economic sanctions frequently represent additional costs and challenges for them. Despite this, it is important to highlight the fact that "investment tends to return after the sanctions are imposed" although only in certain instances.[128] In fact, such sanctions might create opportunities for smaller companies to invest in these countries to the extent they are not affected by or are less concerned about the impact of sanctions.[129] In this context, the effects on FDI might also not be those intended by the countries imposing the sanctions and therefore, might not be as efficient as expected, although it will most likely affect FDIs.

## III. Implications of Sanctions for Private Oil and Gas Investments: Case Studies

### *1. Iran*

As mentioned in section two of this article, Iran has been the subject of extensive sanctions since the 1979 Islamic Revolution. Sanctions have been imposed in different types by various countries and international authorities such as the Security Council of the United Nations. This section aims to identify the sanction regime which is currently in place against Iran and its effect on investment in the O&G sector. The ultimate goal of this section is to introduce legal solutions to reduce the effect of sanctions on investment in the O&G sector. Before going into

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[122] Ibid.
[123] Ibid.
[124] Fuchs and Klann (2013); Morrow, Siverson, and Tabares (1998).
[125] Emily Cashen, 'The impact of economic sanctions', *World Finance* (20 April 2017) <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions>accessed 4/08/2021.
[126] Ibid.
[127] Ibid.
[128] G Biglaiser & D Lektzian, 'The Effect of Sanctions on U.S. Foreign Direct Investment' (2011) 65(3) International Organization<https://www.researchgate.net/publication/227392760_The_Effect_of_Sanctions_on_US_Foreign_Direct_Investment> last accessed on 10th of March 2020.
[129] *Effects of Economic Sanctions on American Businesses* (Mackintosh, 2013).

a detailed analysis of the subject matter of this section, it is, first, necessary to give an introduction regarding the legal petroleum regime of Iran.

### *1.1 Brief Background to Local Petroleum Regime*

Iran's legal system is based on positive statutory law influenced by the French and German legal systems. It is made up of both civil law and Sharia law. In fact, the laws of Iran, including the Civil Code[130] and Commercial Code[131] have been written in consideration of Sharia and doctrines of the Islamic faith. Currently, the use of Sharia is limited to preventing the adoption of laws and regulations which are in contradiction with doctrines of Islamic faith without being directly referred to as first hand laws of the country.

Although the emergence of Iran's oil industry dated back to the early 1900s, it lacked a legal framework until 1957 when the first Petroleum law was introduced.[132] This was, in fact, seven years after the nationalization of the oil industry and the formation of NIOC. All the concessions, production sharing contracts and service contracts were thereafter based on this law. However, with the occurrence of the 1979 revolution, there has been a major change in the laws and regulation specifically in the petroleum industry. After the revolution, the first piece of legislation in the oil industry was the 1987 Petroleum Act which repealed all previous legislation in this area. This Petroleum Act has been amended once in 2011. Based on the Post-Revolution Petroleum Act, Iran has adopted a risk-service buyback contract model to encourage foreign investment in its upstream petroleum sector.[133] The use of a risk-service model effectively circumvents the prohibition in the Iranian Constitution on granting mineral concessions to foreign entities. However, due to the inflexibility and limited returns of this model of contract, it was not welcomed by foreign investors.

Given its unsuccessful experience, the buyback contract has currently been replaced by a new model called Iranian Petroleum Contract (IPC). The framework for negotiating the final IPC has been set in the IPC Resolution, which was passed by the Council of Ministers in August 2016. Under the IPC Resolution, international oil companies are required to establish a joint venture with a local Iranian exploration and production (Iranian E&P) company for exploration, appraisal, development and production. The IPC Resolution does not provide for sharing ownership of production but will provide a compensation mechanism based on a fee per barrel. The IPC Resolution, in contrast with the relatively short term of the buyback contract model, offers an extended contract duration of 20 to 25 years, which will allow for a longer period of cost recovery.

### *1.2 Type of Sanctions in Place*

It is almost four decades that Iran has been facing international sanctions, especially sanctions imposed by the United States. In fact, sanctions against Iran can be divided into three types: United Nations Security Council sanctions, European Union Sanctions, unilateral sanctions by foreign countries (especially the United States of America).

[130] The Civil Code of Iran (adopted on 1928) Iran.
[131] The Commercial Code of Iran (adopted on 1932) Iran.
[132] Petroleum Law (adopted on 1957) Iran.
[133] Mehdi Akhavan and Ali Taheri Fard, "Analysis of Buy Back Contract" (Rahbord Yaas, 13, 2004).

*1.2.1 United Nations Security Council Sanctions*

The Security Council, under Article 41 of Chapter VII of the UN Charter,[134] has till now issued 6 resolutions[135] against Iran nuclear program and weapon of mass destruction (WMD) infrastructure which are applied to all U.N. member states. At the same time issuing any resolution at Security Council, different sanction committees have been established. Their duty is to examine who shall be the subject of sanctions and in what manner. Although, such sanctions do not directly trigger the economy of Iran; their ultimate goal was to damage the Iranian economy.

*1.2.2 European Union Sanctions*

In the European Union (E.U.), the Council of Ministries also has imposed sanctions on the Iranian Nuclear program in the form of independent resolutions.[136] The first sanction by the E.U. was passed in 1987 following sanctions by the Security Council. Such sanctions include limitations in sending parts, materials and technologies related to the development of missiles and nuclear technologies. Thereafter, activities in aviation and maritime transportation, bank transactions, sale of oil and investment in oil industry were also triggered by the E.U.'s sanctions.[137]

*1.2.3 Unilateral Sanctions by Foreign Governments*

In addition to the sanctions by the Security Council of the United Nations, governments may also impose unilateral sanctions against other countries. If such sanctions cover only the relation between the imposing country and the affected country, they are called primary sanctions and if the imposing country changes its economic relations and transactions with

[134] Article 41 of the UN Charter, "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures."

[135] Resolution **1696** (31 July 2006): This resolution calls on Iran to suspend uranium enrichment activities.
Resolution **1737** (23 December 2006); Iran is requested to cooperate with the International Atomic Energy Agency and adhere to Resolution 1696 of 2006. The resolution banned Iranian students from studying in sensitive fields related to nuclear and missile subjects; also, it blocked the assets of sanctioned individuals and companies under the resolution.
Resolution **1747** (24 March 2007): This resolution called on all governments to limit their relations with Iranian companies working in the field of nuclear energy. The resolution also bans the export and import of heavy weapons to Iran.
Resolution **1803** (3 March 2008): In this resolution, the Security Council extended the seizure of assets and called on governments to monitor the activities of Iranian banks, inspect Iranian ships and aircraft, and monitor the actions of individuals involved in Iran's nuclear program.
Resolution **1835** (27 September 2008): In this resolution, the Security Council calls on Iran to comply with its obligations under previous resolutions and to comply with the requirements of the International Atomic Energy Agency (IAEA) Board of Governors.
Resolution **1929** (9 June 2010): This resolution imposed extensive sanctions against Iran. The resolution banned the transfer of sensitive parts related to nuclear and missile proliferation to or from Iran. Another sanction was sanction against the Islamic Republic of Iran Shipping Lines (IRISL). The resolution also called on countries not to allow new branches of Iranian banks to be established in their countries or for the existing banks and financial institutions operating in their territories to trade with Iran. <Available at: Http://www.un.org.>

[136] EU, 'Measures targeting nuclear proliferation activities - key developments' (2021) ECCEU <https://www.consilium.europa.eu/en/policies/sanctions/iran/history-iran/> accessed 10/07/2021.

137 European, Commission. *"EU Sanctions Map."* EU Sanctions Map, n.d., Retrieved 20 November 2022 fromhttps://www.sanctionsmap.eu/#/main/details/17,18/?search=%7B%22value%22:%22iran%22,%22searchType%22:%7B%22id%22:1,%22title%22:%22regimes,%20persons,%20entities%22%7D%7D&checked=17,18.

other countries which have relations with the affecting country, such sanctions are called secondary sanctions.

The United States (U.S.), Canada, the United Kingdom, Japan and South Korea are countries which, following the Security Council's sanctions, have imposed unilateral sanctions against Iran.[138] The U.S. sanctions against Iran are one of the most extensive unilateral sanctions against Iran since 1979, following the seizure of the U.S. Embassy in Tehran, which will be considered in this section. These sanctions by the U.S. can be categorized in two groups: sanctions by the Congress and sanctions by the President.

*1.2.4 United States Congress Sanctions*

The sanctions imposed by the U.S. Congress are the most difficult in terms of withdrawal, as the U.S. House of Representatives and the U.S. Senate shall give their opinion regarding such sanctions removal simultaneously. One of the sanctions imposed by the Congress was the National Defence Authorization Act in 2012 and 2013 that includes some limitations in Iranian finance sections.

*1.2.5 Sanctions by the US President*

Such sanctions are imposed based on the Presidential authorities and an act called the International Emergency Economic Powers Act (IEEPA). These sanctions are named Executive Orders (E.O.) and based on them, the President of the U.S., in case of emergency situations, limits the economic relations with a country. In 1995, American companies entering into investment and commercial relations with Iran, have been banned by two E.O.s number 12957 and 12959. Other E.O.s of the United States includes the following:

1. E.O. number 13382 in 2005: This E.O. has been signed by George Bush that bans any transaction with individuals and entities that are active in Iran Nuclear industry.
2. E.O. number 13622 in 2012 that imposes some sanctions against companies active in Iran Petrochemical industry.
3. E.O. number 13599 in 2012 that triggered Central Bank of Iran.

Amongst these, the Iran Sanction Act (ISA)[139], and the E.O. Number 13622, dated 30 July 2012 that added some new sanctions to the list of ISA, have been a fundamental component of U.S. sanctions against Iran's energy sector.

The ISA was the first major extra-territorial sanction on Iran[140] and sought to thwart Iran's 1995 opening of the sector to foreign investment in late 1995 through a "buy-back" program in which foreign firms gradually recouped their investments as oil and gas was produced.[141]

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[138] Davood Manzoor and Manoochehr Mostafa Poor, "Rereading Unfair Sanctions: Qualities, Targets and Measures" (Financial and Economics Politics Quarterly Journal, 2013) 2, 21-42.
[139] Iran-Libya Sanction Act (ILSA) 1996; Iran Sanctions Act of 1996.
[140] Comprehensive Iran Sanctions Act of 1995 <https://www.congress.gov/bill/104th-congress/house-bill/1033?s=1&r=25>
[141] Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 14 April 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.

The ISA consists of a number of "triggers"[142] amongst which the below are related to investment in Iran:

a) The original one is "Investment to develop Iran's oil and gas fields". The core trigger of the ISA, when it was first enacted, was a requirement that the President sanctions companies (entities, persons) that make an investment of more than 20 million U.S. dollars in one year in Iran's energy sector.[143]
    - Provision of Equipment or Services for Oil, Gas, and Petrochemicals Production.[144] The firms are subject to sanctions if they:
    - Provide to Iran 1 million U.S. dollars or more in a single translation (or a total of 5 million U.S. dollars in multiple transactions in a one-year period) worth of goods or services that Iran could use to maintain or enhance its oil and gas sector. This subjects to sanctions, for example, transactions with Iran by global oil services firms and the sale to Iran of energy industry equipment such as drills, pumps, vacuums, oil rigs, and like equipment.
b) Provide to Iran 250,000 U.S. dollars in a single transaction (or 1 million U.S. dollars in multiple transactions in a one-year period) worth of goods or services that Iran could use to maintain or expand its production of petrochemical products.[145]
c) Transporting Iranian Crude Oil.[146]

E.O. Number 13622 imposed specified sanctions on the ISA sanctions menu, and bars banks from the U.S. financial system, for the purchase of oil and petrochemical products from Iran and any transaction with National Iranian Oil Company (NIOC), National Iranian Tanker Company. It also blocked U.S.-based property of entities determined to have assisted or provided goods or services to NIOC, Naftiran Intertrade Company (NICO), the Central Bank of Iran (CBI). One of the exceptions provided by this E.O. is for projects that bring gas from Azerbaijan to Europe and Turkey.[147] It seems the main purpose of these sanctions is to cut or reduce Iran's crude oil sales. The purpose of this law, in addition to restricting the exchange of private financial institutions with the CBI, is to reduce Iran's oil revenues.[148] Purchase of natural gas from Iran or natural gas transactions with Iran are excluded from sanctions. However, construction of gas pipelines involving Iran is subject to ISA sanctions. Moreover, sanctions on financial transactions with Iran can impede implementation of purchase agreements for Iranian gas. Long-standing joint natural gas projects that involve some Iranian firms are also excluded from sanctions.

Separate provisions of the Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHRA) require the application of ISA sanctions also on shipping insurance. In addition to this, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

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[142] Transactions with Iran that would be considered violations of ISA and could cause a firm or entity to be sanctioned under ISA's provisions.
[143] The definition of "investment" in ISA includes not only equity and royalty arrangements but any contract that includes "responsibility for the development of petroleum resources" of Iran. The definitions includes additions to existing investment and pipelines to or through Iran and contracts to lead the construction, upgrading, or expansions of energy projects (added by CISADA) see Kenneth Katzman; Ibid.
[144] Section 5 (a)(5 and 6) to ISA which is added according to EO, 13590 in 2011 codified by Section 201 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHA).
[145] Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 14 April 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.
[146] Section 201 of Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRSHRA), Iran.
[147] If such project was initiated prior to the issuance of the order.
[148] In 2011, financial transactions with CBI are subject to sanctions.

(CISADA) included Liquefied Natural Gas (LNG) in the ISA definition of petroleum resources and therefore made subject to sanctions LNG investment in Iran and supply of LNG tankers to Iran. Moreover, some U.S. laws require or call for divestment of shares of firms that conduct certain transactions with Iran.[149]

### *1.2.6 Current Status of Sanctions against Iran*

Following nuclear negotiations between Iran and the U.S., Russia, China, United Kingdom and France, Germany, and Switzerland in 2015, an agreement was reached (called Joint Comprehensive Plan of Action (JCPOA). After the approval and implementation in 2016 of the JCPOA, most of the sanctions against Iran had been lifted in return for imposing some limitations on Iran's nuclear program. As a result, sanctions by the Security Council, the E.U., Japan and South Korea have been lifted completely. Also after its implementation, the president of the U.S. lifted some sanctions related to Iran's nuclear program. In the day of implementation of the JCPOA,[150] former President Obama issued an E.O. and cancelled E.O.s number 13574, 12590, 13622 and 13645 and section 7-5 and 15 of E.O. number 13628.

Following the start of the work of the new government of the United States, in 8 May 2018, former President Trump announced U.S. unilateral withdrawal from the JCPOA. The U.S. then restarted imposing extensive sanctions against Iran in two periods which have been stopped following JCPOA approval and implementation. The first round of new sanctions of the U.S. executed on the 6 August 2018 and the second round was executed on the 4 November 2018. The first round includes sanctions on automotive and metals transactions and the second round includes oil and bank transactions. The details of such sanctions are as follows:

1. Buying and selling note and documents based on U.S. dollar from Iran;
2. Buying and selling gold and other valuable metals and buying, providing and transferring metals such as graphite;
3. Transaction and transfer of metals such as aluminium, iron, coal and software used by Iran industries;
4. Opening bank accounts in IRR outside Iran and transactions in IRR;
5. International finance and buying bonds issued by Iran government;
6. Automotive industry;
7. Buying, selling and provision of airplane parts;
8. Exportation of rugs and food produced in Iran;
9. Port activities, shipwreck and shipwreck industry of Iran;
10. Oil transactions and buying any kind of petrochemical from Iran, National Iranian Oil Company, Naftiran and National Iranian Tanker Company;
11. Any kind of transaction between international financial institutions With Central Bank if Iran and Iran financial institutions;
12. Iran Energy sector; and
13. Cooperating with Iran in any kind of service and insurance activities.

[149] A divestment-promotion provision was contained in CISADA, providing a "safe harbour" for investment managers who sell shares of firms that invest in Iran's energy sector at levels that would trigger U.S. sanctions under the ISA. In addition, section 219 of ITRSHRA requires companies to report to Securities and Exchange Commission whether they or any corporate affiliate has engaged in any transactions with Iran that could trigger sanctions under ISA, CISADA, and EO 13382 and 13224. See ISA, CISADA and EO 13382-13224 for further information.

*1.2.7 Impact of Sanctions on Existing and Prospective Investments*

Iran's economy is deeply relied on energy sector and hydrocarbon revenues. Years of technological and financial dependence on international companies has led to sanctions targeting Iran's oil and gas sector. Foreign investment in Iran is also highly affected by sanctions. Foreign companies are at risk of U.S.' secondary sanctions by investing in Iran. This means that they could lose the large market of the U.S. The consequence of this is that *"the flows of foreign investment in Iran have remained very weak in recent years, compared to the enormous potential that the country can offer."*[151] Results of a study using the data of years 1989 until 2014 show that extreme sanctions, including those of the U.S., the E.U., and the U.N. collectively, have had the greatest impact on reducing foreign direct investment (FDI), reducing FDI by 716 million U.S. dollars a year in Iran.[152] Severe sanctions, which includes the severe U.S. sanctions and moderate and weak sanctions by the E.U and the U.N., have reduced 116 million U.S. dollars in investment in Iran annually.[153] Moderate sanctions, which include moderate U.S. sanctions without sanctions from Europe and the United Nations, affect only 5.2 million U.S. dollars a year in reducing foreign investment in Iran. The results also indicates that if a new sanction is imposed, it will have a full impact on FDI after a year and a half.[154] The effect of economic sanctions on foreign investment is also seen in boosting FDI following JCPOA until the imposition of a new series of sanctions by the Trump administration.[155]

"*Since sanctions were lifted at the beginning of 2016 with the implementation of the JCPOA, Iran has had enjoyed higher foreign investment into its domestic economy."*[156] However, after Trump's withdrawal from the JCPOA, most of the foreign companies left Iran and terminated or suspended their contracts with Iran. One of the main reasons is that foreign companies face problems with financing due to the U.S. pressure on international banks for cooperating with Iran. Although some researchers note that "*with respect to upstream capabilities, the impact has been rather moderate in the sense that Tehran did not succeed anyway in making International Oil Companies engage meaningfully in Iran after the conclusion of the JCPOA,*"[157] as the table below shows, the largest change in investment in recent years was in 2016 with a 64% increase compared to 2015. This positive trend continued until 2017, as the country faced the largest amount of FDI in 2017, amounting to 5 billion U.S. Dollar. However, in 2018, FDI compared to the previous year has decreased dramatically by 53%.

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[151] Foreign direct investment (FDI) in Iran (*Export Entreprises SA*, 2020) <https://www.nordeatrade.com/en/explore-new-market/iran/investment> last accessed on 21st of August 2020.
[152] Ibid.
[153] Ibid.
[154] Masoud Saadatmehr, 'Investigating the factors affecting foreign direct investment in Iran with emphasis on the role of sanctions', *Economic Journal* (August 2017), <http://ensani.ir/fa/article/375890/> last accessed on 21st of August 2020.
[155] Foreign direct investment (FDI) in Iran (*Export Entreprises SA*, 2020) <https://www.nordeatrade.com/en/explore-new-market/iran/investment> last accessed on 21st of August 2020.
[156] Ovunc Kutlu, 'US sanctions on Iran to take full effect in November, Sanctions will come in two waves, with second set to hit Iran's energy sector' (*Anadolu Agency*, 2018) <https://www.aa.com.tr/en/americas/us-sanctions-on-iran-to-take-full-effect-in-november/1139819> last accessed on 21st of August 2020.
[157] David Ramin Jalilvand, 'Back to Square One? Iranian Energy after the Re-Imposition of US Sanctions' (*Oxford Institute for Energy Studies*, March 2019) <https://www.oxfordenergy.org/publications/back-square-one-iranian-energy-re-imposition-us-sanctions/> last accessed on 21st of August 2020.

| FDI inflows, in Iran and the World, 2011-2019 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| (Millions of US dollars) | | | | | | | | | |
| Region/ economy | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
| World | 1 615 080.7 | 1 493 828.3 | 1 456 323.2 | 1 403 864.6 | 2 041 769.7 | 1 983 477.9 | 1 700 467.6 | 1 495 222.6 | 1 539 879.7 |
| Iran, Islamic Republic of | 4 276.7 | 4 661.7 | 3 049.9 | 2 105.5 | 2 050.0 | 3 372.0 | 5 019.0 | 2 373.0 | 1 508.0 |

*Resource: UNKTAD*[158]

"*Even though the EU countries have not reimpose on Iran, in order to avoid risk to their positions in the large U.S. market, many large European firms have ceased Iran-related transactions or exited the Iran market as the Trump Administration reimpose all U.S. secondary sanctions on Iran.*"[159] Total SA has exited a nearly $5 billion energy investment in a major phase of Iran's South Pars gas field, transferring its stake to its joint venture partner, China National Petroleum Corporation (CNPC) which shortly thereafter withdrew from the agreement, perhaps to avoid U.S. sanctions.[160] OMV of Austria has announced it would halt energy development work.[161]

It was the same with the non-European countries. "*Daelim of South Korea terminated a 2 billion* U.S. dollar *contract to expand an Iranian oil refinery. Hyundai cancelled a 500 million* U.S. dollar *contract to build a petrochemical plant in Iran, citing "financing difficulties.*"[162]

In the meantime, special attention needs to be paid to the unique situation of Russia and China. "*Increasingly aligned on regional issues, Iran and Russia have agreed to expand energy and more general trade, but there is little evident implementation of any agreements. In December 2018, Iran signed a free trade deal with the Russia-led "Eurasian Economic Union*," suggesting Russian intent to potentially circumvent U.S. sanctions on Iran."[163] China is a major factor in the effectiveness of any sanctions regime on Iran. Yet, China continues to invest in Iran. In August 2019, Iran and China expanded their 2016 25-year deal for China investments in Iran to total 280 billion U.S. dollars to be invested in Iran's oil, gas, and petrochemical sectors.[164]

The exit of international energy companies causing many problems in financing energy projects, has led to the local companies playing the central role in running the industry. However, since in addition to imposing an investment ceiling on Iran's oil and gas industry, the U.S. has barred Iran from receiving effective long-term loans through its influence in the World

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158 Annex table 01, 'FDI inflows, by region and economy,' 1990-2019 (16 June 2020) <https://unctad.org/en/Pages/DIAE/World%20Investment%20Report/Annex-Tables.aspx> last accessed on 21st of August 2020.

159 Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 14 April 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21/08 2020.

160 Ibid.

161 Ibid.

162 Ibid.

163 Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 23 July 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21/082020.

164 Ibid.

Bank and the International Monetary Fund; the local companies, from one side, yet, face financial problems. From the other side, as sanctions have reduced Iran's access to products needed for the oil and energy sectors and due to reduced access to technologies, to improve their efficiency, they need to work with international companies. This has led to the entry of companies with smaller size and more limited experience as a result, production progress in this area has slow down, and thus, by limiting the growth of one of the key resources, hard hit the economic growth of the country.

Finally, in the mid-to-long-run, due to sanctions, the Iranian energy industry will not only remain below its potential relative to its reserve base, Iran will also face a strategic setback as it is losing market shares while the oil market is becoming increasingly competitive. In this context, Iran is further disadvantaged as it cannot join competitors like Saudi Arabia or the UAE in investing and making acquisitions in Asian downstream markets with the objective of securing future demand.[165]

*1.2.8 Legal Suggestions to Address the Identified Problems*

Investment in various economic sectors is a determining factor in economic growth. In a country like Iran, the energy sector plays a central role in this context, where the impact of sanctions is dramatic. As it will be discussed below, privatization of some oil and gas companies through Tehran Stock Exchange is a solution to attract domestic investment. However, considering the huge volume of investments required in this sector and the limitation of domestic resources, it does not relieve Iran of FDI. In fact, FDI is only possible in an open and secure economic environment. Despite having the huge potential, FDI in Iran is low due to the complex operational requirements, unfavourable conditions and instability resulting from sanctions. Therefore, considering the significant impact of sanctions on Iran's economy, "their removal will greatly benefit the country. However, to sustain the economic growth Iran will experience, the Islamic Republic will need to address long-standing economic issues and modify legislation to encourage direct foreign investment. Iran has the tools and capital necessary to do this, but the political climate may make change difficult."[166]

Iran's regime, to cope with the economic sanctions, have some main strategies such as "*resistance economy*"[167] and "*East-facing policy*". Having defined Iran's economic crisis as "soft war" and a security problem, the regime is seeking economic solutions within a security framework, thus subordinating Iranian economic policymaking to a national security doctrine. The Resistance Economy doctrine, that is less dependent on imports and foreign investment, is a concerted effort to permanently nullify the use of Western sanctions and is intended to make the Iranian economy resistant to all external economic shocks in the long term, including Western sanctions and global financial crises. Iran's economic plans currently aim to boost

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[165] David Ramin Jalilvand, 'Back to Square One? Iranian Energy after the Re-Imposition of US Sanctions' (*Oxford Institute for Energy Studies*, March 2019) <https://www.oxfordenergy.org/publications/back-square-one-iranian-energy-re-imposition-us-sanctions/> last accessed 21/08/2020.

[166] Masood Ahmed, 'After Sanctions: Challenges Facing the Iranian Economy' (*PAAIA*, 26 February) <https://paaia.org/CMS/after-sanctions-challenges-facing-the-iranian-economy.aspx> last accessed on 1st of September 2020.

[167] However, some believes that "Removing sanctions is the most immediate and a feasible way to achieve the Resistance Economy's objectives for non-oil manufacturing growth led by the private sector." See for further information: Amir Toumaj, 'Iran's Economy of Resistance: Implications for Future Sanctions' (November 2014) <https://www.criticalthreats.org/wp-content/uploads/2016/07/imce-imagesToumajA_Irans-Resistance-Economy-Implications_november2014-1.pdf> last accessed on 6st of September 2021.

foreign investment in order to develop the energy sector, as well as to build a “knowledge economy” around Iran’s information technology sector. Creating the necessary space for the private sector’s growth means a fundamental transition away from a state-dominated economy. Reforming the domestic financial market and preventing integration with the international financial system serves to reduce vulnerability to global crises while establishing a self-sufficient system of capital flow.[168] Decreasing reliance on oil revenues, a burgeoning private sector, and a self-sufficient domestic capital market would make the Iranian economy, and thus the Islamic Republic’s decision-making, less vulnerable to the most effective sanctions. Although there will always be ways to sanction a country, a stronger internal economic system including a robust private sector would fortify Tehran against future Western pressure. But this also comes at a cost to Islamic Republic officials, namely less state control over the economy.[169]

East-facing policy, which is expected to be “*Iran’s main foreign policy strategy in the years to come”*[170], also known as Iranian “*Look to the East policy*” strategy, aims to strengthen Iran’s strategic cooperation with the East, especially, Russia[171] and China. Thus, it means that in the era of a changing world order, Iran has made its choice and it is joining the Sino-Russian political and economic pole, which is emerging after the conjunction of Russian lead Eurasian Economic Union (EAEU)[172] and China’s “One Belt, One Road” Initiative (BRI)[173] in 2015.[174] It appears, that Iran had completely pivoted towards its "Look to the East Policy" after the withdrawal of the U.S. from the JCPOA and imposition of new sanctions on Iran by Trump’s Administration. After these developments, Tehran lost the hope to normalize relations with the West and marched eastward.[175]

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168 Ibid.

169 Ibid.

170 Hamidreza Azizi, ‘Iran Looking East: A Shifting Balance of Power in Tehran’s Foreign Policy’ (Italian Institute for International Political Studies, 15 June 2021) https://www.ispionline.it/en/pubblicazione/iran-looking-east-shifting-balance-power-tehrans-foreign-policy-30863 last accessed on 6st of September 2021.

171 “In February 2021, Iran announced that Tehran aims to become a full member of the EAEU. This statement shows that Iran tries to strengthen its relations with the members of the Russian lead EAEU and find ways out from total isolation by the West and its allies in the Middle East.” This membership will open the market of the EAEU’s for Iranian goods, strengthen its political and economic relations with the EAEU member states and Iran’s security. Finally, it means that Iran will bring the US sanctions into the Union. See for further information Mher D. Sahakyan, ‘Iran’s “Look to the East Policy”: Pivot towards China and Eurasian Economic Union’ (International Institute for Peace, March 4, 2021) <https://www.iipvienna.com/new-blog/2021/3/4/irans-look-to-the-east-policy-pivot-towards-china-and-eurasian-economic-union> last accessed on 6th of September 2021.

172 “There are also reports that Russia is applying for Iran’s permanent membership in the Shanghai Cooperation Organization.” See for further information: Kenneth Katzman, ‘Iran’s sanctions’ (*Congressional Research Service,* 23 July 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.

“Iran was officially admitted as a full member of the Shanghai Cooperation Organization (SCO) on 17 September 2021”, ‘Iran became full member of Shanghai Cooperation Organization’ (Tehran Times, 17 September 2021) https://www.tehrantimes.com/news/465134/Iran-becomes-full-member-of-Shanghai-Cooperation-Organization last accessed on 27th of September 2021.

173 China’s President Xi Jinping visited Iran and other Middle East countries in the immediate aftermath of the JCPOA, and he stated that Iran is a vital link in an effort to extend its economic influence westward through its “One Belt, One Road” initiative. Ibid.

174 Mher D. Sahakyan, ‘Iran’s “Look to the East Policy”: Pivot Towards China and Eurasian Economic Union’ (International Institute for Peace, March 4, 2021) <https://www.iipvienna.com/new-blog/2021/3/4/irans-look-to-the-east-policy-pivot-towards-china-and-eurasian-economic-union> last accessed on 6th of September 2021.

175 Ibid.

Besides the strategies, to mitigate the economic effect of sanctions, Iran has taken a series of steps as follows:

- To address gas reserves as other major potential.[176]
- Production and sale of petroleum and petrochemical products instead of selling raw materials through the development of capacity of the country's petroleum refineries.[177]
- Privatization of energy companies, through the Tehran Stock Exchange.[178]
- Fuel subsidy reductions and improving collections of taxes to reduce state budget deficit that have been hit hard because of profound consequences of sanctions.[179]
- To fall back on alternative industries and rely on a significant domestic capacity.[180]
- Providing benefits and incentives by Iranian government to encourage foreign investments.[181]

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[176] "Already the backbone of economic activity in Iran today, natural gas is therefore set to further increase its importance – not only relative to oil but also to the economy as a whole." See for further information: David Ramin Jalilvand, 'Back to Square One? Iranian Energy after the Re-Imposition of US Sanctions' (*Oxford Institute for Energy Studies*, March 2019) <https://www.oxfordenergy.org/publications/back-square-one-iranian-energy-re-imposition-us-sanctions/> last accessed on 21st of August 2020.

[177] "The development of intermediate and complementary industries in the petrochemical industry can create a large market in the country as a stable demand that will prevent the import of foreign petrochemical products to a good extent." Ibid.

"Over the past 10 years, Iran has promoted sales of petrochemicals and nonoil products such as minerals, cement, urea fertilizer, and other agricultural and basic industrial goods, and they constitute a growing percentage of Iran's revenue." See for further information: Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 23 July 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.

"Economy of Resistance policies seek to increase the exports of various energy products, including petrochemical and petroleum products, to reduce Iran's dependency on crude oil exports." See for further information: Amir Toumaj, 'Iran's Economy of Resistance: Implications for Future Sanctions' (November 2014) <https://www.criticalthreats.org/wp-content/uploads/2016/07/imce-imagesToumajA_Irans-Resistance-Economy-Implications_november2014-1.pdf> last accessed on 6st of September 2021.

[178] "The oil and gas sector is heavily state-dominated. Privatization of energy companies, through the Tehran Stock Exchange, that both domestic and foreign investors would be able to buy shares, may make it easier for investors to circumvent U.S. sanctions, which complicate investors' ability to engage in business transactions with Iran directly." See for further information: Shayerah Ilias, 'Iran's Economic Conditions: U.S. Policy Issues' (*Congressional Research Service,* 22 April 2010) <https://www.iranwatch.org/sites/default/files/us-crs-irans-economic-conditions-042210.pdf> last accessed on 1st of September 2020.

"Its implementation of the Supreme Leader's privatization policy, Article 44 of the Constitution, diverted state assets to state owned enterprises, further crowding out the private sector." See for further information: Amir Toumaj, 'Iran's Economy of Resistance: Implications for Future Sanctions' (November 2014) <https://www.criticalthreats.org/wp-content/uploads/2016/07/imce-imagesToumajA_Irans-Resistance-Economy-Implications_november2014-1.pdf> last accessed on 6st of September 2021.

[179] "Reducing fuel subsidies and mobilizing domestic tax revenue would help contain and reduce the fiscal deficit in the years ahead and dampen upward pressures on the real exchange rate, and thus provide room for infrastructure investment", See for further information: IMF Survey: Iran Faces Multiple Challenges as Growth Prospects Brighten (20 January 2016) <https://www.imf.org/en/News/Articles/2015/09/28/04/53/sonew012016a> last accessed on 1st of September 2020.

[180] "Reallocation of Investment Funds and Import Substitution. Sanctions compelled some Iranian manufacturers to increase domestic production of some goods as substitutes for imports." See for further information: Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 23 July 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.

[181] Available at: <https://investin-ea.ir/LinkClick.aspx?fileticket=nS_TLCyOWFE%3D&tabid=1332&mid=6242&language=en-US> last accessed on 5st of September 2021.

It should be noted that Iran's combined O&G reserves are one of the highest in the world. However, "*private and even state Iranian companies are not fully capable of undertaking major upstream or downstream projects without relying on foreign help.*[182]" Another dimension to this paradigm is that although, Tehran is taking measures to boost ties with Beijing[183] and Moscow[184] in order to insulate Iranian trade against Western economic pressures, but both China and Russia have proven to be unreliable trading partners.[185] Therefore, "*Iran must sort out its differences with the United States and Europe in order to open the door to a constructive competition from all countries for inward investment, particularly in the oil and gas industries, which is the country's engine of growth.*"[186]

## *2. Russia*

### *2.1 Brief Background to Local Petroleum Regime*

The energy sector plays a great role in global economy. As it was stated by Bob Dudley, British Petroleum Group CEO (2018), the energy industry today is very different from the energy industry 40 years ago.[187] The current trends of the energy sector are the following: (i) energy production costs decreasing, (ii) new technologies' development, (iii) new strategies of the power customers, (increasing interest in alternative energy). Experts suggest that the hydrocarbon sector will continue to be the main source of energy in the nearest 20 years and the daily demand will be about 100 mln barrels per day (Forbes, 2018).[188] According to the BP

[182] Narsi Ghorban, 'Potentials and Challenges in the Iranian Oil and Gas Industry' (January 29, 2009) <https://www.mei.edu/publications/potentials-and-challenges-iranian-oil-and-gas-industry> last accessed on 1st of September 2020.

[183] "Increasing strategic ties with China may also constrain the Islamic Republic from pursuing its revolutionary political objectives, should those efforts collide with Beijing's interests. China's leveraging of the oil embargo against Iran to drive down prices, moreover, serves as a caution for Islamic Republic policymakers. Both sides know that bilateral trade will likely remain unaffected by present or future Western sanctions, though the continuation of these pressures would be in China's economic interests. Closer relations with Beijing may come with a high price tag for Tehran if the Iranians find themselves in a predicament similar to the recent oil embargo." See for further information: Amir Toumaj, 'Iran's Economy of Resistance: Implications for Future Sanctions' (November, 2014) <https://www.criticalthreats.org/wp-content/uploads/2016/07/imce-imagesToumajA_Irans-Resistance-Economy-Implications_november2014-1.pdf> last accessed on 6st of September 2021.

[184] "Increasingly aligned on regional issues, Iran and Russia have agreed to expand energy and more general trade, but there is little evident implementation of any agreements." See for further information: Kenneth Katzman, 'Iran's sanctions' (*Congressional Research Service,* 23 July 2020) <https://crsreports.congress.gov/product/pdf/RS/RS20871/308> last accessed on 21st of August 2020.

"While some short-term agreements are feasible, the troubled historical relationship between the two countries and civilian resistance to expanded relations suggest that Tehran and Moscow may only be flirting with each other to increase their individual leverage vis-à-vis Western sanctions." See for further information: Amir Toumaj, 'Iran's Economy of Resistance: Implications for Future Sanctions' (November, 2014) <https://www.criticalthreats.org/wp-content/uploads/2016/07/imce-imagesToumajA_Irans-Resistance-Economy-Implications_november2014-1.pdf> last accessed on 6st of September 2021.

"While closer relations with Russia serve the Economy of Resistance doctrine by developing economic ties that hedge against Western sanctions, the Russians have proven to be very unreliable partners." Ibid.

[185] "Iran would not be happy with having to depend on Russia and China to keep its economy afloat. Both are notoriously unreliable trading partners and will surely leverage Tehran's isolation to impose maximum discounts on purchases, causing Iran to lose significant revenues. Furthermore, such a situation does not resolve Tehran's fear of depending on foreign powers. It would be in the West's interest, in fact, to force Iran into such a situation. There is undoubtedly a greater degree of independence—the core of the Resistance Economy doctrine—in having a diverse set of robust trade partnerships with different countries than being limited to a select few. Lifting sanctions is Iran's most promising avenue towards achieving that objective." Ibid.

[186] Ibid.

[187] British Petroleum, 'Energy outlook' (2018) <https://www.bp.com> last access on 20th of July 2020.

[188] Forbs (2018) <https://forbs.ru> last access on 10th of June 2020.

primary energy consumption by fuel forecast (Figure 1), it is possible to conclude that the O&G sector will play a significant role, but renewable energy is expected to increase its share significantly:

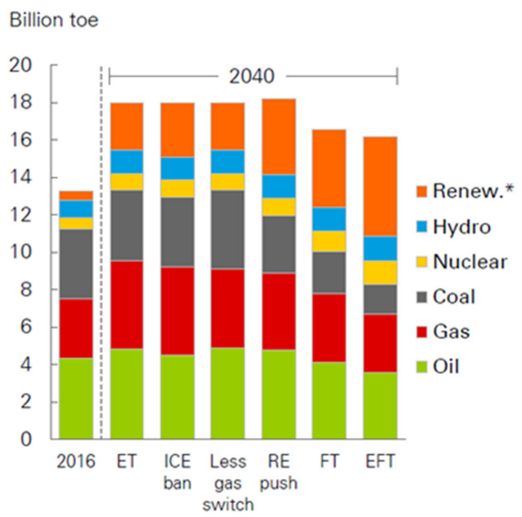



*Figure 1. Primary energy consumption by fuel (BP Energy Outlook 2018).*[189]

It is necessary to note that the O&G market is heavily influenced by geopolitical issues. As it was stated by Ernst & Young (2017), geopolitics is a central concern for the O&G market and can be considered a source of both risk and opportunity.[190] In general, the term "geopolitics" combines different interconnected issues, such as diplomacy and security, global economies, financial and supplier market uncertainty, commodity constraints and pricing, exchange rate fluctuations, civil and workforce disruption. The recent examples of such geopolitical influence on the O&G industry are the following:[191]

a. In 2012 Argentine Government decided to expropriate Repsol 51 % stake in YPF. In the months after this expropriation, Repsol faced loss almost a half of its market capitalization.
b. In 2013, Libyan strikes by oil workers and local corruption reduced Libyan oil production by 88 %.
c. Iranian oil market has been under sanctions for many years because of nuclear policy of Iranian Government. In summer 2018, USA stated about placing new sanctions on Iranian oil market since November 2018.
d. In 2014, sanctions were imposed by the USA and EU against the Russian Federation ("RF") because of the situation in Crimea.
e. The military situation in Ukraine lunched by Russia on 24 February 2022, which is contrary to the principles of the Charter of the United Nations.[192] As a result, one

[189] British Petroleum, 'Energy outlook' (2018) <https://www.bp.com> last access on 20th of July 2020.
[190] Ernst & Young (2018) <https://www.ey.com> last access on 5th of May 2020.
[191] Ernst & Young (2018) <https://www.ey.com> last access on 5th of May 2020.
192 The United Nations. Regional Information Centre for Western Europe. *'The UN and the war in Ukraine: key information'*. (22 November 2022). Retrieved November 27, 2022, from https://unric.org/en/the-un-and-the-war-in-ukraine-key-information/

of the largest sanctions packages ever put in place by the international community was deployed.[193]

Speaking about the RF, it is necessary to say that the O&G industry plays a great role in the RF and it is a well-known fact that the budget of the RF relies significantly on the income from the major O&G companies operating in the country, such as Rosneft Oil Company, Gazpromneft, Lukoil, Zarubezhneft and others, now subject to sanctions imposed by the OFAC[194], the EU[195], UK[196], among others. These companies are very politically oriented and their management has strong influence on the governmental and legislative processes in the RF. Due to this fact, sanctions were imposed as the aim of this measures was to weaken Russia's economic base, depriving it of critical technologies and markets and significantly curtailing its ability to wage war. This fact can be explained by the value of these companies to the country. Taxes paid by them are considered to be the major part of the RF budget. They create thousands of working places for the Russian citizens and they support charity significantly in the different regions of the RF.

Taking into account such high importance of the O&G industry in the RF, international sanctions imposed in 2014 can be considered as a very circumspect step with far-reaching conclusions. Although the sanction packages imposed between 2016 and 2022 especially this last ones, long-term conclusions can be inferred if a peace agreement is not reached. It is fair to say that the Russian O&G industry is very dependent on foreign technologies and foreign financing instruments. Therefore, imposed prohibitions for the foreign companies to take part in the Russian shale projects, deep water projects, Arctic projects as well as limitations for financing of the Russian major oil and gas companies, seriously affected the Russian O&G industry.

According to the information from Skolkovo Energy Centre (2018), some areas of the Russian O&G industry (i.e. reserves difficult to recover, shale oil, LNG) had more than 90% dependence on foreign technologies.[197] Therefore, it is possible to conclude that sanctions imposed on the RF in 2014 and 2022 also stimulated the Russian Government in the development of local manufacturing, R&D, provision of the preferential credits for the purpose of reducing of the negative effect from the sanctions on the Russian oil and gas industry. This internal stimulation might be truncated while sanctions imposed on certain importation, exportation and prohibitions on the financial sector affect the economic outlook of the industry.

193 Elgot, J., Stewart, H., & Allegretti, A. .*'The UN and the war in Ukraine: Key information'*. (2022, November 22). Retrieved November 27, 2022, from https://unric.org/en/the-un-and-the-war-in-ukraine-key-information/

194 OFAC issued a new Directive 3 under Executive Order 14024, prohibiting U.S. persons from transacting in new equity and new debt2 issued on or after March 26, 2022 of greater than 14 days maturity of 13 major Russian firms

195 Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. (2022). Retrieved 11 April 2022, from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0269-20220315&qid=1648547512878

196 Consolidates List of financial sanctions targets in the UK (2022). Retrieved 11 April 2022, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1067936/Russia.pdf

[197] Skolkovo Energy Center (2018) <https://energy.skolkovo.ru> last access on 5th of June 2020.

Hereinafter, we will review, in detail, the sanctions imposed on the RF, their influence on the different areas of the Russian O&G industry and analyse actions taken by the Russian Government to stabilise the situation in the country.

### *2.1.1 Types of Sanctions in Place*

The USA and EU imposed sanctions on the RF as a reaction to the situation with Crimea in 2014. USA also issued additional sanctions against the RF in 2017. Further, in 2022, because of the invasion in Ukraine, the sanctions list was updated by USA and EU as well as other 30 countries.[198] As it is possible to see from the table below (Figure 2), these sanctions imposed between 2014 and 2017 influenced the O&G industry of the RF and included the following main restrictions:

a. financial sanctions - prohibition to finance the major Russian oil and gas companies (Rosneft, Novatek, Transneft, Gazpromneft),
b. technological sanctions - prohibition to supply goods, render services for the specific projects such as shale, deep-water and Arctic projects and prohibition for the USA and EU companies for mutual development of such projects with the Russian companies.

198 The White House. 'Fact sheet: The United States continues to impose costs on Russia and Belarus for putin's war of choice'. (2022, March 02) Retrieved November 27, 2022, from https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/02/fact-sheet-the-united-states-continues-to-impose-costs-on-russia-and-belarus-for-putins-war-of-choice/

| | US 2014 | EU 2014 | US 2017 |
|---|---|---|---|
| Financial sanctions | Provision of loans and share capital with a maturity over 90 days | Provision of loans and share capital with a maturity over 30 days | Provision of loans and share capital with a maturity over 60 days |
| Subjects of financial subjects | • Rosneft<br>• NOVATEK<br>• Transneft<br>• Gazprom Neft | • Rosneft<br>• Transneft<br>• Gazprom Neft<br>• Subsidiaries with a controlling stake (over 50%) | • Rosneft<br>• NOVATEK<br>• Transneft<br>• Gazprom Neft |
| Technological sanctions | Provision of equipment for oil exploration and production on the shelf, depth over 152 metres, in the Arctic and for shale projects<br>• drilling rigs, parts for horizontal drilling, drilling and completion equipment, subsea processing equipment, Arctic-capable marine equipment, wireline and down hole motors and equipment, drill pipe and casing, software for hydraulic fracturing, high pressure pumps, seismic acquisition equipment, remotely operated vehicles, compressors, expanders, valves, and risers. | • Provision of equipment for oil exploration and production on the shelf, depth over 150 м, in the offshore area north of the Arctic circle and in case of production from resources located in shale formations by way of hydraulic fracturing; it does not apply to exploration and production through shale formations to locate or extract oil from non-shale reservoirs. | • Provision of goods or technologies to support oil exploration or development for new deep-water, Arctic shelf or shale projects which could produce oil.<br>• Possible introduction of sanctions on the sale of equipment, technologies and services, as well as investment in export pipelines. |
| Subjects of technological sanctions | • Rosneft<br>• LUKOIL<br>• Gazprom<br>• Surgutneftegaz<br>• Subsidiaries with a controlling stake (over 50%) in Russia | • Rosneft<br>• Gazprom Neft<br>• Transneft<br>• Physical persons or companies with a >50% share of participation in the financial institutions specified in the sanctions list | • Rosneft<br>• LUKOIL<br>• Gazprom<br>• Surgutneftegaz<br>• Subsidiaries with a controlling stake over 33% worldwide<br>• Any person selling equipment, technology and services for pipeline projects for the amount over 1 million US Dollars at any one time or making an investment in the amount of 5 million US Dollars in the course of one year |

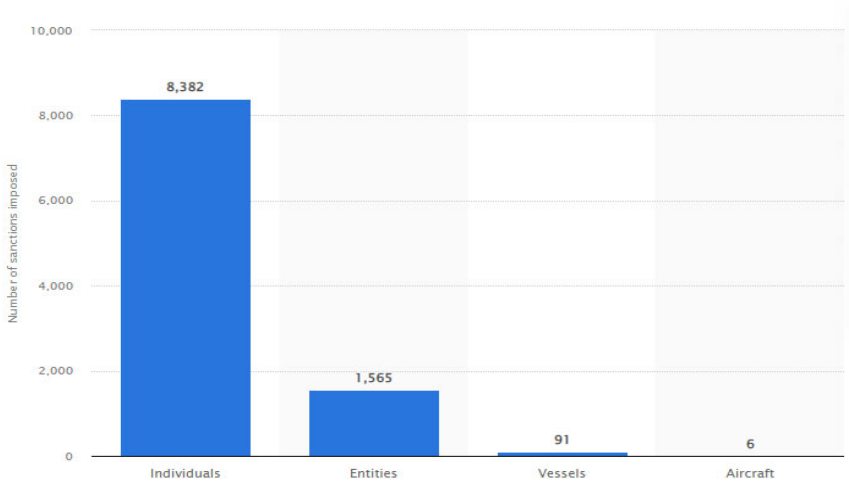
*Figure 2. Sanctions 2014-2017 imposed by USA and EU and influenced the Russian oil and gas industry*[199]

In response to the Russian escalation and invasion of Ukraine, including *inter alia* the embargo of the separatist Donetsk, Luhansk People's Republics Zaporizhzhia and Kherson from 24

[199] Skolkovo Energy Center (2018) <https://energy.skolkovo.ru> last access on 5th of June 2020

February 2022 until November 2022, a total of 8,382 individuals from and 1,565 entities were targeted by the sanctions (Chart 1).[200]

**Chart 1:** Total number of list-based sanctions imposed by Australia, Canada, the European Union (EU), France, Japan, Switzerland, the United Kingdom (UK), and the United States on Russia from February 22 to October 28, 2022, by target




*Source:(Statista Research Department,2022).*

The aim of the measures taken by several countries is to weaken Russia's economic base by denying the access to global economies, limiting access to technologies, reducing the possibility of growing and financing war and the debilitation of key Russian figures, such as financial institutions and Russian elites. The sanctions can be grouped in the following summary by topic:[201]

200 Statista Research Department, S. (2022, November 03). Sanctions imposed on Russia by target 2022. Retrieved November 27, 2022, from https://www.statista.com/statistics/1293531/western-sanctions-imposed-on-russia-by-target/

201 The OFAC, EU, UK, SDN List has been update with new individuals and entities for Sanctions programs in Russia. Due to the massive update in the lists, please find attached the links for a detailed search:
-Russia-related Designations; Publication of new Frequently Asked Question. (2022). Retrieved 15 September 2022, from https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20220915
-Council Regulation (EU) 2022/1905 of 6 October 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine .Retrieved 06 October 2022, from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R1905
-Council Regulation (EU) 2022/1269 of 21 July 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine. Official Journal Of The European Union, 65(L110). Retrieved 23 July 2022 from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.193.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A193%3ATOC
-Consolidates List of financial sanctions targets in the UK (2022). Retrieved 16 September 2022, from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087941/Russia.pdf

***Military goods and mercenaries:***

- Dual-use goods (materials with military use such as vehicle parts, ammunition, radar systems, missile systems, and other military equipment).
- The UK is also imposing sanctions on Russia's Wagner Group.

***Luxury goods:***

- The export of luxury goods to Russia - including vehicles, high-end fashion and art trade restrictions for iron and steel.
- Prohibit the purchase, import or transfer (directly or indirectly) of Russia-origin gold (including jewelry)

***Targeting individuals and entities:***

- The European Council decided to prolong the duration of the restrictive measures targeting those responsible for undermining or threatening the territorial integrity, sovereignty and independence of Ukraine for a further six months, until 15 March 2023.
- Targeted sanctions against the members of the Russian State Duma and an additional individual. The EU, OFAC and UK have together sanctioned over 1,000 Russian individuals and businesses.
- All transactions with certain state-owned enterprises.
- Assets belonging to Russian President Vladimir Putin and his foreign Minister Sergei Lavrov are also being frozen.
- Restrictions on economic relations with the non-government controlled areas of Donetsk and Luhansk oblasts.
- Members of the National Security Council.
- High-ranking officials and military staff.
- Russian oligarchs and businesspeople.
- Individuals responsible for the atrocities committed in Bucha and Mariupol.
- Visa policy.

***Oil and gas:***

- Ban on the imports of oil & gas products of Russian Federation origin. (USA, EU, UK, Canada).
- New investments in the Russian energy sector.
- Prohibition to purchase, import or transfer coal and other solid fossil fuels, originate in Russia or are exported from Russia (EU).
- Ban on imports from Russia of coal and other fossil fuels.

***Financial measures:***

- A ban on transactions/SWIFT with the Russian Central Bank and other 7 banks.
- The financial sector (83 financial entities and 4 major banks).
- The provision of credit rating services to any Russian person or entity.
- Cross-border payments also remain possible for certain types of transactions.

- Certain types of international trade with Russia remain permissible for U.S., EU, and other western companies.

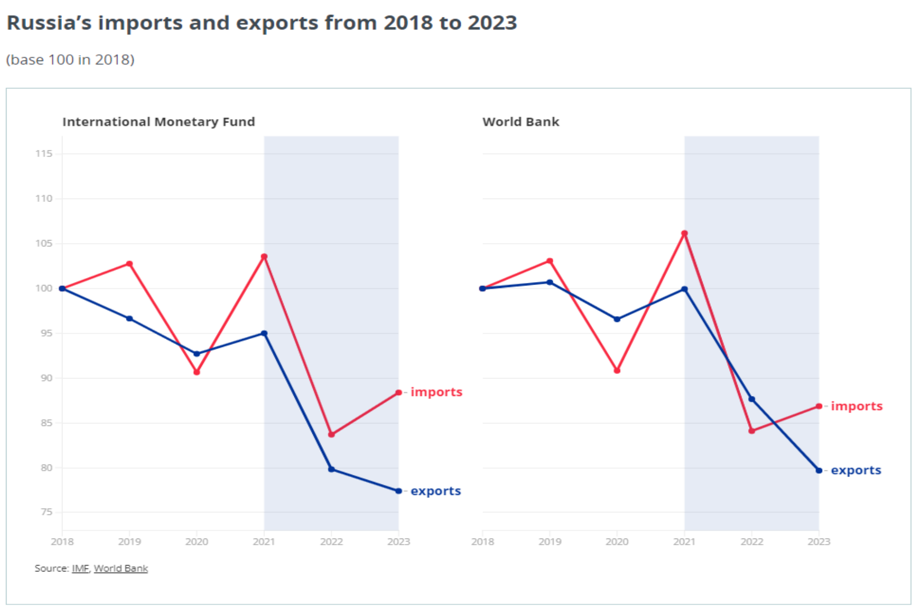
***Technology and other goods:***

- Internal repression goods and technology.
- Goods and technology relating to chemical and biological weapons.

***Flights and vessels:***

- A ban on the overflight of EU, US, UK and Canada airspace and on access to EU airports by Russian carriers.
- Listed vessels and aircrafts.
- All Russian vessels from accessing EU ports. (Certain authorized activities)

Nevertheless, it is possible to conclude that despite these sanctions, the Russian O&G industry could resist them because of high investments in the previous years in upstream area, tax benefits implemented by the Russian government and significant devaluation of the RF RUB. This resistance to the effects of the sanctions may be short-lived as the World Bank; the International Monetary Fund and the Organisation for Economic Cooperation and Development, predict that Russian GDP may drop between, 3.4% and 5.5% by the end of 2022.[202] This is particularly concerning as the importation and exportation of goods drastically went down in 2022 and there is an expectation that it will continue along this path through 2023, due to the restrictions imposed by the sanctions.[203]




*Source:(IMF, World Bank)*

Despite these unfavourable circumstances, the total level of oil production has been even increased for 5 % in the RF between 2012 and 2017, mostly because of the new oil fields.

202 European Council. *'Impact of sanctions on the Russian economy'*. (2022, November 23). Retrieved November 29, 2022, from https://www.consilium.europa.eu/en/infographics/impact-sanctions-russian-economy/
203 *Idem*

Nevertheless, as it was stated by the U.S. Energy Information Administration (2015), the majority of Russia's current oil production (nearly two thirds) comes from the Western Siberia field and Volga-Urals region. Due to the fact that these fields have been producing since the 1940s, they are declining even with the new technologies and focus on secondary recovery and hydro-fracturing. From a practical perspective, there are several options for the following development of oil production in the Russian Federation. They are:

a. development of the new traditional oil fields,
b. implementation of the methods for intensification of oil extraction,
c. development of the unconditional oil fields (difficult to extract resources),
d. development of Arctic and deep-water projects.

On the bases of the above-mentioned options, it is possible to conclude that the main purposes of the sanctions were to limit financing of the Russian O&G industry as well as to limit access of the foreign companies to the projects where dependence of the Russian market from the foreign technologies was extremely high (i.e.: shale, Arctic and deep-water projects).

*2.1.2 Impact of Sanctions on Existing and Prospective Investments*

Speaking about the international trends in the JVs cooperation, it is possible to say that the O&G industry is a very good example of international cooperation development. According to the Ernst & Young report (2017),[204] 85% of upstream investment is done through alliance of JV relationship. This figure, definitely, indicated the importance and role of the JVs in the international oil and gas exploration and production projects. Usually, participants of the JVs contribute assets, capital, unique experience, risk sharing, market entry, tax benefits and access to others unique capabilities. As it is possible to see from Figure 3 below, the majority of the JVs projects are implemented in the upstream area. Nevertheless, more than half of large pipelines' and LNG facilities' construction projects are also implemented by the JVs:

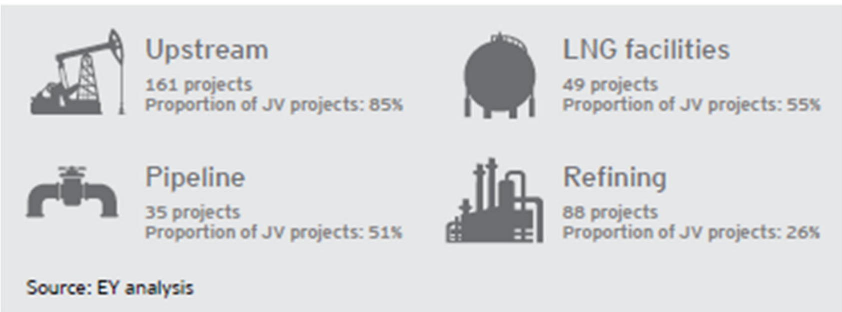



*Figure 3. Joint ventures for oil and gas megaprojects (Ernst and Young report, 2017).[205]*

Speaking about the RF, it is necessary to note that mutual cooperation between the Russian O&G companies and their foreign partners have been developed significantly for many years. Russian O&G market are very attractive for the foreign companies due to high potential in natural resources. Analysis of the latest joint projects indicates that the majority of the on-shore projects have being implemented at the area of tight oil exploration. Actually, Russian O&G companies are able to develop the usual (light oil) fields by themselves on the bases of the

[204] Ernst & Young (2017) <https://www.ey.com> last access on 5th of May 2020.
[205] Ibid.

corresponding licenses and using available resources and technologies. On the contrary, the possibility of exploration and production of the difficult-to-extract hydrocarbons projects depend on specific technologies and know-how which are used by the international O&G companies worldwide but not available to the Russian market.

The RF unconventional oil reservoirs are huge and still not developed due to the lack of experience and technologies. For example, such technological solutions as hydro-fracturing and coiled tubing are necessary for tight oil exploration but well-known only to the international companies (i.e.: Weatherford, Baker Huges, Halliburton, Schlumberger ). Russian companies do not have enough experience in such operations.

Therefore, it is logical that Russian companies are interested in cooperation with international corporations in respect of the joint projects' implementation at the area of tight oil exploration. As it was stated by the Russian Council on International Affairs (2018), the foreign service companies have about 25 % of the corresponding Russian market of oilfield services. For example, they have significant market share in such critical areas as fracture stimulation (90 %); seismic interpretation (50%) and horizontal drilling (25%).

Based on the information from Skolkovo Energy Center (2018),[206] there were many joint-ventures created between the Russian oil and gas companies and their partners. Unfortunately, due to sanctions most of them were put on hold because their focus were on the areas prohibited by the sanctions.

| **Project** | **Parties** | **Status** |
|---|---|---|
| **Off-shore projects** | | |
| Well "Universitetskaya-1" | JV between Rosneft (51%) and Exxon Mobil (49%) | Delayed due to sanctions |
| Vostochno-Prinovozemelskiy-1,2,3; Severo-Karskiy; Ust-Olenekskiy; Ust-Lenskiy; Aninsko-Novosibirskiy; Severo-Vrangelevskiy – 1,2,3; Uzhno-ChukotskiyTuapsinskiy arch | JV between Rosneft (67%) and Exxon Mobil (33%) | Exxon left projects due to sanctions.<br><br>Rosneft decided to implement by itself. |
| Barents Sea and Black Sea | JV between Rosneft (67%) and ENI (33%) | Delayed due to sanctions |
| **On-shore projects** | | |
| Bazhenov and achimov formations in the West Siberia | JV for Pilot Phase betweenRosneft (51%) and Exxon Mobil (49%) | Delayed due to sanctions |
| Domanik sediments in Orienburg | JV for Pilot Phase between Rosneft (51%) and BP (49%) | Delayed due to sanctions |
| Development of Bazhenov formation in Khantu-Mansiyski Autonomy district | JV between Lukoil and Total | Total transferred its share to Lukoil |
| Development of Bazhenov formation in Khantu-Mansiyski Autonomy district | JV between Shell and Gazpromneft | Shell stopped operations |
| Domanik sediments in Samara region | JV for Pilot Phase between Rosneft (51%) and Equinor (49%) | Pilot phase was finished in 2019 |
| North-Komsomolskiy field | JV for Operational Phase between Rosneft (77%) and Equinor (33%) ("Sevkomneftegaz" LLC) | Operational Phase started in 2017 |

206 Skolkovo Energy Center (2018) <https://energy.skolkovo.ru last access on 5th of June 2020

On the basis of the Table set out above, it is possible to conclude that unfortunately, sanctions had a very significant effect on implementation of joint international projects within the most attractive areas. Due to the current limitations, cooperation in the shale projects, Arctic projects, deep-water projects between the Russian companies and their international partners are significantly limited. At the same time, Russian companies were forced to improve its own competences in the restricted areas and several M&A deals were concluded.

It is necessary to note that the Russian Government's reaction to the sanctions was quite fast and several measures were implemented for stabilizing the situation, such as: local R&D stimulation and development, localization and import-substituting production's development, preferential loans' development. From Figure 4 below, it is possible to conclude that dependence from the foreign technologies in some areas in the oil and gas industry was crucial in 2014 and therefore the Russian Government started to implement import-substituting programs as soon as possible.

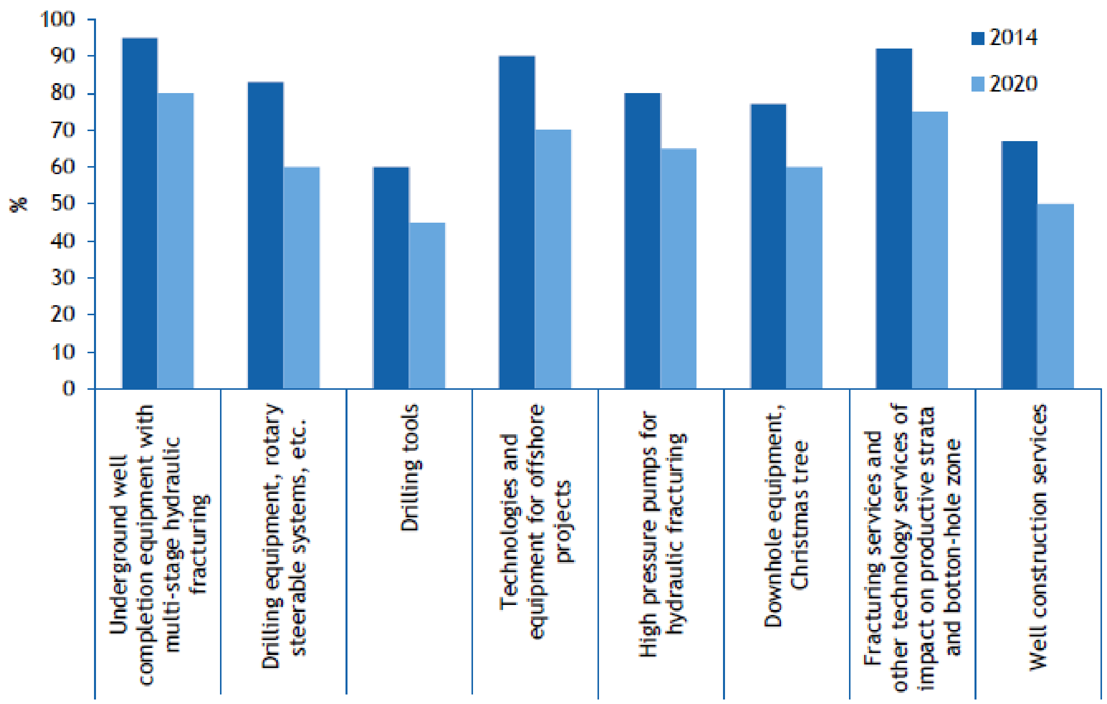



*Figure 4. Plans for import replacement in the oil and gas industry (dates on X axis show the start of the programme, blue – the situation in 2014 and 2020 – target performance) (SKOLKOVO Energy Centre (SEneC) 2018).[207]*

There were several special programmes developed for the purpose of cooperation between foreign investors and local companies. These include preferential taxation and single source procurement for the purpose of special investment contracts ("SICs"). The SICs can be offered to foreign investors for the purpose of localisation of the production of their goods. According to the available information, about 25 SICs have been signed for the purpose of localisation stimulation (6 – in pharmacy industry, 4 – in automobile and chemical industries, 3 – in oil-

[207] Skolkovo Energy Center (2018) <https://energy.skolkovo.ru> last access on 15th of June 2020.

and-gas machine building, 2– in agricultural machinery industry and metallurgy, 2 – in power engineering industry, machine-tool manufacture, aircraft construction and pump equipment manufacturing). It is expected that realisation of the abovementioned SICs will gain about 410 billion RF Rubbles in the budget, creating about 9900 new working places and the volume of the produced goods exceeding4 trillion and 177 billion of the RF Rubbles.

The RF Chamber of Commerce, together with the Fund of Industrial Development, supports municipal and regional investors (i.e. 351 projects were financed). The loans for such projects are provided for 7 years under 2-5% annual interest with the minimum initial financing required from the municipal and regional investors.

According to the opinion of the RF expert Arkhipov (2018), the purpose of localisation is to push foreign investors to incorporate R&D centres in the RF, to launch local production of goods and equipment, to implement the technology transfer and experience sharing. Only such an approach could guarantee localisation rather than just assembly plants.

It is interesting to note that the value and importance of the localization aspect can be illustrated by the experiences of Rosneft Oil Company and Gazprom. Since 2014, each annual report of Rosneft Oil Company contains a chapter devoted to equipment and technology localisation. Gazprom has also developed a set of measures, which are intended to replace foreign procurement of goods, works and services. This reflects the willingness of oil companies, on the one hand, and growing opportunities of domestic engineering enterprises, on the other hand, to build a long term relationship.

It is possible to illustrate the following successful samples of the localisation process in the RF:

a. Creation of the joint R&D centres and local manufacturers (“AETC Sapphire” Limited Liability Company (LLC) and “Advanced Research and Technology Center” LLC, the joint ventures created by Rosneft Oil Company and General Electric for the purpose of conduction research and development operations and local production in the RF),
b. Local production of proppant by Gazpromneft, especially taking into account that only about 10 years ago there was no production of the proppant in the RF and all proppant was bought outside the RF for the purpose of wells’ completions.
c. Development of local software for 3D modelling of the hydro fracking operations that is actively being used by Russian companies.
d. Local production of the catalysts and additions can be considered as successful examples of the localization of the goods’ manufacturing in the refinery area.

### *2.1.3 Legal Suggestions to Address the Identified Problems*

Based on the foregoing, it is possible to summarize the following regarding the sanctions’ influence on the Russian O&G industry:

a. Most of the Russian O&G companies could adopt to the sanctions imposed against the RF due to the high amount of previous investments in the Upstream area, significant tax benefits from the state authorities, devaluation of the RF RUB;
b. Unfortunately most of the joint projects between the Russian O&G companies and their foreign partners were put on hold due to sanctions because they were focused mostly on the area of cooperation prohibited by the sanctions;

c. It is possible to say that sanctions helped to enhance the localization development in Upstream and refinery areas in the RF, but, unfortunately, ambitious plans of the Russian Government for import replacement in the O&G industry were not fully reached;
d. Taking into account that difficult to extracts hydrocarbons are planning to take the leading role in the RF oil and gas market, it is important to continue significant financial investments in Upstream area, especially in development of local technologies in formation hydraulic fracturing and multi-fracturing, in order to avoid decreasing in oil production in the nearest years.

Finally, it is possible to say that sanctions have a so-called "accrual effect" and it is necessary to start preparation in advance in order to avoid such negative effect on the Russian O&G industry after 2025.

### *3. Venezuela*

Venezuela is one of the latest cases in the imposition of commercial and financial sanctions against an oil producing country. These measures were adopted mainly by the U.S. government aiming at forcing a political transition in the South American country, because of the deterioration of the democratic institutions; human rights violations, and other sensitive issues of the U.S. national security agenda.[208] The first coercive economic measures were adopted in 2017, in the context of a pre-existent political, economic, social, and humanitarian crisis that remains until today. In the oil sector, the sanctions were an additional compounding factor to the difficulties facing the national oil company, *Petroleos de Venezuela S.A.* (PDVSA) that already was suffering an acceleration in the drop of oil production. For this reason, this section seeks to analyse the sanctions regime established on Venezuela and its effects on investments in the oil industry.

#### *3.1 Brief Background to Local Petroleum Regime*

The current regulatory framework for the O&G industry in Venezuela, was the result of several reforms boosted by the Venezuelan government under the Hugo Chavez presidency, when he took power in 1998. These reforms had the intention of increasing the State control in the management of the oil industry, as well as the economic rents derived from the operations of production and exports of oil and refined products.[209] With this clear objective, related determinations were included in the national Constitution which was enacted in 1999. Also, there were important statutory enactments such as the Hydrocarbons Law of 2001, the Gaseous Hydrocarbons Act of 1999, as well as other laws, rules, resolutions for specific areas or for general application.

According to the Venezuelan Constitution, all existing hydrocarbon deposits in the country, as well as the totality of the shareholding of PDVSA, is the exclusive property of the Republic - articles 12 and 303. The constitutional text also indicates that the Venezuelan State is the only entity with the responsibility of managing such activities, through Organic Laws (Art. 302).

[208] William Clavijo, Edmar Almeida, "A Venezuela na geopolítica do petróleo norte-americana: uma análise à luz das novas realidades do mercado internacional de petróleo". (Revista Oikos 2020) <http://www.revistaoikos.org/seer/index.php/oikos/article/download/634/323>

[209]Jesus Mora Contreras, "Las bases de la política petrolera rentista y bolivariana del gobierno de Chávez." (Opiniones Contrapuesta, 2009) <https://www.flacsoandes.edu.ec/sites/default/files/agora/files/1252899099.politica_rentista_0.pdf>

The Venezuelan State, through the Ministry of Energy and Mines, is responsible for the formulation, regulation, and the supervision of policies, as well as planning, to implementation and inspection of activities in the field of hydrocarbons, according to Article 8 of the Hydrocarbons Law.[210] In the upstream segment, Venezuelan legislation establishes three contractual regimes for exploration and production operations in the country: (i) state exclusivity, through PDVSA and its subsidiary companies; (ii) a joint venture agreement between PDVSA and foreign or private companies, in which PDVSA and its subsidiaries must have a greater participation of fifty percent (50%) and each company is responsible for assuming the risks and costs of E&P activities in proportion to their participation in the project;[211] and (iii) the pure concession contract for the development of non-associated natural gas.[212]

In addition, there are other legal instruments that make it possible to understand the scope of government policy guidelines for the O&G industry. In 2006, the Venezuela National Assembly approved the terms and conditions for the creation and operation of the joint venture companies, and the contract model to be used for its formation. In 2007, the Chavez government issued Decree Law No. 5200, from which companies that already had agreements established with the Venezuelan State under other contract modalities, such as strategic associations and exploration and risk-sharing agreements, were forced to change to joint venture contracts, giving rise to several legal disputes before international arbitration tribunals, affecting the credibility of the Venezuelan State in respect of contracts.

In 2009, the Parliament passed a law that reserved goods and services related to primary oil activities to the State, which expanded the State's presence in the oil industry, partially excluding private companies from providing services. This was part of the plan of former PDVSA`s President, Rafael Ramirez, for developing a new branch of the company with technical capacities for providing primary services in the oil industry.[213] Finally, in 2013, the Law of Special Contribution for Extraordinary Prices and Exorbitant Prices was enacted to address the international hydrocarbon market. This instrument allowed the State to charge a rate to operating companies when the price on the international market was higher than the price established in the annual public budget. In the following year, the same law underwent changes in the values established for the calculation of the rate for extraordinary and exorbitant prices.[214]

Based on this set of regulatory instruments, the Venezuelan government managed the oil industry for the past two decades.

### *3.1.1 Type of Sanctions in Place*

At present, citizens and organizations of the Venezuelan State are subject to the imposition of different sanctions, carried out both unilaterally - mainly by the United States, and multilaterally – by Members of the European Union (E.U.). These actions have been motivated by the allegation of practices associated with non-collaboration in combating terrorism, the

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[210]Venezuela, Hydrocarbons law of 2001.

[211] Ibid.

[212] Venezuela, Ley Organica de HidrocarburosGaseosos (LOHG), 1999.

[213] Manuel Guevara, 'El ocaso de 'la industria': saqueo, caída de la producción y fin de la meritocracia" (Transparencia Venezuela, 2018).

[214] Venezuela, Ley que crea contribución especial por precios extraordinarios y precios exorbitantes en el mercado internacional de hidrocarburos. 2013.

promotion of terrorism, involvement with drug trafficking networks, anti-democratic actions, human rights violations, and corruption.[215]

In most cases, these actions have consisted of individual sanctions on the part of the United States, the countries of the E.U., and other Western democracies, through measures such as the imposition of travel restrictions, or a ban on entry to countries promoting these initiatives, both for Venezuelan citizens and their families. In other cases, individual sanctions have consisted of freezing assets that penalized individuals in the prosecuting states, as well as a prohibition on carrying out commercial transactions with other individuals, or companies of that nationality. The first instance of such sanctions occurred in 2006 through the U.S.' E.O. nº 13,224, from which two Venezuelan citizens and two travel agencies were identified as sponsors of the Lebanese organisation, Hezbollah.[216] From 2018 to 2020, Switzerland applied individual sanctions against 36 high-level officials of Nicolás Maduro's regime.[217] Canada, in turn, also applied individual sanctions against 113 officials linked to Maduro's regime.[218]

Another type of sanctions applied to Venezuela has consisted of a ban on the acquisition of arms and the cancellation of military cooperation programs, as was done by the U.S., the E.U., and Switzerland in 2006, 2017 and 2018, respectively.[219] Specifically, E.U.'s sanctions were applied in 2017 following actions from the Venezuelan regime against democracy, rule of law and human rights. Until 2020, the E.U. adopted 93 decisions, 70 of which were restrictions to weapons trade, assets freeze, ban on access to funds, prohibition of travelling to EU countries, and restrictions on trade of equipment used for communication and internal repression.[220]

Finally, the categories of sanctions imposed against Venezuela with a direct or indirect impact on the oil industry are of a sectoral type, which have a broader focus, covering companies, people and public entities related to economic activities such as oil, mining, and financial activities linked to the Central Bank of Venezuela. Economic, commercial, and financial sanctions began to be implemented in 2017 by the U.S. In August of that year, through Executive Order 13,808, the U.S. began to prohibit the negotiation of new debts and shares issued by the Venezuelan government and the state-owned PDVSA, the transaction of some government bonds and the payment of dividends to Nicolás Maduro's government. In March 2018, Executive Order 13,827 expanded the sanctions already enacted for transactions with digital currency. In May 2018, Executive Order 13,835 prohibited transactions related to the purchase of Venezuelan public debt, including unpaid accounts, as well as any debt with Venezuela pledged as collateral.[221]

In 2019, through E.O. 13,850, the Treasury department established sanctions against PDVSA, freezing all the company's assets located in the territory under U.S. jurisdiction, and began to

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[215] Nizar El Fakih, "Aproximación al Régimen de Sanciones Internacionales y al caso de Venezuela". (Banco Interamericano de Desarrollo, Departamento de Países del Grupo Andino, Diciembre de 2020).
[216] US Department of Treasury, "Treasury Targets Hezbollah in Venezuela". 2006 <https://www.treasury.gov/press-center/press-releases/pages/hp1036.aspx> Accessed in 15th February, 2021.
[217] Nizar El Fakih. "Aproximación al Régimen de Sanciones Internacionales y al caso de Venezuela". (Banco Interamericano de Desarrollo, Departamento de Países del Grupo Andino, Diciembre de 2020).
[218] Ibid.
[219] US Congressional Research Service (CRS), "Venezuela: Overview of U.S. Sanctions". <https://fas.org/sgp/crs/row/IF10715.pdf> Accessed in 10th December, 2020.
[220]Nizar El Fakih, "Aproximación al Régimen de Sanciones Internacionales y al caso de Venezuela". (Banco Interamericano de Desarrollo, Departamento de Países del Grupo Andino, Diciembre de 2020).
[221] US Congressional Research Service (CRS). "Venezuela: Overview of U.S. Sanctions". <https://fas.org/sgp/crs/row/IF10715.pdf> Assessed in December 10 of 2020.

prohibit U.S. citizens and companies from making transactions with the Venezuelan state-owned company. E.O. 13,884, of August 2019, blocks Venezuelan government properties in the United States or under the control of American people or companies. The order also prohibits U.S. citizens from engaging in transactions with the Nicolás Maduros regime, except for those authorized by the Office of Foreign Assets Control (OFAC) of the US Department of the Treasury. For instance, the humanitarian assistance is possible because OFAC issues licenses concerning transactions for the supply of food, medicines, and agricultural commodities; migrants' remittances to families in the origin country; communication services; and international organizations activities, to whom OFAC issued guidelines to report any sanctions they may face while providing humanitarian aid.

The Executive Order also authorized the imposition of financial sanctions and visa restrictions for citizens of other nationalities that support the Maduro regime, including energy companies that work with PDVSA.[222] Since April 2019, Treasury Department also imposed sanctions against shipping companies which carry Venezuelan oil. This was driven by the concept of extraterritoriality within the E.O. 13,884, which means that the U.S. has the ability to enforce laws and regulations regarding persons, property, or activities beyond its territory, and to influence the behavior of other non-U.S. entities that are aiding the Maduro regime.

*3.1.2 Impact of Sanctions on Existing and Prospective Investments*

It is commonly observed that the economic trends in Venezuela cannot be detached from the prevailing negative context before the sanctions.[223] The origins of the Venezuelan multidimensional crisis (institutional, political, economic, social, and humanitarian) can be traced back for ten years and the critical causes are related to the kleptocratic, inefficient and authoritarian public management.[224] The typical rent-seeking behaviour and resources curse of oil-dependent countries were underpinned with exchange control regulations, interest rate freeze and money issuing, leading up to an artificial purchasing power and less competitive non-petroleum economic sectors.[225] In the period 2013-2016, the Venezuelan economy fell 25%, and continuously reported a recession during 12 quarters.[226] Then, following 2014 oil prices plunged the impoverished socio-economic indicators and were not caused by the sanctions, but it does not mean that as of 2017 these external measures have not deepened the current gloomy conditions and stifled socioeconomic recovery.

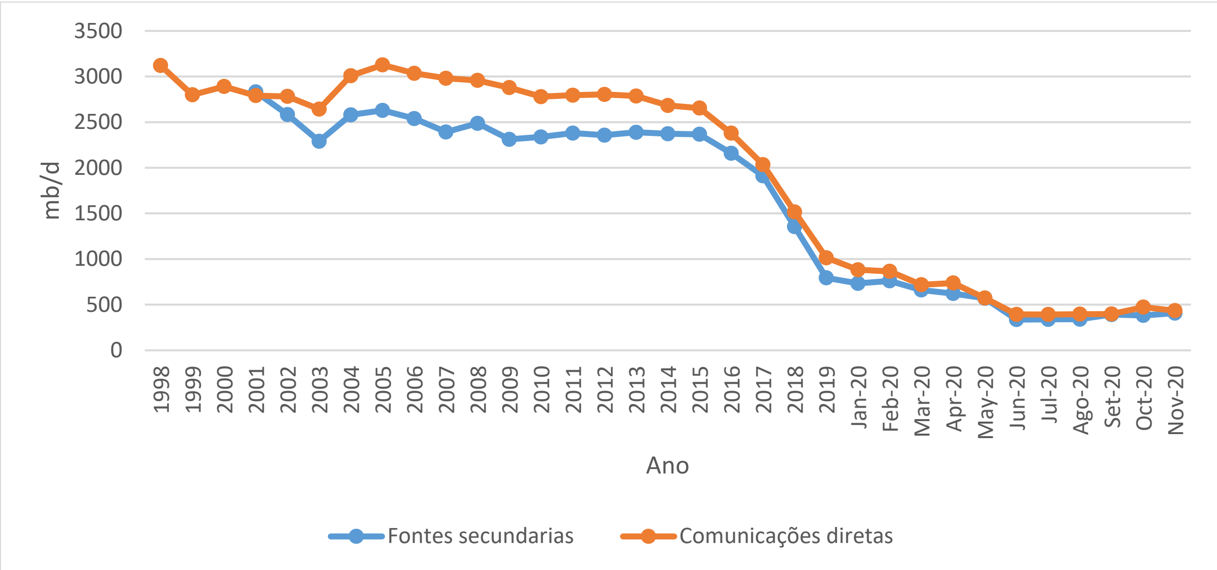
The Venezuelan government's inability to raise debt, limited capacity of debt restructuring and exclusion from international financial markets, as well as the possibility of continuing accessing to financial support from other sources, such as China, precede the sanctions.[227] Despite oil exporting countries' understanding of oil price oscillation and following economic

[222] Ibid.
[223] Dany Bahar and Sebastian Bustos and Jose R, Morales; Miguel A. Santos. "Impact of the 2017 Sanctions on Venezuela: Revisiting the Evidence". (Global Economy and Development at Brookings, May 2019).
[224] Transparencia Venezuela, "Sanciones Internacionales: ¿origin o fin de la crisis?" (2020a) <https://transparencia.org.ve/transparencia-venezuela-analiza-la-incidencia-de-las-sanciones-internacionales-en-venezuela/>. (Accessed on 10th January, 2021).
[225] Manuel Sutherland, "Las sanciones económicas contra Venezuela: consecuencias, crisis humanitária, alternativas y acuerdo humanitario". (PROVEA, 25th November, 2020). <https://provea.org/trabajos-especiales/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/>. (Accessed on 16th February, 2021)
[226] Ibid.
[227] Dany Bahar and Sebastian Bustos and Jose R. Morales and Miguel A. Santos, "Impact of the 2017 Sanctions on Venezuela: Revisiting the Evidence". (Global Economy and Development at Brookings, May 2019).

effects, the Venezuelan government has been unable to shield from it, especially with the 2014-2016 oil market surplus and prices plunge. The oscillation could not even be contained due to the ongoing mismanagement of the macroeconomic policies, especially the Macroeconomic Stabilization Fund, whose initial objective in 1998 was the stabilization of public expenditures and savings.[228] The Fund reached US$ 6,277 billion in 200. However, it decayed to three million dollars ten years later in the wake of successive reforms which ceased PDVSA's responsibilities accrued to the Fund, as well as overspending and government budget deficit.[229] Moreover, the misuse of foreign-exchange reserves to finance public expenditure, and the subsequent implementation of a policy of monetization of the fiscal deficit through PDVSA's indebtedness with the Central Bank of Venezuela, lead to the devaluation of the national currency, undermined people's salaries and purchasing power, and caused a cycle of hyperinflation.[230]

The same perspective coincides with the Venezuelan oil production. According to primary and secondary sources raised by OPEC reports, the output was in decay since 2015 that is in advance of the sanctions and presumably a negative tendency which would occur even in the absence of them (See Chart 2).

**Chart 2.** Evolution of Venezuelan oil production




*Source: own elaboration from OPEC data.*

The context of high oil prices in the international market until 2014 would have guaranteed investments to output increase and debt sustainability unless public management was effective and efficient. Conversely, the GDP growth up to 2013 was not translated to economic diversification and private investments, but increased dependency on oil and public sector's

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[228] Luis Cermeno, "*El Fondo De Estabilización Macroeconómica: Crónica De Una Crisis Que Tuvo Alternativa (II)*". (ProEconomía, 15th May, 2019) <https://proeconomia.net/el-fondo-de-estabilizacion-macroeconomica-cronica-de-una-crisis-que-tuvo-alternativa-ii/> (Accessed on 10th February, 2021)

[229] Ibid.

[230] Hence, according to data of Transparencia Venezuela, reserves dropped from US$ 43,127 billion in 2008 to US$ 6,465 billion in 2020. See Transparencia Venezuela. "Sanciones Internacionales: ¿origin o fin de la crisis?" (2020) <https://transparencia.org.ve/transparencia-venezuela-analiza-la-incidencia-de-las-sanciones-internacionales-en-venezuela/>Accessed on 10th January, 2021.

size.[231] The indebted O&G sector, which enhanced from US$ -3 billion (2005) to US$ -44 billion (2015), has resulted in the ongoing PDVSA crisis, disturbing its infrastructure and staff, including hyperinflation and wages degradation, neglecting and theft, damaging incidents and oil spill, empty petrochemical venues as well as lack of staff and work tools.[232] Furthermore, the state-run company failed in management especially after O&G unskilled General Manuel Quevedo inauguration as Minister of Oil and President of PDVSA in November 2017.

However, despite the impact domestic matters had on the financial collapse, the 2017 and 2019 economic sanctions have inflicted more harm instead of paving the way to politically solve the already-known financial crisis. They have directly constrained PDVSA's capacity of debt restructuring as well as its production activities and value chains, and as a result sanctions affect the roots of the national oil-dependent finances.[233] For instance, the 2019 sanctions against Citgo, a PDVSA's subsidiary of refining, transportation and trading based in U.S., prevent dividends from being sent to Venezuela, as well as forestall the trading of both refining inputs and light oil to Venezuelan gasoline production and heavy oil blending, respectively.[234] As soon as the 2017 sanctions took effect, monthly oil production fell 6.2% (131 thousand barrels per day) and the downward trajectory of monthly production sped up by 20 thousand barrels per day.[235] In this sense, from August 2017 to December 2019, Venezuelan oil production dropped 1.24 MMbbl, whereof the sanctions represent 45.2%.[236]

Concerning the tough restrictions of financing and trade imposed on the Venezuelan government, PDVSA, Venezuelan Central Bank, Venezuelan Economic and Social Development Bank (BANDES), and whomever remains doing business with them, the Transparencia Venezuela organization set down five economic and financial impacts of sanctions. The drop of PDVSA's production has been sharpened because of aforementioned constraints to access capital goods and other inputs required to upstream and downstream operations. The O&G rents have been wrecked because the sanctions shrank Venezuelan markets, especially the near and long-time oil purchaser U.S., as well as freights to more distant markets have risen and exportations have plunged. Even trade with Russia, China and Caribbean countries has not changed the downward trajectory, because these relations aim to discharge debts or maintain cooperation in spite of low profitable agreement such as Petrocaribe. Concerning the dependency of government on PDVSA's rents and the huge State's

[231] Ibid.
[232] Petronotícias, "*Crise do "Madurismo" Dissolve a Venezuela com Graves Reflexos na Petroleira PDVSA"*(19th June, 2018) <https://petronoticias.com.br/crise-do-madurismo-dissolve-a-venezuela-com-graves-reflexos-na-petroleira-pdvsa/> (Accessed on 16th February, 2021).
[233] Transparencia Venezuela, "Sanciones Internacionales: ¿origin o fin de la crisis?" (2020a) <https://transparencia.org.ve/transparencia-venezuela-analiza-la-incidencia-de-las-sanciones-internacionales-en-venezuela/>. (Accessed on 10th January, 2021).
[234] Manuel Sutherland, "Las sanciones económicas contra Venezuela: consecuencias, crisis humanitária, alternativas y acuerdo humanitario". (PROVEA, 25th November, 2020). <https://provea.org/trabajos-especiales/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/>. (Accessed on 16th February, 2021).
[235] ANOVA, "*Impacto de las Sanciones Financieras Internacionales contra Venezuela: Nueva Evidencia*." (20th January, 2021. <https://thinkanova.org/2021/01/20/impacto-de-las-sanciones-financieras-internacionales-contra-venezuela-nueva-evidencia/> (Accessed on 15th February, 2021).
[236] Ibid.

size in the national economy, public revenues and general economic activities have also fallen respectively.[237]

The sanctions strength the Venezuelan isolation from the world, as result not only the political regime and the state-run PDVSA encounter with financial constraints but also the private sector does. Money liquidity has already dropped from US$ 47 billion in 2011 to US$ 1.1 billion in 2017 that is 97.5% fall of money owned by public and private sectors.[238] Nevertheless, the Venezuelan institutions still stand, being significant the growing participation in the underground economy of drug trafficking, and gold and fuel smuggling, whilst the private sector cannot create foreign-exchange reserves, risking the possibility of a national economic recovery. Since the scarcity of fuels and liquefied petroleum gas, used in heating and cooking procedures, as well as the lack of secure and ceaseless distribution of electricity, the horizon of recovery seems even more distant.[239]

In the face of these economic constraints, fewer revenues and foreign-exchange reserves would mean the wrecking of social services and higher shortages of food and medicine. Notwithstanding, after 2017, sanctions the importation of food and medicines stabilized instead of hastening the decline, hence sanctions and importation may not have a causal relation.[240] Although, such stabilization refers to low levels and even low access by vulnerable people, then it has not been able to improve social conditions.[241] Actually, previous food insecurity has increased because more people are now facing less variety of food items and depending on government-operated Local Committees for Supply and Production (CLAPs), a scheme created in 2016 to distribute basic food boxes at subsidized prices, [242] and considerably an instrument of social control and political reward or punishment.[243] Thus, sanctions boost social inequalities as more people become vulnerable and fewer untouched groups concentrate wealth and legal or illegal sources of rents.[244]

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[237] Transparencia Venezuela, "Sanciones Internacionales: ¿Origin o fin de la crisis?" (2020a) <https://transparencia.org.ve/transparencia-venezuela-analiza-la-incidencia-de-las-sanciones-internacionales-en-venezuela/>Accessed on 10th January, 2021.

[238] Manuel Sutherland, "Las sanciones económicas contra Venezuela: consecuencias, crisis humanitária, alternativas y acuerdo humanitario". (PROVEA, 25th November, 2020). <https://provea.org/trabajos-especiales/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/>. accessed on 16th February, 2021.

[239] Transparencia Venezuela, "Sanciones Internacionales: ¿origin o fin de la crisis?" (2020a) <https://transparencia.org.ve/transparencia-venezuela-analiza-la-incidencia-de-las-sanciones-internacionales-en-venezuela/>Accessed on 10th January, 2021.

[240] ANOVA, "*Impacto de las Sanciones Financieras Internacionales contra Venezuela: Nueva Evidencia*." <https://thinkanova.org/2021/01/20/impacto-de-las-sanciones-financieras-internacionales-contra-venezuela-nueva-evidencia/> Accessed on 15th February, 2021.

[241] Omar Zambrano, "¿Tuvieron impacto las sanciones económicas sobre los venezolanos?" La Gran Aldea, <https://lagranaldea.com/2021/01/24/tuvieron-impacto-las-sanciones-economicas-sobre-los-venezolanos/> Accessed on 16th February, 2021.

[242] BBC, "*Venezuela crisis: Vast corruption network in food programme, US says*". (26th July, 2019). <https://www.bbc.com/news/world-latin-america-49125575>Accessed on 15th February 2021.

[243] Andreina Aponte and Ana Isabel Martinez, "For poor Venezuelans, a box of food may sway vote for Maduro" (Reuters, 12th March, 2018). <https://www.reuters.com/article/us-venezuela-politics-food-idUSKCN1GO173> Accessed on 15th February, 2021.

[244] Manuel Sutherland, "Las sanciones económicas contra Venezuela: consecuencias, crisis humanitária, alternativas y acuerdo humanitario". (PROVEA, 25th November, 2020). <https://provea.org/trabajos-especiales/informe-especial-las-sanciones-economicas-contra-venezuela-consecuencias-crisis-humanitaria-alternativas-y-acuerdo-humanitario/>Accessed on 16th February, 2021.

Due to the side effects, that the Russian conflict is causing (price and supply) on several products those related to oil and gas, leaders of the United States and Venezuela have been in talks in order to increase output by issuing the OFAC General License (GL) 41,[245] which authorize Chevron Corporation to specific and limited extraction of natural resources in Venezuela. Some experts argue that this could be the beginning of a relaxation of Venezuelan sanctions.[246]

*3.1.3 Legal Suggestions to Address the Identified Problems*

The imposition of economic and financial sanctions on the Venezuelan O&G industry is caused by political matters. Without a solution to the political crisis affecting Venezuela, acceptable to the U.S. and capable of suspending sanctions, the O&G production recovery in the country seems unlikely.

A credible plan to recover O&G production in Venezuela and especially PDVSA, regarding their ongoing conditions, needs the adoption of regulatory reforms. Assuming that both the country and PDVSA go bankrupt, the reforms should clearly aim the industrial openness to the national and international private capital. Nevertheless, reforms are not enough to acquire the credibility to the Venezuelan State as a trustful partner to compromise agreements with the private sector. Formerly, Hugo Chávez and Nicolas Maduro's governments did not respect agreements and private property.[247] They also demonstrated being bad business partners, showing inability to accomplish their own responsibilities with joint projects. For instance, the Chinese case of loans for oil and the expansion plans of refining capacity between PDVSA and state-run oil companies from China assure such argument,[248] which reminds the building projects of the following refineries: Nanhai (400.000 barrels per day), Guandong (200.000 b/d), Weihai (200.000 b/d) and Shanghai (200.00 b/d).[249] Then, besides economic sanctions, the lack of credibility of the Nicolas Maduro's regime also constitutes to be an obstacle to attracting investments even from allied countries.

On the other side, the country is plunged more than two years deep inside a complex institutional crisis following a political one, preventing required legal shifts to be made. From 2016 to 2020, all decisions coming from the Venezuelan Parliament, mostly occupied by opposition parties, were disregarded by the Nicolas Maduro's regime through its control over judicial power.[250] The current composition of Parliament, which was elected in December 2020 is not recognized by most countries in American continents, Europe, and other parts of the

245 United States, The Department of the Treasury, Office of Foreign Assets Control. *'Treasury Issues Venezuela General License 41 Upon Resumption of Mexico City Talks'*. (2022, November 26). Retrieved November 27, 2022, from https://home.treasury.gov/news/press-releases/jy1127

246 Molinero, A. '*To boost oil supplies, US looks to lift sanctions on Venezuela'*. (2022, November 26). El País. Retrieved November 27, 2022, from https://english.elpais.com/international/2022-11-26/to-boost-oil-supplies-us-looks-to-lift-sanctions-on-venezuela.html

247 Francisco Monaldi, "The Cyclical Phenomenon of Resource Nationalism in Latin America" (Oxford University Press, 2020)

248 Transparencia Venezuela, "Negocios Chinos: acuerdos que socavaron la democracia en Venezuela" (2020b) <https://transparencia.org.ve/wp-content/uploads/2020/09/Negocios-Chinos-Transparencia-Venezuela-agosto-2020.pdf> Accessed on 10th January, 2020.

249 Petroleos de Venezuela SA (PDVSA), "Informe de gestión anual" (Caracas, 2012).

250 Victor Mijares, "The Survival of Venezuela's Bolivarian Revolution" (E-Relations, 2020). <https://www.e-ir.info/2020/07/07/opinion-survival-of-venezuelas-bolivarian-revolution/> Accessed on 12th November, 2020.

world due to alleged evidence of unfair electoral processes.[251] In this sense, decisions coming from the actual Parliament might not be considered credible, regarding the doubts about the electoral fairness as well as the claims to another process to be held.

The government of Nicolas Maduro has been taking measures which do not comply with the required legal security for foreign investments in the country. Through the spurious National Constituent Assembly (NCA), whose creation in 2017 is argued, the government enacted the Anti-Blockade Law in November 2020. According to this unprecedented Law, the President of the Republic is able to disregard almost the entire legal system to take decisions concerning economic policies which might clash with existent legislation, such as the laws regulating the oil industry. Equally, the Anti-Blockade Law allows the *de facto* government to not comply with the required accountability and transparency of decisions.[252] Thus, Nicolas Maduro's regime upheld the intentions of a new economic policy through the aforementioned legal tool, aiming to advance a non-transparent process of privatization of Venezuelan state assets, including the oil industry.

Notwithstanding, the enacted Law raises important elements of uncertainty concerning its origin – the NCA – and also the attributions given to the de facto government of Nicolas Maduro since the regime itself could disregard the legal system and not comply with the rights of foreign investors who ignore economic sanctions and start operations in the country. Concerning that, the legal path to solve the crisis of the Venezuelan oil industry requires credible signs of will to return the country to the rule of law and check and balance between public powers. This route would disentangle the ongoing political and institutional conflict through the public powers renewal. The legislative power would have both domestic and international legitimacy to take the oil reforms forward. The renewal of public powers based in the respect of Venezuelan legislation is the condition established by the U.S. and other states to progressively discontinue the several kinds of sanctions, including economic ones.[253]

## IV. Synthesis: Comparison, Discussion, Lessons

The experiences discussed in the previous sections provide important elements of analysis and reflection on the impact of sectoral sanctions on O&G-producing countries in the search for changes in the behaviour of these states, and the effectiveness of the measures adopted to mitigate the negative effects on O&G industries and foreign investment in the sector. For these reasons, this section will conduct a comparative analysis of the three countries, seeking to identify elements in common and differences in the measures for managing the impacts of sanctions on the sector. To this end, several analysis criteria were created with a view to comparing the experiences, which are summarized in Tables 1 and 2.

According to the previous sections, sanctions are a tool of foreign policy usually applied when diplomatic attempts have failed, and whose strength depends on the scale of international

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[251] DW, "Chavismo elige Parlamento sin oposición ni reconocimiento internacional" <https://www.dw.com/es/chavismo-elige-parlamento-sin-oposici%C3%B3n-ni-reconocimiento-internacional/a-55836664> Accessed on 10th February, 2021.

[252] Allan Brewer-Carias, "La Ley Antibloqueo: Una Monstruosidad Jurídica para Desaplicar, en Secreto, la Totalidad del Ordenamiento Jurídico" (2020) <https://allanbrewercarias.com/wp-content/uploads/2020/10/212.-A.R.-BREWER-CARIAS.-Una-Monstruosidad-juridica.-Ley-Antibloqueo.-4-10-2020.pdf> Accessed on 15th December, 2020.

[253] BBC, "Sin Maduro ni Guaidó: EE. UU. propone levantar las sanciones a Venezuela si forma un gobierno de "transición democrática" con chavistas y opositores" (2020) <https://www.bbc.com/mundo/noticias-america-latina-52111278> Accessed on 10th February, 2021.

coordination. In this sense, both unilateral and multilateral sanctions require some consensus amid their issuers to be raised and to prevail. On one side, the consensus to raise a sanction encompasses political motivation, clearing the analytical perspective about sanctions being a political phenomenon against countries which struggle to breach the international order. All the countries this paper is concerned about, namely Iran, Russia and Venezuela, may have in some way violated international regimes, norms or values that justify the adoption of sanctions, often triggering pre-existent geopolitical issues and systemic rivalry between Western powers and labelled rogue States.

On the other hand, the consensus to keep a sanction running is linked to the extent to which an economic pressure may deliver a political change in the target country, whether a regime or specific policy shift. Despite significant economic impacts, the sanctions have caused little or no political change since the target countries thrive on greater control of domestic institutions and look for alternative economic partners and sectors, and the States issuers, in turn, do not discontinue sanctions to prevent their own recognition of a political failure.

The sanctions against Iran date back to the Islamic Revolution, underpinned by theocratic and anti-Western values, and still stand due to the Iranian disagreement with the nuclear non-proliferation regime and the United States withdrawal from the 2015 Joint Comprehensive Plan of Action – the most recent attempt of international agreement regarding the supervision of the Iranian nuclear program and the suspension of the embargoes against Iranian oil industry, maritime shipping and financial system.[254] In geopolitical terms, the Western pressure aims to curb Iranian financial capacity to support aligned regimes like Bashar al-Assad in Syria and Shiite political forces in Lebanon and Yemen.

Although sanctions have already cost the national budget about US$ 200 billion in revenue and devalued the Rial by half even before the coronavirus pandemic,[255] such economic pressures have not fostered a political change, whether a regime, a geopolitical aspiration or a nuclear policy change. Conversely, Western sanctions on the national hydrocarbons sector have paved the way to a nationalist and non-liberal energy policy since 1979, strengthened the anti-Western sentiment upheld by the theocratic regime, and also contributed to Iranian approach to alternative partners such as China, Russia and India.[256] Even though, sanctions still prevail because, in one hand, the United Nations ought to preserve international regimes; in the other, Western powers, mainly United States, shall protect the *status quo* in the Middle East and maintain prestige and influence amid allies such as Saudi Arabia and Israel, which support curbing both military activities and oil and gas production of Iran.[257]

[254] Fernanda Delgado. "Fundamentos de Petropolítica 2: Power, after all, is energy over time" (FGV Energia, May 2020)<https://fgvenergia.fgv.br/sites/fgvenergia.fgv.br/files/coluna_opiniao_especial_-_fundamentos_de_petropolitica_2_v2.pdf> accessed 4/08/2021.
[255] Farnaz Fassihi. "Iran Says U.S. Sanctions Are Taking Lives. U.S. Officials Disagree" (The New York Times, April 1, 2020) <Iran, Devastated by Coronavirus, Says U.S. Sanctions Are Taking Lives - The New York Times (nytimes.com)> Accessed on 30th August 2021.
[256] Pedro Albit. "The explosions of the Iranian strategical infrastructure and its geopolitical implications" (Boletim Geocorrente, N. 122, 13th August 2020). <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_136/mobile/index.html>
[257] Isadora Bohrer and Marina Corrêa. "Nuclear Agreement with Iran, new opportunities?" (Boletim Geocorrente, N. 143, July, 2021) <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_178/mobile/index.html>

The political grievances with Russia date back to the Cold War, concerning United States and former Soviet Union tensions. Despite Russian transition to the capitalist system, geopolitical and nationalist ambitions have been renewed in opposition to Western initiatives with the rising of Vladimir Putin in 1999, standing the State to guarantee political alliances around neighbouring countries in order to preserve sovereignty and energy security.[258] Since one of these neighbours and former soviet republics have intended to pull out of Russian influence, namely Ukraine, a critical situation has been raised with the annexation of Crimea in 2014 and the armed conflict in Eastern Ukraine between national forces and pro-Russia militias.[259] In this sense, Western sanctions against Moscow – which prevent both the top-four Russian energy companies from accessing U.S. financial markets and the European capital goods or private investments from accessing Russian energy market – convey economic measures instead of military approach, but altogether linked to geopolitical objectives.

Despite the economic interdependence highlighted by natural gas pipelines connecting Russian producing fields to European consumer markets through countries like Ukraine and Belarus, the political domain has prevailed to keep Russia apart from intervening in European affairs and boundaries. The Russian democratic context may also strengthen the consensus amid Western policymakers, including the support from their societies, to keep the pressure on, considering the ruling political party United Russia and the reports of persecution of opposition leaders and dissent voices, restrictions on freedom of expression, association and the press.[260] Nonetheless, the sanctions have still failed to challenge the occupation of Crimea and ease the conflict in Eastern Ukraine, not to mention the inability to overshadow the political regime and its international position. On the contrary, Russia has tightened the political regime and betted on multipolarity whilst building strategic partnerships in defence and energy domains with China,[261] India, and even with Iran and Venezuela. The reasons why sanctions still stand are related to Western refusal of giving into the Crimea episode. That would otherwise positively signal a territorial annexation by Russia, and to US energy interest to restrain Russia from oil and gas markets, especially in the European Union.[262]

The sanctions against Venezuela took place due to the crippling situation of democracy and human rights raised by the political regime inaugurated with former president Hugo Chávez and, nowadays, carried by Nicolás Maduro. The motivation extends to the violation of the international regime of human rights as well as the authoritarian measures issued by the regime against the freedom of political opposition, rule of law, fair elections and republican

[258] Daniel Yergin, "The Quest: Energy, Security, and the Remaking of the Modern World". (Penguim Books, 2012).

[259] José Gabriel Melo and Luiza Guitarrari, "The militarization of the Black Sea due to the escalation in Donbass"(Boletim Geocorrente, N. 137, April 2021) <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_166/mobile/index.html>

[260]Amnesty International, "Russian Federation Report 2020" https://www.amnesty.org/en/countries/europe-and-central-asia/russian-federation/report-russian-federation/ Accessed on 30th August 2021.

[261] Pérsio Glória de Paula, "The meeting between Serguei Lavrov and Wang Yi and the geopolitical dimension of Sino-Russian relations" (Boletim Geocorrente, N. 136, April 2021). <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_164/mobile/index.html>

[262] José Gabriel Melo, *NordStream 2: opportunity or threat to European energy security* (Boletim Geocorrente, N. 140, June, 2021). <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_172/mobile/index.html>

institutions.[263] Nonetheless, sanctions have deepened the ideological motivation that sustains the authoritarian regime because, instead of leading to a democratic transition with fair conditions to oppose political forces, sanctions strengthened Maduro's arguments of foreign intervention, political persecution and *coup d'état* temptation.

The next category, about the issuing agents, finds that only Russia and Iran have been the object of economic sanctions issued from multilateral instances. Both countries have been subject to economic sanctions issued by the European Union. However, only Iran has been the object of economic sanctions imposed by the United Nations Security Council (see table 1).

**Table 1.** Analysis criteria for the comparison of economic sanctions on selected countries

| **Categories** | **Russia** | **Iran** | **Venezuela** |
|---|---|---|---|
| Year of issuance of sanctions | 2014 and 2017 | 1995, 2012, 2013, and 2018 | 2017 and 2019 |
| Reasons for the imposition of sanctions | Annexation of Crimea | Development of the nuclear program aimed at the alleged creation of weapons | Violation of human rights and destruction of democratic institutions |
| Sanction Issuer | Multilateral (EU) | Multilateral (UN and EU) | Multilateral (EU) |
| | Unilateral (USA) | Unilateral (USA, Canada, UK, Japan, and South Korea) | Unilateral (USA, UK, Canada, etc.) |
| Type of Sanctions adopted | Financial | Commercial | Financial |
| | Commercial (Technological) | Financial | Commercial |
| Subjects of sanctions | Financial: Rosneft, Novatec, Transneft, Gazpromneft, and subsidiaries with a controlling stake (over 50%)<br><br>Commercial: Rosneft, LUKOIL, Surgutenefgaz, Subsidiaries with a controlling stake (over 50%) in Russia. | Financial: individuals, Central Bank, National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), National Iranian Tanker Company<br><br>Commercial: NIOC, NICO, Iranian Tanker Company. | Financial: individuals, Venezuelan Government, Central Bank, PDVSA and subsidiaries.<br><br>Commercial: individuals, PDVSA and subsidiaries. |
| | *Entities and persons if doing business with the above-mentioned organizations.* | *Entities and persons if doing business with the above-mentioned organizations.* | *Entities and persons if doing business with the above-mentioned organizations. Exceptions are allowed if approved by the OFAC.* |

*Source: own preparation based on data from section 3.*

The imposition of economic sanctions on the O&G industry responds to the awareness about the strategic role of oil on the economic stability of these countries. Likewise, these measures were adopted in the knowledge that foreign financial resources and, foreign technology, are

[263] Victor Cabral. "Mike Pompeo visits South America, increasing the pressure on Maduro" (Boletim Geocorrente, N. 125, September, 2020) <https://www.marinha.mil.br/egn/sites/www.marinha.mil.br.egn/files/flipping_book/index_142/mobile/index.html>

important to maintain and increase oil production capacity in these countries, which are vulnerable to fluctuations in the price of a barrel of oil.

Thus, the imposition of financial sanctions prevented state companies and other state organizations in these countries from trading in financial markets. In the Russian and Iranian cases, such sanctions were imposed by both the EU and the U.S. In the Venezuelan case, although they were applied only by the United States, banning transactions in U.S. dollars, other countries froze PDVSA's financial assets for fear of secondary sanctions, even if they were made in other currencies such as the euro (see table 2).

**Table 2.** Analysis criteria for the comparison of economic sanctions in selected countries

| Categories | Russia | Iran | Venezuela |
|---|---|---|---|
| Main impacts on the national oil industry | Halted access to financial services.<br><br>Limited access of foreign companies for joint venture projects of higher technological complexity (i.e.: shale, Arctic and deep-water projects) | - Suspension of private investments in partnership with State companies;<br>- Suspension of access to the U.S. financial system;<br>- Restrictions of access to equipment and services;<br>- Restrictions of access to financial services;<br>- Restrictions on the sale of crude and oil products;<br>- Restrictions on oil transport. | - Suspension of access to the U.S. financial system;<br>- Suspension of private investments in partnership with PDVSA;<br>- Restrictions on the sale of crude and oil products;<br>- Restrictions on oil transport. |
| Impact on oil production | Oil production increased in 5% between 2012 and 2017 | Related to almost 20% of oil production drop between 2011 and 2013, and 26% between 2018 and 2019. | Sanctions are related to around 45% of oil production drop between 2017 and 2020. |
| Types of contracts existing in O&G regulation | Concession<br><br>Production Sharing Agreement | Buyback Contract (until 2016)<br><br>Iran Petroleum Contract (IPC) (services contract) | Joint Venture<br><br>Concession (just for Natural Gas projects) |
| Local regulation affected foreign investment decisions? | | Yes | Yes |
| Measures adopted to mitigate the impact of sanctions | - Tax benefits Import substitution measures<br>- Rise of R&D investments<br>- Public preferential loans<br>- Special Investments Contracts (SICs), for local facilities installation and technology transfer | - Adding value to oil industry through the development of petrochemical facilities.<br>- Adoption of measures for the economic diversification and the exports.<br>- Import Substitution policies.<br>- Reducing fuel subsidies<br>- Privatization of energy companies | - The law Anti-blockade.<br>- Privatization of assets of the Venezuelan State, including those in the oil sector.<br>- Removal of currency exchange control.<br>- Lifting the price control of products and services. |

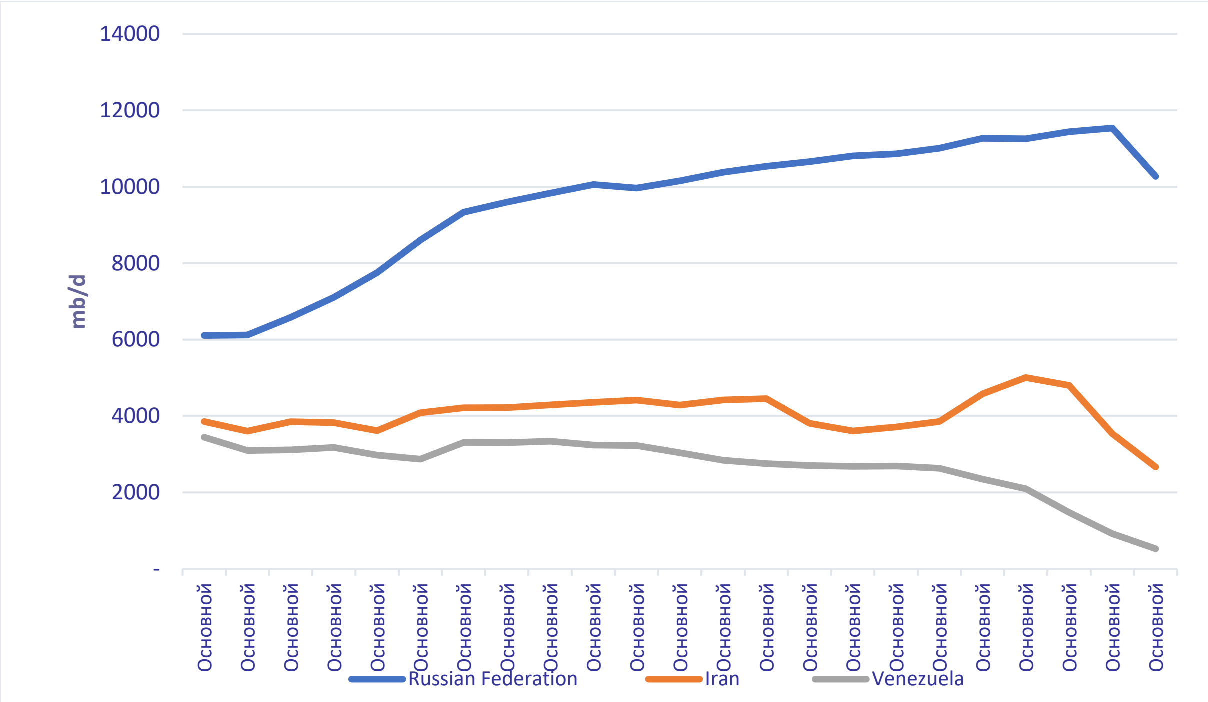
*Source: own preparation based on data from section 3.*

As Table 2 shows, the trade sanctions had the effect of suspending investment decisions by foreign companies in E&P projects, as well as in the supply of equipment and services to the industry. In the case of Russia, trade sanctions were directed at preventing the possibility of foreign companies doing business to develop projects on the new geological frontier, and which therefore demand more sophisticated technology. As a result, multinational operators and companies supplying equipment and services have halted contracts and suspended projects in unconventional areas, in the Arctic, and LNG projects. In the case of Iran, trade sanctions led companies to suspend their partnerships with state oil companies, and contracts for the supply of services without exceptions, leading to the suspension of contracts and projects, and the abandonment of the country. However, there were some exceptions. In the Venezuelan case, Western companies that already had operational projects in that country managed to maintain their operations. In the case of North American companies, OFAC granted licences extending their operations throughout 2019 and 2020.

In all cases, the sector's regulatory framework was designed to guarantee high government participation for the states. In the cases of Venezuela and Iran, the contractual modalities discouraged foreign investment and required adjustments in government participation and tax terms to attract international operators. Even oil and gas industry in Russia is controlled by its national companies, like Roneft, Lukoil and Gazprom. In this sense, sanctions against foreign private investments in the target countries have only a partial impact because these centralized oil industries depends the most on national companies' production, instead of foreign actors. Then, the use of trade sanctions is also envisaged.

In the analysis of the three cases, trade sanctions were found to have affected Iranian and Venezuelan oil exports from trading partners in various markets around the world, for fear of being subject to secondary sanctions. In this regard, the sanctions have also affected access to services for the transportation of oil from both countries. In addition to the prohibition of access to financial markets, the impact of trade sanctions affected the finances of the countries analysed, especially Venezuela, due to the pre-existing economic crisis and the country's less diversified economy. Related to the above, it was identified that, in the cases of Iran and Venezuela, sanctions influenced the decline in oil production (see Chart 3).

**Chart 3.** Evolution of oil production in selected countries (Russia, Iran and Venezuela)




*Source: own preparation based on BP data, 2020.*

As seen in Chart 3, Iran showed drops in production levels between 2011 and 2013, which, may have been influenced by trade sanctions. The same boss repeats itself from 2017, accelerating in 2018, after the US government abandoned the nuclear deal and tightened sanctions. In the Venezuelan experience, the imposition of sanctions also influenced the pace of the decline in oil production from 2017 onwards. However, in the Russian case, an impact on production levels was not identified, which even increased during the period of imposition of sanctions, as a result of the entry into operation of new projects operated by Russian companies. In this sense, Russia differs from the Iranian and Venezuelan cases in that it has its own financial, productive and technological capabilities to sustain, through its state-owned companies, part of the projects formulated and developed in sedimentary basins with conventional resources, thus reducing the degree of dependence on foreign companies.

## V. Conclusion

Private investments plays a critical role in the O&G sector of many petroleum producing countries, especially developing nations since they often lack the finance and/or technological advancements to develop the resource. Economic sanctions by international bodies or powerful nations have negatively affected petroleum producing countries as demonstrated by the case studies of Iran, Russia and Venezuela. Iran has faced sanctions since the 1979 Iranian Revolution. Sanctions have been imposed by the United Nations Security Council, the E.U. and certain foreign governments. Sanctions implemented were geared towards Iran's economy since they restricted imports and exports from Iran and affected aviation, maritime transportation, bank transactions and sale of oil and investment in the oil industry. Many of these sanctions have been waived by countries in 2016 during the Joint Comprehensive Plan of Action, where Iran and the United Nations p5+1 nations agreed on a nuclear deal. However, following the 2018 elections, the U.S. re-imposed a multitude of sanctions on Iran after withdrawing from the JCPA, which continues to hurt the economy of the country, especially its petroleum sector; which is heavily relied on for revenue. These economic sanctions have limited the investments from private investors, costing the country hundreds of millions of U.S. dollars, lost in revenue.

Similarly, Russia faced sanctions from the U.S. and E.U. in 2014 for their invasion of Crimea and again in 2017 by the U.S. Financial and technological sanctions were imposed. The Russian Federation is heavily dependent on their O&G sector which provides a large part of their budget. They further provide thousands of jobs and fund different charities in different regions within the Federation. Therefore, international sanctions imposed in 2014 and 2017 have caused devastation within their O&G sector and by extent the Federation. It is no surprise that their O&G industry is heavily dependent on foreign technologies and foreign financing instruments. Therefore, imposed prohibitions for the foreign companies to take part in the Russian shale projects, deep water projects, Arctic projects as well as limitations for financing of the Russian major oil and gas companies, seriously affected the Russian O&G industry. It is necessary to note that the Russian government's reaction to the sanctions was quite fast and several measures were implemented for stabilizing the situation, such as: local R&D stimulation and development, localization and import-substituting production's development, preferential loans' development. However, while there was a slight increase in their oil production due to discovery of new oil wells from 2012 to 2017, despite their unfavourable sanctions like Iran and Venezuela; Russia still faced significant loss and contraction of their O&G sector.

Additionally, Venezuela also faced sanctions like Russia, from the United States and European Union. Sanctions placed on Venezuela have affected its individuals since travel have been restricted, assets of individuals and companies have been frozen, a prohibition on commercial transactions for private individuals and companies implemented, a ban on acquisition on arms and the cancellation of military cooperation programs. However, unlike Iran, Venezuela is currently suffering an ongoing socioeconomic crisis with the drop of oil prices since 2014 and the continued devaluing of their dollar caused by recession. These sanctions have no doubt deepened the already dying economy of Venezuela. The sanctions above are of a sectoral type since they limited individuals, companies and the country, causing direct and indirect impacts on their stricken oil company that plunged further and suffered miserably, as private investments were restricted and lost, causing the decline of millions of U.S. dollars like Iran.

Therefore, in order to mitigate the impact of economic sanctions, the three countries analysed adopted incentive measures for foreign investment. In the case of Russia and Iran, both countries adopted measures aimed at diversifying their economies through import substitution. In the case of Iran and Venezuela, the measures contemplate privatization of assets and lifting of subsidies. In the Venezuelan experience, the regime of Nicolas Maduro contemplates the privatization of assets of the oil industry, lifted price controls for products and services and the control of foreign exchange, unsustainable measures due to the economic framework of the country.

However, it is important to highlight that, although the measures adopted have partially contributed to mitigating the impact of the sanctions, they are not enough. Additionally, despite the attractiveness of regulatory reforms, the fear of imposing secondary sanctions discourages companies from redoing business with sanctioned countries. Among the countries analysed, the case of Venezuela stands out due to its controversial anti-blocking law, since the law allows the regime to ignore the legal framework when making economic policy decisions that may conflict with the laws in force. Additionally, unlike the Russian and Iranian cases, the Maduro regime and the now defunct National Constituent Assembly are not recognised by the countries issuing sanctions as legitimate representatives of the Venezuelan state, which introduces additional elements of uncertainty about possible foreign companies interested in investing in the Venezuelan upstream.

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