

ROUNDTABLE MEMORANDUM



On January 25th, 2024, the Centenary Policy Institute (CPI) hosted a closed-door lunch meeting in Brussels at Cercle Royal Gaulois Litteraire et Artistique to find new measures to prevent Western corporates funding Putin's war effort in Ukraine and to discuss ideas prepared by CPI before finalising them.

Closed door event under Chatham House rules was attended by 22 participants from the Commission DG FISMA, Sanctions Unit, the European External Action Service, Directorate-General for Neighbourhood and

Enlargement Negotiations (DG NEAR), Permanent Representative of Lithuania, Brussel Energy Club (BREG), US Embassy and members of media.

Keynote speaker, Mr Roman Sulzhyk, co-founder of the Ukraine Breakthrough Fund (UBF), presented three new ideas to be implemented by the EU and G7:

- 1. Mandatory disclosure** of business revenue and tax paid in Russia by all Western corporates and other firms listed on exchanges in G7.
- 2.** An initial 5% flat tax on all non-sanctioned trade with Russia. This is to go up to 10% and higher after a fixed period to incentivize companies to exit Russia entirely.
- 3. All proceeds to be directed to an Internationally (EU, G7) run fund** for the reconstruction of Ukraine and compensation of damages suffered by businesses exiting Russia.
- 4.** Mr Paulius Kuncinas, Director of CPI and Moderator of the closed-door roundtable discussion explained that the primary goal of the discussion was to find a consensus on the following question: what are:

- the political prerequisites of;
- the appropriate legal instruments for;
- and the financial implications of, the coming new round of sanctions?

Mr Arnoldas Pranckevicius, Permanent Representative of Lithuania confirmed that this is a welcome initiative from the corporate sector to propose new forms of sanctions that impose a high cost on doing business with Russia and incentivise Western corporates to exit the country entirely. Mr Pranckevicius highlighted the problem of uniform implementation of existing sanctions and of the exploitation of loopholes to circumvent them.

Mr Klaus Welle, speaking both in a private capacity and as a long-serving member / Secretary General of the European Parliament (EP), expressed his view that there is a political will within the Parliament to approve new measures. And this resolve to back new sanctions will also be there after EP elections.

He repeated his view that the war in Ukraine is Europe's war and has grave consequences for Europe. We have to find the will to stand up to the Kremlin's attempt to destroy European democracy, said Mr Welle.

Mr Vilius Bernatonis, Managing Partner of TGS Baltic, confirmed that there was always a risk of encountering

legal hurdles. That should not stop us, he observed. The laws are fundamentally based on values. When you are facing an enemy who does not follow any rules and does not share your values, you have no choice but to adapt your laws and take risks to counter lawless behaviour by a state actor. He agreed it was urgent to act and affirmed that the EU had not exhausted its capacity to impose a higher cost of doing business with Russia.

Prof Allan Riley suggested that there was a lot more that Europe could do to go after the personal wealth of individuals linked to the Russian state. There are legal methods to achieve this goal, which initially looks like "mission impossible", he said. We must find the will to do more.

Detailed Discussion Points and Proposals

Roman Sulzhyk, Co-Founder of the Ukraine Breakthrough Fund (UBF)

1. Europe is not using its full arsenal of tools in its efforts to isolate Russia economically.
2. If, for example, Russia attacked an EU country, would you expect the EU to continue trade with Russia at the same level as today? Would it continue to buy oil and gas from Russia? Would it allow ships carrying Russian oil into EU ports? I don't

think so.

3. I cannot ask for a complete trade embargo on Russia today. That's impossible. But let's think about what an embargo would look like if the Russians were actually to attack Europe. And let's try to go down that road as far as possible.

1. What I'm proposing to start with is **mandatory disclosure by Western corporates of their Russia exposure.** This is something I've been pushing for since the beginning of the war. In fact, we have already sent a letter to the US Securities and Exchange Commission proposing it.

2. The idea is that access to capital markets, including Western capital markets, for all companies is a privilege, not a right.

3. Therefore it is acceptable to impose a mandatory requirement to report to its investors, as a publicly traded firm, whether it has current dealings with Russia.

4. The proposed requirement would be for each company to disclose:

- a. The amount of taxes it pays in Russia
- b. How much trade it does with Russia
- c. How many people it employs there; and
- d. What assets, of what value, it has there.

5. The idea is not to make it too expensive for companies to report, but on the contrary, to make it very cheap – so that the majority of companies can just say: “We have zero exposure to Russia.”

6. As to those companies that *do* have exposure to Russia, they would be obliged to report it to their shareholders. We believe this could be an extremely important tool to increase the pressure on publicly traded firms – and might actually induce some businesses to leave.

7. It's impossible to cut off trade with Russia completely. But let's at least tax it. Let's put a 5% tax on all trade transactions.

8. Currently the annual trade turnover of Russia with the G7 is in the region of EUR 200 billion. If we managed to tax at least some of this, we could get perhaps EUR 5-10 billion a year.

9. If these proceeds were used to establish a fund, however, it could yield a steady stream of income – one that could continue to flow for decades after the war is over.

10. And my proposal is this: let's create a pool of money, managed by the EU and the G7 quasi sovereign institutions – along the lines of the EBRD – and direct the proceeds of the proposed tax to this pool, not to the Ukrainian budget.

11. This money should be used to fund

Western (i.e. European and American) companies in rebuilding Ukraine – starting early, even right now!

12. However, right now it is very hard to persuade Western corporates to invest in Ukraine. So at the beginning we should focus on procurement. This would not merely mean a new highway, but might also stop worried Polish truck drivers from blocking the border with Ukraine.

Mr Arnoldas Pranckevicius, Permanent Representative of Lithuania to the EU

1. We need to increase pressure on the aggressor, and to make Russia pay for what it has done, and is still doing, in Ukraine.
2. Private sector proposals are very welcome. Lithuania is among the EU member states that have been most active in sanctions policy. It has, in fact, been active in all 12 sanctions packages that have been adopted in the last two years.
3. We've not only been pushing for these packages. We've been actively contributing our own ideas to them. These have sometimes ended up in proposals submitted jointly with like-minded partners, the other Baltic States and Poland. We have also sometimes submitted our own

proposals, in terms of sectoral sanctions.

4. Again, as you say, we're now about to start – hopefully very soon – on negotiations for the 13th package, which we hope will come into force before February 24th.
5. As we look at the whole story, we should definitely not be indulging in wishful thinking, in assuming that everything is rosy. I think it's good that both member states and EU institutions have come to the realisation that there are many problems with the implementation of sanctions.
6. One is related, of course, to uniform application of sanctions. This is because we often don't have a uniform understanding of which sanctions work in which member states.
7. Secondly, of course, there is the problem of loopholes and the use of them to circumvent sanctions. Which is certainly happening. Indeed, since maybe the 9th or 10th package, the focus has increasingly been on fighting the circumvention of sanctions.
8. Another important task is to expand the lists of advanced technologies subject to sanctions. This goes especially of the so-called Dual-Use Annexes, which list those products and components that have been found on the battlefield, having

made their way to Russia.

9. Thus, it's a never-ending task to add thousands of products and components to these lists with every single package – and, at the same time, to limit as much as possible the (claimed) transit of those dual-use products, through Russia and Belarus, to countries in Central Asia, the South Caucasus and elsewhere.
10. Because there we see the biggest loophole. As a frontline member state, Lithuania sees in our customers' data that a lot of dual-use products are still *en route* – destined for countries where they are legally permitted to go – but that they are getting there through Russia. And nobody has any guarantees that they don't remain there.
11. Your report today has been interesting in the two ways:
 - a. First, it does limit European businesses' engagement with Russia, which is very important. The proposals on public disclosure are also useful.
 - b. Second, it gives us additional revenue for Ukraine's reconstruction, which of course is a major challenge for all of us, on both sides of the Atlantic. The EU has just agreed on a EUR 50 billion Ukraine facility.

Mr Vilius Bernatonis, Managing Partner of TGS Baltic

1. I would like to say that it's extremely important that this initiative is coming from the private sector. It means that this is not a political discussion. It is about values.
2. Sometimes people turn to law to stay inside their comfort zones, being extremely concerned to get a clear-cut answer as to whether a step is legal or illegal. They ask: has this been done in the past? And: do we have a mechanism? And the answer is, of course we don't. Because we don't have a mechanism in law that envisages a quick and effective response to the lawless behaviour of a government.
3. We have United Nations mechanisms, but these are usually long-term and their effectiveness is debatable.
4. So I think what is important in relation to this idea is that we make sure that we don't look for standard answers or standard mechanisms.
5. I would like to say that I think law is about values. Law is about protecting law and order. The late Japanese Prime Minister Shinzo Abe once said to a group of lawyers: Do you know what the rule of law is? The rule of law is the antidote to the rule of the strong, to the rule of power.

6. So we have a power which thinks it's strong enough to disregard any law. And the question is: does law have an answer? And I think it does. In our situation, law talks about legitimate expectations.
7. For example, I don't think any private business can at present have any legitimate expectation of being able to profit from trade with Russia.
8. Europe is in the process of preparing the 13th package of sanctions. So, if there is a tax tomorrow, I don't think anybody will be able to object to it legally by referring to "legitimate expectations" of being able to profit from such trade.
9. However, in terms of process, I think this has to be thought through. Because, obviously – and this has nothing to do with Russia – there is a certain wariness in Europe of EU-level taxation.
10. But I think this can be done with the help of the member states. Member states, of course, have a have a right to expect that, once they collect a tax through their mechanisms, they can keep part of it to cover their administrative costs. This is important, so these details have to be worked out.
11. But my reaction to the proposal is: absolutely, this is realistic.

Mr Klaus Welle, former Secretary General of European Parliament

1. I cannot speak for the European Parliament (EP). But I was, for almost 14 years, EP Secretary General. So I know the place quite well. And I can assure you that any additional measure that can be taken to support Ukraine and to deter Russia will be supported by the European Parliament with huge majorities – no question.
2. We invited President Zelensky to address Parliament digitally, a couple of days after the invasion. We were the first to set that example.
3. Thus, the European Parliament's support for Ukraine is without any doubt there.
4. I think we need fresh ideas, especially in the area of financing, because otherwise there will be not enough public money. I think that's very clear. There are some legal issues around using the Russian assets that have been frozen.
5. So they need to be fresh ideas. And here we have some fresh ideas on the table on new sources of money and on how to deter business-as-usual with Russia, and I think that must be very welcome. It's up to the experts to see what can be done.
6. If your question were purely political, you could be sure that 80%-90% of

EP members of the European Parliament would support additional measures in this regard.

Professor Alan Riley, nonresident senior fellow with the Atlantic Council Global Energy Center. **expert on Russia sanctions gave a review of what had worked, in terms of the sanctions that are already in place**

The most dramatic problem we have had so far was with the price cap on oil. This didn't seem to work at all for a European markets – and therefore global markets – at prices much higher than that specified in the price cap.

There are questions about what we're doing here, because it seems to me that one of the issues is that a lot of these “ghost ships” are not in great shape. They don't have proper insurance, they have environmental issues, they have safety issues, they have security issues. And they are effectively going through our exclusive economic zones and into our waters, the Baltic Sea.

while, which basically allowed oil revenues to keep coming into the Russian Federation.

And the situation now is quite problematic too. The price cap is now in place and working after a fashion, but by acquiring a large number of so-called “ghost ships”, the Russians are essentially able to bust the price cap and to sell onto

4. That will be one area where we could look at something which would be quite effective and could be done quite quickly. It would require some European neighbours – or perhaps the US Navy – to police that, but essentially it could be done. Since everyone would see the “show”, what we would do is to put up, temporarily, with having some frigates hanging around our ports; put people on board the ships; and do an inspection. And if the ship does not comply with European safety and environmental standards, we say that it can't proceed on its journey through our exclusive economic zone.

Selected Interventions from Roundtable Participants (names cannot be disclosed without prior approval):

1. Representative of the Commission said on exit from Russia “we have measures in our sanctions, which really taking hard measures to prevent this is a pattern they have in total, we talked about rule of law rule against the rule of the strong is exactly what is happening in Russia.

2. On circumvention representative of the Commission said “we know we have our diplomatic channels, which are very important. But we also have to pursue the angles from supporting our companies on how to practically implement measures that will prevent, for instance, reexport of Russia” allow the exits of Western companies from Russia. But it's not what they really see what is entirely happening.

And whatever the reason of that? The first is that we know that Russia is

3. Representative of energy think tank in Brussels said “it's a really important time not just talk about sanctions in a technical way. EU and member states need to think of a bigger dimension politically and what is the ultimate goal. We need to look at it in a deeper way. We can take some lessons from history.

4. One representative from the Commission said: “We need to do what we can with the instruments available to us. Two years ago, we didn't think that oil gas could be sanctioned and yet it is partially.”

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