

Текст опубликован на сайте всероссийской научной интернет-конференции «Ялта-45/16. Феномен международной дипломатии в истории военных конфликтов».

Адрес ссылки: <http://yalta-45-16.mya5.ru/materialy-dokladov/>

«The impact of international economic sanctions against the russian federation in the civil-law obligations: problem statement»

Zaripov S.Z., Vahitova G.V.

Institute of Law of Bashkir State University

ABSTRACT

The article is devoted to the introduction of international sanctions against the Russian Federation, which introduced new features of the relationship between Russia and major international powers, the United States, China, the European Union, as well as significantly affected the relationship between business companies in different countries. The article shows main types of the sanctions imposed on the Russian Federation and on what documents they are based, as well as examples of the consequences of a breach of the sanctions regime is given.

International relations are arranged in such a way that any effectively developing country, is forced to be engaged in economic relations for the exchange of resources, goods and production expertise of specialists. The labor force, the availability of energy resources, technologies, favorable climate, and accessible environment for business development can serve as such resources.

By entering into a relationship with any community it is necessary to work on their set of rules - international relations are not exception. Nowadays international law developed and worked out the rules of international relations, recognized in most countries, such as: the Vienna Convention of Treaties, United Nations Convention on

Contracts for the International Sale of Goods 1980, and many others. Any legal system provides liability for their violation. Appropriate measures are provided in international law, they are known as "sanctions".

"Sanctions" commonly mean measures of the impact on a certain person or the state in order to enforce execution of international obligations. However, if originally the sanctions essence were to enforce execution of generally accepted norms of international law, in the modern world it is more a tool of deterrence, subordination of one country by the others by means of the economic isolation. Sanctions may be imposed by the United Nations Organization and the European Union. The possibility of sanctions imposing is fixed in the UN Articles 41 and 42 of Chapter VII of the Charter "Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression" [2, p. 7], [12, p. 82-83]. From these documents, it follows that the sanctions can be of the following types:

- Economic usually expressed as the embargo, or termination of service;
- Financial, which are expressed in the freezing of assets and limitation of access to financial markets;
- Diplomatic - cancellation of visas, diplomatic missions members recall;
- Restriction of movement - a ban on entry onto the territory of the state.

In 2014, as a result of the political conflict, the international community led by the United States imposed international sanctions against Russia.

Sanctions against the Russian Federation consists of a list of individuals and entities whose assets are blocked abroad, and undesirable cooperation with foreign partners - «Specially Designated Persons», as well as the list of companies covered by sectoral sanctions - «Sectoral Sanctions Identifications». Individuals from this list are completely isolated from the financial system of America. In both cases, the sanctions execution control is entrusted to the Bureau of Industry and Security (BIS)

and agencies involved in the management and control of Foreign Assets (OFAC) ^[10, p. 1].

This section imposes controls on the export, reexport or transfer (in-country) of any item subject to the EAR listed in Supplement No. 2 to this part and items specified in ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 when the exporter, reexporter or transferor knows or is informed that the item will be used directly or indirectly in Russia's energy sector for exploration or production from deepwater (greater than 500 feet), Arctic offshore, or shale projects in Russia that have the potential to produce oil or gas or is unable to determine whether the item will be used in such projects in Russia. Such items include, but are not limited to, 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 ^[9, p. 45676 – 45677].

Considering that in 2013, the export of oil and petroleum products accounted as 16.9% of Russia's GDP and 68.1% of total exports of the country ^[8, p. 36], as well as in 2013 achieved agreements of joint development of the Arctic shelf by companies "Rosneft" and «British Petroleum», in which 43 of the 61 fields owned by the Russian Federation and where technologies that Russia today does not yet possess in enough quality manifestation are required, it becomes obvious that the international sanctions against the Russian Federation is an instrument of stopping the development of the oil production industry and an increase of our country's GDP.

First of all, it's needed to be understood that the sanctions imposed by the US and the EU with regard of Russia, as well as all similar sanctions against other countries, are of a legislative nature, therefore, mandatory for citizens and legal entities of countries who introduced the sanctions. Since compliance with the

sanctions is the law, it should be liable for violation of the law. The USA has mostly developed mechanism for liability of the sanctions violation ^[4, p. 1].

To date, in the banking sector, the most prominent violators of the sanctions regime are: Dutch bank ABN AMRO, ING, British banks Barclays, Standard Chartered, Lloyds TSB, HSBC ^[1, p. 1-2], Scottish Bank Royal Bank Scotland, the German bank Commerzbank, Swiss bank Credit Suisse ^[13, p. 1-4], French bank BNP Paribas ^[14, p. 1] in these cases, the fines ranged from \$ 80 million to \$ 9 mlrd ^[15, p. 1]. From the latter violators of the sanctions regime in oil industry was Shlumberger, which also will pay the multimillion fines ^[11, p. 1-2].

Violation of EU sanctions regime also supposes the application of penalties. However, to date, there is no document in which about application of monetary penalties is said. It is saying only that the penalty should be effective, proportionate and render dissuasive impact ^[3, p. 1].

Perhaps, initially, it was expected that sanctions will recover violated law and were exposed only against offender country. However, the use of the reserve currency system by the countries, trading in the international market, has led to the fact that the economic sanctions against the offender country leads to a negative impact on the countries' that introduces sanctions.

Under the current circumstances the problem is the sudden change in the exchange rate difference in determining the value of currencies in rubles. This leads to a significant change in terms of the price in the international contracts and is a reason to review by the parties of the contract the price terms in a negotiation or a court order way. More importantly, the increase of the contract price in rubles is more likely to lead to its nonperformance by Russian counterparts. According to the Judicial practice only the growth of the US dollar price is not sufficient for the termination or changes of contract terms ^{[5, p. 3], [6, p. 3], [7, p. 3]}. The current judicial practice shows that, deals made before the ruble value change became unprofitable. That is true for both sides, one side cannot import the previously agreed amount of

goods, the other - cannot sell the amount of goods already produced. In fact, there is a narrowing of the foreign goods market, which leads to the emergence of new Asian and Russian producers, whose prices are cheaper than European. Of course, the European contractors understand this and must solve the problem of impossibility of performance of obligations by the Russian contractors' during negotiations or in international commercial arbitrations.

Thus, international sanctions are well designed instrument of international influence and affect all kind of relations, making it difficult to conduct and develop the business in country came under the sanctions, but at the same time to a large extent are not profitable and for the countries introduced sanctions.

List of used sources

1. Barclays Bank PLC Agrees to Forfeit \$ 298 Million in Connection with Violations of the International Emergency Economic Powers Act and the Trading with the Enemy Act // US Department of Justice. 18.08.2010.

2. Charter of the United Nations (adopted in San Francisco 06/26/1945) - "Information Retrieval System Consultant Plus".

3. Council Regulation 833/2014 of July 31, 2014 // Official Journal of the European Union. L229 / 1.

4. "Difficult business while sanctions" by Igor Subbotin // Magazine «MKRU», 2014.

5. Decree of the Federal Arbitration Court of the West Siberian District from 11.01.07 № F04-8719 / 2006 (29809-A75-16).

6. Decree of the Federal Arbitration Court of the Moscow District of 30.03.04 № KG-A40 / 1895-04.

7. Decree of the Federal Arbitration Court of the North-Western District of 24.06.04 № A56-33532 / 03.

8. "Exposure to export liquefied natural gas to the US security and foreign policy of European Russia" by Jason Bordoff and Trevor Houser // analytical review - America Gas to the Rescue. September 2014, p. 36.

9. «Russian Oil Industry Sanctions and Addition of Person to the Entity List» - usually the Bureau of Industry and Security on August 6, 2014.

10. "Sanction jungle: a program for action against Russia has become more difficult than Iran's" by Ivan Tkachev, Alyona Sukharevskaya. // Business. War sanctions. RBC 2014.

11. Schlumberger Oilfield Holdings, Ltd. Agrees to Plead Guilty And Pay Over \$ 232.7 Million for Violating US Sanctions By Facilitating Trade with Iran and Sudan // US Department of Justice. 03/25/2015.

12. The Treaty on the Functioning of the European Union (Rome, 25 March 1957) (as amended by the Treaty of Lisbon, 2007) - "Information Retrieval System Garant".

13. USA vs. Credit Suisse AG, court for the Eastern district of Virginia, .criminal NO 1: 14-CR-188

14. USA vs. BNP Paribas, SA, court Southern district of New York, criminal NO 14.

15. Washed - paid: as the US punishes for violation of the sanctions regime // Forbes. August 2014.

Personal Information:

Zaripov Salavat Zagirovich, senior expert of criminal expertise department of Ministry of Internal Affairs of Russia for the city of Ufa, undergraduate of Civil Law Department of Institute of Law of Bashkir State University.

Phone number: 8917 753 51 49.

Vahitova Guzel Valerevna Ph.D in Philology, senior lecturer of the Chair of International Law and International Relations of Institute of Law of Bashkir State University.

