COMMENTARY

'If You Can't Beat 'em, Join 'em': An Argument for US Support of and Participation in INSTEX

Keith A. Preble*

US policymakers have said little in response to the Instrument in Support of Trade Exchanges (INSTEX) and its efforts to seemingly undermine US economic sanctions by downplaying its significance and making a single threat of severing European access to the US financial system. Should INSTEX be feared? INSTEX, which currently has ten European members, has been marketed as a humanitarian mechanism largely directed toward Iran to preserve the Joint Comprehensive Plan of Action and mitigate the impact of US economic sanctions by helping to facilitate trade in medicines, medical devices, food, and other humanitarian goods. I argue that US efforts to quash or undermine INSTEX are counterproductive to US interests and US foreign policy and that the US should work collaboratively with Europe in both the development of INSTEX and, ultimately, through participation in it. I discuss how INSTEX's commitment to Financial Action Task Force (FATF) principles makes it an important outlet through which the US can not only shape its development and implementation but also in helping to generate goodwill throughout the international community by permitting trade in humanitarian goods through reliable channels. Failure to address the development of this nascent special purpose vehicle has long-term implications for US foreign policy by weakening the effectiveness of economic sanctions and US financial dominance.

Keywords: INSTEX, cooperation, economic sanctions, FATF, US financial system, special purpose vehicle, blocking mechanisms, humanitarian trade

When the E3 – Germany, France, and the United Kingdom – unveiled INSTEX to the world on 31 January 2019, the foreign ministers declared a ' … resolute commitment and continued efforts to preserve the Joint Comprehensive Plane of Action'.[1] The Trump Administration had exited the agreement on 8 May 2018,[2] jeopardizing the economic provisions in the deal that provided sanctions relief to Iran and a potential snapback of UN sanctions. US reactions to INSTEX's debut were minimal with less than veiled threats that INSTEX would simply be sanctioned without publicly acknowledging the E3's effort to continue to support the Joint Comprehensive Plan of Action (JCPOA). Since its inception in 2019, additional European Member States have since joined the special purpose vehicle (SPV) and China and Russia have also made public statements in support of INSTEX,[3] which represents efforts to undermine the impact of US economic sanctions. Efforts to undermine US economic sanctions should come as no surprise. The Biden Administration's promised and much-touted sanctions review described the immense growth in blocked person and sanctions programs administered by the United States as US sanctions programs and blacklisted individuals has exploded in recent years.[4] As responsibilities of Treasury regulators has grown, significant resource deficits have developed as personnel leave government service (often for more lucrative positions in the private sector) and morale declines.[5] If the US continues the pace at which it employs economic sanctions, finding ways to influence the development of SPVs and other efforts that undermine US sanctions may prove vital to US economic power.

Notes

* Keith A. Preble, Ph.D., is a research fellow at Center for Policy Research at the University at Albany, SUNY where he currently works on the Project on International Security, Commerce, and Economic Statecraft (PISCES). He can be reached at Email: kpreble@albany.edu.

1 Federal Foreign Office, *Joint Statement on the Creation of INSTEX, the Special Purpose Vehicle Aimed at Facilitating Legitimate Trade with Iran in the Framework of the Efforts to Preserve the Joint Comprehensive Plan of Action (JCPOA)*, German Federal Foreign Office (2019), https://www.auswaertiges-amt.de/en/newsroom/news/joint-statement-e3-foreign-ministers-creation-instex/2185400 (accessed 7 Mar. 2022).

2 White House, Office of the President, *Remarks by President Trump on the Joint Comprehensive Plan of Action – The White House* (2018), https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action/ (accessed 2 Jun. 2022).

3 Kenneth Katzman, *Iran Sanctions* 93 44 (2022), https://sgp.fas.org/crs/mideast/RS20871.pdf (accessed 7 Mar. 2022).

4 US Department of the Treasury, *The Treasury 2021 Sanctions Review*, 5–7 (2021), https://home.treasury.gov/system/files/136/Treasury-2021-sanctions-review.pdf.

5 Keith A. Preble, *Sanctions Reform Should Start with the Treasury Office Enforcing Them*, War on the Rocks (2021), https://warontherocks.com/2021/11/sanctions-reform-should-start-with-the-treasury-office-enforcing-them/ (accessed 22 Nov. 2021).

Sanctioning INSTEX transactions may prove difficult for US regulators as the financial flows are conducted by non-sanctioned banks within the EU. Transactions facilitated by the Iranian counterpart to INSTEX involve inter – or intra-bank transfers within Iran, which US regulators would be unable to stop. US regulators would be forced to sanction facilitators of trade finance, shipping, and logistics, which may prove difficult to monitor and enforce as it would potentially include a number of important US firms and key foreign firms of US allies, especially those in Europe. The political and diplomatic repercussions would likely be untenable for any US administration, which requires European support on several foreign policy fronts, especially efforts at halting the proliferation of weapons of mass destruction. While de-dollarization of financial transactions and trade would not happen quickly, some analysts see it as inevitable as China and Russia develop alternative financial institutions and work within a coalition of willing states through BRICS - Brazil, Russian Federation, India, People's Republic of China, and South Africa - to minimize their exposure to US sanctions.[6] Efforts like INSTEX represent a clear and present danger to US financial and economic hegemony as INSTEX represents a workable template for future sanctions evasion.

The development and growth of INSTEX remain quiet as European leaders presumably welcome efforts by US policymakers to reinvigorate transatlantic ties that had become strained during the Trump Administration. Having signaled a greater willingness to cooperate on the use of economic sanctions and foreign policy interests,[7] European partners – at least publicly – *appear* less committed to further development of the SPV. Yet despite the lack of attention INSTEX appears to be receiving, its membership has grown as seven additional EU Member States have since joined the original three.[8] Russia's recent invasion of Ukraine may also represent a test of coordination. As sanctions against Russia are likely to persist for quite some time, the US and EU are bound to diverge on the use and application of such sanctions against not only Russia but also Iran. An increase in the number of economic sanctions and their enforcement – which seems likely given the growth of sanctions programs and additions to the United States' Specially Designated Nationals and Blocked Persons (SDN) list – may not only further impede the delivery of humanitarian assistance and other permissible trade as administrations change and divided government persists but also exacerbate tensions in the way that US foreign policymakers employ US sanctions. Operating under the logic that the enemy of my enemy is my friend, I argue that the United States should not only support the development of INSTEX but also join it and permit US firms to participate in it. US and European policymakers may disagree on a number of policy matters but the benefits of preserving transatlantic ties in the wake of common threats outweighs the costs of fostering support and possibly joining INSTEX.

Given Financial Action Task Force (FATF) warnings on Iran[9] and the complexities of meeting formerly stringent US demands for information in facilitating humanitarian trade,[10] United States participation in INSTEX would allow it to develop and shape humanitarian channels for aid while simultaneously preserving its sanctions programs and also coordinating with key allies on the tenor and shape of sanctions program. Such humanitarian channels could be utilized not only for Iran but other jurisdictions where US economic sanctions have created humanitarian difficulties as has been observed in Afghanistan[11] and Syria.[12] As FATF regulations are the cornerstone of INSTEX,[13] the SPV is well-placed to ensure that trade with Iran remains compliant with these principles. US participation would allow it to shape operations of the SPV while permitting US companies, in particular, of fulfilling orders for humanitarian goods to Iran. Such an action could potentially mitigate the atmosphere of overcompliance and de-risking that many firms have engaged in while freeing up Treasury resources to focus on other investigations, especially those involving non-financial institutions and sanctions programs targeting Russia and North Korea. More importantly, it would give the United States an opportunity to shape the development of a prominent sanctions evasion tool by US allies that could potentially serve as a blueprint for US adversaries while providing a reliable, FATF-compliant mechanism for facilitating critical goods to sanctioned populations.

Notes

6 Zongyuan Zoe Liu & Mihaela Papa, *Can BRICS De-dollarize the Global Financial System?* (2022), https://www.cambridge.org/core/elements/can-brics-dedollarize-the-global-financial-system/0AEF98D2F232072409E9556620AE09B0 (accessed 2 Jun. 2022); Rebecca M. Nelson & Karen M. Sutter, *De-Dollarization Efforts in China and Russia* (2021), https://crsreports.congress.gov/product/pdf/IF/IF11885.

7 European Council, *EU-US Summit,* Brussels, (15 Jun. 2021), https://www.consilium.europa.eu/en/meetings/international-summit/2021/06/15/; The White House, *US-EU Summit Statement* (2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/u-s-eu-summit-statement/.

8 Federal Foreign Office, *supra* n. 1.

9 High-Risk Jurisdictions subject to a Call for Action – 21 Feb. 2020, https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/call-for-action-february-2020.html (accessed 14 Mar. 2022).

10 US Department of Treasury, *Financial Channels to Facilitate Humanitarian Trade with Iran and Related Due Diligence and Reporting Expectations* (2019), https://home.treasury.gov/system/files/126/iran_humanitarian_20191025.pdf.

11 Keith A. Preble & Bryan R. Early, *Eliminating Sanctions On the Taliban Won't Solve Afghanistan's Deepening Humanitarian Crisis*, War on the Rocks (2022), https://warontherocks.com/2022/01/aid-not-sanctions-relief-eliminating-sanctions-on-the-taliban-wont-solve-afghanistans-deepening-humanitarian-crisis/ (accessed 10 Mar. 2022).

12 Erica S. Moret, *Humanitarian Impacts of Economic Sanctions on Iran and Syria*, 24 Euro. Sec. 120–140 (2015).

13 INSTEX Europe, *About Us* (2019), https://instex-europe.com/about-us/.

I begin the next section with a brief discussion of blocking mechanisms developed by Europe followed by a discussion of INSTEX itself. I then discuss why and how the United States should support the EU's development of this mechanism for trade and commerce by arguing that the shape that INSTEX takes could help the United States ward off efforts to minimize the scope, power, and reach of US economic sanctions.

1 EU blocking regulations: A precursor to INSTEX

INSTEX is not the first time that European countries have pushed back against the use of US economic sanctions against European trading partners. In the 1990s, US foreign policymakers noted that its sanctions programs against Cuba had done little to topple the Castro regime. While Cuba remained economically isolated from US markets, US allies Canada and Japan enjoyed in robust trade with Cuba as did many European countries.[14] The US passage of the Helms-Burton Act infuriated European leaders and ignited a diplomatic firestorm over the creation of US secondary sanctions, those sanctions applied to third parties and prohibit third-party firms from doing business with US firms who continue to do business with firms in sanctioned states. Over time, the US has applied secondary sanctions extraterritorially, which has further expanded the range of US regulators like Office of Foreign Assets Control (OFAC)[15] while also accelerating the push to develop mechanisms to evade US sanctions.

The Europeans pushed back against the imposition of these sanctions with the creation of blocking regulations.[16] These regulations, which the EU revived in 2019, prohibited European companies from complying with US economic sanctions. European firms, in particular, now faced the prospect of fines not only from the European Union but also from US regulators, namely the OFAC. A recent analysis of the first European case involving the blocking statute noted that 'EU operators are likely to continue being caught between a rock and a hard place and face difficulties navigating conflicting sanctions laws in the US, EU and other jurisdictions'.[17] With both OFAC and the European Commission both using 'blunt instruments'[18] against firms navigating complex sanctions environments, there is a clear need to work cooperatively on both sanctions *implementation* and *enforcement*. European financial firms have faced stiff penalties in the hundreds of millions of USD through several years of the Obama Administration for facilitating financial transactions for a number of sanctioned entities, namely Iran.[19] The difficulty in now pleasing two regulatory systems was likely not lost on many EU firms. Even though blocking mechanisms seem unlikely to be utilized against European firms, the E3 designed INSTEX to avoid running afoul of US regulators in an effort to preserve its foreign policy autonomy and commitment to the JCPOA.

2 INSTEX: A Primer

INSTEX has been much discussed and touted, especially by European analysts, while largely dismissed in the United States. Some analysts see INSTEX as an effort to undermine dollar dominance,[20] while others see the development of the SPV as a way of avoiding US secondary sanctions and mitigating the humanitarian impacts of economic sanctions. The likely answer is that INSTEX is likely a bit of both: European efforts to maintain humanitarian channels to sanctioned countries while simultaneously limiting the (over)reach and impact of US economic sanctions. Just how does INSTEX avoid US regulators? Let us review an example.

Imagine that you manage a European pharmaceutical company, and you have received an order for several drugs and medicines from an Iranian pharmaceutical distributor. Because of the economic sanctions, your company decides to cancel the order; the company's compliance staff have warned the bank that will not facilitate payment with any banks in Iran for fear of running afoul of US sanctions despite having a license to conduct such trade. Before INSTEX, the order would be canceled, and the Iranian distributor would have to try to find another supplier. The Iranian company would likely encounter similar issues as none of the other European suppliers will supply the drugs and medicines it requires for fear of violating US sanctions.

Notes

14 *Other Diplomacies, Other Ties: Cuba and Canada in the Shadow of the US* (Luis René Fernández Tabío, Cynthia Wright, & Lana Wylie eds 2018); William M. LeoGrande, *A Policy Long Past Its Expiration Date: US Economic Sanctions Against Cuba*, 82 Soc. Res.: An Int'l Q. 939–966 (2015).

15 Bryan R. Early & Keith A. Preble, *Going Fishing Versus Hunting Whales: Explaining Changes in How the US Enforces Economic Sanctions*, 29 Security Stud. 231–267 (2020); Bryan R. Early & Keith A. Preble, *Enforcing US Economic Sanctions: Why Whale Hunting Works*, 43Wash. Q. 159–175 (2020).

16 John Ellicott, *Between a Rock and a Hard Place: How Multinational Companies Address Conflicts Between US Sanctions and Foreign Blocking Measures*, 27 Stetson L. Rev. 1365 (1997).

17 EU Top Court Issues First-Ever Judgment on the EU Blocking Statute Against US Sanctions | Perspectives & Events | Mayer Brown, https://www.mayerbrown.com/en/perspectives-events/publications/2021/12/eu-top-court-issues-firstever-judgment-on-the-eu-blocking-statute-against-us-sanctions (accessed 14 Mar. 2022).

18 CURIA – Documents, https://curia.europa.eu/juris/document/document.jsf?text=&docid=241168&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=1004103 (accessed 14 Mar. 2022).

19 Early & Preble, *supra* n. 15.

20 Stephanie Zable, *INSTEX: A Blow to US Sanctions?*, Lawfare (2019), https://www.lawfareblog.com/instex-blow-us-sanctions (accessed 30 May 2019).

Under INSTEX, companies trading in humanitarian goods would register with the SPV. A mirror SPV would exist in Iran, and both SPVs would ideally create an exchange where companies participating in the exchange could find other buyers and sellers in both Europe and Iran. In the scenario presented above where the pharmaceutical order was canceled, the European pharmaceutical company now would not have to worry about potentially violating US sanctions. The EU pharmaceutical company would not need to facilitate a payment to Iran *for its exports* but instead would accept payment for the medicines from another European company *importing non-sanctioned goods* from Iran, for example, a European food distributor seeking to order a shipment of pistachios. In Iran, the pharmaceutical distributor seeking to import medicines manufactured by the European pharmaceutical company would pay the firm exporting pistachios to Europe. The Iranian pistachio exporter would then be paid by the Iranian pharmaceutical distributor importing European medicines. Transactions would remain in Europe and in Iran and would not utilize the international financial system.

As more and more EU Member States join, the Single European Market has the potential to create a large marketplace through which INSTEX could grow and thrive. If INSTEX's European members permitted oil to be exchanged, multiple companies could be involved in more complex settlements. While still in its infancy, INSTEX potentially represents a problem for the effectiveness of US economic sanctions. INSTEX could provide a smokescreen through which trade could be settled, effectively shielding potential sanctions busting trade and dulling the impact of secondary sanctions and the extraterritorial application of secondary sanctions. Were INSTEX to become a bank,[21] it could rely on settling trade and transactions using the euro or other non-dollar currency, effectively depriving the United States of its ability to target dollar-exposed financial firms. The United States would then be required to sanction sectors more broadly, which would have a chilling effect on interstate commerce and cause significant damage to US commercial interests. Sanctions regulators in the United States, who are already strapped for personnel and resources, would be unlikely to cope with the added workload as the United States' growth in the application of sanctions and blocked persons increases.

3 The Enemy of My Enemy Is My Friend: An Argument for US Participation in INSTEX

The US-EU Summit in June 2020 served as a reset to transatlantic relations disrupted by US abandonment of the JCPOA. This summit led to US and EU statements that reiterated the importance of greater transatlantic collaboration and synergy in the use of economic sanctions, especially when both parties often share complementary foreign policy goals.[22] Following the US-EU summit in 2020, the US Treasury released its much-touted sanctions review,[23] which proposed five steps to reforming and adjusting the use of economic sanctions. Step 2 called for 'incorporating multilateral coordination, where possible' while Step 3 announced efforts 'to mitigate unintended economic, political, and humanitarian impact'.[24]

The increase in the severity of US economic sanctions after the US departed from the JCPOA triggered both a renewal of blocking mechanisms by the European Union in 2018[25] and the development of INSTEX in 2019 to support of the JCPOA and Europe's commitment to Iran. These two events signaled a need for improvement in transatlantic ties, and the US-EU Summit in 2020 and Treasury's sanctions review signaled a willingness by US foreign policymakers to move away from sanctions walls and maximum pressure campaigns to a more coordinated approach to utilizing economic sanctions, approaches that not only called for cooperation between the US and EU but also a greater willingness by the United States to reduce the negative impacts caused by economic sanctions.

One way to achieve both goals from the Treasury's sanctions review would be for the United States to work with European partners in developing INSTEX. While INSTEX has future potential to undermine US economic sanctions, the real danger of INSTEX is the efforts by key US allies – not adversaries – to weaken the effectiveness of economic sanctions and undermine US foreign policy and national security. By coordinating sanctions implementation and finding mutually agreement solutions to mutual foreign policy problems with European partners, the United States has the potential to not only limit the damage that special-purpose vehicles hold for US economic power but also generate spillover effects that help

Notes

[21] Esfandyar Batmanghelidj, *Four Steps to Support Europe-Iran Trade Under a Revived JCPOA*, European Council on Foreign Relations (2021), https://ecfr.eu/article/four-steps-to-support-europe-iran-trade-under-a-revived-jcpoa/.

[22] European Council, *supra* n. 7; The White House, *supra* n. 7.

[23] US Department of the Treasury, *supra* n. 4.

[24] *Ibid.*, at 5.

[25] European Commission, *Blocking Statute*, https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/blocking-statute_en (accessed 6 Apr. 2021).

in realizing step 3 of the sanctions reform: mitigating the adverse effects of economic sanctions.

INSTEX has the potential to serve as a trusted vehicle for the delivery of humanitarian aid through a reliable, multilateral trading mechanism that places US and EU interests at the forefront of its operations. According to INSTEX's founding statement, it operates 'under the highest international standards with regards to anti-money laundering, combating the financing of terrorism (AML/CFT)' and has urged 'Iran to swiftly implement all elements of its FATF action plan'.[26] US officials have routinely noted Iran's unwillingness or inability to meet FATF recommendations in securing its financial system. The humanitarian trade procedures created by the US Treasury in 2019 imposed strict and onerous due diligence requirements,[27] requirements that small humanitarian groups would be unlikely to meet given staffing and resource constraints. In 2016, Iran pledged to address what the FATF termed 'strategic deficiencies' to address anti-money laundering and combatting the financing of terrorism (AML/CFT).[28] Because of Iran's failure to meet FATF standards, Iran remains a high risk jurisdiction with members obliged to apply countermeasures in line with recommendation 19, such as enhanced due diligence, limiting business relationships or financial transactions with the country or persons in that country, and a host of other recommendations.[29] Aid groups face difficulties in meeting the reporting challenges that the US government requires while also being stymied by the ability of Iran to make the necessary structural adjustments to reach FATF compliance. Humanitarian groups and firms that trade in humanitarian goods, such as medicine and food, are essentially blocked from engaging in business with Iran. The activation of section 311 of the USA Patriot Act, also announced with the rule change in 2019, effectively severed non-compliant jurisdictions from the US financial system.[30] This aid channel became essentially a catch-22: even if humanitarian aid groups were able to organize and meet the strict reporting requirements of Treasury's new guidance, the designation of Iran as a jurisdiction of primary money laundering concern would render the humanitarian aid channel largely moot.

INSTEX would provide the US with a centralized mechanism for processing strictly humanitarian aid; through membership, the United States would be able to help set the rules in how INSTEX operates and what goods can and cannot be traded. The mandate under which INSTEX operates would provide the necessary resources and personnel to ensure that principles of due diligence and effective countermeasures as indicated by FATF guidance, providing assurances to US regulators and reversing the de-risking and overcompliance trends US sanctions have generated.[31] INSTEX and Treasury officials could design policy collaboratively and in tandem by providing financial institutions and firms with comfort letters that would shield them from being punished for violating US sanctions by utilizing INSTEX. A collaboration between US and European regulators would be compatible with several of the steps outlined in the Biden Administration's sanctions review, namely step 2 ('incorporating multilateral coordination, where possible') and step 3 ('calibrating sanctions to mitigate unintended economic, political, and humanitarian impact').[32] While teasing out the impact of US economic sanctions on Iran's economy is difficult, strong evidence suggests that US economic sanctions have undermined public health outcomes and increased inflation, devaluing the Iranian currency and harming the population's ability to purchase everyday goods.[33]

INSTEX would be tasked with vetting transactions, which would allow aid groups to focus on providing and facilitating humanitarian goods to populations in need of assistance and support. Firms would be permitted to engage in such trade with reassurances from US sanctions regulators. The overall impact of such a proposal would do much to mitigate the atmosphere of overcompliance and the trend toward de-risking US economic sanctions, in particular, have caused.[34] INSTEX would also ensure that only reputable and vetted Iranian companies could participate, which would limit the impact of trade and financing being siphoned off to fund terrorist activities in and

Notes

26 INSTEX Europe, *supra* n. 13.

27 US Department of Treasury, *supra* n. 10.

28 High-Risk Jurisdictions subject to a Call for Action – 21 Feb. 2020, *supra* n. 9.

29 Financial Action Task Force(FATF), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* 139 86 (2022), http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf#page=82. *See* interpretive note to recommendation 19.

30 *Treasury and State Announce New Humanitarian Mechanism to Increase Transparency of Permissible Trade Supporting the Iranian People,* US Department of the Treasury, https://home.treasury.gov/news/press-releases/sm804 (accessed14 Mar. 2022).

31 Gregoire Mallard, Farzan Sabet & Jin Sun, *The Humanitarian Gap in the Global Sanctions Regime*, 26 Global Governance 121–153 (2020).

32 US Department of the Treasury, *supra* n. 4, at 5.

33 Esfandyar Batmanghelidj & Erica Moret, *The Hidden Toll of Sanctions*, Foreign Affairs (2022), https://www.foreignaffairs.com/articles/world/2022-01-17/hidden-toll-sanctions (accessed 7 Mar. 2022); Kolja Brockmann & Keith A. Preble, *Rethinking EU Sanctions on Iran: Non-proliferation and the Mitigation of Humanitarian Impact* (2021), https://www.sipri.org/publications/2021/other-publications/mitigating-humanitarian-impact-complex-sanctions-environment-european-union-and-sanctions-regimes.

34 Emmanuel Breen, Corporations and US economic sanctions: the dangers of overcompliance, in *Research handbook on unilateral and extraterritorial sanctions* 256–69 (Charlotte Beaucillon ed., 2021).

beyond the region along with supporting the delivery of much needed goods for humanitarian operations in the region. Cooperating with European countries and INSTEX members would provide the United States with a trusted conduit for humanitarian goods in which the US had a hand in shaping. While INSTEX was designed to facilitate trade to Iran, the SPV could be developed and enhanced to permit humanitarian trade to other sanctioned entities or entities with less than satisfactory FATF ratings. US and European regulators could thus work together to create lists of permitted humanitarian and consumer goods, a list that could be negotiated out diplomatically rather than unilaterally imposed by the United States.

4 Conclusion

While some might argue that the United States is giving up leverage and power in supporting and joining INSTEX, the continued use and overuse of economic sanctions represents a problem of growing importance as countries explore new ways to circumvent US economic sanctions via a range of policies. While Russian and Chinese efforts at limiting the effects of economic sanctions are not surprising, the efforts by US allies to develop such tools that undermine the reach and potential of US sanctions programs may encourage and enable other countries to engage in similar behaviours. While one or two countries would have significant difficulties in de-dollarizing, coalitions of states like the European Union, with its extensive single market, and BRICS have the potential to blunt the impact and reach of US economic and financial sanctions.

Developing usable and dependable financial channels to facilitate trade in humanitarian goods should not run counter to US interests. US economic sanctions against Iran and elsewhere have often sought to bring about regime change or weaken adversaries militarily, but economic sanctions, by driving up inflation and raising the cost of basic goods, impede the ability of the middle class and civil society groups from bringing about effective political change. Innocent civilians in countries targeted by economic sanctions often face reduced life expectancies, higher costs of food, or poor health outcomes due to the inability of hospitals and food distributors in securing the necessary goods and services because of overcompliance and de-risking by firms seeking to avoid fines and penalties from US regulators.

Such cooperative moves by the United States in joining and potentially strengthening INSTEX is unlikely given US intransigence towards Iran, where sanctions relief is highly politicized. While the US dollar represents convenience and lower transaction costs for firms globally, the costs of using the US dollar may eventually prove too high for firms in both sanctioned states and third parties. A concerted effort by larger economies like China, Russia, and the EU represent a potential challenge to US financial and economic dominance that cannot be ignored if SPVs like INSTEX continue to emerge and grow or if groups of economies actively cooperate to promote alternative currencies and mechanisms for trade settlement. US policymakers should question whether the benefits derived from the use of unilateral economic sanctions outweigh both short – and long-term costs. The longer that the United States continues its overuse of economic sanctions, the more likely that efforts by allies and adversaries to minimize the impact of US sanctions will grow through active efforts at de-dollarization or through the development of special-purpose vehicles.