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A Fresh Look at the Russian Assets

A Proposal for International Resolution of Sanctioned Accounts

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At the end of 2024, US leaders implemented an ingenious Extraordinary Revenue Acceleration (ERA) loan to provide some essential emergency aid to Ukraine. It leverages a fraction of the value of the approximately $300 billion of Russian state assets immobilized, "frozen" since Russia's 2022 all-out invasion. In 2025 the time has come for leaders to at last clean up and escrow the management of all the Russian assets, now frozen for nearly three years. The scale of funds is enormous and game-changing.

The argument may seem familiar, but though most of the relevant politicians are largely convinced, what often happens are internal dialogues in governments that go something like this:

> POLITICAL LEADER: We should finally move on the Russian assets!
>
> OFFICIAL [usually from a finance ministry]: We wish we could. But . . . [jumble of words including "euro" or "pound"] . . . and then of course there are the legal issues.
>
> [Conversation-stopping pause.]
>
> POLITICAL LEADER: Well, we should work on a way to do this.
>
> OFFICIAL: Oh, we will try!

Over the last two and a half years, careful analyses, cited below, have addressed the earlier financial and legal neuralgia. What remains is a mix of invincible prior beliefs, plus that kind of policy analysis that feels complete by observing a risk without all the bother of balancing it against the risks of *in*action.

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Then too there are the arguments that simply mask more material or bureaucratic concerns. Some of these have to do with threats of financial and commercial blackmail that have been made in various backrooms by Russia, China, and states that sympathize with the Russian arguments, such as Saudi Arabia. Other concerns arise from sheer bewilderment about how, as a practical matter, governments might go about doing the job.

It is now both possible and necessary to detail a practical way forward that addresses various concerns, including the blackmail threats. The circumstances have completely changed.

The first change is political. There will be negotiations to stop the war. And Europe has some new leaders—a new European Commission; Poland as president of the Council of the European Union, to be followed by Denmark; and fresh faces and ideas in both Germany and France. If the fighting stops, Ukraine will need lots of money for defense, reconstruction, and recovery. If the war goes on, or just simmers, Ukraine will need even more money. So, to have leverage either way, to give Ukrainians hope and show that Russia won't win a war of attrition, Ukraine's supporters should display a massive, reliable financial base. That base can't depend on large new appropriations from US, British, French, or German taxpayers. It is legally, politically, and morally best that the aggressor pay.

The other change is financial. When first frozen, most of the Russian assets were securities, such as bonds. They were put in the custody of central depositories. Now almost all the securities have matured into cash. That cash is being managed all over the world, in at least eight different currencies. Contrary to the general belief that almost all of it is deposited and managed in Europe, probably only about half of it is. The rest, about $150 billion worth, is being managed by or with the countries that issue the currency.

The banks managing these giant sums find themselves caught in a legal no-man's-land. They are custodians with no legal guide. They are not allowed to manage the money on behalf of the Russian state. They have no guidance to manage the money for anyone else.

The need for a proper trust has become urgent. The G7 governments and the European Union (EU) have already agreed that the money is supposed to be managed for the ultimate benefit of Russia's victims. The weight of international legal opinion increasingly favors some form of transfer.[1] Yet the dispersed cash management of the assets is in terrible shape. Unguided, custodian banks just park the money at overnight rates. The current situation is effectively squandering huge sums of the victims' money: billions lost per year, many millions lost every single day.[2]

Meanwhile, the situation, shrouded in secrecy, is darkening for the financial system and the depositories. The system has already priced in the political reactions to the original freezing of Russian assets, and further action on those assets presents little added risk.[3] But now the Russian state and its enterprises are filing lawsuits and retaliating against "unfriendly" banks and companies in every way they can. Crucial depositories such as Euroclear are carrying a considerable degree of risk, which Euroclear discloses on its statements.

The G7 governments put the banks in this untenable position, this legal netherworld. Many non-US banks routinely manage offshore currency deposits—let's call them eurodollars—for their depositors. The problem in this case is that there is no real depositor. The banks are custodians for sanctioned assets of Russia's state bank. They are prohibited from managing the money on behalf of the Russian depositor. The Euroclear depository, in particular, seems to have acquired its special place because Russia was trying to use Euroclear and Belgium to shelter its money from international justice.

Now these custodian banks, including Euroclear, are stuck holding these gigantic cash deposits while waiting for some act of state to order a resolution that settles the ultimate ownership of the funds. For a cash account, the custodians always include banks in the country that issued the currencies. For instance, in managing the cash positions of Russian eurodollars, Euroclear necessarily partners with the US financial system in its daily custodianship of the funds.

The current artifice makes much of this dilemma invisible to the public. That secrecy honors the Russian state's effort to hide its money. That is too clever by half. The United States may not have any jurisdiction over the eurodollar account owned by a depositor under no constraint in the bank's home country. But here the United States, including the Federal Reserve Bank, has become a partner custodian of sanctioned funds that are separated from their original owner, including under the Belgian law that governs the Euroclear depository. The same sole or joint custodianship of sanctioned funds is happening in at least eight other countries that each at least join in managing multibillion sums of frozen Russian state assets. The holdings in countries such as Britain and Japan are enormous, on a scale matching or exceeding that of the United States. All have national jurisdiction to act.

Readying the next political moves, as a matter of prudential supervision, national governments should now transfer into clean accounts at least the frozen cash of the sanctioned Russian state entities such as the Central Bank of Russia (CBR). Using their existing powers, including those over bank supervision, national authorities at the start of the process can specially designate the CBR under their sanctions laws and require that its money be visibly segregated in clean accounts pending negotiation of and transfer to a proper international trust fund.

Such a trust fund created by participating states would escrow the money for purposes those governments have already endorsed. I offer an illustrative design below. This is a proposal about initial transfer, not final distribution. This proposal could be a prelude to those decisions.

It would be best for the involved states to move together. They might wish to avoid awkward arguments about jurisdiction over sanctioned eurodollar accounts. But if they do not agree, this proposal can be implemented by whichever states and banking authorities decide to move ahead.

DON'T GET PLAYED FOR A SUCKER

Don't put on the bargaining table a giveback of the already-frozen assets. If negotiators want to put economic chips on the table, they should work on possible Russian relief from sanctions in the future.

In private, the Russians have already written this money off. They have been earning plenty more. Russia has at least about another $300 billion worth of foreign exchange not frozen or under sanctions. Russia's economic problems do not come from a lack of foreign exchange.

What the Russians do really care about is to keep this money away from Ukraine. The Russians have fought very hard on this backroom battlefront, privately and publicly wielding financial and commercial threats with the help of some friends such as the Chinese. The Russian government wants the frozen assets to stay locked away in the freezer, tied up in arcane debates. As long as the assets stay in the freezer, the Russians cripple the leverage of the other side. In the freezer, the assets are mostly useless to a discouraged Ukraine. They can't be used by European countries or Japan to offset Russia's blackmail threats. They can't nourish Ukrainian or European hopes of future recovery.

When the assets were first frozen, some did think the Russian assets might be bargaining chips in a short war. That was then. Now, Ukraine has suffered hundreds of billions in damages, aside from the millions of refugees and all the deaths and human suffering. Russia purposefully wages war against the Ukrainian economy—its energy, its trade, its industry and innovation—far beyond the battle lines.

Amid growing despair, the frozen Russian assets are the great reservoir of hope, hope to reconstruct and recover. And not just hope for Ukraine but also hope to ease the burden on G7 taxpayers, hope for European recovery and refugee returns, and hope to show that the worst international aggression since 1945 carries a heavy penalty.

If Russia chooses to fight on, all must see to it that Ukraine will have what it will need to fight through 2025 and on into 2026. The current ERA loan plan relies on the Russian assets, but it taps only a small fraction of their potential.

To those who want leverage and who want to nourish those hopes, the question is: How can we get the assets out of the freezer? Responsible officials will have to get their heads around the peculiar situation of these assets. Even in the relevant governments, only a handful of people know what is really going on.

THE LEGAL NETHERWORLD OF THE RUSSIAN ASSETS

In the nearly three years since the Russian assets were frozen, almost all of the securities—more than 90 percent in Euroclear's case—have matured into cash. In February 2022 Euroclear had about €25 billion in its cash management accounts. At the end of Q3 2024 that number, just

for the Russian assets, was €176 billion, of which more than 91 percent appears to be from the Central Bank of Russia.

This is a vital change of circumstances—politically, legally, and financially. The securities depositories were never meant to manage tens or hundreds of billions in cash that is not theirs. The Belgian asset protection law governing Euroclear (Belgium's Royal Decree No. 62) no longer applied once the original securities that were on deposit matured and turned into cash. Both laws and the bank's own rules prohibit doing business with sanctioned entities.[4]

The depositories had to transfer these huge sums of cash onto their corporate books as if this money were theirs, which they know it is not. They have been put in the position of pseudotrustees, functioning without a trust agreement or guidance about active investment and distribution. The situation was unexpected and unprecedented, but it can become a strategic opportunity.

Amid the confusion, the fundamental principles remain perfectly clear. This frozen Russian money should either go back to Russia or go to those Russia has damaged. There are no other lawful beneficiaries.

Meanwhile, the depositories, confronting these vast cash piles, have had to manage the cash. Cash assets should be actively managed—invested and reinvested, if only to conserve the principal.[5]

Take, as an illustration, how Euroclear can manage billions of US dollars in cash originally owned by the Central Bank of Russia. The USD cash deposit in Euroclear can become Euroclear's liability to the depositor and an asset on Euroclear's reserve account at the New York Fed. The Federal Reserve Bank is theoretically obliged to supply the dollars on demand. Euroclear can expand its dollar "claim" on the Fed by reinvesting the money with the Fed every day at the Fed's approved overnight reverse repurchase (ON RRP) rate.

Ordinarily the US government might have no regulatory authority over eurodollar depositors and accounts, which are uninsured. The jurisdictional situation is different when the depositor uses eurodollars, and therefore the US financial system, in connection with behavior the United States proscribes. That is the "secondary sanctions" issue that became a major topic during the Obama administration, when the US government pursued enormous sanctions evasion and money laundering cases, leading to settlements in which major foreign banks paid billions in fines.

The Russian assets case is different. The United States is, in effect, a partner custodian in the management of sanctioned eurodollar assets. This creates a basis for jurisdiction, whether under general bank supervisory authorities or the specific authority of the US law passed in 2024 to authorize action on frozen Russian assets, a law informally called the "REPO Act." Under customary international law, countries that issue the pertinent currencies may have primary jurisdiction over reserve accounts handling cash belonging to sanctioned entities on all

three traditional grounds—territoriality of the banks and their financial services, nationality of the banks and the currency, and security concerns.

In other words, this is not a case testing the extension of secondary sanctions. The CBR accounts are sanctioned on both sides of the eurodollar custody. The cash management activities are not incidental commercial transactions that just happen to pass through a sanctioning nation's financial system. The daily custodial cash management is itself the primary financial service. This case instead presents a more fundamental problem of bank supervision as banks manage vast sums for sanctioned entities.

Euroclear's correspondent account would not show what money is owned by the CBR, even if most of it is. The correspondent cash management accounts thus appear to commingle the cash owned by sanctioned entities with other corporate cash not under sanctions. This commingling is how the US government, for example, can at least pretend not to know the true total of how much money belongs to the sanctioned depositor and is actually being invested and reinvested in the United States, even if the money is in the Federal Reserve Bank of New York. Of course, the partner bank knows the amount to the penny.

The situation is untenable. The states that created this netherworld should instead move the money into trust, in clean accounts, transparently held, with transparent guidance.

The EU's early response to this strange situation was to start taxing/expropriating Euroclear's earnings from investing Russian assets. That response only journeys further into the netherworld. The situation is too strange to be consigned to a footnote. Its legality is too doubtful to be sustainable.

Relatively early in the war, in the first half of 2023, the EU Legal Service, consulting with Belgian authorities, came up with the interesting theory of regarding Euroclear as now managing the Russian cash assets on its own corporate behalf. The lawyers treat the Russian principal as still belonging to Russia. But since Euroclear is managing the principal without instructions, the theory is that Euroclear gets to own all the results of its management.

Since this interesting theory would make Euroclear the largest war profiteer in Europe, the theory had two codicils.

- The first codicil was that, after taking its management fees, Euroclear could not seem to actually be pocketing the money. The more than €4 billion of after-tax operating "profits" in 2022 and 2023 would be held by Euroclear as a reserve against "litigation risk."
- The second codicil was that the "profits" should eventually go to Ukraine. This codicil to tax the "extraordinary revenue" from Euroclear's "windfall profits" began operating once the EU could enact it in 2024. The EU would tax/expropriate all of Euroclear's "profits" to help fund aid programs for Ukraine. It is this revenue stream that is now being tapped to service the ERA loan totaling US$50 billion.

It is interesting that no one is discussing the fate of the revenue from all the Russian assets—about half of the total—that are *not* being managed by Euroclear. That is a striking omission, a sign of the incoherence of current G7 policy.

Then there is the question of the operative tax law. Since at least 35 percent of the Euroclear cash is being managed outside the European Union, and since the underlying Russian owner of the principal cannot be taxed, it is not quite clear how the EU is able to claim the tax revenue from cash managed by non-EU banks in non-EU currencies outside the EU. The EU claims all the tax revenue for itself.

The EU's theory is that the money is being managed on behalf of Euroclear SA, even though that company does not own the money being invested. That theory may work in Belgium, but it is not clear that such a theory works under the tax laws of the United States, Britain, Canada, Australia, and Singapore.

The EU came up with its interesting theory in the spring of 2023, about a year and a half ago, under different circumstances and after considerable internal debate. Under today's circumstances, with practically all the Russian assets matured into cash, it is time to adopt a more inclusive and transparent trust fund approach. That approach can also readily take on all burdens already assumed under the ERA loan plan.

WHERE ARE THE RUSSIAN ASSETS ACTUALLY BEING MANAGED?

Except for Euroclear, which has properly reported on its huge corporate holdings of Russian cash, relevant governments have declined to reveal much about all the other holdings. But it is possible to offer some reasonable estimates.

When or if major countries bother to analyze Russia's preinvasion foreign exchange activity, they may discover some revealing data. The Central Bank of Russia has itself discussed its foreign exchange practices to start preparing for a major crisis since the end of 2013. "In order to counter geopolitical threats," the bank explained, "one must have reserves that are immune to the effect of sanctions of Western states." Therefore, in the eight years from the end of 2013 to the end of 2021, the CBR explained that it had reduced the share of US dollars in its gold and foreign exchange holdings by almost three-quarters, "whereas the shares of the Yuan and of gold have grown from 0% to 17.1% and from 8.3 to 21.5%, respectively."[6]

Russia's money movements then really took off in the two months before the full invasion of Ukraine in February 2022. It appears that, in just those two months, Russia moved 87 percent of its US dollar holdings still in the United States out of the United States.[7] Not only does it appear that in the weeks just before the February 2022 invasion of Ukraine the CBR rapidly moved about $34 billion out of the United States, but it also may have moved about €40 billion either into other currencies or out of Europe. The CBR also apparently moved its Canadian dollar holdings out of Canada.

These moves offer intelligence insights. They also shed some light on how the flow of that money might reveal how the Central Bank of Russia hoped to shelter its assets from international justice. Before the end of 2021 Russia felt comfortable leaving its money in euros, even as it drew down its USD reserves. In the last weeks the Russian government apparently became suddenly much more anxious about its euro reserves.[8]

My impression is that Russia sought to shelter its state money principally by moving it into securities held at Euroclear in Belgium. It may have deposited that money in the original currency or exchanged it into others. The CBR also may have moved some money at the last minute into Switzerland, the British Caymans, and other countries. These are tentative impressions, inferred from superficial data. It would be nice if the US government and the European Central Bank would detail and disclose what happened, if any of its officials know.

If countries wish to correct the numbers I offer below, that would be welcome. Most of these subtotals, except for Belgium, reflect no knowledge of whether the cash deposits have been reinvested and have appreciated in value.

The numbers below are in estimated cash amounts belonging to the Central Bank of Russia. There are arguments for extending transfers to noncash assets and to other entities or individuals beyond the CBR. Those may be good arguments, but the data here reflects a more cautious approach.

At Euroclear, more than 90 percent of the frozen assets are in cash and about 90 percent of those belong to the Central Bank of Russia. The numbers presented below reflect both of those discounts. In some cases I do not have the data to make those discounts, and so the numbers may be too high. In other cases the Russian state may have hidden more money than has been revealed so far, and the numbers may be too low.

The numbers are in billions, rounded to the nearest half-billion. Estimates of USD value are as of November 29, 2024.

- **Belgium**[9] €104.5 (worth US$111)
- **Great Britain**[10] £39 (worth US$50)
  - £16 frozen by UK, not counting USD frozen in British Caymans
  - £23 in UK via Euroclear
- **United States** $47–$52
  - $5 to $10 frozen by US[11]
  - $12.5 frozen via Euroclear
  - $8.5 frozen via British Caymans[12]
  - $21 estimated frozen via Japan[13]

- **Japan** ¥4,160 (worth US$28)
- **France**[14] €23 (worth US$24)
- **Canada** (via Euroclear) CA$19.5 (worth US$14)
- **Switzerland**[15] €7.5 (worth US$8)
- **Australia**[16] AU$14 (worth US$9)
  - AU$9 in Australia
  - AU$5 via Euroclear (worth US$3.5)
- **Singapore**[17] (via Euroclear) S$2.5 (worth US$2)

This number adds up to a current value in USD of about $293 billion–$298 billion, almost all in cash. About another 10 percent of the CBR assets may not have matured. So, a reasonable estimate for the total current value of the amount of frozen Russian state assets, cash and noncash, is in the vicinity of US$330 billion.

DESIGNING AN INTERNATIONAL TRUST FUND

In June 2024 the G7 governments, including the European Union, announced that Russia must "pay for the damage it has caused in Ukraine." They added, "It is not right for Russia to decide if or when it will pay for the damage it has caused in Ukraine. Russia's obligations under international law to pay for the damage it is causing are clear, and so we are continuing to consider all possible lawful avenues by which Russia is made to meet those obligations."[18]

Consider the strategic choice for the Trump administration and its allies. Russia has prepared its economy for war and, though under strain, has badly damaged Ukraine's economy. Ukraine's supporters have shouldered the burden of keeping Ukraine afloat while the Russian money in their hands sits idle. Prompt action on Russian assets would do more than any other single step to create the best possible leverage for the Trump administration to help negotiate an end to the fighting, without putting the burden on American taxpayers.

An initial step that can be undertaken immediately by the United States is to add the Central Bank of Russia and affiliated entities to the Specially Designated Nationals List (SDN List). The United States and some allies just did this to Gazprombank. They have not yet done it to the CBR, though its chief is herself on the list.

This listing would immediately make it illegal to manage CBR cash deposits directly or on behalf of a partner bank without a license from the US Treasury's Office of Foreign Assets Control (OFAC). In fact, any offshore bank would be prohibited from even asking the US institution to do this. The definition of blocked assets is extremely broad.[19]

As in the Gazprombank case, the OFAC would need to accompany this listing with a general license to wind down the accounts. What OFAC could do is to issue a general license with

a limited purpose of allowing the deposit of the funds into a special "clean" account, held at that bank (the New York Fed, for example) pending future decisions about how to wind up this segregated account. This seems like a typical practice to segregate blocked assets. Analogous versions of such rules and licenses could be adopted by the European Central Bank, the Bank of England, the Bank of Canada, and so on.

Meanwhile, talks could begin to establish an international trust fund to hold and manage the sanctioned cash transferred to it by national authorities using their foreign affairs, emergency, or bank supervisory powers. The trustees—the relevant governments who choose to participate—would assume state responsibility for the management of these assets held in their countries.

Transfer is substantively different from "confiscation" or "seizure," though the words are often used interchangeably. The assets are currently owned by Russia, in the state-ordered custody of various banks. The assets could then be transferred to an international trust fund, which can then provide appropriate guidance to whichever banks take custody of them. The assets remain owned by Russia until they are distributed to Russia's victims.

The trustee governments would make up a board of trustees and agree on how to apportion voting rights for decisions by the board. The board could then decide when and how to manage and disburse funds for the limited purposes authorized by the escrow agreement that creates and binds the trust fund.

Some think there is a difference between "sanctions" that freeze Russian money and "countermeasures" that would transfer it for escrowed purposes. The vocabulary can be confusing. But under international law there is no real difference in the authority to deprive a state of the use and benefit of its property and the authority to transfer that property.[20]

As has happened in other past cases, such as those involving Iran and Iraq, the transfer of assets to the international trust fund was, and would be, an act of state, not an act taken by foreign courts. The doctrine of sovereign immunity does not apply to such acts of state. Sovereigns are not "immune" from the acts of other sovereigns.

There is a different international law principle in play, that of sovereign equality. Under that principle, Russia was entitled to expect other sovereigns to respect its state property. Ordinarily, Russia could ask for compensation from states that expropriated or deprived it of the use of its property. In this case, Russia has no valid claim because of its own prior grave violations of international law (including any regard for sovereign equality) at least since February 2022.[21]

The first set of countermeasures, later in February 2022, was to immobilize the assets and deprive Russia of the use or benefit of its property. These countermeasures could only be justified, and in fact the states did justify them, by pointing to Russia's prior unlawful conduct. Otherwise, Russia could have legally sought compensation for the effective expropriation of its property. Knowing it would lose, Russia has not even seriously attempted to bring such a case in any international court.[22] This proposal would be a second set of countermeasures, using similar authorities and justified on similar grounds.

The only lawful use of the money is to help Russia's victims. Those victims are multiplying. They include states beyond Ukraine burdened by the costs of supporting refugees, numbers that may increase exponentially if the war continues. The victims include private companies, or even the original securities depositories, that are now the objects of Russian blackmail and vindictiveness.

For example, Russia responded to the 2022 freezing of its assets by declaring, in a presidential decree, that all states participating in such freezes are "unfriendly" and that private property owned by people or firms domiciled in such states can be confiscated by Russia. Russia has begun these confiscations, which are unlawful. As Russia retaliates further, with more unlawful confiscations, all those harmed join the ranks of the states, companies, and individuals entitled to seek compensation for their damages from Russia's conduct.

Governing principles could be put in place. In its asset allocations for claims processes, the international trust fund should put a cap on the amount of non-Ukrainian claims to be sure that compensation is mainly directed to the center of violence and damages.[23]

To keep victims from suffering irremediable damage, the trustees will soon have to move from ERA loan servicing to a wider-scale distribution of the frozen Russian assets to those who have been damaged. The trust fund would be able to repay loans already extended by the ERA participants, and the ERA terms expressly allow for this possibility.

Compensation is a broad concept. It includes financing for Ukraine and Ukraine's supporters to meet the costs of the war forced on Ukraine by Russia's aggression, since Ukraine's inability to defend itself would cause even more damage from invaders, strikes from the air, restrictions on civil aviation, and damages to Ukraine's commerce.

Compensation also includes costs for Ukraine's reconstruction and recovery. These costs include the support and resettlement of refugees and internally displaced persons. Longer-term financial support for Ukraine's reconstruction and recovery will, in turn, help Ukraine and its partners manage the process of bringing Ukraine into the European Union.

The total amount of compensation would not exceed the amount owed by Russia to offset the damage it has caused and limit further damage. Should Russia eventually sign a peace agreement and address its obligations, any assets transferred to Ukraine or other injured parties could be credited to Russia as an offset against its total liability.

In either case, the escrow terms could limit management of the funds to these options:

- Conserve principal until Russia has discharged its international obligations, if it is possible to do so before Russia's victims have been irrevocably damaged.
- Invest principal to compensate, as fully as possible, those damaged by Russia's internationally wrongful behavior—with all such amounts credited to any eventual agreement on what Russia owes.

- Hold funds needed to pay management costs and indemnify participants (including Euroclear, for example) against litigation risk, if any.

Certainly one of the asset management options would be to issue bonds or other securities backed by some portion of the funds or their earnings.

The international trust fund could also allocate funds to processes created to receive and review claims from Ukraine and other injured parties—public and private—and distribute appropriate compensation for such claims in line with internationally agreed standards and procedures.

The trust fund manager could be an entity like the Bank of England. The Bank of England has played such a role in the past, holding and managing the Iranian assets frozen by the United States and then transferred to compensate victims or returned to Iran under the Algiers Accords of 1981.

The fund manager could then manage the money in a balanced investment portfolio for optimal returns. The fund manager could even use, as money managers, some of the same banks that hold and manage the money now but could do so on behalf of the trust fund, with clear guidance for investment and distribution. The fund manager could turn to various intermediaries to help distribute funds, including the European Union, the World Bank, or the European Bank for Reconstruction and Development.

The World Bank's new financial intermediary fund for Ukraine could help manage disbursement of funds for the purposes of both recovery and claims. The trust fund could determine appropriate asset allocations among types of programs and claims.

NOTES

1. After much initial argument about the legality of transfer as a state countermeasure, the weight of opinion now seems to favor transfer. Transfer is substantively different from "confiscation" or "seizure," though the words are often used interchangeably. In international custody and, as proposed here, trusteeship, the assets remain owned by Russia until they are distributed to Russia's victims. For a full statement, having sifted the years of argument about this, of how the international law of countermeasures is justified and can work in this case, see the detailed memorandum of law published in May 2024 by eleven leading international lawyers from Belgium, France, Germany, Japan, the Netherlands, Nigeria, the United Kingdom, and the United States: Nigel Gould-Davies, ed., "On Proposed Countermeasures against Russia to Compensate Injured States for Losses Caused by Russia's War of Aggression against Ukraine," IISS, May 20, 2024, https://www.iiss.org/globalassets/media-library---content--migration/files/research-papers/2024/05-new/iiss_on-proposed-countermeasures-against-russia-to-compensate-injured-states-for-losses-caused-by-russias-war-of-aggression-aga.pdf. A report by another scholar, prepared for the European Parliament, came to a similar conclusion: Philippa Webb, "Legal Options for Confiscation of Russian State Assets to Support the Reconstruction of Ukraine," European Parliament, February 2024, https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU(2024)759602_EN.pdf.

2. For example, in 2023 and most of 2024, when such overnight rates were relatively high, the depository bank Euroclear was apparently earning about 3.5 percent—with about 65 percent of its funds invested at euro overnight rates of about 3 percent and the rest at somewhat higher rates ranging up to the USD rate, usually about 4.5 percent. Those rates are now dropping.

Any large-asset manager managing a quite conservative investment portfolio in 2023, with a fiduciary responsibility toward the investor, would probably have earned a higher rate that year. Those who track the performance of such funds and the relevant benchmarks can do their own estimate. An investment return on the frozen assets that was only 1 percent higher that year would have earned more than $3 billion in additional value for Russia's victims—more than $8 million more per day.

3. For good analyses of the further financial risks, see, e.g., Martin Sandbu, "It's High Time to Make Russia Pay," *Financial Times*, December 12, 2024, https://www.ft.com/content/5533ac17-cda3-494c-9b30-af6c23d33543; Lawrence H. Summers, Philip Zelikow, and Robert B. Zoellick, "The Other Counteroffensive to Save Ukraine: A New European Recovery Program," *Foreign Affairs*, June 15, 2023, https://www.foreignaffairs.com/ukraine/other-counteroffensive-save-ukraine (see the section "Dollar Risk?"); and Mark Sobel, "It's Time for Europe to Toughen Up and Support Seizing Russian Assets," OMFIF, March 11, 2024, https://www.omfif.org/2024/03/its-time-for-europe-to-toughen-up-and-support-seizing-russian-assets/.

Some finance ministries and central banks have specific concerns about attacks on the euro or sterling or, even more specifically, about threats not to buy a particular country's bonds, like the threats France has received that some countries would refuse to buy its bonds. These threats are manageable, first, through joint action that leaves investors with little other recourse. Second, the US central bank, and central banks from surplus countries like Poland and the Nordic states, can also coordinate to provide backstops against such attacks on the grounds of preserving common financial stability. Sandbu alludes to some of this in "High Time," cited above.

4. See the extensive IMF staff report, "Belgium: Financial Sector Assessment Program—Detailed Assessment of Observance—Assessment of the CPSS-IOSCO Principles for Financial Market Infrastructures—Euroclear Bank," November 17, 2023, https://www.imf.org/en/Publications/CR/Issues/2023/12/07/Belgium-Financial-Sector-Assessment-Program-Detailed-Assessment-of-Observance-Assessment-of-542179.

5. In its financial statements, Euroclear does not say it is managing cash even to conserve principal. It says it is doing the minimum to avoid "credit risk."

6. Central Bank of Russia, *Itogi raboty Banka Rossii 2021: Korotko o glavnom*, March 2022, 22, https://cbr.ru/StaticHtml/File/135044/annual_short_2021.pdf.

7. More precision is possible in this case because the CBR reported $39 billion located in the United States at the end of 2021. The US Treasury has formally reported that, a couple of months later, only $5 billion was left to be frozen. Office of Foreign Assets Control, "Report Pursuant to Section 104(a)(2) of the REPO Act," US Treasury, October 30, 2024.

8. At the end of 2021 the CBR reported that €84.5 billion was in Germany, €53.3 billion was in France, €13.5 billion was in Austria, and €31.5 billion was in other countries (I believe all or nearly all in Europe). None was specifically reported as being in Belgium. At that time the total of Russian CBR assets denominated in euros was about €182.5 billion. As indicated in note 9, I believe the CBR assets that were eventually frozen at the end of February 2022, denominated in euros, went down to about €140 billion.

9. As of Q3 2024, about 90 percent of the frozen money at Euroclear was in cash and about 91 percent of Euroclear's holdings were from the CBR. Those adjustments are applied to the estimates shown in the text. So even though Euroclear reported in Q3 2024 that €176 billion worth of frozen Russian assets are now on its books in cash, the estimates in the text assume that only about €161 billion of that is from the CBR.

Martin Sandbu and I worked over the CBR foreign exchange reports, some of which are no longer online, and have compared notes. We have also studied Euroclear's quarterly financial reports, which update the growing cash balances of Russian sovereign assets and indicate the currency distribution of these cash assets. From these distributions it is possible to infer the underlying nominal balances in those currencies, though the USD value of these balances fluctuates with the rate.

In the first half of 2023 the EU attempted to pin down just how much of the Russian assets were frozen, and how much of this belonged to the CBR or Russia's kindred National Wealth Fund. From conversations with senior European officials, I believe this CBR amount was determined to be a little more than €200 billion, reputed to be perhaps €202 billion or €207 billion, depending either on the date of the report or the exchange rate of the noneuro portion. A similar total was reported in May 2023. Stephanie Bodoni and Alberto Nardelli, "EU Blocks More Than €200 Billion in Russian Central Bank Assets," *Bloomberg Law News*, May 25, 2023, https://news.bloomberglaw.com/banking-law/eu-blocks-more-than-200-billion-in-russian-central-bank-assets.

Euroclear reportedly held about €180 billion of this. In October 2023 Belgium was reported to have frozen €197 billion in total, €180 billion belonging to the CBR. Laura Dubois and Nikou Asgari, "Euroclear Earns €3bn from Russian Assets Frozen by West," *Financial Times*, October 26, 2023, https://www.ft.com/content/88ff88c4-6efe-40b7-b635-80eb6bd73c2c. When this €180 billion number is added to the CBR number from France, nearly all of the frozen CBR assets in the EU seem to be accounted for.

The EU total for frozen CBR assets included all of the noneuro CBR holdings in Euroclear (which were about 35 percent of Euroclear's total, or €63 billion worth); it therefore appears that the total of the frozen CBR assets that were denominated in euros was about €140 billion. That number can then be contrasted with the €182.5 billion the CBR reported it was holding in that currency two months earlier.

The scale of other frozen Russian assets beyond the CBR—from oligarchs or the many other sanctioned entities—appears to be quite large, probably itself more than €40 billion worth. According to a leaked internal paper, in March 2023 the European Council's Secretariat believed that Russian assets with a total value of €249 billion had been frozen just throughout the EU, though they were still trying to collect the full data. Recall that only about €200 billion of this appears to have belonged to the CBR.

10. HM Treasury, "OFSI Annual Review 2022 to 2023: Strengthening Our Sanctions," gov.uk, December 14, 2023, 16–17, https://www.gov.uk/government/publications/ofsi-annual-reviews/ofsi-annual-review-2022-to-2023-strengthening-our-sanctions. The regular reporting showed about £8 billion in Russian assets frozen, but this appears to be mainly oligarch and enterprise freezes, perhaps including a very large amount in Jersey belonging to Roman Abramovich. The OFSI (Office of Financial Sanctions Implementation) reported additional in-year reporting after the 2022 expanded Russian invasion of Ukraine beyond that £8 billion number. This showed a further £22.7 billion frozen "in relation to the Russian regime."

This £22.7 billion number did not seem to include the £23 billion in sterling now showing up in the Euroclear cash accounts for Russian sovereign assets. But I assume the £22.7 billion did include the USD accounts frozen in the British Caymans. So, the 2023 sterling value of the Caymans number is subtracted from the UK total shown here because that money is presumably being managed by the US correspondent partners of the banks in the Caymans, and it therefore is shown in the US total.

11. The US Treasury has publicly reported $5 billion frozen in CBR funds. See Office of Foreign Assets Control, "Report," cited above. The report had a classified annex detailing other frozen funds, which I have informally heard might include another $5 billion–$6 billion. Pending further details, I report this in the text as a range from $5 billion–$10 billion. None of these totals include US holdings on behalf of foreign counterparties such as Euroclear or the Bank of Japan.

12. "Cayman Freezes US$8.35B of Assets under Russian Sanctions," Cayman News Service, November 13, 2024, https://caymannewsservice.com/2024/11/cayman-freezes-us8-35b-of-assets-under-russian-sanctions/. Without further information, I presume at least the majority of this is CBR money, but the disclosed data does not say.

13. At the end of 2021 the CBR reported that it held US$57 billion worth of assets in Japan. Of this amount, the ¥4,160 billion holdings were then, in 2021, worth US$36 billion.

Until Japanese financial authorities disclose what happened, I assume the CBR did not liquidate its USD holdings in Japanese accounts. At the end of 2021, Russia apparently held US$28 billion in non-US accounts, and three-quarters of this was held in Japan. It is possible that these holdings became even larger in early 2022 as Russia sheltered its USD holdings that had been in the US.

14. In April 2022 the French finance ministry detailed that €22.8 billion in CBR assets had been frozen, out of a total of €23.6 billion. See the useful summary, at that time, in Financial Crime News, "Where Are the Sanctioned Russian Assets Frozen in the West and How Much Is Actually Frozen," February 2023, https://thefinancialcrimenews.com/wp-content/uploads/2023/02/Sanctioned-Russian-Assets-Frozen-in-the-West-Pbd-24.pdf. The CBR had been steadily moving its assets out of France. In June 2021 it had a USD value of $71 billion there, down to a value of $53 billion by December, and two months later only about $24 billion (the dollar value of €22.8 billion) was left to be frozen.

15. Switzerland's State Secretariat for Economic Affairs (SECO) last reported that the CBR total was worth 7.24 billion Swiss francs. Given the fluctuating value of this total in SECO's reports over time, it appears that the underlying holdings are probably in euros, in about the amount shown in the text. If that is the case, then the Swiss may have a partner custodian bank in the Eurozone, either at the ECB in Germany or elsewhere. For the report on this value, see SECO, "Ukraine: Decrease in the Value of Russian Assets

Frozen in Switzerland," April 23, 2024, https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-100780.html. This is the number just for CBR assets. A nearly equal sum of oligarch money has also been frozen.

16. A well-connected group of former Australian officials wrote in April 2024 that AU$9 billion had been frozen in Australia, but they did not specify how much of this was from the CBR, so this number may be too high. See the letter from the Supporters of Ukraine Network to Treasurer Jim Chalmers, April 5, 2024, https://afuo.org.au/wp-content/uploads/2024/04/SUN-letter-on-RF-assets-1.pdf. That number apparently did not include the AU$5.2 billion frozen via Euroclear, but it is being managed in Australia.

17. Singapore has not disclosed how much of the Russian assets have been frozen in Singapore itself, so this total may be low.

18. See the "G7 Apulia Leaders' Communiqué," The White House, June 14, 2024, https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/14/g7-leaders-statement-8/.

19. See the relevant regulation here: 31 CFR 587.311 and 587.504 & 505.

20. See the observation in the memorandum of law published in IISS by Gould-Davies, ed., "On Proposed Countermeasures," 7, para. 8.

21. Either through confusion or deliberately, the current German government has chosen to blur the distinction between "sovereign immunity"—which has never applied to acts of state—and "sovereign equality" as if these were the same concept. They are not. See, e.g., the discussion of this in Gould-Davies, "On Proposed Countermeasures," cited above, which was coauthored by one of Germany's own legal experts on this precise subject (Christian Tams), at 13, para. 35; and 21, para. 72. In contrast, see the government response to the small parliamentary inquiry by the CDU/CSU faction, especially Qs 4, 5, 7, 8, 22, 23, and 38, at Deutscher Bundestag, *Drucksache* 20/12821, "Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion der CDU/CSU—Drucksache 20/12344—Verwendung sanktionierter Vermögen und ihrer Erträge für die Ukraine," September 4, 2024, https://dserver.bundestag.de/btd/20/128/2012821.pdf.

In other words, the German government professed that it accepted the law of state countermeasures, yet it adopted a position that would prevent the countermeasures being used against a state unless the target state had consented to them! Fortunately, the party that was asking these parliamentary questions is likely to be in the government that will finally decide how to answer them.

22. On Russian capacity to sue, see Gould-Davies, "On Proposed Countermeasures," 21, para. 71; and 27, n. 66. For a sense of how European courts are handling various challenges so far, see, e.g., Thomas Wahl, "CJEU: Recent Rulings on EU's Restrictive Measures against Russia," Eucrim, November 7, 2024, https://eucrim.eu/news/cjeu-recent-rulings-on-eus-restictive-measures-against-russia/.

23. In the claims process funded by Iraqi sovereign assets that sorted damages arising from Iraq's 1990–91 invasion and occupation of Kuwait, the asset managers decided to allocate about 80 percent of the assets to claims from Kuwait and Kuwaitis, with the rest going to governments and other claimants from more than ten other countries. That is only an illustration. This case is far larger in every way.

31 30 29 28 27 26 25 7 6 5 4 3 2 1

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Synopsis

As leaders debate how to stop Russia's war in Ukraine, they should at last clean up and escrow the management of the $300 billion in Russian assets that have been frozen for nearly three years. Since their seizure, the political and financial circumstances have completely changed. Only about half the assets are now in the Eurozone; none are being effectively managed. This report provides new details about the situation and a concrete proposal for action.

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