



HOUSE OF LORDS

European Union Committee

---

8th Report of Session 2017–19

# **Brexit: sanctions policy**

---

Ordered to be printed 12 December 2017 and published 17 December 2017

---

Published by the Authority of the House of Lords

### *The European Union Committee*

The European Union Committee is appointed each session “to scrutinise documents deposited in the House by a Minister, and other matters relating to the European Union”.

In practice this means that the Select Committee, along with its Sub-Committees, scrutinises the UK Government’s policies and actions in respect of the EU; considers and seeks to influence the development of policies and draft laws proposed by the EU institutions; and more generally represents the House of Lords in its dealings with the EU institutions and other Member States.

The six Sub-Committees are as follows:

Energy and Environment Sub-Committee  
External Affairs Sub-Committee  
Financial Affairs Sub-Committee  
Home Affairs Sub-Committee  
Internal Market Sub-Committee  
Justice Sub-Committee

### *Membership*

The Members of the European Union Select Committee are:

<a href="#"><u>Baroness Armstrong of Hill Top</u></a>	<a href="#"><u>Lord Jay of Ewelme</u></a>	<a href="#"><u>Lord Teverson</u></a>
<a href="#"><u>Lord Boswell of Aynho</u></a> (Chairman)	<a href="#"><u>Baroness Kennedy of The Shaws</u></a>	<a href="#"><u>Baroness Verma</u></a>
<a href="#"><u>Baroness Brown of Cambridge</u></a>	<a href="#"><u>Earl of Kinnoull</u></a>	<a href="#"><u>Lord Whitty</u></a>
<a href="#"><u>Baroness Browning</u></a>	<a href="#"><u>Lord Liddle</u></a>	<a href="#"><u>Baroness Wilcox</u></a>
<a href="#"><u>Lord Crisp</u></a>	<a href="#"><u>Baroness Neville-Rolfe</u></a>	<a href="#"><u>Lord Woolmer of Leeds</u></a>
<a href="#"><u>Lord Cromwell</u></a>	<a href="#"><u>Lord Selkirk of Douglas</u></a>	
<a href="#"><u>Baroness Falkner of Margravine</u></a>	<a href="#"><u>Baroness Suttie</u></a>	

The Members of the External Affairs Sub-Committee, which conducted this inquiry, are:

<a href="#"><u>Baroness Armstrong of Hill Top</u></a>	<a href="#"><u>Baroness Manzoor</u></a>	<a href="#"><u>Baroness Suttie</u></a>
<a href="#"><u>Baroness Brown of Cambridge</u></a>	<a href="#"><u>Earl of Oxford and Asquith</u></a>	<a href="#"><u>Baroness Symons of Vernham Dean</u></a>
<a href="#"><u>Lord Dubs</u></a>	<a href="#"><u>Lord Risby</u></a>	<a href="#"><u>Lord Triesman</u></a>
<a href="#"><u>Lord Horam</u></a>	<a href="#"><u>Lord Stirrup</u></a>	<a href="#"><u>Baroness Verma</u></a> (Chairman)

### *Further information*

Publications, press notices, details of membership, forthcoming meetings and other information is available at <http://www.parliament.uk/hleu>.

General information about the House of Lords and its Committees is available at <http://www.parliament.uk/business/lords>.

### *Sub-Committee staff*

The current staff of the Sub-Committee are Eva George (Clerk), Julia Ewert (Policy Analyst) and Lauren Harvey (Committee Assistant).

### *Contact details*

Contact details for individual Sub-Committees are given on the website. General correspondence should be addressed to the Clerk of the European Union Committee, Committee Office, House of Lords, London, SW1A 0PW. Telephone 020 7219 5791. Email [euclords@parliament.uk](mailto:euclords@parliament.uk).

### *Twitter*

You can follow the Committee on Twitter: [@LordsEUCom](https://twitter.com/LordsEUCom).

## CONTENTS

---

	<i>Page</i>
<b>Summary</b>	<b>2</b>
<b>Chapter 1: Introduction</b>	<b>5</b>
<b>Chapter 2: Sanctions: an introduction</b>	<b>6</b>
The purpose of sanctions	6
Box 1: Types of sanctions	6
The current UK sanctions regime	7
Types of regimes	7
EU and UN regimes	8
The current implementation in UK law of UN and EU sanctions	9
Multilateral versus unilateral approaches to sanctions	10
The UK's current approach	11
Current EU sanctions regimes	14
Conclusions and recommendations	14
Figure 1: Sanctions regimes implemented by EU Member States	15
<b>Chapter 3: Current situation: policy design</b>	<b>16</b>
How an EU sanctions regime is established	16
Box 2: EU bodies and groups relating to sanctions	16
Co-ordination between the Member States and EU institutions on listings	19
Implementation and enforcement	20
The UK's role and influence	21
Conclusions and recommendations	21
<b>Chapter 4: The future UK sanctions regime</b>	<b>22</b>
The UK legislative framework for sanctions after Brexit	22
Future UK sanctions policy	22
Third country alignment with EU sanctions	23
US-EU co-operation	24
The Government's aspirations for co-operation with the EU	26
Formal structures for co-operation with the EU	28
Sanctions policy implications of the UK's departure from the EU	29
Co-operation internationally	30
Impact on businesses	32
Resourcing of UK sanctions design and implementation	35
Resourcing of EU-27 sanctions design	37
Conclusions and recommendations	37
<b>Summary of conclusions and recommendations</b>	<b>39</b>
<b>Appendix 1: List of Members and declarations of interest</b>	<b>41</b>
<b>Appendix 2: List of witnesses</b>	<b>43</b>
<b>Appendix 3: Table underpinning EU sanctions map (Figure 1)</b>	<b>46</b>

Evidence is published online at <http://www.parliament.uk/brexit-sanctions-policy> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

Sanctions are a central tool of national security. When the UK leaves the European Union (EU), it will cease to be part of its framework for designing and imposing sanctions. The majority of the UK's current sanctions regimes are EU restrictive measures, agreed unanimously by all 28 Member States and applied across the bloc. The Government has brought forward legislation which would freeze the current sanctions regimes and designations in effect on the date of the UK's withdrawal from the EU, and establish a legislative framework for the UK to implement United Nations (UN) regimes and use sanctions to meet national security and foreign policy objectives.

Sanctions are most effective when they are applied on a multilateral basis. Participation in the EU sanctions regime has helped the UK to achieve its foreign policy and national security goals. EU sanctions have sent a powerful signal to states such as Russia, and leveraged the bloc's considerable economic weight to change countries' behaviour, such as in Iran. EU regimes—independent or building on UN measures—account for around three-quarters of all the sanctions the UK currently implements. They have been particularly important in cases where agreement cannot be reached at the UN, or UN measures are limited in scope.

The principal interests and threats facing the UK and the EU-27 will not change fundamentally when the UK leaves the EU. We therefore welcome the Government's intention to continue to work closely with the EU and other international partners on the application of sanctions after Brexit. The US and the EU already co-ordinate closely on the design of restrictive measures, and it would be desirable for the UK, the US and the EU to maintain a broadly similar approach to sanctions policy after Brexit. Working closely with international partners would also help to avoid additional administrative burdens for businesses operating in the UK.

The UK could choose to align itself with the EU sanctions regime—an approach often taken by Norway and Switzerland. While this would preserve the current unity of approach, it would require the UK to implement decisions taken by the EU-27, without having any influence over their design. We also conclude that while informal engagement with the EU on sanctions—as undertaken by the US—can be very valuable, it is no substitute for the influence that can be exercised through formal inclusion in EU meetings.

The Government's aspiration is to establish an “unprecedented” UK-EU partnership on sanctions policy after Brexit. The UK has some leverage in that it currently plays a leading role in developing EU sanctions policy, is most active in proposing individuals and entities to be listed, and is home to the largest international financial centre of the bloc. But we note that the Government's approach is untested, and it is not yet clear what its proposed arrangements would involve. Future co-operation could also be limited by the UK's new legal framework for sanctions, and its post-Brexit position outside the EU's Single Market and customs union.

More broadly, the extent to which the UK and the EU co-operate on sanctions will depend on their future relationship in the wider foreign policy arena. This needs urgent consideration. We suggest that, if the Government does not participate in the Common Foreign and Security Policy (CFSP) after Brexit, it

should propose that a UK-EU political forum be established, expressly for the discussion and co-ordination of sanctions policy.

The UK has the expertise and capacity to develop and implement sanctions independent of the EU, and is establishing a dedicated sanctions unit. Depending on the direction of the UK's sanctions policy after its departure from the EU, more resources may be required.



# Brexit: sanctions policy

## CHAPTER 1: INTRODUCTION

---

1. Sanctions—also known as restrictive measures—are controls imposed by a country or bloc on another country, its citizens or entities with the aim of influencing their behaviour. The UK Government agrees sanctions at the UN, the EU and, to a lesser extent, on an autonomous basis. On leaving the EU, the UK will leave the common EU regime through which it shapes, adopts and implements the majority of restrictive measures currently in force in the UK.
2. This report considers the UK's current sanctions regime—as a member of the EU—and its options for designing an autonomous regime and collaborating with international partners after Brexit. It focuses on sanctions policy—the process of designing measures to achieve the UK's foreign policy and national security goals. It does not explore the proposed legal regime through which the Government intends to implement sanctions after Brexit, or specific issues relating to implementation and enforcement. We note that our previous report, *The legality of EU sanctions*, raised a number of concerns, including over the standard of proof the EU applies when it adopts sanctions listings, and over the practice of relisting on amended reasons entities whose original listings have been struck down for lack of evidence by the EU courts.<sup>1</sup>
3. Chapter 2 introduces the purpose of sanctions, the types of sanctions regimes implemented by the UK, the advantages of unilateral and multilateral approaches to sanctions, and the EU regimes currently in place. Chapter 3 considers how an EU sanctions regime is established, how Member States and EU institutions co-ordinate, and the UK's current role and influence. Chapter 4 considers the UK's future sanctions policy, including the ways that third countries work with the EU, possible co-operation with the EU-27 and other international partners, the impact on businesses, and the resourcing of UK and EU on sanctions policy.
4. This report is based on an inquiry from April to October 2017 by the EU External Affairs Sub-Committee, whose members are listed in Appendix 1. We are grateful to our witnesses, who are listed in Appendix 2. A list of the current UN, EU and Organisation for Security and Co-operation in Europe (OSCE) sanctions regimes is in Appendix 3.
5. **We make this report for debate.**

---

<sup>1</sup> Our report, *The legality of EU sanctions*, explores the sanctions listing process and legal challenges. European Union Committee, *The legality of EU sanctions* (11th Report, Session 2016–17, HL Paper 102). Also see the report of the Constitution Committee on the proposed domestic sanctions regime. Constitution Committee, *Sanctions and Anti-Money Laundering Bill [HL]* (8th Report, Session 2017–19, HL Paper 39)

## CHAPTER 2: SANCTIONS: AN INTRODUCTION

### The purpose of sanctions

6. Sanctions are a tool of foreign policy, and aim “to coerce a change in behaviour, to constrain behaviour, or to communicate a clear political message to other countries or persons”.<sup>2</sup> The EU describes them as: “an essential tool of the EU’s Common Foreign and Security Policy ... used by the EU as part of an integrated and comprehensive policy approach, involving political dialogue, complementary efforts and the use of other instruments at its disposal”.<sup>3</sup>
7. Dr Erica Moret, Senior Researcher and Chair of the Geneva International Sanctions Network, Graduate Institute of International and Development Studies, described sanctions as a “useful middle ground between war and words”;<sup>4</sup> they are “a policy instrument that can put pressure on targeted entities short of military action”.<sup>5</sup>
8. “Sanctions have become a central tool of national security”, according to Mr David Mortlock, Partner, Willkie Farr & Gallagher LLP, and Mr Richard Nephew, Adjunct Professor and Senior Research Scholar, Center on Global Energy Policy, Columbia University.<sup>6</sup> While acknowledging that questions are often raised about the effectiveness of sanctions, Mr Ross Denton, Partner, Baker and McKenzie LLP, told us that “in certain industries they are very effective”. For example:  
  

“They have changed the nature of business in Russia, they have changed the way in which certain businesses operate, and they have changed the way in which Russia wants to do business with the West.”<sup>7</sup>
9. The different types of sanctions—arms embargoes; asset freezes; visa or travel bans; and other sectoral restrictions—are described in Box 1 below.

### Box 1: Types of sanctions

#### *Arms embargoes*

Arms embargoes normally cover the sale, supply and transport of military goods. In EU regimes, these must be included in the EU’s Common Military List.<sup>8</sup> Related technical and financial assistance is usually also included in the ban. The export of equipment used for internal repression, and dual-use goods (that can be used for both civil and military purposes) may also be prohibited.

---

2 Foreign and Commonwealth Office, *Sanctions and Anti-Money Laundering Bill [HL] Explanatory Notes*, (18 October 2017), p 4: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/18069en.pdf> [accessed 12 December 2017]

3 Council of the European Union, ‘Sanctions: how and when the EU adopts restrictive measures’: <http://www.consilium.europa.eu/en/policies/sanctions/> [accessed 12 December 2017]

4 Written evidence from Dr Erica Moret (BSP0008)

5 Written evidence from Dr Mikael Eriksson (BSP0005)

6 Written evidence from David Mortlock and Richard Nephew (BSP0002)

7 Q 1 (Ross Denton)

8 Common Military List of the European Union adopted by the Council on 6 March 2017, [OJ C 97](#) (28 March 2017)



*Asset freezes*

Asset freezes concern funds and economic resources owned or controlled by targeted individuals or companies. Funds, such as cash, cheques, bank deposits, stocks and shares may not be accessed, moved or sold, and other tangible or intangible assets—including real estate—cannot be sold or rented.

Asset freezes also include a ban on providing resources to targeted individuals or companies. In effect, business transactions with targeted individuals or companies cannot be carried out.

*Visa or travel bans*

Individuals targeted by a travel ban are denied entry to the sanctioning country at its external borders. If visas are required for entering the country, they will not be granted to people subject to such restrictions on admission. EU measures do not oblige an EU Member State to refuse entry to its own nationals.

*Other sectoral restrictions*

Sectoral restrictions include, for example, prohibitions on certain kinds of financial transactions or certain types of trade.

Source: European Union Committee, *The legality of EU sanctions* (11th Report, Session 2016–17, HL Paper 102) and [Q 1](#) (Maya Lester)

10. Sir John Sawers GCMG, Chairman, Macro Advisory Partners and Former Chief of the Secret Intelligence Service (MI6), told us that sanctions regimes had become increasingly specific: effective regimes were “as targeted as possible on the decision-makers and the leadership of the regimes that are the target of sanctions”, and “focus on vulnerabilities rather than being broad-brush sanctions that affect the people as a whole”. He said that in the last two decades, “the most effective sanctions we have seen have been financial sanctions”.<sup>9</sup> In this regard, the UK could be a significant actor, given its role as an international financial centre.<sup>10</sup>

## The current UK sanctions regime

### *Types of regimes*

11. The UK currently implements four different types of sanctions regimes.
12. First, the UK implements sanctions derived from the UN, through Resolutions of the Security Council under Chapter VII of the UN Charter. These are mostly asset freezes, and applied by all UN members. EU Member States adopt UN sanctions via the EU’s CFSP as a bloc, but the obligation, under international law, is on the individual country to implement these sanctions.
13. Second, the UK implements sanctions derived from the EU under Article 215 of the Lisbon Treaty. These regimes fall into two parts:
  - (a) Regimes which build on a UN sanctions regime, applying stricter or additional measures (for example regimes on Iran, Libya and the Democratic People’s Republic of Korea); and
  - (b) Autonomous EU sanctions regimes, which are separate to any action by the UN (such as regimes on Syria, Russia and Burma).

<sup>9</sup> [Q 53](#)

<sup>10</sup> [Q 53](#) (Sir John Sawers), written evidence from Tom Keatinge ([BSP0001](#)) and [Q 66](#) (Sir Alan Duncan MP)

14. EU sanctions regimes include asset freezes, travel restrictions, arms embargoes and can also include broader sectoral restrictions (as set out in Box 1). EU sanctions apply:
 

“within the jurisdiction (territory) of the EU; to EU nationals in any location; to companies and organisations incorporated under the law of a Member State—including branches of EU companies in third countries; on board of aircrafts or vessels under Member States’ jurisdiction”.<sup>11</sup>
15. Mr Matthew Findlay, Deputy Head, International Organisations Department, Foreign and Commonwealth Office (FCO), explained that where sanctions relate to areas of EU competence, such as trade, Member States “cannot act in a way that is divergent from EU law”.<sup>12</sup> In addition, the ‘duty of sincere co-operation’—Article 4(3) of the Lisbon Treaty, which states that “the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties”<sup>13</sup>—requires Member States to co-operate on foreign policy. This limits the extent to which Member States can act alone (for example applying additional sanctions, above those agreed by the EU): “It is ... politically unusual to break ranks.”<sup>14</sup>
16. Third, the UK implements sanctions derived from the UK’s existing autonomous powers, under the Terrorist Asset-Freezing etc. Act 2010 (TAFa). Autonomous UK powers under TAFa are currently limited to counterterrorist asset freezing and to elements of restrictions against weapons of mass destruction and proliferation.<sup>15</sup>
17. Fourth, the UK implements two arms embargoes relating to Armenia and Azerbaijan through the OSCE.<sup>16</sup>
18. Mr Paul Williams, Director, Multilateral Policy, FCO, calculated that, as of September 2017, around 17% of the UK’s sanctions measures were derived from the UN, around 25% were UN measures built on by the EU, and around 51% were EU autonomous sanctions.<sup>17</sup>

### *EU and UN regimes*

19. Ms Maya Lester QC, Barrister, Brick Court Chambers, said that UN and EU regimes “broadly do the same thing”: both can pursue a range of aims—such as “compliance with human rights and the rule of law, specific foreign policy goals such as trying to persuade a state to change its policy in a certain area, sometimes supporting a new fledgling democracy, counterterrorism, counterproliferation, and so on”.<sup>18</sup>
20. She said that the design of UN and EU regimes also “does not particularly differ”; both can either target specific individuals and entities or have a

---

11 European External Action Service (EEAS), ‘Sanctions policy’: [https://eeas.europa.eu/headquarters/headquarters-homepage/423/sanctions-policy\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/423/sanctions-policy_en) [accessed 12 December 2017]

12 [Q 23](#)

13 The Lisbon Treaty, ‘Article 4’: <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/5-article-4.html> [accessed 12 December 2017]

14 [Q 23](#)

15 [Q 1](#) (Maya Lester)

16 [Q 20](#) (Paul Williams)

17 [Q 20](#). The remaining 7% would be domestic sanctions and the arms embargoes on Armenia and Azerbaijan. Mr Williams told us that the total number of regimes in September 2017 was 35; for updated figures on UN and EU restrictive measures, please refer to Figure 1 and Appendix 3.

18 [Q 1](#)

broad, sectoral application.<sup>19</sup> Mr Denton told us that both UN and EU regimes

“have moved away from simply having freezes on individuals or regimes into having very sophisticated measures, such as fund transfer controls or restrictions on particular categories of product. Probably the two most highly developed regimes have been those in respect of Iran—of course, since the Joint Comprehensive Plan of Action (JCPOA) that has changed—and Russia, in relation to which we have a very sophisticated regime.”<sup>20</sup>

### The current implementation in UK law of UN and EU sanctions

21. Once agreed, the UK’s implementation of UN and other multilateral sanctions regimes largely relies on the requirements set out in the European Communities Act 1972.<sup>21</sup>
22. Certain types of EU sanctions, such as arms embargoes and travel bans, are implemented directly by Member State governments, and such measures require only a Decision by the Council, which is directly binding on those governments. In the UK, this is through the European Communities Act 1972, which gives effect in national law to directly effective EU law. By contrast, economic measures—such as asset freezes and export bans— affect wider EU legal principles on free movement, and require additional implementing legislation in the form of a Council Regulation, which is then directly binding on individuals and companies in the EU. The Regulation sets out the precise scope of the measures decided upon by the Council and the means of their implementation.<sup>22</sup>
23. Businesses trading with entities which are subject to sanctions regimes play a significant role in applying the restrictive measures. Dr Francesco Giumelli, Assistant Professor in International Relations, University of Groningen, told us that “many sanctions are written in such a way that we are delegating powers to businesses to make decisions that we cannot make because we do not know what happens on the ground”. A Government could instruct a company to freeze the bank account of a designated individual and people either directly or indirectly related to them, but “we do not list them because we do not know who they are. We hope that the banks, companies and traders dealing with them will somehow see something and will share it with us.”<sup>23</sup>

---

19 [Q 1](#) (Maya Lester)

20 [Q 1](#). The JCPOA lifted nuclear-related sanctions on Iran. Signatories were Iran, China, France, Russia, United Kingdom, United States, Germany, and the European Union.

21 Foreign and Commonwealth Office, *Sanctions and Anti-Money Laundering Bill [HL] Explanatory Notes*, (18 October 2017), p 5: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/18069en.pdf> [accessed 12 December 2017]

22 European Union Committee, *The legality of EU sanctions* (11th Report, Session 2016–17, HL Paper 102)

23 [Q 13](#)

### Multilateral versus unilateral approaches to sanctions

24. All our witnesses agreed that the most effective regimes are those applied by multiple countries. Dr Giumelli told us: “There is no way in which you can have effective sanctions on the ground unless you have wide co-ordination.”<sup>24</sup> The Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, FCO, explained: “The thing about sanctions is that they work best when people work together.”<sup>25</sup>
25. Our witnesses advanced two reasons for this. First, explained Dr Mikael Eriksson, Researcher, Swedish Defense Research Agency, “the more interstate co-operation to enforce a sanctions regime, the stronger the signalling effect is likely to be” towards the targeted entity.<sup>26</sup> Mr Tom Keatinge, Director, Centre for Financial Crime & Security Studies, Royal United Services Institute, cited the sanctions against Iran’s nuclear programme, which were co-ordinated between the EU and the US, and which had shown that “sanctions are most effective when they are designed collaboratively and applied in concert with multilateral political support”.<sup>27</sup> Mr Findlay agreed that “greater alignment gives you greater strategic impact”.<sup>28</sup>
26. Second, Sir John Sawers said that to be effective, sanctions regimes must “embrace the main economic partners of the target country”. On that basis:
 

“The European Union is the largest economic bloc and the largest trading power in the world. Alongside the European Union are the United States and China as the other major trading, economic powers in the world. If sanctions regimes are going to be effective, you need at least two and possibly three of those blocs.”<sup>29</sup>

He noted that sometimes a country can be “especially loud or shrill in arguing for a particular” regime to be imposed, but that this “does not mean that it necessarily has that level of influence on the outcome”. For example, in the case of sanctions on North Korea, the US has “no business or commercial links”, while China is North Korea’s main trade partner.<sup>30</sup>
27. Mr Williams summarised the position as follows: “The wider the scope that you can cover in implementing sanctions the better, to try to coerce the change in behaviour that you are looking for.”<sup>31</sup> Sir John Sawers explained that there was, therefore, “not much point in one country applying sanctions”. He cited the example of independent UK sanctions on Russia following the murder of Alexander Litvinenko in 2006.<sup>32</sup> Under the Anti-Terrorism, Crime and Security Act 2001, the UK imposed an asset freeze on Andrey Lugovoy and Dmitri Kovtun, who were named as responsible in the official report into

---

24 [Q 11](#)

25 [Q 67](#)

26 Written evidence from Dr Mikael Eriksson ([BSP0005](#))

27 Written evidence from Tom Keatinge ([BSP0001](#))

28 [Q 72](#)

29 [Q 56](#)

30 [Q 59](#)

31 [Q 20](#)

32 [Q 53](#)

his death.<sup>33</sup> Sir John Sawers noted that, “while the sanctions we took may have made us feel a bit better, they did not have any impact on the Russian leadership. That was partly because it was just us taking them.”<sup>34</sup>

### *The UK’s current approach*

28. Mr Williams said that the UK “would always prefer to do sanctions through the United Nations, because sanctions done through the UN are binding on all the UN member states—193 countries”. He noted, however, that “it is not always possible to go through the UN”. For example, sanctions on Russia and Syria have not been possible, given Russia’s opposition and its status as a permanent member of the UN Security Council. For this reason, “we regularly go further within the EU, or the EU does its own autonomous regimes”.<sup>35</sup>
29. Our witnesses outlined a range of advantages the UK currently derives from participation in an EU sanctions regime. First, a number of witnesses emphasised the leading role that the UK plays in the formulation of EU restrictive measures (discussed further in Chapter 3). Mr Denton said the UK “can use its resources to influence other EU Member States and to guide them in a similar direction to that of the UK”.<sup>36</sup> This means that, in the words of Dr Benjamin Kienzle, Lecturer, Defence Studies, King’s College London, the UK is able to use the EU as a “convenient power multiplier”, to pursue its desired foreign policy objectives.<sup>37</sup> Dr Kienzle gave the example of Iran: UN sanctions were supplemented by EU sanctions—in particular an oil embargo—which contributed to Iran’s agreement to the JCPOA. This “helped to solve one of the UK’s key issues on its foreign policy agenda”.<sup>38</sup> Similarly, in evidence to the External Affairs Sub-Committee in April 2017, Dr Karen Smith, Professor of International Relations and Director of the European Foreign Policy Unit, London School of Economics and Political Science, highlighted sanctions on Russia and Syria as “examples of how the EU framework has helped the UK”.<sup>39</sup>

---

33 HM Treasury, *General Notice of Freezing Order* (22 January 2016): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/494330/Notice\\_re\\_UK\\_freezing\\_orders\\_regime\\_january\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494330/Notice_re_UK_freezing_orders_regime_january_2016.pdf) [accessed 12 December 2017] and The Litvinenko Inquiry, *Report into the death of Alexander Litvinenko* (21 January 2016): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/493860/The-Litvinenko-Inquiry-H-C-695-web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493860/The-Litvinenko-Inquiry-H-C-695-web.pdf) [accessed 12 December 2017]

34 [Q 53](#)

35 [Q 20](#)

36 [Q 2](#)

37 Written evidence from Dr Benjamin Kienzle ([BSP0010](#)); Also see [Q 10](#) (Dr Clara Portela), written evidence from Dr Clara Portela ([BSP0003](#)) and [Q 2](#) (Ross Denton). We discussed this in our report, *Europe in the world: Towards a more effective EU foreign and security strategy*. European Union Committee, *Europe in the world: Towards a more effective EU foreign and security strategy* (8th Report, Session 2015–16, HL Paper 97)

38 Written evidence from Dr Benjamin Kienzle ([BSP0010](#)); The Coalition Government’s Review of the Balance of Competences between the United Kingdom and the European Union—Foreign Policy (July 2013) cited Rem Korteweg, Centre for European Reform, that EU sanctions had “led to a virtual stop in Iranian oil exports, a fall in the local currency, and a depletion of Iranian foreign currency reserves”, which had resulted in Iran coming to the negotiating table. HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union—Foreign Policy* (July 2013), p 49: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227437/2901086\\_Foreign\\_Policy\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227437/2901086_Foreign_Policy_acc.pdf) [accessed 12 December 2017]

39 Oral evidence taken before the EU External Affairs Sub-Committee on 6 April 2017 (Session 2016–17), [Q 1](#) (Dr Karen Smith)



30. Second, as has already been established, an important feature of sanctions is the signal they send to their target. Dr Moret told us collective EU sanctions had the advantage of demonstrating a “greater show of unity”. She continued: “Working in unison to condemn a specific breach of international law ... can send a powerful message”.<sup>40</sup> In evidence to the External Affairs Sub-Committee in July, the Rt Hon Lord Hague of Richmond gave us an example: “Twenty-eight countries left to their own devices would not have had identical sanctions, or brought Iran to the negotiating table. The ability to do that is very important”.<sup>41</sup>
31. Third, Ms Lester said that EU sanctions proposed or supported by the UK “have ... legal effect across all Member States of the EU rather than only in the UK”;<sup>42</sup> the UK was thereby benefiting from what Mr Keatinge called the EU’s “economic heft”.<sup>43</sup> UK Finance was of the view that “EU harmonization” had “heightened the impact of sanctions on designated entities and individuals no matter where in the EU these designated parties are located or access finance services”.<sup>44</sup> Mr Williams agreed: working within an EU regime provided a greater reach for sanctions than a stand-alone UK regime.<sup>45</sup>
32. Fourth, Ms Lester told us that “uniformity of approach and consistency in having one [EU] regime to deal with” had “enormous” advantages for “businesses, NGOs, individuals and other organisations”. She highlighted the value to such entities of only having to apply once for an authorisation (a licence exception to a sanctions regime) for it to be valid across all Member States.<sup>46</sup>
33. Fifth, being part of a common EU sanctions regime—and bound by the ‘duty of sincere co-operation’—helped Member States to co-ordinate implementation, and prevented one state from deriving commercial benefit at the expense of another. For example, Dr Clara Portela, Assistant Professor of Political Science, Singapore Management University, told us that members of the then European Economic Community had taken advantage of UK sanctions on Uganda (imposed in 1972, prior to the UK joining the bloc), by intensifying their own trade in response to opportunities created by the withdrawal of British firms; in contrast, the UK sanctions regime on Zimbabwe in 2002 “was quickly adopted by the entire EU, which sustained it for over a decade”.<sup>47</sup>
34. Sixth, Ms Lester said that being part of an EU-wide regime somewhat reduced the prospect of “countersanctions” by the target country: “It is easier if you are a third country to retaliate against one country—as Russia has done in a number of instances recently, for example in its food and agricultural measures and its measures against Turkey—than it is across the bloc”.<sup>48</sup>

---

40 Written evidence from Dr Erica Moret ([BSP0008](#))

41 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 10](#)

42 Written evidence from Maya Lester ([BSP0004](#))

43 [Q 10](#)

44 Written evidence from UK Finance ([BSP0007](#)). It added that, “where EU efforts have been co-ordinated with those of other like minded countries, such as the US, Canada, Australia and Japan the global impact of such measures are far more influential”.

45 [Q 21](#)

46 [Q 2](#)

47 Written evidence from Dr Clara Portela ([BSP0003](#))

48 [Q 2](#); Also see written evidence from UK Finance ([BSP0007](#))

35. Seventh, an EU-wide sanctions regime allowed Member States to combine their resources, information and expertise in designing sanctions.<sup>49</sup> This is discussed further in Chapter 3.
36. Dr Moret told us that the “advantages of the UK’s EU membership have been widespread and disadvantages have been minimal”.<sup>50</sup> Other witnesses, though, identified some disadvantages to participation. First, Mr Keatinge said that “the UK’s hands are somewhat tied by consensus”, when formulating sanctions regimes with 27 other Member States.<sup>51</sup> On the one hand, Dr Moret, Ms Lester and Mr Findlay told us that securing agreement among 28 countries could result in a dilution of sanctions measures that the UK would like to impose.<sup>52</sup> Dr Portela noted that this was a challenge in all multilateral regimes.<sup>53</sup> Dr Kienzle noted that, on the other hand, there was an element of *quid pro quo*: other Member States “may expect the UK to implement sanctions that are not necessarily a UK priority in return for their support for EU sanctions that are in the UK’s national interest”.<sup>54</sup> Mr Keatinge added that EU regimes could also require “sacrifices” by the UK, such as restrictions affecting the UK financial services industry.<sup>55</sup>
37. Sir John Sawers said that this was inevitable: “You are bound to have a negotiation and a balance as to the right extent of those sanctions, how deep they should go and how the sanctions regime should be designed.” He gave us the example of sanctions on apartheid-era South Africa: “The UK had closer economic ties with South Africa in the 1980s than most other countries, so we were at the lower end of the spectrum on sanctions, wanting to limit the impact on the economic links”.<sup>56</sup> Mr Mortlock and Mr Nephew described this as “a curious balancing posture” by the EU, of “distributed pain”.<sup>57</sup>
38. Second, Dr Giumelli and Mr Williams told us that building consensus between the EU Member States could take time, which could slow the development of a new regime—although Dr Giumelli noted that sometimes individual states were also unable to move fast.<sup>58</sup>
39. Third, witnesses said that that being part of an EU-wide regime somewhat reduced the UK’s autonomy in some aspects of implementation (a Member State responsibility). The FCO explained that the EU was responsible for the publication of “guidance on some matters of interpretation of the EU Regulations”, and that “Regulations and guidance are generally agreed by all EU 28 Member States, with the Commission sometimes publishing supplementary guidance under its own authority”.<sup>59</sup> Another issue was licencing—the provision by the competent authority of exemptions to sanctions, for example for humanitarian purposes. Mr Giles Thomson, Deputy Director, Sanctions and Illicit Finance, HM Treasury, said that “a

---

49 Written evidence from Dr Erica Moret ([BSP0008](#))

50 Written evidence from Dr Erica Moret ([BSP0008](#))

51 [Q 10](#)

52 Written evidence from Dr Erica Moret ([BSP0008](#)), Maya Lester ([BSP0004](#)) and [Q 21](#) (Matthew Findlay)

53 [Q 10](#) and written evidence from Dr Clara Portela ([BSP0003](#))

54 Written evidence from Dr Benjamin Kienzle ([BSP0010](#))

55 [Q 10](#)

56 [Q 59](#)

57 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

58 [Q 10](#) (Dr Francesco Giumelli) and [Q 21](#) (Paul Williams)

59 Written evidence from the Foreign and Commonwealth Office ([BSP00012](#))

relatively constrained set of licensing powers” was available to the UK as a Member State;<sup>60</sup> UK Finance described the current EU licencing approach as “narrow” and with “significant pitfalls”.<sup>61</sup>

40. The Coalition Government (2010–2015) in its *Review of the Balance of Competences between the United Kingdom and the European Union—Foreign Policy* (August 2013) weighed the advantages and disadvantages of a common sanctions regime, and concluded: “There is ... no other alliance through which the UK could achieve the same or better results, given the economic weight of the EU”.<sup>62</sup>

### Current EU sanctions regimes

41. Mr Mortlock and Mr Nephew told us that the EU’s use of sanctions had increased over the past 20 years. It “has pursued sanctions as a means of projecting power and influencing foreign behavior”.<sup>63</sup> Dr Moret agreed that “the EU’s use of autonomous sanctions has proliferated ... [it] has grown threefold in the past 30 years”. The EU had also expanded into new areas—such as the protection of territorial integrity and combating cyber-attacks.<sup>64</sup>
42. The sanctions regimes implemented by EU Member States are shown in Figure 1. A full list of the regimes is in Appendix 3.

### Conclusions and recommendations

43. **The most effective sanctions regimes are designed and applied alongside international partners, to strengthen the signal to the target and deliver the maximum possible economic impact.**
44. **The EU’s sanctions regimes have a significant impact where agreement cannot be reached at the UN, or agreed UN measures are limited in scope. This reflects the significance of the EU as an economic bloc, and the signalling power of 28 Member States acting in concert.**
45. **Financial sanctions can be particularly effective in applying pressure to targeted entities. The role of the City of London as an international financial centre heightens the value of participation by the UK in collective sanctions regimes, at both UN and EU level.**

---

60 [Q 33](#)

61 Written evidence from UK Finance ([BSP0007](#))

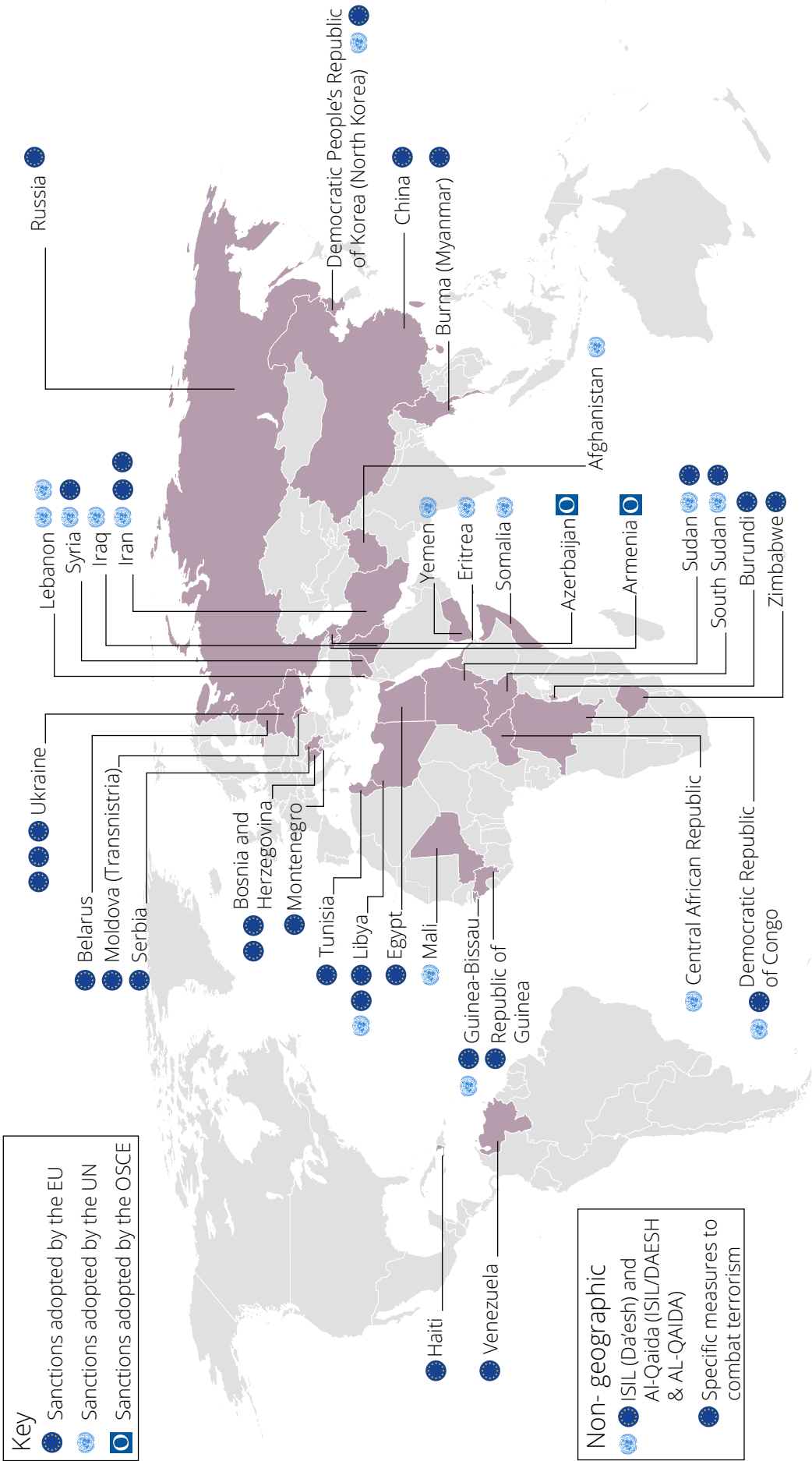
62 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union—Foreign Policy* (July 2013), p 48: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227437/2901086\\_Foreign\\_Policy\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227437/2901086_Foreign_Policy_acc.pdf) [accessed 12 December 2017]

63 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

64 Written evidence from Dr Erica Moret ([BSP0008](#))



Figure 1: Sanctions regimes implemented by EU Member States



For the full list of measures refer to Appendix 3

Source: Estonian Presidency of the Council of the EU, 'EU Sanctions Map': <https://www.sanctionsmap.eu/> [accessed 12 December 2017] and Q 20 (Paul Williams)

## CHAPTER 3: CURRENT SITUATION: POLICY DESIGN

### How an EU sanctions regime is established

46. The formal EU structures relating to sanctions are shown in Box 2.

#### Box 2: EU bodies and groups relating to sanctions

##### *Foreign Affairs Council (FAC)*

The Foreign Affairs Council is responsible for the EU's external action, which includes foreign policy, defence and security, trade, development co-operation and humanitarian aid. The Foreign Affairs Council is composed of the foreign ministers from all EU Member States. Depending on the topics to be discussed, the Council also brings together defence ministers, development ministers, and trade ministers.

Meetings of the Foreign Affairs Council are chaired by the High Representative of the Union for Foreign Affairs and Security Policy. The High Representative is assisted by the European External Action Service (EEAS). However, when the FAC discusses Common Commercial Policy issues, it is presided over by the representative of the EU Member State holding the six-monthly rotating presidency of the Council of the EU. The Foreign Affairs Council meets once a month.<sup>65</sup>

##### *The Political and Security Committee (PSC)*

The Political and Security Committee meets at ambassadorial level as a preparatory body for the Council of the EU. Its main functions are keeping track of the international situation, and helping to define policies within the CFSP including the Common Security and Defence Policy. It prepares a coherent EU response to a crisis and exercises its political control and strategic direction. It meets twice a week, and more often if necessary.<sup>66</sup>

##### *Council preparatory bodies/working groups*

There are currently 33 working groups (also called working parties) preparing the work of the Foreign Affairs Council, which include geographical working groups (such as Eastern Europe and Central Asia, or Asia-Oceania) and parties with a thematic focus (such as sanctions, terrorism, or non-proliferation).<sup>67</sup> They comprise representatives below ambassadorial level of the Member States, the EEAS and the Commission, and are reinforced by experts from Member States as needed. Through these groups, attendees exchange views, ensure consultation between Member States, the EEAS and the Commission, and identify options for consideration and decision at a higher level. Some are chaired by EEAS representatives, whereas others are chaired by representatives of the six-monthly rotating presidency. Most working groups report to the Committee of Permanent Representatives to the EU (COREPER).<sup>68</sup>

65 Council of the European Union, 'Foreign Affairs Council configuration (FAC)': <http://www2.consilium.europa.eu/en/council-eu/configurations/fac/> [accessed 12 December 2017]

66 EEAS, 'CSDP structure, instrument, and agencies': [https://eeas.europa.eu/headquarters/headquarters-homepage/5392/csdp-structure-instruments-and-agencies\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/5392/csdp-structure-instruments-and-agencies_en) [accessed 12 December 2017] and Council of the European Union, 'Political and Security Committee (PSC)': <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/political-security-committee/> [accessed 12 December 2017]

67 Council of the European Union, *List of Council preparatory bodies* (19 June 2017): <http://data.consilium.europa.eu/doc/document/ST-10075-2017-INIT/en/pdf> [accessed 12 December 2017]

68 Some of the working parties report directly to the Council. Alan Hardacre, *How the EU Institutions Work and... How to work with the EU Institutions*, 1st edition (London: John Harper Publishing, 2011)

*Working Party of Foreign Relations Counsellors (RELEX)*

The RELEX working party deals with legal, financial and institutional issues of the CFSP. Its priorities include: sanctions; EU crisis management operations; EU special representatives; financing of external activities; non-proliferation; and other crosscutting issues. In 2004, a new formation called ‘Sanctions’ was created within the working party. Its main task is to share best practice, and to revise and implement common guidelines to ensure effective and uniform implementation of EU sanctions regimes.<sup>69</sup>

*European Commission Service for Foreign Policy Instruments (FPI)*

The FPI is a service of the European Commission which works alongside the EEAS.<sup>70</sup> It represents the European Commission in sanctions related discussions with Member States at the RELEX working party and prepares proposals for Regulations on sanctions for adoption by the Council of the European Union. Once sanctions are adopted, the FPI works to facilitate their implementation in the EU and addresses questions of interpretation raised by economic operators.<sup>71</sup>

47. Mr Findlay outlined the process through which a new sanctions regime is developed by the EU. A “crisis erupts in the world and there is political impetus for the EU to take action”. After this, “the first stage is often a political discussion; for example, in the Foreign Affairs Council”—a grouping of the foreign ministers of all EU Member States, chaired by the High Representative of the Union for Foreign Affairs and Security Policy, currently Ms Federica Mogherini. He continued: “Quite often, a head of steam will build up for sanctions to be explored as a possible part of the EU’s foreign policy response”.<sup>72</sup>
48. After this, there “tends to be a discussion in one of the geographical expert working groups within the EU”—chaired by the EEAS, with representatives from all Member States—“or within the Political and Security Committee.”<sup>73</sup> Dr Portela pointed to the importance of the “common analysis” framed in the geographical working groups in the design of a sanctions regime.<sup>74</sup> Mr Roger Matthews, Senior Director, Dechert LLP, said that the relevant geographical working group “is where the political decision would be taken that there should be sanctions”.<sup>75</sup>
49. Mr Findlay said that technical experts were then usually given a mandate to work up options for a sanctions regime. The EEAS had responsibility for “drafting the legal Acts that would give effect to the Council Decision, which is the political commitment to apply sanctions”.<sup>76</sup> Mr Matthews explained that a draft Council Decision sets out “all the individual sanctions measures”

69 Council of the European Union, ‘Working Party of Foreign Relations Counsellors (RELEX)’: <http://www2.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-foreign-relations-counsellors/> [accessed 12 December 2017]

70 European Commission, ‘Service for Foreign Policy Instruments (FPI)—What we do’: [http://ec.europa.eu/dgs/fpi/what-we-do/index\\_en.htm](http://ec.europa.eu/dgs/fpi/what-we-do/index_en.htm) [accessed 12 December 2017]

71 European Commission, ‘Service for Foreign Policy Instruments (FPI)—Sanctions’: [http://ec.europa.eu/dgs/fpi/what-we-do/sanctions\\_en.htm](http://ec.europa.eu/dgs/fpi/what-we-do/sanctions_en.htm) [accessed 12 December 2017]

72 Q 22

73 Q 22 (Matthew Findlay)

74 Written evidence from Dr Clara Portela (BSP0003)

75 Q 41

76 Q 22 (Matthew Findlay)

to be adopted “in relation to a particular country or a particular situation”.<sup>77</sup> A draft of this text “is then negotiated by the EU Member States and often amended before it is finalised”.<sup>78</sup>

50. Mr Findlay explained that, as a parallel process, “the European Commission produces a Regulation, which covers those parts of the sanctions for which the EU has competence, such as the trade restrictions and financial restrictions”.<sup>79</sup> This process is led by the Service for Foreign Policy Instruments (FPI) in the Commission, which “holds the pen and leads the co-ordination and control for the Commission at the working level for the preparation of sanctions measures”. This involves liaising both formally and informally with other Directorates-General and the legal service, in a process called “inter-service consultation”.<sup>80</sup> Mr Matthews explained that Member States could “at any point in the discussions” raise with the Commission any elements of a regime that they anticipate “need to be there or that might be problematic, either for them politically or for businesses in their area”. The Member State and the Commission will “work through ... how the element might be accommodated”.<sup>81</sup>
51. Mr Matthews explained that wider discussions on draft Regulations took place in RELEX—the Working Party of Foreign Relations Counsellors.<sup>82</sup> RELEX “deals with legal, financial and institutional issues of the Common Foreign and Security Policy”,<sup>83</sup> and meets in a ‘sanctions formation’—as RELEX/Sanctions—to carry out the monitoring and evaluation of EU restrictive measures (sanctions).<sup>84</sup> His experience had been that while there was “no rigid timetable”, “political urgency” usually dictated a turnaround of the Regulation in less than two weeks. RELEX “met twice a week”, but would meet more frequently if needed. When agreement was reached in the RELEX working group, “it could obviously go up through the chain of committees to the Council very quickly”—if not, “there might be a further round of significant discussion at the next level up”, which was the Committee of Permanent Representatives to the EU.<sup>85</sup>
52. Producing the Regulation “in tandem” with the Council Decision helped to avoid asset flight and confusion for businesses, Mr Matthews explained.<sup>86</sup> Particularly for more complex Regulations, such as the restrictive measures on Russia, “there has been an increasing awareness of the value of having the Commission involved earlier”. As arms embargoes and travel bans were

---

77 [Q 39](#)

78 [Q 22](#) (Matthew Findlay)

79 [Q 22](#)

80 [Q 40](#) (Roger Matthews)

81 [Q 40](#)

82 [Q 41](#). He explained that agreement at RELEX “was simply the first stage”, before that agreement “could ... go up through the chain of committees to the Council”. Aspects not agreed at this level might require “a further round of significant discussion at the next level up”.

83 Council of the European Union, ‘Working Party of Foreign Relations Counsellors (RELEX)’: <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-foreign-relations-counsellors/> [accessed 12 December 2017]

84 Council of the European Union, *Monitoring and evaluation of restrictive measures (sanctions) in the framework of CFSP—Establishment of a ‘Sanctions’ formation of the Foreign Relations Counsellors Working party (RELEX/Sanctions)* (22 January 2004), p 2: <http://data.consilium.europa.eu/doc/document/ST-5603-2004-INIT/en/pdf> [accessed 12 December 2017]

85 [Q 41](#) (Roger Matthews)

86 [Q 39](#). He explained that Council Decisions on restrictive measures “contain more and more detail”. “Very commonly, the asset freeze measure in the Decision and the asset freeze measure in the Regulation are very close to identical.”

Member State—rather than EU—competences, these would not be part of the Regulation: it was “for Member States individually to see that those measures have been agreed by the Council in the CFSP Decision, and to give effect to them nationally”.<sup>87</sup>

53. Mr Findlay reiterated that while the EEAS and the Commission “hold the pen on the legal Acts”—the Council Decision and Regulation—these are “subject to negotiation” with the Member States.<sup>88</sup> After discussion within the groups outlined above, the Council Decision and Regulation are finally adopted by the Council.<sup>89</sup>
54. Throughout this process of designing and maintaining restrictive measures, the Member States and EU institutions work together closely. Mr Matthews explained that “representatives of all the permanent representations ... are in Brussels routinely having informal engagements throughout the process and ... overtly represent their Member State’s interests”. A number of seconded national experts from the Member States also worked in the Commission, where “formally they are to operate as Commission officials”, while usually maintaining close relationships with their home governments.<sup>90</sup>
55. Mr Matthews told us that discussions on sanctions regimes were held between the EU institutions and Member States on an ongoing basis. This meant that “the individuals—the Member State representatives, the Commission and the External Action Service people who work on sanctions—meet quite often at a personal level.” Such regular “informal discussions ... at working level” were “very important because that is the way the EU identifies whether problems can be solved or whether there are things that need to be escalated to a higher—more senior—level”. He added that there were also “bilateral opportunities” for discussions, “along the side between individual Member States, the External Action Service and the Commission”.<sup>91</sup>
56. Liaison with the US in the sanctions development process—which was raised by a number of our witnesses—is considered in Chapter 4.

### **Co-ordination between the Member States and EU institutions on listings**

57. Mr Findlay explained that once a sanctions regime had been drawn up, “you then have an opportunity to propose that certain individuals be designated under that regime”.<sup>92</sup> Sir John Sawers told us that following discussion in EU capitals, lists would then be “discussed and winnowed down or constructed in Brussels within an EU framework, which then becomes the EU sanctions list”. He noted that these discussions also engaged the US<sup>93</sup>—discussed further in Chapter 4.
58. Mr Findlay said that “quite often”, proposals for listings came from the Member States, and that the UK had “been one of the most active in doing so”.<sup>94</sup> Before the meeting of the FAC, the geographical working groups

---

87 [Q 39](#) (Roger Matthews)

88 [Q 22](#)

89 [Q 39](#) (Roger Matthews); This is usually the Foreign Affairs Council.

90 [Q 41](#) (Roger Matthews)

91 *Ibid.*

92 [Q 22](#)

93 [Q 55](#)

94 [Q 22](#)



reviewed the proposed listings, and were responsible for approving “whether there are sufficient grounds for each of those targets”.<sup>95</sup> The final list was then agreed by the Council “by unanimity”.<sup>96</sup>

59. Mr Findlay drew our attention to some restrictions on the information that the Member States were able to share with the EU to underpin listings. As we discussed in our report, *The legality of EU sanctions*, listings are often subject to legal challenge.<sup>97</sup> Mr Findlay said that “the [EU] courts have developed a test where, for any sanctions designation, they need to be able to substantiate it—at least to have some information that makes a causal link to the reasons for the designation”.<sup>98</sup> While the General Court’s Rules of Procedure<sup>99</sup> were amended “in 2015 to enable the Council to share information with the EU courts”, the UK was “not satisfied with the safeguards in that mechanism and in practice it has not been used”. Mr Findlay said that the result was that “in the EU context we are not really able to share intelligence with the courts if we need to substantiate the reason for a designation”, and so EU listings were based on open-source information rather than secret intelligence.<sup>100</sup>
60. Dr Giumelli said that the UK “was and is very active” in sharing information, but there was also “a lot of intelligence in other Member States, depending on the regions in which you want to intervene”. He noted, however, that intelligence-sharing, even between Member States, had its limitations: “Being a member of the same institutional architecture or not does not always determine whether you talk to each other”.<sup>101</sup>

### *Implementation and enforcement*

61. Mr Matthews told us that while the implementation of EU sanctions was largely a matter for Member States, the Commission retained “a bit of a pan-European role”, deriving from its role “as a guardian of the Treaties”, with “an interest in ensuring consistent interpretation and application of EU law throughout the EU”. For example, it can issue guidance to support the consistent application of a regime, as mentioned in Chapter 2.<sup>102</sup>
62. Enforcement is entirely a matter for Member States. Each has a responsible ‘competent authority’ for sanctions, which in the UK is the Office for Financial Sanctions Implementation (OFSI). Mr Matthews said that each Regulation specified that Member States have “to have effective, proportionate and dissuasive penalties, but that is as far as the EU goes”.<sup>103</sup>

---

95 [Q 41](#) (Roger Matthews)

96 [Q 22](#) (Matthew Findlay)

97 European Union Committee, *The legality of EU sanctions* (11th Report, Session 2016–17, HL Paper 102)

98 [Q 30](#)

99 In 2015, the new ‘closed-material procedure’ was introduced into the General Court’s Rules of Procedure (Article 105). The Member States can use this procedure when they intend to rely on sensitive material to impose sanctions on an individual and can apply to the Court for the information to be treated as confidential and not be shared with the individual concerned.

100 [Q 30](#)

101 [Q 13](#)

102 [Q 49](#)

103 [Q 49](#)

*The UK's role and influence*

63. Our witnesses told us that the UK currently had considerable influence in the process we have described. Mr Keatinge described the UK as “the lead in the pencil ... of the EU’s sanctions policy”.<sup>104</sup> According to Mr Denton: “The UK forms a major part of the backbone of the European Union’s sanctions policy through the FCO and the expertise that we have in the UK. We are front and centre in the development of measures that can be used to form sanctions regimes”.<sup>105</sup>
64. Mr Mortlock and Mr Nephew agreed: “The United Kingdom was (and, for the time being, is) a major contributor of information and capability to the EU sanctions machine.” They continued: “There is no mistaking the amount of time, effort, and energy that the UK applied in the sanctions field for the EU. In the design of sanctions, their defense, and their implementation, the UK brought knowledge and ideas that helped to create the system as it stands”.<sup>106</sup>
65. Mr Denton said that the UK also provided “a significant part of the political will in respect of many regimes.” He noted, as an example, that Member States had “lots of different views ... on the Russian regime ... but the UK is clearly pushing to make sure that not only are the sanctions developed in a way that is appropriate but that they are renewed to keep the pressure on Russia”.<sup>107</sup> Mr Keatinge agreed that the UK had been “a robust advocate for the use of sanctions within the EU ... a strong and positive influence on the EU to use the bloc ... to help compel behavioural change”.<sup>108</sup>
66. Sir John Sawers, on the other hand, told us that the imposition of EU sanctions on Russia was “essentially determined by Germany and France as a consequence of the difficulties that the negotiating process and the failure to implement successive Minsk agreements on Ukraine”. He was “not sure I entirely agree that we had the greatest influence in the European Union on sanctions on Russia, because we were outside the basic process that was formulating policy towards Ukraine, which was the reason for applying the sanctions”.<sup>109</sup>

**Conclusions and recommendations**

67. **The UK is widely recognised as playing a leading role in developing the EU’s sanctions policy, and the listings for these regimes. In cases such as Russia and Iran, both UK foreign policy priorities, the collective imposition of restrictive measures by 28 Member States has magnified their economic impact and projected a strong message to the targeted entities.**
68. **The UK is embedded within a formal structure for co-operation on sanctions with the 27 other Member States. This is further strengthened by informal opportunities to engage actively, in the margins of formal EU meetings and wider foreign policy discussions.**

---

104 [Q 11](#)

105 [Q 2](#)

106 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#)). This argument was also advanced by Tom Keatinge. Written evidence from Tom Keatinge ([BSP0001](#))

107 [Q 2](#)

108 Written evidence from Tom Keatinge ([BSP0001](#))

109 [Q 59](#)

## CHAPTER 4: THE FUTURE UK SANCTIONS REGIME

---

### The UK legislative framework for sanctions after Brexit

69. Two Bills have been introduced by the Government that have a bearing on the implementation of sanctions after Brexit.
70. The European Union (Withdrawal) Bill—introduced to the House of Commons on 13 July 2017—proposes to “freeze current sanctions regimes and designations in effect on the date of the UK’s withdrawal from the EU”.<sup>110</sup>
71. The Sanctions and Anti-Money Laundering Bill—introduced to the House of Lords on 18 October 2017—proposes a legislative framework to “enable the UK to continue to implement United Nations (UN) sanctions regimes and to use sanctions to meet national security and foreign policy objectives”.<sup>111</sup> The Bill would also provide “temporary powers that apply for a two-year period after the UK has left the EU ... [to] enable certain changes to be made to any EU sanctions regimes that have been retained by the EU (Withdrawal) Bill, and have not been replaced by a UK sanctions regime”.<sup>112</sup> The FCO told us that the Bill “will not provide for an obligation to follow EU law. Legal jurisdiction will rest with the UK courts alone”.<sup>113</sup>
72. This report focuses on the formulation of sanctions regimes, including co-operation with international partners, in order to further the UK’s foreign policy and national security objectives. It does not give detailed consideration to the domestic legal framework for the implementation of sanctions.<sup>114</sup>

### Future UK sanctions policy

73. As we have outlined, our witnesses emphasised the importance of maintaining co-ordination with the EU and other likeminded partners after Brexit. Dr Moret said that unless the UK and EU co-ordinated their sanctions regimes carefully after the UK’s departure, it could lead to “a less ambitious sanctions policy overall and a Western sanctions regime characterised by replication or gaps”.<sup>115</sup>
74. Sir Alan Duncan told us that once the Sanctions and Anti-Money Laundering Bill had been passed, the UK would have “an advantage” in having “the autonomy to impose sanctions of our own, should we ever so wish”.<sup>116</sup> The UK “might conceivably do so on some occasions, but I cannot say that there are any plans to do so at the moment”.<sup>117</sup> Sir Alan Duncan said that, after leaving the EU, it was “inconceivable that we will not be a strong and important part of collective governments’ action on sanctions, be it through the UN, in which we are a major player, the P5, et cetera, or replicating what the EU does”.<sup>118</sup> Mr Findlay confirmed that the UK’s “aim will be to make sure that we have maximum alignment”.<sup>119</sup>

---

110 Foreign and Commonwealth Office, *Sanctions and Anti-Money Laundering Bill [HL] Explanatory Notes* (18 October 2017), p 5: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/18069en.pdf> [accessed 12 December 2017]

111 *Ibid.*, p 3

112 *Ibid.*, p 17

113 Written evidence from the Foreign and Commonwealth Office (BSP0012)

114 The Constitution Committee has recently reported on the proposed domestic regime. Constitution Committee, *Sanctions and Anti-Money Laundering Bill [HL]* (8th Report, Session 2017–19, HL Paper 39)

115 Written evidence from Dr Erica Moret (BSP0008)

116 Q 65. As detailed in Chapter 2, the UK currently has limited national powers to implement autonomous sanctions; the Sanctions and Anti-Money Laundering Bill will extend these powers.

117 Q 67

118 Q 66

119 Q 72



*Third country alignment with EU sanctions*

75. Countries in the vicinity of the EU often align themselves with EU sanctions on a case-by-case basis. This was explored by our witnesses as an option for the UK after leaving the EU.
76. Dr Portela explained the process: once the EU had decided on a sanctions regime, it would invite or “encourage” other countries to align with the measures. The list of categories of countries that were “eligible for official alignment” was closed, and only included:
- The European Economic Area (Iceland, Norway, and Liechtenstein);
  - Eastern countries of the European Neighbourhood Policy (Armenia, Azerbaijan, Georgia, the Republic of Moldova, and Ukraine);<sup>120</sup>
  - Signatories to Stability and Association Agreements (Albania, Bosnia and Herzegovina and Kosovo);<sup>121</sup> and
  - Potential candidate countries and candidates (Albania, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey, Bosnia and Herzegovina and Kosovo).<sup>122</sup>
77. Mr Findlay highlighted that it was “a political choice” for third countries to align with the EU’s sanctions regime, and “not a legal obligation”.<sup>123</sup>
78. Dr Portela said that it was not publicly known which of these countries had or had not been invited by the EU to align to each regime: “While any country could theoretically align itself with EU sanctions, the EU will only acknowledge in its press release those it has invited” and which had subsequently decided to align. The EU had “never acknowledged the alignment of any countries outside these categories [above] in its press releases”.<sup>124</sup>
79. Both Norway and Switzerland regularly align themselves with the EU’s sanctions policy.<sup>125</sup> The Royal Norwegian Embassy in London told us that Norway “would normally translate the EU’s Council Regulation and include the Norwegian version of these EU Council Regulations as part of our regulation with certain modifications”.<sup>126</sup> Switzerland had aligned itself with recent sanctions against Syria, Libya, Belarus and Burma, but it “decided to issue measures not identical with those of the EU” in the case of Iran and Russia (in view of the situation in Ukraine).<sup>127</sup>

---

120 EEAS, ‘European Neighbourhood Policy (ENP)’: [https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp_en) [accessed 12 December 2017]

121 European Commission, ‘European Neighbourhood Policy and Enlargement Negotiations—Potential candidate countries’: [https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/termspotential-candidate-countries\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/termspotential-candidate-countries_en) [accessed 12 December 2017]

122 Supplementary written evidence from Dr Clara Portela (BSP0013)

123 Q 27

124 Supplementary written evidence from Dr Clara Portela (BSP0013)

125 We note that neither country imposes unilateral sanctions; all measures follow the decisions of the UN or EU. Written evidence from the Royal Norwegian Embassy in London (BSP0011) and written evidence from the Embassy of Switzerland in the UK (BSP0009)

126 Written evidence from the Royal Norwegian Embassy in London (BSP0011)

127 Written evidence from the Embassy of Switzerland in the UK (BSP0009)

80. Asked what influence these countries had over the design and implementation of EU sanctions, the Royal Norwegian Embassy in London told us that there was “no regular, formal consultation process covering EU restrictive measures”. Nevertheless, Norway had “different kinds of informal and formal contact with the EU, mostly with the European External Action Service (EEAS)”. Such contact could take place “before, during and/or after the EU’s decisions”, and “may include questions related to licensing and other implementation-related issues”.<sup>128</sup>
81. Switzerland stated, similarly, that it was “not involved in the policy dialogue and the decision-making process of EU sanctions”. The implementation and enforcement of sanctions, however, were co-ordinated “formally and informally” with the EU and third countries. Co-ordination with the EU was done “via diplomatic channels and direct exchanges between Swiss and EU sanctions experts”, in particular with the European Commission and the EEAS.<sup>129</sup>
82. Mr Matthews too told us that he was not “aware of a time when [aligning third countries] were able to exercise any significant influence at all” on the shape of an EU sanctions regime.<sup>130</sup> This was also the view of Dr Giumelli and of Dr Portela, who said that “the aligning countries cannot negotiate the contents of the sanctions”.<sup>131</sup> Dr Portela therefore concluded that “the model of third country alignment is unattractive as it would transform the UK in a mere recipient (or ‘taker’) of EU sanctions legislation”.<sup>132</sup>
83. In considering this as a model for the UK after Brexit, Mr Matthews posed the question of “whether the better analogy for the UK is Norway or the United States”. He concluded that “the honest answer is that we are probably somewhere between the two”.<sup>133</sup> EU co-ordination with the US and other like-minded countries is discussed below.

### *US-EU co-operation*

84. Mr Findlay said the US was “the most important country on sanctions”.<sup>134</sup> Ms Lester agreed that it was “hugely significant in shaping EU sanctions policy”.<sup>135</sup> Dr Portela said the UK should replicate “the model of consultation” that existed between the EU and the US, which was “intensive and quasi-permanent”.<sup>136</sup>
85. Mr Williams told us that the EU was working “closely with US colleagues” and took account of existing US sanctions regimes when developing its own.<sup>137</sup> Dr Portela described this contact as being “constantly on the phone talking about sanctions issues ... in a very informal manner”.<sup>138</sup>

---

128 Written evidence from the Royal Norwegian Embassy in London ([BSP0011](#))

129 Written evidence from the Embassy of Switzerland in the UK ([BSP0009](#)). We note that, as discussed in Chapter 2, implementation and enforcement are a Member State competence for EU countries.

130 [Q 44](#)

131 Supplementary written evidence from Dr Clara Portela ([BSP0013](#)) and [Q 12](#) (Dr Francesco Giumelli)

132 Written evidence from Dr Clara Portela ([BSP0003](#))

133 [Q 44](#)

134 [Q 30](#)

135 [Q 3](#)

136 Written evidence from Dr Clara Portela ([BSP0003](#))

137 [Q 28](#)

138 [Q 18](#). See written evidence from Dr Erica Moret ([BSP0008](#))

86. Mr Findlay said the US and EU were aligned in their sanctions policies in all but a few cases, such as Cuba.<sup>139</sup> For example, Dr Giumelli said, sanctions against Russia, Iran, and Syria “were dealt with in strict co-ordination between the US and the EU”, even though they were “not members of the same organisation”. After Brexit, such co-ordination “might be [between] the US, the UK and the EU”.<sup>140</sup> Mr Findlay told us that “all our diplomacy on Iran has been trying to preserve maximum transatlantic unity of approach, and that is very much what we are all about at the moment”.<sup>141</sup>
87. Mr Matthews explained that there was a formal aspect to this co-ordination: an annual “EU-US sanctions workshop”, where “experts from both sides sit down and share experiences”. This was “a useful opportunity for the EU to explain to the US side the ins and outs of the EU procedure, what was done at EU level, [and] what was done at Member State level”.<sup>142</sup> But the US also regularly communicated its position on sanctions “through bilateral discussions with Member States and through the External Action Service”. This meant that once EU working groups met, they were aware of the US position, “certainly informally and very commonly formally”.<sup>143</sup>
88. Mr Findlay told us that the US was also a “very important partner” in the sharing of intelligence to underpin listings. It was both “very good at gathering open-source information”, and had “plenty of intelligence”. Where there were shared policy goals between the EU and the US it was “in our interest to share the information so that we can keep our sanctions as closely aligned as possible”.<sup>144</sup> Sir John Sawers agreed that there was “a flow of information between the principal capitals in the European Union and with the United States to try to identify the right people and entities to target”.<sup>145</sup> Mr Williams said: “Once a regime exists then US and EU colleagues will talk and can exchange information on the potential for individual designations within that regime”.<sup>146</sup> Nonetheless, Sir John Sawers told us that while “the United States has some influence on the individuals and entities that are listed in EU sanctions regimes ... it is more difficult to influence it from outside the room”.<sup>147</sup>
89. In evidence to the External Affairs Sub-Committee in July, former High Representative the Rt Hon Baroness Ashton of Upholland also stressed that US-EU dialogue was not a substitute for attending EU meetings:
- “You can send as many briefing papers as you like, but if you are not in the room, you do not participate. Our colleagues in the US would send regular notes to ambassadors, Ministers and Governments about their views, which were always taken into account, but they were not in the room. Colleagues such as our friends from Norway, whose offices were very close by, would have very particular views on some issues and were important allies, but they were not in the room”.<sup>148</sup>

---

139 [Q 29](#)

140 [Q 11](#)

141 [Q 70](#)

142 [Q 42](#)

143 [Q 44](#) (Roger Matthews)

144 [Q 30](#)

145 [Q 54](#)

146 [Q 28](#)

147 [Q 55](#)

148 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 11](#)

90. Although there was a large degree of similarity of objectives between EU and US sanctions, Mr Matthews explained that there were also differences in the framing of measures. First, as seen, for example in the case of Russia—where US and EU measures were “very closely aligned”—the US and EU lists of targeted entities were not the same.<sup>149</sup> Second, the US’s “general approach” was to say “US persons may not deal with this country” and then to issue “a series of general licenses” providing exemptions from the sanctions regime. The EU approach, in contrast, was to say that “everything is allowed save where there is a prohibition or restriction saying that it is not allowed”. Even where the policy objectives were similar, this difference in structure and approach meant it was “not really workable, when framing or putting together a new EU sanctions regime, to look across to what the US does” as a template.<sup>150</sup> Illustrating the variance in US and EU measures in the case of Iran, Sir John Sawers told us that the EU and the US had applied additional sanctions on top of the UN regime, “which were not the same”, guided by considerations about achieving the maximum effect on the targeted country and “a limited effect on the countries that were imposing sanctions”.<sup>151</sup>

*The Government’s aspirations for co-operation with the EU*

91. Sir Alan Duncan said that after Brexit, “we will be the UK. We will have our autonomous power”. His aspiration was for the UK to use its new legal powers to implement sanctions “in a way that invariably will replicate and work alongside EU sanctions, rather than just be a one-off power in addition to them”.<sup>152</sup> We discuss the possible ways in which the UK could work with the EU on sanctions below.
92. Sir Alan Duncan said that, after Brexit, “the question is what table we will be sitting around when it comes to sanctions”.<sup>153</sup> The UK would “look for a tailored arrangement to work with the EU”.<sup>154</sup> He acknowledged that the current structures for co-operation—set out in Chapter 3—might not be available to the UK.<sup>155</sup>
93. He was confident, however, that the EU would continue to take into account the UK’s approach before designing its own sanctions:
- “The 27 will always want to say, ‘What is the UK going to do?’ before they shape their sanctions. In shaping their sanctions it will always be in their interest to work with us. Even when we are not in the EU, this is one of the areas in which we will still be in a very strong position in our dealings with the EU. I am optimistic that there will be a natural and instinctive wish to co-operate and work together on sanctions”.<sup>156</sup>
94. Mr Mortlock and Mr Nephew agreed that “common interests and threats will continue to drive EU and UK sanctions policies even after Brexit, at least in the near- to mid-terms”.<sup>157</sup> Mr Matthews too thought that the UK’s co-operation would remain important to the EU: “Having the UK

---

149 [Q 42](#)

150 [Q 48](#) (Roger Matthews)

151 [Q 56](#)

152 [Q 67](#)

153 [Q 66](#) and [Q 67](#)

154 [Q 67](#)

155 [Q 66](#)

156 [Q 68](#)

157 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

on board in an EU sanctions regime certainly amplifies the effectiveness of that regime”.<sup>158</sup> Mr Findlay said that “feedback that we have had in all our discussions over the years” indicated that “our contribution on sanctions in particular is very clearly recognised”.<sup>159</sup> The EU would therefore not only be interested in co-ordination after Brexit, but in getting “UK input and assistance on how those measures should be framed.” This offered a “real opportunity for the UK to continue to have a constructive role”, which the EU was “likely to welcome”.<sup>160</sup>

95. Mr Findlay told us that the Government’s ambition was for the partnership with the EU on sanctions to be “unprecedented”, and to go “beyond any arrangement the EU has now with other third countries”. There was “significant mutual interest” in such a partnership. Its final shape would depend on the exit negotiations.<sup>161</sup>
96. We note that the UK’s new, independent, legal framework might limit the extent to which the UK was able to enter into an unprecedented partnership of this kind—Mr Findlay said that “it might not always be possible for us to do exactly what the EU is doing”.<sup>162</sup> The use of intelligence to underpin future UK sanctions could also limit UK-EU co-operation. Sir Alan Duncan said that:

“Our preference is always to invoke sanctions based on open-source material that can be disclosed ... The Bill coming to your Lordships’ House will provide for some closed-material procedures in exceptional circumstances. It is something that we envisage being used very sparingly”.<sup>163</sup>
97. Dr Portela also said that “the necessary degree [of UK-EU27] co-operation on trade restrictions will be determined by the nature of British participation in the common market”.<sup>164</sup> We note that this too will be subject to the exit negotiations, but that the Government has stated that the UK will leave the EU Single Market and customs union.
98. In evidence to the External Affairs Sub-Committee in July, as we noted in Chapter 2, Lord Hague of Richmond said that the UK would remain an important stakeholder for likeminded countries: “When the United States and the EU are looking at sanctions together they will absolutely need and want the co-operation of the UK, given the huge size of our financial sector”.<sup>165</sup> Mr Keatinge and Dr Moret agreed.<sup>166</sup> Lord Hague of Richmond said this was a “very good argument for ... permanent structures” for EU-UK co-operation after Brexit.<sup>167</sup> Also giving evidence in July, Baroness Ashton of

---

158 [Q 46](#)

159 [Q 31](#)

160 [Q 46](#) (Roger Matthews)

161 [Q 31](#)

162 [Q 23](#). The FCO gave an example: “If UK law restricted the purposes for which sanctions could be imposed, or required a higher legal threshold for designation, the UK might find it difficult to follow EU sanctions.” Written evidence from the Foreign and Commonwealth Office ([BSP0012](#))

163 [Q 71](#)

164 Written evidence from Dr Clara Portela ([BSP0003](#))

165 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 15](#)

166 Written evidence from Dr Erica Moret ([BSP0008](#)) and written evidence from Tom Keatinge ([BSP0001](#))

167 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 15](#)



Upholland too expected that sanctions would “be one of the easier areas” to co-operate on after Brexit. Therefore, she was sure, there would “be early engagement as if we were in the EU. It will be pretty much as it was before. That is one thing that I think we can be confident of”.<sup>168</sup>

*Formal structures for co-operation with the EU*

99. Our witnesses outlined two formal, and two informal, structures for possible UK-EU co-operation on sanctions. Mr Matthews advocated the creation of a formal structure for co-operation between the EU and the UK: “Merely sitting outside the room and trying to influence EU decision-making ... cannot ever be a substitute for having a formal structure whereby the UK is around the table and able to influence the formal arguments.” He further noted that EU sanctions had often been “an amplification of the positions the UK wanted to see”—as discussed in Chapter 2. He therefore concluded that “the best way ... would be to have a structure whereby it can sit around the table”.<sup>169</sup>
100. Dr Moret agreed that “the most beneficial arrangement would be one that mirrors the current arrangement as closely as possible.”<sup>170</sup> Mr Matthews told us that the intergovernmental nature of the EU’s CFSP was distinct from the “core EU operation”, which meant that it was “outside the reach of the European Court of Justice”, with only few exceptions. He suggested that this could be an opportunity: options “should be worked through as to whether it may be possible for the UK to have a formal position in CFSP even while otherwise sitting outside the EU”.<sup>171</sup>
101. In evidence in July, Baroness Ashton of Upholland said the way foreign policy was made at the EU level was “a mechanistic but important political way of operating that requires you to be in the room in order to be able to participate”.<sup>172</sup>
102. If this was not possible, Mr Matthews said a second option was that “there may be some room for a forum”, which would be “at a more political level, where the UK could have a seat at the table”. This might be offered under the CFSP, or within the Political and Security Committee. Having “a seat at the table in a political forum ... would certainly be a massive advantage”.<sup>173</sup> Similarly, Mr Mortlock and Mr Nephew suggested that, if the UK and EU-27 decided to have separate regimes, “establishing a body to co-ordinate the creation of sanctions rules and propose them to the separate political leaders would help to preserve at least some of the benefits that existed prior to Brexit, particularly balance and harmonization”.<sup>174</sup>
103. If such formal co-operation was not possible, there were two options for informal co-operation. One scenario was for the UK to be “in the same position as the US”, and make its views known via bilateral contacts with Member States and the EEAS.<sup>175</sup> As discussed above, Dr Portela advocated

168 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 15](#)

169 [Q 44](#)

170 Written evidence from Dr Erica Moret ([BSP0008](#))

171 [Q 44](#)

172 Oral evidence taken before the EU External Affairs Sub-Committee on 6 July 2017 (Session 2017–19), [Q 11](#)

173 [Q 44](#)

174 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

175 [Q 44](#) (Roger Matthews)

replicating the US model.<sup>176</sup> Sir John Sawers, however, said that while the UK could—like the US—expect some influence over EU-27 measures, it “will be in a different position”.<sup>177</sup>

104. He therefore thought that a second informal scenario was more likely: “By and large, we will be in a position whereby we are expected to go along with sanctions that the European Union has drawn up.” The UK would be in a position to have a bigger impact on “the information that leads to the individual listings” than on the design of the regimes.<sup>178</sup> Dr Moret too considered it to be “highly unlikely” that the UK could continue to influence the design of EU sanctions once it had left the bloc. She said that, if the UK was not able to participate actively in a forum with the EU, it “would most probably need to accept a passive role, following EU leadership on the subject”.<sup>179</sup>

*Sanctions policy implications of the UK’s departure from the EU*

105. Our witnesses suggested two possible UK policy approaches that might result from the UK’s departure. On the one hand, Mr Matthews said there was “more of a risk that on occasion” the UK might not agree with an EU sanctions regime, or “perhaps more likely particular elements within it”, and would therefore not go along with the regime. In such a case, the UK could still align with the broad measures of an EU regime and the overall policy approach without including all of its elements, for example omitting carve-outs for particular industries that could be hard hit in other EU countries, but not in the UK.<sup>180</sup>
106. On the other hand, there might be a more fundamental divergence. Mr Mortlock and Mr Nephew said there was “a serious risk that British and EU respective interests will diminish their willingness to reach common decisions”.<sup>181</sup> Dr Eriksson agreed.<sup>182</sup> Mr Mortlock and Mr Nephew noted the important balancing role that agreement between 28 Member States played, and suggested that it was “entirely plausible that, even if ... [they] maintain some formal relationship after Brexit, the United Kingdom and the European Union will look more to their economic self-interests when making decisions on the scope and nature of sanctions decisions”.<sup>183</sup>
107. Witnesses had differing views on the direction EU-27 sanctions policy might take after Brexit. Dr Portela said that—as discussed in Chapter 3—the UK had been “one of the most important promoters of the use of sanctions at the EU level”, and “few Member States would support the use of these measures” after Brexit. “A large number of Member States” were “unhappy about the use of sanctions, particularly when the regimes are quite protracted”.<sup>184</sup> Dr Moret shared this view: “numerous” Member States “have a more conciliatory, ambiguous, or disinterested stance” on current EU sanctions.<sup>185</sup>

---

176 Written evidence from Dr Clara Portela (BSP0003)

177 Q 56

178 Q 56 (Sir John Sawers)

179 Written evidence from Dr Erica Moret (BSP0008)

180 Q 45

181 Written evidence from David Mortlock and Richard Nephew (BSP0002)

182 Dr Mikael Eriksson told us that it was “very probable” that the UK would “drift away from the EU’s sanctions agenda in the future”, as it began to “formulate its own distinct foreign and defence policy priorities”. Written evidence from Dr Mikael Eriksson (BSP0005)

183 Written evidence from David Mortlock and Richard Nephew (BSP0002)

184 Q 11

185 Written evidence from Dr Erica Moret (BSP0008)

108. Dr Portela expected that, as a result, the EU-27 might “become less active” in their use of restrictive measures after Brexit.<sup>186</sup> Dr Moret thought that the EU would also be less willing to support UK-sponsored regimes focused on “UK-specific concerns”, such as “former British colonies, or in relation to threats deemed more serious to the UK government than to some other EU Member States”.<sup>187</sup>
109. On the other hand, Dr Portela thought that “certain countries will try to step forward” on sanctions policy in the absence of the UK, such as Denmark and The Netherlands.<sup>188</sup> Dr Giumelli added that, while the UK was a significant actor, it was not the only EU country that had advocated the use of sanctions. For example, restrictive measures on Russia were “imposed after the MH17 crash, not before, and that was because of The Netherlands, not the UK”.<sup>189</sup> We note in this regard that—as discussed in Chapter 3—EU sanctions on Russia were led by France and Germany, and not by the UK.
110. Finally, Dr Portela noted the overall importance of the US to the current EU approach. She said that “in many cases”, both the UK and the EU “follow Washington’s lead”; this reduced the potential for future divergence between the UK and the EU-27.<sup>190</sup>

*Co-operation internationally*

111. While EU measures represent the majority of the sanctions regimes in which the UK participates, co-operation on restrictive measures takes place not only between EU Member States, or between the EU and third countries, but also between smaller informal groups of states. Mr Mortlock and Mr Nephew recommended that, “at a minimum”, to “help to smooth the transition as Brexit takes place”, the UK should “work with the United States to formalize various efforts at sanctions co-ordination through the creation of ‘likeminded’ coalitions on particular issues”.<sup>191</sup>
112. Mr Findlay said that in the case of Russia’s annexation of Crimea and invasion of Ukraine, “there was a response that involved the United States, the European Union, Canada and Japan”, a group known as the G7+. For the UK, it was “the crucial thing” to remain “part of the wider foreign policy strategy”, because it “set the scene for the use of sanctions”.<sup>192</sup> Norway, for example, had been “a participant in that informal group, so it also had a role in the wider strategy that then shaped the final sanctions”.<sup>193</sup>
113. In addition to Japan and Canada, the grouping on sanctions against the Democratic People’s Republic of Korea (DPRK) also included Australia. With these countries, Mr Findlay told us, “we often share similar strategic

---

186 Q 11

187 Written evidence from Dr Erica Moret (BSP0008)

188 Q 11

189 Q 11. Flight MH17 from Amsterdam to Kuala Lumpur disappeared from radar over Ukraine on 17 July 2014. 283 passengers were on board. 15 crew were also on board. An investigation by the Dutch Safety Board found that the plane crashed after being hit by a Russian-made Buk missile. An international criminal investigations team concluded that the missile was originally from Russian territory, and fired from a location controlled by pro-Russian forces. ‘MH17 Ukraine plane crash: What we know’, *BBC News* (28 September 2016): <http://www.bbc.co.uk/news/world-europe-28357880> [accessed 12 December 2017]

190 Written evidence from Dr Clara Portela (BSP0003)

191 Written evidence from David Mortlock and Richard Nephew (BSP0002)

192 Q 22. The Group of Seven (G7) is an informal bloc of industrialised democracies, which meets annually. It consists of Canada, France, Germany, Italy, Japan, the UK, and the US.

193 Q 27



goals, and they would therefore have an interest in keeping the UK involved in those strategic discussions.” He noted that “Canada, Japan and Australia in particular” were “very important partners”.<sup>194</sup>

114. Another grouping in which the UK co-operated with third countries—specifically on money laundering and terrorist financing—was the Financial Action Task Force.<sup>195</sup>
115. Mr Keatinge said that, while the new relationship with the EU was important, “we should put much more emphasis on these broader alliances”. Co-operation with states which were host to significant financial centres, such as Singapore, was needed for sanctions to have an impact. He explained that “we no longer operate in a unipolar financial world. There is a whole world out to the East that has no interest in what is going on in the UK as it relates to sanctions, or the EU, or the United States.” Engagement with these countries was needed, to encourage such states to “comply with the sanctions and the ethos we would like to promulgate”.<sup>196</sup>
116. Mr Findlay expected the UK’s wider international engagement and involvement in small groups on sanctions to continue after Brexit: “We will also have smaller informal groups, such as the G7, what we call the Quad of France, Germany, the US and the UK, and others—which will provide us with opportunities to feed in our strategic views on the value of sanctions as part of the political discussion.”<sup>197</sup>
117. Sir John Sawers described the maintenance of such wider UK influence as the UK’s main foreign policy challenge after Brexit: “How can we have the relevance and engagement to continue to be part of these small groupings, which essentially form the strategy that is the basis on which international policy is founded?”<sup>198</sup> He drew attention to the important link between economic strength and international influence, suggesting that “the default outcome is that the United Kingdom is poorer and weaker as a result of Brexit”. Recovering from this was “possible ... but it will be a major national challenge for us”.<sup>199</sup>
118. He outlined three requirements for the UK to maintain its influence in the world:
  - a “strong and effective economy”,
  - “dynamic political leadership at home”, and
  - “the commitment and investment in diplomacy, intelligence, the armed forces and development in order to make an impact”.<sup>200</sup>

It was “vital that we sustain, and in many ways enhance, our investments in diplomacy, defence and intelligence”.<sup>201</sup>

---

<sup>194</sup> [Q 32](#)

<sup>195</sup> [Q 36](#) (Matthew Findlay). The Financial Action Task Force (FATF) is an inter-governmental body. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. Financial Action Task Force, ‘Who we are’: <http://www.fatf-gafi.org/about/> [accessed 12 December 2017]

<sup>196</sup> [Q 16](#)

<sup>197</sup> [Q 68](#)

<sup>198</sup> [Q 58](#)

<sup>199</sup> [Q 64](#)

<sup>200</sup> [Q 58](#)

<sup>201</sup> [Q 58](#)

### Impact on businesses

119. Mr Giles Thomson, Deputy Director, Sanctions and Illicit Finance, HM Treasury, told us that the UK considered carefully the impact of restrictive measures on UK businesses:

“Ultimately it is a judgment that the Government make that that cost is necessary to meet the foreign policy objectives behind the sanctions. Having said that, we are equally committed to ensuring that those costs are kept to an absolute minimum and are proportionate, and we engage with industry to help us to achieve that”.<sup>202</sup>

120. In developing the framework for the UK’s new sanctions regime, as set out in the Sanctions and Anti-Money Laundering Bill, Mr Thomson said the Government had held “an exhaustive consultation with industry and others through the White Paper process”. This included “a number of round tables with business as well as our ongoing dialogue with them”.<sup>203</sup> Sir Alan Duncan highlighted the Government’s impact assessment for the Sanctions and Anti-Money Laundering Bill, which looked at the impact on “relevant private sector organisations, civil society organisations and public services”, concluding that the impact would be “very low”.<sup>204</sup>
121. Mr Williams told us that the Government was “already thinking about a mixture of foreign policy, business and other interests. That will continue after we exit”.<sup>205</sup> Ongoing co-operation with other major countries in the design and implementation of sanctions—as discussed earlier in this chapter—would “minimise the burdens on business”.<sup>206</sup>
122. The Government, said Mr Thomson, also had “the ambition of reducing burdens on business where we can with any additional flexibility that we may have once we exit the EU”.<sup>207</sup> The Government could design “sanctions that are more tailored to UK concerns, including UK businesses’ concerns”.<sup>208</sup> We were given four examples: business influence, access to legal remedies, licencing, and guidance.
123. First, Dr Portela told us that “it will be much easier [for businesses] to lobby for the modification of a unilateral sanctions regime, given that it is in the hands of a single government to modify or lift the regime”.<sup>209</sup> Second, Ms Lester said that she hoped that it would be easier for listed individuals and companies to access legal remedies in the UK than in the Court of Justice of the European Union. She cautioned, however, that it might be necessary for listed entities to appeal both to the EU and UK courts.<sup>210</sup>

---

202 [Q 33](#)

203 [Q 33](#)

204 [Q 72](#) and Foreign and Commonwealth Office, *Impact assessment—Sanctions and Anti-Money Laundering Bill* (18 October 2017): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/653271/Sanctions\\_and\\_Anti-Money\\_Laundering\\_Bill\\_Impact\\_Assessment\\_18102017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf) [accessed 12 December 2017]; We note that the impact assessment related to the Bill, and did not take account of possible changes in UK foreign policy, such as future divergence from the EU.

205 [Q 36](#)

206 [Q 33](#) (Giles Thomson)

207 [Q 33](#)

208 [Q 51](#) (Roger Matthews)

209 Written evidence from Dr Clara Portela ([BSP0003](#))

210 [Q 6](#)

124. Third, Mr Thomson told us the UK wanted to explore “whether we can have a slightly more flexible system for licensing transactions” after Brexit.<sup>211</sup> For example, UK Finance suggested the Government could “make greater use of general licences to authorise certain activity currently requiring a specific licence”, which would reduce the administrative burden both on OFSI and on financial institutions.<sup>212</sup> Ms Lester also hoped that the UK “could be less restrictive” with its own licencing regime.<sup>213</sup> Mr Denton urged the Government should “try to align” the licencing system “with the export control regime”.<sup>214</sup>
125. On the other hand, Ms Lester stated that the “uniformity of approach and consistency in having one regime” was of value to businesses, NGOs, individuals and other organisations. Currently, businesses only needed to apply for one licence “for it to be valid across all EU Member States”.<sup>215</sup> Mr Matthews agreed, and explained that if the UK and EU were no longer to operate within the same licensing framework, this could lead to additional costs for export licences. For UK businesses exporting via the EU to a third country, there would be “a need to apply to two separate authorities for licences”, which would be “an operational burden”.<sup>216</sup>
126. Fourth, Mr Thomson and Ms Rena Lalgie, Head, OFSI, HM Treasury, highlighted the opportunity for the UK to produce clearer guidance on implementation, as this would no longer need to be agreed between 28 Member States.<sup>217</sup> Ms Lester described the possibility of “a greater provision of guidance, FAQs, policy documents and so on by the UK authorities” as an “advantage”;<sup>218</sup> the Law Society of Scotland in particular advocated the development of sector-specific guidance.<sup>219</sup>
127. That said, Mr Matthews said that “if the UK and the EU have the same sanctions, it obviously makes things operationally easier” for businesses.<sup>220</sup> Mr Denton agreed that “a multiplicity of sanctions regimes definitely increases the cost to business”.<sup>221</sup> Although the current system was not perfect, Mr Matthews said businesses were used to the status quo, and “switching to any different system ... is going to bring some transitional issues”.<sup>222</sup>
128. Mr Matthews continued: “It is not as if a business is going to say, ‘Maybe the UK sanctions will be better than the EU ones or maybe they will be worse. We will switch to comply with the UK ones’. They will have to do both”.<sup>223</sup> In this regard, the Embassy of Switzerland in the United Kingdom told us that many Swiss companies took the EU’s sanctions regimes into consideration, due to Switzerland’s geographical location, the legally binding nature of EU sanctions for EU citizens living in Switzerland, and Swiss business interests in the EU.<sup>224</sup>

---

211 [Q 33](#)

212 Written evidence from UK Finance ([BSP0007](#))

213 [Q 2](#)

214 [Q 4](#)

215 [Q 2](#)

216 [Q 51](#)

217 [Q 33](#)

218 Written evidence from Maya Lester ([BSP0004](#))

219 Written evidence from the Law Society of Scotland ([BSP0006](#))

220 [Q 46](#)

221 [Q 4](#)

222 [Q 51](#)

223 [Q 51](#). See written evidence from Dr Clara Portela ([BSP0003](#))

224 Written evidence from the Embassy of Switzerland in the UK ([BSP0009](#))

129. Mr Keatinge said that, in any case, UK companies trading across borders already had to consider different regimes. He gave an example: a UK company wanting to deal with Syria would “have one eye on the [US] Office of Foreign Assets Control (OFAC) listing”. Thus an independent UK sanctions regime would not make things “hugely more complicated”, but would make compliance “somewhat more administratively burdensome, because there will be other lists to check”. He would therefore not “necessarily overemphasise” the challenge of complying with different sanctions regimes.<sup>225</sup>
130. Mr Findlay also raised US sanctions as something that “businesses that operate internationally also have to worry about”. There was therefore “already familiarity among compliance officers” with complying with different regimes.<sup>226</sup> Mr Matthews agreed that businesses’ “biggest concern” was US sanctions, “because they know that OFAC is very aggressive, the fines are very high and the public censure is very serious”. EU action was not comparable to this—he was not aware of “any significant enforcement actions in any EU Member State for breaches of the financial sanctions”.<sup>227</sup> Dr Giumelli agreed and explained that, compared to the US, “companies do not care too much about [sanctions of] the EU, Switzerland and Norway”.<sup>228</sup> In the case of Syria, for example, companies “were so scared, especially by the US, that they stopped any transactions with Syria”.<sup>229</sup> Dr Portela agreed: “Basically they are afraid of OFAC”.<sup>230</sup> Some companies, for example, implemented US sanctions whether or not they had subsidiaries in the US.<sup>231</sup>
131. While acknowledging that many firms already complied with multiple jurisdictions, Ms Lester was nonetheless concerned that this “can be extremely costly and complex for businesses and others”. It was “generally advantageous for businesses, NGOs, and others to have one EU-wide sanctions regime to comply with rather than different legal regimes in the UK and the rest of the EU (as well as regimes imposed by the United Nations, the USA, and other countries including Australia, Canada and Japan)”.<sup>232</sup> Dr Moret agreed: an independent UK regime “would add another complex layer of bureaucracy to an already highly confusing environment for businesses, when facing multiple autonomous sanctions regimes”.<sup>233</sup> UK Finance similarly raised concerns: “Excessive EU-UK divergence would present financial institutions with considerable practical challenges for compliance, resulting in increased costs and uncertainty for UK based financial institutions and EU institutions with UK exposure”.<sup>234</sup>
132. UK Finance added that, given the role of the City of London as an international financial centre, significant divergence would “have an adverse effect on both UK and EU financial markets”, and “differences in

---

225 [Q 14](#)

226 [Q 72](#). Dr Francesco Giumelli told us there was a difference in the burden for smaller and larger companies: big corporations had “the resources to comply with [sanctions], they have the resources to pay for offices, and for the capacity to make sure that they do not violate them”. [Q 14](#)

227 [Q 49](#)

228 [Q 12](#)

229 [Q 14](#)

230 [Q 14](#)

231 Written evidence from the Royal Norwegian Embassy in London ([BSP0011](#))

232 Written evidence from Maya Lester ([BSP0004](#))

233 Written evidence from Dr Erica Moret ([BSP0008](#))

234 Written evidence from UK Finance ([BSP0007](#)); These challenges would include uncertainty on designations and implications for cross border business.

sanctions law between the UK and EU would likely impact on wider global correspondent banking relationships and trade finance”.<sup>235</sup>

133. We note that, ultimately, the impact on businesses will to a large extent depend on whether the UK’s new sanctions policy aligns with, or differs significantly from, that of the EU. Mr Matthews said that if UK and EU sanctions were “anything other than very closely aligned, the compliance implications of that are an added cost for business”.<sup>236</sup> Mr Findlay acknowledged that if the UK was to “dramatically diverge from the EU, it would become more complicated”. This was, however, “not the current thinking”, and if the UK was to “do a 100% cut and paste of everything that is happening now, there would be no change to business. There would be no additional costs in any way”.<sup>237</sup>
134. Mr Denton suggested businesses should be “consulted about the mechanics of how the regimes work” (rather than their development).<sup>238</sup> Ms Lester agreed: there was “no well-established exchange of ideas or consultation, particularly between the EU institutions and business but also between competent authorities and business, as well as charities, NGOs, and individuals affected by sanctions”. She “would certainly reflect Mr Denton’s hopes that that could be improved, at least in the case of the UK regime”.<sup>239</sup>

### Resourcing of UK sanctions design and implementation

135. As discussed in Chapter 3, the UK currently plays a leading role in the development of sanctions policy within the EU, and already has significant expertise in this regard. Mr Williams considered that the UK currently made “quite a significant contribution within the EU and at the UN on sanctions regimes and designations, so we have that base there”.<sup>240</sup> As Mr Denton said: “Happily in this instance, and it is potentially a narrow instance, the UK is in a good position and might not need too many new resources to operate an independent sanctions regime”.<sup>241</sup> A number of other witnesses agreed.<sup>242</sup>
136. Leaving the EU would, nonetheless, have some resource implications for the FCO in designing sanctions. Currently, responsibility for sanctions is only part of a broader role in the Directorate. Mr Williams had “already beefed up my sanctions team” in the Multilateral Policy Directorate, and he was now “planning to have a dedicated head of sanctions”, who would lead “an autonomous sanctions unit”.<sup>243</sup>
137. Mr Williams added that “diplomacy and talking to other countries” was also an important part of sanctions policy, and “we will probably need to do a little more of that on the sanctions side when we are not actually in the EU meetings”. After Brexit, he expected that the new head of sanctions would therefore do “a bit more diplomacy with other countries as well”.

---

235 Written evidence from UK Finance ([BSP0007](#))

236 [Q 51](#)

237 [Q 72](#)

238 [Q 7](#)

239 [Q 4](#)

240 [Q 37](#)

241 [Q 8](#)

242 Written evidence from Dr Clara Portela ([BSP0003](#)), [Q 16](#) (Dr Clara Portela) and [Q 13](#) (Dr Francesco Giumelli)

243 [Q 37](#)



Consideration of the issue was underway, but “I am sure that process will continue to evolve”.<sup>244</sup>

138. Some of our witnesses thought the task more significant: the Royal Norwegian Embassy in London said that while the UK was currently active in EU and the UN, “In our view, it will require considerable resources to develop an autonomous sanctions regime that does not base itself on regulations from the EU”.<sup>245</sup> Mr Keatinge said the Government would “need to relearn skills and capabilities that have in recent decades been outsourced to Brussels”, which would “require further hiring of appropriately qualified staff” across Whitehall.<sup>246</sup>
139. A second aspect of resourcing related to the new domestic regime. Mr Denton noted that “a lot of time and effort” would be needed to develop the new regime “from a statutory point of view”, including “getting the powers in place”.<sup>247</sup> Mr Williams told us that the FCO had created a Bill team to work on the Sanctions and Anti-Money Laundering Bill. He noted that discussions during the passage of the Bill through Parliament might also have further resource implications for the FCO.<sup>248</sup> Sir Alan Duncan assured us that his “confident judgment as the Minister is that that unit is fully on top of the task and has grasped the detail and the administrative processes very capably”.<sup>249</sup>
140. So far as the legal resources needed to assess and review listings were concerned, Mr Andrew Murdoch, Legal Director, FCO, told us that “the skill sets are there”, but “the amount of resource that we put into it may depend on the final legal framework and the legal risks that we face”.<sup>250</sup> Mr Findlay added that there was a “substantial team of legal experts on sanctions” in the FCO and said he was “confident that we are looking at all the angles”.<sup>251</sup> Dr Portela noted that an independent UK sanctions regime would also “increase litigation in UK courts”, as cases currently heard by the Court of Justice of the EU would be heard nationally.<sup>252</sup> Mr Findlay acknowledged that this was a “fundamental point”, which “we have to prepare for”.<sup>253</sup>
141. A fourth aspect was implementation and enforcement, tasks which Ms Lalgie reminded the Committee were already undertaken at a national, rather than EU, level. The establishment of OFSI in March 2016 had meant that “the number of staff who work in the Treasury on the implementation of sanctions doubled”.<sup>254</sup> Ms Lester, though, thought there was room for improvement. While OFSI was “relatively well resourced”,<sup>255</sup> it would be “helpful in any event for more resources and expertise to be devoted to” it.<sup>256</sup> UK Finance identified an “opportunity to significantly improve implementation matters”. This would, however, “require suitable expertise,

---

244 [Q 37](#) (Paul Williams)

245 Written evidence from the Royal Norwegian Embassy in London ([BSP0011](#))

246 Written evidence from Tom Keatinge ([BSP0001](#))

247 [Q 8](#)

248 [Q 37](#)

249 [Q 73](#)

250 [Q 37](#)

251 [Q 73](#)

252 Written evidence from Dr Clara Portela ([BSP0003](#))

253 [Q 73](#)

254 [Q 37](#)

255 [Q 8](#)

256 Written evidence from Maya Lester ([BSP0004](#))

staffing and policy direction”.<sup>257</sup> Mr Keatinge suggested a greater expansion: the Government should “considerably expand its remit and capabilities to become a full-service sanctions agency”.<sup>258</sup>

### Resourcing of EU-27 sanctions design

142. A number of our witnesses addressed the impact of the UK’s departure on the EU-27’s approach to sanctions. As discussed in Chapter 3, the UK plays a significant role in the current design of EU sanctions. Mr Mortlock and Mr Nephew said that there was a risk that expertise and knowledge embedded in the current system could be “lost as a result of the separation”.<sup>259</sup> Dr Portela agreed: “most Member States have very small, understaffed sanctions units”, and the “bureaucratic capacity at the level of the institutions is also quite weak”.<sup>260</sup> Dr Giumelli said that, at present, “a lot is provided by the UK through seconded personnel”,<sup>261</sup> and Dr Moret agreed that “the EU would be left in a weaker position” through the loss of the UK’s expertise.<sup>262</sup> Dr Portela summarised the risk as follows:

“The expected effect of Brexit is not that the UK will lose access to capacities and expertise at EU level. On the contrary, it is the EU that is rather understaffed and has to rely on a handful of Member States (first and foremost the UK and the Netherlands) for seconded experts”.<sup>263</sup>

143. That said, Mr Mortlock and Mr Nephew said Member States were “well practiced at sanctions design and implementation”, and there were “many governments in the EU that can play an enhanced role in this work going forward (such as France, Germany and the Netherlands)”.<sup>264</sup> Mr Denton said that the EU would “have to develop an infrastructure” to address the loss of the UK;<sup>265</sup> Mr Mortlock and Mr Nephew said in this regard that “the EU bureaucracy in Brussels” could “take on a greater role”.<sup>266</sup> Dr Giumelli suggested that Brexit “might create an incentive for other EU Member States to centralise”; for example, enforcement might be done in Brussels. If that were to be the case, there would be “a lot of capacity in Brussels compared with the other 27 Member States”.<sup>267</sup>

### Conclusions and recommendations

144. **While the Sanctions and Anti-Money Laundering Bill would allow the UK to implement unilateral sanctions regimes, sanctions are most effective when imposed in concert with international partners. We therefore welcome the Government’s intention to continue to work in close partnership with the EU and other international partners after Brexit.**

---

257 Written evidence from UK Finance ([BSP0007](#))

258 Written evidence from Tom Keatinge ([BSP0001](#))

259 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

260 [Q 11](#)

261 [Q 13](#)

262 Written evidence from Dr Erica Moret ([BSP0008](#))

263 Written evidence from Dr Clara Portela ([BSP0003](#))

264 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

265 [Q 2](#)

266 Written evidence from David Mortlock and Richard Nephew ([BSP0002](#))

267 [Q 13](#)

145. **Although the UK will leave the common EU framework for designing and imposing sanctions, the common interests and threats facing the UK and the EU-27 will not change fundamentally.**
146. **The US and the EU already co-ordinate closely on the design of sanctions. It would be desirable for the UK, the US and the EU to maintain a broadly similar approach to sanctions policy after Brexit.**
147. **The UK could choose to align itself with EU sanctions after Brexit. This would preserve the current unity of approach by the 28 countries, but would require the UK to implement decisions taken by the EU-27, without having any influence over their design, or voting rights.**
148. **Informal engagement with the EU on sanctions—as undertaken by the US—can be very valuable, and should be pursued by the UK. Informal dialogue is, however, no substitute for the influence that can be exercised through formal inclusion in the EU meetings where the bloc’s sanctions policy is agreed.**
149. **It is not yet clear what the “tailored arrangement” proposed by the Minister for co-operation between the UK and EU on sanctions would involve. The Government’s ambition is for an “unprecedented” level of co-operation, which is an untested approach.**
150. **The UK’s new legal framework for sanctions, and position outside the Single Market and EU customs union, could limit the extent to which the UK is able to enter into such a partnership on sanctions with the EU.**
151. **If participation in the Common Foreign and Security Policy after Brexit is not possible—or not sought by the UK—then the Government should propose that a political forum be established between the UK and the EU, for regular discussion and co-ordination of sanctions policy.**
152. **The extent to which businesses operating in the UK are affected by the change to an independent sanctions regime will depend on how closely the UK continues to align with the EU’s restrictive measures. Should the UK choose to diverge from the EU-27’s measures, this could lead to additional administrative burdens for businesses.**
153. **The UK has the expertise and capacity to develop and implement sanctions outside the EU. The Foreign and Commonwealth Office is developing a dedicated sanctions unit, and depending on the UK’s sanctions policy decisions outside the EU, further resources might be needed.**
154. **Sanctions policy is one subset of wider foreign policy. The influence of the UK on the sanctions policy of its international partners will depend on the extent to which it is able to retain its authority and leadership on key foreign policy dossiers after Brexit. Further consideration of the impact of leaving the EU on the UK’s ability to pursue and achieve its foreign policy objectives will be urgently required.**



## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

---

### Sanctions: an introduction

1. The most effective sanctions regimes are designed and applied alongside international partners, to strengthen the signal to the target and deliver the maximum possible economic impact. (Paragraph 43)
2. The EU's sanctions regimes have a significant impact where agreement cannot be reached at the UN, or agreed UN measures are limited in scope. This reflects the significance of the EU as an economic bloc, and the signalling power of 28 Member States acting in concert. (Paragraph 44)
3. Financial sanctions can be particularly effective in applying pressure to targeted entities. The role of the City of London as an international financial centre heightens the value of participation by the UK in collective sanctions regimes, at both UN and EU level. (Paragraph 45)

### Current situation: policy design

4. The UK is widely recognised as playing a leading role in developing the EU's sanctions policy, and the listings for these regimes. In cases such as Russia and Iran, both UK foreign policy priorities, the collective imposition of restrictive measures by 28 Member States has magnified their economic impact and projected a strong message to the targeted entities. (Paragraph 67)
5. The UK is embedded within a formal structure for co-operation on sanctions with the 27 other Member States. This is further strengthened by informal opportunities to engage actively, in the margins of formal EU meetings and wider foreign policy discussions. (Paragraph 68)

### The future UK sanctions regime

6. While the Sanctions and Anti-Money Laundering Bill would allow the UK to implement unilateral sanctions regimes, sanctions are most effective when imposed in concert with international partners. We therefore welcome the Government's intention to continue to work in close partnership with the EU and other international partners after Brexit. (Paragraph 144)
7. Although the UK will leave the common EU framework for designing and imposing sanctions, the common interests and threats facing the UK and the EU-27 will not change fundamentally. (Paragraph 145)
8. The US and the EU already co-ordinate closely on the design of sanctions. It would be desirable for the UK, the US and the EU to maintain a broadly similar approach to sanctions policy after Brexit. (Paragraph 146)
9. The UK could choose to align itself with EU sanctions after Brexit. This would preserve the current unity of approach by the 28 countries, but would require the UK to implement decisions taken by the EU-27, without having any influence over their design, or voting rights. (Paragraph 147)
10. Informal engagement with the EU on sanctions—as undertaken by the US—can be very valuable, and should be pursued by the UK. Informal dialogue is, however, no substitute for the influence that can be exercised through formal inclusion in the EU meetings where the bloc's sanctions policy is agreed. (Paragraph 148)

11. It is not yet clear what the “tailored arrangement” proposed by the Minister for co-operation between the UK and EU on sanctions would involve. The Government’s ambition is for an “unprecedented” level of co-operation, which is an untested approach. (Paragraph 149)
12. The UK’s new legal framework for sanctions, and position outside the Single Market and EU customs union, could limit the extent to which the UK is able to enter into such a partnership on sanctions with the EU. (Paragraph 150)
13. If participation in the Common Foreign and Security Policy after Brexit is not possible—or not sought by the UK—then the Government should propose that a political forum be established between the UK and the EU, for regular discussion and co-ordination of sanctions policy. (Paragraph 151)
14. The extent to which businesses operating in the UK are affected by the change to an independent sanctions regime will depend on how closely the UK continues to align with the EU’s restrictive measures. Should the UK choose to diverge from the EU-27’s measures, this could lead to additional administrative burdens for businesses. (Paragraph 152)
15. The UK has the expertise and capacity to develop and implement sanctions outside the EU. The Foreign and Commonwealth Office is developing a dedicated sanctions unit, and depending on the UK’s sanctions policy decisions outside the EU, further resources might be needed. (Paragraph 153)
16. Sanctions policy is one subset of wider foreign policy. The influence of the UK on the sanctions policy of its international partners will depend on the extent to which it is able to retain its authority and leadership on key foreign policy dossiers after Brexit. Further consideration of the impact of leaving the EU on the UK’s ability to pursue and achieve its foreign policy objectives will be urgently required. (Paragraph 154)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

---

### Members

Baroness Armstrong of Hill Top  
 Baroness Brown of Cambridge  
 Lord Dubs  
 Lord Horam  
 Baroness Manzoor  
 Earl of Oxford and Asquith  
 Lord Risby  
 Lord Stirrup  
 Baroness Suttie  
 Baroness Symons of Vernham Dean  
 Lord Triesman  
 Baroness Verma (Chairman)

### Declarations of interest

Baroness Armstrong of Hill Top  
*No relevant interests declared*  
 Baroness Brown of Cambridge  
*No relevant interests declared*  
 Lord Dubs  
*No relevant interests declared*  
 Lord Horam  
*No relevant interests declared*  
 Baroness Manzoor  
*No relevant interests declared*  
 Earl of Oxford and Asquith  
*No relevant interests declared*  
 Lord Risby  
*No relevant interests declared*  
 Lord Stirrup  
*No relevant interests declared*  
 Baroness Suttie  
*Associate, Global Partners Governance, in respect of their FCO funded projects in the Parliaments of Jordan, Kyrgyzstan and Ukraine*  
 Baroness Symons of Vernham Dean  
*No relevant interests declared*  
 Lord Triesman  
*No relevant interests declared*  
 Baroness Verma (Chairman)  
*No relevant interests declared*

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

Baroness Armstrong of Hill Top  
 Baroness Brown of Cambridge  
 Baroness Browning  
 Lord Cromwell  
 Lord Jay of Ewelme

Baroness Kennedy of the Shaws  
The Earl of Kinnoull  
Lord Liddle  
Baroness Neville-Rolfe  
Lord Selkirk of Douglas  
Baroness Suttie  
Lord Teverson  
Baroness Verma  
Lord Whitty  
Baroness Wilcox  
Lord Woolmer of Leeds

During consideration of the report the following Members declared an interest:

Lord Selkirk of Douglas

*Director, Lennoxlove House Limited (remunerated as a Director)*  
*Chairman of Directors, and Director, Douglas-Hamilton (D Share) Ltd*  
*(small family company: agriculture and property; the Member's financial*  
*interest derives from his directorship, which is now paid as an annual sum*  
*above the registration threshold)*  
*President, Scottish Veterans' Garden City Association (national charity)*  
*Chairman, Scottish Advisory Committee, Skill Force (national charity)*  
*Diversified investment portfolio in McInroy & Wood Income Fund managed*  
*by third party*

Baroness Suttie

*Associate, Global Partners Governance, in respect of their FCO funded*  
*projects in the Parliaments of Jordan, Kyrgyzstan and Ukraine*

A full list of Members' interests can be found in the Register of Lords' Interests:  
[http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/  
register-of-lords-interests/](http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/)

## APPENDIX 2: LIST OF WITNESSES

---

Evidence is published online at <http://www.parliament.uk-brexit-sanctions-policy> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

*	Ross Denton, Partner, Baker and McKenzie LLP	<a href="#">QQ 1–9</a>
**	Maya Lester QC, Barrister, Brick Court Chambers	<a href="#">QQ 1–9</a>
*	Dr Francesco Giumelli, Assistant Professor in International Relations, University of Groningen	<a href="#">QQ 10–18</a>
**	Tom Keatinge, Director, Centre for Financial Crime & Security Studies, Royal United Services Institute	<a href="#">QQ 10–18</a>
**	Dr Clara Portela, Assistant Professor of Political Science, Singapore Management University	<a href="#">QQ 10–18</a>
*	Paul Williams, Director, Multilateral Policy, Foreign and Commonwealth Office	<a href="#">QQ 19–38</a>
*	Andrew Murdoch, Legal Director, Foreign and Commonwealth Office	<a href="#">QQ 19–38</a>
*	Matthew Findlay, Deputy Head, International Organisations Department, Foreign and Commonwealth Office	<a href="#">QQ 19–38</a>
*	Rena Lalgie, Head, Office of Financial Sanctions Implementation, HM Treasury	<a href="#">QQ 19–38</a>
*	Giles Thomson, Deputy Director, Sanctions and Illicit Finance, HM Treasury	<a href="#">QQ 19–38</a>
*	Roger Matthews, Senior Director, Dechert LLP	<a href="#">QQ 39–52</a>
*	Sir John Sawers GCMG, Chairman, Macro Advisory Partners and Former Chief of the Secret Intelligence Service (MI6)	<a href="#">QQ 53–64</a>
*	The Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, Foreign and Commonwealth Office	<a href="#">QQ 65–78</a>
*	Caroline Wilson CMG, Director Europe, Foreign and Commonwealth Office	<a href="#">QQ 65–78</a>
*	Matthew Findlay, Deputy Head, International Organisations Department, Foreign and Commonwealth Office	<a href="#">QQ 65–78</a>

**Alphabetical list of all witnesses**

- \* Ross Denton, Partner, Baker and McKenzie LLP ([QQ 1–9](#))
- \* The Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, Foreign and Commonwealth Office ([QQ 65–78](#))
  - Embassy of Switzerland in the United Kingdom [BSP0009](#)
  - Dr Mikael Eriksson, Researcher, Swedish Defense Research Agency [BSP0005](#)
- \* Matthew Findlay, Deputy Head of International Organisations Department, Foreign and Commonwealth Office ([QQ 19–38](#) and [QQ 65–78](#))
  - Foreign and Commonwealth Office [BSP0012](#)
- \* Dr Francesco Giumelli, Assistant Professor in International Relations, University of Groningen ([QQ 10–18](#))
- \*\* Tom Keatinge, Director, Centre for Financial Crime & Security Studies, Royal United Services Institute ([QQ 10–18](#)) [BSP0001](#)
  - Dr Benjamin Kienzle, Lecturer, Defence Studies, King’s College London [BSP0010](#)
- \* Rena Lalgie, Head of the Office of Financial Sanctions Implementation, HM Treasury ([QQ 19–38](#))
  - Law Society of Scotland [BSP0006](#)
- \*\* Maya Lester QC, Barrister, Brick Court Chambers ([QQ 1–9](#)) [BSP0004](#)
- \* Roger Matthews, Senior Director, Dechert LLP ([QQ 39–52](#))
  - Dr Erica Moret, Senior Researcher, Programme for the Study of International Governance and Chair of the Geneva International Sanctions Network, Graduate Institute of International and Development Studies, Geneva [BSP0008](#)
  - David Mortlock, Partner, Willkie Farr & Gallagher LLP [BSP0002](#)
- \* Andrew Murdoch, Legal Director, Foreign and Commonwealth Office ([QQ 19–38](#))
  - Richard Nephew, Adjunct Professor and Senior Research Scholar, Center on Global Energy Policy, School of International and Public Affairs, Columbia University [BSP0002](#)
- \*\* Dr Clara Portela, Assistant Professor of Political Science, Singapore Management University ([QQ 10–18](#)) [BSP0003](#) [BSP0013](#)
  - Royal Norwegian Embassy in London [BSP0011](#)
- \* Sir John Sawers GCMG, Chairman, Macro Advisory Partners and Former Chief of the Secret Intelligence Service (MI6) ([QQ 53–64](#))
- \* Giles Thomson, Deputy Director, Sanctions and Illicit Finance, HM Treasury ([QQ 19–38](#))
  - UK Finance [BSP0007](#)



- \* Paul Williams, Director Multilateral Policy, Foreign and Commonwealth Office ([QQ 19–38](#))
- \* Caroline Wilson CMG, Director Europe, Foreign and Commonwealth Office ([QQ 65–78](#))

**APPENDIX 3: TABLE UNDERPINNING EU SANCTIONS MAP  
(FIGURE 1)**

<b>Country or Category</b>	<b>Specification (Type)</b>	<b>Adopted by</b>
Afghanistan	Restrictive measures imposed with respect to the Taliban	UN
Armenia	Specific restrictive measures in relation to the situation in Nagorno-Karabakh	OSCE
Azerbaijan	Specific restrictive measures in relation to the situation in Nagorno-Karabakh	OSCE
Belarus	Restrictive measures against Belarus	EU
Bosnia & Herzegovina	Restrictive measures imposed in relation to the incidents in Mostar on 10 February 1997	EU
Bosnia & Herzegovina	Restrictive measures in support of Bosnia and Herzegovina	EU
Burundi	Restrictive measures in view of the situation in Burundi	EU
Central African Republic	Restrictive measures against the Central African Republic	UN
China	Specific restrictive measures in relation to the events at the Tiananmen Square protests of 1989	EU
Democratic Republic of the Congo	Restrictive measures against the Democratic Republic of the Congo	UN and EU
Egypt	Misappropriation of state funds of Egypt (MSF)	EU
Eritrea	Restrictive measures against Eritrea	UN
Guinea	Restrictive measure against the Republic of Guinea	EU
Guinea-Bissau	Restrictive measures against those threatening the peace, security or stability of the Republic of Guinea-Bissau	UN and EU
Haiti	Prohibiting the satisfying of certain claims by the Haitian authorities	EU
Iran	Restrictive measures in relation to the non-proliferation of weapons of mass destruction (WMD)	UN and EU
Iran	Restrictive measures in relation to serious human rights violations in Iran (HR)	EU
Iraq	Restrictive measures on Iraq	UN

Country or Category	Specification (Type)	Adopted by
Lebanon	Restrictive measures in relation to the UN Security Council Resolution 1701 (2006) on Lebanon	UN
Lebanon	Restrictive measures in relation to the 14 February 2005 terrorist bombing in Beirut, Lebanon	UN
Libya	Prohibiting the satisfying of certain claims in relation to transactions that have been prohibited by the UN Security Council Resolution 883 (1993) and related resolutions	EU
Libya	Restrictive measures in view of the situation in Libya	UN and EU
Mali	Restrictive measures in view of the situation in Mali	UN
Moldova (Transnistria)	Restrictive measures in relation to the campaign against Latinscript schools in the Transnistrian region	EU
Montenegro	Prohibiting the satisfying of certain claims in relation to transactions that have been prohibited by the UN Security Council Resolution 757 (1992) and related resolutions	EU
Burma (Myanmar)	Restrictive measures against Myanmar/Burma	EU
Democratic People's Republic of Korea (North Korea)	Restrictive measures in relation to the non-proliferation of the weapons of mass destruction (WMD)	UN and EU
Russia	Restrictive measures in view of Russia's actions destabilising the situation in Ukraine (sectoral sanctions)	EU
Serbia	Prohibiting the satisfying of certain claims in relation to transactions that have been prohibited by the UN Security Council Resolution 757 (1992) and related resolutions	EU
Somalia	Restrictive measures against Somalia	UN
South Sudan	Restrictive measures in view of the situation in South Sudan	UN and EU
Sudan	Restrictive measures in view of the situation in Sudan	UN and EU
Syria	Restrictive measures in relation to the 14 February 2005 terrorist bombing in Beirut, Lebanon	UN

Country or Category	Specification (Type)	Adopted by
Syria	Restrictive measures against Syria	EU
Terrorism	Specific measures to combat terrorism	EU
Terrorism	Restrictive measures with respect to ISIL (Da'esh) and Al-Qaida (ISIL/DA'ESH & AL-QAIDA)	UN and EU
Tunisia	Misappropriation of state funds of Tunisia (MSF)	EU
Ukraine	Misappropriation of state funds of Ukraine (MSF)	EU
Ukraine	Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (TERRITORIAL INTEGRITY)	EU
Ukraine	Restrictive measures in response to the illegal annexation of Crimea and Sevastopol (CRIMEA)	EU
United States	Measures protecting against the effects of the extra-territorial application of certain legislation adopted by the US	EU
Venezuela	Restrictive measures in view of the situation in Venezuela	EU
Yemen	Restrictive measures in view of the situation in Yemen	UN
Zimbabwe	Restrictive measures against Zimbabwe	EU

Source: Estonian Presidency of the Council of the EU, 'EU Sanctions Map': <https://www.sanctionsmap.eu/> [accessed 7 December 2017] and [Q 20](#) (Paul Williams)