



Foreign &
Commonwealth
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The Baroness Verma
Chair
EU External Affairs Sub-Committee
House of Lords
London
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Dear Sandip,

I am pleased to enclose Her Majesty's Government's response to the EU External Affairs Sub-Committee of the European Union Committee's report entitled "Post-Brexit Sanctions".

The report is an important contribution to the debate on the UK's future relationship with the European Union. I was pleased to be able to provide evidence during the inquiry, alongside officials from across Whitehall. I am grateful to the Committee for its work.

Yours Sincerely

RT HON SIR ALAN DUNCAN MP

The Government welcomes the inquiry by the EU External Affairs Sub-Committee of the House of Lords into the implications for sanctions policy of the UK's exit from the EU. I was pleased to have the opportunity to provide evidence to this inquiry, alongside officials from across Government, including the evidence sessions on 14 September 2017 and 26 October 2017. We have looked carefully at the report published on 17 December.

This paper sets out the Government's response to the Committee's conclusions and recommendations, as contained in the Summary of Conclusions and Recommendations section of the report. The Committee's recommendations/questions are in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report. The responses to paragraphs 43 and 44; 45, 67 and 68; 144, 145 and 146; 147, 148 and 149; and 152 and 153 are combined.

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)

The Government agrees that sanctions regimes are more effective when they are implemented by a broad range of countries in support of a shared political strategy. In the face of threats such as conflict, terrorism and nuclear proliferation, sanctions such as asset freezes or arms embargoes can play an important role in changing or constraining unacceptable behaviour, as well as in signalling a clear political message.

Sanctions agreed by the United Nations (UN) Security Council are the ideal, as they are legally binding on the entire international community. When agreement is not possible at the UN, or the sanctions introduced at the UN have not gone as far as desired, the UK has sought the widest possible cooperation outside of the UN. This has typically involved cooperation between the EU and US (which together represented over 45 percent of global GDP in 2016) as well as with like-minded partners such as Canada and Japan. Small groups such as the G7, and larger bodies such as the Financial Action Taskforce, have also played an important role in some cases, including on counter-terrorism sanctions and sanctions against Russia and North Korea.

Sanctions should not be imposed lightly. Building and sustaining broad multilateral support for them requires a consistent focus on ensuring that they are properly targeted, legally robust and designed to minimise unintended consequences, for example on humanitarian assistance or other legitimate business. The Government takes sanctions very seriously, pressing the case for them where we believe they make sense but also ensuring that they are used responsibly and lifted when no longer needed.

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)

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 Government agrees that the UK is a leading global player on sanctions. We play an active role with international partners both to design restrictive measures that support our shared political goals and to ensure that these measures are properly implemented and enforced. The UK's influence on international sanctions policy derives only partly from our current EU membership. It also comes from our status as a Permanent Member of the UN Security Council and our membership of other bodies such as the G7 and Financial Action Taskforce. On Iran, for example, the UK has worked over the years through a variety of formal and informal international mechanisms including the UN Security Council, the International Atomic Energy Agency, the EU and the E3+3 (UK, France, Germany, US, Russia, China). On DPRK, we are following a similar approach.

The UK's influence on international sanctions policy is underpinned by the strength of our economy and financial sector and by the expertise that exists in both the public and private sectors. The FCO, HM Treasury, Department for International Trade and other partners across government devote significant resources to sanctions and work well together. Outside government, in addition to the City of London, UK expertise on sanctions includes a highly respected legal system and some of the world's leading international think tanks.

Exiting the EU will require a new domestic legal framework for sanctions and new ways of working with our allies and partners, but we are confident that these combined assets will enable the UK to remain an influential player in this field.

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)

The Government agrees with these observations and recommendations. International cooperation strengthens the impact of sanctions. Transatlantic cooperation has been, and will remain, crucial across much of our sanctions policy, including restrictive measures against Iran, Russia, Syria, DPRK and terrorist groups such as ISIL (Da'esh) and Al-Qaida. We want to continue working closely in this area with the EU and US, as well as with other international partners such as Canada, Australia, Japan and Norway to tackle the shared threats we face.

Preserving such cooperation depends on both a shared political strategy and the appropriate structures for practical cooperation between the key players in order to align their respective sanctions regimes as far as possible. The UK will remain active in driving international cooperation at both strategic and operational levels, including through our membership of the UN Security Council and participation in smaller groups of likeminded partners such as the E3+3 (Iran) and G7 (Russia, DPRK).

While sanctions are imposed by governments, the burden of implementation falls heavily on the private sector and can also affect charitable organisations working in countries subject to sanctions. Economic operators working across borders have a strong interest in a well-aligned international

playing field for sanctions to minimise the costs of compliance. This is another reason to prioritise international cooperation on sanctions and, in pursuing this strategic goal, the Government will continue to work closely with a full range of stakeholders.

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)

The Government believes that the UK and EU will continue to share common threats, interests and values in a way that will lend itself to close cooperation, including on sanctions. The UK is leaving the European Union, but we are not leaving Europe. The Prime Minister has underlined the UK’s unconditional commitment to European security and our interest in building a deep and special partnership, including on foreign policy, defence and development.

Initial UK thinking on this was set out in the Future Partnership Paper published by the Department for Exiting the European Union in September 2017¹. Further details are subject to ongoing negotiation, so cannot be set out in detail at this time, but we will continue to work closely with European and other international partners in designing and implementing sanctions regimes which support and protect our mutual interests. We envisage a model of UK/EU sanctions cooperation based on two-way exchanges of analysis and information, reflecting the starting point of close alignment and the strength of UK expertise in areas such as gathering the evidence needed to comply with high legal standards for sanctions. We will also continue to work closely with France and other members of the UN Security Council to ensure that sanctions are applied globally wherever possible, so as to maximise impact and minimise divergences in implementation. This would ensure strong UK influence at the heart of global sanctions policy.

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)

The Sanctions and Anti-Money Laundering Bill was drafted with a view to enabling the UK to maintain the broad range of sanctions we currently implement through EU law, including complex sanctions regimes such as those against Russia and DPRK. This relates, for example, to provisions in the Bill setting out the purposes for which the UK can apply sanctions, as well as the procedural standards for creating sanctions regimes and imposing targeted measures on specific individuals. Getting this legislative framework right is crucial to the UK’s ability to maintain close cooperation with the EU, as well as with the US and other international partners.

The Bill has now passed to the House of Commons following a lengthy and constructive process of scrutiny in the House of Lords. It will hold future governments to high procedural standards while preserving the necessary flexibility to act decisively where there are good reasons. If the key

¹ *Foreign policy, defence and development – a future partnership paper*, Department for Exiting the European Union, 12 September 2017

provisions remain in their current form, the UK should retain the legal ability to coordinate its sanctions closely with those of the EU where political objectives converge. This will need to be supported by ongoing technical cooperation on practical implementation issues, including guidance to economic operators on sanctions compliance.

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)

As set out in response to paragraphs 147, 148 and 149, the Government agrees that close cooperation on sanctions will remain in the mutual interests of the UK and the EU after Brexit. The precise mechanisms for the discussion and coordination of sanctions policy remain subject to negotiation and will depend on the overall framework for cooperation on foreign and security policy. However, the UK is clear that we are seeking a deep and special partnership that appropriately reflects both the UK's expertise and the high-level of engagement that currently exists.

This could be done through regular dialogue, specific cooperation and close consultations on foreign and security policy issues, including sanctions, and by sharing information and aligning policy where appropriate.

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)

Businesses operating across borders have experience of complying with multiple sanctions regimes, including EU and US legislation, but we recognise the need to minimise any additional administrative burdens. The White Paper that paved the way for the Sanctions and Anti-Money Laundering Bill was circulated to over 30,000 people and we have listened carefully to the views expressed during the consultation process. The Bill obliges the Government to produce guidance and we will aim to make this as user-friendly as possible. The Bill also provides the ability to tailor exceptions and licensing grounds, which will give the Government greater flexibility to waive prohibitions, such as general licences for financial sanctions

Responsibility for implementing and enforcing EU sanctions rests with Member States and the UK has a strong reputation in this area. In March 2016, HM Treasury established a new Office of Financial Sanctions Implementation (OFSI) to ensure that financial sanctions are properly understood, implemented and enforced in the United Kingdom. The Export Control Joint Unit within the Department for International Trade plays an equivalent role on trade sanctions, supported by HM Revenue and Customs and others. Overall responsibility for UK sanctions policy rests with the FCO, which leads the diplomatic efforts to influence UN and EU sanctions and is now gearing up for the task of running autonomous UK sanctions regimes based on the powers in the Sanctions and Anti-Money Laundering Bill.

As part of continuous improvement, the Government regularly reviews governance and resources. We are confident that we will retain the capacity and influence to remain a strong player on international sanctions policy.

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)

The Government agrees that the UK's influence on sanctions is an important part of our broader influence on foreign policy in general. The Government will continue to stand up for British interests and values; broaden our alliances and partnerships; and use our overseas effort – diplomacy, defence, development, trade, intelligence and law enforcement – to our best advantage in facing global challenges and seizing opportunities to make Britain, and the world, safer and more prosperous.

The UK is a Permanent Member of the UN Security Council and an active member of other international fora. We have a substantial global reach, with a diplomatic network of 270 posts, world-class security services and extensive military capabilities. The UK is the only major country to meet both the 2% defence spending target and the UN 0.7% target for Official Development Assistance.

In line with this vision, the UK looks forward as part of the next phase of EU exit negotiations to agreeing how we will work together in future on foreign and security policy. This includes looking at how we can strengthen bilateral ties with our international partners and more effectively deliver our objectives through multilateral organisations. Examples of this include the 35th UK-France Summit, held on 18 January in the United Kingdom, and the second Inter-Governmental Consultations with Poland held last December, which was attended by the Prime Minister and five Cabinet Ministers.

As set out in the September 2017 Future Partnership Paper, we envisage regular close consultation across the full range of issues, with the option to agree joint positions and to use sanctions as appropriate in support of those positions.