House of Commons

Foreign Affairs Committee

# Fragmented and incoherent: the UK's sanctions policy: Government Response to the Committee's Seventeenth Report

## Twenty-Third Special Report of Session 2017–19

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## The Foreign Affairs Committee

The Foreign Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Foreign and Commonwealth Office and its associated public bodies.

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# Twenty-Third Special Report

On 12 June 2019, the Foreign Affairs Committee published its Seventeenth Report of Session 2017–19, Fragmented and incoherent: the UK's sanctions policy (HC 1703). The Government response was received on 3 September 2019. The response is appended below.

# Appendix: Government Response

Fragmented and incoherent: the UK's sanctions policy The Government notes the Foreign Affairs Committee's report on: Fragmented and incoherent: the UK's sanctions policy, published on 12 June 2019. This Report sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

1. **We welcome the FCO's diligence in ensuring that there would not have been a gap in UK sanctions regimes if the UK had left the EU with no deal in March or April 2019. We also recognise the technical complexity of this process and the hard work of the FCO's sanctions team in completing this task against a strict deadline. We are concerned, however, that vital elements of this work were completed mere days before that deadline. Given that the SI process has evidently taken up the vast majority of the FCO's capacity on sanctions over the last year, we question whether sufficient resources have been allocated to a policy area that is essential to the UK's role in upholding the rules-based international system.** (Paragraph 10)

The Government is pleased that the Committee has recognised the importance and technical complexity of the work required to ensure that the UK would maintain existing sanctions if the UK left the European Union (EU) without a deal on 29 March or 12 April 2019.

The scope of this work was enormous and unprecedented. After the Sanctions and Anti-Money Laundering Act (the Sanctions Act) received Royal Assent in May 2018, certain sanctions related provisions of the Act were commenced in November 2018 to enable regulations to be laid. 22 Statutory Instruments (SIs) were subsequently laid under the Sanctions Act. 18 of the Sanctions Act SIs will substantially transfer into domestic law existing EU and UN sanctions regimes from the point that the UK is no longer bound by EU law. This process required producing regulations based on an entirely new legal framework; on this basis, it was not possible to simply replicate the relevant EU law. Two SIs were made under the European Union (Withdrawal) Act 2018 to enable the UK to maintain other sanctions regimes under EU retained law, until SIs under the Sanctions Act could be laid. The FCO reviewed around 1000 individual EU designations and considered decisions in each of these cases on whether these designations would meet the legal tests set out in the Sanctions Act, in time for 29 March and 12 April 2019.

A large cross-Government team of policy officials and lawyers were involved in this process. Over 75 policy officials and 20 lawyers from more than 10 Government departments were involved in drafting these regulations, working in collaboration with the Office of the Parliamentary Counsel; producing the necessary statutory guidance and reports to accompany them; and reviewing individual sanctions listings. The FCO

increased considerably the number of staff working in the FCO Sanctions Unit, from 10 to over 35, to manage all aspects of sanctions work. Overall, the substantial increase in resources for sanctions work ensured that the Government will be ready on sanctions for the UK to leave the EU without a deal.

When prioritising the making and laying of SIs, a range of factors were considered. These included: the likelihood of an EU sanctions regime changing between the date of making the SI and exit day (including the possibility that exit day could be deferred until after the end of an Implementation Period); and the UK's foreign policy priorities. The Government laid the most changeable and complex SIs as late as possible. In addition, the Parliamentary authorities requested that the FCO lay SIs in March 2019, to avoid a spike in the laying of SIs in February 2019. For those SIs laid between 29 March and 12 April, the additional time was used to undertake further checks on these extensive and complex SIs before laying them before Parliament.

2. **In oral evidence, the Minister of State noted that SAMLA requires the Government to lay before Parliament an annual report on human rights sanctions, "as soon as reasonably practicable after the end of each reporting period". The first reporting period ended on 22 May 2019, a year after SAMLA received Royal Assent. In his follow up letter of 29 May, the Minister of State committed to laying this report in June. We expect him to do so.** (Paragraph 16)

3. **The Government has repeatedly failed to give the Committee clear answers about whether the UK can adopt and implement Magnitsky-style sanctions against individuals who have committed human rights abuse while it is still a member of the EU, and during any potential implementation period following UK withdrawal from the EU. We accept that there is legal debate around these questions and were somewhat reassured to learn that the Government's incoherent responses to our questioning reflect the fact that it has not yet arrived at a settled legal position, rather than a deliberate political choice to delay the use of Magnitsky legislation. In our view, however, the Government's obfuscation has damaged the UK's credibility in the international community and risks signalling to human rights abusers that the UK is reluctant to use its powers to sanction them.** (Paragraph 17)

4. **The Government must rectify its mistakes as soon as possible by agreeing on a clear legal position regarding the UK's ability to adopt and implement Magnitsky sanctions while still an EU member and during any possible post-Brexit implementation period. We call on the FCO to publish that position either in a letter- to the Committee or in its response to this report. In any event it should do so before the end of June: the Government's confusion in this area has dragged on for too long.** (Paragraph 18)

The Government laid its annual report on human rights sanctions before Parliament on 27 June 2019. The report sets out that seven country-based sanctions regulations with a human rights purpose were laid during the 2018–2019 reporting period, which aim to promote compliance with international human rights law and respect for human rights.

The Government has announced an intention to establish a UK autonomous human rights ('Magnitsky') sanctions regime once we leave the European Union, placing travel bans and asset freezes on individuals responsible for human rights abuses. By establishing such a sanctions regime we would develop the UK's role as a global moral anchor,

demonstrating our continued commitment to the promotion and protection of human rights worldwide. Such a sanctions regime would allow us to respond to human rights abuses and violations as they arise around the world, even when a geographically focused sanctions regime is not currently in place. Work has already begun on the secondary legislation and associated processes that would be required in order to introduce such a regime as soon as practicable after we leave the EU. The UK will also work closely with key allies, particularly the US and Canada, who already have human rights sanctions regimes in place in order to coordinate our efforts.

In addition, the Government is publishing, as an Annex to this report (page 12), a letter on its legal position on implementing autonomous UK human rights sanctions while the UK remains bound by EU law. The letter is being sent in parallel to all members of the Committee.

5. **The Home Office has not provided a list of people who are prevented from entering the UK as sanctioned individuals. In particular it has not published the n-ames of those to whom entry visas are denied by virtue of their involvement in human rights abuses, money laundering and corruption. We believe it would be far more effective to publish this list so as to demonstrate beyond doubt the UK's commitment to the rule of law.** (Paragraph 19)

The Home Office publishes quarterly migration statistics,[1] which include information on the number of visa refusals. In 2018, over 380,000 visas were refused worldwide across all categories of the Immigration Rules. However, information is not held on the number of those refused visas for human rights abuses, money laundering or corruption, as these are not specific categories in the Immigration Rules. The Home Office does not publish the names of those refused visas as to do so would breach data protection legislation.

However, lists of persons currently sanctioned in the UK are published by the UN and EU. After the UK leaves the European Union, the Government will publish the full list of those persons who are designated pursuant to regulations under the Sanctions Act.

6. **Sanctions are most effective when applied multilaterally. We therefore welcome the Government's commitment to co-operate as closely as possible with the EU and other allied nations on sanctions policy after Brexit. We also accept in principle that there may be circumstances under which it would be appropriate for the UK to enact tougher sanctions on its own, particularly given the UK's leverage as a global financial services hub. We are deeply concerned, however, that three years after the referendum so little high-level thought appears to have gone into considering the UK's strategy and policy approach to these issues. What are the costs and benefits of divergence on key sanctions regimes? How can the UK make the most of its power in financial services? Where do UK interests most closely align with those of our key international partners? How will we influence their decision-making in future? We have seen no evidence that the FCO or wider Government have even begun to explore these questions.** (Paragraph 22)

As set out to the Committee during the course of this inquiry, sanctions are a key tool for the pursuit of UK foreign policy and national security objectives. Sanctions play a

1 Further information on this list can be found at: https://www.gov.uk/government/collections/immigration-statistics-quarterly-release.

central role in supporting UK policy on priority issues, including countering terrorism and the proliferation of chemical weapons and supporting the rules based international system. The UK imposes sanctions alongside the full spectrum of other foreign policy, national security and economic tools to address these areas of concern. The Government combines this comprehensive approach with a policy of imposing sanctions on carefully selected targets to achieve specific goals, whilst minimising potentially negative impacts on innocent parties or unintended consequences of more wide-ranging sanctions.

The UK is a global leader on sanctions and is a major contributor to the development of multilateral sanctions regimes at the UN and the EU. The UK will continue to seek opportunities for international cooperation, as sanctions are most effective when multiple countries act together to coerce or constrain a target's ability to carry out unacceptable behaviour, or as a means of sending a strong political signal that such behaviour is intolerable. The UK will use its permanent seat on the UN Security Council and its relationships with the US and other allies to coordinate the imposition, implementation and lifting of sanctions at a global level.

After the UK leaves the EU there will be new opportunities for the UK to act more swiftly and decisively to deploy sanctions in support of our national interests. The UK has strengthened its sanctions capabilities, by establishing a new legal framework which allows the UK to impose autonomous sanctions. The Government intends to use these powers in line with UK interests and values, reinforcing the UK's role as a global moral anchor. For example, as we have described, once we leave the EU the Government will introduce UK autonomous human rights ('Magnitsky') sanctions.

Regarding our future relationship with the EU, the UK wants a supportive and constructive relationship, as constitutional equals, and as friends and partners to face the challenges that lie ahead. Whilst the UK will exercise the power to impose sanctions independently, this will not prevent the UK from being able to co-ordinate with the EU. The outcome will be that Britain enjoys both freedom of manoeuvre and the option of working alongside the EU on sanctions where our objectives align.

Looking beyond EU exit, the UK has already taken a range of steps to develop further our international influence on sanctions, including through establishing a new network of diplomats working on sanctions overseas, based in the British Embassies in Washington, DC; Paris; Berlin; and at the UK Mission to the UN in New York, as well as existing roles in Brussels. The UK has engaged extensively to strengthen bilateral relationships with key allies and partners, including the United States, Canada and Australia. There is also potential for the UK to leverage its bilateral and multilateral relationships to bring together small groups of like-minded countries to pursue cooperation and achieve wider impact from the use of sanctions. The UK demonstrated these skills when leading the coordination of sanctions by the EU, US, Australia and Canada against Russia in response to the construction of the Kerch Bridge. The UK has also enhanced cooperation with the US and Canada to scope approaches to coordinated sanctions in the area of human rights.

The UK possesses a range of strengths which will support continued UK global influence on sanctions. The UK can draw on more sanctions expertise and resources within Government than any other EU Member State, and maintaining this capacity will be a priority after EU exit. The UK also has one of the world's largest and most open economies,

and London is one of the world's most attractive destinations for overseas investors. The strength of the UK's financial sector, and private sector expertise on sanctions in general, will be key to the UK's future policy and influence.

7. **Sanctions are too essential to the preservation of the rules-based international system and the defence of our national interests to be treated as an afterthought. The National Security Council (NSC) must designate sanctions strategy to be an urgent priority and must allocate time and resources accordingly. We call on the NSC to begin an urgent review of UK sanctions strategy, consulting both internal Government stakeholders and external experts, and to report its findings to Parliament by the end of 2019.** (Paragraph 23)

8. **As economic tools of foreign policy, sanctions necessarily require the input of experts across several Government departments and close co-operation to ensure effective implementation. While we welcome the Government's assurances that co-operation between departments is currently working well, we believe there is room for improvement, which should in turn support the development of a more coherent overall strategy on sanctions. In particular we believe it would benefit Government coherence to have a single senior civil servant primarily based in the FCO who is accountable for sanctions policy and implementation. The Government should appoint a Senior Responsible Officer (SRO) for sanctions policy who will be personally accountable to the National Security Council.** (Paragraph 28)

The Government agrees with the Committee that sanctions are one of many tools that are central to achieving the UK's foreign policy and national security objectives. As noted on page 4, the UK aims to develop sanctions focused on specific objectives as part of a broader political or diplomatic strategy, a comprehensive approach encompassing the full range of diplomatic action, rather than as an end in and of itself. This approach ensures that the UK pursues coordinated policies and strategies to achieve outcomes on specific priorities.

On this basis, the Government already brings together National Security Strategy and Implementation Groups (NSSIGs) with cross-Government Senior Responsible Officers (SROs), reporting to the NSC, and overseeing and coordinating policy across Government departments on critical areas of national security and foreign policy. It is important that sanctions remain part of these processes as one of a number of tools available to the Government, rather than as a distinct area, separated from wider strategies. Although individual sanctions regimes should continue to be considered in this way, there is scope to further integrate discussions of cross-cutting issues and sanctions governance into the NSSIG system. The Government will consider the Committee's proposal to commission a review of UK sanctions policy in this context.

There are already SROs within the FCO providing oversight of sanctions policy, including through the Head of the FCO Sanctions Unit, the Director of Multilateral Policy, the Political Director, the Minister for Europe and the Americas and the Minister for the United Nations. There is also a Director-level cross-Whitehall board chaired by the FCO, which brings together Government departments to ensure coherence and coordination. In addition, as set out above, where sanctions are incorporated within broader Government strategies, there are already SROs providing overall leadership, oversight and coordination across Government. As the Government continues to develop the structures required

to manage sanctions policy and implementation for after EU exit, the Government will consider the Committee's recommendation to create an SRO role within the FCO to be accountable for sanctions policy and implementation.

9. **Two years after the Office of Financial Sanctions Implementation (OFSI) became operational, reviews of its performance so far have been mixed at best. We agree with the Treasury Select Committee that the Government should now review the effectiveness of OFSI, and we regret that the Government has not yet taken up that Committee's recommendation. That review should establish and assess the potential costs and benefits of placing responsibility for financial sanctions design and implementation within a single body, as opposed to the current bifurcated system, and should come to a judgment on whether that should be done. The review should also address as a matter of urgency how OFSI can improve its engagement with the private sector bodies on the front line of sanctions implementation, including through consultation with those bodies. We urge the Government to complete and publish this review before the end of 2019.** (Paragraph 33)

Since its creation in 2016, the Office of Financial Sanctions Implementation (OFSI) has developed a range of approaches and powers to strengthen the implementation of financial sanctions in the UK. As the Government outlined in response to the same recommendation from the Treasury Select Committee (TSC), OFSI undertakes regular reviews of its processes and structures, and this will continue to be the case. Following a review, in 2018 the OFSI Advisory Board was created to support strategic choices, performance and capability, risk management and decision making in Treasury. In line with the Government's response to the TSC, the Government does not propose to undertake a specific review of OFSI's work at this time.

OFSI's outreach work was recognised by the independent, inter-governmental body; the Financial Action Task Force (FATF), as part of the mutual evaluation report of the UK. As set out in the FATF report, OFSI has engaged continuously to raise and maintain awareness with financial institutions and Designated Non-Financial Businesses and Professions of all sizes in an effort to ensure that financial sanctions are properly understood, implemented and enforced in the UK. The FATF report highlighted that OFSI has developed guidance for external stakeholders, which has led to improvements in industry understanding and compliance. The report also noted the introduction of powers to impose monetary penalties has had a "substantial deterrent effect".

In addition, OFSI's free 'e-alert' subscription service updates stakeholders on new sanctions listings, de-listings, guidance and every important financial sanction update. 132 notifications were sent in financial year 2018–19. Modernisation of the service in 2018 led to a marked increase in engagement with performance statistics that now outperform Government and industry averages. In 2018, OFSI spoke at over 90 meetings and events across the country, with up to 500 attendees per event. They covered a wide variety of audiences including the Law Society, exporters/importers, insurers, AML practitioners, UK Finance and a range of NGOs.

10. **We recognise that sanctions and anti-money laundering are two distinct policy areas, but there is greater overlap between them than the Government is willing to acknowledge. As our report on Moscow's Gold: Russian corruption in the UK argued, the assets laundered in London by hostile and corrupt regimes are used to subvert**

**the rules-based international system, undermine our allies, and erode the mutually-reinforcing international networks that support UK foreign policy. While sanctions should not be used to criminalise individuals against whom there is no evidence of criminal activity, it is simply not good enough for the Minister of State to assert that financial crime is "not quite" the Foreign Office's "patch". The FCO should be able to see that it has a vital role to play in helping to keep the UK and our allies safe by cracking down on the laundering of dirty money.** (Paragraph 36)

As the Committee notes, sanctions and anti-money laundering (AML) are distinct policy areas, for which a range of Government departments are responsible. The FCO holds lead responsibility for sanctions policy. Anti-money laundering is the joint policy responsibility of HM Treasury and the Home Office. The Home Office is responsible for the criminal justice aspects of the AML system, while HM Treasury is responsible for the AML regulatory landscape to which financial institutions and others must adhere. The FCO ensures that sanctions, alongside other economic tools used across Government, are part of a coherent package of policies and strategies. And the FCO coordinates closely with lead departments on these policy areas, to increase the Government's international reach and effectiveness, and to contribute international analysis and perspectives to the development and implementation of policy.

The Government undertakes a range of efforts to tackle all illicit finance, money laundering and serious and organised crime, with tangible results. The Financial Action Task Force—which sets global AML standards—found in 2018 that the UK has the strongest AML regime of over 60 countries assessed to date. The UK regulates and supervises all businesses most at risk of enabling money laundering and/or terrorist financing. The Government has also been pioneering in its approach to tackling economic crime. The Joint Money Laundering Intelligence Taskforce is a world-leading example of public-private partnership, enabling law enforcement and the financial sector to share and analyse intelligence. Other initiatives include the new powers in the Criminal Finances Act 2017, which introduced unexplained wealth orders; the creation of the National Economic Crime Centre to coordinate the UK's response to economic crime; and the establishment of the Office for Professional Body AML Supervision, to improve supervision of legal and accountancy professionals at risk of abuse from money laundering or terrorist finance.

As a further demonstration of cross-Government and public-private collaboration in tackling illicit finance, the Government published an Economic Crime Plan in July 2019, in conjunction with the private sector. This was the first major output under the direction of the new Economic Crime Strategic Board, co-chaired by the Chancellor and the Home Secretary. The Plan outlines the public and private sectors' collective ambition to combat economic crime and sets out a series of actions that both sectors will undertake to enhance the UK's economic crime response.

In terms of the FCO's contributions to these policy areas, these include:

- Serious and organised crime: The FCO leads delivery internationally of the Home Office-led serious and organised crime (SOC) global strategy. The FCO coordinates across Government and manages the UK's international response through joint SOC teams in 65 overseas Posts. Diplomatic engagement helps to promote change in local approaches and improve international standards.

- Illicit finance: In early 2019, the FCO, Home Office and the Department for International Development (DfID) launched a global network to coordinate the UK's approach to tackling SOC overseas, including illicit finance specialists. The FCO will be supporting the new SOC joint analysis process to enhance the evidence base and understanding, and to inform the development of regional strategies. And the FCO is developing an illicit finance campaign, including with the Overseas Territories and Crown Dependencies.

- Corruption: The UK plays a leading role on the global anti-corruption agenda. Diplomatic engagement supports this work, including through Prosperity Fund's FCO-led cross-HMG Global Anti-Corruption programme. This programme is spending £45 million over five years, and focuses on removing corruption as a barrier to economic growth and providing a more level playing field for business to thrive. The programme includes the FCO working with DFID to support the global OpenOwnership Register, which aims to establish an open global beneficial ownership register.

In addition, the UK, alongside a core coalition of EU partners, has been at the forefront of efforts to establish the new EU cyber sanctions regime, which was adopted by the European Council on 17 May 2019.

11. **The listing of En+ on the London Stock Exchange in 2017 is a clear example of the risks inherent in the Government's fragmented approach to sanctions design and implementation. Although the involvement of an individual such as Oleg Deripaska may have raised red flags at the FCO and elsewhere, there was evidently no mechanism for those concerns to be conveyed, and no requirement for the Financial Conduct Authority to consult national security experts. Nor would it be reasonable to expect a body such as the FCA to recognise a potential national security threat on its own and act to block a listing accordingly, even if it had the power to do so.** (Paragraph 40)

12. **We welcome the Government's confirmation that it is exploring the possibility of introducing a way to block a listing on national security grounds, and that it intends to set out a robust justification for the power, the scenarios in which it could be used, how the power would work in practice, and the timing of the new legislation. As part of this work, we call on the Government to consider what role the National Security Council and its secretariat should play in the use of this power, and how best to formalise links between the Government departments responsible for sanctions and arms-length bodies including the FCA. We will follow this process closely and we ask the Government to update us on its progress in its response to this report.** (Paragraph 41)

As indicated in the Government's response to the Treasury Select Committee's Twenty-Eighth Report, 'Economic Crime—Anti-money laundering supervision and sanctions implementation', the Government is investigating the possibility of introducing a power to block a listing on national security grounds. This includes consideration as to the existing legislative framework, and the impact this power could have on UK financial markets. The Government will explore what role the National Security Council and its secretariat, as well as bodies such as the FCA, would play in the use of any such power, and how to formalise links with relevant departments and bodies should such a power be introduced.

The FCA is independent from the Government in its regulatory and supervisory functions, which is an integral part of the ability of the FCA to perform its role and responsibilities. The FCA's credibility, authority and value to consumers would be undermined if it were possible for the Government to intervene in its decision-making. The FCA's key legal power in this context is the ability, under the Financial Services and Markets Act 2000 to refuse an application for listing if, for a reason relating to the issuer, the FCA considers that granting it would be detrimental to the interests of investors. In the event that a company and/or its securities was subject to a targeted asset freeze, the FCA would carefully consider whether the effect of this action was such that detriment to investors would occur if the listing proceeded. Under the existing applicable legislation, neither HM Treasury nor the FCA has a power to intervene to block a floatation on national security grounds.

13. **The listing and subsequent de-listing of En+ Group by OFAC highlights several issues that the UK must consider carefully in redesigning and implementing future sanctions. We are not certain that the outcome of the de-listing process takes sufficient account of the nature of the relationship between oligarchs such as Oleg Deripaska and the Russian state as we outlined in our 2018 Moscow's Gold report. Nor are we convinced that the UK's current definition of "control" over a company or legal entity can encompass the informal and non-transparent relationship networks underpinning the Kremlin's activities.** (Paragraph 47)

Decisions by the US to impose or lift sanctions are a matter for the US authorities. The UK's policy is to encourage and uphold transatlantic unity of approach on Russia sanctions, which includes avoidance of unintended consequences and strong coordination on countering Russian malign activity. By imposing sanctions on Oleg Deripaska, the US was sending a message to Russian business elites that there is a cost for those who choose to support the Kremlin's malign activity; the UK supported this message. The US stated that EN+, Rusal, and EuroSibEnergo were sanctioned by the US Treasury because they were owned and controlled by Oleg Deripaska, and not for their independent conduct. These companies have agreed to unprecedented levels of transparency and are subject to ongoing compliance measures. The UK continues to support the US decision to sanction Oleg Deripaska as an individual on the basis of CAATSA (Countering America's Adversaries Through Sanctions Act).

Regarding the definition of 'control', Sir Alan Duncan's letter to the Committee on 28 May 2019 set out the Government's definitions of ownership and control. OFSI currently assesses whether an entity is controlled by a Designated Person on a case-by-case basis, in line with EU guidance. In the SIs made under the Sanctions Act that transfer existing EU sanctions into UK law, in order to provide greater clarity, the Government has set out the meaning of a legal person being "owned or controlled directly or indirectly" by another person on the face of that legislation.

14. **Combating the activities of autocratic and hostile regimes such as Russia, without compromising our own adherence to the rule of law, constitutes one of the most complex and daunting challenges that we face in our efforts to preserve the rules-based international system. This is precisely the type of difficult problem with which the Government should be grappling in its efforts to develop a clear and coherent strategy for sanctions policy after the UK leaves the EU, especially given the importance of London to the international financial system. It is disheartening that we have seen no evidence that any such efforts have yet taken place.** (Paragraph 48)

The Government agrees that the rules-based international system is under pressure on a number of fronts, including from efforts by autocratic states. This is an important priority for the UK. The Government works in a coordinated way, internally and with our international allies and partners, to counter these threats. Further information on the UK's wider work on tackling the activities of autocracies—in which sanctions will continue to play an important role—is set out in the Government's written submission to the Committee's inquiry on 'Autocracies and UK Foreign Policy'.

We have already successfully used sanctions to counter and reduce hostile activities targeting us and our partners. For example, the UK led the debate on maintaining and strengthening multilateral sanctions against Russia for its illegal annexation of Crimea, and for its destabilising actions in eastern Ukraine. The UK also fully supported new sanctions in response to Russian elections in Crimea and Sevastopol; the construction of the Kerch Bridge; the illegitimate elections held in the Donbas; and Russia's attack on Ukrainian vessels in the Black Sea.

The UK's impact in multilateral settings has ensured that sanctions play an important role in confronting and combatting a range of hostile state activities. Once the UK leaves the EU, we will also be able to take actions autonomously to support these efforts further.

15. **Sanctions will be more directly affected by the UK's departure from the EU than almost any other foreign policy tool. As the UK prepares to take responsibility for designing, implementing and enforcing sanctions on its own, we hoped to discover that the FCO and wider Government had a strong sense of its goals and strategic priorities for the use of these tools. We also hoped to find that serious thought had gone into the best way to ensure co-ordination and coherence across Government given the number of departments and bodies involved in sanctions implementation. Instead, we have learned that the Government has spent the last two years running as fast as it can just to stay in the same place.** (Paragraph 49)

16. **We believe the time is right for a major review of the Government's approach to sanctions at every stage: overall strategic goals, policy planning and formation, implementation and enforcement. As this report has set out, any sanctions strategy must be supported by coherent and co-ordinated Government structures, coupled with more effective engagement with the private sector bodies on the front lines of sanctions compliance.** (Paragraph 50)

17. **The centrality of sanctions to the preservation and functioning of the rules-based international system cannot be overstated. As a champion of that system, the UK cannot afford the risk of allowing its sanctions policy to be dictated by the decisions of others. Instead, the UK must seize the opportunity to become a global leader in sanctions policy and must aim to set the international gold standard for strategy, design and implementation. We hope the Government will take this warning to heart and look forward to following its progress closely.** (Paragraph 51)

The Government welcomes the Committee's focus on the significance of sanctions and the potential for this to remain an area of UK global leadership in the future. As set out above, the then Government prioritised work in relation to transferring existing sanctions regimes into domestic law to ensure that there would be no sanctions implementation gap at the time of the UK's departure from the EU, given the enormous scope and unprecedented

challenge of this process. Now that this work is largely complete, the current Government has been turning to the important questions the Committee raises on the future of the UK's sanctions policy and cross-Government coordination. This will build on the strong foundation already established in the UK's existing sanctions policy, and will be updated to reflect the unique changes that will be brought about after EU exit.

In future the UK will pursue sanctions policy and strategy using the powers provided by the Sanctions Act. The UK can now impose, amend or lift independent sanctions in support of our primary interests. We will continue to act in concert with our allies through partnerships and in multilateral settings where our objectives align. Where this is not the case, the UK is now capable of implementing its own autonomous sanctions regimes to combat threats and project our values, as demonstrated by our intention to establish an autonomous UK human rights sanctions regime.

To ensure we secure the UK's reputation as a global leader on sanctions, we will employ our extensive expertise in this field to build capacity amongst our partners, offering training opportunities to our allies whilst role-modelling best practice to the international community. We will continue to benefit from knowledge gained by our global networks and domestic capabilities, to inform UK sanctions policy to ensure effective decisions and strengthen our influence world-wide.

The Government looks forward to engaging the Committee, as well as the full range of external experts, as part of this work during the coming months.

# Annex: Letter from Minister of State, Foreign and Commonwealth Office, to the Chair of the Committee

## Legal position regarding the introduction of autonomous UK human rights sanctions

Further to the Foreign Affairs Committee's recent report dated 12 June 2019, I am writing to respond to the Committee's recommendation that the Government must set out a clear legal position regarding the United Kingdom's ability to adopt and implement an international human rights sanctions regime ('Magnitsky' sanctions) while still an EU member and during any possible implementation period after EU exit. I would like to apologise for the delay in responding to your request for this information.

The Government's legal position is that regulations under the Sanctions and Anti-Money Laundering Act 2018 (the Sanctions Act) could be made to impose autonomous UK sanctions before the United Kingdom leaves the EU and during the Implementation Period. In relation to the Committee's specific question regarding a sanctions regime which imposes a travel ban and/or asset freeze on certain persons responsible for committing human rights violations or abuses, we have come to the conclusion that these measures can be imposed having had regard to the fact that the adoption of sanctions measures is not an area of exclusive EU competence.

Furthermore, the pursuit of a human rights sanctions regime would support Government policy on promoting and defending human rights, and would also, by extension, reinforce stated EU policy positions and objectives.

I am pleased to confirm that this Government intends to establish an autonomous United Kingdom human rights sanctions regime. Work has already begun on the secondary legislation and associated processes that would be required in order to implement this regime as soon as practicable after we leave the EU. While we are still determining the exact scope and nature of this sanctions regime, it would help support the United Kingdom's work in promoting and defending human rights around the world. Such a sanctions regime would allow the United Kingdom to respond to human rights abuses and violations as they arise anywhere in the world, even when a geographically focused sanctions regime is not currently in place.

I trust this reassures the Committee that the Government is giving this policy area the due attention and careful consideration required to ensure that any action the Government takes in the future would be proportionate, legal, and in support of the United Kingdom's foreign policy and national security objectives. I would be happy to update the Committee on this work in due course.

I am copying this letter to all members of the Committee.

Rt Hon Christopher Pincher MP
3 September 2019