

Input to the UK “Balance of Competences Review”

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Scholarship assessing EU sanctions is a rather new phenomenon. A quick overview of the political science literature suggests that there are relatively few publications dealing with EU sanctions as a policy strategy in international affairs. The comparatively few number of studies we find on the topic may be symptomatic and perhaps correlated to the low policy priority European decision-makers have given this policy tool during the 1990s. Still, for the past ten years or so, a number of EU sanctions studies have seen light. These more systematically oriented studies have examined empirical observations of EU sanctions practice, in particular from an assessment/impact point of view. The increasing scholarly interest in EU sanctions may again be argued to be a reflection of the EU policy and decision-making community which nowadays pays careful consideration to the tool. What the literature still lacks is a systematic cross-case-comparison on EU sanctions efficiency. As of yet, there exists no comprehensive sanctions study that can actually tell us about sanctions effectiveness, let alone effectiveness of EU arms embargos.

- How effective is the EU in establishing and implementing sanctions?

EU has come far in developing its sanctions policy. It is evident from practice that there has been institutional learning and that it persists. In particular the development of the three policy documents on EU sanctions, i.e. basic principles, sanctions guidelines and best practices, have been instrumental in structuring contemporary EU sanctions policies. However, the development of these policies have come at the expense of flexibility (as opposed to the current static state) in developing an EU sanctions policy practice, and less attuned with changing political dynamics on ground of the target state. EU sanctions are

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nowadays typically adjusted every six month, a long period of time for a target state experiencing a political crisis or even armed conflicts.

More positively though, the development of EU principles, guidelines and best practices have given MS further sustenance in thinking of sanctions design. It is thereby re-taking ground lost to the often better prepared Commission work on sanctions (that over many years have enjoyed the privilege of institutional memory) in contrast to rotating MS representatives.

Furthermore, with the establishment of the EEAS, the EU may gain increasing control of sanctions. The reason is that the EEAS is in the process of developing their own views on principles, guidelines and best practices of EU sanctions. This work may come on the expense of individual MS, and partly on the expense of the EU Commission which is likely to lose influence in areas where it has traditionally protected well (and been on the forefront of taking initiatives in). Where EEAS is going in terms of sanctions is not clear yet. The sanctions team is comparatively insignificant in comparison let say with the US sanctions team (a standard yardstick to which EU needs to compare itself to).

- **What, if anything, should it do differently? Are there any gaps in competences that should be addressed (e.g. 'orphaned' sanctions that can't be implemented)?**

So far the EU has not developed any sanctions assessment models. Aside from disregarding the need to systematically collect information on MS implementation of EU sanctions regimes, it has not engaged itself in pre- or post-assessment of sanctions. This is a severe weakness and should be done differently.

- **What are the comparative advantages/disadvantages of working through the EU in the application and implementation of sanctions, rather than the UK working independently?**

The literature on sanctions efficiency suggests that the more actors involved in sanctions implementation the likelier that sanctions will have an effect. This is also why UN sanctions are likely to be superior to EU sanctions in terms of reach. On the other hand, the effectiveness of sanctions is also likely to be determined by the target states engagement/interaction/integration with the EU / EU MS. Unlike the UN, the EU is a powerful *economic* hub, a pivot that attracts individuals, businesses and states into various dependencies. This in turn can have decisive effect when for example cutting trade. Although the UK is a sizeable power it does not have the coverage and reach as the combined EU states have together. Would UK opt out of the EU, assuming that the EU would meanwhile continue to exist, it would have to spend considerable amount of resources and diplomatic manpower to convince its European neighbors on joint strategies. The UK may also end-up in situations where it goes at odds with other European governments, which in turn can provoke a number of unintended consequences. Unquestionable in this regard, the UK is at times at odds with its EU partners within the EU format. However there is a silent agreement that contradictory positions needs to be solved and voted for under agreed procedures.

A comparative strength of a sovereign UK sanctions policy is that it more easily can sense 'ownership' of a sanctions policy. Thereby, increasing attention by decision-makers could be paid to weak links in the adoption-implementation practice of sanctions (including due processes). In contrast, the amount of actors involved at the EU level in designing, adopting, negotiating, implementing EU sanctions have a tendency to lose sight of the sanctions policy tenure. Without a sense of responsibility to aim towards increasing policy perfection, the overall sanctions policy may lose its edge. This in turn may invite popular criticism of policy slackness, i.e. that the EU is only pushing for symbolic sanctions without recognizing – and dealing with – the challenges the policy faces in terms of implementation.

- **Would a different division of EU and Member State competence in relation to sanctions produce more effective policy and delivery? If so, how and why? What would the implications be for the UK (e.g. in terms of international trade, our power to influence within the EU)?**

Placing, let say, EU arms embargoes under the banner of the EC would probably not do well for the UK and its defense interests (public and private). It would be further tied to EC regulations on matters that touch on the very soul of sovereign statehood. Although the UK is “bound” by unanimously adopted common positions within the EU framework it still maintains the right to decide what it entails to do to fulfill its EU arms-embargo obligations. A regular overview of the EC military goods lists in combination of UKs own arms-watch/transfer list (including dual goods items) would most likely be the best way forward.

On a different aspect in terms of shifting power-balance in the EU, an increasing involvement of the military committees (including their routines and practices of planning, assessing, monitoring, etc.) would do very well to make sanctions procedures achieve more desired impact. Building on previous research, it is important to note that a sanctions policymaking process should typically entail issue identification, policy analysis, policy development, consultation, coordination, decision, implementation and evaluation. While a UN troop deployment, for example, is typically backed up with a high degree of analysis and attention devoted to all the aspects across the policymaking process, contemporary EU sanctions policies generally suffer from lack of credible prior policy analysis, deficiencies in institutional coordination and information dissemination, weak implementation and a lack of evaluation/assessment.

- **How might the UK national interest be served by action on sanctions being taken at a different level (e.g. regional, national, UN, OECD, G20) either in addition or as an alternative to action at EU level?**

Sanctions are not stand-alone measures. They fall within a strategy with several purposes changing over time. It is also adopted and implemented in combination with other policy instruments; aid, diplomacy, SRSGs, threat of use of force, ICC processes, force deployment, WB-IMF loans, dialogues, etc. Linking these strategies together in neat packages, instead of different security governance packages could enhance the role of the overall of a stated objective, that is: coercion, compellence, compliance or deterrence, etc. Though this is an ambitious task, paying attention to the many other strategies that usually constitute drumbeats playing in the background may generate better use of sanctions. A standard

argument in sanctions literature is to combine honey and vinegar. Disincentives need to be met with inducements. Negative sanctions meet with positive ones. Good experiences in doing so are to be found in sanctions against Former Yugoslavia (oil-for-democracy) and contemporary Iran (EU three offering positive packages to Iran in order for it to change track on its nuclear policies). More refined planning and strategies like these are important.

It is crucial for any EU sanctions policy that it does not undermine the challenges of the UN. EU sanctions policies should strive not to go further than the intended objectives and stipulated goals of a UN Security Council Resolution. Where applicable, the EU should work in tandem with the UN and all its subsidiary bodies.