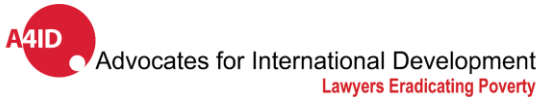


A Guide to: The UK's Global Anti-Corruption Sanctions Regime



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rights:applied

Oliver Windridge is a British lawyer, specializing in international human rights, anti-corruption and international criminal law. He is particularly interested in exploring where these three elements interconnect.

Oliver is founder of **rights: applied**, a human rights and anti-corruption consultancy that has pioneered the use of “multi-track accountability” solutions.

Learn more at www.rightsapplied.com



1. What Are Sanctions?

2. Sanctions Regimes in Depth

UK Global Human Rights (GHR)

UK Global Anti-Corruption (GAC)

US Global Magnitsky (GloMag)

3. Policy Considerations

4. Practicalities

What are Sanctions?

- Sanctions are a foreign policy tool
- They are aimed at encouraging behavioral change
- Generally, not used against nationals of the sanctioning state but against non-nationals
- Several sources of sanctions: UN, regional (EU, AU) and unilateral
- Several types of sanctions. Two common types are comprehensive and targeted sanctions

Source of Sanctions



UN
UNSC
All UN Member
states



EU
All 27 Member States



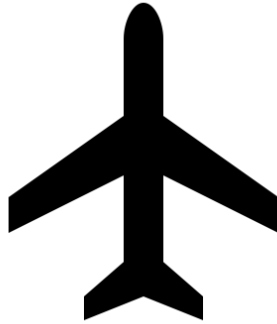
Unilateral
US, UK, Canada, Australia
Applicable to single country

Effect of Sanctions

Asset Freezes



Travel Ban



Denial of Services



Criminal Offence
for Violations



Licenses = Allowable conduct
Delisting = Removal from sanctions list

What Are Sanctions? Comprehensive Sanctions

- Comprehensive = “old style”, impose sanctions on an [entire regime](#) (Iran, North Korea)
- Often criticized for lacking focus, leading to citizens being impacted
- Generally, are not commonly in use, although some regimes are in place

What Are Sanctions? Targeted Sanctions

- Targeted sanctions, sometimes called “smart sanctions”
- Impose sanctions on **individuals and entities** rather than entire countries/regimes
- 2 different types of targeted sanctions mechanisms = geographic and thematic

Geographic = A regime aimed at a specific **country**, but the sanctions are still targeted on individuals or entities. The reason for sanctions are often the same or similar to thematic, e.g. DRC.

Thematic = A regime aimed at a specific **theme**, rather than country, e.g. corruption (UK GAC) or human rights (UK GHR) Useful in particular where no geographical sanctions regime exists/operable.

UK Sanctions Regimes: Global Human Rights

- Launched in July 2020
- Thematic sanctions regime
- The UK's first major unilateral sanctions regime post-Brexit
- Three human rights within scope:
 - (1) **right to life**;
 - (2) right not to be subjected to **torture** or cruel, inhuman or degrading treatment or punishment;
 - (3) right to be free from slavery, not to be held in servitude or required to perform **forced** or compulsory **labour**.

UK Sanctions Regimes: Global Human Rights

UK FCDO has stated some of the kinds of conduct that could also fall within scope:

Rape and other forms of sexual violence, including sexual slavery, forced prostitution, forced pregnancy, forced abortion, and enforced sterilization;

Enforced disappearances;

Extrajudicial killings, including and especially killings of or violence against human rights defenders, media workers, and journalists, as well as violence or killings motivated on the grounds of an individual's religion or belief; and

Human trafficking, in so far as it constitutes slavery or practices similar to slavery, servitude, or forced and compulsory labour.

UK Sanctions Regimes: Global Human Rights

Scope of conduct is wide. Not only commits but also is or has been “involved”:

- is owned (50%+) or controlled directly or indirectly by a person who is or has been so involved;
- is acting on behalf of or at the direction of a person who is or has been so involved;
- is a member of, or associated with, a person who is or has been so involved
- responsible for;
- facilitates, incites, promotes, or provides support for such an activity;
- conceals evidence of such an activity;
- provides financial services, or makes available funds, economic resources, goods, or technology, knowing or having reasonable cause to suspect that those financial services, funds, economic resources, goods, or technology will or may contribute to such an activity;
- profits financially or obtains any other benefit from an activity;
- responsible for the investigation or prosecution of such an activity and intentionally or recklessly fails to fulfil that responsibility; or the person contravenes, or assists with the contravention of an asset freeze over a designated person.



81 individuals and entities sanctioned under GHR

- DPRK – entities involved in forced labour camps
- Gambia- Yahya Jammeh - Former leader of Gambia
- Belarus- officials including Lukashenko re protests
- Myanmar- Military officials - Rohingya
- Saudi Arabia- Senior Officials - Jamal Khashoggi
- China- Uyghur



UK Sanctions Regimes: Global Anti-Corruption

- Launched in April 2021.
- Sister thematic regime to **UK GHR**
- “Corruption” means:
 - (i) **Bribery** or
 - (ii) **Misappropriation of Property**

UK Sanctions Regimes: **Global Anti-Corruption**

UK GAC Definition of **Bribery**:

both giving a financial or other advantage to a foreign public official and a foreign public official receiving a financial or other advantage

UK Sanctions Regimes: Global Anti-Corruption

UK GAC Definition of Misappropriation of Property:

occurs where a foreign public official improperly diverts or allocates property entrusted to them in their official role. This may be intended to benefit them or a third person. Property can include anything of value, including contracts or licenses or concessions

UK Sanctions Regimes: Global Anti-Corruption

“involved person” includes:

is **responsible for or engages** in serious corruption

facilitates or provides support for such conduct

profits financially or **obtains any other benefit** from such conduct

conceals or disguises, or facilitates the concealment or disguise of, such conduct or any profit or proceeds from such conduct

transfers or converts, or facilitates the transfer or conversion of, any profit or proceeds from such conduct

is responsible for the investigation or prosecution of such conduct and **intentionally or recklessly fails** to fulfil that responsibility

uses threats, intimidation or physical force to interfere in, or otherwise interferes in, any law enforcement or judicial process in

connection with such conduct

contravenes, or assists with the contravention of, certain provisions in the Regulations

Under the GAC Regulations, a person is also an “involved person” if the person:

is owned or controlled by a person who has been involved as above

acts on behalf of or at the direction of such a person

is a member of, or associated with, such a person

UK Sanctions Regimes: **Global Anti-Corruption**

UK GAC 27 Designations in total including:

- South Africa- Gupta brothers and associate
- South Sudan- Al-Cardinal - businessman
- Zimbabwe- Tagwirei - businessman
- Iraq- Al Sultan – governor
- Latin America

UK Sanctions Regimes: Global Human Rights and Global Anti-Corruption

The GAC Regulations when launched contained two-limb test that must be met before a person can be designated:

1. That there are “**reasonable grounds to suspect**” that the person is an “involved person” (i.e. connected to the activity in one of the ways set out above).
2. That designating that person would be **appropriate** with regards to the sanctions regime’s purposes and the likely significant effects on that person of designating them. (Note: Appropriateness under newest legislation removed)

US Sanctions Regimes: **Global Magnitsky**

- Launched in 2016 & 2017
- Forerunner of new wave of thematic sanctions regimes
- Scope:
 - “serious human rights abuse”
 - “acts of corruption” including the transfer
 - or the facilitation of the transfer of the proceeds of corruption
- Significant numbers of individuals and entities listed (400+) incl. most recently 3 Liberian individuals allegedly involved in corruption

Sanctions Regimes: Policy

As a foreign policy tool, as well as falling within scope, consideration must always be given to policy issues, such as:

- * Human rights, anti-corruption, regional policy priorities
- * The scale, nature and impact of the violation
- * The status, connections and activities of the target
- * Collective international action
- * Government relations
- * Interaction with law enforcement activities
- * Risk of reprisals

Sanctions Regimes: Practicalities

Submissions can be sent directly to the UK FCDO (and US OFAC)

Recommended that at a *minimum* these set out:

1. Who is the person?

For example, name (including any aliases), title and other identifying information.

2. What is the activity that justifies the application of sanctions?

Identification of activity that constitutes serious corruption under the Regulations.

3. How, and to what extent, is the person involved in the activity?

Sanctions Regimes: Practicalities

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**Example of UK
sanctions
submission content
page**

Sanctions Regimes: Practicalities

Appeal

UK: 2 automatic rights of appeal for designated persons- ministerial and High Court

US: Limited rights of appeal

Protection of Sources

US: Guaranteed

UK: Not 100% guaranteed

GDPR, FOI, High Court

Measures in place to limit disclosure

US and UK: Open-Source information recommended

Sanctions

Pros

- * Immediate effect
- * Can influence individuals and entities where other forms of accountability are very unlikely
- * Standard required is lower than criminal standard
- * Can be amended and changed when required

Cons

- * Can be used as a “badge of honour”
- * As a foreign policy tool, large amount of deference
- * Engagement with authorities can be limited
- * Can become “default” foreign policy tool
- * Require clear messaging to negate being seen as comprehensive
- * Can be difficult to see how delisting occurs

Oliver Windridge

rights: applied www.rightsapplied.com

Email: rights.applied@protonmail.com

Twitter: @oliverwindridge





International Lawyers Project



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