

THE YEMEN (SANCTIONS) (EU EXIT) (NO. 2) REGULATIONS 2020

REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Sanctions Act**”) in relation to the Yemen (Sanctions) (EU Exit) (No. 2) Regulations 2020 (“**the Regulations**”). Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that carrying out each of the discretionary purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Sanctions Act;¹ why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Sanctions Act enables Regulations to be made under section 1(1)(a) for the purposes of compliance with a United Nations (UN) obligation. No section 2(4) report is required in relation to such a purpose. Acting under Chapter VII of the UN Charter, the UN Security Council (UNSC) may impose sanctions where it has determined the existence of a threat to international peace and security. The UN Security Council adopts the regime through a UN Security Council Resolution (UNSCR). UNSCRs set out the parameters of the sanctions to be imposed, including the types of sanctions measures, any exemptions, and listing criteria; designations are usually made on the face of a UNSCR or by a Sanctions Committee (a sub-committee of the Security Council) established under the relevant UNSCR. All UN member states are obliged as a matter of international law to implement UN sanctions. For the UK these UN obligations are currently implemented through EU legislation and related UK legislation. After the Transition Period, the UK will meet this obligation by making regulations under the Sanctions Act.
4. The UN sanctions regime in relation to Yemen was introduced in 2014, in response to instability in Yemen and to promote the peace, security and stability of Yemen, including the peaceful resolution of conflicts and a Yemeni led political transition. The UN Security Council adopted Resolution 2140 (2014) in which it raised concerns about attacks against military and security facilities, including the Ministry of Defence, the illicit transfer of military equipment and stressed that the situation in Yemen needs to be resolved through a peaceful and inclusive Yemeni political transition process. The restrictive measures imposed by that regime target persons complicit in or responsible for undermining the peace, stability and security of Yemen.

5. The Sanctions Act enables regulations to be made under section 1(1)(c) for ‘discretionary’ purposes that are within section 1(2) of the Sanctions Act, including, amongst others, national security, maintaining international peace and security, supporting UK foreign policy objectives, and responding to or deterring gross violations of human rights. This report considers why carrying out each of the discretionary purposes of the Regulations meets one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Sanctions Act; why there are good reasons to pursue these purposes; and why the imposition of sanctions is a reasonable course of action for these purposes.
6. Measures provided for in the Regulations will have the effect of implementing the UK’s UN obligations. These include the asset freeze on, and restrictions on the trade in military goods and technology involving, persons designated by the Security Council or the Sanctions Committee established under Resolution 2140. Certain measures also apply to persons acting on the behalf of a designated person and those acting at their direction and on other categories of person prescribed in the UN Security Council resolutions.
7. The main measures in the Regulations which can be implemented other than for the purpose of compliance with UN obligations, and which are the subject of this report, are the financial sanctions (including asset freezes), immigration sanctions (travel bans) and trade sanctions (targeted arms embargo) on persons designated by a Minister under the Regulations (otherwise than in compliance with the UK’s UN obligations).

Purposes and reasons for pursuing the purposes

8. The discretionary purposes (i.e. purposes other than compliance with UN obligations) as set out in regulation 4 of the Regulations, that are made under section 1 of the Sanctions Act, have the following purposes: –
 - a. promoting the peace, stability and security of Yemen,
 - b. promoting the political transition and peaceful resolution of armed conflicts in Yemen, including, in particular—
 - i. the completion of the political transition as outlined in the Gulf Cooperation Council Initiative and the Implementation Mechanism Agreement, and
 - ii. the implementation of the final report of the comprehensive National Dialogue Conference,
 - c. promoting respect for humanitarian assistance activities in Yemen,
 - d. promoting compliance with the rules of international humanitarian law applicable to the armed conflicts in Yemen, and
 - e. promoting respect for human rights in Yemen, including, in particular, respect for—
 - i. the right to life of persons in Yemen;
 - ii. the right of persons in Yemen not to be held in slavery or required to perform forced or compulsory labour;
 - iii. the right of persons not to be subjected to cruel, inhuman or degrading treatment or punishment in Yemen;
 - iv. the right to liberty and security of persons in Yemen, including freedom from arbitrary arrest, unlawful detention or enforced disappearance;
 - v. the right to a fair trial of persons charged with criminal offences in Yemen;
 - vi. the enjoyment of rights and freedoms in Yemen without discrimination, including on the basis of a person’s sex, race, colour, language, religion, political or other

opinion, national or social origin, association with a national minority, property, birth or other status.

9. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Sanctions Act. In particular, carrying out these purposes would fall within the purpose of paragraphs to:
 - (2)(c) be in the interests of international peace and security;
 - (2)(d) further a foreign policy objective of the government of the United Kingdom;
 - (2)(e) promote the resolution of armed conflicts or the protection of civilians in conflict zones;
 - (2)(f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote compliance with international human rights law, or respect for human rights;
 - (2)(g) promote compliance with international humanitarian law; and
 - (2)(i) promote respect for democracy, the rule of law and good governance.
10. There are good reasons for pursuing these purposes, namely to address the instability, ongoing international humanitarian crisis and human rights abuses and violations taking place in Yemen in contravention of Yemen's international human rights obligations. The situation remains of serious concern to both the UK and the international community, as evidenced in reports to the United Nations 2140 Sanctions Committee (Yemen). Severe restrictions on movement imposed by parties, particularly in Houthi controlled territory, continue to impact the distribution of humanitarian aid including food, water and health supplies. The United Nations has verified the recruitment and use of more than 3,000 children by all parties to the conflict since the conflict began. The UK shares concerns over these same issues and reinforces the urgent need for a political solution to end the conflict.
11. Religious minorities face restrictions and discrimination for peacefully manifesting their beliefs. Members of the Baha'i faith in particular were persecuted and imprisoned. Cases of arbitrary detention and the abuse of detainees from the Baha'i community were reported. More widely arbitrary disappearances and the use of torture were reported across Yemen. Credible reporting allege the Houthis subjected prisoners to torture and arbitrary detention.
12. On continued recruitment of child soldiers by a number of armed groups in Yemen, reports state that children as young as ten were manning Houthi checkpoints. Women continue to be victims of sexual and gender-based violence and disproportionately affected by protracted displacement. The issue of freedom of speech remains a concern. Journalists and human rights defenders faced threats and abuse, as well as detention.

Why sanctions are a reasonable course of action

13. The imposition of financial sanctions (including asset freezes), immigration sanctions (travel bans) and trade sanctions (targeted arms embargo) of the kind imposed by the Regulations (other than those required for compliance with the UK's UN obligations) is a reasonable course of action for encouraging the parties to agree to a political settlement and ceasefire to end the conflict, comply with international human rights law, and to respect human rights.

14. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
15. The gravity of the conflict and human rights situation in Yemen means that putting sanctions in place is a reasonable measure to take. Since 2015, the conflict in Yemen has had a devastating effect on the lives of Yemenis. The conflict has killed and injured thousands of civilians. Serious violations of international humanitarian law have been committed, including the conflict related sexual violence, using arbitrary detention, enforced disappearance and torture and other ill-treatment. Whilst the conflict persists, the UK continues to urge all parties to protect civilians and respect international law and support the use of sanctions against perpetrators. We support efforts to hold those responsible for these acts to account and to prevent them from occurring.
16. The Regulations provide that persons designated by the Secretary of State may be subject to financial, immigration and trade sanctions. These restrictions include an asset freeze prohibiting a designated person's funds and economic resources from being dealt with, and prohibiting funds and economic resources from being made available to or for the benefit of a designated person (directly or indirectly) and a travel ban. They also include restrictions on trade in military goods and technology which involves or benefits a designated person and the provision of services to, or for the benefit, of a designated person, which relate to the conduct of armed hostilities. Applying these restrictions is intended to both directly and indirectly bring about behaviour change in Yemen. The Regulations allow for exceptions to the travel ban and also provide for the financial and trade sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any possible negative or counter-productive impacts.
17. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals in Yemen. Direct lobbying alone is not sufficient. The UK is therefore combining sanctions with bilateral lobbying, lobbying through international frameworks, supporting UN resolutions and supporting the UN Special Envoy.
18. The policy intention is to keep the sanctions on Yemen in place until the UK Government is assured that there has been sufficient positive behaviour change over a sustained period of time. This position may be reached by evidence of some concrete steps having been taken that shows an improvement in the areas of concern outlined in the purposes of the Regulations, for example steps taken towards a meaningful political process and ceasefire and compliance with international human rights law and respect for human rights. This may also be evidenced by, for example, the Special Envoy for Yemen reporting that he no longer believes his mandate is necessary. The UK will continue to coordinate with international partners, including on the future of the sanctions regime.
19. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions

regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

Conclusions

20. The discretionary purposes of the Regulations are: promoting the peace, stability and security of Yemen; promoting the political transition and peaceful resolution of armed conflicts in Yemen; promoting respect for humanitarian assistance activities in Yemen; promoting compliance with the rules of international humanitarian law applicable to the armed conflicts in Yemen; and promoting respect for human rights in Yemen. For the reasons set out in this report, carrying out those purposes meets one of the conditions in section 1(2) of the Sanctions Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of financial sanctions (including asset freezes) and immigration sanctions (travel bans) of the kind imposed by the Regulations (other than those required for compliance with the UK's UN obligations) is a reasonable course of action for those purposes.

Lord Ahmad of Wimbledon

**Minister of State for South Asia and the Commonwealth, on behalf of
the Secretary of State for Foreign, Commonwealth and Development Affairs**

ⁱ Section 1(2) states:

"A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
 - (i) compliance with international human rights law, or*
 - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance."*