

THE GLOBAL ANTI-CORRUPTION SANCTIONS REGULATIONS 2021
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 Global Anti-Corruption Sanctions Regulations 2021 (“**the Regulations**”). Section 2(4) of the Sanctions Act requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that each of the purposes of the regulations would meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Sanctions Act¹; why the Minister considers that there are good reasons to pursue those purposes; and why the Minister considers that the imposition of sanctions is a reasonable course of action for those purposes.

Purposes and reasons for pursuing the purposes

2. The purposes of the Regulations, as stated in regulation 4, are to prevent and combat serious corruption¹.
3. There are good reasons for pursuing these purposes. Corruption undermines democracy, human rights and the rule of law. It undermines good governance and the functioning of public institutions and international organisations, as well as trust in their integrity². It is a threat to economic growth and sustainable development, depriving societies and communities of much-needed resources that would benefit the public if they were not diverted for private gain by the corrupt few.
4. Corruption disproportionately harms the poor by frustrating attempts to provide basic services, and disrupts humanitarian aid efforts, undermining progress towards the Sustainable Development Goals and undermining human rights. The International Monetary Fund has compared countries with high levels of corruption to countries with low levels of corruption and found that countries with high levels collect less revenue, have state-owned enterprises that make less profit and spend relatively less of their budget on the provision of services to citizens like health and education. By discouraging legitimate trade and investment, corruption makes it harder for legitimate firms to do business.³
5. Corruption feeds the inequalities and injustices that lead to civil unrest and conflict and can facilitate the activities of terrorists, private militias and organised criminal groups.

¹ The full definition of corruption can be found in regulation 4 of the Regulations.

² IMF Fiscal Monitor, April 2019, <https://www.imf.org/en/Publications/FM/Issues/2019/03/18/fiscal-monitor-april-2019>.

³ Anti-Corruption Strategy 2017-2022 notes that “Worldwide, the cost of corruption is estimated to be more than 2% of global GDP (\$1.5 to \$2 trillion). The World Bank estimates that over \$1 trillion is paid in bribes each year.”

The UK's National Security Council views corruption as enabling and amplifying many of the domestic and overseas threats set out in its National Security Risk Assessment⁴.

6. Corruption can also have a devastating impact on the environment. Corrupt practices including the embezzlement of funds for environmental programmes, corruption in the issuance of permits and licences for natural resources and bribery of law enforcement⁵ can lead to a loss of resources, habitats, degradation of ecosystems and possible direct and indirect effects on local community livelihoods.
7. Dealing with corruption is an important foreign policy priority for the UK. Since 2010, the UK has led the way in tackling corruption, introducing the Bribery Act 2010 and the Criminal Finances Act 2017, which amended the Proceeds of Crime Act 2002. The UK was the first G20 country to establish a public register of domestic company beneficial ownership, and the first G7 country to undergo an IMF fiscal transparency evaluation. In 2016, the UK hosted the world's first leaders' Anti-Corruption Summit. This was followed by the adoption of the Anti-Corruption Strategy for 2017-2022, which provides a framework for UK anti-corruption policies and actions. The 2021 Integrated Review⁶ prioritises working with UK partners to protect democratic values and promote effective and transparent governance, including through the use of anti-corruption sanctions.
8. There are good reasons for seeking to prevent and combat the particular types of corruption targeted by the Regulations: misappropriation of property and bribery. Misappropriation and bribery are corruption offences that the United Nations Convention Against Corruption requires States to criminalise, whereas states are required only to consider criminalising other forms of corruption identified in the Convention, such as abuse of power and trading in influence. Misappropriation and bribery are also found in most cases of serious corruption. By focussing on misappropriation and bribery, therefore, the regime is clear, targeted and unambiguous, while also able to target serious corruption.
9. Carrying out the purposes of preventing and combatting serious corruption would meet one or more of the conditions set out in section 1(2) of the Sanctions Act. In particular, carrying out the purposes would meet the condition in paragraph (i) of section 1(2), as doing so would promote respect for democracy, the rule of law and good governance. Given the effect of corruption on national and international security (including terrorism) and human rights, carrying out the purposes would meet the conditions in paragraphs (a), (b), (c) and (f) of section 1(2). Finally, carrying out the purposes would meet the condition in paragraph (d) of subsection 1(2), because it would further foreign policy objectives of the United Kingdom in relation to corruption.

Why sanctions are a reasonable course of action

10. The imposition of prohibitions and requirements of the kind imposed by the Regulations is a reasonable course of action for the purposes set out in the Regulations.

⁴ HM Treasury, Home Office National risk assessment of money laundering and terrorist financing 2017.

⁵ UN Office on Drugs and Crime: Impact Of Corruption On The Environment And The United Nations Convention Against Corruption As A Tool To Address It 2012.

⁶ Global Britain in a competitive age: The Integrated Review of Security, Defence, Development and Foreign Policy 2021, p.48.

11. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The threat of sanctions can also deter actors from taking unacceptable courses of action. The Government believes sanctions can be an effective foreign policy tool as 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.
12. There are two principal kinds of prohibition in the Regulations: those relating to financial sanctions, and those relating to immigration sanctions. These restrictions consist of an asset freeze (ensuring a designated person's funds and economic resources are not dealt with, and ensuring that funds and economic resources are not made available to or for the benefit of a designated person, directly or indirectly), and a travel ban.
13. These restrictions can only be imposed upon specified persons who meet the criteria set out in the Regulations, namely that the Secretary of State considers there are reasonable grounds to suspect that the person is, or has been, involved in serious corruption in one of the ways set out in the Regulations, and the Secretary of State considers that the designation of that person is appropriate, having regard to the purposes stated in regulation 4 and the likely significant effects of the designation on that person. This ensures that the sanctions are clearly targeted at those who are involved in these activities.
14. The freezing of financial assets of persons involved in serious corruption provides a deterrent to those involved. Protecting the integrity of the UK financial system is a fundamental interest of the UK. It is, furthermore, in the interests of the UK that persons who have been involved in serious corruption outside the UK should not be permitted entry to the UK, nor should the financial capital of such persons or financial capital that might have been accrued from such activities be held or invested in the UK.
15. Those involved in corruption often value their ability to travel abroad and move money across borders, including to the UK. In preventing corrupt actors' ability to enjoy access to the UK in these ways, targeted sanctions can reduce incentives to engage in corruption, in particular but not limited to those who have a valued connection to the UK. Those involved in serious corruption outside the UK, and who engage with the proceeds of serious corruption, undermine confidence in the UK's domestic institutions when allowed access to the UK.
16. Imposing sanctions on those involved in serious corruption demonstrates that the UK financial system is not a safe haven for illicit wealth and financial flows; and our border controls are robust. The UK's ability to impose sanctions on those involved in serious corruption signals that the UK will not tolerate such activity.
17. The Regulations allow for exceptions to the travel ban and also provide for a licensing framework and certain exceptions from the financial sanctions. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any counter-productive impacts, and allow funds to be released where essential, for example in relation to basic needs, legal expenses, and humanitarian assistance activity.
18. The restrictions on designated persons are also kept under review. Under section 22(3) of the Sanctions Act, if at any time the Minister responsible for a designation under these Regulations considers that the designation criteria in the Regulations are not met in

respect of a designated person, the Minister must revoke the designation. Under section 23 of the Sanctions Act, designated persons may ask Ministers to consider whether to vary or revoke their designation at any time and can do so again subsequently where there is a significant matter the Minister has not previously considered. Ministers will in any event review whether the required conditions are still met every three years, as required under section 24 of the Sanctions Act. Section 30 of the Sanctions Act also provides that the appropriate Minister who made the regulations must also review annually whether the regulations are still appropriate for the purpose stated in them.

19. Changes in circumstances which could mean the designation criteria are no longer met might include, for example, where a sufficient degree of accountability has been secured in relation to that person in the relevant jurisdiction (such as a successful prosecution), or if the person is no longer involved in corruption in one of the ways set out in the Regulations, or there is other evidence of a significant change in the behaviour of that person. However, designations may remain in place, notwithstanding such evidence, for example where the accountability measures that have taken place are considered insufficient to address fully the corrupt activity that has occurred or the preventive purposes of the Regulations will otherwise be furthered by continued designation
20. 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 institutions, 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. They enable HMG 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

21. The purposes of the Regulations are to prevent and combat serious corruption. For the reasons set out in this report, carrying out these purposes meets one or more of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing these purposes, and the imposition of the kinds of prohibitions and requirements imposed by the Regulations for those purposes is a reasonable course of action.

The Rt Hon Dominic Raab MP
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 rule of law and good governance.”*