

Foreign Affairs Committee

Oral evidence: [Global Britain: The future of UK sanctions policy, HC 1703ⁱ](#)

Wednesday 27 February 2019

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Members present: Tom Tugendhat (Chair); Ian Austin; Chris Bryant; Ann Clwyd; Mike Gapes; Ian Murray; Mr Bob Seely; Royston Smith.

Questions 88 - 361

Witnesses

[I](#): Lord Barker of Battle and William McGlone, Partner, Latham & Watkins.

[Supplementary written evidence](#) from Lord Barker clarifying issues raised in the evidence session

Examination of witnesses

Witnesses: Lord Barker of Battle and William McGlone.

Q88 Chair: Welcome, Lord Barker and Mr McGlone, to this afternoon's session of the Foreign Affairs Committee.

Quite a lot of these questions are purely factual, so I would be very grateful if the answers could be extremely brief and not discursive. Other elements, you will see, are rather different. Can we start very quickly: in what year did you first start working in Russia, Lord Barker?

Lord Barker: I worked in Russia in 1998, through to 2000, before coming into politics.

Q89 Chair: What was your role then?

Lord Barker: I was then head of investor relations and, number two, head of corporate finance at Sibneft, the Russian oil company.

Q90 Chair: That period was of course a period of quite intense violence at various points. Were you aware of the aluminium wars, as they were then known?

Lord Barker: No, I wasn't; I was aware of them as I left. I think that particular period, so far as I recall, was starting as I was leaving, in the spring of 2000, but I was very focused on the oil industry at that particular time. I did not have a remit that went beyond that.

Q91 Chair: When did you first meet Mr Deripaska?

Lord Barker: That would have been, I think, in November 2017.

Chair: Not before?

Lord Barker: Not before, no

Q92 Chair: Did you ever met him with Roman Abramovich while you were either an MP or specifically while you were a Minister?

Lord Barker: Never. As I said, I met him for the first time in November 2017.

Q93 Chair: Indeed. So did you ever meet him or have him as a guest in House of Lords?

Lord Barker: No.

Q94 Chair: And have you ever worked for other Russian businesses or individuals, other than Sibneft, which you have already mentioned?

Lord Barker: No.

Q95 Chair: What was the nature of your relationship with Mr Deripaska before you joined the board of En+?



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Lord Barker: I didn't have one. I'd never met him.

Q96 **Chair:** Never met him? No relationship at all?

Lord Barker: No.

Q97 **Chair:** Through no subsidiary companies?

Lord Barker: No.

Q98 **Chair:** No connected entities?

Lord Barker: No connected entities of any type whatsoever.

Q99 **Chair:** So why did he choose you?

Lord Barker: I think, if I'm honest, he didn't choose me. As they came close to an IPO, the investment banks requested an independent chairman and they began a search. I was not the only candidate, but the very important part of En+'s business proposition—perhaps our unique proposition, and the thing that really was sufficient to overcome my own reservations about returning to Russian business, which had not been my plan when I left politics in 2015—was the extraordinary green credentials of this business. It is the world's largest producer of aluminium outside of China, but it is also amongst the lowest-carbon producers, as well as being the lowest-cost. To put that into some sort of context, it takes 22 tonnes of carbon to—

Chair: I think perhaps we will—

Lord Barker: If I may, this is critical to why I joined the company and why they wanted me. It takes 22 tonnes of aluminium to create a tonne of Chinese aluminium; the global average is about 12. It takes En+ 3.7 tonnes of carbon to produce a tonne of aluminium, and that is the world's largest producer, and they have a very clear mission to drive that further. It is both their commercial and—

Q100 **Chair:** Lord Barker, I think we get it: you were motivated by them.

Lord Barker: Yes.

Q101 **Chair:** The strategic direction or advice you offered Mr Deripaska when he appointed you—what was it?

Lord Barker: I didn't offer him strategic direction or advice; my role was to become, initially, the independent, non-executive chairman of the board. My role was primarily to represent the interests of the independent shareholders, who came into the company at the flotation, although as chairman, I also had a role to be responsible for the board. But the commercial strategy of the company was well set out in the IPO prospectus, which I did not sign off—it was prepared before I came into the company, but I was very happy to take on board.

Q102 **Mr Seely:** I just want to check that we have got the dates. What dates are we talking about for the flotation and the publication of the prospectus?



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Lord Barker: November 2017.

Q103 **Mr Seely:** November 2017. So Mr Deripaska was a sanctioned individual by that time.

Lord Barker: No, that's incorrect.

Q104 **Mr Seely:** When was he sanctioned?

Lord Barker: April 2018.

Q105 **Mr Seely:** So he was sanctioned after the IPO documentation was produced?

Lord Barker: Correct.

Mr Seely: Fantastic, thank you.

Q106 **Chair:** Did you get any sense of Mr Deripaska's priorities at this time? He was, of course, at the time the 70% shareholder.

Lord Barker: Yes, I obviously met him and spoke to him at the time of considering the appointment. I have had limited interaction with him, and it has all been within a business context, but I have found him very serious, very focused, very professional and certainly very genuine about the low-carbon mission of the building. He is a scientist by background, I believe, and he clearly understood, in many ways more than I did, the science behind the proposition that we have in the company to be the greenest and lowest-carbon group in the world. He is a scientist by background, I believe, and he clearly understood—in many ways, more than I did—the science behind the company's proposition that it be the greenest and lowest-carbon group in the world.

Q107 **Mike Gapes:** You referred to the financial institutions having a role in your appointment. Did Roman Abramovich recommend you to Mr Deripaska?

Lord Barker: I don't believe so. Whether they took up references that went that far back, I don't know, but not that I'm aware of.

Q108 **Mike Gapes:** What specifically was your role in preparing the flotation?

Lord Barker: It wasn't—I joined at IPO. I didn't have a role in preparing or signing off the memorandum; I joined at IPO.

Q109 **Chair:** You said you weren't sure whether they had asked for references that went that far back. Did you have Mr Abramovich down as a referee?

Lord Barker: No.

Q110 **Chris Bryant:** Who did you have?

Lord Barker: They didn't ask for references. I think that if you use a senior process like that, they will take informal references, but—

Q111 **Chris Bryant:** Who did you have as your referees?

Lord Barker: I didn't have formal referees.



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Mike Gapes: Were you involved—

Lord Barker: But they may well have done, and I'm sure if they had spoken to Roman Abramovich, or somebody who worked with him, or who worked more directly with me back 20 years ago, they would have got positive feedback.

Q112 **Mr Seely:** The fact that you had Russia experience, and experience of dealing with significant and serious Russian business, must have been an attraction for them.

Lord Barker: Absolutely.

Q113 **Mr Seely:** One assumes that that was an attraction, rather than it being a case of, "Let's just get some random person who may or may not know the stock market extremely well."

Lord Barker: Yes. If you look at the climate leadership element, which is important to them internationally—also, I was head of investor relations at Sibneft in the late '90s, and while I don't speak Russian, I understand the Russian business culture and the challenges of that, and what needs to be done to drive best practice. So yes, there is a pretty small cohort of people who have those qualifications.

Q114 **Mike Gapes:** As regards the flotation process and the preparations for it, who controlled the flotation process within En+?

Lord Barker: That would have been the president, Mr Maxim Sokov.

Q115 **Mike Gapes:** And what role did you have?

Lord Barker: As I say, I was not involved directly in the presentation—in the IPO. I didn't meet with investors prior to flotation; I came in at a relatively late stage.

Q116 **Mike Gapes:** So you had no role whatsoever?

Lord Barker: That's what I said, yes: no formal role in the IPO.

Q117 **Mike Gapes:** You have used the word "formal". Did you have an informal role?

Lord Barker: Informal, in that I was aware that it was going on and it's possible that they could have used my name in— well, my name appeared in the listing documents immediately prior to impact day, but I didn't have a role in the marketing, the roadshow or meeting presentations or in hiring the banks, hiring the lawyers or scrutinising the documents.

Q118 **Mike Gapes:** But you could have had an informal role in the preparation?

Lord Barker: No, I wasn't involved in the preparation of the documents; I wasn't involved in briefing or running the lawyers. As I say, I joined very close to the actual IPO—after the intention to float had been announced. And I was able to look at the IPO prospectus and rely on that in terms of my own due diligence on the business. That was very helpful.



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Q119 Mike Gapes: What information was required by the Financial Conduct Authority in order to comply with its due diligence processes?

Lord Barker: The standard information that will be required for any flotation.

Q120 Mike Gapes: So you are not aware that it made any particular investigation of primary shareholders or corporate governance structure?

Lord Barker: No, but they would have had to comply with the UK code—the listing code. They would have needed to pass all the tests of the UK Listing Authority, the FCA and the LSE, and they were sponsored by Bank of America, Merrill Lynch, Citigroup, Credit Suisse, J.P. Morgan, BMO Capital Markets, SocGen and UBS Limited, so this was a very major IPO. It was the largest foreign IPO of the year. It was the largest of that type, I think, for three years, and was a great success for the many City institutions that were involved in it.

Q121 Mike Gapes: Did you have any interaction with the Office of Financial Sanctions Implementation?

Lord Barker: No, the company was not under sanctions then. Had there been a suspicion that it was likely to be under sanctions, the company would never have been able to achieve its IPO.

Q122 Mike Gapes: And after the sanctions arrived—did you have any interaction with them then?

Lord Barker: I think I had one meeting at the suggestion of the UKLA, shortly after sanctions were imposed.

Q123 Mike Gapes: Do you remember when that was?

Lord Barker: I would have to check, but I believe that was in April, fairly shortly after sanctions came on.

Q124 Chair: 2018?

Lord Barker: Yes. When sanctions were imposed, it was a big shock for everybody. It was a big shock for the market, because although it was not a shock that sanctions could be imposed on Deripaska—his name had been suggested, although it was not thought likely—it was a shock for the market that the group was sanctioned.

Q125 Chris Bryant: A quick question. You said they might have used your name. Either they did or they didn't. Did they?

Lord Barker: My name would appear in the listing documents. One of the things that would happen in a listing is that any investing institution would want to look at the board and would clearly want to know the name of the chairman before taking a final decision.

Q126 Chris Bryant: Yes, and you would have thought that the person's name being used would have done quite a bit of due diligence. But you are saying that you weren't involved at all, up until this moment.



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Lord Barker: I think you have misunderstood the question that was asked. I was asked whether I was involved in the preparation and marketing of the IPO, and I said no. I did not say that I had not done any due diligence, which is quite separate. I relied on this extremely extensive and very comprehensive prospectus, which I am sure you are familiar with. That in itself, and the names of the people who stand behind it, gave me a significant degree of confidence in the process and in the company.

Q127 **Chris Bryant:** Forgive me, I find it quite difficult to believe that you would be happy for your name to be used—it obviously would, because you are going to be the chairman and your name is part of the marketing; the fact that you are Lord Barker is undoubtedly part of the marketing—yet you have not been involved in any way in developing the marketing.

Lord Barker: That is understandable. I don't think there is anyone here who has actually been the director of a public company. I don't think any of you have actually been involved directly in an IPO. I can understand why you might not understand it, because it is a very particular process.

Chair: Sorry, if we need patronising, we'll ask separately. It is very kind of you to offer.

Lord Barker: No, it is a question that begs an answer. An IPO is a very long process. The marketing starts some months before a deal—before I was even involved. By the time that I became involved, the book would have been built by the major sponsors. They would have had their shortlist—their final list—and in order to get those over the line, they would be doing their final due diligence, such as who are going to be the independent directors and who is the chairman of the board. That would be the final thing they would need to see before it goes over, but the actual marketing process takes months. Long before I was even aware of the company—

Q128 **Chris Bryant:** You said that you played no role whatever in the marketing.

Lord Barker: That's correct.

Q129 **Chris Bryant:** And yet your name is part of the marketing. That just doesn't stand to reason.

Lord Barker: Well, I think we are slightly splitting hairs there. Did I play an active role or have any meetings? My name was attached to the prospectus shortly before impact day. Was I involved in the marketing? No, I wasn't. Did I attend meetings? No. Was I involved with the bankers? Did I hire the lawyers? Did I sign off the prospectus? No, I did not, but my name was in the prospectus. To that extent, I was involved.

Q130 **Chair:** Just checking: you were appointed before the IPO?

Lord Barker: Yes, but very shortly before I formally joined.

Q131 **Chair:** So you were the independent chairman and responsible for the IPO?



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Lord Barker: I didn't sign them. In the process, the IPO documents are signed off prior to impact day. I joined after.

Q132 **Chair:** So you inherited that signature, as it were.

Lord Barker: Exactly. It would have been inappropriate for me to sign off a document that people had been doing the due diligence on, and that directors took responsibility for, having only just joined the board.

Q133 **Chair:** So you inherited a signature that already had your name on it.

Lord Barker: No, I didn't inherit a signature.

Q134 **Chair:** Well, you inherited responsibility for somebody else's preparation of an IPO document. That is what I mean by a signature.

Lord Barker: I joined—directors join businesses all the time.

Q135 **Chair:** No, I am just trying to understand the timing; that's all.

Lord Barker: I came in at the end of the process. In an ideal world, I would have come in sooner, but I didn't.

Q136 **Mr Seely:** But your name came in earlier than you did. That is what you are saying. Your name was part of this before you actually took responsibility.

Lord Barker: No. We are talking a matter of days here. We are not talking weeks or months, because I did not agree until shortly before the IPO. As I say, the inclusion of my name was the last piece of the jigsaw puzzle that made up this—

Chair: Okay, that's great.

Q137 **Mike Gapes:** Can I ask you about the sale of aluminium powder to the Russian military by RUSAL? Were concerns raised at any point regarding that?

Lord Barker: I was concerned when I read that allegation in the newspaper, and I was concerned when I read that allegation in your report, "Moscow's Gold". However, the fact of the matter is that RUSAL, the business that is actually the manufacturer of aluminium, does not sell to the Russian defence sector. It is quite true that historically—

Q138 **Chair:** We got the allegation, you see, from RUSAL's website.

Lord Barker: Yes, that's interesting, because it is not actually included in your report. Your report mentions it, but I have not found it. I would love to see it, if that is the case.

Q139 **Chair:** We are very happy to supply that.

Lord Barker: Have you got it?

Q140 **Chair:** Not on me, but I would be very happy—

Lord Barker: Because it is not in your report. You mention it in the report, but there is no citation.



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Q141 **Chair:** Yes, because it came off RUSAL's website. RUSAL removed it from the website, but it was initially there.

Lord Barker: Do you know when it was there? I asked our IT people to do a thorough check of the RUSAL website, and they could not find it. As I say, historically, there have been sales to the Russian defence industry, but since sanctions began in 2014, RUSAL has put in place a comprehensive system, on which I am very happy to go into in more detail, to ensure that sales are not made to any sanctioned entity, individual or company.

Q142 **Mike Gapes:** Since 2014? When since 2014? Could you be specific?

Lord Barker: I couldn't give you the date off the top of my head. I don't know whether you can, William.

William McGlone: Thank you. I am with Latham & Watkins; it is an honour to be here before you today. To help clarify, in 2014—I believe as early as March—the European Union and the UK, as well as the US, started to impose layered, targeted sanctions on different Russian—

Q143 **Mike Gapes:** Following the annexation of Crimea.

William McGlone: That's right—pursuant to that. Over the months following March 2014, additional layers of sanctions were imposed. I am not sure exactly which sanction would have led to a change in the company's policy, but all that predates significantly the 6 April 2018 designation of the En+ Group by the US.

Q144 **Mike Gapes:** On the point about the sale of aluminium powder to the Russian military, I would be interested to know whether you have any confirmation that that did not occur after the imposition of sanctions.

Lord Barker: As I say, we have a comprehensive compliance system, linked to a number of databases, such as the Thomson Reuters database, which contains a list of companies and individuals who are subject to the various sanctions and restrictions, both EU and US. Any and all documents and contracts concluded by the company must be uploaded into the system in order to be executed.

Q145 **Mike Gapes:** That's not my question. I am asking whether, as far as you are aware, they sold aluminium powder to the Russian military after the sanctions were imposed in 2014.

Lord Barker: I thought I just said that we do not sell to the Russian Military or to any sanctioned individual.

Q146 **Mike Gapes:** You may not now. I am looking at—

Lord Barker: Historically—you are quite right—there have been sales from the business—

Q147 **Mike Gapes:** Have there been any after the impositions of sanctions in 2014, following the—

Lord Barker: No.



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Q148 **Chair:** So you're saying that, before 2014, there were sales of aluminium powder to the Russian military, and since 2014 there have not been?

Lord Barker: Exactly.

Q149 **Chair:** So it is true to say that RUSAL does—or at least did—supply it?

Lord Barker: Historically, that was absolutely the case. It is not the case now.

Q150 **Chair:** Just so we're clear, they did.

Lord Barker: Just two points to help your understanding. First, the Russian state carries significant supplies and reserves of its own. Secondly, I believe that there are other suppliers that still supply the Russian defence sector.

Q151 **Mike Gapes:** That's fine. Why do you think the listing of En+ was blocked in the United States?

Lord Barker: I'm not aware that it was blocked in the United States. Why do you say that?

Q152 **Mike Gapes:** I understood that the reason that the listing was done in London was because the situation was more flexible than it might have been in the United States.

Lord Barker: That's not what you said. You said that the flotation was blocked in the United States. We never applied— Where did you get that information from?

Q153 **Mike Gapes:** So why didn't you apply in the United States?

Lord Barker: Why did you say that the listing was blocked?

Chair: Sorry, Lord Barker, you are here to answer the questions, not to ask them.

Q154 **Mike Gapes:** Why didn't you apply in the United States? Why did you choose to do so in London?

Lord Barker: Because London is the natural home of, and the largest centre for, international commodity groups. The world's largest commodity companies are listed in London. It makes perfect sense for—

Q155 **Mike Gapes:** Nothing to do with an easier way to list than it would have been in the United States?

Lord Barker: I don't think so; I am not particularly familiar with the United States— Do you have an example in mind?

Mike Gapes: I'm asking the questions.

Lord Barker: No, I am just saying that I am not familiar—

Q156 **Mike Gapes:** Just a minute. I am asking the questions. Can you tell me why you chose to come to London?



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Lord Barker: I've just told you that it was because London is the centre of the global commodities market.

Mike Gapes: And that was the only reason?

Lord Barker: The primary reason. As I say, I was not involved in the choice of market. As I understand it—

Q157 **Mike Gapes:** Can you think of any other reason why you might have done the listing in London and not the United States?

Lord Barker: You are aware that London is the largest global centre of international capital. It is bigger than the United States.

Mike Gapes: Can you think of any other reasons why London might have been chosen?

Lord Barker: There are numerous reasons. The universe of investors in our particular company is bigger here. There are more analysts here. There are better precedent and benchmarks here compared with the United States. It is closer to the markets that we serve. We do not actually sell a huge amount of aluminium into the US; the US counts for about less than 10% of our global turnover, so we are not a US company. In terms of the universe of investors— Until that point, we were a company registered in Jersey. It made a huge amount of sense to list in Europe, certainly, and I think the bourses under consideration would have naturally been London, Frankfurt or, possibly, Paris.

Q158 **Mike Gapes:** And not the United States at all?

Lord Barker: No.

William McGlone: If I may elaborate, I am just a sanctions lawyer, but I can confirm to the Committee that, as of November 2017, there would have been no US sanctions law or policy that would have precluded the listing in the US. Indeed, a number of the banks and financial institutions involved in the offering were US-based.

Q159 **Chair:** Not until 6 April 2018, of course.

William McGlone: Exactly; as of November 2017, the time of the IPO.

Q160 **Mr Seely:** Just to clarify, I understand why London would be an attractive place for an IPO, and I understand that a lot of Russians like to do business in London, although whether that will still be the case in the future I do not know. However, I am just looking at a *New York Times* article that makes multiple references to Mr Deripaska's difficulty in traveling around the United States, because of travel sanctions on him, and to Deripaska's firm—thanks to an intensive lobbying effort that you may or may not have been part of—winning multiple postponements from the Treasury Department of the sanctions on the oligarch's holding company, En+, and the giant aluminium company, RUSAL, that it controls. Do you deny that there have been problems dealing with the US authorities over Mr Deripaska's role at En+? That is sort of my understanding of why you are here to discuss this with us.



Lord Barker: You raise two very different points. As I understand it, Mr Deripaska has not had a visa for the USA. That is a matter of public record. To go back to Mr Gapes's point, that might be a reason, but I do not think it is a substantive reason. The substantive reason is that the investment case for a firm like ours for any international destination would be on the advice of a substantial number of international banks and brokers that supported us. It would be that London is the primary, most attractive destination to come to for that particular sector.

Q161 **Mr Seely:** But he's had problems in the US, hasn't he?

Lord Barker: You're confusing Mr Deripaska with the company.

Mr Seely: No, I'm not. I'm saying that he's had problems, and according to that *New York Times* piece there have been multiple attempts—or there have been significant threats of sanctions over En+, because it was owned by a sanctioned individual close to President Putin.

Lord Barker: That is why I'm here.

Mr Seely: Yes, it sort of is.

Lord Barker: No, that is why I offered to come in the first place.

Mr Seely: We're grateful to have you here eventually.

Lord Barker: Thank you; I am very glad to be here. The reason I came was to share with the Committee the efforts that I was taking to remove the control of Mr Deripaska from the group, to bring in a sweeping number of changes to both the ownership and the corporate governance of the committee, and to talk about the very close co-operation and negotiation that I had over a number of months with the US Treasury, from April 2018 right the way through to January this year, in order to remove sanctions.

The licence extensions that you referred to did not relate to Mr Deripaska, and he had no role in that. All of my efforts, and all of the reasoning for those licence extensions, which meant that sanctions were never actually fully imposed on the group, were to allow me to separate the company to Mr Deripaska, not to—

Mr Seely: And you have clearly done an incredibly good job of that. You are clearly worth every penny of whatever your remuneration is, because you have done a very successful job. One of the reasons why you are here is for us to understand how you have done that job, but also whether it is in the public interest, and whether it is credible for someone of Mr Deripaska's standing and possibly background to have considered, by owning 40% of something and chunks of other companies that owned parts of En+, that—to understand whether what you have achieved is credible, and if it is in the public good. That is why we are asking questions that, to you, may seem a little bit basic. We are trying to elicit information about what is in the public good, and whether it is in the public good for a Member of Parliament to be working so closely.

Q162 **Chair:** Can I just ask a quick question? Where is the largest commodity

market in the world?

Lord Barker: Where is the largest commodity stock market?

Chair: Yes, the largest commodity exchange.

Lord Barker: London.

Q163 **Chair:** I thought it was Chicago.

Lord Barker: That is a commodity exchange. I'm talking about equities, not derivatives.

Q164 **Chair:** So the New York exchange—

Lord Barker: I think you'll find that there are very few commodity companies traded in Chicago.

Chair: The world's largest commodity exchange is Chicago, and the exchange that has the most commodity companies traded on it is, I believe, New York.

Lord Barker: I am talking about the trading of shares, not the trading of commodities.

Chair: I understand, sorry. I do understand the difference between equities and commodities; I have done a little bit of work in this area.

Lord Barker: There are very few in Chicago.

Q165 **Chair:** I am just coming on to equities. Is that not New York?

Lord Barker: No, it is London. The world's largest company, the Swiss-based Glencore, with a market cap of over £100 billion, is listed in London. Rio Tinto is listed in London, and then if you look at the whole minerals and mining sector, it is London that really—and it is a great British success story that we attract so many companies.

The thing that is unique about London, and why I think we should be proud of the financial services sector here, is the fact that it does not simply represent British companies. The FTSE 100 and many other companies that are quoted or traded in London are from around the world. Here in London, we are a global marketplace, unlike the other stock exchanges around the world, which tend to be more regional.

Q166 **Ian Murray:** Just for the record, I have been a director of a former plc, and Lord Barker will know that former plc's are still covered by a lot of the plc regulations for a number of years afterwards. I wonder if you could tell me whether En+ has ever chosen to not comply with any aspects of the UK corporate governance code.

Lord Barker: It fully complies with the governance code that is set out for companies that have a listing of their GDRs.

Q167 **Ian Murray:** Who decides which part of the UK corporate governance code applies to En+ and the En+ Group?

Lord Barker: The UK Listing Authority.

Q168 **Ian Murray:** Does the company now comply with the recommendations of the code that the board comprises a majority of independent directors?

Lord Barker: Yes, it does. I am very proud of that fact because, as part of the sweeping changes that I brought in, eight of the 12 directors are now independent. If you look at the top 20 Russian companies that are publicly listed—many of which are listed in the UK—as a result of those measures, we are the only one, by a long chalk, that has a majority-independent board; that has a chairman who is independent of the larger shareholder; where the founding shareholder no longer has management control; and that has a full set of governance ticks.

I have brought along for the use of the Committee a graphic that will demonstrate—

Chair: I think we have seen the graphic.

Lord Barker: You have seen it? Okay. It demonstrates the measures before and after, and shows, both at a share register level and at a board level, that Mr Deripaska is now in a minority position.

Q169 **Ian Murray:** When did the change from a minority to a majority of independent directors happen?

Lord Barker: That happened on the removal of sanctions, or before, contiguously with the removal of sanctions. Once the US Treasury had agreed the plan, submitted it to Congress and we passed through the approval process at the final stage, there was then the execution, whereby Mr Deripaska had to give up a significant amount of his equity or give it over to independent trustees to be voted on, his relations and associates had to give up voting rights on their shares, and the new board was formed.

At the company's EGM in Paris in December, I received the shareholders' approval to put that in place. The board resigned prior to the lifting of sanctions and I then appointed the seven new independent directors who ensure that it is independently controlled. Those directors went through a very rigorous selection process, which was run by Russell Reynolds, the international headhunter. Each one was vetted and approved by OFAC—the Office of Foreign Asset Control in the US Treasury.

Q170 **Mr Seely:** Thank you again for coming, Lord Barker. I just want to ask you a couple of questions. If we have gone over some of this territory, we will move on, because I do not want us to repeat ourselves. I am fascinated by what you say, because we have been looking at sanctions and your judgment on the role of oligarchs close to President Putin and the less healthy role of Russian influence—especially in the West—related to all the political conflict between the two countries at the moment. Are you aware that the US Treasury placed Mr Deripaska on the US sanctions list because, in its words, he "has been investigated for money laundering and accused of threatening the lives of business rivals, illegally wiretapping a



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government official and taking part in extortion and racketeering”? It continues: “There are also allegations”—only that—that Mr. Deripaska bribed a government official, ordered the murder of a businessman and had links to a Russian organized crime group.” Have you seen that statement from the US Treasury?

Lord Barker: Of course.

Q171 **Mr Seely:** You are comfortable working with Mr Deripaska?

Lord Barker: I no longer work with Mr Deripaska—he is not involved in the management of the business. I have spent the last nine months removing Mr Deripaska from the business of En+ and RUSAL. That is an unprecedented move on behalf of minority shareholders and is a real triumph for good corporate governance in London. I do not think that we would have been able to do that if the company had not been listed in London or subject to the UK code. If I had not had the support of the other independent directors, I do not think we would have ever got the process going.

Q172 **Mr Seely:** What is Mr Deripaska’s block of shares as a percentage? Is it 40%?

Lord Barker: It is on the infographic that I can share with you. It is 44.95%.

Q173 **Mr Seely:** So he is no longer a controlling influence on the company with 44.95% of the company.

Lord Barker: No, because there is an additional 10% that is required to go into trust, so he actually can vote on 35% only.

Q174 **Mr Seely:** So he has only got 35% of the vote?

William McGlone: I am happy to provide some additional details that would be useful to the Committee. The very same office in the Treasury Department that issued the statement at the time that Mr Deripaska was sanctioned on 6 April last year—the Office of Foreign Assets Control—decided to remove sanctions on the En+ Group, based on the governance changes, the changes in ownership and control, and the extensive oversight that will be ongoing by the Treasury Department with respect to the company. The separation of the company from Mr Deripaska’s majority ownership and control was the basis for the determination that led to the lifting of sanctions. The same office in the Treasury Department felt comfortable with that process.

Mr Seely: You are saying that you do not work for Mr Deripaska, but Mr Deripaska has voting rights for 35% of the company.

Lord Barker: Correct.

Q175 **Mr Seely:** I know I’m a simpleton, but if you own a third of a big company, and everyone else is a smaller minority shareholder, aren’t you still the dominant person?



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Lord Barker: Not in the view of the US Treasury.

Q176 **Mr Seely:** Not legally, is what you are saying.

Lord Barker: No, not legally. I am saying not in the view of the US Treasury and not in the view of most sanctions policy experts in the United States. It is not just the current Administration. The architect of the current sanctions law, Mr Dan Fried, from the Obama Administration, who is widely seen as a Putin hawk, has gone on the record to say that this is exactly how sanctions should operate.

Q177 **Mike Gapes:** Mr Deripaska has got 44%. Is that correct?

William McGlone: 44.95%.

Lord Barker: Down from 70%.

Q178 **Mike Gapes:** What it is down from is not the question. The question is, what has he got today? Who is the next largest shareholder, and what percentage do they have?

Lord Barker: Again, this is in the infographic that I supplied.

Q179 **Mike Gapes:** Who is the next largest?

Lord Barker: The next single largest shareholder is Glencore.

Q180 **Mike Gapes:** Which is how many per cent?

Lord Barker: Which is 10.5%. I beg your pardon—it is VTB. I got the wrong one. VTB owns 21%. However, the next largest voting shareholder is actually the independent trustee of the VTB stake.

William McGlone: That is right. Of the 21%-plus currently held VTB bank, 14%-plus is voted independently by an independent American voting trustee, as per OFAC requirements.

Q181 **Mr Seely:** Absolutely, but VTB is still sanctioned, isn't it?

Lord Barker: No. This is a misunderstanding, I think, in the report as well. VTB is subject to sectoral sanctions that were placed on the finance sector. It is not sanctioned in the same way that it was proposed that En+ and RUSAL would be. Sectoral sanctions are limitations on what any company in that sector can do; they are not specifically aimed at VTB.

William McGlone: If I may, those sectoral sanctions were imposed by the EU and the UK, as well as the US, in 2014. They prohibit the extension of new debt and credit to VTB, as well as certain other designated banks, but they do not in any way prohibit even US persons, as well as UK and EU persons, from dealing with them otherwise. That is one of the principal reasons why OFAC in the end, after being fully briefed on this entire structure in great detail, was as comfortable with VTB as it ended up being.

Q182 **Mr Seely:** Do you see why we are curious and interested in this? You are putting a very eloquent and convincing case, but from our point of view it



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looks like very rich, very smart Western facilitators have been helping people to get around sanctions. Effectively, it is a legal form of sanctions-busting. I know you do not see it like that, but there is a question of whether you can do this. Clearly, you have done it very well, and there is a question of whether you really should be doing this and whether it is in the public interest, especially because you are a parliamentarian. I cannot put it any more simply than that.

Lord Barker: Well, I am afraid that you are in a minority in holding that view. Certainly, those who are more informed on the subject are, by and large, strongly in favour. The architect of US sanctions policy, Mr Brian O'Toole—the former senior adviser to President Obama and director of OFAC in the US Treasury—said: “sanctions targeting RUSAL’s founder and now indirect minority shareholder, Oleg Deripaska, worked exactly the way they are supposed to and that Deripaska’s fate should frighten other Russian oligarchs who cooperate with Russian President Vladimir Putin’s misadventures abroad or are part of his corrupt circle...This is a good policy outcome, since the target...has felt significant impact from the sanctions, but disruption to the US and global economies has been minimized.”

John Smith, another former director of OFAC, said: “This is absolutely a winning strategy...It sends the message that if you are targeted by the U.S. government, you ultimately may have to give up ownership and control of your most powerful and profitable assets.”

Dan Fried, the expert, said: “It may surprise you to hear this, given my reputation as a Putin hawk, but I think that Treasury made the right call”. What I am trying to say is that you make a very serious—

Chair: Sorry, Lord Barker, can you please allow Mr Seely to ask a question?

Mr Seely: “You make a very serious”—

Lord Barker: You make a very serious point. You have a very clear view on this. In response to that very serious point, all I am saying is that there is large body of opinion held by people who are by no means allies of Russia or allies of the Kremlin, who take a very different view. They are people who have a very informed view—indeed they are the people who actually put the sanctions in place. They are not commentators or grandstanding, but the people who actually put the sanctions policy in place.

Q183 **Mr Seely:** So by asking you these questions, you think we are grandstanding?

Lord Barker: No, I did not say that.

Mr Seely: You used the words “grandstanding” and “commentators”. Clearly, one also tries to be informed and although you come across as a little bit rude and condescending, I will not do you the same discourtesy.

Lord Barker: I apologise if that is the case.



Q184 Mr Seely: That's quite all right. Do you not understand the point of view that I am putting? I am not necessarily arguing it. I am playing devil's advocate over this. You are seen to be someone who is negotiating oligarchs' way around sanctions, and therefore you are undermining our ability to deal with the oligarchs, through whom President Putin operates in the west and uses some of that malign influence.

Lord Barker: I think that would be a gross misreading of what has happened and, as I said, it would fail to take into account the informed opinions of people who looked at it. I will point to other people who have supported this measure, who are well known Russia hawks, such as Senator Lindsey Graham—

Q185 Chair: Sorry, before you keep reading this into the record, the point that Mr Seely is making is that there are still links between En+ and the former Deripaska arrangement, as you would expect for a large company. There are hold-over appointments, if you wish. One of those hold-over appointments is a gentleman by the name of Mr Boyarkin, of whom I am sure you, being the chairman of the company, are aware. His former work as a senior member of the GRU is a matter of record. Indeed, he was sanctioned in December 2018 by the US Treasury for his interference in the Montenegrin elections on behalf of the Russian state, yet he remains an employee of En+. One does seem to see overlaps.

Lord Barker: Well, you are half right. He was sanctioned by the US Treasury. You are completely wrong and misinformed—and it is not for the first time—that he is an employee of En+. Mr Boyarkin left the group in 2016. He is not an employee. He certainly predates my time in the company. That is very clear. This is another example of misreporting of facts. I would be very grateful if you could correct that into the record. He is not an employee of the company and has not been for some time.

Chair: If you say it is so, then I am sure you are correct.

Lord Barker: I am very concerned that that is thought to be the case.

Chris Bryant: Can I go back a moment—

Lord Barker: Sorry, I beg your pardon Mr Bryant, but one important thing—don't just take my opinion. Clearly, I have a commercial interest in this and I understand why you might be sceptical. The most important testimony on all of this has been the director of the CIA, Gina Haspel, who appeared under oath before the United States Senate Select Committee on Intelligence in January to be quizzed on exactly this issue. She was asked have the US intelligence agencies looked at the group, have they undertaken due diligence?¹ She said yes, and that they raised no concerns.

Q186 Chris Bryant: Can I go back to the point earlier? Mr Seely read out the reasons why the US decided to sanction Mr Deripaska. None of that—none

¹ Note from witness: the exact quote from Senator Susan Collins was 'Did the CIA raise any concerns about the Treasury plan?'



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of those lines about what he was accused of doing—was news. I presume they were not news to you?

Lord Barker: I wasn't aware of them in quite that compendium, but I was aware that if you go back far enough he had been a controversial figure in Russia. I was aware that he disputes the lion's share of that.

Q187 **Chris Bryant:** As somebody arriving in a job, or when you first met him, you must have done some reading up on him or some diligence, and made some assessment of whether there was any risk that he might be sanctioned.

Lord Barker: Of course. On both points, of course I thought very carefully. Initially my response was no. I had made a decision when I left politics not to go back into Russia, or to seek to do anything in the Russian sector, because geopolitically it is so difficult.

Q188 **Chair:** But you went back very quickly, and right to the top.

Lord Barker: Not really. It was three years later, after leaving the—

Chair: Some would consider that quite quick.

Q189 **Chris Bryant:** It was as soon as you were legally allowed to, in fact.

Lord Barker: No, absolutely not. Why do you say that?

Chris Bryant: It is not for you to ask questions.

Lord Barker: It is for me to correct the record when you make a statement that is absolutely untrue.

Q190 **Chris Bryant:** You said earlier that you think that this has been a perfect example of how sanctions should work. So you believe that Mr Deripaska should have been sanctioned. You now welcome that.

Lord Barker: I did not say that Mr Deripaska should have been sanctioned. What I have said is that many people who are experts in this field, and have followed this for far longer than I have, have said that this is a textbook example of how sanctions policy should be executed.

Q191 **Chris Bryant:** Indeed, you did, so do you now think that it was right for the US to sanction Mr Deripaska?

Lord Barker: I have been very clear in not making speeches or declarations on Russian politics and US-Russian, UK-Russian and European-Russian relations in this building, mindful of my commercial interest, and mindful, up until now, of my membership of the House of Lords.

Chris Bryant: Yes, but I am asking you now.

Q192 **Chair:** Sorry—you are not appearing here as a parliamentarian; you are appearing as the independent chairman of EN+, so it is a bit different.



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Lord Barker: Absolutely, and as a businessman I am not getting into politics, and as a politician I clearly have a conflict, so I am not going to answer political questions today.

Q193 **Chris Bryant:** So you don't think that he should have been sanctioned.

Lord Barker: That is not what I said. I said I am not going to answer political questions.

Q194 **Chris Bryant:** You don't have a view on whether he should have been sanctioned.

Lord Barker: I have a view, but—

Q195 **Chris Bryant:** Well what is it?

Lord Barker: As I said, I have come here to talk about, and to explain in as much detail as you care to go into, the unprecedented steps that I have taken to put in place the removal of Mr Deripaska. I am not getting into the whys and wherefores of the politics around that, I am afraid.

Q196 **Chris Bryant:** I am asking you a direct question: do you think Mr Deripaska should have been sanctioned by the United States of America or not?

Lord Barker: I can quite understand and appreciate all the circumstances around it, but I am not getting into individual cases like that. It would be very unhelpful.

Q197 **Chris Bryant:** Okay, so when he was sanctioned, what conversations did you have with him?

Lord Barker: I was chairman of the business that had just been sanctioned. He was the controlling shareholder. It was initially to ascertain what we thought would be the right response for me as independent chairman. I will be very honest: there was a degree of panic and alarm in the business. I certainly considered my own position. My immediate course of action, before I spoke to him, was to take legal counsel.

Q198 **Chris Bryant:** What did he say to you that you should do?

Lord Barker: I took legal counsel from Latham & Watkins. I also spoke to senior people in the City—

Q199 **Chris Bryant:** I am not asking you about that. I am asking you what conversations you had with Mr Deripaska.

Lord Barker: I did not speak to him for a number of days.

Q200 **Chris Bryant:** How many days?

Lord Barker: I do not know. I did not meet him, I believe, for about a fortnight afterwards. It might have even been more than that. It might have been three weeks.

Q201 **Chris Bryant:** Did you speak to him on the phone? Did you have any communication with him?



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Lord Barker: I would have spoken to him, but in short conversations. I was more concerned about the company's management and the other board—

Q202 **Chris Bryant:** What did he say, and what did you say?

Lord Barker: Clearly everybody was very concerned. In the first instance, it looked very black for the company, because in an international business like ours—we operate in 14 countries on five continents—the consequences of US sanctions would be catastrophic.

Q203 **Chris Bryant:** I do not want to put words into your mouth, but I am presuming that the nature of that conversation would be, "How can we get round this?"

Lord Barker: It was not, "How can we get round this?" It was, "What is the responsible reaction to that?" I did not know what the responsible reaction was, which is why I took legal advice and financial advice. It soon became very clear that the only way around this—remember that my job was not to represent or advise Mr Deripaska; my job was to represent the interests of the minority shareholders who had come in at the IPO, and to try to ascertain what would be in the best interests of the minority shareholders—

Q204 **Chris Bryant:** Okay, so did you hire Mercury Public Affairs at that point?

Lord Barker: Yes, I did.

Q205 **Chris Bryant:** Before speaking to Mr Deripaska, or after?

Lord Barker: Before speaking, actually; I did not speak to him about hiring Mercury.

Q206 **Chris Bryant:** And what did you hire them to do?

Lord Barker: To represent me in Washington once it had become apparent that there might be grounds for a useful dialogue. I reached out to the US Embassy here and they immediately asked if I would meet officials from the State Department and the US Treasury to begin a dialogue, and I did—

Mr Seely: Did you ask for a dialogue, or did they say, "We'd like a dialogue"?

Q207 **Chris Bryant:** To lobby?

Lord Barker: No, not to lobby. In the first instance, I did not have any representation; the company was sanctioned, we were in a slight state of confusion, we have no office in Washington and I needed somebody on the ground to advise me on what—

Q208 **Chris Bryant:** You said it was to represent you. To represent you to whom?

Lord Barker: To represent me in a meeting that I had been requested to go to but was unable to get to because I was in London and they were in the State Department and they wanted a lot more officials.



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Q209 **Chris Bryant:** To represent you to US Government officials?

Lord Barker: Yes, and to brief me.

William McGlone: If I may, there is a very formal regulatory process that OFAC maintains for sanctions delisting initiatives, which is what Lord Barker and the company have pursued here. If it would be helpful to the Committee, I would be happy to elaborate on that process, which is quite substantive, transparent and well documented—and, by the way, very rigorous. OFAC is notoriously aggressive and expansive in enforcing sanctions. I do not know—

Chris Bryant: I'm sorry, that is not the area I am asking about, I'm afraid.

Q210 **Chair:** I'm going to ask you write to us about that, if that would be okay. I would be very grateful.

William McGlone: Fair enough, but I am also happy to elaborate if that would be helpful.

Chair: In writing; we would be very grateful.

Q211 **Chris Bryant:** I want to pursue several aspects about Mercury. So by this time, Mercury had already been implicated by the Mueller investigation in the indictment of Paul Manafort, yes?

Lord Barker: I was actually unaware of that. The reason I chose Mercury was pure coincidence. I have never employed a public affairs agency in Washington before; I have never been involved in a situation remotely like the situation with sanctions, and when this all happened, the number of advisers who would take a call from us, let alone be prepared to act, was very small, because of the severity and seriousness of US sanctions. I could only really count on personal connections, and I had met socially in London, a non-businessperson, a partner in Mercury, and Mercury was the only firm that I knew in Washington.

Q212 **Chris Bryant:** Who was the partner?

Lord Barker: He is called Morris Reid. He was originally a senior member of the Clinton White House. He is a quite well-known Democrat, but for a number of years now he has been in public affairs.

Q213 **Chris Bryant:** But the main person who has been doing your representation, as I understand it, is Bryan Lanza. Is that right?

Lord Barker: No.

Q214 **Chris Bryant:** But you have not chosen to correct that on the record in the United States of America?

Lord Barker: I have spoken to Bryan Lanza. I think I have probably spoken to him once or twice when I have bumped into him in the office. Morris Reid has been the primary contact for me, along with Steve Hilton, the CEO of the company, and also former Congressman Joe Garcia.

Q215 **Chris Bryant:** But you are aware that there have been major questions



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about the company—

Lord Barker: I am now, but—

Chris Bryant:—in relation to the Foreign Agents Registration Act?

Lord Barker: Sorry, I am—?

Q216 **Chris Bryant:** You have just said yes.

Lord Barker: I missed the question. Say that question again?

Q217 **Chris Bryant:** You are aware that there have been major questions about the company in relation to the Foreign Agents Registration Act?

Lord Barker: Not in relation to the work they have done for us there have not.

Q218 **Chris Bryant:** Specifically in relation to you, actually.

Lord Barker: What questions are they?

Q219 **Chris Bryant:** If you are not aware, I think that is pretty disturbing, but let me ask you—

Lord Barker: What questions?

Q220 **Chris Bryant:** I am serious, Mr Barker, it really is not for you to ask us questions. You are not here for you to do a spin exercise, you are here to answer some questions from us. Can I ask you what you understand by the words “to lobby”? You said you did not think they were lobbying on your behalf. What do you understand “to lobby” to mean?

Lord Barker: Sorry, I didn’t think— when did I say that?

Q221 **Chris Bryant:** When I first asked you about what the company Mercury was there to do.

Lord Barker: In the first instance they were not, but in the conventional sense of lobbying, in the final stages of the process, once it had gone on to the Hill, Mercury facilitated and arranged meetings with all the Members of Congress on both sides of the aisle—Republicans and Democrats—who had questions and wanted to meet me, and I made myself completely available to anybody who wanted to meet me, had questions, whatever. Mercury facilitated those meetings, and I think that would probably be your definition of lobbying. In the first instance—

Q222 **Chris Bryant:** What’s your definition of lobbying? That is what I was asking.

Lord Barker: My personal definition of lobbying would be seeking to change Government policy or seeking to influence.

Q223 **Chair:** Seeking action from a Minister, perhaps?

Lord Barker: No, I would go with seeking to change Government policy or seeking—



Q224 **Chair:** To influence Government policy.

Lord Barker: Or to influence Government policy. Under that definition we were not looking to lobby at all. When we engaged with Congress we were looking to explain and support the decision that the US Treasury had made, albeit a decision that had followed months of very detailed non-political negotiation. OFAC are very clear that they do not welcome and do not meet with lobbyists. Mercury acted like a bookend. I am happy to talk you through what they did. They were my first call in Washington.

It was very important to get a message across to the Administration, particularly at the high levels, in order to get across a very clear message before we got into working out whether or not there was the possibility of actually being able to engineer an agreement that we finally got out. That was that I was not there to represent the Russian Government or to support Mr Deripaska or his interests. In fact, our interests were strongly diverging and were mutually exclusive. What was in the interests of my minority shareholders was clearly not in the interests of Mr Deripaska. That is why we had a series of very difficult negotiations over a period of months.

I had to establish my bona fides because the assumptions this afternoon that you are there to support Mr Deripaska or in some way push back against sanctions policy is quite understandable, but that was something I was very keen to correct. Mercury were able to represent me and say, "At least give this guy a hearing because he is not there to represent Deripaska. He is there to represent minority shareholders. He has a fiduciary responsibility to do so and so that the engagement can begin.

Q225 **Chris Bryant:** I find it difficult to understand how in any world that could not be considered to be lobbying on your behalf. It is trying to put across an argument to legislators to achieve an outcome.

Lord Barker: I don't claim to have— I am not going to argue with you on the definition of that.

William McGlone: I think it is fair to say, Lord Barker, that Mercury as a US firm would have its own compliance obligations to adhere to, including registration under the Foreign Agents Registration Act or any other appropriate statute, and to disclose under it.

Q226 **Chris Bryant:** Yes, and they are implicated in the ongoing indictments, which is why some might be rather suspicious about why you chose to use them.

Lord Barker: As I said, it was rather prosaic. The reality is, had I had the time and the ability to do a proper procurement exercise and look at all the options—if I had options, indeed—I might have made a different choice.

Q227 **Chris Bryant:** Have you employed any similar organisations in the United Kingdom?



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Lord Barker: No. We have not done any lobbying, as you might call it, in the United Kingdom.

Q228 **Mr Seely:** But you sought meetings with Ministers that were not for lobbying purposes.

Lord Barker: Correct.

Mr Seely: Explain yourself. That takes a bit of explaining in itself.

Q229 **Chris Bryant:** What UK opinion formers have you met with to discuss this issue?

Lord Barker: What do you mean by opinion formers?

Q230 **Chris Bryant:** More specifically, who in total, whether in a formal or informal meeting, have you discussed this matter with who is a legislator—a Member of either of these two Houses or theoretically the Welsh Assembly and the Scottish Parliament, but they are probably not quite so significant—or a civil servant or a Government Minister?

Lord Barker: I have had one meeting with a Government Minister, and I think you have probably seen Jeremy Hunt's letter, because he wrote to the Chair, so you will be aware of the meeting that I had earlier in the summer with Alan Duncan.

Q231 **Chris Bryant:** Just give us your version of that meeting.

Lord Barker: I was very concerned about the misrepresentation of my motives and that there are people who are trying to speak and misrepresent me. So I wrote personally to people who had a direct influence in this area and might be moved to speak to offer to give them an insight into what was a very sensitive, ongoing, detailed and complex set of discussions, ultimately successful, with the US Treasury—

Q232 **Chris Bryant:** Sorry to interrupt, but could you just give us a full list of all those people whom you wrote to?

Lord Barker: I can tell you who I wrote to. I wrote to members of this Committee, offering to do a briefing; no one chose to take me up on that. I am very happy to let you have the letters. I wrote to four junior Ministers, one of whom I met—Alan Duncan.

Q233 **Chris Bryant:** Just remind us who they were.

Lord Barker: I wrote to Claire Perry, John Glen and Ben Wallace, and I wrote to the officers of the all-party parliamentary group on Russia. Basically, the select people who I thought—

Chris Bryant: Sorry—what did you just say?

Lord Barker: The officers of the APPG on Russia.

Q234 **Chris Bryant:** Who do you think they are?

Lord Barker: I couldn't tell you off the top of my head. I only met—



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Q235 **Chris Bryant:** Well, I'm the chair; you didn't write to me.

Lord Barker: In that case, I didn't write to all of them. But I met Stephen Pound, who I think is—I apologise if I overstated—

Q236 **Chris Bryant:** No, I don't care whether or not you wrote to me. The point is that surely each one of those instances is an instance of lobbying.

Lord Barker: I would thoroughly disagree, as would the Lords Commissioner.

Q237 **Chris Bryant:** It is for the Lords to decide what they do about the Lords Commissioner, but it's for us to decide—

Lord Barker: With respect, the Commissioner has ruled today that there is no instance of lobbying.

Chair: With respect, this is a different inquiry and that's of no relevance at the moment.

Q238 **Chris Bryant:** And the Lords Commissioner hasn't asked whether you sent letters to other people and what those letters contained.

Lord Barker: It was exactly the same letter. I told you at the meeting. The Lords Commissioner has dismissed the claim and been very clear—

Q239 **Chair:** With respect, that's not what we are inquiring about. But you did have one meeting off the back of those letters?

Lord Barker: I had two. I had one meeting with an Opposition Member of Parliament; he was a member of the APPG. And I had a meeting with the junior Foreign Office Minister.

Q240 **Chair:** And in neither did you ask for anything?

Lord Barker: No.

Q241 **Chair:** So you didn't ask for an assurance, for example, that the Government wouldn't or would act in a certain way?

Lord Barker: No. As I would remind you, this issue lay entirely outside the jurisdiction of this Parliament and of the UK. This is a matter that is decided under the US legal system.

Q242 **Chair:** Sorry, I'm just seeking to understand. So you had a meeting with Stephen Pound, which you just told us about, and you had a meeting with Alan Duncan, which you just told us about. And just to repeat, so we're absolutely clear, you asked for nothing out of any of those meetings? That's correct. You didn't ask for assurances off the Government or off the individual at any point? No. And would you be prepared for any reports, any minutes, any notes of those meetings to be made public, if the other party agrees?

Lord Barker: Yes. The Foreign Secretary has already written to you.

Q243 **Chair:** He has, but as is usual and as you will know from having been a Minister, there is a ministerial record of any meetings. If the Minister was



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willing, would you be happy for that note to be made public?

Lord Barker: It wouldn't be a problem with me, but I don't think that's the normal practice.

Q244 **Chair:** I'm just asking. Yes or no? Lord Barker, just a yes/no answer.

Lord Barker: I would be happy.

Chair: Right. Thank you.

Q245 **Mr Seely:** I just find it a little bit hard to believe that you are seeking meetings and you simply say that these can't be seen as lobbying. I don't see the purpose of the meetings unless you're trying to get something.

Lord Barker: I might give you an example. On 24 June, in *The Sunday Times*, you, Mr Seely, said: "Lord Barker is saying that he is acting in the national interest", and I quote you exactly. When did I say that?

Mr Seely: I'd have to go back and look at it.

Lord Barker: I have never used those words; I hope I'd never be so pompous as to use those words. That is just one example—

Chair: You're certainly making a good go of it.

Lord Barker: I would give that as one example of where I was being misrepresented, where people were not briefed on what I was doing but nevertheless were very happy to speak to the press at length, and opine on what I was doing.

Q246 **Mr Seely:** I haven't spoken at length about you, but people like you and the work that you do—some people see it as being questionable—raise the importance of having a United Kingdom foreign agents registration Act, because you as a parliamentarian have been accused by *The New York Times* of "saving the business empire of Oleg Deripaska, one of Russia's most infamous oligarchs", and yet you are describing yourself as acting on behalf of minority shareholders.

Now, technically, I have no doubt that you are acting on behalf of the shareholders of that company, and you are saying that you are acting in the interests of that company, but indirectly you are also saving the business empire of somebody who is on a sanctions list. There is a genuine public policy concern about that, and I am staggered if you say that you do not see it, especially as you were spending \$650,000 on a "massive influence operation" in the United States to get En+ off the sanctions list.

I would like to talk to you about some of the people you were paying in the United States, because some of them were Senators who went straight back through that revolving door. Were you paying them directly or through Mercury?

Lord Barker: The bottom line is that people are perfectly entitled to take different views on the correct policy approach to Russia and to sanctions,



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and whether there should be a FARA Act or similar here. It is a perfectly legitimate view to take. I don't need to trouble with that. I don't have a view on it. But I totally understand that that is something that you feel strongly about. All I would ask is that when you pray in aid or use me or the project that I have been pursuing as part of your argument, you at least do so on the basis of the facts.

What I have been working on is a very complex negotiation with many different layers of detail. It is super frustrating for me, Mr Seely, being very honest. People like you, who quite legitimately take a strong interest in Russian affairs, sanctions policy and foreign affairs, quite rightly have a view on policy and criticise the Government, or not, but I wish that when it came to me, it would be on the basis of the facts, and that is why I am very happy to be here now to explain the facts. This is the first conversation we have ever had.

Q247 Mr Seely: That's great, but why has it taken you six months to get here? If you are so interested in the facts, why have you put off meeting with us three times?

Lord Barker: Because I offered to brief you, in exactly the same—

Mr Seely: But not lobby us.

Lord Barker: Am I lobbying you now?

Q248 Mr Seely: You offered to meet with us individually over breakfast or something, but you are now saying that you have never attempted to lobby people, and I find that a very strange distinction.

Lord Barker: Am I lobbying you now?

Mr Seely: No, but would you have been doing so before, if you were trying to get us to do something?

Chair: I think we are getting into hypotheticals. I am going to move on, sorry.

Q249 Chris Bryant: Just an interesting fact: how much was the Mercury public affairs contract worth? So far, how much have you spent on it?

Lord Barker: Roughly it would be £600,000 or £700,000. It is just over \$100,000 a month since last April. It depends on the exchange rate.

Q250 Chris Bryant: Was there a success fee?

Lord Barker: There may be. ²

Q251 Chris Bryant: Could you write to us, to tell us?

² Correction by witness: During my appearance before the Committee on Wednesday, I indicated incorrectly in answer to questions, that although I could not recall the detail, the Mercury Group's compensation included a success fee (based on a lifting of sanctions on the En+ Group). This was an error. Following my session, I reviewed our records and confirmed with Mercury that NO SUCCESS FEE has been paid nor is any result-based compensation of any kind payable in the future.



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Lord Barker: I think that is commercially confidential.

Q252 **Chris Bryant:** Just a factual yes or no would be interesting. What counts as success?

Lord Barker: I think it is very clear what counts as success.

Chris Bryant: Tell us what counts as success.

Lord Barker: The lifting of sanctions in a way that is compliant.

William McGlone: If I may be a little selfish here, I would like to claim a little bit more credit than the Mercury Group for the outcome, along with Lord Barker and the companies. The process with OFAC, staffed and led by career civil servants, was a regulatory process and a legal process, and the final judgments in every single element of the ultimate plan and resolution were dictated entirely by OFAC. Mercury had nothing to do with that.

Chair: It is a lot to pay for someone who did nothing.

William McGlone: There were other aspects to this, which Lord Barker is describing. I do not mean to take any credit away from them, but I think it is very important for the Committee to understand—this is really important—that OFAC is a very rigid, rigorous and careful office, and it looked at this in great detail and imposed very strict requirements, which Lord Barker was able to meet.

Chair: Mr McGlone, we will move on.

Q253 **Chris Bryant:** Basically, there was a success fee and the success fee was paid if sanctions were lifted. Therefore, that is what Mercury was trying to achieve. That is the basic truth.

Lord Barker: That is what we were all trying to do.

Chris Bryant: That is exactly the opposite of what you tried to say earlier.

Lord Barker: The lawyers were paid a multiple of any fee that Mercury has received.

Q254 **Chris Bryant:** And was there a success fee for them as well?

Lord Barker: No, they charged by the hour.

Q255 **Chris Bryant:** I want to raise some other issues. I am aware that I am slightly going on to what Mr Gapes was asking earlier, but I want to get this all in order. Who is now the biggest shareholder in En+?

Lord Barker: The single largest shareholder is Mr Deripaska. Although the collective votes of the independents would be larger than Mr Deripaska.

Q256 **Chris Bryant:** Yes, but the single largest is Mr Deripaska. VTB is now the second-largest shareholder, yes?

Lord Barker: By shares, that is correct, but not by votes.



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Q257 **Chris Bryant:** Who controls the shares held by VTB? You were partially explaining earlier, but could you explain directly?

Lord Barker: I have appointed three trustees that have been approved by OFAC who are US citizens who vote the shares of VTB, Mr Deripaska's former wife and his former father-in-law, a charity that he was involved in founding, and a children's trust fund.

William McGlone: A foundation and an investment group.

Lord Barker: Basically, before we got to OFAC, I identified anybody that felt—

Q258 **Chair:** Sorry; 7% is still with VTB, is that not correct—7.3% or 7.4%?

William McGlone: Even prior to this plan, VTB held 7%.

Chair: So they still hold that.

William McGlone: Correct. In addition to that, 14.33% has been taken by VTB. That 14.33% is voted by one of the independent American trustees—

Chair: But there is still the 7% that is VTB's.

Lord Barker: They hold 7%, which makes them one of the smaller shareholders.

Q259 **Chris Bryant:** Did I mishear—one is Mr Deripaska's wife?

Lord Barker: Yes. Basically, anybody who could be claimed to be within the Deripaska orbit, even though she is not Mr Deripaska's wife—they are divorced and they are very separate—

Chris Bryant: That is why I was confused—so, former wife.

Lord Barker: Former wife and former father-in-law, which I think I said. Anybody who could be conceivably deemed to come within the orbit, I approached, prior to going to OFAC, and requested that they sign an irrevocable power of attorney to give away the voting rights of their shares so long as they continued to own those shares. As part of the plan that was agreed with OFAC, they agreed to do that. Cumulatively, those shares are now held—voted, rather—by three independent US individuals who have been approved by OFAC, the most notable of which is Mr David Crane, the former CEO of NRG, the green energy business.

Q260 **Chris Bryant:** I get that. It just seems slightly odd that if you were looking for people who were completely outside the realm of Mr Deripaska, you ended up with his former wife and father-in-law; but anyway. Is Glencore not the third-largest?

Lord Barker: I do not think you have understood that.

Chair: It is the shares that were held by his former wife and father-in-law that are now in that block. That is correct, is it not?



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Lord Barker: Yes.

Chris Bryant: I see—sorry.

Lord Barker: So not just Deripaska, but anybody who was conceivably connected with him has had their voting rights taken away.

Q261 **Chris Bryant:** Glencore is now the third-largest shareholder.

Lord Barker: The second-largest—no, the third-largest. Correct.

Q262 **Chris Bryant:** I am getting to know this as well as you. Who controls those shares?

Lord Barker: Glencore.

Q263 **Chris Bryant:** Who represents Glencore?

Lord Barker: The board of Glencore.

Q264 **Chair:** Who represents them on the board of En+?

Lord Barker: They do not have a representative on the board of En+.

Q265 **Chris Bryant:** So what is the total share of board votes held by Deripaska, VTB and Glencore combined?

Lord Barker: VTB has 7.3%, Glencore has 10% and Deripaska can vote 35%.

Q266 **Chris Bryant:** So more than half.

Lord Barker: But Glencore is a publicly listed company which acts only and exclusively, as anyone will tell you, rapaciously in its own self-interest.

Q267 **Chris Bryant:** Have you met the chief executive of VTB?

Lord Barker: The chief executive? Yes, I have.

Q268 **Chris Bryant:** What is his name?

Lord Barker: Yuri— I will have to check his second name. I think it's Yuri Soloviev.

Q269 **Chris Bryant:** And you have presumably discussed the whole process with him.

Lord Barker: Yes; this is a very important investment for VTB, which is also a public company and is quoted. The state is a major shareholder in VTB, but they have to publish very transparent accounts and have to account to their shareholders for their investment decisions.

Q270 **Chris Bryant:** What shareholding does the Russian state have in VTB?

Lord Barker: I believe it is a majority. I do not know—I am not an expert in VTB.

Q271 **Chris Bryant:** So you could say that the Russian state has control of VTB?

Lord Barker: Not operational control, I believe, no.



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Q272 **Mr Seely:** The Russian Government own 60.9% through the Federal Agency for State Property Management, so they effectively own VTB.

Lord Barker: I am not here to— I cannot speak to VTB, I'm afraid.

William McGlone: Please remember that all of this information was provided in great detail to OFAC, as I am sure you understand.

Q273 **Chris Bryant:** I thought that the CEO was Andrey Kostin.

Lord Barker: He is the chairman.

Q274 **Chris Bryant:** Ah, right. Sorry. But he is sanctioned as well, isn't he?

Lord Barker: He is.

Q275 **Chris Bryant:** Does that not concern you? That when you add it up, it gets to more than 50% of people who are—

Lord Barker: It doesn't add up to more than 50%. Glencore are not in any way, shape or part a concert party with VTB. I would be very careful about suggesting that.

Q276 **Chris Bryant:** But when you get to 40% of the company, it is normally reckoned that it is pretty difficult for anybody else to have control of the company.

Lord Barker: But VTB are not in concert with Mr Deripaska. There is rapaciously a commercial arrangement between them. Were you aware that VTB was suing Mr Deripaska's holding company for over \$100 million in the London High Court in December? This is not a love-in. I can tell you that the commercial relationship and the difficulty of that commercial relationship was one of the significant issues that caused me concern during negotiation—right the way through the period—that I may not be able to land this. So the idea that there is somehow a cosy relationship between VTB, as the professionals who were involved in the negotiation process will attest, is, I'm afraid, completely unfounded.

Q277 **Chris Bryant:** But what I don't quite understand is why it seems sane, sensible or morally justifiable just to swap a chunk of shares from one sanctioned individual to another sanctioned individual and that is all fine and dandy.

Lord Barker: Firstly, as I explained at the beginning of the process, Mr Bryant, VTB are not sanctioned in the same way. They are subject to sectoral sanctions, along with the rest of the Russian finance sector. They have an office in London. They freely trade. They trade in the US. It is quite different. You may have views that they should be sanctioned, but they are not.

Q278 **Chris Bryant:** My views are neither here nor there—I know.

William McGlone: And there were pre-sanctions—indeed, pre-IPO obligations—that gave VTB rights to the shares upon default.



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Lord Barker: These were the pieces of the puzzle that I had to deal with. In an ideal world, the whole thing would be owned by Fidelity and BlackRock. That would have made my life a lot easier. But it wasn't. I had to deal with the pieces of the puzzle as I found them on the table. This was the very best that I could construct that basically ensured that control of the company was removed from Mr Deripaska in a way that is quite unprecedented. We established an independent board with eight terrific independent directors. If you look at the calibre of the independent directors on the board, they are excellent.

Q279 **Chair:** This is where your understanding of Russian business practice, which you mentioned earlier, was extremely useful to you. Would you say that?

Lord Barker: Yes. I think business practice and culture and having the patience to keep going.

Q280 **Chair:** But your understanding of Russia from the '90s, and what I would see as a rather deep understanding over 20 years—would you agree that that is quite helpful?

Lord Barker: It certainly helped keep me going, because I think a lot of people would have thrown up their hands and walked away, so I understood the psyche to a degree.

Q281 **Chair:** So your deep understanding of Russia allowed you to deal with the complexity of this situation.

Lord Barker: I think saying that I had a deep understanding of Russia would be an overstatement.

Q282 **Chair:** All right—of Russian business practice, as you put it.

Lord Barker: Yes. A familiarity, yes.

Q283 **Chris Bryant:** Just to be clear, Mercury had a success fee. The lawyers didn't get one, which was rough on the lawyers. Mr Deripaska had a success fee, because in the end, his net worth rose dramatically on the lifting of sanctions.

William McGlone: Please remember he remains sanctioned, and that is very important for the Treasury Department. That was the only reason they were able to go this far.

Lord Barker: Mr Deripaska's net worth since being sanctioned has fallen dramatically. There has been no debt forgiveness. He now finds himself, instead of owning in excess of 70% of the company, owning less than 44%. The share price has still not recovered from its pre-sanctioned share price.

Q284 **Chair:** But it recovered since your arrangements.

Chris Bryant: That is the point I am making.

Lord Barker: Yes, but we are significantly below the IPO price, and significantly below the price that we were when we were sanctioned, still.



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Mr Deripaska had to crystallise a very substantial loss that ran to billions of dollars. Billions of dollars. That is the difference, I think, if you are looking at sanctions policy with other patterns of sanctioned companies. Traditionally, sanctions have just been a case of block and parry—you can't come into US markets; you can't take advantage of US financing; stay out of our market, hunker down, take the consequences; but when they are dropped, you are just going to spring back and you will be in exactly the same position. Mr Deripaska is never going to own 70% of the business again, unless he manages to find billions of pounds in order to buy it back.

The governance arrangements that we put in place are unprecedented, so it is quite wrong, I am afraid, to say that he financially benefited. It was a very tough negotiation. It got there only by a series of extended processes. If I had put to Deripaska on day one the deal—or the plan—that we ended up with, I am absolutely certain that he would have said, "No way."

Q285 Chris Bryant: What did you put to him on day one?

Lord Barker: I put a general outline—because I didn't know where we would end up—that he would have to give up majority control. On day one, he was probably thinking 49.9%, because that is the only definition, formally, that OFAC has given. That is the definition, the bar, that has been set for other companies that have been removed from sanctions.

What we ended up agreeing with the US Treasury went way beyond anything like that, or anything that has gone previously, and sets quite a new precedent in the severity imposed. Quite frankly, I am still amazed that Mr Deripaska accepted these terms. I think that the reason that he did so was that it was such a long process and that it was not just about him, but about the 100,000 people who work for the business. It is about livelihoods right the way across—

Chair: Thank you. Bob, you wanted to come in.

Q286 Mr Seely: Just a couple of points. I have no doubt that what you say is legally accurate, and in terms of giving precise answers you are completely accurate, but at the same time I find it a bit frustrating because they seem to miss the bigger picture. You are assuming that there is a great deal of difference between a company that is sanctioned and a sectoral sanction—that is still sanctioned in some form. You say that there is a difference of day and night in EN+'s structure; Mr Deripaska does not own almost all of it, like he used to, but he is still by some way the most significant player in the organisation, however you frame the argument. Do you understand why your very skilled technical work on effectively reverse engineering him out of a company, to make that company legal, is lost on a lot of people who still see a sanctioned individual effectively, indirectly, continuing to have a very significant influence? Moreover, in 10 or five years' time, when another massive influence operation probably gets Mr Deripaska removed from sanctions, you will no doubt re-reverse a takeover by him of his old company in a few



years' time.

William McGlone: Mr Seely, as someone who has been practising in the area of sanctions law for 30-plus years, with a focus on compliance and enforcement, I can tell you that the Office of Foreign Assets Control is careful, aggressive, rigorous and policy-driven here. It rightfully views this as a policy win for US sanctions policy, because what it has been able to do is to wrest control of this group of companies that play an important role in the international marketplace away from the true target of the sanctions. It has done that with a level of transparency, rigour and ongoing compliance, including auditing and certification, that goes way beyond anything that it accomplished previously. It views that as giving it leverage over those companies, which it certainly has going forward. There are policing mechanisms and continuing oversight, focusing on every single element, every detail, that we have discussed today, under OFAC's watchful eyes and very aggressive scrutiny.

Q287 Mr Seely: Based on that, would you assume and argue that Western sanctions policy towards the Russian Federation Government continues to be a success, or do you think that it has become flawed, because people are working up creative ways around it? That is a pejorative remark, I understand, but what is your answer?

William McGlone: I cannot speak for sanctions policy as a whole, but I can tell you that this case study is a model for the future, for companies to figure out ways to eliminate the control that true targets of sanctions might have if they are controlling shareholders. OFAC will likely use this as a blueprint going forward, in both the designation and the removal of sanctions.

Q288 Mr Seely: Lord Barker, may I ask you the same question? Do you think that after this experience with Mr Deripaska and EN+, Western sanctions towards the Russian Federation Government continue to be, or could be described as being, successful, or do you think that there is some truth in what critics argue, which is that we can, with enough skill, effort and lobbying, work oligarchs—certainly their companies—out of being the targets of sanctions?

Lord Barker: I think that is true—there are critics and people who take a very hawkish line on Russia who will never be satisfied, whatever we do. They will always be sceptical and never pleased. That is a significant body of opinion. However, I like to think that the middle ground here—the likes of the policy experts who do this day in, day out, such as Daniel Fried, Brian O'Toole, Samantha Sultoon, who have put together the sanctions architecture under which sanctions were imposed, and who support this move—see this as a model. We have responded. I know you said that I was acting in the national interest, but that is not the case. My role and fiduciary responsibility is to find a way through this for the minority shareholders, and that is what I have sought to do. I have a moral responsibility for the stakeholders across the business. That is what I have sought to do. I think what we have done goes way beyond anything before, in terms of the scrutiny that will now follow—people are certainly



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sceptical, which I totally understand—and the measures that we have put in place.

This is not some hidden business that only operates behind the curtain in Russia; it is a very international business with very complex banking arrangements. It has already been through a very complex financial workout, post financial crisis, in the earlier part of the 2000s. It has been crawled all over. The cash flows are extremely transparent, and it is rigorously audited. Yes, Mr Deripaska still retains some influence because he has four directors on the board and still remains the largest single shareholder, but compared to being basically an oligarch-owned business, we are at 70%—nine of the 12 on the board. The auditing and certification that will now follow—as long as he is sanctioned—is miles away from what it was before, and by no means could be seen as a win for him personally. It certainly can be seen as a win for minority shareholders and the stakeholders, and, I think, as a successful outcome for rules-based policy.

Q289 **Mr Seely:** Okay; you argue as convincingly as ever, and no doubt you have made your case to the technocrats. You did so with a massive lobbying of the Russians in the United States—

Lord Barker: Can I just be clear about that? The lobbyists never met with OFAC. As far as I am aware, they did not meet with other Treasury officials. I never had any meetings with the Administration. I don't know where you get your information from, Mr Seely. I think you are basing it on an article in the *New York Times*, which has been extremely sensationalist—

Q290 **Mr Seely:** I would not call the *New York Times* sensationalist. I'm actually looking at another article—please feel free to correct it, because this is the forum to do so. You employed a former senator called David Vitter. I'm sure you did not lobby directly or anything so vulgar, but he received 12 payments from you—either directly or indirectly via Mercury, I'm not quite sure which—for client meetings, which included "several meetings with State Department and Treasury Department officials," briefing them on your situation. According to this, lobbying was done directly with officials. About 30 seconds ago, you said it did not take place. Over to you.

Lord Barker: You're quite right. At that initial meeting in the State Department, when I was simply trying to establish my credentials before there was any plan on the table. We could not lobby them for anything, because we did not actually have a plan or set of negotiations to lobby in favour of. Senator Vitter did represent me there, but once it was agreed that there were the bones of a transaction to be discussed and followed through—

William McGlone: And the bona fides had been established.

Lord Barker: And the bona fides had been established—exactly.

Q291 **Mr Seely:** Several meetings—plural. That's in his FARA return.

Lord Barker: Two, I believe.



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Q292 **Mr Seely:** More than one. I'm just reading the FARA return as we go along.

Lord Barker: Two took place.

Q293 **Mr Seely:** You said that you did not meet officials. I am saying "you", as in the collective. Your guys didn't, but now you are saying they did twice.

Lord Barker: Mercury were at the initial meetings. They played no role in the subsequent material negotiation. As I said in my earlier statement, my people bid at the book end. They helped me establish—in Washington in April and early May—that this was for real: there was an independent director that the State Department could deal with, but it clearly did not want to. In turn, the Treasury could actually deal with them. I would point out that the Treasury said in their public statement that I operated in a transparent and co-operative way. Once it was established that I was "a man that it could do business with", Mercury fell away completely and played no role in the legal process. That process then began and ran all the way through to the end of the year. That was entirely driven by legal counsel, who are specialists in this area, myself and the En+ legal team.

Q294 **Mr Seely:** Just on that point, reading this, you had former Senator Vitter who had eight client meetings on behalf of Mercury and yourselves. He was sending form letters to lots of ambassadors urging them to press further.

Lord Barker: Correct.

Q295 **Mr Seely:** And this was part of a lobbying campaign.

Lord Barker: We weren't lobbying.

Q296 **Mr Seely:** You weren't lobbying.

Lord Barker: No. As you know, and as I have stated already, we have operations right the way around the world. There was a lot of concern in each of those countries where we are major employers or major contributors to tax revenue. To give you an idea, in Jamaica, we are one of the biggest industrial employers and taxpayers. In Guinea, we are a major employer and one of the largest international contributors on the Ebola outbreak. We have just delivered a new laboratory to Guinea as part of our Ebola partnership. In Ireland, we own the largest alumina plant in Europe. It supplies half of the alumina required for the UK's only aluminium smelting business—alumina being the primary product. Those are just a few of the many countries who supported the effort I was making to remove Mr Deripaska from the company, or were concerned by the impact that the imposition of sanctions would have on the RUSAL and En+ group of companies.

I remind you that Mr Mnuchin, the Treasury Secretary, said early in the summer: "Our objective is not to put RUSAL out of business...The intent was to change the behaviour of the oligarch...We weren't looking to put sanctions on aluminium companies and I think we're in productive discussions with the company to resolve those issues." He said that the



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objective was to impact oligarchs, not to impact the hard-working people of RUSAL as a result of the sanctions. In October, he said: "The intent of sanctions is to affect behaviour. The sanctions were against the oligarch, they weren't against the companies. People should understand that sanctions are effective in impacting behaviour". A number of the countries wanted to know what we were doing. For example, they wanted to know whether they needed to support their own plan. Had we not been successful, it would have had dire consequences for those businesses.

Q297 Mr Seely: You argue that the Chinese or the Russian state might have nationalised the company.

Lord Barker: Those assets. Or others might have stepped in. I know that the Irish Government, for example, were extremely worried that there would be an impact. Fitch and CRU, the research company, estimated that had the threat of sanctions not been lifted on the group, it would have sent the global price of aluminium to around \$3,000. To put that in context, that would have cost Jaguar Land Rover an estimated £220 million extra in costs. There would have been a direct knock-on effect right the way down the supply chain to anyone in the manufacturing business using aluminium.

Q298 Mr Seely: When it comes to the sanctions programme, do you understand why— this sort of information about the meetings and former Senator Vitter's behaviour is not something you have given us voluntarily. He was working with you despite the fact that he was technically—

Lord Barker: I have given it to you voluntarily.

Q299 Mr Seely: Some of this information you haven't.

Lord Barker: Well, how have you got it if I have not given it to you?

Q300 Mr Seely: You just said there were no meetings, then you said there were two meetings with State Department officials. I am reading that there were eight meetings.

Lord Barker: I am happy to clarify. I am here voluntarily and I am happy to answer all your questions to the best of my ability. If I trip up occasionally, I apologise, but I am here willingly and voluntarily; let's be clear about that.

Mr Seely: At the third time of asking.

Q301 Ian Murray: You have touched on some of this, but you have said quite clearly that you go beyond OFAC's conditions for lifting the sanctions. What does that entail in detail?

Lord Barker: Sorry, we have not gone beyond OFAC's conditions for us. What we have gone beyond is the norm for lifting. Historically, certain companies have removed their oligarch ownership, or their ownership at issue, to just below 50% and that has been sufficient. Given the size, scale and impact of this business, it was obvious to me early on that we would have to go way beyond just what was legally required, or had been required by precedent, to come up with a package of measures that would



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stand scrutiny, because people would quite legitimately ask exactly the questions you are asking today, and would look at this very closely. It was clear to me that simply observing the letter of the law and going to 49.9% would not cut the mustard.

William McGlone: For example, the voting rights for Mr Deripaska are capped at 35% under the OFAC plan. That, I think, is unprecedented. Similarly, the voting trusts are held by independent US persons and an international law firm for voting any shares that could be questioned or viewed as potential back doors for Mr Deripaska. There is that insulation of the voting rights from the owners of those shares, which are held in independent third parties. This level of oversight and scrutiny will continue from OFAC for as long as Mr Deripaska remains sanctioned. Remember, he does not get a penny of dividends for as long he remains subject to sanctions. There is a requirement that the board minutes from En+ as well as RUSAL board meetings be submitted to OFAC after the fact. Monthly certifications of compliance will be required on both companies from senior management.

Q302 **Ian Murray:** Do you have an independent compliance committee?

Lord Barker: Yes, we have a compliance committee made up of independent directors.

Q303 **Ian Murray:** Who sits on that?

Lord Barker: I do, and it is chaired by Chris Burnham, who you may know. Mr Burnham was put in by George Bush II to go into the United Nations to clean up the oil for food scandal, which he did to huge credit, and was subsequently chief financial officer at the State Department.

Q304 **Ian Murray:** We all know how life in companies works in these instances. How do you stop sanctioned individuals influencing the company informally? All these formal processes are clear. You say you have gone beyond the sanctions regime. I would be interested to know, Mr McGlone, whether you think what you have done here should be the benchmark, rather than going beyond the law, but how do you stop the informal influence?

Lord Barker: By putting in place robust auditing and certification processes, which, again, are unprecedented. We are pushing the envelope with what is being done. With OFAC, we are putting in—

William McGlone: I can assure you all that OFAC is as tough on sanctions as anyone in this room, if not more so. They are mandating things going forward that I think are beyond what they have done previously because they understand—

Q305 **Chair:** That is a political opinion, which we may disagree with.

William McGlone: Okay; well, I defer to you on that, but I will say that there is a level of scrutiny and oversight that I have not seen in my years of practice with respect to this plan.



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Lord Barker: This is why this set of measures, which are unprecedented, was supported by not just the company and the presidential Administration but by the Governments of Germany, Italy, France and the European Union and, critically, by the British Government, without any contact from me.

Q306 **Chair:** We have views on that as well.

Lord Barker: Including Kim Darroch, who signed the letter—

Q307 **Chair:** Yes, we will be inviting him to explain himself on that matter.

Lord Barker: Who is the former National Security Adviser.

Chair: Well, he was responding to an EU request. He was not responding to a UK Government request, quite specifically.

Q308 **Ian Murray:** You will be aware that the leaders of four House of Representatives committees said they were unconvinced, or it was unclear, that Mr Deripaska had relinquished enough control over the group. Why would you disagree with that assessment?

Lord Barker: Sorry, who said that?

Ian Murray: The leaders of four House of Representatives committees said they were not convinced that Mr Deripaska had sufficiently relinquished control over the En+ Group.

Lord Barker: I would respectfully disagree with them. There has been some misunderstanding about the extent of the constraints. For example, not everybody grasped immediately that the ownership was not the limit of the constraints imposed on Mr Deripaska, but that actually his voting shares and those of his associates and former family members were significantly below. There has been some misunderstanding, but OFAC has very happily made further information available and we will continue to be scrutinised. We welcome that scrutiny.

Q309 **Ian Murray:** Obviously, Mr Deripaska is still the largest minority shareholder and largest minority voter. What is his journey? Is he looking to increase his shareholding sometime in the future? Would he like to sell? Would he like to dilute? Would he like to disappear?

Lord Barker: All I can tell you is that he has signed a legal undertaking not to increase his shareholding, directly or indirectly. However, what his plans are I could not tell you; you would have to ask him.

Q310 **Ian Murray:** But you have been given no indication, as the head of this company—

Lord Barker: That is a shareholder matter for him, and it is a matter for our other shareholders what they do going forward.

William McGlone: As Lord Barker mentioned, there is a formal undertaking—a legally enforceable commitment from him not to increase his shareholding. If that were to occur, OFAC would not accept it, obviously. They have made it very clear that any change in terms or



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breach of the terms set forth in the agreement under the terms of removal would be a basis for redesignation of the companies.

Q311 **Ann Clwyd:** Have you read our “Moscow’s Gold” report?

Lord Barker: Yes, I have.

Q312 **Ann Clwyd:** Did you agree with the conclusions?

Lord Barker: Yes, I did. It is not for me to criticise, but I was primarily concerned with the references to En+. I was surprised, for example, that in relation to the issue of RUSAL, it mentions our website but there is no citation in the footnotes that references it. I asked our IT people to do a search, but as I said before, we could not find any evidence of the suggestion, which I think came from a research fellow at Harvard.

I was also surprised that the Committee appeared to rely on a disputed article in one newspaper that itself relied on unnamed sources to make suggestions as to what the security services may or may not have thought. That was particularly surprising because I have had that discussion with the British ambassador in Moscow, and he certainly was not aware that the security services raised any concerns—

Q313 **Chair:** You mean he didn’t mention to you that he was aware.

Lord Barker: I asked him. We discussed this very issue, and he said—

Q314 **Chair:** You are saying that a man intimately involved with Russian security and intelligence matters in Moscow did not discuss with a businessman linked to an oligarch close to the Putin regime whether or not the UK had security interests in that.

Lord Barker: I’m sure they have security interests—absolutely. I asked him the very direct question, “Do you have concerns? Are the concerns that were reported in the *Telegraph* correct?”

Q315 **Chair:** Forgive me, but you can see why I am slightly hesitant. I am not saying that you are being dishonest—I am sure that you are being absolutely honest—but as you will know from your time as a Minister, the ambassador will obviously be part of the security and intelligence structure of the UK state, in this case in Moscow.

Lord Barker: Absolutely, but if he had concerns I would expect him to say so. I am not asking him to share intelligence with me, but if he had concerns, I would expect him to say so, as opposed to saying how much he respected my professional colleagues En+ and RUSAL; how pleased he was to have had them at the embassy on a number of occasions; how he had been particularly impressed with the young people who are involved in the company, who are extraordinary; and how he thought that it is in the long-term interest of this country, as the Prime Minister has said, to maintain contact and a trade relationship between the two countries. There is still a very strong trade relationship.

Q316 **Chair:** Did you have a meeting with the British ambassador in Washington as well?



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Lord Barker: No, I have never met him.

Q317 **Chair:** Just the ambassador in Moscow?

Lord Barker: I have had one meeting with the British ambassador in Moscow, yes.

Q318 **Chair:** When was that?

Lord Barker: That would have been last summer. I would have to check the exact date.

Chair: Sometime in summer 2018?

Lord Barker: Yes. As I said, I was concerned by that report in the *Telegraph*, and I would have thought that the Foreign Affairs Select Committee would have called the ambassador, the head of MI6 or whoever to give a public comment on those suggestions.

Q319 **Chair:** We pick our evidence from—

Lord Barker: From the newspapers, it seems.

Chair: And we back it up from other private conversations that may not be recorded.

Lord Barker: If I could just say this: the British ambassador did not just say that they did not have those concerns. He said, moreover, that the British embassy, through UKTI or whatever it is called these days, had been very clear that they would be welcome in Moscow, and that before we even began the process of listing in London, there had been discussions at the British embassy to establish whether or not we would be welcome in London.

Q320 **Chris Bryant:** How do you know that?

Lord Barker: Because they told me.

Q321 **Chris Bryant:** But you were not involved in the marketing or preparation.

Lord Barker: No, I wasn't, but I did ask the question.

Chris Bryant: Oh, I see.

Lord Barker: When the story appeared in the press I asked the question, "Is this true?" I asked the British ambassador: were there concerns raised, or should I be aware of concerns, and it was—

Q322 **Chris Bryant:** So you wrote to the British ambassador in Moscow and asked for a meeting.

Lord Barker: No, I can't remember how—I think it was indicated through the chamber of commerce that he would be very pleased to see me, and I arranged a meeting with him.

Q323 **Chris Bryant:** There, or here?

Lord Barker: In Moscow.



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Q324 **Mr Seely:** So they approached you.

Lord Barker: No, they didn't approach me; I must have approached them, to pick up— make the meeting.

Q325 **Mr Seely:** You make it sound like you are a passive—

Lord Barker: As a British national who chairs a major business that is just listed in London, I should have probably seen him earlier.

Mr Seely: But you are making it passive—that they approached you: but you approached them.

Lord Barker: Sorry—say that again?

Q326 **Mr Seely:** The way you first phrased your answer, about a minute ago, was in the passive, as if you were being approached, and you felt the need to go and talk to them; but in fact it was you pitching to them, to say "I want to have a meeting with you."

Lord Barker: I didn't pitch to assay to have a meeting; I asked to have a meeting.

Q327 **Mr Seely:** Okay; that is semantics. You asked to have a meeting.

Lord Barker: Yes.

Q328 **Ann Clwyd:** Is it possible to do business at the highest levels in Russia without being intertwined with the state?

Lord Barker: Well, it depends what you mean. Certainly if you look at some of Britain's biggest companies, and you look at some of America's biggest companies, they do a great deal of business in Russia. So BP, one of our biggest—if not the biggest—industrial companies: Russia, I think, is the largest single part of their revenue stream and they are a very important player in the Russian economy and continue to be so. If you look at the US companies like Microsoft, Coca-Cola, Apple, Unilever, Colgate-Palmolive, there are major investments in Russia and it continues to be a growth market for western businesses, so I am aware of the difficulties of doing business, but certainly I think it has improved a great deal since I was there in the 1990s; and if you look at the OECD ease of doing business list, Russia has improved significantly on the position it occupied 10 years ago.

William McGlone: Indeed, Lord Barker, if I may, I think that point goes to the sanctions policy points we were discussing earlier. Under at least the US sanctions policy, which is really all I am equipped to speak to, the goal has been to impose targeted sanctions on individuals, companies and activities in Russia, but not to penalise the economy as a whole or to preclude even US firms and persons from doing business there. I think for that reason this rules-based policy making, with an emphasis on the technical merits of matters like this, will continue to drive at least US sanctions policy towards Russia, with the goal of allowing US businesses to stay integrated in that economy.



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Q329 **Ann Clwyd:** Mr Deripaska is on the record in 2007 saying that he does not separate himself from the Russian state. Since you work closely together, can you—

Lord Barker: I don't work closely with Mr Deripaska. As I have said, I have spent the last nine months separating not just myself but the business from Mr Deripaska and we now have a very separate way of working. I have not actually seen him since sanctions were lifted. In fact, I have not seen him for several months, so I think that would not be regarded as working closely with him.

Q330 **Chris Bryant:** When did you last see him?

Lord Barker: It must have been in the very final, fraught stages before the final agreement. There was a lot of—

Q331 **Chris Bryant:** You have not spoken to him since the lifting, at all?

Lord Barker: No.

Q332 **Chris Bryant:** Or corresponded in any shape or form?

Lord Barker: No.

Q333 **Mr Seely:** I think the focus is not necessarily on when was the last time you spoke to Mr Deripaska. The point was the statement from Mr Deripaska that he does not separate himself from the Russian state. Now, you have partially divested him of En+ shares in order to save—however you want to phrase this—the interests of En+, but the man is still very closely tied to the Russian state. Do you accept that part of the question?

Lord Barker: It's certainly true; I'm aware of the statement that he made.

Q334 **Mr Seely:** Going on from that, the reason why individuals like Mr Deripaska are sanctioned is that the Russian state does business through its oligarchs. Do you accept that as well?

Lord Barker: I totally accept that the reason why Mr Deripaska is sanctioned is that he is deemed to be close to the Kremlin. That makes eminent sense as the rationale for his sanctioning. I don't accept the second part of your question. The amount of business that we do with the Russian Government is extremely limited. We are a global player. We are in 14 countries as a manufacturer or processor. We sell into many more. We are a critical part of the global supply chain. That is why sanctions would have been so catastrophic for this business—because we are not embedded in Russia. It is a great Russian company; it has tremendous assets, but we are global, and increasingly so.

Q335 **Mr Seely:** I will just ask a question on Mercury, if I may, and the fact that that was associated with Mr Manafort, who has been tied with supporting the Russian Government, the aims of the Russian state, and various Russian oligarchs, as well as working and, if I understand it correctly, money laundering—or certainly doing questionable things with finance—with the former Ukrainian leader Mr Yanukovich. It is pure coincidence



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that you ended up hiring Mercury.

Lord Barker: It is. I'll be really honest with you: if I had been fully aware of all that history—I've never met Mr Manafort or these other people you mention—I might have tried harder to find somebody who— because of the obvious confusion. But as I said, at the time that I needed public affairs representation in Washington, there was a major panic in the company and I was literally going from day to day, trying to bring in the support that was needed. I got a recommendation for Latham & Watkins, which turned out to be fantastic. Mercury actually did a very professional job for us. The people I have worked with have been, and continue to be, extremely professional. But I can't dispute the background that you alluded to.

Q336 **Mr Seely:** Excuse me if you answered this before. You went to Mercury because they had a good reputation or because they had a reputation for getting things done?

Lord Barker: I went to Mercury because I knew one of the partners socially in London and I had his telephone number and could call him.

Q337 **Ann Clwyd:** Has En+ ever taken an important business stance that has been against the advice of the Putin regime or has been in contradiction to the Putin regime? Can you think of one?

Lord Barker: I can't really think what that might be. As I said, we don't supply the Russian defence sector.

Chair: Any more.

Lord Barker: Any more. I'm not aware of— you know, our business keeps out of politics. As I say, we are an internationally facing business.

Q338 **Chair:** Forgive me, but you have just described multiple encounters with US regulators, UK regulators and, I presume, others in the European Union as well.

Lord Barker: No, actually.

Chair: Okay. And legislators. It's just—

Lord Barker: That's not part of our business; that's a result of a very specific, extraordinary set of circumstances, which I hope won't be repeated in the ordinary course of things. Where we do have an interest, and where we perhaps do lead—this is not against Putin, but it's certainly trying to lead policy—is on climate change. This is why I think it is such an extraordinary company.

We would be a campaigner for a global tax on carbon. We would certainly be the most progressive company in Russia—ahead of Government thinking, I would think, in our approach to decarbonisation. When I was a Minister, Russia historically was one of the drag anchors on progress, but they have actually come forward, and without their support, we would not have had a treaty in Paris. So we would certainly be encouraging



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progressive action on climate change matters that would have been unthinkable in Russia perhaps even 10 years ago.

We were the first Russian company to sign up to the UNDP climate action programme. We continue to be at the most progressive end of our sector, which we are the largest participant in. Where we can have an influence, and where we are certainly ahead of the Government—although I would not say that we are in conflict with them—is on the progressive stance that we take. We recognise that the Russian economy has to take a number of steps to decarbonise, and we can play an active role in helping and making that happen, and investing in making that happen. It will not happen by itself.

Q339 **Ann Clwyd:** Have you ever met Putin.

Lord Barker: No, I haven't.

Q340 **Ann Clwyd:** Is he someone that you could do business with?

Lord Barker: I have never met him.

Q341 **Chair:** You did know Mr Berezovsky years ago.

Lord Barker: I met Mr Berezovsky, yes.

Q342 **Chair:** Did you know him at all well?

Lord Barker: Not well, no.

Q343 **Chair:** You met him a few times.

Lord Barker: I met him a few times. I was involved in a particular project with Mr Berezovsky to free some British hostages in Chechnya. It was quite beyond my normal day job. They subsequently fell out, which is a matter of public record, but at that time, Mr Berezovsky was a business associate of the person I ultimately worked for—

Chair: Abramovich.

Lord Barker: Abramovich, yes. We could probably have another session on this, but at the time Mr Berezovsky was appointed executive secretary of the Commonwealth of Independent States, I was asked if I had any ideas, pro bono, because I was from the West, about what he could do to make something out of this new job. My suggestion was that if he wanted to show that he was intent on making friends with the West, which was the intent at that time, actions speak louder than words, and there were two hostages held in Chechnya, which at the time was a very dangerous part of the world—

Chair: It still is.

Lord Barker: It still is, yes. I suggested that he could use his office to try to extract the hostages, and he did.

Q344 **Chair:** So you knew him a little bit, then?



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Lord Barker: That was very exciting. My experience of him then was broadly positive, not least because we were able to get these hostages out of Chechnya. Interestingly, after that, I was given a very good piece of advice by a correspondent of a big national newspaper in Moscow—at that time we were part of a small expatriate community—which was that, going forward, I should be very careful of Berezovsky. I steered clear of him after that.

Q345 **Chair:** And you didn't get the same advice about Abramovich or Deripaska?

Lord Barker: No.

Q346 **Chair:** That's interesting. Did you know Mr Berezovsky's factotum in London, Scot Young?

Lord Barker: No.

Q347 **Chair:** You never met him?

Lord Barker: No.

Q348 **Chair:** Do you know who he is?

Lord Barker: No.

Q349 **Chair:** The gentleman who committed suicide in rather suspicious circumstances in 2014?

Lord Barker: No.

Q350 **Chair:** You are not frightened of Mr Deripaska?

Lord Barker: Am I frightened? No. Why would I be?

Chair: Quite a lot of people seem to be, for various reasons, perhaps wrongly.

Q351 **Chris Bryant:** One final thing. You announced today that you sought leave of absence from the House of Lords.

Lord Barker: Correct.

Q352 **Chris Bryant:** As I understand it, that means that you are no longer bound by the code of the House of Lords?

Lord Barker: Strictly speaking, I suppose that that would be correct. However, I certainly intend to honour the code. If you are asking whether I—

Q353 **Chris Bryant:** I just wonder why you are doing it.

Lord Barker: Because I have taken the role of executive chairman now, which will necessarily involve a great deal of international travel. For example, next week I am back in the States. The following week I am in Moscow. The week following that I have an overseas board meeting. In April, I have three weeks on a roadshow. It would be a discourtesy to the House. I think they are trying to discourage people who are unable to vote



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on a regular basis from attending, because the House is overly full. It is right, given my position, to take a leave of absence. I hope to come back at some point, but so long as I am doing this full-on role, I cannot, in good faith, commit.

Q354 **Chair:** It is interesting, because your career was bookmarked, in the late 1990s, by Abramovich and Sibneft. You were working in Moscow then, of course. You came to the Commons and became an energy Minister, and then went into one of the largest energy and aluminium companies in the world, again with friends of Mr Abramovich, and now Deripaska.

Lord Barker: I'm not sure they are friends at the moment. We'll see.

Chair: Lord Barker, Mr McGlone, thank you very much for coming. Sorry, Bob, did you want to finish off something?

Q355 **Mr Seely:** If I may, you have obviously been very eloquent, and you know your stuff—as do you, sir. You make the case that this is a rational argument in the international interest and the interest of your shareholders. That is well put. Do you understand that others will see it as an example of the power of money and lobbying in the United States and, to a lesser extent, here?

Lord Barker: Well, that's your view.

Q356 **Mr Seely:** I'm playing devil's advocate. I'm asking for your opinion.

Lord Barker: Sure, sure. I understand that people hold that view. I think it is misinformed. A close inspection of the facts would prove otherwise. However, the important point is that it is not enough just to secure these sweeping changes; we have now got to abide by them and ensure that there is ongoing compliance that is rigorously enforced. I don't underestimate how challenging that is going to be. That is the big challenge for me.

I don't accept the criticism of what we have achieved to date. It is perfectly right that it should be scrutinised, but there are a lot of facts to understand. I would be very happy to write to the Committee if there are any elements of the evidence that I have given today that were slightly garbled, and if you want a proper explanation or some more technical detail. I would also like, to give you some context, to give you the letter I have had from one of our largest UK shareholders, expressing their thanks on behalf of their policy holders.

Chair: I'm sure you are perfectly capable of recording your own successes.

Q357 **Mr Seely:** Finally, do you understand the concerns of individuals, some of which I share myself—

Lord Barker: You have a very principled and long-standing position. It is well known.

Q358 **Mr Seely:** Sir, you don't know the question. Let me put the question. Do you understand the concerns of individuals and newspapers about you and



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your work, indirectly or otherwise, for a sanctioned individual who has talked about his indivisibility from, or his closeness to, the Russian state, while you are a parliamentarian in this House, even if you are taking a leave of absence? Do you see that potential conflict of interest?

Lord Barker: I don't, because I simply don't recognise your characterisation. My fiduciary responsibility, as independent chairman, when I was appointed to the IPO, was not to represent the interests of Mr Deripaska. I refer you to the UK corporate governance code. There is a copy here, which I am very happy to leave with you. It makes it very clear that my obligation is to the minority shareholders. It is that obligation that put me in confrontation with Mr Deripaska. It meant that I stayed and negotiated very hard against him. We had months and months that were very fraught and very difficult, without any guarantee at the end that there would be a successful outcome. The idea that I was working for him is just not a correct reading of the UK governance code.

William McGlone: I will just elaborate on that point, if I may. It was precisely Lord Barker's role as independent chairman that gave OFAC comfort, gave him credibility, and gave our firm comfort and credibility with the entire engagement. No one here at this table has ever been representing Mr Deripaska before OFAC. It is the interests of the minority shareholders in those companies, according to the OFAC process and the rules-based approach. If I overspoke earlier and suggested that OFAC is more hawkish than anyone on this Committee, forgive me, but that is only because I have the battle scars from having dealt with them over the years, including on this matter. They are very tough.

Q359 **Chair:** Okay. Just as a quick follow-up, is Evgeny Fokin still working with you?

Lord Barker: Yes, he is.

Q360 **Chair:** He was a former intelligence director, wasn't he? He was a former first directorate—

Lord Barker: That has been alleged. Mr Fokin denies that. He continues to have an open visa for the UK and for the USA. He continues to be welcome at the UK embassy and the US embassy.

Q361 **Chair:** Very good. Well, there we go. We are entertaining colleagues. Are you aware that Mr Deripaska has since hired Valery Pechenkin?

Lord Barker: I don't know who Mr Deripaska has hired, but the En+ Group hasn't hired him.

Chair: Okay. Thank you very much indeed for coming. We are extremely grateful, and we look forward to hearing a few follow-ups that we will send to you.

Lord Barker: Absolutely. Thank you very much.

ⁱ The witnesses requested that the following materials be attached to this transcript:



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1. [OFAC Congressional Notification Letter](#) – December 19, 2018
 2. [OFAC De-Listing Press Release](#) – January 27, 2019
 3. [Forbes piece](#) – February 7, 2019
 4. [Atlantic Council piece](#) – January 11, 2019
 5. [Letter of Support](#) from the Ambassadors of Austria, France, Germany, Ireland, Italy, Sweden, the United Kingdom and the European Union – January 4, 2019