

Foreign Affairs Committee

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

Tuesday 14 May 2019

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[Watch the meeting](#)

Members present: Tom Tugendhat (Chair); Chris Bryant; Ann Clwyd; Mr Bob Seely; Royston Smith; Catherine West.

Questions 401-529

Witnesses

I: Rt Hon. Sir Alan Duncan MP, Minister of State, Foreign and Commonwealth Office, and Qudsi Rasheed, Head of the Sanctions Unit and UK's Sanctions Envoy, FCO.

Written evidence from witnesses:

[Foreign and Commonwealth Office](#)

Examination of witnesses

Witnesses: Rt Hon. Sir Alan Duncan MP and Qudsi Rasheed.

Chair: Welcome to this afternoon's session of the Foreign Affairs Committee. Thank you very much for joining us, Minister and Mr Rasheed. Our session will focus on sanctions policy, which I know is why you are here, Mr Rasheed, but I would be grateful if you allowed the Minister to answer as much as possible on political matters. Obviously if there is a technical thing, that is perfectly understandable.

Sir Alan Duncan: I will do my best, certainly.

Q401 **Chair:** I will start with a very open question, but as we are all on a tight timeline, please try to keep your answers pretty closed. What is the goal of UK sanctions policy?

Sir Alan Duncan: There are two aspects to this. One is to make sure that we have our own policy regime once we have left the EU. An essential part of the policy is the structure of sanctions. The other is about the efficacy, as we would wish to see it, of sanctions. It is to promote our wider foreign policy objectives and values across the world, bear down on those who we think offend those values in a number of ways across the world, and work in concert with our partners and allies wherever we can, as we have done within the current structure of the EU and UN.

Q402 **Chair:** So sanctions are not just a way of signalling disapproval; they actually have a purpose.

Sir Alan Duncan: Absolutely. The purpose is to deter, change behaviour and restrict the actions of people we believe should be the focus of sanctions. This has led to the designation of individuals and entities, and things like that. They are designed to change unacceptable behaviour by coercing or constraining a target's ability to carry out such behaviour.

Q403 **Chair:** How do you prioritise among those aims?

Sir Alan Duncan: As so often with a question like that, it is never a formulaic process; it is very much case by case. As your entire Committee knows, foreign policy and foreign affairs have lots of different issues, people, pressures and circumstances. Of course, to get sanctions at the moment you need collective action, so the first prerequisite is that other countries agree to act in concert with you. On that, I would say we have been very influential in initiating and shaping a lot of sanctions regimes; our diplomatic network and knowledge is extensive, as is the significance of the City of London in tracing or indeed handling assets and things like that. I think they are effective, yes.

Q404 **Chris Bryant:** Have you laid all the SIs now for the rollover of EU sanctions regimes? Is that process complete?

Sir Alan Duncan: Immediately after this Committee I am doing another one, on Russia.



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Chris Bryant: I will be there.

Sir Alan Duncan: I have little doubt.

Q405 **Chris Bryant:** My question is: is that the last of them? Is that them all done?

Sir Alan Duncan: Is that the last one?

Qudsi Rasheed: Those are the last of the ones we are planning to do before EU exit. We have about another 15 still to come for which we had intended, had we left the EU in March, to rely on EU retained law, but because we now have some more time, we are rolling out the remainder of those in due course.

Q406 **Chris Bryant:** The Russian one, which is primarily in relation to Ukraine and the Crimea, which we will be debating in Committee at 5 pm, was only laid after 29 March, yet it is one of the most significant and important ones. Why was it so late?

Qudsi Rasheed: The reason we had it is that we were ready to lay it in advance of 29 March, but because we knew a few days earlier that 29 March was not going to be exit day and that we had the two-week extension, we were ready to do it for 12 April. That is why we laid it in advance of the 12 April deadline.

Q407 **Chris Bryant:** I do not understand why you would delay. Why bother delaying?

Qudsi Rasheed: These SIs are obviously contingent on a no-deal scenario, so if we know there is not going to be no deal, then we do not need to rely on these pieces of legislation.

Q408 **Chris Bryant:** Right. Are there any EU sanctions regimes that you have decided not to roll forward?

Qudsi Rasheed: No. We are intending to carry over all regimes.

Q409 **Chris Bryant:** And this is definitely the last one?

Qudsi Rasheed: No, as I said, there are—

Q410 **Chris Bryant:** So there are 15 more; where are they?

Qudsi Rasheed: They are on their way. We are still working on them. They are ones that were not likely to change, so they are quite static. As a result, we were comfortable relying on retained EU law under the European Union (Withdrawal) Act 2018, rather than needing free-standing secondary legislation at this stage.

Q411 **Chris Bryant:** I do not quite understand why it has all been so late. These have been around for more than two years in some cases. I don't know why we could not have done them 18 months ago.

Sir Alan Duncan: Because we didn't have the Act.



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Qudsi Rasheed: The Act came in in May¹, so we could not do anything before May, and it has been a considerable amount of work. Our intention was to try to do them by exit day; it was pretty clear quite early on that we could not. If you look at the Russia piece of legislation for later today, it is 100 pages and probably four or five months'-worth of work just on that one piece of legislation.

Sir Alan Duncan: But the timing of these being laid makes no difference to their enforcement or applicability. It is simply a matter of parliamentary timetabling. It is not as though they have been hanging around, unapplied and unimplemented.

Q412 **Chair:** Just for some precision on that, had we left with no deal at the end of March or in April, this would have been introduced beforehand, and therefore it would have made no difference.

Qudsi Rasheed: On the Russian one, yes.

Sir Alan Duncan: Yes, exactly. There would have been absolute continuity on the Russian ones. Those that Mr Rasheed has explained might not have been brought forward as SIs would have remained extant by virtue of retained laws. Is that in implementation?

Qudsi Rasheed: No, that is if there was no deal. Essentially there would be no gap; we had designed the legislative framework so that half the legislation was free-standing UK statutory instruments, and the remaining half, which were lower priority, were relying on EU retained law under the withdrawal Act.

Q413 **Chair:** For absolute clarity, with or without a deal, had we left in March or April, there would have been no gap in our sanctions policy.

Qudsi Rasheed: Yes.

Q414 **Chris Bryant:** And the sanctions policy in all those regards is exactly the same; it is not changed or varied by virtue of departure.

Sir Alan Duncan: Am I right to say—Qudsi can answer this—that there may be one or two cases where some amendments would be needed, in the event that a threshold of evidence under our legislation needed to be met, and we felt that some of it fell short? The only answer that I have been given on this was a pretty ancient one dating from 1999, about a coup in an African country, but the things that we are looking at currently, such as Russia, would be unchanged.

Q415 **Chris Bryant:** The sanctions Act, to use the language you used—the shorthand version, as it were—allows, under section 1(2)(f), for an “appropriate Minister” to introduce sanctions so as to “provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote...compliance with international human rights law, or...respect for human rights,” but you are not doing any of that at this

¹ Note from witness: ‘The [Sanctions and Anti-Money Laundering Act](#) received Royal Assent on 23rd May 2018.’

stage.

Sir Alan Duncan: We are doing that as quickly as possible. This is obviously a new provision. By the way, in the meantime, one of the things that we are trying to do is persuade the entire European Union to embrace a clause of this sort in the EU sanctions regime, so that, after EU exit, we are not on our own, or largely on our own, in having a Magnitsky regime. We will be doing this as quickly as possible.

Q416 **Chris Bryant:** But there are other countries that have already done it.

Sir Alan Duncan: Yes, but they don't have the same difficult current interface between dismantling, or disentangling ourselves from, EU law and introducing our own, so we have to make sure that everything that we are doing is consistent and legally workable within the terms of the Act. Qudsi may want to add to that.

Qudsi Rasheed: No, but as you say, Mr Bryant, we are aware that other countries, including in the EU, have such measures—Estonia, Canada, Latvia—but only in respect of travel bans. We are exploring our scope to do such a Magnitsky-style regime to cover asset freezes and travel bans. The legal position on asset freezes is slightly different from that on travel bans. The Home Secretary obviously already has powers in relation to travel bans, albeit without publishing a list of the sort that those countries do.

Sir Alan Duncan: While I have it in my mind, may I come back to the continuity of Russian sanctions? We are in receipt of your and other MPs' letter this morning, in which you point out your understanding that we had not sanctioned the GRU figures following Novichok. That is completely wrong. Two people in the GRU hierarchy plus the two specific GRU officers are sanctioned under the chemical weapons sanctions regime. Those sanctions have been made. You will appreciate that I need to point out that the facts in that collective letter are not accurate, because those people have been sanctioned.²

Q417 **Chris Bryant:** So you can point me to the notification of that.

Sir Alan Duncan: Yes.

Chris Bryant: Presumably you will in the next debate.

Sir Alan Duncan: I can assure you that there is a very nice letter coming your way.

Chris Bryant: Lovely. I can't wait. Are we moving on?

Chair: Bob, you want to come in on this.

Q418 **Mr Seely:** Very quickly on the Russia stuff, can you reassure us that there is no political go-slow on Magnitsky sanctions, that this is all about

² Note from witness: '4 individuals responsible for the use of Novichok in Salisbury in 2018 were added to the EU chemical weapons sanctions regime on [21 January 2019](#)'.



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the technical exercise of getting this right, and not about dragging our heels because of the interests of the City or other people in this?

Sir Alan Duncan: Absolutely 100% I can say yes to that question. I can add that, as Qudsi well knows, I have been pressing in the Foreign Office for as rapid an acceleration of this process as possible, but you will appreciate that at the moment there is so much going on with Brexit—the when and the how—

Chris Bryant: There is nothing going on with Brexit!

Sir Alan Duncan: Nothing going on is also an impediment to what we are trying to do.

Q419 **Chris Bryant:** You finished business yesterday at 5.30 in the afternoon.

Sir Alan Duncan: Yes, but it is more about the legal preparation and the legal work that needs to be done through the resources that we have—who have been going full tilt, and still are, as we will see with the Russian SI later—to put all this in place. We are not going slow for any reason other than the burden of work.

Q420 **Mr Seely:** Minister, may I ask you to address a couple of points on this? We had an interesting debate about Lord Barker's role. Sanctions can be problematic, because you are effectively sending signals of disapproval without the evidence needed on a legally evidential basis to punish people.

People can be guilty by association with sanctions. Is that not a potential flaw in the system? We are effectively deciding who we sanction. We sanction an African dictator, but let's face it: nobody is going to sanction President Putin under a sanctions regime, are they? Or certainly not when it comes to very serious indictments against an individual. Isn't there a double standard inherent in the system?

Sir Alan Duncan: That charge can be levelled at all foreign policy in all countries everywhere. Nothing is absolutely black and white and wholly consistent because all circumstances are different, and there are obviously pressures, relationships and the realpolitik of working with superpowers.

Q421 **Mr Seely:** We do treat more powerful people differently from weaker leaders. We are able to sanction weaker leaders more easily. I am not trying to catch you out here, but that is the reality of life, as you are sort of admitting.

Sir Alan Duncan: I would not put it quite so starkly. Evidential burdens of proof and things like that will vary; the thresholds are consistent. Of course, it is not a perfect science.

Q422 **Mr Seely:** Finally, one thing that fascinates and staggers me is that one of the most consistently grotesque breaches of international law by any definition—myriad laws—is the deliberate Russian targeting of hospitals in the Syrian campaign. The silence in our world and everywhere else on the human rights front has been breathtaking and extraordinary.



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The evidence is absolutely clear that hospitals are deliberately targeted as a way of destroying community opposition to the Assad regime, yet we have been remarkably quiet on that—not just us, but other nations.

Sir Alan Duncan: That perhaps goes back to the point I was making about the current regime being a collective one. If you don't get collective support for whatever objective you have in designing a sanction, then you don't get the sanction. I suspect that is the obstacle.

Q423 **Mr Seely:** You would be keen to argue, or there would certainly be the possibility of arguing, if we ever leave the European Union, Inshallah, for a stronger sanctions regime, and for using sanctions more aggressively and assertively against a variety of powers, not just the smaller ones.

Sir Alan Duncan: I don't think I am going to make judgments of that sort in this Committee on the hoof. That has to be a considered matter of policy through the National Security Council, and should be debated in Parliament. I am not going to redesign sanctions priorities at the flick of a switch today.

Q424 **Ann Clwyd:** Minister, can you give us a clear answer about whether the UK is legally entitled to make and implement Magnitsky sanctions while still a member of the EU, and during any potential transition period?

Sir Alan Duncan: We think we can legally impose certain sanctions measures autonomously as a member state, or during the implementation period. We will look to use the powers provided by the Sanctions and Anti-Money Laundering Act to the fullest possible extent, but there are some limitations on the measures that we can impose autonomously. Qudsi would like to clarify further from a legal point of view; that might be helpful.

Qudsi Rasheed: Sure. I think we don't object. I don't think we say at any point that we can't do national sanctions while we are still an EU member state. That is just to clarify.

Q425 **Chris Bryant:** The Foreign Secretary has said that to this Committee.

Qudsi Rasheed: I can't comment exactly on what the Foreign Secretary has said, but we have had the correspondence that we have seen. I am just clarifying the position. We are not saying that we can't do any sanctions.

What we are saying is that there are some limitations by virtue of being an EU member state; there are questions around EU competence and the duty of sincere co-operation. Those are precisely some of the issues that we are trying to resolve at the moment, before we can bring forward any proposals.

Sir Alan Duncan: If I may, in defence of the Foreign Secretary, I point out that we have had to go on a bit of a journey of working out what we can and can't do, as the whole Brexit process and debate has unfolded. Working out quite what we would be able to do autonomously, given what may or may not be happening with the process of withdrawal, has been



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something we have had to have the lawyers on in some considerable depth.

Q426 **Ann Clwyd:** What legal advice have you commissioned, and from what sources?

Qudsi Rasheed: We have had quite considerable legal advice from a number of EU experts within Government. We obviously have lots of EU lawyers, sanctions lawyers and public lawyers as well, so we have commissioned a considerable amount of advice internally.

Q427 **Ann Clwyd:** Internally?

Qudsi Rasheed: Yes.

Q428 **Ann Clwyd:** None externally?

Qudsi Rasheed: To my knowledge, not at this stage.

Q429 **Chris Bryant:** The thing is, we have had three different versions of why it is not possible to do Magnitsky, and consequently it has felt a bit like the Foreign Office is desperately seeking some reason not to proceed. I understand what you are saying today, Sir Alan; you are now residing on the argument, "There is a lot of work to be done for Brexit, and that has made it difficult for us to get the work done." Right? I am happy to take that at face value, but you can see how, because there have been various different versions, it might have felt to some of us that there was a hesitation in Government about—

Sir Alan Duncan: I can see that.

Q430 **Chris Bryant:** Now the key question is what the legal rights and wrongs are. The legal advice we have been given by Maya Lester QC is that the Act, on its own terms, does not depend on our leaving the EU to be operational, whereas you are saying there is different legal advice. I wonder whether we as a Committee—not for publication—could see that legal advice.

Sir Alan Duncan: I don't want suddenly to create a precedent by committing to something that it may be we tend not to commit to.

Qudsi Rasheed: May we take that one away, perhaps?

Sir Alan Duncan: We can take it away. I am sure we can offer an explanation in detail of where I think we are on this, to give you a considered view for the Committee's report of where the FCO thinks it is legally.

Q431 **Chris Bryant:** Not for publication—we are fine with that.

Sir Alan Duncan: The authorised version of where we think we are.

Q432 **Chris Bryant:** Sure, because there is a perfectly possible set of outcomes now: let's say the withdrawal agreement was agreed—I am not entering into the rights and wrongs of it, but let's say it was agreed this evening. We would then have a transition period during which, according



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to your legal advice, there is still some uncertainty about whether we can do Magnitsky. According to you, that would possibly be a further delay. It is also perfectly possible that we will not leave the European Union—just accept that for the sake of argument; sorry, Royston—and again, that same legal issue still pertains for us. Knowing the status of our ability to do a full sanctions regime of our own volition, autonomously, while a member or while in transition, is really important.

Sir Alan Duncan: It is a perfectly fair question and we will endeavour to give you a considered, comprehensive picture of where we are in answer.

Q433 **Chris Bryant:** And if you want us not to publish, we will not publish, but if you think that is in the interests—

Sir Alan Duncan: Thank you for that option. We would like to be as transparent as possible, but let's see what we can come up with.

Q434 **Chair:** If you felt that you were able to allow us to publish it, that would also be better.

Qudsi Rasheed: If I may add something, one slight challenge is that if we do decide to go ahead and do it and we have private legal advice that it might be risky, it would probably not be prudent to publish that legal advice because it opens us up to litigation risk, as you might imagine.

Chair: We would be grateful if you would make the evaluation, and if you could make it public, that would be great.

Q435 **Royston Smith:** What specific structures have you put in place to ensure that the UK still has some influence on EU sanctions post Brexit and during a transition period?

Sir Alan Duncan: I will not make a teasing comment that those who are campaigning to leave might well come up with some ideas. Although it is fair to say that most of the 27 very much regret that we are leaving and we will not be sitting around a lot of the same tables—for instance, we will not go to the monthly Foreign Ministers' meeting, the Foreign Affairs Council, which at the moment either I or another Minister or the Foreign Secretary go to—we will none the less in this field bend over backwards to retain as much co-operation as possible.

It is probably not so much about structures as about having the relationships and a coincidence of view on foreign affairs matters. It is inevitable that, by virtue of not sitting at the same meetings, we will be less glued in to the structure. On the other hand, we are one of the countries that has been the most successful in designing and driving a lot of the sanctions within the EU, and they will not want to lose that expertise. Also, countries such as those in the Balkans will want us to remain fully engaged, and there is also the City of London.

Our diplomatic network, our view of the world and also, I suppose, because our role is so often working to glue together the EU and the US, mean that our role in sanctions is going to remain very strong indeed. Added to that, if we have our own, the EU and we will want to align, I am



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sure, in everything we possibly can, which means that by virtue of having that regime there will be a structure in which we will naturally want to sit down and compare and contrast. Compared with many things where I think our co-operation might be diminished after leaving the EU, I am on the optimistic side when it comes to sanctions.

Q436 **Royston Smith:** Talking of remaining aligned as far as possible, what sorts of areas would you particularly want to remain aligned, and what areas have the potential for divergence?

Sir Alan Duncan: At the moment you have 28 agreeing to do sanctions. There is possible divergence where you have one and 27 in parallel. I sense, however, that in most things—I would like to think in almost everything—we will want to do the same sort of thing. I would like to think that our approach would be to try to make sure that our autonomous regime is very closely aligned with the EU regime of the remaining 27. I think there is a very strong chance that we will see very close alignment on this.

Q437 **Royston Smith:** How far along are you in negotiating an institutional framework for EU sanctions post Brexit?

Sir Alan Duncan: I don't think we are. I don't think there is much. There is no committee structure for this sort of thing. It is too early for almost anything at this stage of negotiations on our coming out of the EU, particularly given where they are at the moment, or where they are not. However, certainly in all the Ministers' meetings I have had, the language shared around the table is based on the general presumption that we will want to continue to co-operate. Structures such as monthly meetings or an informal committee of one to the 27 might emerge—it is logical that they should—but they have not yet; it is a bit early. If there is an implementation period, that is the sort of thing that could begin to be designed during that period. If we go out with no deal, we start from a blank piece of paper, really.

Q438 **Chair:** To pick up on something, you said that during the transition period we would have some links—you were not clear as to the formality of those links—in terms of influencing sanctions policy. Is that correct?

Sir Alan Duncan: If there is a withdrawal agreement, we would remain part of the EU regime during that period.

Q439 **Chair:** Exactly, but we would not have Commissioners and we would not have a seat at the table. To clarify, we would be obligated to EU sanctions policy without having any influence over it during that transition period.

Sir Alan Duncan: I do not quite buy into the sentence that we would not have any influence.

Q440 **Chair:** We would not have a formal seat on the decision-making body.



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Sir Alan Duncan: Yes, that is correct, except that our view would none the less still be seriously taken into consideration. But you are quite right; that would be the case.

Q441 **Chair:** Your Department has done leading work in constraining some of the worst abuses by some of the Russian oligarchs—we were just talking about the Magnitsky Act. One or two countries have been less in favour of sanctions on Russian individuals. Would that potentially lead to our being forced to lessen our sanctions regime on Russia?

Sir Alan Duncan: I can see the way your logic is going. In theory, the answer is yes. In practice, I would like to think that existing regimes will not be diluted. There is also the UN route—it is not only through the EU that there are sanctions—and there is also the US route. We are seeing a rise in the number of different regimes, but our ambition would be to keep them all as closely aligned as possible.

Q442 **Chair:** One of the important bits that the Department has done alongside the Treasury is to try to ensure that as little corrupt dirty money is flowing through the UK as possible. You have done a lot of work on that; I know we have differing opinions on when various Bills should come in, but broadly speaking you have introduced areas that would clear that up. Yes this appears to enable an undermining of our security policy.

Sir Alan Duncan: You have shifted your discussion slightly to money. The sanctions Bill was originally meant to be a Sanctions Bill, and then the anti-money laundering was appended to it—that is the Treasury, of course. There can be asset freezes and things for reasons that are slightly distinct from the primary purpose of sanctions.

Q443 **Chair:** Indeed. Forgive me, but both are economic measures used to protect the UK, whether directly and domestically for the anti-money laundering or remotely in sanctions, from actors—as you described at the beginning—and nefarious activity. During a transition we would be more reliant on some other countries agreeing that it would be in their interests, and not just ours, to react to areas that could have a negative impact on the UK.

Sir Alan Duncan: Our anti-money laundering provisions could continue autonomously anyway, and are not part of EU sanctions in that same way.

Q444 **Chair:** No, indeed. As you know, sanctions have been used effectively—although that is a matter of debate—against some Russian entities in the last few years. You have been front and centre in arguing for them in the European Union, to your credit.

Sir Alan Duncan: Yes.

Q445 **Chair:** There is just a concern that some of those elements could be watered down.

Sir Alan Duncan: I would like to think not. I totally hear what you are saying, because if we are not a formal member of the 28, and it is one



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working with 27, there is a theoretical possibility that policies and actions could diverge.

Q446 **Chair:** They may feel that an industry in their own territory has more to gain than the country has to lose from lifting sanctions.

Sir Alan Duncan: Of course that is possible, as it is already as they could stop them.

Qudsi Rasheed: You are totally right, Chair, that when we are in an implementation period we will not formally be in the room, but a lot of the work on sanctions happens outside the room. If you take the Russia example, a lot of that was private, informal negotiations that happened in 2014 between the US and other like-minded states. There was a G7-plus format. If you take the example of Iran, a lot of that happened at E3 level outside the EU. I think you are totally right that we are not there formally in the room, but there is still quite a lot of influence that we have had and will continue to have outside the room.

Q447 **Chair:** That is clearly true. Information sharing and preparation is essential. The reason I am concerned is that we know a few countries in the European Union that have much stronger economic connections to Russia or Iran than we do, so the cost of sanctions on them is much higher than it is on us. Therefore, it is not surprising that the domestic lobby on them not to put on sanctions, even when we think it is in our national interest, is much higher than it would be on us. The weight of pressure on the EU therefore moves it away from protecting the interests of the UK, and the UK abroad, by sanctioning individuals who are harming either our national interest directly or the interests of our partners and allies around the world, and moves it more in favour of the industries in the European Union that will benefit from trade and sales to such nations.

Sir Alan Duncan: That is true, but the other side of that coin is that whereas, as part of the 28, we might have been stopped from doing something because of those pressures within the 28, if it is one plus 27, they may well not do something but we would be free to do so.

Q448 **Chair:** That is obviously true after the end of transition, but during transition that is not true. During transition, we would simply have the policy without the lever.

Sir Alan Duncan: Yes.³ I just instinctively do not think the danger is as great as you imply.

Q449 **Chair:** I am not saying the danger is great or otherwise. I am merely highlighting—

³ Note from Witness: 'As a member of the EU or during the Implementation Period, EU sanctions will apply in the UK. We will look to use the powers provided by the Sanctions Act to the fullest extent possible during this period, but there are some limitations on the measures that we can impose autonomously.'



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Sir Alan Duncan: Yes. In theory, you are absolutely right, I sense.

Q450 **Mr Seely:** As I understand it, the FCO is in charge of sanctions policy but the Treasury, via OFSI, is in charge of implementation. Just so that I understand that correctly, is it in charge of implementation of all policy or just of the financial element of sanctions? Regardless of whether it is, does that lead to confusion between the FCO and the Treasury, or the lack of an integrated approach to sanctions? Are you confident with the current structures?

Sir Alan Duncan: Yes, I think so. I have not really heard of any dilemma arising out of this. On finance versus everything else—

Qudsi Rasheed: To clarify the first bit of your question, at the moment it is for the Treasury—OFSI—to implement financial sanctions, and it is for the Department for International Trade to implement trade sanctions. That is the division of responsibility. From my perspective—I have had to lead a cross-Government team in getting ready for the sanctions Act and all the secondary legislation—it has worked pretty well. We have had a lot of input from the Treasury, the Department for International Trade and the Home Office, and from the Department for Transport because of transport sanctions. There is quite a good system of co-operation, and OFSI and DIT work very closely on the implementation of sanctions, whether financial or trade.

Q451 **Mr Seely:** It is great to hear about that integration. Is it ad hoc, just because people are sensibly working together, or is it institutionalised?

Qudsi Rasheed: It is institutionalised to an extent. There is a cross-Government board of senior officials that sits on a periodic basis to look at questions such as the sanctions Bill as it went through Parliament, the drafting of legislation, and difficult or controversial issues. Pretty much every Department that works on sanctions is represented on that board, including the NCA and others. There are genuine questions about how we take forward cross-Government co-operation as we move forward, because at some point we will be not just implementing EU sanctions but running our own regimes.

Q452 **Mr Seely:** What would you recommend? What would you like to see—or what would you and the Minister collectively like to see—in terms of recommendations? How do you improve the integrated and efficient nature and the cross-Government working of sanctions policy?

Qudsi Rasheed: It is probably slightly premature to give recommendations at this stage. One of the challenges you always have in this area is that, although there is an instinct towards integration being better because we are more joined up, actually, in the area of sanctions, there is quite a lot of different expertise. You have the policy design and objective, which sits with the Foreign Office; you have the implementation, which probably sits with line Departments in different ways; and then you have enforcement, which sits with other Departments, such as the NCA and HMRC at times. It is that balance between the two.



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Q453 Mr Seely: I think you have sort of answered this, but have you ever considered creating a single body for policy and implementation, like the US Office of Foreign Assets Control? You are implying that the current system works well enough. Is a single body an idea for the future? You say that the expertise lies in Government Departments, so would we lose that expertise if we had a single body?

Qudsi Rasheed: Questions about whether a single body is better or worse are definitely the right questions to ask. It is probably premature to say one is better than the other.

Q454 Mr Seely: Just out of interest, why is it premature now? We have been doing this for long enough. Is it politically premature or is it technically premature?

Qudsi Rasheed: I can only speak on the technical; I will leave the Minister to speak on the political. From a technical perspective, I think what we will need to do is to go through all the different arguments in favour and the arguments against and come to a judgment on whether the benefits outweigh the risks. That is why it would be premature for me to say that I think one model is better than the other.

Q455 Mr Seely: Minister, do you have an opinion on that?

Sir Alan Duncan: In my experience, sanctions policy formation and execution has benefited from very close cross-Whitehall co-operation without conflict within. Whereas often in Whitehall you get a bit of argy-bargy between Departments and a bit of territorial defensiveness, I have not come across any of that in the field of sanctions.

Q456 Mr Seely: And you are happy with the current structures. They don't need improvement? You are happy with the way they operate at the moment.

Sir Alan Duncan: I certainly think they have been working well. I am sure some clever person will come up with a plan to improve them and we will say, "We should have thought of that," and we will improve it, but at the moment I would say it is in a pretty good condition.

Chair: Catherine, you wanted to come in on this.

Q457 Catherine West: You mentioned cross-Government co-ordination. One of the agencies mentioned was the National Crime Agency. I am interested in the Electoral Commission. I am interested in whether any funds that have been subject to sanctions have found their way into funding political parties or political campaigns.

Obviously, there has been a very robust discussion on this in the US. I am wondering whether in the experience of the officer over the period in which this policy area has been live, there has ever been any tracing back to groups that may be using what we in this Committee are calling "dirty money" to then fund political campaigns. The Electoral Commission and the NCA have obviously taken action on that.



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Sir Alan Duncan: I don't know the answer to that. I imagine that if there were a violation of that sort, knowledge of it would, within the process of Government, come first from the Electoral Commission, which I guess would then refer it for prosecution to the Crown Prosecution Service, out of which there might emerge knowledge that was applicable in the field of sanctions. I am speculating here. Nothing of that sort has come across my desk.

Qudsi Rasheed: Nor mine.

Q458 **Catherine West:** Just to be clear, is the Electoral Commission one of the Government agencies around the table in the cross-party co-ordination?

Sir Alan Duncan: No.

Catherine West: But the NCA is.

Sir Alan Duncan: Yes.

Q459 **Catherine West:** As we know, the NCA did do the investigation into Mr Banks's finances.

Sir Alan Duncan: Mr?

Catherine West: Mr Banks. As we go forward with the sort of campaigning where we are seeing technology involved and it being very difficult to pin down who is paying for what, one recommendation that the FCO could look at is perhaps to have the Electoral Commission more regularly involved in this kind of question.

Sir Alan Duncan: Yes. The clue is in the name a bit, I think—the Foreign Office straying into domestic electoral practice is probably inappropriate; I think it is probably more Home Office or Cabinet Office stuff. Again, I go back to my earlier answer: if there were clear evidence of wrongdoing, it would work properly within the existing system in terms of uncovering it, possibly prosecuting it and then taking wider international action on the back of it, if it were warranted.

Q460 **Chair:** Given that we are talking about wider agencies, this may not be your area, but do you know whether the FCA attends these cross-Government meetings?

Qudsi Rasheed: No, it doesn't.

Q461 **Mr Seely:** Some of our witnesses have criticised OFSI and said that it has yet to live up to its potential. What do you think of that accusation? You sort of answered it, but I would like to know the counter-argument. Do you think it has lived up to its potential?

Sir Alan Duncan: I don't really think that I am in a position to judge; I think it is for others. It is a Treasury body, not a Foreign Office one. It is money rather than conduct, if you like.

Q462 **Mr Seely:** But from an FCO perspective, you are satisfied with the workings of OFSI.

Sir Alan Duncan: I don't think I know one way or the other, so the premise, of course, is yes.

Q463 **Ann Clwyd:** What role should Parliament have in triggering, monitoring or reviewing sanctions in general, and Magnitsky powers specifically?

Sir Alan Duncan: On this issue, there must be a balance between the legislature and the Executive. This was discussed at some length during the passage of the Sanctions and Anti-Money-Laundering Bill. I know that it was a legislative process, but the campaign for the incorporation of the Magnitsky clause—members of this Committee campaigned strongly and effectively for that—is an example of the interface between Parliament and sanctions in general. I have no doubt that in future there will be strong campaigns in Parliament for certain people to be included within that regime once it gets up and running. In addition, we will report annually to Parliament on all regulations made under the Act, and on those regulations with a human rights purpose. We will report to Parliament at the point of laying each set of regulations. It is a process of engagement, but not to the point where Parliament can instruct certain sanctions to be applied.

Q464 **Chris Bryant:** You said you will report annually. When will the first annual report be?

Sir Alan Duncan: I don't know—I will have to get back to you on that.

Q465 **Chris Bryant:** We thought that by now we would already have had our first annual report.

Qudsi Rasheed: Because we have to do the reporting annually from when we lay each regulation, we have laid with all the regulations the first reports. So for all the regulations that you have debated and discussed, such as that on Russia later today, there is a report that goes with that. Our section 2 reports set out the objectives, the policy and the content of each regulation, and those will come on an annual basis in respect of those measures. If we lay new pieces of legislation, there will be an annual report on that basis as well.

Q466 **Chris Bryant:** So could you suggest a date for when the first Magnitsky SI will appear?

Qudsi Rasheed: The reporting provisions on Magnitsky are slightly different, and we have to report by the end of this month on what we have done under those powers. As we have explained, we have had limitations on what we have done so far, so that is a slightly different reporting obligation for the Magnitsky elements.⁴

Q467 **Chris Bryant:** How is that report coming along, Sir Alan?

⁴ Note from witness: 'The [Sanctions and Anti-Money Laundering Act 2018 \(Section 32\)](#) states that a report is due to Parliament "as soon as reasonably practicable after the end of each reporting period", the 'period' being "12 months beginning with the day on which the Act is passed". In this case, the Act received Royal Assent on the 23rd May 2018, and the reporting period ends on 22nd May 2019. As such, a report is due "as soon as reasonably practicable" after that date.'



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Sir Alan Duncan: Incredibly well.

Chris Bryant: Have you seen a draft yet?

Sir Alan Duncan: Obviously not.

Q468 **Chris Bryant:** Because there is not much more of this month—Parliament will stop a week on Thursday. You only have a few days, otherwise you will be breaching the Act. Will it be done by next Thursday?

Qudsi Rasheed: We are working on it at the moment. As we have explained, it is an unusual situation to report on what we have not done rather than what we have done—

Chair: I thought that was quite common in the Government.

Sir Alan Duncan: They normally dress it up differently—

Q469 **Chris Bryant:** We are delving into levels of sarcasm that have not yet been seen. This is a serious point. It sounds as if this will be a report saying, “We haven’t done anything”, so presumably that can be done by next Thursday.

Qudsi Rasheed: We are working on it at the moment.

Q470 **Mr Seely:** So you are doing a report to say what you have not done, and it will probably be out in a week’s time, unless you have failed to have done what you said you weren’t going to do.

Qudsi Rasheed: The important point on those provisions is that we have laid a number of non-Magnitsky sanctions regimes. For example, we laid one on the Iran and human rights regime, which is under the same provisions, as is that on the Burma regime. We are able to say what we have done in respect of those regimes that we are transferring across. We are also comfortable on reporting back our progress on the EU human rights sanctions regime, albeit not directly under the sanctions Act. It is not as if we are not doing anything, but I agree with you that, for the reasons I said earlier, we have not put forward a Magnitsky standalone regime at this stage.

Q471 **Chris Bryant:** But you might do—that is the other question that I was asking. When do you think you might have time to bring one forward? As you both said, you are desperate to get this done as soon as possible, so when do you think that might be? By the end of the year?

Sir Alan Duncan: It is a stab in the dark but, if I gamble on this, I hope so. But I don’t know until so many of these other EU activities, which are causing so much work, are in a known position.

Q472 **Chris Bryant:** But there is a danger, isn’t there, that we will get to a second year? We will get to this month next year, we will be asking the same question and still nothing will have been done—that would be a manifest failure, wouldn’t it?



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Sir Alan Duncan: I wouldn't think that things will wait that long—I certainly hope not.

Chris Bryant: But it would be a manifest failure if we got to that stage and there had still been no Magnitsky.

Sir Alan Duncan: It is not my practice to admit to speculative manifest failures.

Q473 **Chris Bryant:** Just manifest ones, basically. Anyway. May I go slightly off piste for a brief moment? As I understand it, Ambassador Yakovenko is leaving—yes?

Sir Alan Duncan: I have seen reports, but I am unable to confirm anything more than that.

Q474 **Chris Bryant:** The reports suggest that he has been sent back by us. Is that true?

Sir Alan Duncan: No, that is not true.

Q475 **Chris Bryant:** The reports also suggest that this is because in the United States it has been suggested that he has previously spied for the Russian Federation. Is that your understanding?

Sir Alan Duncan: I have no comment to make on any of this. I have not had any reports of that sort across my desk—nothing. I am not hiding anything from you, but there is nothing that I can usefully tell you on the possible movement of the current ambassador.

Q476 **Chair:** You could choose not to read those reports.

Sir Alan Duncan: No, that is not the case either.

Q477 **Chris Bryant:** You have not rung him up, dropped him a text, asked him, "Are you off?"

Sir Alan Duncan: I have not done so.

Q478 **Chris Bryant:** Would you like him to go?

Sir Alan Duncan: I am not going to comment on whether—

Chris Bryant: After the nasty comments he made about the Skripals?

Sir Alan Duncan: It is not for me to sit here and to say whether I like or dislike an ambassador. We work with all ambassadors as appropriate; in his case very toughly on some occasions, and with many other ambassadors rather more affectionately.

Q479 **Chris Bryant:** Okay. Moving on, what is your assessment of the listing and subsequent delisting of En+ and Rusal from the US Treasury's sanctions list? It had a significant impact on UK sanctions policy.

Sir Alan Duncan: I don't think it is really for me to comment on financial listings of that sort—again, that is more Treasury than Foreign Office. I



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don't that we at the Foreign Office have specifically expressed a view on this, have we?

Qudsi Rasheed: I have said very publicly that we have been supportive of the measures against Deripaska in the US—they send the right message to oligarchs close to Putin that that kind of behaviour is not acceptable. As far as Rusal and En+ are concerned, we have always said that that is a matter for the US authorities and for OFAC, because the listing is purely on the basis of those companies' association with Deripaska, rather than wrongdoing of their own.

Q480 **Mr Seely:** Sorry to interrupt, but this goes to the heart of sanctions policy if it can be successfully challenged through a combination of lawyers lobbying and argument. So it does affect your policy, because you could argue that your policy against Deripaska has been quite badly damaged. He has been able to reverse engineer En+ out of sanctions.

Sir Alan Duncan: Out of US sanctions—not ours. There were no EU sanctions on this, so it is a step well removed from sanctions that we might otherwise be involved in.

Q481 **Chair:** There are no EU sanctions on this.

Sir Alan Duncan: No.

Q482 **Chris Bryant:** But that makes a rather worse point for the UK, I would have thought, which is that the US action had a very direct implication for a UK-listed company, chaired by a Member of the House of Lords and affecting a man who had residency and a significant property portfolio in the UK, whereas our sanctions regime never touched him at all.

Sir Alan Duncan: At that stage, there is no such thing as "our" sanctions regime, because it would be EU or UN.

Q483 **Chris Bryant:** All right, but since you have not brought forward anything that will be different from the EU one yet, it seems that the US system is more effective than the EU one, which we have helped to form. Is that right?

Sir Alan Duncan: The US were in a position to act autonomously in a way that we were not.

Q484 **Chris Bryant:** Oh, we're back to that one.

Sir Alan Duncan: Well, it is true.

Q485 **Chris Bryant:** It is heavily contested, isn't it, whether we were able to take action against Oleg Deripaska? We are back to this: you are saying that while we are a member of the EU, we are not able to enact any sanctions against Oleg Deripaska. Is that your contention?

Sir Alan Duncan: When the US sanctions were applied, we did not, for instance, have the new Sanctions and Anti-Money Laundering Act 2018 in place.

Q486 **Chris Bryant:** So if this were to happen now, would you be taking action



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against Oleg Deripaska? Would he be sanctioned?

Sir Alan Duncan: I am not going to sit here and make judgments on any individual and whether I think they should be sanctioned. Under the Act, if it were applied to anybody, there is a very proper process of assessment, evidence gathering and thresholds in law to decide whether that should happen. I am not going to leap to a judgment, sitting here, on any individual speculatively, even though they may be a well-known figure in the public gaze.

Q487 **Chris Bryant:** But were you pleased by the effects of the US sanctions on Oleg Deripaska and the delisting of En+, or not?

Sir Alan Duncan: I think we did formally express support for what the US was doing, as I recall. I have not followed it since, but yes. It says here there was a joint letter sent to Congress in support of the US. Was that us?

Qudsi Rasheed: Yes, that was from us. The way we saw it was that the fact that the US system had in place such stringent conditions on Deripaska's shareholding of those companies and the supervision that OFAC had over them showed that it was a positive outcome. From our perspective, we simply take what the US have said about it, which is, "We are going after Oleg Deripaska for his behaviour and we are going after En+ and Rusal because of their association with Oleg Deripaska." So the US were obviously satisfied, according to their standards, which are quite high, that those two companies were no longer sufficiently associated with Oleg Deripaska.

Q488 **Chris Bryant:** So the UK Government support the outcome but would not be able to implement the same themselves?

Sir Alan Duncan: Do you mean against the company or the person?

Chris Bryant: Either.

Sir Alan Duncan: The circumstances have obviously changed since then.

Q489 **Chris Bryant:** But, to take it away from him, to the common man or woman in the street it would seem that American sanctions are a damn sight more effective than EU/British ones. Unless we are going to invent a new sanctions regime when—if, whatever—we are out of the European Union, or if we are allowed to when we are still within the European Union or in a transitional phase, if we are not intending to change the way we do it, we will still be less effective than America.

Sir Alan Duncan: I think you have answered your own question: if we were to apply our autonomous sanctions, when we are able, we could strike out differently from the way we behaved, or were able to behave, within the EU. It is possible that we could determine our sanctions to be tougher or more individually focused if we so chose.

Qudsi Rasheed: It is also important to emphasise the role that we as the UK have played in pushing EU sanctions to the place they are. I am entirely sympathetic to your view that you might say they do not go far



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enough, but there is also the merit of the collective action of the 28, including in terms of recent action that we have taken alongside both the EU and the US in respect of Russia's behaviour in the Kerch strait, for example.

Q490 **Chris Bryant:** I have been repeatedly told by EU counterparts that, were it not for Theresa May's personal intervention, many of the Russian sanctions would have been suspended by the European Union already. That is great, but there is a worry about what will happen when we are not at the table anymore. We may be standing on our own.

Let me ask a different question. The Economic Secretary to the Treasury told the Treasury Committee that there should be a way to block a company from listing on the London Stock Exchange if there are national security concerns. Do you agree?

Sir Alan Duncan: Yes, there could be.

Q491 **Chris Bryant:** What plans do you have to introduce such measures?

Sir Alan Duncan: That is entirely for the Treasury and for the proper processes within existing legislation.

Q492 **Chris Bryant:** Well, there isn't existing legislation to allow that to happen, so is it the Government's intention to bring forward legislation to such effect?

Sir Alan Duncan: I don't think that is a question for me at this witness session.

Q493 **Chris Bryant:** One thing we have been trying to get at is that our foreign policy and our sanctions policy are intimately concerned with the finances of the City of London and the way we do our business. Because we are such a service-driven economy, that makes us more vulnerable than in other ways. Do you accept that argument?

Sir Alan Duncan: I think that is for Treasury Ministers and other economically focused Ministers to answer.

Chair: Forgive me, Minister, but I am not quite sure I agree. One reason we looked at—for example, the "Moscow's Gold" report, which you will remember we published a while ago now—was because financial activity through the City, whether through financial institutions or, occasionally, illegal institutions or estate agents, and sometimes even schools, can have a direct impact not only on our foreign policy but sometimes on our national security. One thing we attempted to show in that report was how the flow of money through London and through some of the overseas territories and so on had implications.

I think the point that Mr Bryant is getting to, which I think the Committee will probably agree with, is that financial crime is not just financial crime; it is much more than that these days. When one looks at the corrupting influence of Russian money in particular, although there are others, on undermining NATO alliances or breaking apart structures within which we have furthered our national policy—environmental areas, energy trading



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and many other areas—this is really where we see that corruption is a direct threat to the UK's national interest. The main aim of the Foreign Office, as you know, because in fact you do an awful lot to achieve this, is to defend our national interest and promote it overseas.

Sir Alan Duncan: I see what you are saying when you describe the wider circumstances enveloping what might otherwise be classified as financial conduct. Of course we take an interest in that, and in the wider implications for UK interests. Yes, the Foreign Office would fully play its part in making the sort of assessment that will be made across Whitehall on whether an entity or person should face some sort of sanction.

Q494 **Chair:** Forgive me, but this is where the Foreign Office's role is so important. Let us be honest: it is not reasonable to expect the NCA, the Home Office or the Treasury to know about an individual in a foreign country who may or may not be involved in massive human rights violations or criminal activity in a third country; they rely on the embassy to warn whether or not such an individual may or may not be a subject of interest.

Sir Alan Duncan: Yes, I think we would feed into that, definitely.

Q495 **Chris Bryant:** Quite specifically, the Treasury Committee published a report just a few days ago in which it said that the listing of En+ on the London Stock Exchange was a failure of sanctions policy, which is a direct criticism of the Foreign Office's policy. Do you accept that?

Sir Alan Duncan: Well again, just because it was deemed to be a failure of sanctions policy does not mean that it was simply a failure, if it was thought to be such, of the FCO. The design and application of sanctions takes in many Whitehall entities other than the FCO.

Qudsi Rasheed: Just to add to that, the challenge was that En+ was never sanctioned in the UK, because the EU had not sanctioned En+. Obviously, decisions that the London Stock Exchange will take about whether a US-sanctioned entity is appropriate to be listed are independent decisions for the LSE; that is not something that the Government can interfere in. As the Economic Secretary said to the Treasury Committee—

Q496 **Chair:** Sorry, can you just go back over that? The LSE can choose individually whether to sanction—

Qudsi Rasheed: No, sorry. If En+ was sanctioned, that would obviously have an impact on its ability to be listed. Because it was not sanctioned under UK law, the LSE had to take an independent decision, taking into account all its normal factors and independent authority.

Sir Alan Duncan: And then circumstances changed when the shareholding structure changed and, therefore, there was a separation, certainly to the satisfaction—

Chair: That argument has been made.

Sir Alan Duncan: —to the satisfaction of the US that the person and the entity were sufficiently separated.

Qudsi Rasheed: On your question, the Treasury, as the Economic Secretary said, is looking at the existing powers and whether additional powers are needed and, if they are appropriate, will bring forward proposals.⁵

Q497 **Chris Bryant:** It just feels sometimes as if the soft underbelly of our foreign policy is, in a sense, our financial institutions, and that is worrisome for us.

Sir Alan Duncan: Yes, but I point out in contrast that our main expertise is in international diplomacy and security. If you take, for instance, the response to the Novichok poisoning, this has been a massively successful and, I would say, very tough response, getting 150 or so Russians expelled across the world. As I said earlier, that response included applying rigorous sanctions through the chemical weapons sanctions regime against the revealed perpetrators and their superiors. I understand your use of the term “soft underbelly” in respect of financial stuff—I see why you are saying that—but we are not being soft. We have been very robust, and we continue to be so.

Q498 **Chair:** Do you think that various City institutions could do more to support the sanctions regime’s intentions, if not the letter of the law?

Sir Alan Duncan: Actually, in terms of not just sanctions but the “Follow the money; know your customer” type of behaviour, our banks are very strict, to the point where we end up with protocol challenges, where a number of embassies and foreign missions in London are unable to open bank accounts, because their country by association is deemed to have a poor human rights record or whatever it might be. That could be, in the eyes of some, a very fair consequence; it could be, in the eyes of many, a perverse consequence. But that is an example of where financial institutions, in this case banks, are very watchful and mindful of the rigours of these regimes.

Q499 **Chair:** One of the things you will remember we highlighted in our report was that some law firms operating out of Russia are not so much exporting the rule of law as whitewashing crime. We are told, for example, that Linklaters does half the business out of Russia.

Sir Alan Duncan: I understand the accusation. I am not in a position to judge whether that is true or an overstatement. I totally understand the concept that lawyers will act for their clients.

Q500 **Chair:** Whoever the client may be, whatever their record may be.

Sir Alan Duncan: Maybe; I don’t know.

⁵ Note from witness: ‘In its [reply](#) to the Treasury Select Committee report, ‘Economic Crime – Anti-money laundering supervision and sanctions implementation’, the Government agreed that “any new power to block a listing on national security grounds should be fully investigated and justified.”’



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Q501 Ann Clwyd: May I ask a question? One of the implementing Departments is the Home Office. If you decide to freeze a visa, how quickly is that done? Is there any delay, or is it instant?

Sir Alan Duncan: My understanding is that it can be very quick. Of course, you need the pan-European data sharing and the organisations to do it, in order to implement such restrictions across the whole of Europe.

Qudsi Rasheed: For example, if we were to adopt a sanction in the EU that was both an asset freeze and a travel ban, I would expect that to come into force immediately. Not least because if you do not implement the asset freeze immediately, there is a risk of asset flight. We are very clear that the Treasury and the Home Office are able to monitor the lists as they develop in the EU, so that they can act immediately.

Sir Alan Duncan: Sometimes we might notify Parliament about a sanctions regime only immediately after we have implemented it, in order to avoid the flight of assets in the intervening 48 hours or whatever. So the answer to your question is yes; things happen very quickly in all directions.

Q502 Catherine West: I think the Committee's point is that whereas the approach of the security services, the NCA and others is quite robust, on the financial side we are not as robust as the US. That is quite commonly accepted in papers such as the *FT*; I do not think that there is much argument there.

I want to turn briefly to the soft lobbying role. Before I joined the Committee, it heard from Lord Barker, a Member of the House of Lords, about his interest in the En+ and Rusal case. What is your view of that soft influence? How might we be able to make our system more robust in that regard?

Sir Alan Duncan: Lord Barker asked to see me in June. His approach was to say, "Can I just explain what I am trying to do with the En+ shareholding?", so that we heard it from him rather than taking accounts from newspapers, which may have exaggerated certain things. I think I can say very clearly that in no respect did he attempt to lobby. He asked whether our policy was in any way to intervene. We said no, to which obviously he expressed satisfaction. He did not ask for anything in terms of changing or influencing policy. He explained what he was trying to do to segregate shares away from Deripaska. He explained that he was due to go and see significant people in the US and that he wanted, of course, to influence the US Government away from sanctioning if he was successful, as eventually he was, in restructuring the shareholding. I do not think that even in that case you could call it soft lobbying, because it was not lobbying of any sort whatsoever; it was entirely an exchange of information.

Moving away from Lord Barker and En+, in other senses people will have views on certain individuals. In a way, what this Committee has been implying in the course of this witness session is that you would quite like us to be open to entreaties of that sort: "I know that this person is a



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wrong 'un—what are you going to do about it?" You could call that lobbying, but if it is making representations, I think it is a legitimate part of the sanctions design process.

Likewise, one of the things that I ensured was written into the Bill very early was a quick way for someone to get redress if they were wrongly sanctioned, so that they would not have to get into a deep and difficult legal process when they might be an innocent victim with very few resources. There has to be a process of information exchange.

- Q503 **Catherine West:** With all due respect, Minister, do you think that another shareholder in another company would have been able to have a meeting to explain to the Minister what was happening if they were not in the same political party and had not been a Minister in a former Government who knew the Minister quite well?

Sir Alan Duncan: I think so, because he saw me in my capacity as the Minister responsible for Russia. BP come and see me, for instance, and they are not Conservative MPs or peers. So I think the answer is yes; I try to be very accessible. If we had met in a cosy corner with no officials, I think you would have a point, but this was conducted properly through the FCO system with a private secretary and an official—there were two or three officials in the room. I think it was wholly proper, and in my view he behaved totally within the bounds of propriety.

- Q504 **Chair:** Moving away from that, can I come back to an area that we keep coming back to on sanctions policy? This is certainly not just about the Foreign Office, but joined-up government is so important on sanctions policy. Whether that involves understanding what is happening in the City, through the Treasury; whether it's important to know what is happening in various countries, through the embassy network or through the NCA representatives in various countries; or whether it's about going through the Home Office and other intelligence agencies in the UK, the key appears to be constantly coming back to co-operation and co-ordination between the UK authorities. Would you agree with that?

Sir Alan Duncan: Yes.

- Q505 **Chair:** Would you, then, share just slightly my concern? There are a few agencies that I would feel really should be included in this. We touched on the FCA not being part of the discussions. Clearly, the amount of money that is going through London and the amount of influence that sanctions, and indeed the anti-money laundering legislation that you have so successfully passed, could have on that money suggest that having some form of greater co-operation with the FCA—possibly a representative each way, as it were—would be progress in terms of implementing sanctions policy in the UK.

Sir Alan Duncan: Again, I can see what you are saying. As a Minister, I tend to see things at the very end of the line, as it were. I don't see, nor am I part of, the process of assessment and initial decision about whether to sanction someone. I broadly ask about whether the process has been proper, rather than, "Is that person really a baddie?" Therefore, I am not



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100% sure about where the FCA fits into this system. You are saying it should be formally part of it, but I cannot believe that it is not consulted and engaged.

Q506 **Chair:** Sorry, but I thought that was what Mr Rasheed just told me.

Sir Alan Duncan: No, it is not excluded from this. It's just that it is not formally, institutionally part of the immediate core, I think. Is that fair?

Qudsi Rasheed: It's more that the responsibility of the Foreign Office is on the policy design and the creation of sanctions regimes. We as the Foreign Office are not responsible for the implementation of those, which sits elsewhere. But you are right, Chair, that there has to be that feedback loop. What we as the Foreign Office do is rely largely on the Treasury and OFSI's relationship with the FCA. For example, it is not inconceivable that there would be a feedback loop that came back through the Treasury. The Treasury is also the main body that deals with banks, which also have a lot of information about what is going on; that is not where our expertise, as the Foreign Office, sits. What I was saying earlier was that the board that we as senior officials run is more about the design of the policy and—

Q507 **Chair:** I understand that, but this came up when we were talking about—I don't want to go back to En+, because there are many other areas, but it came up when we were talking about that the FCA had said that what happened in Russia was none of their business—that was pretty much their line—and that they didn't have a link on that and there were therefore no reasons to raise any concerns. Also the fact that the Americans a few weeks later or a few months later—forgive me—decided this was not a suitable company was really up to them, and it wasn't their fault they didn't know. On one level, I sympathise, because of course they don't run an embassy network; they don't run intelligence agencies. It's not their job to do so. But it does raise concerns when an organisation like the FCA, which is the organisation charged with saying whether somebody is a legitimate investor or is legitimate to use UK markets to raise capital and further their investments, is not integrally linked with the embassy network, the NCA and so on, but is only linking tangentially, through the Treasury, whose role, quite clearly and legitimately, is to raise money for the Exchequer of the United Kingdom, which is a different role from the security Departments or any other Department.

Sir Alan Duncan: There are two things—I'm thinking aloud here. One is that the FCA is an arm's length body and therefore has to stay independent. It may be that in part, and that leads into my second—I'm hazarding a guess at this. It depends on what is written into its legitimate responsibilities, as an arm's length body, about whether it is empowered to make judgments of that sort, which can feed into it. It's a regulator. So I don't know is the answer, but I think those are the questions that need to be asked.

Q508 **Chair:** I understand that, but if they are not empowered to make the decision, who is? You end up with the regulator feeling that it's not up to



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them to ask the questions unless the various, different orders have already been given, but nobody knows to give an order until somebody applies for a permit.

Sir Alan Duncan: I would have thought the NCA is probably that body, actually.

Qudsi Rasheed: Or OFSI itself—or the Treasury itself, rather.

Q509 **Chair:** The reason I say that is because there are going to be—let's be honest—tens of thousands, and possibly hundreds of thousands, of individuals who could theoretically be sanctioned by the UK, but frankly there is no point in doing so because they either do not have any assets here or it is unlikely that they will have any assets here, and therefore it is not worth wasting the time doing so. And it is only when they apply for a licence that one would feel any need to find out whether or not they should be sanctioned.

Now, if the FCA does not see it as its purpose to find that out, and if the NCA does not see it as its purpose to sanction folk who, frankly, at the moment have no links to the UK—for obvious reasons, the NCA will prioritise their resources elsewhere; I am not blaming them for that—you then end up with a situation where one side does not bother because it is unlikely and the other cannot do it because it has not been done.

Sir Alan Duncan: Again, I see your logic. I do not mean to be unhelpful, because my wish is always to be as helpful as I possibly can.

Chair: Indeed.

Sir Alan Duncan: But if you were asking me about war criminals or something, I could give you a much clearer Foreign Office view. When you are asking me about people who are financial criminals, or who have ill-gotten gains, or something like that, it's not quite our patch.

Q510 **Chair:** Sort of, Minister, and the reason I say "sort of" is because you are designing the policy, although I appreciate that you are not seeking to do all of it, and surely part of designing the policy is designing it in a way that it is able to be implemented and is able to do what you quite rightly intend it to do, which is to protect the UK from dirty money and to seek to promote or defend the interests of the UK overseas. At the moment, it just does not feel that the structure is quite there.

Sir Alan Duncan: Okay. It sounds as though I am giving you very good ammo, let's say, for a strong recommendation in your report.

Chair: I feel you may be doing exactly that, Minister. *[Laughter.]*

Chris Bryant: I can feel sentences coming into my head—

Sir Alan Duncan: I can feel sentences coming.

Qudsi Rasheed: If I may, Chair, I will just make one point on that, which is that at the moment we draw quite a distinction between sanctions policy and AML dirty money policy in Government.



Chair: Sure, and I have just conflated the two; I appreciate that.

Q511 **Catherine West:** And I may be conflating them. For example, in the case of IS and the way that the state is run, or was run more effectively before, obviously our policy objective is to stop IS, but they were running a very good mini-economy there. And I am sure that there was an element of our banking system somehow—maybe digitally, or in other ways—enabling some of that. How would that fit in, because our policy objective is to obstruct, disrupt and stop IS, no matter how and in whatever way? And obviously one of our best approaches is through our enormous influence with the financial services sector. How could we apply this to that problem?

Sir Alan Duncan: I think that in the case of IS, where there has been significant success, a lot of their financial resource came from immediate oil supplies and trading, where the likes of defence intelligence watching the movement of oil tankers and things like that could determine who was getting what oil and therefore where the money flows were. Again, I am speculating here, rather than saying that I know that happened.

Because they were a pariah fake state, they were not exactly shoving their money through normal banking routes, so—

Q512 **Catherine West:** I would be very interested to see whether any of our banks were somehow involved in it.

Sir Alan Duncan: I simply wouldn't know, but—

Q513 **Catherine West:** Because the way that they operated was so sophisticated that I would be very surprised if modern banking, and our global banking centre, did not have an element of facilitation of that.

Qudsi Rasheed: It ought not to, and we have comprehensive sanctions against IS and against Syria at this stage as well, where IS was operating from. So, there ought not to have been, but it's a question of the enforcement of—

Sir Alan Duncan: I would have thought that our banks would have been ultra-cautious on something like that—almost paranoid, and so they should have been.

Q514 **Chair:** Can I move on to a slight area of precision? We have spoken about the challenges of understanding what control means. We touched on that with a particular company and a particular individual—I don't want to go over it again—but this concept of control of companies that are linked to autocratic regimes like Russia and China—what specific steps are you taking to address that?

Qudsi Rasheed: This is about the ownership and control provision?

Q515 **Chair:** Yes—both ownership and control; they are not identical.

Qudsi Rasheed: Ownership is quite straightforward, which is the 50% ownership. And control is a much more complicated concept. We have a set of guidance about what we as the UK consider as control.⁶ We look at



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things like whether the entity has the ability to appoint or remove shareholders and whether they can use voting rights to appoint the majority of management. There is a set of tests that we—

Q516 **Chair:** Could you perhaps share that with us?

Qudsi Rasheed: Yes, of course.

Q517 **Chair:** That would be kind. Even ownership can be a slightly odd one. We normally think of 50% plus one, but clearly, if you own 40% of a business and a friend of yours owns 30%, you are very much—

Sir Alan Duncan: Yes, there are different sorts of share and all that kind of thing.

Chair: Exactly.

Qudsi Rasheed: It is at that point that the ownership moves into the control element.

Q518 **Chair:** The next thing I want to ask about is anti-money laundering. You said that the co-ordination of sanctions and anti-money laundering are not the same thing. I appreciate that I conflated them, but what are you doing to connect them? Clearly, the overlap is quite high in many areas.

Sir Alan Duncan: I think this arises constructively in co-operation between the Treasury, the Home Office and the Foreign Office, working into the pyramid of the National Security Council, as informed by the crime agency and other intelligence sources. I think that is the sort of process and practice that is naturally going to arise and mature over time once our autonomous Act is up and running fully.

Q519 **Chair:** Are you looking at ways of structuring future co-operation so that anti-money laundering and sanctions work better together? Sanctioned individuals will often look to money laundering in order to profit.

Sir Alan Duncan: They could, but I think—Qudsi will correct me if I am wrong—that under the anti-money laundering provisions of the Act, there are steps that can be taken in law to bear down on it that are not strictly sanctions under the sanctions Act but have the same effect.

Qudsi Rasheed: Effectively, the way we see it in Government is that sanctions are a foreign policy and national security tool, so if we see someone doing bad things out there, we will go after and target them. AML we see as a law enforcement issue, which is about protecting the integrity of the financial system, irrespective of the foreign policy or national security objective for that. In terms of your question about how we join up—

Q520 **Chair:** They are connected, though.

⁶ Note from witness: 'The Office of Financial Sanctions Implementation provides [guidance](#) on definitions of ownership and control.'



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Qudsi Rasheed: They are—I totally accept that. We do not at this stage foresee any changes of structures to link AML with sanctions. The Financial Action Task Force review is a really good example of what we do. The FATF looked at a whole range of AML and sanctions issues, which the Treasury led on, and we as the Foreign Office inputted into that process. When the FATF did that review, it looked at the full plethora of our sanctions capabilities as well as our AML ones.

Q521 **Chair:** I can feel another recommendation coming on. When will you be ready to set out detailed timetables for the introduction of public registers of beneficial ownership in each of our overseas territories, as you committed to doing in your response to our recent report on OTs?

Sir Alan Duncan: There is no change from what I said earlier. I do not cover the OTs; that is Lord Ahmad. I know Mr Bryant is unhappy with what has been said, but there has been no change from what has recently been said in both Houses.

Q522 **Chris Bryant:** I just have one little question, partly because I notice that Ambassador Yakovenko has tweeted in relation to the letter today and the hearing today.

Sir Alan Duncan: Give us a clue.

Chris Bryant: Honestly, don't bother. It took us a very long time to have a public inquiry in relation to Alexander Litvinenko's murder. At one point, I think Theresa May, when she was Home Secretary, refused one, on the basis that—this was her legal argument, which went to court, of course—it would not be good for UK-Russian relations. The investigation happened, and it was quite useful because there was a proper legal process that we could point to as a country to show that this was a country where the law was upheld and we had rule of law. I just wonder when you think it might be possible to have any kind of legal process in relation to the Salisbury case last year. I gather that even an inquest has been delayed.

Sir Alan Duncan: This suggestion has not been put to me. There will be the normal, proper legal requirements, I imagine, for an inquest. I think that the actions we have taken diplomatically have resonated across the world.

Chris Bryant: I agree.

Sir Alan Duncan: But also, I hope, in Moscow. As I say, it hasn't—

Q523 **Chris Bryant:** I realise that I have bounced this on you. You might want to write to the Committee, just to lay out where we are at.

Sir Alan Duncan: I am trying to think who would be responsible. It is sort of No. 10/the Cabinet Office who would look at public inquiries and things; we have not expressed a view on this. Because charges have been brought against individuals, it may well be decided that this is in the middle of legal proceedings, and therefore an inquiry in parallel would be inappropriate. Again, I am just guessing.



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Q524 **Chris Bryant:** But there is the problem, because this is exactly the process that we went through with Litvinenko, and it ended up taking 10 years.

Sir Alan Duncan: To be honest, we seem to know most of the facts. I think the police have done a remarkable job, and the detective work has been very precise and very publicly displayed. It seems utterly undeniable, so it is difficult to know what substantively might be added to the knowledge we have already.

Chris Bryant: That was the other argument that was used at the time of Litvinenko as well. I don't think anybody now doubts that the Litvinenko public inquiry was a useful tool, not least for the family concerned and for others as well, and an opportunity to see at least a version of justice done. We were also, through an independent legal process, rather than just the prosecuting authorities, able to point the finger at where the culpability lay.

Q525 **Chair:** I have one last question, but before I move on, can I just go back to the OTs beneficial ownership register? I realise that is not your area, but I would be very grateful if you would communicate back to Lord Ahmad and, indeed, the Foreign Secretary our very deep disappointment, which we have made clear in our report, that this will not be in place until 2023, despite the vote in the House and various recommendations, not only from this Committee but from other Members of the House.

Sir Alan Duncan: I undertake to be the messenger, but I hope not one who is subsequently shot.

Chair: I will leave that to others.

Sir Alan Duncan: Thank you very much. That is very optimistic of you.

Q526 **Chair:** I will leave it there. Minister, there is just one last thing: you have announced today that Deborah Bronnert will take over as our envoy to Moscow, our ambassador to Russia. What were the criteria involved in making that appointment?

Sir Alan Duncan: That she was the best person for the job.

Q527 **Chair:** Sure. Maybe I could ask you for a little bit more detail on how you selected, and whether or not she was—

Sir Alan Duncan: The process is that there is a senior appointments board, chaired by the permanent secretary, and she has been appointed to succeed Laurie Bristow. I imagine the criteria are the same as for any appointment: that they are thought to be the best person, with the language skills, diplomatic experience and appropriate ability to do the job well.

Q528 **Chair:** Clearly, this is a difficult time in our relationship with the Russian Federation. What objectives are you looking for her to carry out during her term of office?



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Sir Alan Duncan: First of all—of course, he's still got some time to go—let me just say that Laurie Bristow has been absolutely brilliant. If we had not had someone of his calibre there during the Skripal issue, things could have been very different. He has been very adept and skilful in being ambassador there at a very difficult time for him, but also for many of the staff, who have had quite a lot of hassle, if you like, in many of their jobs. I am just very grateful that you have given me the opportunity to heap praise on all those who have served in Moscow, and those, of course, who were removed from Moscow.

Deborah Bronnert will have to pick up a pretty difficult relationship. One of the key things that Laurie Bristow has secured and I hope she will secure further is more access and proper engagement, so that we can speak frankly to our Russian counterparts. Our view is clear: we would like to treat them with the respect that their history and their position as a country deserves, but we can only do so if they stop doing bad things across the world. If they behave like a responsible part of the world community, we would welcome the opportunity to work closely with them in a very constructive, co-operative and friendly way. However, we cannot do that if they interfere in other countries' democracies, annex land and use a military-grade nerve agent. It is sort of "Behave like a responsible senior country in the world, and you will be treated respectfully in accordance with that behaviour."

Q529 **Chair:** I know I speak for the Committee when I say we share your praise for the British embassy staff, particularly over the past few years—some very difficult times—and particularly for the ambassador, Sir Laurie Bristow, who has done a fantastic job. This is going to be a very difficult, very different kind of post. In many ways, it is a very isolated role, and requires the ambassador to be both the head of mission and a sort of motivator and protector to a degree that other missions don't require, because of the hostility of the host Government. Were you personally involved in the selection?

Sir Alan Duncan: No. I recently established a process where I can more formally express my view on potential appointments. That was not the case for this one, but it being a very senior-level appointment, I am certain that the Foreign Secretary will have been able to express a point of view. However, I think the process of appointment might pretty well have happened by the time he became Foreign Secretary, even though it has only just been announced.

Chair: Thank you very much for coming, Minister.