

Singapore Management University Institutional Knowledge at Singapore Management University

Research Collection School of Social Sciences

School of Social Sciences

1-2016

How the EU Learned to Love Sanctions

Clara PORTELA

Singapore Management University, claraportela@smu.edu.sg

Follow this and additional works at: https://ink.library.smu.edu.sg/sooss_research

 Part of the [Eastern European Studies Commons](#), and the [International Relations Commons](#)

Citation

PORTELA, Clara. (2016). How the EU Learned to Love Sanctions. In *Connectivity Wars: The Geo-economic Battlegrounds of the Future* (pp. 36-42). London: European Council on Foreign Relations.

Available at: https://ink.library.smu.edu.sg/sooss_research/1871

This Book Chapter is brought to you for free and open access by the School of Social Sciences at Institutional Knowledge at Singapore Management University. It has been accepted for inclusion in Research Collection School of Social Sciences by an authorized administrator of Institutional Knowledge at Singapore Management University. For more information, please email libIR@smu.edu.sg.

How the EU learned to love sanctions

It is only recently that the European public has woken up to the use of sanctions in EU foreign policy, though they have been employed since the early 1980s. They became more frequent following the 1992 establishment of the Common Foreign and Security Policy (CFSP), the EU's intergovernmental forum for foreign policy coordination. While the EU's Common Security and Defence Policy (CSDP) was launched with fanfare in 1999, and was intended to break new ground in European foreign policy by allowing the Union to carry out joint military operations, it is sanctions that have taken centre stage. They, rather than military force, are being wielded to address Europe's key security and foreign policy challenges.

Part of the reason why the EU's use of foreign policy sanctions went unnoticed for decades, while those by other actors consistently received attention, is that EU sanctions do not look much like sanctions. The popular understanding of sanctions is of full economic blockades *à la* Cuba, conjuring up images of a suffering, powerless civilian population, as with the draconian United Nations embargo on Iraq in the 1990s. This is what economic sanctions were originally meant to be: the total interruption of trade and investment with the target, with the infliction of considerable harm on its population as an intended outcome. However, what the EU has been doing under the label of "restrictive measures" is very different. Almost the entirety of CFSP sanctions practice during the 1990s consisted of visa bans prohibiting listed individuals travelling to European territory. The

same individuals were often banned from holding bank accounts in Europe, while their assets were frozen. Beyond that blacklist, the only measure routinely applied was an arms embargo.

Targeted sanctions

The discrepancy between these measures and popular beliefs about sanctions is due to the novel notion of “targeted sanctions”. In response to the humanitarian disaster provoked by the UN embargo on Iraq in the 1990s, a number of European countries lobbied the UN to modify its sanctions policy and adopt measures that hit the individuals and elite groups responsible for the policies being condemned, as well as their sources of funding, while minimising the impact on the general population.¹ Their efforts prospered, and in 1995 this became UN Security Council (and EU) policy.² In an interesting parallel between the UN and the EU – otherwise very different in their approach to sanctions – the same measures are often applied by both, namely arms embargoes, visa bans, and asset freezes.³

Most conspicuously, the EU sanctions of the 1990s and 2000s were not economic in nature. Trade between the EU and sanctions targets remained perfectly legal. Save for trade in weapons, no restrictions were placed on economic exchanges between the EU and Zimbabwe, Uzbekistan, Sudan, or Belarus. The only exceptions are the fabulously creative sanctions against Yugoslavia during the Kosovo crisis, which entailed a range of financial measures and even an oil embargo; and the sanctions against Myanmar, which banned investment in the country and, for some time, trade in timber, gold, and precious stones.

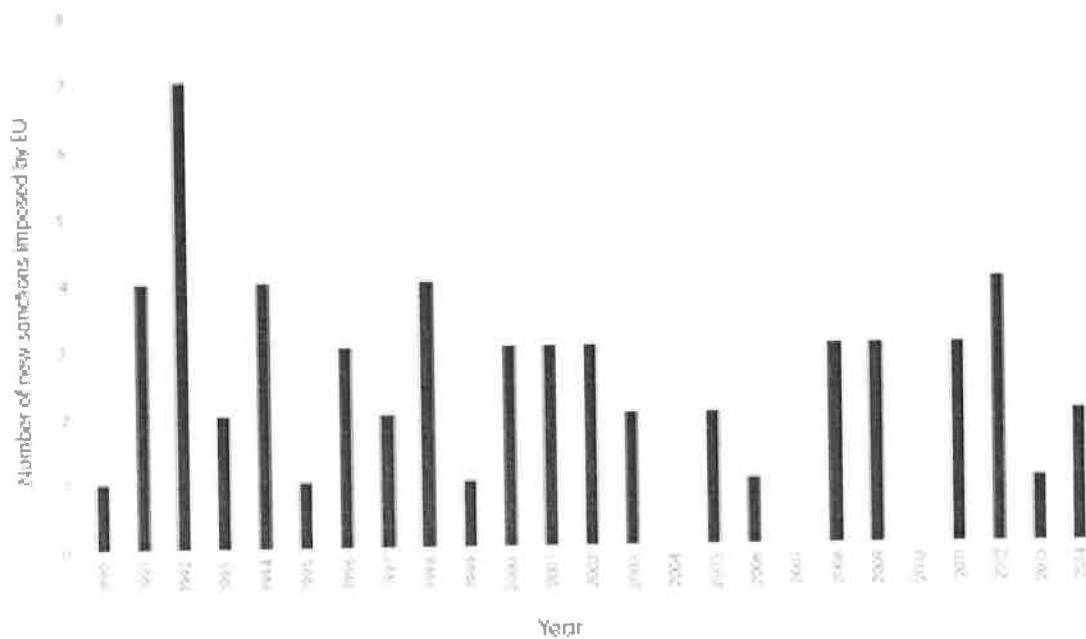
Another interesting feature of EU sanctions policy is that it does not preclude all cooperation and assistance to the target. Indeed, the EU increased its humanitarian aid to Zimbabwe despite the presence of sanctions. Myanmar continued to receive EU aid to develop its health sector while sanctions were in place. Trade between the EU and Belarus increased while the latter was under sanctions, and

1 Michael Brzoska, “From Dumb to Smart? Recent Reforms of UN Sanctions”, *Global Governance*, 9(4), 2003.

2 UN Security Council Doc. S/1995/300.

3 Enrico Carisch and Loraine Rickard-Martin, “Global Threats and the Role of United Nations Sanctions”, FES International Policy Analysis, December 2011, available at <http://www.fes.de/cgi-bin/gbv.cgi?id=08819&ty=pdf>.

Number of new autonomous sanctions regimes imposed by the EU per year (1990-2014)



Source: Author's elaboration

limited cooperation initiatives were launched with Belarus in the energy sector.⁴ The EU arms embargo on China did not impede the development of a burgeoning economic relationship and cooperation with Beijing. In view of this apparently contradictory picture, it is no wonder that hardly anybody realised that the EU has been “doing” sanctions for all this time. Illustratively, some ten years ago, an Asian journalist responded to a survey on the EU claiming: “I think their economic sanctions could have a lot of power”.⁵

Assessments of EU sanctions’ efficiency pre-2010 point to low success rates.⁶ This is hardly surprising in view of the difficulty of conclusively demonstrating that sanctions have contributed to particular outcomes. Yet there is little indication that sanctions were actually intended to compel a policy change in the targets. In fact, the EU has never instituted capacities for planning sanctions regimes or developed any metric to

⁴ Clara Portela, *European Union Sanctions and Foreign Policy* (Routledge: London, 2010).

⁵ Quoted in Clara Portela, “The EU, Human Rights and Burma/Myanmar: Stakeholders’ Perceptions in South East Asia”, in Martin Holland and Natalia Chaban (eds) *Europe and Asia: Perceptions from Afar* (Nomos: Baden-Baden, 2014), p. 45.

⁶ Clara Portela, *European Union Sanctions and Foreign Policy* (Routledge: London, 2010).

evaluate the impact and effectiveness of its measures.⁷ Institutionally, two sanctions units are tasked with preparing sanctions legislation, but the impact of sanctions on the targets is not systematically monitored and evaluated. The formulation and review of sanctions policies rely entirely on assessments by member states, delivered in Council meetings. This situation suggests that the political message conveyed by the sanctions has been the main consideration, rather than the actual effects of the measures. Indeed, the CFSP sanctions practice of the 1990s and 2000s undoubtedly positioned the EU as a firm advocate of human rights on the international scene.

A new willingness to pay the price of sanctions

The picture started to change from 2010, when the EU agreed sanctions on Iran that went far beyond the requirements of the UN Security Council. Adopted at Washington's instigation, measures such as the oil embargo and a range of financial sanctions replicated some US restrictions, magnifying their impact. For the first time, they adversely affected European enterprises across a number of sectors, some of them severely.⁸ The Iran sanctions, however, did not remain an isolated case. The electoral crisis in Côte d'Ivoire compelled the EU to enact unusually far-reaching measures in early 2011, including a ban on the import of Ivorian cocoa and a prohibition on European companies trading through the country's international harbours. Given that the crisis proved short-lived, sanctions were lifted before serious effects materialised – but the economic nature of the package nonetheless marked a departure from earlier practice. Around the same time, the EU initiated sanctions against Syria that escalated fast: in less than a year, Brussels deployed almost the entirety of its sanctions toolbox, including a ban on the import of Syrian oil and gas.⁹ In contrast to the cases of Iran and Côte d'Ivoire, EU autonomous measures against Syria were imposed on a target that was not already under UN sanctions – underlining the audacity of the move.

⁷ Anthonius W. de Vries, Clara Portela, and Borja Guijarro-Usobiaga, "Improving the Effectiveness of Sanctions: A Checklist for the EU", CEPS special report 95, Brussels, November 2014, available at <https://www.ceps.eu/publications/improving-effectiveness-sanctions-checklist-eu>.

⁸ Aniseh Bassiri Tabrizi and Ruth Hanau Santini, "EU Sanctions against Iran: new wine in old bottles?", ISPI Analysis No. 97, March 2012, available at http://www.ispionline.it/it/documents/Analysis_97_2012.pdf.

⁹ Clara Portela, "The EU's sanctions against Syria: conflict management by other means", Egmont Institute, Security Policy Brief, Number 38, September 2012, available at <http://www.egmontinstitute.be/wp-content/uploads/2013/09/SPB38.pdf>.

This evolution of the EU's sanctions regime is crowned by the measures taken against Russia in 2014 in response to its annexation of Crimea and support to separatist forces in eastern Ukraine. While the current package falls short of the severity of previous EU sanctions, it is the first time that the EU has adopted economic restrictions against its powerful eastern neighbour. Compared to recent regimes, the timid pre-2010 practice appears as a "rehearsal" in which the Council socialised its members into managing sanctions collectively in preparation for the day that its harmless restrictions would involve real costs for them. That day has already come and gone. Where the EU initially preferred narrowly targeted sanctions, it is now moving towards a broader interpretation of what measures can be employed for and whom they may affect. This indicates an emerging consensus within the EU that sanctions should have a serious economic impact, and a growing acceptance that individuals and entities not directly involved in the policies being condemned may suffer from the measures.

Does this shift represent the EU's increasing maturity in applying coercive tools? Its ability to agree and sustain sanctions, and their economic and political costs, is an unprecedented achievement in terms of member states' commitment to the CFSP, and its leading role in the resolution of the Iranian nuclear file has dramatically upgraded its image as an actor on the international security stage.¹⁰ However, the application of economic sanctions highlights challenges for the EU that did not exist when its sanctions merely consisted of preventing a handful of people from visiting and holding bank accounts in the continent.

Challenges for the EU

The key challenges that lie ahead for the EU's sanctions policies are interconnected. First, the EU needs to source more information on the impact of sanctions – both intended and unintended. The Commission recently started to evaluate the impact of sanctions on the Russian economy. However, monitoring efforts do not yet cover the consequences for the wider population, the impact on the political landscape, or the extent to which the measures are helping the EU to achieve its policy goals. This is particularly important because targeted

¹⁰ Riccardo Alcaro and Aniseh Bassiri Tabrizi, "Europe and Iran's Nuclear Issue: The Labours and Sorrows of a Supporting Actor", the *International Spectator*, 49(3), 2014, available at <http://www.iai.it/en/pubblicazioni/europe-and-irans-nuclear-issue>.

sanctions have unintended consequences, including humanitarian impacts, as this runs contrary to the *raison d'être* of targeted sanctions.

Granted, the effects of EU sanctions, even those on Iran, Syria, or Russia, are still far removed from the magnitude of the humanitarian disaster witnessed with comprehensive UN sanctions on Iraq.¹¹ While broader than they used to be, EU sanctions remain targeted. But now that the EU is imposing sanctions which can harm the target's economy as a whole, it should start to systematically monitor the impact on its targets. EU blacklists are often accused of hitting the wrong people and entities.¹² In order to avoid being held responsible for humanitarian hardship, the EU should be able to show that it is monitoring impacts and that no humanitarian effects are attributable to its measures. When asked about the impact of the sanctions on Myanmar during a hearing at the UK's House of Lords, a high-ranking EU official conceded that while "there may be some unintended and incidental ... collateral impact on ordinary people", they – presumably referring to the EU – were "*not aware* of this being a significant problem" (italics added for emphasis).¹³

Closely connected with this is the issue of over-compliance. The EU devotes great effort to designing sanctions so that they only affect specific individuals, the elites that constitute their power base, and the entities and sectors that supply them with funds. However, the problem for the private sector is that sanctions legislation often obliges it to expend resources finding out which deals are prohibited. This is compounded by the role of US restrictions. Because Washington applies its sanctions extraterritorially and closely monitors compliance, European companies often adhere to them in addition to EU bans. European measures do not have similar effects on third countries because EU bans only bind its own members; indeed, the EU has traditionally opposed the extraterritorial effects of US bans. This situation pushes firms to interpret the restrictions broadly for fear of unknowingly breaking the law, or to forego business with targeted

11 UN General Assembly Doc. A/69/941 – S/2015/432.

12 "Who are you calling a rogue?", the *Economist*, 20 June 2015, available at <http://www.economist.com/news/business/21654599-companies-are-fighting-inclusion-sanctions-listsand-winning-sort-who-are-you-calling>.

13 House of Lords Select Committee on Economic Affairs, reply by Deputy Director of DG External Relations, European Commission, Mr Karel Kovanda, to Q268, 17 October 2006, available at <http://www.publications.parliament.uk/pa/ld200607/ldselect/ldeconaf/96/96i.pdf>.

countries altogether. As a result, sanctions designed to be targeted do not remain targeted in the implementation phase. This is not a new phenomenon, and had already been witnessed pre-2010. However, Brussels has done little to ascertain the scope of the problem, including the extent to which European or US bans account for it, and it has not yet done anything to address it.

Finally, efforts to de-legitimise the unilateral use of sanctions are currently underway in UN forums. Besides the well-known UN General Assembly resolution, issued each year, that demands an end to the Cuban blockade,¹⁴ a campaign claiming that unilateral sanctions are contrary to human rights has recently gathered steam in the UN Human Rights Council.¹⁵ So far, the EU has not responded. Yet the threat posed by this campaign should not be dismissed. As sanctions gradually become less targeted, there are ample grounds on which they can be discredited. The disastrous impact of sanctions on Iraq, which provoked the move to targeted measures, demonstrates that the international reputation of sanctions matters.

The author thanks Anthonius de Vries and Aleksi Pursiainen for their comments. Any errors are hers.

¹⁴ UN General Assembly Doc. A/61/132.

¹⁵ UN General Assembly Doc. A/HRC/RES/24/14.



**EUROPEAN
COUNCIL
ON FOREIGN
RELATIONS**
ecfr.eu

CONNECTIVITY WARS

**WHY MIGRATION,
FINANCE AND TRADE
ARE THE GEO-ECONOMIC
BATTLEFIELDS
OF THE FUTURE**

Edited by MARK LEONARD

The European Council on Foreign Relations does not take collective positions. This paper, like all publications of the European Council on Foreign Relations, represents only the views of its authors.