

The Value And Limitations Of The European Union's Restrictive Measures/Sanction Regimes As A Foreign Policy Tool To Achieve Objectives.

**▬ Trabajo de Fin de Máster ▬**

**Máster Universitario en Diplomacia y  
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## **Table of Acronyms**

CFSP- Common Foreign and Security Policy  
COREPER II-Committee of Permanent Representatives II  
CJEU- Court of Justice of the European Union  
ECHO- EU humanitarian assistance  
EEAS- European External Actions Service  
ENP- European Neighbourhood Policy  
ENPI-European Neighbourhood Policy Instrument  
EPC-European Political Cooperation  
EPF-European Peace Facility  
EPI-Eastern Partnership initiative  
EU- European Union  
EUAM- EU Advisory Mission  
FAC- Foreign Affairs Council  
FSA-Free Syrian Army  
FSB-Federal Security Service  
GCEU- General Court of the EU  
HR/VP-High Representative and Vice President  
ICRC-International Red Cross  
ISIS- Islamic State of Iraq and the Levant  
ISSG-International Syrian Support Group  
JCPOA-Joint Comprehensive Plan of Action  
LON- League of Nations  
MENA-Middle East and North Africa  
MFA- Macro-Financial Assistance  
NATO- North Atlantic Treaty Organisation  
NGO- Non-Governmental Organisation  
OPCW-Organisation for the Prohibition of Chemical Weapons  
PSC-Political and Security Committee  
RELEX-Working Party of Foreign Relations Counsellors  
R2P- Responsibility to Protect  
SNC-Syrian National Coalition  
SDF- Syrian Democratic Forces  
SNG-Syrian National government  
SPFS-System for Transfer of Financial Messages  
SWIFT-The Society for Worldwide Interbank Financial Telecommunication  
TEU-Treaty of the European Union  
TFEU-Treaty for the Functioning of the European Union  
UfM-Union for the Mediterranean  
UNSC-United Nations Security Council  
USA- United States of America  
USSR-Union of Soviet Socialist Republics

## **0. Introduction**

The shortcoming of the European Union (EU) to create a military force entails that it is reliant on its economic statecraft as a coercive tool to achieve foreign policy objectives. It is therefore pertinent that the value and limitations of differing EU sanction regimes or restrictive measures in EU jargon, be analysed to ascertain their reliability. This dissertation evaluates the measures available to the Common Foreign and Security Policy (CFSP) focusing on the sanctions implemented by the CFSP against Russia from 2014 to 2022 and Syria 2011 to 2021. The choice of these two regimes is due to their period of implementation and the significance of the targets. Both regimes were implemented after the formation of the European External Actions Service (EEAS) in January 2011 and for many years were concurrently applied. Both of the targets posed different challenges and policy options: with Syria being a small economy embroiled in a civil war but a source of instability that profoundly changed EU politics; and Russia a large economic global nuclear power undermining European security. Both impacted the EU development of sanction policies in different ways and outlined the value and limitations of sanctions as a foreign policy tool for the EU.

This dissertation begins with a contextual review of sanctions as a foreign policy tool and theoretical analysis investigating their effectiveness. Chapter 1 reviews the legal framework of how the EU implements sanctions and investigates those implemented against Russia from 2014 to 2022. Chapter 2 investigates the sanctions utilised against Syria between 2011 to 2021. Both chapters use the framework of Francesco Giumelli to analyse the value and limitation of these regimes in achieving their objectives. Ultimately, the evaluation of sanctions is not a zero-sum endeavour with their implementation either being considered a success or failure. Like all policy tools the use of sanctions and their effectiveness is a spectrum, with wanted and unwanted outcomes. Indeed, many sanctions might objectively fail if their effectiveness is solely correlated with alleged aims in policy documents. Rather the use of sanctions and their evaluation needs to account for their outcomes and hypothetically if other policy tools could have functioned in their place.

The sources utilised in this study comprise of primary and secondary sources. Of particular use are Directives of the EU Council that have been vital in analysing the objectives of the chosen sanctions. Additionally, other EU documents consisting of databases, public announcements and reports have also been utilised in the analysis. The secondary sources comprise academic articles, newspapers and think-tank analysis. A highlighted academic is Francesco Giumelli, whose framework for analysing the effectiveness of sanctions is pertinent to the study.

## 0.1 The value of using economic sanctions to achieve objectives.

The logic and value of economic warfare is that it makes targets malleable to the sender's demands without resorting to violence. The emergence of modern day sanctions stems from the formation of the League of Nations, in the aftermath of World War One, which sought to use sanctions as a tool against potential rogue states, through the revolutionary idea of collective economic action. The value behind the use of sanctions was that the level of economic interdependence that had developed in the first wave of globalisation, from 1840s and 1914, and the proceeding success of the economic blockade against Germany during the First World War had created a policy option capable of humbling enemies, without resorting to force.<sup>1</sup> Indeed, of all the weapons that targeted civilians in the conflict the deadliest was the economic blockade.<sup>2</sup> The impact of these methods were not lost on the interwar revisionist powers, who among their policy objectives, sought security against sanctions by implementing autarkic policies or securing supply lines of key resources. This is a pertinent issue to outline, as although sanctions are often seen as a tool to avoid conflict they can at times inadvertently shift perception towards it. Indeed, in 1939, Hitler demonstrated this fear of sanctions when stating 'I need Ukraine so they cannot again starve us out like in the last war'.<sup>3</sup> Nonetheless, post 1945 and the second period of globalisation the use of sanctions again became a popular tool in the foreign policy arsenal and arguably proved effective against Rhodesia and Apartheid South Africa.

In the twenty-first century economic sanctions remain a central tool in shaping strategic outcomes. They continue to enable the Great Powers the means to influence the behaviour of other actors in the international system and achieve political objectives.<sup>4</sup> The EU's economic capacity and willingness to implement sanctions is one of the reasons that make it an important global actor. Indeed, the size of the European internal market, in 2022, is second only to the United States and larger than China's.<sup>5</sup> Economically, the EU is an actor that, in the words of High Representative and Vice President (HR/VP) Josep Borrell, 'no external player can neglect'.<sup>6</sup> Increasingly, the EU does not simply want recognition but the capacity to shape the international system. This capacity has spurred the development of

<sup>1</sup> Mulder, Nicholas. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War*. (Yale University Press, 2022).pp.20-24.

<sup>2</sup> The Economist, *A new history of sanctions has unsettling lessons for today*, 05/03/22. available from: <https://www.economist.com/finance-and-economics/2022/02/19/a-new-history-of-sanctions-has-unsettling-lessons-for-today> [Online date accessed 05/05/2022]

<sup>3</sup> Mulder, Nicholas. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War*. (Yale University Press, 2022).p.344.

<sup>4</sup> Taylor, Brendan. *Sanctions as grand strategy*. Routledge, 2012. p.1.

<sup>5</sup> The World Bank, *GDP- European Union, United States, China*. Accessed 05/05/2022. available from: <https://data-worldbank-org.sire.ub.edu/indicator/NY.GDP.MKTP.CD?locations=EU-US-CN> [Online date accessed 05/05/2022]

<sup>6</sup> Borrell, Josep., *European Foreign Policy in Times of Covid-19*, (Luxembourg: Publications Office of the European Union, 2021) Available from: [https://www.eunighbours.eu/sites/default/files/publications/2021-03/european\\_foreign\\_policy\\_in\\_times\\_of\\_covid19.pdf](https://www.eunighbours.eu/sites/default/files/publications/2021-03/european_foreign_policy_in_times_of_covid19.pdf) [last accessed 10/04/2022]. p.23. & Jorgensen, Knud Erik, et al., eds. *The SAGE handbook of European foreign policy*. (Sage, 2015.) p.222.

various sanction regimes that comprise under the CFSP vertical and horizontal sanctions. Vertical sanctions are territorially limited and time specific, such as those implemented against Syria in 2011, that comprise a mixture of sanctions against industries and individuals' and are the focus of this dissertation. Horizontal sanctions are extraterritorial and without limit and are implemented against individuals for terrorists activities or human rights abuses.<sup>7</sup> Additionally, the EU has the capacity to 'interrupt development aid' under Article 96 of the ACP-EU Partnership agreement, also known as the Cotonou agreement, which Clara Portela also characterises as a sanction regime of the EU.<sup>8</sup> The characteristics of vertical, horizontal and interruptive restrictive measures permit the EU to have a broad mechanism of responses. Globally in 2022, the EU has CFSP vertical sanctions against 35 nations and 4 horizontal thematic regimes (Chemical weapons, Cyber Attacks, Human Rights and Terrorism) in operation.<sup>9</sup> Therefore, sanctions are a tool the EU is confident and competent in implementing.

The EU desire for 'strategic autonomy' stems largely from the changing geo-political environment, where an arguable return to great-power politics and questionable US security commitment undermines the multilateral foundations of the EU.<sup>10</sup> Concerns about a rising strategic Chinese rival, a revanchist Russian neighbour and an increasingly distant ally in the United States requires that the EU learns to 'speak the language of power'.<sup>11</sup> The sanction regimes provide one of many tools available to the EU in its engagement in geo-politics. The actions of the late Trump administration and other 'strong men', such as Putin, Xi Jinping, Erdoğan, Modi and Bolsonaro along with the Covid-19 pandemic have exacerbated this hostile climate towards multilateralism and democracy. Indeed, as of 2022, more people live under authoritarian rule than democratic.<sup>12</sup> Despite the ascension of the Biden Administration, the challenges to democracy have increased with the return of the Taliban in Afghanistan and the Russian invasion of democratic Ukraine. Some voices claim

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<sup>7</sup> Giumelli, Francesco, Fabian Hoffmann & Anna Książczaková, *The when, what, where and why of European Union sanctions*, *European Security*, (2021) 30:1, 1-23. p.12.

<sup>8</sup> Jorgensen, Knud Erik, et al., eds. *The SAGE handbook of European foreign policy*. (Sage, 2015.). p.542.

<sup>9</sup> Giumelli, Francesco, Fabian Hoffmann & Anna Książczaková, *The when, what, where and why of European Union sanctions*, *European Security*, (2021) 30:1, 1-23. p.12. & EU, *sanctions map*, available from: <https://sanctionsmap.eu/#/main> [Online date accessed 05/05/2022]

<sup>10</sup> The Economist, *What will America fight for*, 07/12/21. available from: <https://www.economist.com/briefing/what-will-america-fight-for/21806660> [Online date accessed 05/05/2022]

<sup>11</sup> Borrell, Josep., *European Foreign Policy in Times of Covid-19*, (Luxembourg: Publications Office of the European Union, 2021) Available from: [https://www.euneighbours.eu/sites/default/files/publications/2021-03/european\\_foreign\\_policy\\_in\\_times\\_of\\_covid19.pdf](https://www.euneighbours.eu/sites/default/files/publications/2021-03/european_foreign_policy_in_times_of_covid19.pdf) [last accessed 10/04/2022]. p.16.

<sup>12</sup> The Economist, *A new low for global democracy*. 09/02/2022. Available from: <https://www.economist.com/graphic-detail/2022/02/09/a-new-low-for-global-democracy> [last accessed 10/04/2022]. & The Economist, *Confronting Russia shows the tensions between free trade and freedom*, 19/03/22. Available from: <https://www.economist.com/leaders/2022/03/19/confronting-russia-shows-the-tension-between-free-trade-and-freedom> [last accessed 10/04/2022]

it is the end of an ‘era of a conciliatory, if not naive, Europe’.<sup>13</sup> In the absence of hard military options the EU has to rely on its economic leverage through trade and sanctions if it is to operate and influence at the geo-political level.

The EU’s degree of cooperation and competency in using restrictive measures or sanctions illustrates one element in the emergence of a global strategy. Since the formation of the CFSP, in the 1992 Treaty of Maastricht, there has been an progressive willingness of members to coordinate sanctions through EU institutions.<sup>14</sup> The consensus behind EU sanctions is that it often provides its members a ‘middle way’, satisfying both hardliners and moderates and gives the EU an increasing degree of agency.<sup>15</sup> Although, a limitation of this ‘middle way’ is that in many instances it creates a minimalist foreign policy with the appearance of EU agency but in reality masking the divergent foreign policy objectives of the 27 members’. Despite this limitation, there is arguably a growing emergence of shared EU foreign policy objectives.

The culmination of these restrictive measures and the exercise of the EU’s other types of powers have led some to propose the emergence of an EU grand strategy, which coordinates assets towards specific goals and interests. Indeed, Michael E. Smith elaborates that the EU demonstrates a global strategy due to its development of specific policies in relations to physical security, economic prosperity and value projection, thus challenging the classical view that only States can undertake grand strategy.<sup>16</sup> Despite this it must be elaborated that the strategic efforts of the EU are not ‘zero sum’ in that the collective actions of the EU undermine the agency of its constituent members, rather, there is a mixture of competencies. These competencies and thus strategy emerge from the overlapping remits of EU institutions, such as the Commission, Parliament and member States in the Council. Nonetheless, this complexity is consistent with other global actors, such as the US, where multiple actors are empowered to act on behalf of the collective. Undoubtedly, these institutions or members might at times contradict each other but over time some general coherence in statements have emerged and can be defined, at least in Smith’s opinion, as EU grand strategy.<sup>17</sup>

The illustration of this grand strategy is demonstrated in EU treaties, documents and initiatives, such as the Lisbon Treaty, the 2016 Global Strategy and Strategic Compass. The fundamental principles of which are multilateralism and liberalism, which entail some general objectives of the EU such as: the promotion of democracy; human rights protection;

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<sup>13</sup> Borrell, Josep., *European Foreign Policy in Times of Covid-19*, (Luxembourg: Publications Office of the European Union, 2021) Available from: [https://www.euneighbours.eu/sites/default/files/publications/2021-03/european\\_foreign\\_policy\\_in\\_times\\_of\\_covid19.pdf](https://www.euneighbours.eu/sites/default/files/publications/2021-03/european_foreign_policy_in_times_of_covid19.pdf) [last accessed 10/04/2022]. p.32.

<sup>14</sup> Jorgensen, Knud Erik, et al., eds. *The SAGE handbook of European foreign policy*. (Sage, 2015.).p.528.

<sup>15</sup> Taylor, Brendan. *Sanctions as grand strategy*. Routledge, 2012. p.1.

<sup>16</sup> Smith, Michael E., *A liberal grand strategy in a realist world? Power, purpose and the EU's changing global role*. Journal of European public policy 18.2 (2011): 144-163. pp.145-146.

<sup>17</sup> Ibid.p.147.



limiting the proliferation of weapons; and strict observance of international law. However, the emergence of grand strategy values and objectives is separate to the implementation of these principles in practice. Indeed, capacity limitation and the competing strategies of other international actors limit the attainment of these goals. Thus, as the EU seeks to expand its global role the greater the difficulty to balance its priorities. This dichotomy between action and values was apparent in the European Neighbourhood Policy (ENP), following the Arab Spring, in 2011. There had been an attempt to link aid with values such as promoting democracy and human rights. However, in the aftermath of the Egyptian military coup, in 2013 and migrant crisis a pragmatic focus on security and stability emerged. This is a clear demonstration of the EU's 'capability-aspiration gap' as strategic adherence of EU values and principles are sometimes influenced by the geographical location and relationship of the actor to the Union.<sup>18</sup> Nonetheless, this strategic pragmatism is faced by all actors in the international system and does not undermine the existence of a clear EU global strategy. Therefore, use of EU sanction regimes and the reasons for their imposition demonstrates that when the EU does have the capacity it is emboldened to promote and safeguard its values and principles.

## 0.2 Limitations of using restrictive economic measures.

An overreliance on the use of restrictive measures as a policy tool could undermine and thus limit key EU objectives. The criticisms of sanctions are that often they are reactive, prone to countermeasures and limited in their capacity to influence some actors. The EU has often been in the situation whereby it is a responder rather than shaper of events.<sup>19</sup> Whilst, the initial benefits of using sanctions, such as ease of cooperation and relative 'cheapness' involved in implementing sanctions can often be offset by the costs financial and political in practice.<sup>20</sup> Firstly, sanctions rather than normatively changing the behaviour of an actor might push them beyond the sphere of EU influence, a fear raised by French President Macron, with regards to Russia towards Beijing.<sup>21</sup> Secondly, sanctions pose the risk of 'back firing' especially with larger players like China or Russia who pose the risk of retaliation, which is particularly acute due to trade imbalance or reliance on raw materials. The EU also has to countenance actions, in response to sanctions, from inventive neighbours. Countries like Turkey or Belarus have adopted policies that weaponize migrants and cause a dichotomy between the EU's desire to uphold values and appease some domestic audiences that fear migrants and refugees.<sup>22</sup> Finally, the impact of sanctions, even if they are 'targeted', have the potential to cause 'spillover' effects that indirectly

<sup>18</sup> Ibid.p155.

<sup>19</sup> Hix, Simon. *The political system of the European Union*. (Macmillan International Higher Education, 2011).p.323.

<sup>20</sup> Giumelli, Francesco, Fabian Hoffmann & Anna Książczaková, *The when, what, where and why of European Union sanctions, European Security*,(2021) 30:1, 1-23.)p.15.

<sup>21</sup> Gabuev, Alexander, *As Russia and China Draw closer, Europe Watches with foreboding*, (Carnegie Moscow, 19/03/2021. Available from: <https://carnegiemoscow.org/commentary/84135> [last accessed 10/04/2022]

<sup>22</sup> Kotoulas, I.E. and Pusztai, W., 2020. *Migration as a Weapon*. Foreign Affairs Institute, Report No1, p.6. Available from: (PDF) Ioannis E. Kotoulas & Wolfgang Pusztai, Migration as a Weapon: Turkey's Hybrid Warfare against the European Union [last accessed 10/04/2022]p.6.

impact the general population where the individual or industry is located. Thus, when the EU does implement restrictive measures the potential outcome might be detrimental and limited in achieving EU objectives. Although, sanctions are a useful tool for the EU in achieving some of its foreign policy objectives, the particular type of sanctions and under which regime must be considered to achieve the desired foreign policy objective. Indeed, it is apparent that it is not always prudent to use sanctions in some circumstances. A number of factors impact the success of a sanction regime, such as the potential cost to individual members in implementing the sanctions, how the recipient responds and the actual effectiveness of the measures in achieving desired outcomes. A framework is therefore required to ascertain the criteria for use of particular sanctions in regards to specific protagonists.

### **0.3 Theoretical frameworks for evaluating sanctions.**

Traditional theoretical literature bases the evaluation of sanction on the ‘behavioural change criterion’. In short if the targeted nations complied with the demands of the nation sending the sanctions. Understandably, political scientist David Baldwin stated ‘there are few subjects ... that achieve greater consensus than the claim that sanctions do not work’.<sup>23</sup> This behavioural change criteria formed the bulk of empirical research on sanctions for decades and has set an unrealistically high standard for evaluating and analysing the value of sanctions as a foreign policy tool. Indeed, too often the ‘hidden hand’ of economic sanctions, or the times when sanctions have been threatened but not used has been omitted from studies.<sup>24</sup> Surely the success and utility of sanctions as a policy tool would be more appreciated if the inclusion of threatened sanctions that either delayed or removed policy options from proposed targets were included. Assuredly, if sanctions did in practice have poor results why would the EU and US officials persistently rely on it. Rather than there being a failing of sanctions there has been a failure of assessing and measuring the effectiveness of sanctions.<sup>25</sup>

The value and limitation of sanctions evaluated in this paper utilises the four step analytical approach proposed by Francisco Giumelli. First, the analysis of the sanction needs to be placed in the larger foreign policy strategy context. What other actors or methods are used at the same time of the given sanctions, such as diplomatic efforts. Second, the logic of the sanction needs to be defined either as *coercive*, *constraining* or *signalling*.

*Coercive* sanctions are the most invasive method that forces the receiving state towards one desired outcome. An example of this is demonstrated in the case of the Islands of Comoros in 2008, when the President Mohammed Bacar refused to step down and the EU

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<sup>23</sup> Baldwin, David A., *The Sanctions Debate and the Logic of Choice*, International Security, Volume 24, Number 3, MIT, Winter 1999/2000, pp. 80-83.

<sup>24</sup> Drezner, Daniel W. *The hidden hand of economic coercion. International Organization* 57.3 (2003): 643-659. pp.643-644.

<sup>25</sup> Giumelli, Francesco. *The success of sanctions: Lessons learned from the EU experience*. (Routledge, 2016). p.2.

implemented sanctions with the clear objective that the country return to democratic rule.<sup>26</sup> The EU increased the costs of all behaviours but the one desired. *Coercive* sanctions often entail that costs are extracted on both the sender by the receiver entity and thus sometimes incorporates the concept of pain-gain nexus.

*Constraining* sanctions increase the costs of specific behaviours but permit multiple outcomes. The logic being to raise the costs of the targets sustaining certain objectives. *Constraining* sanctions often occur when the sender and target have incompatible goals. Conceptually it is different to *coercion* as the demands of the sender using *constraining* sanctions are not specific. An example of this type of sanction is the EU sanctions against Russia, following its destabilising actions in eastern Ukraine in 2014. The EU wanted to constrain Russia's policy options and bring it to the negotiation table but the outcome of those negotiations were not determined.

*Signalling* sanctions demonstrate disapproval without inflicting significant material costs.<sup>27</sup> The use of sanctions could entail a signalling of displeasure without a defined desired final outcome. This is often the outcome with cases regarding larger powers, such as China. Indeed, sanctions could be justified not for their outcome but as a tool to express or reaffirm EU values with what is deemed 'acceptable behaviour' such as, EU sanctions against Chinese officials involved in the human rights abuses of the Uighur minority.<sup>28</sup> Although unlikely to change Beijing's policy, it is a tool to uphold the EU's values and demonstrate some opposition whilst not undermining the whole relationship. Moreover, the signalling sanction might not be entirely directed at the offending actor but is rather implemented for the consumption of member states' domestic audiences or the general international community, thus taking into account the two-game theory.

The classification of sanctions is pertinent as the desired outcome needs to be within the realms of the reciprocated country to achieve and within the means of the sender to sustain (either economically or politically). For example, demanding Lukashenko to release political dissidents is a more feasible objective than demanding regime change. These three dimensions of sanctions are not exclusive and might evolve over periods of time, and thus are tools of analysis rather than a definitive typology.<sup>29</sup>

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<sup>26</sup> Giumelli, Francesco, Fabian Hoffmann & Anna Książczaková, *The when, what, where and why of European Union sanctions*, *European Security*, (2021) 30:1, 1-23.).p.10.

<sup>27</sup> Giumelli, Francisco., *The Success of Sanctions: Lessons learned from the EU experience* (Routledge, 2016) p.4.

<sup>28</sup> Council Decision 2021/481/CFSP, L 99 I/25, concerning restrictive measures against serious human rights violations and abuses [22/03/2021]available from:<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2021:099I:FULL&from=EN> [Online date accessed 06/05/2022]

<sup>29</sup> Giumelli, Francisco., *The Success of Sanctions: Lessons learned from the EU experience* (Routledge, 2016) p.3.

The third step involves the analysis of the objective impacts and effects of the sanctions. Were these impacts anticipated by the sanctioning power? Were there any unintended consequences? As Giumelli states ‘a successful sanction is not one that provokes an economic cost, but one that causes the anticipated effects’.<sup>30</sup> In this area the effectiveness of sanctions might become more apparent as it can have beneficial and adverse outcomes that were not intended. Beneficial outcomes could be strengthening international cooperation, institutions or unholding international norms. Whilst adverse impacts could be that sanctions add to the legitimacy of the regime being targeted, especially if the ruling elite convince the population to rally for support *vis-à-vis* a common enemy, which can at times be demonstrated in sanctions targeting Iran, Venezuela and North Korea.<sup>31</sup>

Finally, the fourth step is a counterfactual comparative analysis of the use of the sanctions. This offers the opportunity to review, with hindsight, whether sanctions were the best tools available to the sender.<sup>32</sup> Although lacking a methodological basis, this counterfactual exercise permits an analysis of the contribution of sanctions as a foreign policy tool. As Giumelli highlights the evaluation of sanctions is not an exact science but this process does at least permit a logical process of analysis. This dissertation utilises Giumelli’s framework in order to evaluate the value and limitations of the CFSP vertical sanction regime against Russia and Syria.

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<sup>30</sup> Ibid. p.8.

<sup>31</sup> Grauvogel, Julia, and Christian Von Soest. *Claims to legitimacy count: Why sanctions fail to instigate democratisation in authoritarian regimes*. *European Journal of Political Research* 53.4 (2014): 635-653. p.637.

<sup>32</sup> Giumelli, Francisco., *The Success of Sanctions: Lessons learned from the EU experience* (Routledge, 2016), p.10.

# 1. Chapter 1: The value and limitation of CFSP sanction regimes against Russia.

The capabilities of the EU since the Maastricht Treaty have expanded and solidified in the intervening years. This chapter explores the method, basis and type of sanctions the EU is able to implement. Only by understanding the process of decision making and parameters of use is the analysis of sanctions possible. The analysis then focuses on the value and limitation of the sanction regime implemented against Russia between March 2014 and February 2022.

## 1.0 The context and process of implementing EU restrictive measures.

The imposition of sanctions has been a policy option for the EU since the Treaty of Rome in 1957 but only in 1992, with the Maastricht Treaty and creation of the Common Foreign and Security Policy (CFSP) did the EU become a competent autonomous actor.<sup>33</sup> Prior to 1992, the EU had successfully implemented sanctions, through the European Political Cooperation (EPC) on a number of targets that included, Rhodesia (1965), Apartheid South Africa (1977) Argentina, following the invasion of the Falklands (1982) and China, following the repression in Tiananmen Square (1989).<sup>34</sup> However, these sanctions were more a series of coordination among European governments, with common political goals than binding legal decisions.<sup>35</sup>

Since 1992, the EU has become a dynamic actor incorporating shared attributes of nation states and international organisations.<sup>36</sup> The institutional development of the EU in the field of sanctions has been a process involving member states in the Council and the other institutions of the EU, that include the Commission, the Parliament and since 2011, the European External Action Service (EEAS). The enforcement of sanctions, as outlined in Articles 30 and 31 of the Treaty of the European Union (TEU) is under the domain of the CFSP and an ultimate vote in the Council. However, any member state or the High Representative and Vice President (HR/VP) has the power of initiating sanction proposals.<sup>37</sup>

<sup>33</sup> Giumelli, Francesco. *The success of sanctions: Lessons learned from the EU experience*. (Routledge, 2016). p.17

<sup>34</sup> Vines, Alex. *The effectiveness of UN and EU sanctions: Lessons for the twenty-first century*. International affairs 88.4 (2012): 867-877. p.874. And in Russell, Martin,. *European Parliament, sanctions: A key foreign and security policy instrument*, 2018. Available from: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621870/EPRS\\_BRI\(2018\)621870\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621870/EPRS_BRI(2018)621870_EN.pdf) [last accessed 01/03/2022]

<sup>35</sup> Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*. p.17

<sup>36</sup> Ibid., p.6.

<sup>37</sup> Consolidated version of the Treaty on European Union [2016] OJ C 202 Title V - General Provisions on the Union's External Action and Specific Provisions on the Common Foreign and Security Policy, Article 30. Available from: [http://data.europa.eu/eli/treaty/teu\\_2016/art\\_30/oj](http://data.europa.eu/eli/treaty/teu_2016/art_30/oj) [last accessed 01/03/2022] and Consolidated version of the Treaty on European Union [2016] OJ C 202 Title V -General Provisions on the

The value of the process is that the institutionalisation over the last 30 years has made it highly unlikely that an EU member state would impose restrictive measures on third parties unless an EU decision has been decided; thus making the EU a more unified actor on the international stage.<sup>38</sup> However, the limitation of this cooperation is often a minimalist outcome as it balances the differing views and objectives of the 27 member states.

The process of developing restrictive measures is important for the study, as it provides the necessary foundations in the analysis of how decisions for implementing sanctions are achieved. The route to a Council vote follows a number of steps, allowing for input from multiple sources. First a general proposal is initiated in the Foreign Affairs Council (FAC), which comprises the Foreign Affairs ministers of the member states and is headed by the HR/VP. Secondly, the general proposal is then discussed in greater detail by the Political and Security Committee (PSC), which comprises the 28 member Ambassadors, permanently based in Brussels and chaired by representatives of the EEAS.<sup>39</sup> Thirdly, the proposals of the PSC are scrutinised by the specialist Council working party responsible for the geographical region, also known as the Council Preparatory Bodies.<sup>40</sup> It is in these working groups that the main negotiation and decisions by consensus emerge on who and what should be sanctioned. Fourthly, the list is then transferred to the Working Party of Foreign Relations Counsellors (RELEX) where member representatives negotiate specific and concrete terms for every restrictive measure. Fifthly, it is put forward for approval through the Committee of Permanent Representatives II (COREPER II) where each member has a Permanent Representative and then finally the vote in the Council.<sup>41</sup> A limitation of the overall process is twofold. First, one member can hold hostage the implementation of sanctions, as occurred in October 2020, when Cyprus vetoed sanctions on Belarus; until it received EU support that Turkey face punitive measures if it continued undersea drilling in disputed waters.<sup>42</sup> Second, ineffective policies are sometimes continued, as they managed to achieve consensus. Despite these limitations the process entails compromise and has become adapt in its functions with it being rare that a consensus is not reached prior to the final vote in the Council.

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*Union's External Action and Specific Provisions on the Common Foreign and Security Policy, Article 31.*  
Available from: [http://data.europa.eu/eli/treaty/teu\\_2016/art\\_31/oj](http://data.europa.eu/eli/treaty/teu_2016/art_31/oj) [last accessed 01/03/2022]

<sup>38</sup> Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*. p.21.

<sup>39</sup> European Council, *Political and Security Committee (PSE)*, 2017. Available from: <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/political-security-committee/> [last accessed 18/03/22]

<sup>40</sup> European Council, Council Preparatory Bodies, Available from: <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/> [last accessed 18/03/22] also available European Council, Adoption and Review procedure for EU sanctions, 2019. Available from: <https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/> [last accessed 18/03/22]

<sup>41</sup> Eur-Lex, *COREPER*, Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:coreper> [last accessed 18/03/22] and Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*, p.19.

<sup>42</sup> AP News, EU leaders overcome Cyprus veto, agree Belarus sanctions 1st October 2020. Available from: <https://apnews.com/article/turkey-europe-alexander-lukashenko-belarus-cyprus-4e5a75706a2ff211e3439Cee2f3fa37c> [Last accessed 01/03/2022]

Once implemented the sanctions are monitored and reported on by the working party RELEX/sanctions, which since its establishment in 2004 evaluates best practise and formulates revisions to the implementation of sanctions.<sup>43</sup> Pertinently, the desire for a quicker process has led to the development of the Council adopting restrictive measures by a simplified written procedure.<sup>44</sup> This process is initiated by the Council President, under Article 7 of the Rule of Procedures, who proposes a list of targets provided by COREPER II which is then adopted by member states so long as there are no objections. Members are often given a time limit of 24 or 36 hours to evaluate the list before it is adopted. This was first invoked during the Arab Spring, in 2011, as the EU wanted to respond quicker to events.<sup>45</sup> Since then, and especially following the Russian invasion of Ukraine in February 2022, the EU has demonstrated it is capable of implementing sanctions at the same speed as nation states. It is likely that EU institutions might increase their role, through the written procedure, in the development of Sanction measures.

Throughout this process the other institutions of the EU are also involved. The EEAS assists the HR/VP and provides expert advice and guidance at all levels of the Council. Whilst the Commission is not directly involved in the political decisions, through the HR/VP it does have indirect access and influence over the Council political process. Furthermore, it is needed in monitoring that the specific restrictive measures are implemented by member states. While the Council has the prerogative to implement sanction, some types of sanctions oblige the Council to inform the Parliament, thus entailing a form of oversight. The Council has sole competencies in the implementation of travel bans and arms embargoes.<sup>46</sup> However, to pass restrictive measures that encompass trade or finance, the Council is obliged, under Article 215 of the Treaty for the Functioning of the European Union (TFEU) to inform the EU Parliament.<sup>47</sup> Moreover, if the Council intends to implement vertical restrictive measure against individuals accused of terrorism then the Council is obligated under Article 75 of the TFEU of adopting a regulation with the Parliament via the ordinary legislative procedure outlined in Article 189.<sup>48</sup> Thus, although the prerogative of imposing sanctions is held by the Council the other institutions

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<sup>43</sup>Council of the European Union, *Working Party of Foreign Relations Counsellors (RELEX)*, available from: <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-foreign-relations-counsellors/> [Last accessed 01/03/2022]

<sup>44</sup> Thomas Reuters, *Simplified written procedure (Council of the EU)* Available from: [https://uk.practicallaw.thomsonreuters.com/w-016-5747?originationContext=knowHow&transitionType=KnowHowItem&contextData=\(sc.DocLink\)&comp=pluk](https://uk.practicallaw.thomsonreuters.com/w-016-5747?originationContext=knowHow&transitionType=KnowHowItem&contextData=(sc.DocLink)&comp=pluk) [Last accessed 01/03/2022]

<sup>45</sup>Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*. p.22.

<sup>46</sup>Ibid., p.23.

<sup>47</sup> Consolidated version of the Treaty on the Functioning of the European Union [07/06/2016] OJ C 202 Part Five - *The Union's External Action, Title IV- Restrictive Measures, Article 215*. Available from: [http://data.europa.eu/eli/treaty/tfeu\\_2016/art\\_215/oj](http://data.europa.eu/eli/treaty/tfeu_2016/art_215/oj) [Last accessed 01/03/2022]

<sup>48</sup> Consolidated version of the Treaty on the Functioning of the European Union [07/06/2016] OJ C 115 Part Three: *Union Policies and Internal Actions- Title V: Area of Freedom, Security and Justice - Chapter I: General provisions, Article 75*. Available from: [http://data.europa.eu/eli/treaty/tfeu\\_2008/art\\_75/oj](http://data.europa.eu/eli/treaty/tfeu_2008/art_75/oj) [Online date accessed 01/03/2022]

and agencies of the EU have relevant input in the process. Despite the multitude of EU institutions and member states, the EU has successfully developed a competent system of restrictive measures, which when necessary or when objectives align can be implemented quickly.

### 1.1 The Parameters of EU restrictive measures.

To evaluate the success of EU sanctions it is important to review what types of sanctions the EU can legally implement. Several documents have established the parameters of EU restrictive measures and aim to improve the design, implementation and effectiveness of the measures. Evaluating these documents illustrates the objectives and limitations of general EU restrictive measures and permits greater analysis of the selected case studies.

The first document is the *Basic Principles on the Use of Restrictive Measures (Basic Principles)*, certified by the PSC in 2004, which outlined the framework for effective use of sanctions by the Council. This framework demonstrates EU commitments to implementing UN mandated sanctions but also divulges the conditions for EU autonomous sanctions. Outlined in Section 6 the EU is committed to reduce to the ‘maximum extent’ negative humanitarian impacts, on the wider civilian population whilst focusing restrictive measures on those ‘whose behaviour we want to influence’.<sup>49</sup> This is important for the analysis as it demonstrates the parameters of what sanctions the EU is capable of implementing. First, it is clear that the objective of EU sanctions is not to economically cripple the designated country, nor is it necessary that the EU intends to cause suffering at all but rather influence the behaviour of the targets. Thus the amount of economic damage or material impact is not necessarily a pertinent variable to evaluate the success of a sanction regime according to *The Basic Principles*. Rather the appropriate variable is the change in behaviour as a consequence of EU arms embargoes, visa bans and freezing of funds.<sup>50</sup>

The Second document is the *Guidelines on the Implementation and Evaluation of Restrictive Measures (The Guidelines)*, which was initially endorsed by the Council on the 8th December 2003, but has since been updated in 2003, 2005, 2009, 2012, 2018. *The Guidelines* contain definitions on how to design restrictive measures and importantly information on different types of restrictions with instructions on how to measure their effectiveness.<sup>51</sup> As sanctions are considered a tool of foreign policy *The Guidelines* portray that the EU objectives are conducted in compliance with Article 21 of the TEU; which seeks to advance ‘democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and

<sup>49</sup>Council of the European Union, 10198/1/04 REV 1 *Basic Principles on the Use of Restrictive Measures (Sanctions)*, [07/06 2004] Section 6. available from: <https://data.consilium.europa.eu/doc/document/ST-10198-2004-REV-1/en/pdf> [Last accessed 01/03/2022]

<sup>50</sup> Ibid., Section 6.

<sup>51</sup>Council of the European Union, 5664/18 *Sanctions Guidelines – update* [04/05/2018] available from: <https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf> [last accessed 01/03/2022]



solidarity, and respect for the principles of the United Nations Charter and international law'.<sup>52</sup> However, *The Guidelines* do expand, in Section 5, that the Council Decision will elaborate on specific objectives for each restrictive measure regime. In addition, Section 5 highlights that restrictive measures do not have an 'economic motivation' but rather a desire to change policy or behaviour.<sup>53</sup> The evaluation of the effectiveness of the EU restrictive measures comprises of three factors in *The Guidelines*: first that the sanctions are implemented by all member states; second that sanctions are complementary to a broader and more comprehensive policy; and finally the measures are imposed to 'bring about change in the policy or activity' of the given target.<sup>54</sup> Based on *The Guidelines* the effectiveness of EU sanctions are measured on the basis of 'behavioural change criteria'. Whilst changes of behaviour is a pertinent variable in the analysis of the EU sanction regimes this dissertation will expand the basis of effectiveness to incorporate the nuances in Giumelli's four step framework, as illustrated in the introduction, that includes the aspects of coercive, constraining and signalling sanctions.

The final document is *The EU Best Practices for the Effective Implementation of Restrictive Measures (Best Practices)* which was initially approved in 2004, but has since been updated in 2008, 2016, 2018 and remains a working document that is constantly reviewed. It contains information on how the EU can identify and correctly designate sanctions, including areas such as methods for implementing and monitoring frozen assets, banned products and procedures for exceptions and delistings.<sup>55</sup> It is important as it outlines the legal requirements for imposing sanctions, which can at times be difficult to justify without credible evidence, especially against individuals. As all EU restrictive measures are bound by international treaties, UN decisions and EU legislation targeted individuals and companies have the opportunity to exercise their right of remedy and access to due process. This legal right, enshrined in EU law, enables requests to be delisted in the General Court of the EU (GCEU) and can be appealed all the way to the Court of Justice of the European Union (CJEU) thus providing an important check on the ability to implement sanctions. Indeed, this is illustrated in cases such as *Pye Phyzo Tay Za vs Council* in 2012, which involved a Burmese businessman and his son, Tay Za, having sanctions placed against them, due to their connection with the Burma/ Myanmar junta. However, the justification for sanctions against Tay Za was that he was a family relation and the CJEU found this

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<sup>52</sup>Consolidated version of the Treaty on European Union, *OJ C 202 Title V - General Provisions on the Union's External Action and Specific Provisions on the Common Foreign and Security Policy, Article 21* [09/05/2008] available from:

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008M021&from=EN> [Last accessed 01/03/2022]

<sup>53</sup> Council of the European Union, 5664/18 *Sanctions Guidelines – update* [04/05/2018] available from: <https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf> [Last accessed 01/03/2022] Section 5.

<sup>54</sup>*Ibid.* pp.45-46.

<sup>55</sup> Council of the European Union, 8519/18 *The EU Best Practices for the Effective Implementation of Restrictive Measures* [04/05/2018] p.3-4. available from: <https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf> [Last accessed 01/03/2022]

basis to be contrary to EU law.<sup>56</sup> Since this judgement the EU has faced increasing requests for delistings and demonstrates clear parameters of EU sanctions requiring evidence. This is juxtaposed with the US system of sanctions that has no qualms with listing family members of sanctioned individuals.<sup>57</sup>

Using these three documents the analysis of EU sanctions can take account of the objectives and legal commitments faced by the EU in the implementation and maintenance of their restrictive measures. However, it is important to highlight that the analysis of this dissertation is prior to the sanction regimes that emerged after the Russian invasion of Ukraine, in February 2022. A clear shift has occurred that allows measures to be both deeper and broader than previous policy. This depth is demonstrated in the adoption of 'asset seizures' such as, yachts, cash and other 'ill-gotten gains' from individuals. Whilst the breadth of sanctions have become more sweeping with; policies that freeze Russia's central bank's access to foreign reserves; restriction of access to the international payment system SWIFT; and banning Russian aircraft from airspaces.<sup>58</sup> There is no doubt new best practice and guidelines will be updated.

## 1.2 The Types of sanctions available to the EU.

The typology of EU sanctions undertaken under the competencies of the CFSP, provided by Thomas Biersteker and Clara Portela consist of three types: Implementing United Nation sanctions; supplementary EU sanctions and autonomous EU sanctions.<sup>59</sup> The implementation of UN sanctions involve the EU applying decisions mandated by the UN Security Council (UNSC) under Chapter VII, which have historically been implemented under the pretext of maintaining peace and security. However, since the end of the Cold War the prerogative of the UNSC has expanded to address non-state actors, such as the threats of terrorism, proliferation of weapons and even unconstitutional changes of government or Responsibility to Protect (R2P), in cases where civilians are threatened by their own governments. The EU maintains a commitment to uphold International Law and through its exclusive competency in external trade implements these directives, from the UNSC, on behalf of its members. This typology of sanctions constitutes a significant quantity of EU restrictive measures but do not compose the main focus of this dissertation, due to the fact the EU does not formulate the objectives of the sanctions but merely implements the measures under its obligations stipulated in the UN Charter.

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<sup>56</sup> Common Market Law Review, *Case C-376/10 P, Pye Phyto Tay Za v. Council, Judgement of the European Court of Justice (Grand Chamber)* (13 March 2012) 49: 1–18, (2012, Kluwer Law International, UK).p.11.

<sup>57</sup> U.S Department of The Treasury, OFAC Consolidated Frequently Asked Questions, point: 540. *available from:*

<https://home.treasury.gov/policy-issues/financial-sanctions/frequently-asked-questions/ofac-consolidated-frequently-asked-questions> [Last accessed 05/03/2022]

<sup>58</sup> The Economist, *A new age of economic conflict*, 05/03/2022. *available from:*

<https://www.economist.com/leaders/a-new-age-of-economic-conflict/21807968>[Last accessed 05/03/2022]

<sup>59</sup> Biersteker, Thomas J., and Clara Portela. *EU sanctions in context: three types*. No. Book. European Union Institute for Security Studies, 2015.p.3.

The supplementary sanctions undertaken by the EU, are measures undertaken to ‘strengthen’ UN sanctions and often in cohesion with other Western allies, such as the USA. The EU sanctions on Iran since 2010, the Democratic People’s Republic of Korea (DPRK), Libya in 2011, and Côte d’Ivoire in 2011 are examples of this type of EU sanction.<sup>60</sup> These actions have sometimes caused controversy, especially from Russia and China, who argue that they undermine the legitimacy of the UN. First, because the target State often does not differentiate between UN mandated and supplementary sanctions. Second, there is legal doubt about whether UN sanctions constitute the minimum or maximum internationally legal action against a target state, often called the ‘floor versus ceiling debate’, with the potential accusation that EU or other entities undertake *ultra vires* acts by adding additional sanctions.<sup>61</sup> Despite the origins of these measures stemming from the UN, the additional EU supplementary sanctions can still be analysed in the study as there is a EU desired objective which does not necessarily align with the UN.

Autonomous EU sanctions constitute those implemented without a UN mandate. This situation emerges when there is no agreement in the UNSC but there is among the EU member states. These are controversial actions of the EU, as it conflicts with the EU’s commitment to multilateralism. Nevertheless, it constitutes an important foreign policy tool allowing the EU to coerce, constrain or signal what it considers unacceptable behaviour or reaffirming EU interests and values.<sup>62</sup> Examples of these sanctions include: China (1989), the Comoros Islands (2008), Syria (2011) and Russia (2014). The EU has often maintained close cooperation with the US and other regional allies, such as the Economic Community of West African states, Arab League or African Union, in implementing these sanctions. However, there is sometimes divergence in the specific measures and the conditions for their termination. Indeed, the US is often reluctant to lift sanctions until the target has fully complied with its objectives, unlike the EU which permits easing once credible steps to compliance have been attained.<sup>63</sup> It is these autonomous EU sanctions which are the main focus of this dissertation, as it is possible to ascertain and evaluate the objectives and outcome of the sanctions implemented.

Complementary to the typology provided by Biersteker and Portela are two forms of sanctions and two reasons for implementation provided by Giumelli. The two forms of sanctions comprise: first economic damage or ‘classical forms’ of sanctions involving measures that restrict access to such commodities like oil or stopping trade. Even EU sanctions that do not have the objective of causing economic damage might be placed in this category as they ultimately extract a cost from the target. This demonstrates a potential divergence between EU extolled narrative and the potential objective reality of the restrictive measures. The second form of sanctions is ‘loss of economic opportunity’ where little or no trade had previously occurred with the target so sanctions consist of missed

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<sup>60</sup> Ibid., p.1

<sup>61</sup> Ibid., p.4

<sup>62</sup> Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*. p.8.

<sup>63</sup> Biersteker, Thomas J., and Clara Portela. *EU sanctions in context: three types*. p.3.

opportunities and access to aid.<sup>64</sup> An example of this type might be Western aid being withheld from Afghanistan following the capture of Kabul by the Taliban in August 2021, until guarantees for female education are made.<sup>65</sup> Whilst the two reasons for implementing sanctions are caused by; first legal reasoning based on past transgressions and tend to be a form of punishment. Second by political reasoning whereby the sanctions are justified by an ongoing undesirable behaviour, which illustrates to targets measures that they should do in order to have the sanctions lifted. Both legal and political reasoning can be apparent in the sanction regime.

The application of different typologies and categories of sanctions do not occur in isolation. Some cases originate as EU autonomous sanctions and then morph into UN sanctions or vice-versa. Indeed, the EU imposed arms embargoes on Sudan (1994), Democratic Republic of Congo (1993) and former Yugoslavia (1991) prior to UN mandated measures. Whilst, sometimes EU autonomous sanctions are maintained once the UN has lifted its own, as was the case with Libya in 2003, where the EU chose to maintain the sanctions implemented following the Lockerbie bombings, in 1988.<sup>66</sup> It is therefore important to ascertain the larger context of all international sanctions and account for when they overlap.<sup>67</sup> Thus, UN sanctions and EU supplementary sanctions are necessary to evaluate and analyse the effectiveness of EU autonomous sanctions.

Using the framework of Francesco Giumelli the restrictive measures taken against the Russian Federation, between March 2014 and February 2022 are analysed. The adoption of restrictive measures by the EU against Russia has proven to be one of the most important foreign policy areas in recent years. Despite the EU previously levelling sanctions against other large economies like the US in 1996-1998 and against China since the Tiananmen Square protests in 1989, none were as expansive as those implemented against Russia between March 2014 to February 2022. The lessons learnt during those years are pertinent in developing future policy and practice. The analysis uses the four step framework comprising: Firstly were the sanctions part of a broader approach? Secondly, what was the logic of the sanctions: coercing, constraining, or signalling? Thirdly, what were the wanted and unwanted effects of the sanctions, compared to the expectations and taking into account the logic of the sanctions? Finally, could other feasible foreign policy tools have performed better than sanctions in the given case? By focusing on these questions the sanction regimes against Russia are analysed for their value and limitations.

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<sup>64</sup> Giumelli, F. *The success of sanctions: Lessons learned from the EU experience*. p.8.

<sup>65</sup>The Economist, *The Taliban are shackling half the Afghan population*, 02/04/2022. Available from: <https://www.economist.com/leaders/the-taliban-are-shackling-half-the-afghan-population/21808483>[Last accessed 09/05/2022]

<sup>66</sup> Biersteker, Thomas J., and Clara Portela. *EU sanctions in context: three types*. p.3.

<sup>67</sup>Ibid., p.1

### 1.3 Context of Russian Sanctions.

The Russian annexation of Crimea, the destabilisation of eastern Ukraine and the subsequent downing of flight MH17, attributed to Russian supported separatists, led to the implementation of EU sanctions under the CFSP, in March 2014. The unilateral action of Russia against the territorial sovereignty of Ukraine, was deemed a clear breach of International Law, as outlined in the UN Charter. However, as Russia possessed a permanent seat in the UNSC, UN mandated sanctions could not be passed without being vetoed. Therefore, the EU implemented autonomous vertical sanctions against Russia, which since the Council Decision, of the 17th March 2014, were periodically renewed.<sup>68</sup> These restrictive measures mandated by the Council include targeted sanctions against individuals, entities and an embargo on the Crimea, which on the 13th December 2021, comprised 203 persons and 51 entities facing travel bans, asset freezes and restricted access to capital markets.<sup>69</sup> The analysis of the sanctions against Russia evaluates the period 17th March 2014 to 21st February 2022, when Russia recognised the statehood of the Donetsk People's Republic and Luhansk People's Republic.

### 1.4 Were the sanctions part of a broader approach?

The series of events leading to sanctions against Russia began with unrest following the suspension, by then President of Ukraine Viktor Yanukovich, of the EU-Ukrainian association agreement, in November 2013. The proceeding public unrest known as the Maiden Revolution that toppled Yanukovich, in February 2014, led to Russia's annexation of Crimea and subsequent destabilising actions, arguably, in an attempt to stop Ukraine drifting towards EU and NATO membership. It is therefore apparent that the EU and NATO had a responsibility towards Ukraine other than just upholding International Law and this is demonstrated in the actions, which include coordinated sanctions, diplomatic efforts and aid.

The EU autonomous sanctions had been implemented in coordination with the US, Canada, Australia, Japan, Norway and New Zealand in an attempt to constrain Russian actions. In parallel diplomatic efforts had been utilised to reach or clarify desired objectives. In the immediate aftermath of the annexation of Crimea the EU and other powers signalled their displeasure by diplomatically penalising Russia with its removal from the G8 and ending other cooperative international bodies. In addition, the EU and its members promoted and maintained support for non-recognition of Russia's annexation in the UN, through support for Assembly Resolutions' condemning: referendums, elections and the construction of the

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<sup>68</sup>Council Decision 2014/145/CFSP, *OJ L 78, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine* [17/03/2014] available from: [http://data.europa.eu/eli/dec/2014/145\(1\)/oj](http://data.europa.eu/eli/dec/2014/145(1)/oj) [Last accessed 01/03/2022]

<sup>69</sup> Council Decision 2014/145/CFSP, *OJ L 78 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine* [13/12/2021] available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014D0145-20211213&qid=1646389385516&from=EN> [Last accessed 01/03/2022]

Kerch Bridge in Crimea to name a few.<sup>70</sup> However, an intractable conflict emerged, following the succession of the Donetsk and Luhansk republics, from Ukraine. In response the formation of the Normandy Format was established, which consisted of diplomatic discussions to end the conflict between Germany, France, Ukraine and Russia, from June 2014. Emerging from these discussions were the Minsk and Minsk II ceasefire and accords, the implementation of which became the objective of the EU Council's sanction regime.<sup>71</sup>

In terms of aid the EU and allies committed themselves to supporting Ukraine politically, financially and militarily. The EU politically strengthened relations by signing the EU-Ukrainian association agreement on the 27th June 2014.<sup>72</sup> From this time until February 2022, the EU allocated €17 billion in grants and loans and through five macro-financial assistance (MFA) programs supported institutional reforms such as, combating corruption and supporting an independent judiciary.<sup>73</sup> EU military support was limited to promoting 'resilience' and peace, with the EU Advisory Mission (EUAM), in operation from December 2014, along with the European Peace Facility (EPF) that aided reform to security services and support in non-lethal security issues, such as strengthening defences against cyber threats.<sup>74</sup> The primary security support provided to Ukraine stemmed from NATO, which from 2014, worked closely with reforms and training of Ukrainian military forces. In 2019 Ukraine inserted a clause in its constitution highlighting the objective of becoming a NATO member.<sup>75</sup> This final point was strongly opposed by the Kremlin and arguably undermined the deterrence of sanctions. These complementary measures supported and arguably undermined the sanction regime against Russia.

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<sup>70</sup> Council of the European Union, *Ukraine: Declaration by the High Representative on behalf of the European Union on the illegal annexation of Crimea and Sevastopol*, (Press release, 25/02/2021) available from: <https://www.consilium.europa.eu/en/press/press-releases/2021/02/25/ukraine-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-illegal-annexation-of-crimea-and-sevastopol/> [Last accessed 01/03/2022]

<sup>71</sup> Lohsen, Andrew., *Understanding the Normandy Format and Its Relation to the Current Standoff with Russia*, (Center for Strategic & International Studies (CSIS) 09/02/2022) available from: <https://www.csis.org/analysis/understanding-normandy-format-and-its-relation-current-standoff-russia> [Last accessed 01/03/2022]

<sup>72</sup> Council of the European Union, *European Council, 26-27 June 2014*, available from: <https://www.consilium.europa.eu/en/meetings/european-council/2014/06/26-27/> [Last accessed 01/03/2022]

<sup>73</sup> European Commission, *€1.2 billion emergency macro-financial assistance package for Ukraine, as announced by President von der Leyen*, Press Release, 01/02/2022. available from: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_674](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_674) [Last accessed 01/03/2022]

<sup>74</sup> Borrell, Josep., *EU support to Ukraine and the security architecture in Europe*, HR/VP Blog, European External Action Service (EEAS), 09/01/2021 available from: [https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/109462/EU%20support%20to%20Ukraine%20and%20the%20security%20architecture%20in%20Europehttps://eeas.europa.eu/headquarters/headquarters-homepage\\_en/109462/EU%20support%20to%20Ukraine%20and%20the%20security%20architecture%20in%20Europe](https://eeas.europa.eu/headquarters/headquarters-homepage_en/109462/EU%20support%20to%20Ukraine%20and%20the%20security%20architecture%20in%20Europehttps://eeas.europa.eu/headquarters/headquarters-homepage_en/109462/EU%20support%20to%20Ukraine%20and%20the%20security%20architecture%20in%20Europe) [Last accessed 01/03/2022]

<sup>75</sup> North Atlantic Treaty Alliance (NATO), *Relations with Ukraine*, 25/02/2022, available from: [https://www.nato.int/cps/en/natohq/topics\\_37750.htm](https://www.nato.int/cps/en/natohq/topics_37750.htm) [Last accessed 01/03/2022]

### 1.5 What was the logic of the sanctions: coercing, constraining, or signalling?

The original logic of EU sanctions, between March to July 2014, was to maintain diplomatic channels with Russia in the attempt to find a peaceful solution and return to the status quo, with Russian troops withdrawing from Crimea.<sup>76</sup> These sanctions consisted of individual sanctions and an import ban on goods from Crimea, and rather than hurting Russia were focused on *signalling* EU opposition whilst supporting diplomatic efforts between the protagonists.<sup>77</sup> However, following escalation: in the eastern Ukraine conflict; subsequent downing of Malaysian airline flight MH17 by Russian backed separatists; and the failure to implement the Minsk ceasefire agreement, the type of sanctions shifted to *constraining* Russian actions. In close coordination with US sanctions, restrictions and limitations were not only expanded to more individuals but also included companies and whole sectors, such as banking, defence and energy.<sup>78</sup>

In the preceding years, EU documentation alluded to two objectives portrayed in EU Council decisions and declarations by the HR/VP on behalf of the EU. The first objective was implementing a ‘non-recognition policy’ until the ‘illegal annexation of Crimea and Sevastopol’ was reversed. Which in short was a regional sanction regime, including the banning of imports and sanctions on individuals and entities involved in facilitating Russian control, and can be perceived as a *coercive* sanction regime, which was renewed every year.<sup>79</sup> The EU perceives the annexation as illegal under International Law and are unlikely to lift these measures until Russia withdrawals or the annexation is accepted legally in the UN or in some possible future arrangement.<sup>80</sup> In addition to having a *coercive* objective, forcing Russia to withdraw, these sanctions also performed the function, in the opinion of Giumelli, of *signalling* what the EU deems acceptable behaviour to other global actors, namely demonstrating EU values globally.<sup>81</sup> Although, this might be stretching the utilisation of *signalling* sanctions, as potentially all actions could be so. Rather, the view put forward by this dissertation is that the recognition of what is *signalling* acceptable

<sup>76</sup> Council Conclusions, *Council conclusions on Ukraine: Foreign Affairs Council meeting*, [17/03/2014] available from: <https://www.consilium.europa.eu/media/28727/141601.pdf> [Online date accessed 01/03/2022] .p.2. Article 4.

<sup>77</sup> Dreyer, Iana, and Nicu Popescu. *Do sanctions against Russia work?*. European Union Institute for Security Studies (EUISS), 2014.p.1.

<sup>78</sup>Static Cambridge, *A timeline of EU and US sanctions and Russia counter sanctions*, available from:<https://static.cambridge.org/content/id/urn:cambridge.org:id:article:S1049096519001781/resource/name/S1049096519001781sup001.pdf> [Online date accessed 01/03/2022]

<sup>79</sup>Council of the European Union, *Russia's illegal annexation of Crimea and Sevastopol: Council renews sanctions for a further year*, (Press Release, 21/06/ 2021) available from:<https://www.consilium.europa.eu/en/press/press-releases/2021/06/21/russia-s-illegal-annexation-of-crimea-and-sevastopol-council-renews-sanctions-for-a-further-year/> [Last accessed 01/03/2022]

<sup>80</sup>Bultrini, Antonio, *EU “Sanctions” and Russian Manoeuvring: Why Brussels Needs to Stay its Course while Shifting Gears*, Istiuto Affari Internazionali Commentarias 20, 46 (June 2020) available from: <https://www.iai.it/sites/default/files/iaicom2046.pdf> [Last accessed 01/03/2022]p.4.

<sup>81</sup>Giumelli, Francesco. "Sanctioning Russia: the right questions." . p.2.

behaviour, in this instance, would be considered a part of Giumelli's third step 'wanted outcome of the sanctions'. It is the opinion of this dissertation that *signalling* sanctions need to be directly or indirectly applied to the entity or national of the nation receiving the sanctions, which will most likely take the form of direct sanctions on a country or indirect individual sanctions in a horizontal sanction regime. An example being the sanctioning of Chinese officials, through the EU Human Rights Sanction Regime, which *signals* to China displeasure with their policy whilst not jeopardising the wider diplomatic relationship. Thus, as only Russian or pro-Russian Ukrainians are targeted, it is not *signalling* but rather *coercive* or *constraining* sanctions, as outlined in EU objectives. Whilst, it might be *signalling* to other actors what is acceptable behaviour, the sanctions do not impact third actors directly or indirectly through their nationals and so in only a 'welcomed outcome'.

The second objective outlined in EU documentation is the implementation of the Minsk II agreements, as outlined in the Council Decision of February 2015.<sup>82</sup> These can be seen as *constraining* sanctions, as the sanctions implemented were done so to hinder and limit Russian policy objectives in Ukraine. This included sanctions on individuals, entities, as well as bans on access and imports of various sectors of the Russian economy, which were renewed by the Council every six months. Some of these measures include the banning of several state-controlled banks' access to trading bonds, equity and other brokering services; a two-way arms embargo and a ban on exporting specific energy equipment.<sup>83</sup> Despite these sanctions there were pragmatic exceptions, such as the EU's omission to place sanctions on imports from Gazprom, a gas and oil provider, due to its energy needs. Along with both the US and EU opposing the use of harsher sanctions such as the banning of Russian access to the SWIFT, an international payment platform.<sup>84</sup> It is this latter compromise to not impose sanctions that would have significantly harmed European and US economies, as the main reason for the definition of the sanctions against Russia, as a whole, as *constraining*. The EU and US were not willing to undertake significant economic pain, in *coercing* Russia towards EU and US policy objectives. Thus, it is the opinion of this dissertation that the sanctions on the region of Crimea were *coercive* but in the broader sense, including the whole sanction regime against Russia, is characterised as *constraining*, as although the EU was unlikely to permit normal relations in the region of Crimea, it was open to a broader relationship with Russia under other circumstances and other policy areas. This differentiation of sanctions was deemed necessary in relations with great powers as they were perceived too large to *coerce* with economic sanctions alone and even if possible might not be desirable for the economic pain it would entail in the process. Thus the

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<sup>82</sup>Council of the European Union, Russia: *EU renews economic sanctions over the situation in Ukraine for further six months* (Press Release, 13/01/2022) available from: <https://www.consilium.europa.eu/en/press/press-releases/2022/01/13/russia-eu-renews-economic-sanctions-over-the-situation-in-ukraine-for-further-six-months/> [Online date accessed 01/03/2022]

<sup>83</sup> Dreyer, Iana, and Nicu Popescu. *Do sanctions against Russia work?*. European Union Institute for Security Studies (EUISS), 2014. p.2.

<sup>84</sup> Shagina, Maria., *How Disastrous Would Disconnection From SWIFT Be for Russia?* (Carnegie Moscow Center, 28/05/2021) available from: <https://carnegiemoscow.org/commentary/84634> [Last accessed 01/03/2022]



sanctions on Russia were *constraining* and not *coercive* so that the policy options for both Russia and the EU could remain open.

### **1.6 What were the wanted and unwanted effects of the sanctions, compared to the expectations and taking into account the logic of the sanctions?**

The desired outcome of CFSP sanctions against Russia is that it would cease its belligerent behaviour toward Ukraine in two ways, by ending the illegal annexation of Crimea and implementing the Minsk II agreements. Based on these two objectives the EU sanction regime failed following the Russian invasion of Ukraine in February 2022. Nonetheless, by evaluating the impact of the sanctions economically and politically some values and limitations of the regimes can be recognised.

The short term economic consequences of the sanctions, particularly the financial sanctions placed on Russian banks and corporations did have a negative impact on the Russian economy during 2014 to 2016, as Russia did go into recession.<sup>85</sup> However, the extent that this recession was caused by the sanctions is questionable with the more significant factor being the drop in global oil prices, from \$115 per barrel in June to \$65 in December 2014, for which the Russian economy is dependent.<sup>86</sup> However, in response to Western sanctions and the fluctuation of oil prices Russia undertook the unwanted development of cultivating what some have described as a fortress economy, based on high foreign currency reserves and low debt.<sup>87</sup> In January 2022, the Russian economy had accumulated \$630 billion in foreign reserves and distanced its reliance on American dollars, with reserves dropping from 30% to 7% between March 2014 to April 2021. These economic reserves constitute the equivalent of two years of imports along with a reduced exposure to US economic actions. Moreover Russia strengthened its bilateral agreements, with powers such as China, India and Iran.<sup>88</sup> One final unwanted economic development by Russia was the development of an alternative payment system to SWIFT, called System for Transfer of Financial Messages (SPFS), which in 2020 managed 20% of all domestic transfers. Although, SPFS's capacity and efficiency cannot match SWIFT, its existence entails that Russian exclusion from SWIFT would only be disrupted and not entirely isolated its businesses.<sup>89</sup> These actions demonstrated a concerted effort by Russia to create a sanction

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<sup>85</sup> The World Bank, *GDP (Current US\$) - Russian Federation*, available from: <https://data-worldbank-org.sire.ub.edu/indicator/NY.GDP.MKTP.CD?locations=RU> [Last accessed 01/03/2022]

<sup>86</sup> Dreyer, Iana, and Nicu Popescu. *Do sanctions against Russia work?*. European Union Institute for Security Studies (EUISS), 2014.p.2.

<sup>87</sup> The Economist, *Under siege The Kremlin has isolated Russia's economy*, 24/04/2021 available from: <https://www.economist.com/briefing/2021/04/23/the-kremlin-has-isolated-russias-economy> [Last accessed 01/03/2022]

<sup>88</sup> Giumelli, Francesco. *Sanctioning Russia: the right questions*.p.2.

<sup>89</sup> Shagina, Maria., *How Disastrous Would Disconnection From SWIFT Be for Russia?* (Carnegie Moscow Center, 28/05/2021) available from: <https://carnegiemoscow.org/commentary/84634> [Last accessed 01/03/2022]

resilient economy. The perceived success of this fortress economy permitted the invasion of Ukraine as a policy option in February 2022.

It is apparent that sanctions did not coerce Russian behaviour and that the threat of additional sanctions lead to the development, by Moscow, of preparatory measures to counter potential future sanctions. This demonstrates a limitation in the sanction regime applied on Russia, as the limited sanctions applied in 2014 did not significantly change Russian policy. Russia was willing to sustain the costs of the original sanctions to achieve foreign policy objectives but importantly took measures to counter future Western sanctions.<sup>90</sup> In contrast to Russian adaptation and preparation some European countries, such as Germany and Italy, did not take measures to limit Russian influence in key industries like gas. Indeed, during the sanction time frame the dependence on Russian gas increased and in 2020, comprised 38% of EU consumption and in places like Germany made up over 50% of consumption.<sup>91</sup> controversially Germany also had plans to increase its reliance had Nord Stream 2 ever been operational. This in turn emboldened Russia to believe that harsher sanctions against their actions would be limited, as European nations would not risk gas price rises. These preparatory measures undertaken by Russia, broadened their policy options and ultimately diminished the threat of prospective Western sanctions, whereas the threat of EU sanctions weakened as EU reliance on Russian gas increased. A lesson evident from this case is that large powers would prefer adopting autarkic measures rather than comply with the demands of constraining sanctions.

Domestically, the impact of sanctions on Russia had the unwelcomed outcome of strengthening Putin's cronies. Individual and sector sanctions benefited some key supporters or isolated others to have nothing to lose. Indeed, by evaluating the individuals that sat on Mr Putin's cabinet such as: Head of Security Council Nikolai Patrushev; Head of the Federal Security Service (FSB)<sup>92</sup> Alexander Borikov; Head of Russian Foreign intelligence Sergei Naryshkin and many others that had been targeted by US sanctions.<sup>93</sup> Having lost their access to Western comforts for themselves and relatives it is alleged by Alexander Gabuev that these men became dedicated to fortress Russia. The additional sanctions on economic sectors actually benefited these men's grip on power as Russian businesses' reliance on state aid increased to substitute the losses caused by Western sanctions. Moreover, Russian counter sanctions against the West on imported goods in sectors such as agribusiness made some ministers immensely wealthy. The sanctions rather than being feared were welcomed by some individuals who could be beneficiaries of

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<sup>90</sup> Welt, Cory., *Congressional Research Service, U.S. Sanctions on Russia* (Updated January 18, 2022) available from: <https://sgp.fas.org/crs/row/R45415.pdf> p.2. [Last accessed 01/03/2022]

<sup>91</sup> The Economist, *Europe Reconsiders its Energy Future*, 05/03/2022. Available from: <https://www.economist.com/business/2022/03/05/europe-reconsiders-its-energy-future> [Last accessed 09/05/2022]

<sup>92</sup> The Successor agency to the KGB.

<sup>93</sup> U.S. Department of Treasury, *Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity* (Press release, 06/04/2018 available from: <https://home.treasury.gov/news/press-releases/sm0338> ) [Online date accessed 01/03/2022]

Russia's autarkic policies.<sup>94</sup> This aspect of individual ruling elites and their interactions with sanctioned industries is an important lesson that needs greater policy analysis in the formation of sanction regimes before and during their implementation.

Geo-politically sanctions had the unwanted impact of not limiting Russian revanchist behaviour abroad. Since 2014 Russia had undertaken a number of adventurist policies abroad and had been emboldened by limited Western responses. This included supporting the Assad regime in the Syrian civil war, providing weapons to sympathetic militants in Libya and even sending personal and arms to Venezuela.<sup>95</sup> Moreover, Russia conducted punitive assassinations in NATO member countries with the: assassination of Alexander Litvenko in 2006; and attempted murder of Sergei Skripal and his daughter in Salisbury, UK in 2018. Insidiously, Russia also undertook extensive disinformation campaigns across the Western world and tried to influence various elections and referendums, either towards a policy objective or simply to sow divisions in retaliation for the sanctions placed against it. In parallel to these actions Putin's confidence and possible desire to undo what he perceived as the 'greatest geo-political catastrophe', which was the collapse of the USSR, led to attempts to systematically bring former Soviet states into Russia's geopolitical order. Most visibly with Georgia and Ukraine but also with Russian interventions in Kazakhstan and Belarus.<sup>96</sup> These actions undoubtedly morphed Russia from being an uncomfortable neighbour for the EU to being a confrontational adversary.<sup>97</sup> It is clear that EU sanctions and other policies adopted from March 2014 to February 2022 did not deter Russian adventurism abroad.

One desired outcome of the sanctions was the signalling to other actors, at the global level, that unilateral ventures entail costs.<sup>98</sup> Despite sanctions not reversing Russian policies in Ukraine, a wanted outcome is that they did constrain them for 8 years in Ukraine. The measures, prior to 2022, limited the scale of Russian military involvement in Ukraine forcing any likely Russian soldiers operating in the conflict to do so without insignia. Moreover sanctions limited the size of the warzone to the east of the country. While sanctions on the Russian defence sector, contributed to significant delays and increased

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<sup>94</sup> Gabuev, Alexander., *Elites have hijacked Russia and conflated the country's interests with their own*, (The Economist, 19/02/2022) available from: <https://www.economist.com/by-invitation/2022/02/19/alexander-gabuev-writes-from-moscow-on-why-vladimir-putin-and-his-entourage-want-war> [Last accessed 01/03/2022]

<sup>95</sup> BBC, *Venezuela crisis: Russian military planes land near Caracas* (25/03/2019) available from: <https://www.bbc.com/news/world-latin-america-47688711> [Last accessed 01/03/2022]

<sup>96</sup> Bolton, John., *The West must not lapse back into complacency about potential aggressors, says a former US national security adviser* (The Economist, 28/02/2022) available from: <https://www.economist.com/by-invitation/2022/02/28/john-bolton-on-the-lessons-to-be-drawn-from-russias-invasion-of-ukraine> [Last accessed 01/03/2022]

<sup>97</sup> Weiss, Andrew S. *Russia and Europe: Stuck on Autopilot*. Carnegie Endowment for International Peace., 2020 available from: [https://carnegieendowment.org/files/Weiss\\_-\\_Russia\\_and\\_Europe\\_-\\_v5.pdf](https://carnegieendowment.org/files/Weiss_-_Russia_and_Europe_-_v5.pdf) [Last accessed 01/03/2022] .p.1.

<sup>98</sup> Giumelli, Francesco. "Sanctioning Russia: the right questions."p.2.

costs in many of Russia's next-generation weapons platforms, as access to cheaper critical technological components and resources was reduced.<sup>99</sup> This gave Ukraine the time to expand, train and improve its military capacities. Furthermore, the West through its moderate sanction regime and coupled diplomatic efforts attempted to accommodate Russian concerns. There was a desire not to alienate Russia, especially from some members like France and Germany, away from Europe and possibly towards China. Nonetheless, the proceeding Russian mobilisation of 200,000 troops and the subsequent invasion of Ukraine was a huge setback that undermined European security, International Law and could, depending on the outcome, emboldened other actors to entertain territorial ambitions. Despite this objective failure, there is a social dimension that is important to appreciate that is a success. The unprovoked nature of the invasion and the previously limited sanction regime, entailed there was little sympathy towards Putin's decision, when it came, in all EU member capitals. Long time Putin allies, like Hungarian Prime Minister Viktor Orbán, could not defend it. Therefore, the nature of limited sanctions, which permitted ample policy options for Russia to choose, only made the ultimate decision to invade completely unjustifiable. Thus, one desirable effect of the sanctions has been a revitalisation of Western cooperation and surprising conformity of EU member states in upholding and ultimately expanding the sanction regime.<sup>100</sup>

### **1.7 Could other feasible foreign policy tools have performed better than sanctions against Russia?**

The performance of sanctions as a foreign policy tool against great powers is always limited. Inevitably the power involved has the option to retaliate with its own counter sanctions or undertake a multitude of policy options that limits the sanctioning powers ability or desire for harsh measures. Whilst, the use of sanctions bears the risk of pushing the power outside of the sanctioning power's influence, escalating the conflict or making autarkic policies appealing. With regards to Russia the analysis about the appropriateness of sanctions as a foreign policy tool will focus on the dichotomy between Russian security concerns and Western principles. The overall opinion of this dissertation is that sanctions were useful in the Ukraine crisis but the failure of the overall foreign policy goal was the incompatibility of the protagonists objectives which sanctions could not permanently shift.

Russia's aversion to Ukrainian cooperation with the West was, allegedly by the Kremlin, due to security concerns and cultural attachment. Russian concern about NATO and EU expansion into spheres considered its own has been a major basis for division and confrontation. This has been keenly acute in Georgia, Belarus and Ukraine where

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<sup>99</sup> Parachini, John V., *Sanctions Targeting Russia's Defense Sector: Will They Influence Its Behavior?* (The Rand Blog, 20/05/2022) available from: <https://www.rand.org/blog/2021/05/sanctions-targeting-russias-defense-sector-will-they.html> [Last accessed 09/05/2022]

<sup>100</sup> Portela, Clara., Pospieszna, Paulina., Skrzypczyńska, Joanna., & Walentek, Dawid. *Consensus against all odds: explaining the persistence of EU sanctions on Russia*, *Journal of European Integration*, 43:6, 2021 683-699. p.683.

movements to join the EU have been deemed by Moscow, correctly or not, as initial steps towards NATO membership, which was unacceptable.<sup>101</sup> This fear had been apparent since the 2004 Ukrainian coloured revolutions but became a reality in 2014, after then president Yunukovych's refusal to sign a political association and free trade deal with the EU, led to his toppling in the Maiden revolution.<sup>102</sup> From Moscow's perspective these protests were fermented by the West and subsequent Russian actions were justified due to initial Western interference. The confrontation in Ukraine was caused by the dichotomy between Western-Russian interpretations. The Western perception of events was that Russia was undermining the legitimate democratic Ukrainian desire for greater cooperation with the EU.<sup>103</sup> Whilst, for Russia the EU and NATO were threateningly expanding and that the incorporation of Ukraine into either of these organisations would be a security threat to Russia. Additionally, the loss of Ukraine would have been culturally unacceptable to Russia. Both Ukraine and Belarus were perceived as part of historic Russia, where the Kyivan Rus empire originated, and were seen as the cradle of Russian culture.<sup>104</sup> If the collapse of the Soviet Union had been a geo-political defeat, then the loss of Ukraine would be an unequivocal cultural and social defeat for Russia. For Putin who publicly laments the loss of the USSR the retention and close cooperation if not integration of the Ukraine was a priority, if Russia was to ever re-emerge as a great power. The symbolic and strategic importance of Ukraine to Russia and its future status was therefore a prominent element against the feasibility of Western sanctions in changing Russian policy.

Russian security concerns and the cultural importance of Ukraine might have outweighed the economic threats posed by sanctions. The proponents of this perspective include realist thinkers, George Kennan, Henry Kissinger and John J. Mearsheimer who state that the West made a strategic mistake by expanding NATO and most importantly alluding to NATO membership for Ukraine and Georgia.<sup>105</sup> The foundational premise is that the diametrically opposing concepts of international relations between Russia and the West lead to the crisis in Ukraine and ultimately explains why sanctions would not restrain Russian objectives. For Putin the international system accords to realist dictates, that ultimately all nations compete for power and large powers divide the world into spheres of influence. Whereas, the West adheres to liberal ideas founded in international law and multilateralism. With the end of the Cold War the international system was allegedly changed, and a new postnational liberal order replaced realism. The divergence between

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<sup>101</sup> Duke, S. y Gebhard, C., "*The EU and NATO's dilemmas with Russia and the prospects for deconfliction*", *European Security*, vol. 26, núm. 3, 2017, pp. 379-397.p.14.

<sup>102</sup> Russell, M., "*The EU and Russia: Locked into confrontation*", EU Parliament Briefing, (EP Research Service, July, 2020) p.3.

<sup>103</sup> The Economist, *Why Russia had never accepted Ukrainian Independence*, 18/12/ 2021. Available at <https://www-economist-com.sire.ub.edu/christmas-specials/2021/12/18/why-russia-has-never-accepted-ukrainian-independence> [Last accessed: 03/03/2021]

<sup>104</sup> Ibid.

<sup>105</sup> Friedman, Thomas., *Foreign Affairs; Now a Word From X*, New York Times, 02/05/1998 available from: <https://www.nytimes.com/1998/05/02/opinion/foreign-affairs-now-a-word-from-x.html> [Last accessed 01/03/2022] and Kissinger, Henry., *World order*. (New York: Penguin Press, 2014). p.91.

these two outlooks harks back to the mid-1990's with NATO expansion into the former Warsaw bloc and the bombing campaigns against Serbia in 1995 and 1999, which promoted Russian President Boris Yeltsin to state 'this is the first sign of what could happen when NATO comes right up to the Russian Federation's borders' demonstrating Russian security fears of NATO.<sup>106</sup> Despite this, Russian weakness and the unthreatening distance of the NATO members, except for the Baltic states, precluded more serious opposition.

The serious affront to Russia and the origins of the Ukrainian crisis stem from the April 2008 NATO summit in Bucharest. At this summit the administration of George W. Bush supported the admission of Ukraine and Georgia into the alliance. However, this action was blocked by Germany and France who appreciated, rightly or wrongly, Russian security concerns and a compromise statement that 'these countries will become members of NATO' was released. The reaction from Russia was immediate with Putin stating publicly that the accession of either country constituted a 'direct threat', while allegedly in conversation with Bush stating 'if Ukraine was accepted into NATO, it would cease to exist'.<sup>107</sup> In parallel to NATO expansion was EU enlargement and adoption in May 2008 of an Eastern Partnership initiative (EPI) to promote democratic practices and increase economic activity with Eastern countries that included Ukraine. Thus NATO enlargement, EU expansion and democracy promotion increasingly concerned Russia who perceived such acts as infringing on the historical Russian sphere of influence.

The invasion of Georgia in August 2008 was a prelude to events in Ukraine. The then President of Georgia, Mikheil Saakashvili, was committed to joining NATO so Putin sought an opportunity to scupper membership plans. Georgia had two separatist regions, Abkhazia and South Ossetia, that since independence in 1991 had never been fully incorporated into the state and were under de facto control of Russian backed separatists. On 1st August South Ossetia separatists, which had for the previous few weeks been receiving thousands of Russian passports, shelled Georgian villages and provoked Saakashvili to send government troops to the conflict zone. Russia accused Georgia of threatening South Ossetia and Russian citizens and unleashed a full invasion of Georgia on the 8th August under the guise of 'peacekeepers'.<sup>108</sup> The conflict was an overwhelming Russian victory, with a number of Georgian cities being occupied, and the destruction of the Georgian military effectively achieved. On the 26th August, Russia recognized the independence of the two break-away regions.<sup>109</sup> According to Mearsheimer this episode acted as a warning to the West and although it confirmed European NATO member's apprehensions, the membership of Ukraine and Georgia was not dropped. More damaging in the realist perception was the Obama administration 'reset' of relations between the US and Russia in

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<sup>106</sup> Mearsheimer, John J., *Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin*, Foreign Affairs Vol. 93, No. 5, 2014, 85-89., p.78.

<sup>107</sup> Ibid., p.78.

<sup>108</sup> Allison, Roy., (2008). *Russia resurgent? Moscow's campaign to 'coerce Georgia to peace*, *International Affairs*. 84 (6): 1145-1171. pp.1147-1158.

<sup>109</sup> Ibid., p.1165.

2009, which had been fraught since the Georgian invasion and effectively forgave previous Russian transgressions. By resetting the relationship Russia became encouraged by the idea that it could always find an accommodation with the West. This was demonstrated again after the annexation of Crimea with Russia making itself indispensable in the Syrian civil war.

The realist perspective of what foreign policy tool would have been more appropriate than sanctions is Ukrainian neutrality. The Western attempts to assuage Russia with commitments not to permanently deploy NATO troops in eastern members and the establishment of the NATO-Russia Council to foster cooperation did not satisfy Russian security concerns. Who as Mearsheimer states 'ultimately get to decide what counts as threats to them'.<sup>110</sup> Thus, when the Maiden Revolution took place and Yanukovich was replaced with a pro-Western regime Putin was determined to safeguard strategically important Crimea and destabilise Ukraine. The Western response of sanctions, no matter how harsh, would not shift Russian objectives. Indeed 'history shows that countries will absorb enormous amounts of punishment in order to protect core strategic interests'.<sup>111</sup> Therefore, the proposed option by realists is the acceptance of Ukrainian neutrality or non-admittance into NATO, as practised by Austria in the Cold War. Between 2014 to 2022 Russia whilst desiring the implementation of the Minsk II agreement, which would have given Russia an effective veto on Ukrainian NATO membership, broadened its policy options, by developing its fortress economy. A number of factors pushed Russia towards more dramatic policy options rather than continue with the status quo. This consisted of: The stagnant Minsk II agreements; increasing capabilities of the Ukrainian military; the adoption in the Ukrainian constitution, in 2019, of an intent to join NATO; and de facto inclusion of Ukraine in NATO exercises, as demonstrated by Operation Sea Breeze, which was co-hosted by the Ukraine and US in the Black Sea, in June 2021. The latter was so provoking that Russia fired on a British ship involved in the exercise, for allegedly entering Russian territorial waters.<sup>112</sup> The catalyst for the invasion of Ukraine from this perspective stemmed from the *US-Ukraine Charter on Strategic Partnership*, which was signed in November 2021. This document emphasised that the relationship be guided by the 2008 Bucharest Summit Declaration, and stated that the US continued to 'respect Ukraine's aspirations to join Nato' and would support all of its 'defense and security reforms'.<sup>113</sup> In Mearsheimer's opinion this precipitated Russian mobilisation, as Putin launched his invasion to remove the threat from NATO.<sup>114</sup> Thus, the West invited aggression by offering

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<sup>110</sup>Mearsheimer, John J., *Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin*, p.83.

<sup>111</sup> Ibid., p.86.

<sup>112</sup> BBC, *HMS Defender: Russian jets and ships shadow British warship*, June 2021. Available from <https://www.bbc.com/news/world-europe-57583363> [Last accessed 21/03/2022]

<sup>113</sup> US Department of State, *U.S- Ukraine Charter on Strategic Partnership*, November, 2021, Section II, Article 5. Available from <https://www.state.gov/u-s-ukraine-charter-on-strategic-partnership/> [Last accessed 21/03/2022]

<sup>114</sup> Mearsheimer, John., *Why the West is principally responsible for the Ukrainian crisis*, March, 2022, Available from:

the prospect of Ukraine joining NATO without providing a legitimate path to membership or guarantee of protection. Had no promise been made or effective membership given, the outcome could have been different. Nonetheless, the simple matter remained that strategically Ukraine was of greater importance to Russia than it was to the West and sanctions could not change that.<sup>115</sup>

The prevailing Western perception of events was that Russia was undermining the legitimate democratic desires of Ukraine. This perception also originates with the expansion and enlargement of NATO and the EU, although the process was initiated by Eastern European countries. Indeed, as Simon Hix demonstrates the EU originally did not envisage extending membership following the events in 1989. Rather it was the former communist countries that made it clear that they ‘would not be content with anything but full membership’.<sup>116</sup> The result was the adoption of the ‘Copenhagen Criteria’ in 1993, which allowed any European state to apply for membership so long as it could fulfil its 35 chapters, which includes conditions like freedom of press and judiciary. Similarly, NATO expansion was largely driven by security concerns of the former Eastern bloc countries. Following the Charter of Paris for a New Europe, in 1990, an ‘open door’ or ‘free choice’ policy was interpreted under Article 10 of the NATO charter stating that any “European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area” is permitted to apply to membership.<sup>117</sup> Although, it is true that the original interpretation of the article requires an invitation and then unanimous agreement of all members to join.<sup>118</sup> Nonetheless, NATO and the EU were unable to satisfy Russian demands to exclude Ukraine from either of these organisations as it would be against the principles developed since the end of the Cold War and would be considered a form of appeasement to exclude willing prospective countries, especially after the 2008 Bucharest NATO summit. Thus the policy option of publically excluding Ukraine was not available to the EU and the West, following the annexation of Crimea, as it would have undermined the West’s credibility.

Pertinently, some liberal commentators, such as Michael McFaul and Stephan Sestanovich argue that Putin’s actions in Ukraine had little at all to do with NATO or the EU. Rather than NATO expansion being the determining factor, analysts should focus on the one factor

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<https://www.economist.com/by-invitation/2022/03/11/john-mearsheimer-on-why-the-west-is-principally-responsible-for-the-ukrainian-crisis> [Last accessed 21/03/2022]

<sup>115</sup> Mearsheimer, John J., *Why the Ukraine Crisis Is the West’s Fault: The Liberal Delusions That Provoked Putin*. p.88.

<sup>116</sup> Hix, Simon., *The political system of the European Union*. Macmillan International Higher Education, 2011. p.321.

<sup>117</sup>North Atlantic Treaty Alliance (NATO), *NATO Enlargement & Open Door*, July 2016, *available from*: [https://www.nato.int/nato\\_static\\_fl2014/assets/pdf/pdf\\_2016\\_07/20160627\\_1607-factsheet-enlargement-eng.pdf](https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2016_07/20160627_1607-factsheet-enlargement-eng.pdf) [Last accessed 01/03/2022]

<sup>118</sup> North Atlantic Treaty Alliance (NATO), *The North Atlantic Treaty*, (Washington D.C., 4 April 1949) *available from*: [https://www.nato.int/cps/en/natolive/official\\_texts\\_17120.htm](https://www.nato.int/cps/en/natolive/official_texts_17120.htm) [Last accessed 01/03/2022] Article 10.



that actually changed: Russian politics. Evidence for this is that during the Obama administration reset, US and Russian relations improved remarkably with both sides offering concessions. In 2009, Russia permitted the US to maintain its Manas Air Base, in Kyrgyzstan and the US abandoned plans to place a missile defence system in the Czech Republic and Poland. Putin responded 'I very much hope that this very right and brave decision will be followed by others'. Relations peaked with Russian UNSC abstention permitting the use of force against Gaddafi's regime, in 2011. Thus, Russian foreign policy did not change in response to NATO expansion, or at least not from the 2008 Buchrest declaration. Rather it resulted from internal Russian political dynamics. The turning point, in this perspective, was the Russian public's reaction to Putin's announcement to run for a third term as president.<sup>119</sup> In December 2011, large public protests erupted when the Russian Parliamentary elections were perceived as fraudulent. From this moment Putin's public rhetoric shifted to recast the West as an enemy that fermented unrest inside Russia. Having witnessed the colored revolutions in Eastern Europe and then the Arab Spring, Putin feared his regime could be next.<sup>120</sup> The rise of opposition figures, such as Boris Nemstov, who was assassinated on a central Moscow bridge, in February 2015 and Alexei Navalny, whom Putin tried to assassinate, most recently in August 2020, and remains in a high-security prison exacerbated this fear. In May 2020 Putin attempted to secure his position by changing the Russian constitution, permitting him to feasibly stay in power until 2036.<sup>121</sup> However, the return of Alexei Navalny, in January 2021, and the continued call on supporters to undertake 'smart voting'<sup>122</sup> might have unnerved Putin.<sup>123</sup> In neither 2014 nor in 2022, was Ukrainian NATO membership the pertinent issue, as it was simply a remote idea NATO members would accept Ukraine. Indeed, if security was the main issue, then the membership of the Baltic countries would be more pertinent as they are closer to Moscow. Rather, Putin's annexation of Crimea and conflict in Eastern Ukraine was in response to what he perceived as a Western coup which directly threatened his regime ideologically.

Putin's decision to abandon negotiations in 2022, was due to his belief that the Russian opposition and all democratic movements in the former Soviet Union were fermented by the West. To counter this insidious liberal order the Kremlin cultivated the ideology of

<sup>119</sup> Dmitry Medvedev had been Russian President between May 2008-2012. Putin maintained power through his position as Prime Minister during this time.

<sup>120</sup> McFaul, Michael and Sestanovich, Stephen., *Faulty Powers, Who Started the Ukraine Crisis?* (Foreign Affairs, 2014) available from: <https://archive.ph/2021.02.15-155242/https://www.foreignaffairs.com/articles/eastern-europe-caucasus/2014-10-17/faulty-powers> [Last accessed 21/03/2022]

<sup>121</sup> The Economist, *A Constitutional ploy may keep Vladimir Putin in power until 2036*, 10/03/ 2020. available from: <https://www.economist.com/europe/2020/03/10/a-constitutional-ploy-may-keep-vladimir-putin-in-power-until-2036> [Last accessed 09/05/2022]

<sup>122</sup> voting for anyone other than United Russia

<sup>123</sup> The Economist, *Why is Vladimir Putin So Afraid of Alexei Navalny?*, 10/05/ 2021. available from: <https://www.economist.com/the-economist-explains/2021/06/10/why-is-vladimir-putin-so-afraid-of-alexei-navalny> [Last accessed 21/03/2022]

*Russkiy mir* (the Russian World), which is allegedly a mixture of ‘Orthodox dogma, nationalism, conspiracy theory and security-state Stalinism’. The mixing of orthodox religion and nationalistic revival to great power were utilized to block Western influences and has in the opinion of Vladimir Sorokin, an expert Kremlin watcher, been developing since 2005, and most prominently following the 2011 protests against Putin. The substance of this myth is less important than the ‘quasi-religious cult’ it has developed but some policies have emerged such as: the banning of gay marriage, making Russian ‘the language of the people’; and the Orthodox Church God being given official status in the nation’s heritage.<sup>124</sup> Central to Putin’s thinking is an obsession with Ukraine which, as outlined in his July 2021 essay *On the Historical Unity of Russians and Ukrainians*, expresses his denial that Ukraine ever truly existed as an independent country, but was rather part of a cultural triune nation.<sup>125</sup> The contemporary divisions between Ukraine and Russia are the cause of the Bolsheviks who ‘detached historic lands from Russia’ and stole those people from their ‘historic motherland’ along with foreign plots that seek to break the ‘spiritual unity’ between Russia and Ukraine.<sup>126</sup> Therefore, if Ukraine’s democracy were to continue to be successful, or indeed Ukraine ever joined the EU or NATO, it would have been an existential threat to Putin’s regime and conception of Russia.<sup>127</sup> With some commentators stating Putin’s belief that it was his ‘duty’ to solve the issue.<sup>128</sup> Finally, another factor potentially drawing Russian objectives towards conflict with Ukraine, which might incorporate elements of the ideology *Russkiy mir*, was the perception that the special military operation would be quick. Based on the successes of the Russian army in the annexation of Crimea and their supposed success in Syria, Putin might have calculated that action against Ukraine would boost his popularity. In this interpretation of Russian actions no policy option, other than the Belarussification or creation of a client state would have been acceptable to Putin.<sup>129</sup> Therefore, sanctions could not permanently constrain nor repel Russian action.

The Minsk II agreement was an attempted compromise between the Western and Russian perspectives, but was rejected by Ukraine. One principal reason why the EU and Western sanction regime did not succeed in its purported objective, as outlined in Council

<sup>124</sup> The Economist, *The New Russian Cult of War*, 26/03/2022. Available from: <https://www.economist.com/briefing/2022/03/26/the-new-russian-cult-of-war> [Last accessed 09/05/2022]

<sup>125</sup> One large cultural nation including Belarus, Ukraine and Russia.

<sup>126</sup> Putin, Vladimir., *On the Historical Unity of Russians and Ukrainians*, 12/07/2021. Available from: <http://en.kremlin.ru/events/president/news/66181> [Last accessed 09/05/2022]

<sup>127</sup> The Economist, *Why Russia had never accepted Ukrainian Independence*, 18/12/ 2021 [Online] Available at

<https://www-economist-com.sire.ub.edu/christmas-specials/2021/12/18/why-russia-has-never-accepted-ukrainian-independence> [Last accessed: 03/03/2021]

<sup>128</sup> Roth, Andrew, *Putin’s Ukraine rhetoric driven by distorted view of neighbour*, (The Guardian, 07/07/2021) available from:

<https://www.theguardian.com/world/2021/dec/07/putins-ukraine-rhetoric-driven-by-distorted-view-of-neighbour> [Last accessed 09/05/2022]

<sup>129</sup> Liik, Kadri, *War of obsession: Why Putin is risking Russia’s future*, (ECFR, 25/02/2022) available from: <https://ecfr.eu/article/war-of-obsession-why-putin-is-risking-russias-future/> [Last accessed 09/05/2022]

Decisions, was because it was not supported by Ukraine. The Minsk II agreement was an approximately 900 word document (in its English version) that facilitated a ceasefire in February 2015 but proved controversial in implementation. The loose language of the document entailed differing interpretations about the break-away regions of Donetsk and Luhansk which was described as having a 'special status' in a future integrated Ukraine.<sup>130</sup> For Kyiv it constituted a 'trojan horse' as Moscow envisioned, through the two regions, of influencing domestic Ukrainian politics and having indirect veto power of Ukrainian foreign policy, thus eliminating the prospects of NATO or EU membership. Despite France and Germany endorsing the agreement it remained a 'poisoned pill' Kyiv refused to swallow.<sup>131</sup> Indeed, senior Ukrainian officials state that the immediate effect would have caused public unrest and torpedo any future prospect of electoral success.<sup>132</sup> Moreover, Ukraine's officials had little faith that any new agreement would be respected after the failure of the 1994 Budapest Memorandum, where Russia, Britain and the US guaranteed Ukrainian sovereignty and territorial integrity in return for relinquishing its Soviet nuclear arsenal. Some Ukrainian officials, such as former President Petro Poroshenko, believed that Minsk II would only be credible if a security guarantee with obligations was signed by the West and Russia. Eastern European academic Gerhard Simon claimed that this 'would be a small accession to NATO, even if not formally'.<sup>133</sup> Russian and Western apprehension towards a security guarantee disillusioned the Ukrainians willingness to agree. It is evident that the failure to amalgamate Russian, Ukrainian and Western objectives blocked the ability to resolve the crisis through diplomacy. Sanctions were capable of bringing about the ceasefire but could only facilitate the diplomatic opportunity. Thus, an important lesson for EU sanction regimes is that in conflict management the feasibility of the objective needs to be applicable to the target and third party involved.

The stagnating process in bringing the conflict to a resolution brought about the demise of the sanction regime. The sanction regime implemented by the EU with regards to the conflict in Eastern Ukraine might have been the most prudent. It was effective at constraining Russian action and left enough space for other policy options, such as the diplomatic route to emerge. However, the dichotomy in outlook between the West and Russia and failure of the agreement between Kyiv and Moscow, to sign the Minsk II agreement, undermined overall policy. Over time the impact and effectiveness of the

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<sup>130</sup>Allan, Duncan. *The Minsk Conundrum: Western Policy and Russia's War in Eastern Ukraine*. Research Paper (London: Chatham House, 2020)p.12.

<sup>131</sup>The Economist, *Why Donetsk and Luhansk are at the heart of the Ukraine crisis*, 15/02/2022 available from: <https://www.economist.com/the-economist-explains/2022/02/15/why-donetsk-and-luhansk-are-at-the-heart-of-the-ukraine-crisis> [Last accessed 01/03/2022]

<sup>132</sup>Herszenhorn, David., *In Ukraine, even peace accords can be a Russian weapon*, (Politico, 10/02/2022) available from:

<https://www-politico-eu.cdn.ampproject.org/c/s/www.politico.eu/article/ukraine-russia-war-minsk-peace-accords/amp/> [Last accessed 01/03/2022]

<sup>133</sup> DW, *Ukraine's Forgotten Security Guarantee: The Budapest Memorandum*, 2014, available from: <https://www.dw.com/en/ukraines-forgotten-security-guarantee-the-budapest-memorandum/a-18111097> [Last accessed 22/03/2022]

sanction regime declined, as Russia adapted to it but also prepared against the threat. Unhappy with the status quo, which benefited Ukraine whose military capacities increased, Putin increasingly sought a solution. The proceeding Covid-19 pandemic, German dependence on Russian gas and withdrawal of the US from Afghanistan confirmed prevailing prejudices in the Kremlin that the West was declining or could be blackmailed and thus presented an opportunity for Russia to solve the Ukraine crisis. Furthermore, Russian action offered the chance to reverse an embryonic domestic disillusionment with Putin and thus consolidate Putin's regime. Coupled with some possible ideas of grandeur and a desire to solve the issue in his lifetime Putin chose to invade Ukraine. This paper does not have the remit nor ability to analyse the outcome of that policy decision but the Russian action was an extremely risky option that will have profound implications. Were sanctions to blame for this Russian invasion? It certainly did not remove the option of Russia to do so, but harsher sanctions prior to 2022, could have been perceived as excessive, especially as negotiations were still an option and could have pushed Russia beyond the influence of the EU. Whilst, the option of hard power was unrealistic, due to Russia's nuclear capabilities. Despite the clear failure of EU policy in achieving its objectives it must also be acknowledged that Russia's decision to invade does not entail success in theirs. Indeed, it is quite likely to be far from it. The action of starting the largest war in Europe since 1945 has galvanised the West, strengthened NATO and irreparably damaged Russia's geo-political position in the world and could even undermine Putin's regime.

### **1.8 Lessons learnt from the sanction regime**

There are five lessons learnt from this EU sanction regime. First, *regardless of the level of sanctions applied, large states choose autarky over compliance*. In the desire to maintain policy options large states will undertake autarkic policies to undermine sanctions in place or prepare for those that have been threatened. This is demonstrated in Russia's cultivation of a fortress economy. Even states not targeted might take measures to mitigate sanctions placed on another. This is most clearly demonstrated in Chinese attempts to sanction proof their economy based on threats of harsher sanctions threatened on Russia, prior and post February 2022.<sup>134</sup> This is significant, as too much use of sanctions or piecemeal use of sanctions undermine their effectiveness. Second, *the effectiveness and commitment of sanctions declines over time*. This is important as sanctions will not be able to achieve objectives in and of themselves. The EU sanction regime was a part of the policy that brought about a ceasefire in 2015. However, the failure to find a solution between the protagonists meant the sanctions lost their bite over time and ultimately convinced Russia to seek a solution through force. Thirdly, *sanctions are sometimes an acceptable cost to achieve strategic foreign policy objectives*. Some states, such as Russia, are willing to sustain economic costs to achieve long term strategic goals. Fourthly, *sector sanctions can strengthen sanctioned individuals*. The intersection of individual and sector sanctions can actually benefit sanctioned individuals, especially if they are in positions of power. This

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<sup>134</sup> The Economist, *China wants to insulate itself against Western sanctions*, 26/02/2022 available from: <https://www.economist.com/business/china-wants-to-insulate-itself-against-western-sanctions/21807805> [Last accessed 01/03/2022]

was most clearly demonstrated in the influence of individuals like Sergey Chemezov, Alexander Borikov and other cronies over key Russian industries.<sup>135</sup> Finally, *the threatened sanctions need to be credible to be effective*. Although Russia's economy was prepared for harsher sanctions, there can be no doubt that Putin's calculation to use force was because he doubted Western resolve to use their harshest sanction options. This is partly due to his belief in the leverage he had over Europe's energy market and perhaps an ideological belief in Western weakness and division. The failure of European nations to reduce their reliance on Russian gas between 2014 to 2022, encouraged Putin to believe Russia was indispensable no matter their actions.

The sanction regime against Russia and the invasion of Ukraine is a defining moment for the EU. The Commission under Ursula Von der Leyen and HR/VP Josep Borrell, along with member states, especially Germany, have undertaken a paradigm shift. By permitting the EU to fund the purchase of weapons bound to Ukraine and to expand the EU restrictive measures beyond any realms imaginable prior to February 2022, the EU has increased its capacity as a global actor. Despite the objective failure of the sanctions placed on Russia, between March 2014 to February 2022, the symbolic importance for the EU is that Russia was provided with many policy options. The decision by Putin to invade was due to his underestimation of the West and Ukraine. What the EU perceived as accommodating, Putin perceived as weakness. The Realist perspective that Putin was acting defensively for Russian security concerns does not correlate with the policy option chosen. Indeed, he has undoubtedly undermined Russian security by galvanising NATO and importantly drawn Germany out of its geo-political malaise. Even the proponents of this idea, such as Mearsheimer described the potential of Putin invading the whole of Ukraine as unlikely, as he is a 'first-class strategist', to do so would be foolhardy, as it would be like 'swallowing a porcupine'.<sup>136</sup> Harsher sanctions prior to February 2022, would have been unlikely to change Russian actions and most likely would not have been politically feasible to implement prior to the invasion. Even the extraordinary return to punitive sanctions will most likely not be the defining factor to change Russian policy. However, the impact of cultural sanctions, such as exclusion from sports, arts and even travel are more likely to make an impact through its effects on Russian society. Indeed, this is demonstrative of apartheid South Africa, which contentedly survived economic sanctions for decades, but when faced with cultural exclusion and pariah status arguably shifted course.<sup>137</sup> The EU will have to use a variety of tools available to it, as it seeks to achieve its objectives against

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<sup>135</sup>Gabuev, Alexander., *Elites have hijacked Russia and conflated the country's interests with their own*, (The Economist, 19/02/2022) available from: <https://www.economist.com/by-invitation/2022/02/19/alexander-gabuev-writes-from-moscow-on-why-vladimir-putin-and-his-entourage-want-war> [Last accessed 01/03/2022]

<sup>136</sup> Mearsheimer, John J., *Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin*. p.84- 85

<sup>137</sup> Klotz, A., 1995. *Transforming a pariah state: International dimensions of the South African transition*. Africa Today, 42(1/2), pp.75-87.p.80

Russia. There is no doubt that sanctions have and will continue to be a core component in this policy.

## 2. Chapter 2: The value and limitation of CFSP sanction regimes against Syria.

The protests in Syria that would ultimately lead to the country descending into civil war emerged in the context of the regional Arab Spring, where popular protest erupted across the Middle East and North Africa (MENA). It is important therefore to acknowledge that the EU at least at the beginning and arguable throughout the whole time-period was never dealing with Syria in isolation but constantly as another strand in the broader regional transformation. Thus it is pertinent that the analysis of EU sanction against Syria incorporates the relationship of the EU with the wider region. Therefore, this dissertation first reviews the EU policy towards the Southern Neighbourhood.<sup>138</sup> Second, there will be an investigation into EU-Syrian relations prior to 2011. Thirdly, the EU sanction regime against Syria will be analysed using the framework provided by Francesco Giumelli.

### 2.0 Review of EU policy with the Southern Neighbourhood.

The tumultuous events of 2011 Arab Spring surprised the EU and led to new initiatives to engage with the region. The self-immolation of street vendor Mohammed Bouazizi, in Tunisia on the 17th December 2010 ignited a serious of popular protest that ultimately lead to the demise of long-term authoritarian leaders: Zine El Abidine Ben Ali of Tunisia; Muammar Gaddafi of Libya; Hosni Mubarak of Egypt; Ali Abdullah Saleh of Yemen and impacted all Arab countries. The causes for the regional unrest are beyond the scope of this dissertation but they include corruption, poverty, bad harvests and human rights abuses among others. Indeed, a popular demonstrators' chant in Cairo's Tahrir Square in January 2011 'Bread, Freedom and Social justice' illustrates some of these issues. In response to these changing dynamics the EU committed itself on the 3rd March 2011, through its *Joint Communication for the EU*, to 'support all its Southern neighbours who are able and willing to embark on such reforms through a " Partnership for Democracy and Shared Prosperity "'.<sup>139</sup> What followed were EU strategies to promote democratic reforms, support civil society, reduce inequalities and conditioned the aid to be given on the principle of 'more assistance for more reforms'. Aid to Tunisia doubled to €26 million in 2011, and the Commission was mandated to negotiate future *Deep and Comprehensive Free Trade*

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<sup>138</sup> Consisting of the nine recognised states Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the unrecognised state of Palestine. European Commission, *Southern Neighbourhood*, available from:

[https://ec.europa.eu/neighbourhood-enlargement/european-neighbourhood-policy/southern-neighbourhood\\_en](https://ec.europa.eu/neighbourhood-enlargement/european-neighbourhood-policy/southern-neighbourhood_en) [last accessed 10/04/2022]

<sup>139</sup> Eur-Lex, Joint communication to the European Council, The European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean. Available from:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011DC0200> [last accessed 10/04/2022]

*Agreements* (DCFTAs) to boost investment, along with mobility partnerships.<sup>140</sup> The speed and level of commitment illustrated by the Union demonstrated the ‘hope’ the region could be morphed towards more democratic and pluralistic societies.<sup>141</sup>

Since 2011 the EU has used a variety of tools to attain its foreign policy objectives in the Southern Neighbourhood and this has prominently featured the use of sanctions. The focus of this dissertation is the restrictive measures and their impact on the Syrian regime from 9th May 2011 to 27th May 2021 utilising the framework of Francesco Giumelli. The adoption and reliance of restrictive measures by the EU against Syria has demonstrated the challenges and limitations of sanctions as a policy tool. Prior to the analysis of these sanctions it is important to incorporate a brief review of the sanction regimes implemented by the EU against other nations involved in the Arab Spring. Importantly the objectives of these regimes differed depending on the country that they were targeting and in 2011 followed two separate routes. The first type of sanction focused on democratic consolidation. This occurred in Tunisia and Egypt and in both cases sanctions were implemented after the removal of Ben Ali, on the 17th December 2010 and Hosni Mubarak, on the 11th February 2011, respectively. The intention of these sanctions were not to change the behaviour of either country but to support a democratic transition. Using asset freezers individuals that were identified as having previously misappropriated funds were targeted.<sup>142</sup> Contrary to behaviourist theory or indeed the EU *Guidelines* there was no expectant behavioural change the targets could undertake to be removed from sanctions. The logic behind them being to constrain the anti-democratic forces within the country using sanctions coupled with aid and support for democratic actors.<sup>143</sup>

The second type of sanctions attempted to facilitate transitions to democracy, as was used in the cases of Libya and Syria. Although not explicitly stating regime change there was certainly an element that more pluralist governance systems should emerge in both countries. In the case of Libya the sanctions imposed were not autonomous EU sanctions but rather United Nations mandated, under Resolution 1970, on the 26th February 2011. This Resolution consisted of imposing an arms embargo, a travel ban and assets freezers in an attempt to coerce Colonel Gaddafi from threatening rebel forces who had taken control

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<sup>140</sup>Mirel, Pierre. *From the Barcelona Process to the Mediterranean Programme, a fragile Partnership with the European Union*. European Issues, n.601 (Fondation Robert Schuman, 2021) available from: <https://www.robert-schuman.eu/en/doc/questions-d-europe/qe-601-en.pdf> [last accessed 10/04/2022], p.3.

<sup>141</sup> Eur-Lex, Joint communication to the European Council, The European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011DC0200> [last accessed 10/04/2022]

<sup>142</sup> Council Decision 2011/172/CFSP, OJ L 76, Concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt [21/03/2011] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011D0172> [last accessed 10/04/2022]

<sup>143</sup> Giumelli, Francesco. *The success of sanctions: Lessons learned from the EU experience*. (Routledge, 2016). pp.174-175.



of Benghazi.<sup>144</sup> Gaddafi, undeterred by sanctions, motivated France and the UK to seek UN authorization for a no-fly zone over Libya, which was passed by the UNSC resolution 1973. This Resolution became a NATO led operation, with the legal justification of Responsibility to Protect (R2P) to safeguard the civilians in danger.<sup>145</sup> Coupled with this the EU supplemented their list of individuals to be sanctioned, in *Decision 500* on 10th August, which went beyond those of the UN Resolution.<sup>146</sup> By early October Colonel Gaddafi's forces that threatened Benghazi had been repulsed and on the 20th October 2011 the Colonel himself was executed by partisan forces, after being captured following NATO aircraft bombing his convoy. After the death of Gaddafi the EU did not remove sanctions, but rather shifted the focus of sanctions towards democratic consolidation, as occurred in Egypt and Tunisia. The removal of Gaddafi was caused by an internal revolution that was facilitated by the NATO no-fly zone. The role played by sanctions, both UN and supplementary EU, were auxiliary measures and would most probably not have shifted Gaddafi's policies in isolation. Indeed, it could be argued that their impact was negligible due to the short period of time they were implemented. Nonetheless, the EU could consider its actions in Libya, in 2011 as a success as purported objectives were achieved.

Contrary to EU documentation that advocates intervention in support of norms, like democracy and human rights some commentators take a more cynical view. Cassarino and Firoamonti reject the normative claims for sanctions in the scenarios of Tunisia and Egypt stating that 'in MENA, the EU prioritises interests over democracy'.<sup>147</sup> Whilst, Portela equally states that the EU is 'reluctant' to implement sanctions against human rights abuses in the MENA region. Rather the post-revolutionary sanction against ousted leaders by the EU were implemented in an attempt to forge closer relations with the new leaders.<sup>148</sup> Had the leaders not been ousted the EU would not have implemented sanctions. Indeed, Andreas Boogaerts supports this finding with an empirical analysis of the countries sanctioned. Of the twelve countries that did have protests, the EU only implemented sanctions, in 2011, on

<sup>144</sup> United Nations Security Council, S/RES/1970, *Imposes an arms embargo, a travel ban and an assets freeze in connection with the situation in the Libyan Arab Jamahiriya* [26/02/2011] Available from: <https://www.un.org/securitycouncil/s/res/1970-%282011%29> [last accessed 10/04/2022].

<sup>145</sup> United Nations Security Council, S/RES/1973, *Imposes additional measures in connection with the situation in the Libyan Arab Jamahiriya; establishes a Panel of Experts to assist in monitoring the relevant measures.* [17/03/2011] Available from: <https://www.un.org/securitycouncil/s/res/1973-%282011%29> [last accessed 10/04/2022]

<sup>146</sup> Council of the European Union, 2011/500/CFSP, *OJ C 235, Notice for the attention of the entity to which restrictive measures provided for in Council Decision 2011/137/CFSP, as implemented by Council Implementing Decision 2011/500/CFSP, and in Council Regulation (EU) No 204/2011, as implemented by Council Implementing Regulation (EU) No 804/2011 concerning restrictive measures in view of the situation in Libya apply* [11/08/2011] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52011XG0811\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52011XG0811(01)) [last accessed 10/04/2022]

<sup>147</sup> Boogaerts, Andreas. *Beyond norms: A configurational analysis of the EU's Arab spring sanctions.* *Foreign Policy Analysis* 14, no. 3 (2018): 408-428.p.411.

<sup>148</sup> Portela, Clara., *Why and Where Does the EU Impose Sanctions?* (Politique Europe'enne, 2005.) 3(17): 83-111. Available from: <https://www.cairn.info/revue-politique-europeenne-2005-3-page-83.htm> [last accessed 09/05/2022]

four of them (Tunisia, Egypt, Libya and Syria). If normative factors had been a defining EU objective more MENA countries would have been targeted. Whereas, the explanation for sanctions against Libya and Syria were driven by historical and normative factors. Both Libya and Syria had historically tense relations with the EU and US with both having previous sanction regimes against them for many years. Whilst relations had begun to improve prior to the Arab Spring, of all the MENA nations only Libya and Syria remained non-participating states in the ENP. Therefore, when violence emerged the EU and coincidentally US had no strategic interests at risk and so were more willing to defend their normative values.<sup>149</sup> This is in comparison to countries like Saudi Arabia, and Oman who violently repressed their protests and those of neighbouring Bahrain. Seen as a counterweight to Iran, there was little interest in following a normative agenda against these gulf states.<sup>150</sup> Indeed, the anchorage of the US fifth fleet in Bahrain and the therefore tacit approval of Saudi Arabian policy ensured EU inaction.<sup>151</sup>

## 2.1 The context of Syria prior to 2011.

The analysis of the EU's sanctions against Syria requires an initial review of the context to appreciate the dynamics of the Syrian regime and society prior to EU sanctions. At the beginning of the conflict the EU was seen as one of the powers with the greatest potential to influence the regime, as in 2011 the EU was Syria's largest trading partner.<sup>152</sup> Perceptions of the Assad regime were influenced by: the diplomatic isolation of Syria from 2005 to 2010; the Obama administration policy objectives in the Middle East; and the interactions of Turkey, France and Britain with the Assad regime.

EU and US perceptions of Syria in 2011 were impacted by the relationship the regime had with France, Britain and Turkey. Syria had faced US sanctions since December 2003, for alleged funding of anti-US militias on the Syrian-Iraqi border, and diplomatic isolation through UN resolution 1559, which demanded Syria to withdraw from Lebanon in February 2005.<sup>153</sup> Despite Syrian compliance the international community, led by the Bush Administration continued to isolate Syria. France became the first Western country to end Syria's diplomatic isolation, when French President Nicolas Sarkozy visited in 2008 and invited Assad to Paris for the launch of the Union for the Mediterranean (UfM). Officially welcoming Assad back into Euro-Mediterranean politics.<sup>154</sup> The US cautiously followed

<sup>149</sup> Boogaerts, Andreas. *Beyond norms: A configurational analysis of the EU's Arab spring sanctions*. *Foreign Policy Analysis* 14, no. 3 (2018): 408-428. p. 415.

<sup>150</sup> *Ibid.*, p.422.

<sup>151</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East* (Yale University Press: 2020). p.96.

<sup>152</sup> Giumelli, Francesco, and Paul Ivan. *The effectiveness of EU sanctions*. *EPC Issue Paper* 76 (2013): 1-43. p.22

<sup>153</sup> United Nations Security Council, Resolution 1559, *On the political independence and withdrawal of foreign forces from Lebanon* [02/09/2004] Available from: <https://digitallibrary.un.org/record/529421?ln=en> [last accessed 10/04/2022]

<sup>154</sup> Bouris, Dimitris, and Anis Nacrou. *The ins and outs of the EU's shortcomings in Syria* (IEMed, 2022) Available from:

when it sent Ambassador Robert Ford, in February 2010, ending its 5 year absence.<sup>155</sup> This change in policy was undertaken by the Obama Administration for a number of reasons. First it was hoped to stabilise Iraq's western border and enable the US to withdraw troops and second there was a hope to try and flip Syria away from Iran and into the pro-Western orbit.<sup>156</sup> Despite these policies, Washington was not well informed about Syria and relied on its allies France, Britain and Turkey who had all kept their diplomatic presence in Damascus, throughout 2005 to 2010. For differing reasons these three powers played important roles in Western perceptions and decision making in regards to Syria. France, as the former colonial master, believed it had some influence over Syria and had ambitions to expand its influence in the region. British attitudes centred on the perception that Assad was a moderate who could be worked with. Based on his four year stint of studying in London at Western Eye Hospital and that Assad had a British raised wife Asma Akhras, cultivated a sympathetic view towards Assad in British circles. Finally, Turkey's relationship with Syria had warmed in the early 2000's with Bashar al-Assad becoming the first ever Syrian leader to visit Ankara in 2004, which led to cooperative policies that included a free trade agreement in 2007, visa-free travel in 2009 and flourishing trade between the two nations.<sup>157</sup> Relations were so good that Erdoğan and Assad even took vacations together in August 2008, in the Turkish resort town of Bodrum.<sup>158</sup> These relationships and supposed influence by France, Britain and Turkey over Syria was greatly overestimated and arguably impacted EU responses as they believed they could influence the regime in Damasus.

The adoption of restrictive measures against Syria proved to be one of the most pertinent EU foreign policy decisions to emerge from the Arab Spring. The EU's sanctioning policy against Syria that began on 9th May 2011 was implemented at a time when the utilisation of sanctions had arguably resulted in success as illustrated in the regimes against: the Islands of Comoros in 2008, The perceived success of sanctions in Tunisia and Egypt in early 2011 and the then on-going sanction regime against Côte d'Ivoire and Libya which had all been implemented to either consolidate democratic forces or facilitate a democratic transition.<sup>159</sup> The success of the previously mentioned scenarios were not uniquely brought about by the EU's restrictive measures but their use was perceived as complimentary to desired outcomes. Despite the initial optimistic use of sanctions, in 2011, their value a

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<https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022]. p.91.

<sup>155</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.52.

<sup>156</sup> Ibid. p.53.

<sup>157</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.64.

<sup>158</sup> Mulayim, Sedat. *For a Few Kilometres More: The Fight For Northern Syria*. (Australian Institute of International Affairs, 2015). Available from:

<https://www.internationalaffairs.org.au/australianoutlook/for-a-few-kilometres-more-the-fight-for-northern-syria/> [last accessed 10/04/2022]

<sup>159</sup> Council Decision, 2011/221/CFSP, *OJL 93, Amending Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire* [06/03/2011] Available from:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011D0221> [last accessed 10/04/2022]

decade on is objectively questionable with few of the targets maintaining democratic institutions or in the case of Syria even being able to stop conflict. It is of foremost importance to analyse the value and limitations of sanctions in this process. Naturally with over 500,000 dead, 8.7 million made refugees and with Bashar al-Assad still the President of Syria, the EU sanction regime can be discounted as an objective failure based on EU official objectives. However, the use of sanctions is never zero-sum and even if the policy did fail it is questionable if other foreign policy tools could have performed differently. It is therefore important that the lessons learnt during 2011-2021 are incorporated into future policy and practice. The analysis uses the four step framework of Francesco Giumelli comprising: First, were the sanctions part of a broader approach? Second, what was the logic of the sanctions: coercing, constraining, or signalling? Third, what were the wanted and unwanted effects of the sanctions, compared to the expectations and taking into account the logic of the sanctions? Finally, could other feasible foreign policy tools have performed better than sanctions in the given case? By focusing on these questions the sanction regime against Syria is analysed for its value and limitations.

## **2.2 Were the sanctions part of a broader approach?**

The series of events that lead to sanctions against Syria began following the unrest in the town of Deraa, where protests emerged on the 15th March 2011 and were met with violence by State security forces, who killed four.<sup>160</sup> Following this event the scale and spread of protests increased until indiscriminate violence and open conflict emerged between government and opposition forces. The EU's actions with regards to Syria were heavily influenced by Washington and both arguably played a prominent role in the crisis in the years up to 2015. However, with the fragmentation of Syria that led to the emergence of new actors like ISIS and military intervention of Russia, Turkey and the US, the EU's capacity to influence events declined. The EU implemented autonomous sanctions against the Assad regime in coordination with the US but also utilised a broad range of policy tools. This included diplomatic initiatives, providing humanitarian aid, preventing regional destabilisation and maintaining a presence.

The EU undertook various diplomatic initiatives to end the conflict. The EU used the UNSC and UN system comprising the Human Rights Council and UN General Assembly. Through the UNSC Britain and France attempted to push through critical statements of the Assad regime at the UNSC, in May and June 2011. Moreover, EU member efforts in the Human Right Council lead to the publishing of a report in July 2011 that exposed the deaths of 1,900 protesters and that the regime regularly deployed security forces and tanks.<sup>161</sup> However, diplomatic efforts in the UN were limited by Russia and China who stymied measures that were detrimental to the Assad regime. Indeed, since 2011 Russia has

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<sup>160</sup> Sands, Phil. *Joined in blood*, The National News, 19th March 2014. Available from: <https://www.thenationalnews.com/world/joined-in-blood-1.259560> [last accessed 10/04/2022]

<sup>161</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.100.

vetoed on 16 occasions UN actions, with China jointly vetoing in 10 votes.<sup>162</sup> Despite this limitation, the UN, with the support of the EU, was able to conduct inspections into the use of chemical weapons and confirmed its use in the Ghouta area of Damascus in August 2013. Although it did not assign responsibility, the Syrian government did permit the UN to destroy chemical weapon stocks, which was allegedly completed in June 2014.

The EU supported diplomatic mediation attempts to end the conflict supporting Arab League-UN initiatives as well as the Geneva conferences and Vienna Process. It is important to review the diplomatic mediation efforts, as they became the official policy of the EU sanction regime. The first attempts at mediation were undertaken by the Arab League (AL), on the 2nd November 2011. However, the failure to curb the violence and the alleged duplicity of the Assad regime, led to the suspension of Syria from the AL and imposition of AL sanctions in November 2011. Another AL attempt to facilitate peace was attempted in December 2011 but by 28 January 2012 the AL acknowledged its mission had failed. In 2012, the negotiations were increasingly undertaken by the UN where the EU increased its role in the peace process. In February 2012 the AL and UN, at the *Friends of Syria* conference, appointed former UN Secretary General Kofi Annan special envoy for peace. On the 16th March, Annan proposed a six-point peace plan to the UNSC, which called for an immediate ceasefire by all parties and called on the Syrian government ‘to address the legitimate aspirations and concerns of the Syrian people’ which was also endorsed by the EU. Annan successfully lobbied Russia and was able to establish an unarmed United peacekeeping mission to Syria, in April 2012. Despite this breakthrough the deployment was not able to stop the escalation of violence and the mission ended on the 6th June 2012. Pertinently, six days later the UN officially announced that Syria was in a state of civil war.

Kofi Annan sought a united policy by the UNSC with regards to Syria and so organised the first Geneva Conference (Geneva I) in June 2012. The outcome of this conference was the *Geneva Communiqué* which agreed for the need of a ‘transitional governmental body with executive power’. This *Communiqué* was endorsed by the EU and became an official objective of the sanction regime. It was also accepted by the UNSC, although with differing interpretations. For the US, France and Britain the *Communiqué* implied that Assad could not continue in power. Whereas, Russia and China rebuffed the insinuation that Assad should step down.<sup>163</sup> On the 2nd August 2012, Kofi Annan resigned blaming the Assad regime, Syrian opposition and division of the UNSC for permitting the bloodshed to continue. His replacement Lakhdar Brahimi, was unable to bring the protagonists to negotiate until January 2014, with Geneva II. Under pressure from their various

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<sup>162</sup>The Syrian Network for Human Rights (SNHR), *Russia and China's Arbitrary Veto Used 16 Times Contributed to Killing Nearly a Quarter of a Million Syrians*. (SNHR, 2020). Available from: [https://snhr.org/wp-content/pdf/english/Russia\\_and\\_Chinas\\_Arbitrary\\_Veto\\_Use\\_16\\_Times\\_Contributed\\_to\\_Killing\\_Nearly\\_a\\_Quarter\\_of\\_a\\_Million\\_Syrians\\_en.pdf](https://snhr.org/wp-content/pdf/english/Russia_and_Chinas_Arbitrary_Veto_Use_16_Times_Contributed_to_Killing_Nearly_a_Quarter_of_a_Million_Syrians_en.pdf) [Last accessed: 10/04/2022]

<sup>163</sup> Reuters, *France says Geneva Syria plans implies Assad must go*, 1st July 2012. Available from: <https://www.reuters.com/article/us-syria-crisis-france-idUSBRE86006P20120701> [Last accessed: 10/04/2022]

international backers both the Assad regime and Syrian opposition attended. Although, after ten days no agreements were reached. Further conferences occurred in 2016 (Geneva III), 2017 (Geneva IV) and in 2019 a Syrian Constitutional Committee was formed. Although Assad's success in reclaiming 70% of Syria's territory in 2021 has stalled this initiative.<sup>164</sup>

Illustrating the internationalisation of the conflict in October 2015, another mechanism for peace emerged with the Vienna Process, also known as International Syrian Support Group (ISSG). This initiative included the EU and 19 actors, chaired by the US and Russia.<sup>165</sup> Pertinently, the Vienna Process included Iran, bringing all of the major international sponsors of the conflict together for the first time. Although, no Syrians were invited. This negotiation resulted in the ISSG proposing a peace plan for Syria, which was unanimously passed in the UN General Assembly in Resolution 2254, on the 18th December 2015. In the proposal it continued to support the proposals in *Geneva Communiqué* that there needed to be a 'a Syrian-led and Syrian-owned political transition'. The issue of Assad's future role was downplayed by all participants. Its difference to the *Communiqué* was a commitment that within 18 months a free and fair elections would be held under UN supervision.<sup>166</sup> Although this did not materialise. Nonetheless, the implementation of the *Geneva Communiqué and Resolution 2254* remained EU official sanction objectives.

The EU has worked to provide humanitarian assistance to the Syrian population affected by the conflict and prevent regional destabilisation. The EU is the largest donor of international aid having raised €24.8 billion for the Syrian population outside and inside Syria between 2011-2020.<sup>167</sup> Since 2017 the EU has organised five international donor conferences, co-charing with the UN at the 5th conference in March 2021 and managed to secure another €5.3 billion. HR/VP Jossep Borrel maintains the measures help 'meet the increasing needs of the Syrian people and neighbouring countries hosting 5.6 million people'.<sup>168</sup> These measures are designed to strengthen the Syrian population's 'resilience'

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<sup>164</sup>Bibbo, Barbara. *Syria constitutional talks fail again in Geneva*. (Aljazeera, 25th March 2022). Available from: <https://www.aljazeera.com/news/2022/3/25/syria-constitutional-talks-fail-again-in-geneva> [Last accessed: 10/04/2022]

<sup>165</sup> Members: US, EU, Russia, Arab League, UN, UK, France, Arab Emirates, Qatar, Oman, Saudi Arabia, Iran, Iraq, Italy, Jordan, Lebanon, Germany, Egypt, China.

<sup>166</sup> United Nations Security Council, S/RES/2254, *Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks* [18/12/2015] Available from: <http://unscr.com/en/resolutions/doc/2254> [last accessed 10/04/2022]

<sup>167</sup> European Commission, *Countries and Regions: Syria*. available from:

<https://ec.europa.eu/trade/policy/countries-and-regions/countries/syria/> [last accessed 10/04/2022]

<sup>168</sup> European Council, Supporting the future of Syria and the region - Brussels Conference, 29-30 March 2021. Available from:

<https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2021/03/29-30/> [last accessed 10/04/22]

and support a post-conflict recovery.<sup>169</sup> An important policy for the EU was to prevent regional destabilisation. The method of making MENA more resilient was through the partnership programs which aimed to strengthen: the rule of law, security, social cohesion, the environment and the economy. Funding was secured through the European Neighbourhood instrument and distributed: €1.4 billion to Morocco, €756 million to Egypt, €765 million to Jordan and €1.6 billion to Tunisia in the period 2014-2020.<sup>170</sup> In addition, the EU also allocated €2 billion to help these countries deal with the Covid-19 pandemic.<sup>171</sup> Thus, by financially helping Lebanon, Jordan, Turkey, Egypt and Iraq the EU has arguably reduced the potential for regional destabilisation.

The EU has continued to maintain a diplomatic presence in Syria. The EU responded quickly to the Assad government violation of human rights in May 2011, by suspending bilateral cooperation programmes, freezing the draft EU-Syria association agreement and removal of Syria from regional programmes.<sup>172</sup> The EU was also quick to recognise the Syrian National Coalition in November 2012.<sup>173</sup> However, the HR/VP Lady Ashton, resisted pressures from member states (France, the UK, Germany, Italy, Spain, Belgium, the Netherlands, Sweden and Denmark) to close the EU delegation in Syria. Stating ‘it would remain functioning in Damascus as long as the security situation permitted’ which it has succeeded in doing, except for a short hiatus in December 2012 to April 2013, when it was located in Beirut. The continued work of the EU in Syria was termed by HR/VP Mrs Febrica Mogherini, in 2015 as ‘humanitarian diplomacy’.<sup>174</sup> This was because the EU was able to: directly communicate its condemnations to Syrian government officials; guarantee that the EU humanitarian assistance (ECHO) was able to deliver aid to rebel areas; and it provided vital intel for UN agencies and the International Red Cross (ICRC) and other NGOs working in Syria.

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<sup>169</sup> European Commission, *Countries and Regions: Syria*. available from:

<https://ec.europa.eu/trade/policy/countries-and-regions/countries/syria/> [last accessed 10/04/2022]

<sup>170</sup> European Commission, *European Neighbourhood Programme Performance*, 2020. Available from:

[https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/programme\\_performance\\_overview\\_-\\_eni\\_0.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/programme_performance_overview_-_eni_0.pdf) [last accessed 10/04/2022]

<sup>171</sup> Mirel, Pierre., *From the Barcelona Process to the Mediterranean Programme, a fragile Partnership with the European Union*. European Issues, n.601 (Fondation Robert Schuman, 2021) available from:

<https://www.robert-schuman.eu/en/doc/questions-d-europe/qe-601-en.pdf> [last accessed 10/04/2022]

<sup>172</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021). p.13.

<sup>173</sup> France 24, *EU recognises Syrian National Coalition as 'legitimate' representative*. (19/11/2012) Available from:

<https://www.france24.com/en/20121119-eu-recognises-opposition-bloc-legitimate-syrian-national-coalition-representative> [last accessed 10/04/2022]

<sup>174</sup> Bouris, Dimitris, and Anis Nacrour. *The ins and outs of the EU's shortcomings in Syria* (IEMed, 2022) Available from:

<https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022]. p.92.

### 2.3 What was the logic of the sanctions: coercing, constraining, or signalling?

The purpose of the EU sanctions implemented against the Assad regime between the 9th May 2011 and 27th May 2021 changed in three distinct phases. The duration and dynamics of the conflict entail that the purpose of EU vertical restrictive measures adapted over the years. For that reason the restrictive measures against the Assad regime during the Syrian civil war can be broken into three main phases: Phase 1, 9th May 2011 to 23rd August 2011; Phase II, 23rd August 2011 to 31st May 2013; Phase III, May 31st May 2013 to 27th May 2021. A broad UN mandated sanctions regime against Syria was vetoed by permanent members Russia and China, on the 4th October 2011.<sup>175</sup> Demanding that the EU and US had to rely on autonomous sanctions to achieve proposed foreign policy objectives. It is important to note that EU documentations prior to June 2012 did not include specific objective aims in Council Decisions, other than the end to human rights abuses and violence. Only following the June 2012 *Geneva Communiqué* and then UN Resolution 2254 from the 18th December 2015 did these become the official objectives of the Council.

#### A) Phase 1: 9th May to 23th August 2011

In the first few months of the crisis from 9th May to 18th August 2011 the EU implemented limited autonomous sanctions against Syria in coordination with the US. The restrictive measures agreed in the Council Decision of the 9th May, comprised a full arms embargo and targeted sanctions against 13 individuals, which included asset freezers and travel bans.<sup>176</sup> Importantly, only military and security personnel were included on this initial list, with President Assad omitted. The reason for this was to give Assad the opportunity to cooperate in finding a peaceful solution.<sup>177</sup> Coupled with this Decision the EU also: froze a draft association agreement; suspended bilateral cooperation agreements under MEDA/European Neighbourhood Policy Instrument (ENPI) and suspended Syria's participation in regional programmes.<sup>178</sup> The purpose of these measures can be classified as *signalling* EU displeasure to the Assad regime. Most of the measures applied were not punitive in nature, and many could be reversed if the Assad regime complied. Indeed, the arms embargo was also largely symbolic, as Syria did not have a history of buying Western

<sup>175</sup> United Nations, *Security Council Fails to Adopt Draft Resolution Condemning Syria's Crackdown on Anti-Government Protestors, Owing to Veto by Russian Federation, China*. 4th October 2011. Available from: <https://www.un.org/press/en/2011/sc10403.doc.htm> [last accessed 10/04/2022]

<sup>176</sup> Council Decision, 2011/273/CFSP, *OJ L 121, concerning restrictive measures against Syria*, [09/06/2011] Available from:

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2011.121.01.0011.01.ENG&toc=OJ%3AL%3A2011%3A121%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2011.121.01.0011.01.ENG&toc=OJ%3AL%3A2011%3A121%3ATOC) [last accessed 10/04/2022]

<sup>177</sup> Giumelli, Francesco. *The success of sanctions: Lessons learned from the EU experience*. (Routledge, 2016). p.22.

<sup>178</sup> European Union, Factsheet: The European Union and Syria, (Reliefweb, 15/10/2012). available from: <https://reliefweb.int/report/syrian-arab-republic/factsheet-european-union-and-syria-15-october-2012> [last accessed 10/04/2022]



arms but rather Iranian and Russian.<sup>179</sup> Moreover, the measures did not have a significant impact on the wider economy. Importantly, it demonstrated EU support for US measures, which had been implemented on the 29th April<sup>180</sup> and *signalled* EU abhorrence to the use of violence. Although, on the 23rd May a second additional list of individuals were added, which did include senior political figures, such as President Assad and Vice-President Faruq al Shar which brought the total of targeted individuals to 23.<sup>181</sup> The additional list a mere two weeks later that included President Assad is more demonstrative of the EU's public perception concerns than any additional pressure on the regime as in EU documentation there appears no desire, in May 2011, for Assad's removal.

The initial reaction of the EU and allies like Turkey and the US towards Assad's violent response to protesters focused on *signalling* a desire for change in behaviour. The favourable opinion of Assad, especially from Turkey, meant that the regime's early promises of offering reforms such as, the change of cabinet, release of political prisoners and investigations into the tortures that occurred in Deraa were met with approval.<sup>182</sup> This is evident in EU documentation from April 2011, which while displaying disapproval at the regime's violence, indicated no desire for Assad's removal.<sup>183</sup> Rather, in the first few months of 2011 Syria was not the priority, protests were occurring across the whole region in Egypt, Libya and Bahrain garnering greater focus from many powers.<sup>184</sup> Indeed, one British official stated that 'only when Libya was nearing its conclusion in September was sufficient energy directed towards Syria'.<sup>185</sup> Thus due to stretched capacity and improved interaction with the regime prior to 2011 there was little to indicate that Syria would become a defining location of the Arab Spring. Condemnation of Assad only began to emerge in July-August of 2011. The continued spread of the protests and the increasing violent response changed the position of the EU and many actors. Overall, though the period 9th May to 18th August can be characterised as *signalling* the EU desire that Syria change course. Indeed, the hope was that Assad would be able to appease the protesters with concessions and follow a route like Morocco and Jordan.

### **B) Phase II: 23rd August 2011 to 31st May 2013.**

Dwindling patience with Assad and perceived successful democratic transitions in Tunisia and Egypt emboldened the EU and US towards regime change. On the 18th August,

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<sup>179</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021). p.8.

<sup>180</sup> Executive order 13572

<sup>181</sup> Council Decision 2011/302/CFSP, *OJ L 136, Implementing Decision 2011/273/CFSP concerning restrictive measures against Syria* [23/05/2011] Available from: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011D0302> [last accessed 10/04/2022]

<sup>182</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p. 86.

<sup>183</sup> Council of the European Union, *Foreign Affairs* (Press Release, 12/04/2011) Available from: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/121506.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/121506.pdf) [last accessed 10/04/2022]. p.9.

<sup>184</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.95.

<sup>185</sup> *Ibid.* p.98.

HR/VP Lady Ashton released a statement endorsed by EU members and in coordination with the US that publicly called for Assad to ‘step aside’.<sup>186</sup> The emergence of the Free Syrian Army (FSA) in July and the establishment of the Syrian National government (SNG) in August 2011 provided the US and EU an alternative to Assad. This shift in policy was matched with a change in the EU sanction regime, which on the 23rd August and more extensively on the 1st December 2011 involved the extension of restrictive measures to include 86 individuals, 30 entities and whole sectors and products such as crude oil and petroleum.<sup>187</sup> Moreover, the EU also froze the assets of the Central Bank of Syria and aimed to undermine the financial foundations of the State.<sup>188</sup> The purpose of these sanctions was to *coerce* the Assad regime to agree to a transitional government that did not include Assad. In November 2011, US and EU sanctions were joined by Turkish and the AL sanctions on Syria, in response to the Assad government's non-compliance with the AL peace initiative and ceased all trade between Arab governments and Syrian public entities.<sup>189</sup> These measures had a huge punitive impact on the Syrian economy. The objective of the EU sanction regime became more defined following the *Geneva Communiqué* in June 2012.<sup>190</sup> From this date onwards the *Communiqué* and its outline for a political solution through the Syrian led transitional government became the guiding objective of the EU sanction regime. The additional inclusion that Assad could not be a part of that transition was demonstrated in the Council Conclusions, in October 2012 that stipulated ‘that those whose presence would undermine the political transition should be excluded and that President Assad, in this regard, has no place in the future of Syria’.<sup>191</sup> Thus, the EU objective between the 23rd August 2011 to 31st May 2013 can be characterised as *coercive*, as it demanded the removal of Assad. This was a significant escalation and demonstrated EU and US prejudices that the Assad regime could be toppled if sufficient pressure was applied. One Western diplomat called the process an ‘escalator of pressure’, as the desired behavioural

<sup>186</sup>Bouris, Dimitris, and Anis Nacrou. *The ins and outs of the EU's shortcomings in Syria* (IEMed, 2022)

Available from:

<https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022]p.92.

<sup>187</sup> Council Decision, 2011/515/CFSP, *OJ L 218, Implementing Decision 2011/273/CFSP concerning restrictive measures against Syria* [23/08/2011] Available from:

<https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX%3A32011D0515> [last accessed 10/04/2022]

And Council Decision, 2011/782/CFSP, *OJ L 319, Concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP* [01/12/2011] Available from:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011D0782> [last accessed 10/04/2022]

<sup>188</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021).p.20.

<sup>189</sup> BBC, *Syria unrest: Arab League adopts sanctions in Cairo* (27/11/2011) available

from: <https://www.bbc.com/news/world-middle-east-15901360> [last accessed 10/04/2022] Excluded Lebanon and Iraq who continued to trade.

<sup>190</sup>United Nations General Assembly, *Geneva Communiqué*, 6th July 2012. Available

from: [https://peacemaker.un.org/sites/peacemaker.un.org/files/SY\\_120630\\_Final%20Communique%20of%20the%20Action%20Group%20for%20Syria.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/SY_120630_Final%20Communique%20of%20the%20Action%20Group%20for%20Syria.pdf) [last accessed 10/04/2022]

<sup>191</sup> Council Conclusions, *Council conclusions on Syria*, [15/10/2012] available

from: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/132825.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/132825.pdf) [last accessed 10/04/2022]p.1.

change did not occur, then more extensive sanctions were released.<sup>192</sup> Coupled with this the Obama administration drew the conclusion that the cost of not calling for Assad's removal was higher than remaining mute. The perception that Assad's collapse was inevitable and fear of being characterised as weak or apathetic should Assad fall before Obama called his departure shifted the administration's desire to be on the 'right side of history'.<sup>193</sup> Little discussion among the sanctioning powers emerged about the prospect of Assad maintaining power. Pertinently, these *coercive* sanctions were not feasible for Assad to comply with as it would entail the end of his regime. The EU and US's sanctions provided no exit route for Assad and arguably fueled the conflict to escalate.

### C) Phase III: 31st May 2013 to 27th May 2021

The period 31st May 2013 to 27th May 2021 marks the final stage of EU sanctions. Since the 31st May 2013, with Council decision 2013/255, the measures implemented against Syria have not significantly been amended and have been renewed annually.<sup>194</sup> Intermittently new individuals or entities have been added, but as of the 27th May 2021 the EU sanction regime targeted 283 individuals, 70 entities and maintained the other restrictions implemented in 2011.<sup>195</sup> The objectives of the overall EU sanction regime is the fulfilment of the 2012 *Geneva Communiqué* and the UN Resolution 2254 from the 18th December 2015, which largely mirrors the aims of the *Communiqué*. In 2017, the Council did publish an *EU Strategy on Syria* which reillitated the EU commitment to a 'genuine political transition' whilst including provisions towards humanitarian support, assisting the 'resilience of the Syrian population' and 'promoting accountability for war crimes'.<sup>196</sup> Although, it remains largely unimplemented due to the ongoing events. During this period the EU also enacted UN mandated sanctions against ISIS on the 17th December 2015, and the EU has since expanded an autonomous horizontal, non-territorially specific, sanction

<sup>192</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.113

<sup>193</sup> Ibid., p.118.

<sup>194</sup> Council Decision, 2013/255/CFSP, *OJ L 147, Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria* [31/05/2013] Available

from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013D0255-20201106&qid=1622100607717&from=EN> [last accessed 10/04/2022]. Sanctions are set to be renewed on the 1st June 2022.

<sup>195</sup> Council of the European Union, *Syria: Council extends sanctions against the regime for another year* (Press Release, 27/05/2021) Available

from: <https://www.consilium.europa.eu/en/press/press-releases/2021/05/27/syria-council-extends-sanctions-against-the-regime-for-another-year/> [last accessed 10/04/2022]

<sup>196</sup> Council of the European Union, *Council adopts EU strategy on Syria*, (Press Release, 03/04/2017)

Available from:

<https://www.consilium.europa.eu/en/press/press-releases/2017/04/03/fac-conclusions-syria/pdf> [last accessed 10/04/2022]

regime to counter terrorism.<sup>197</sup> However, these two regimes are not explored in this dissertation as they do not target the Assad regime.

What separates Phase 3 sanctions from the previous two is the inclusion of exceptions towards ‘helping the Syrian civilian population’ and ‘Syrian National Coalition for Opposition and Revolutionary Forces’.<sup>198</sup> This is pertinent as some EU members provided weapons to this umbrella organisation. After the inability to find a solution to the conflict in the aftermath of the *Geneva Communiqué*, in June 2012, the conflict in Syria escalated in scale and violence. It was under this context that the EU council had a contentious, 12 hour meeting on the 27th May 2013, between members wanting to arm the rebels and those against. An arms embargo had been placed on Syria since the outbreak of the violence in 2011, and some EU members led by Britain and France wanted the EU to arm the rebels, so that Assad would be pressured to negotiate. Whereas, opponents such as Austria’s foreign minister Michael Spindelegger opposed the measures. First because the EU was an organisation of peace, but second on the basis of who would be receiving the arms. The outcome was a compromise. The EU would not renew the arms embargo, permitting individual members to provide arms to the rebels, but not undertake EU managed transfers of arms.<sup>199</sup> The characterisation of EU sanctions in this period remains *coercive* in the objective that there should be a transition to peace, and that this should not include Assad. Whilst, the EU also permitted its members, namely Britain and France, to undertake additional policies to constrain the options available to the Assad government. The analysis of these measures are not explored in this dissertation but they did not manage to change the conflict. indeed by December 2013, both the US and UK suspended the delivery of ‘non-lethal’ equipment to the Free Syrian Army (FSA), after it was alleged Islamists rebels had captured some of their supplies in Bab al-Hawa.<sup>200</sup> The acquiescence, albeit not active participation, to permit EU members to provide arms to Syrian rebels would have ended what limited influence as mediator for peace the EU possessed. Whilst the characterization of the conflict continued to change as military interventions by Russia, Turkey and the US further made the EU a bystander to events.

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<sup>197</sup> United Nations Security Council, *Resolution 2253, Sanctions Framework to Include Islamic State in Iraq and Levant* [17/12/2015] Available from: <https://www.un.org/securitycouncil/sanctions/1267> [last accessed 10/04/2022]

And Council Decision, 2016/1693, *OJ L 255, concerning restrictive measures against ISIL (Da'esh) and Al-Qaeda and persons, groups, undertakings and entities associated with them and repealing Common Position 2002/402/CFSP* [20/09/2016] Available from: <https://eur-lex.europa.eu/eli/dec/2016/1693/oj/eng> [last accessed 10/04/2022]

<sup>198</sup> Council Decision, 2013/255/CFSP, *OJ L 147, Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria* [31/05/2013] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013D0255-20201106&qid=1622100607717&from=EN> [last accessed 10/04/2022]

<sup>199</sup> BBC, *EU ends arms embargo on Syria rebels* (28/05/2013) available from: <https://www.bbc.com/news/world-middle-east-22684948> [last accessed 10/04/2022]

<sup>200</sup> BBC, *US and UK suspend non-lethal aid for Syria rebels* (11/12/2013) available from: <https://www.bbc.com/news/world-middle-east-25331241> [last accessed 10/04/2022]

The EU sanction regime therefore had three distinct phases. First, Phase I from 9th May to 23rd August 2011, which *signalled* EU displeasure at the actions of the Assad government. This Phase I permitted the regime to change course and perhaps follow the peaceful routes demonstrated by Morocco and Jordan. Second, Phase II from 23rd August 2011 to 31st May 2013, when in coordination with the US, the EU called for Assad to ‘step aside’. This included many punitive measures and can be characterised as *coercive*. There was only one option for the regime to follow, which was a transitional government and implied removal of Assad. This was unfeasible for the regime to fulfil. Thirdly, Phase III from 31st May 2013 to 27th May 2021, where the EU permitted member states to send arms to Syrian rebels. The objectives in this period remained the same as Phase II and are characterised as *coercive*. Overall, these measures were unable to fulfil their desired objectives of ‘finding a lasting and credible political solution to the conflict in Syria’.<sup>201</sup>

#### **2.4 What were the wanted and unwanted effects of the sanctions, compared to the expectations and taking into account the logic of the sanctions?**

The desired outcome of the CFSP sanctions against Syria, as outlined in Council decisions and conclusions was a cessation of violence and the desire to implement a credible political solution, as outlined in the *Geneva Communiqué* and UN Resolution 2254. Implied although not explicitly stated in these documents was also the desire that Assad ‘step aside’. Based on these objectives the EU sanction regime failed. Overall the sanctions brought about few wanted outcomes consisting of upholding normative values and profoundly impacting the Syrian economy. However, both of these were only beneficial in the short-term. The unwanted impact of sanctions are numerous comprising: the inability of sanction to cause the Assad regime to collapse; that the objectives of the sanctions inadvertently escalated the violence; that sanctions were unable to change the behaviour of the Assad regime; that harmful spillover effects of the sanctions impacted ordinary Syrian civilians; that sanctions increasing Assad’s reliance on foreign powers; that sanctions fueled the refugee crisis and the consequences of this on the EU; and that sanctions were unable to maintain the EU position in the mediation process. Although sanctions might not be fully responsible for some of these impacts, their imposition either did not stop these factors or sanctions played a role that was mostly detrimental to EU objectives.

One initial wanted outcome was that sanctions demonstrated EU and US normative commitment to human rights and democracy. With hindsight it is easy to diminish the immense pressure the US and EU governments were under to act against the Assad regime.

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<sup>201</sup>Council of the European Union, *Syria: Council extends sanctions against the regime for another year*, (Press Release, 27/05/2021) Available from:

<https://www.consilium.europa.eu/en/press/press-releases/2021/05/27/syria-council-extends-sanctions-against-the-regime-for-another-year/> [last accessed 19/04/2022]

Indeed, as early as the 22nd April 2011 the Washington Post was branding Western inaction as ‘shameful’ and ‘is there any wonder that Mr Assad thinks he can slaughter the people of Hama with impunity?’.<sup>202</sup> Whilst, in the UK, there was pressure from interest groups like Amnesty International and media outlets like, The Economist urging the government to act.<sup>203</sup> Governments felt the need to be on the ‘right side of history’ and were receiving an incredible amount of criticism from opposition parties to do more.<sup>204</sup> The apparent success of democracy in Tunisia, Egypt and Libya emboldened government officials to act against Assad, as there was a collective perception, by many, that with some punitive sanctions the regime might collapse or be forced to comply with a transitional government. Whilst there were some dissenting opinions that the regime was not close to collapse, these were swept up in the euphoria that historical forces were somehow at work. Thus, one wanted outcome of the sanction regime was that the US and EU were perceived as acting decisively. However, this was only a short-term success and ultimately a costly one.

EU sanctions had the arguably desirable negative impact on Syria’s economy in the short and long-term. Prior to the protest the EU was Syria’s largest trading partner and therefore the EU had a lot of leverage over the regime. Indeed, using the energy sector as an example, in 2010 30% of the Syrian Public revenue came from oil-related activities. 80% of Syrian oil was exported to the EU, with Italy and Germany being the largest consumers.<sup>205</sup> The sanctions that were implemented in Phase I (9th May to 23rd August 2011) had little impact on the economy and were largely *signalling* sanctions. In response to these sanctions two groups emerged within the Syrian regime. The first group, which included Syrian Vice-President Farouk Al-Sharaa, supported the need for reforms and compliance. The second group, which included much of the Assad family, feared reforms would be interpreted as weakness and potentially become an existential threat. President Assad was believed to have been torn between these two groups at the beginning of the crisis, which does explain what one former high-ranking Syrian official notes as Assad’s early schizophrenic behaviour. Such as meeting with families of arrested teenagers and tribal leaders in Deraa, promising reform whilst at the same time ordering tanks to surround the city.<sup>206</sup> Surprisingly, the Vice-President Farouk Al-Sharaa was targeted by individual US and EU sanctions on the 23rd May 2011, which weakened his position. He was subsequently side-lined by the regime.<sup>207</sup> Although Vice-President Farouk Al-Sharaa would probably

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<sup>202</sup> Washington Post, *Shameful U.S. inaction on Syria’s massacres*, (22/04/2011) Available from: [https://www.washingtonpost.com/opinions/shameful-us-inaction-on-syrias-massacres/2011/04/22/AFROWsQE\\_story.html](https://www.washingtonpost.com/opinions/shameful-us-inaction-on-syrias-massacres/2011/04/22/AFROWsQE_story.html) [last accessed 19/04/2022]

<sup>203</sup> The Economist, *Unfriended*, (13/04/2011) Available from: <https://www.economist.com/middle-east-and-africa/2011/08/13/unfriended> [last accessed 19/04/2022]

<sup>204</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*.p. 118.

<sup>205</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021).p.9.

<sup>206</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.86.

<sup>207</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021) p.16.

have lost influence without being targeted by sanctions, the loss of his moderating perspective was an unwanted outcome.

The impact of the Phase II sanctions (23rd August 2011 to 31st May 2013) and Phase III (31st May 2013 to 27th May 2021) devastated the Syrian economy. The decision by the US to ban oil on the 18th August and the EU on the 23rd August placed huge strains on the Syrian economy. Coupled with this the restrictions and freezing of assets in the financial sector stymied the regime's economic management. The intention of these sanctions was to *coerce* the regime towards a political transition or bring about its collapse. Oil revenues reduced dramatically and many jobs were lost due to capital flight. However, the evaluation of the impact of sanctions is impossible to separate from the economic damage caused by the escalating conflict. Nonetheless, studies have approximate estimates of the economic fallout. First the collective sanctions from EU, US, Turkey and Arab countries reduced Syrian exports by 42.9% by 2012. Whilst, sources of household incomes collapsed and 3 million people lost their jobs. Meanwhile, by 2020 the price of goods and services increased by 17 times their 2010 levels. This pushed 90% of the Syrian population below the poverty line by the end of 2017 with an equally large increase of extreme poverty. Those few industries that survive in Syria are dependent and exploited by regime cronies and a huge black and illicit market has emerged.<sup>208</sup> Indeed, the desperation of the regime for finance has led to its involvement, on an industrial scale, in the production of narcotic drugs, in particular Captagon Pills where Syria is now the largest exporter. The drug has become the regime's biggest source of hard currency revenue, earning it an estimated \$3.4 billion, in 2020, which is in stark contrast to its largest legal export of olive oil which is estimated at \$122 million in the same year, experts are now stating that 'the drug is financing the central government'.<sup>209</sup> The 'spill-over' effects from sanctions have had a huge impact on the lives of ordinary Syrians. However, rather than cause the collapse of the regime it has merely pushed it towards other powers or illicit methods. The vacuum left by EU and US sanctions has been filled by Iran, Russia and partly China. The sanctions removed the regime's sovereignty over the economy and gave control to Iran and Russia.<sup>210</sup> Conversely the harsh sanctions strengthened the regime as it used sanctions to mobilise domestic support. The leadership was able to shift the blame for economic problems onto the international imperialists, and created a 'rally around the flag' effect for some sectors of society.<sup>211</sup> It can therefore be argued that the economic and political capital that the EU and US had over the regime in 2011 was lost for little return. If the objective had been to cripple the Syrian economy, then it might have been a success. However, this was not the objective and negatively impacted the EU as it inevitably added to the increase of refugees fleeing.

<sup>208</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021).p.23.

<sup>209</sup>The Economist, *Syria has become a narco state*, 19/05/2021. Available from: <https://www.economist.com/middle-east-and-africa/2021/07/19/syria-has-become-a-narco-state> [last accessed 09/05/2022]

<sup>210</sup> Mehchy, Zaki, and Rim Turkmani. *Understanding the impact of sanctions on the political dynamics in Syria*. (London School of Economics, 2021). p.23.

<sup>211</sup> Ibid. p.4.

Moreover, the sanction regime used against Syria implies that EU normative values of desired targeted sanctions that do not impact ordinary civilians is merely rhetoric. Thus, although the sanctions did have a negative impact on the Syrian economy the outcomes were not desirable.

An unwanted expectation of implementing sanctions was that the Assad regime did not collapse. The reason why sanctions were ineffective was because the Assad regime maintained some societal support. The regime, unlike those in Tunisia and Egypt, remained resilient throughout the conflict due to a number of policies and demographic factors specific to Syria. At the time it was not clear, to Western governments, that Syria would be different to Tunisia and Egypt. It was perceived that the regime was on the brink of collapse and that sanctions could facilitate a quicker transition to democracy. However, this was a miscalculation. The regime had developed a number of buy-ins and coup-proofing policies that maintained sufficient levels of support and compliance from differing sectors of the population prior and throughout the conflict. The first of these leverages was economic benefit. In 2011, the Assad regime maintained some support from the Syrian middle-classes who had benefited under the regime's economic policies since 2000 and feared insecurity. This group comprised many different ethnicities but were based in the economically affluent areas of Central Damascus and Aleppo. In addition, the government also maintained support from its many government employees and increased their pay on the 1st April 2011 which mostly bought their passivity.<sup>212</sup> A second 'buy-in' was ideology. Assad's foreign policy of opposing the US and Israel was popular in many quarters and decades of propaganda maintained some sections of the population to believe that the protesters might be Western or Israeli led conspiracies. A third 'buy-in' was sects and support in particular from minorities and secularists. Since the coup by Hafez al-Assad in 1970, there had been a policy of assigning Alawis, the sect from which the Assad's belonged, and relatives to key positions in the security forces to secure the regime. Moreover, Druze and Christians disproportionately held positions of power in other government institutions. Although the Assads' also made sure to allocate some powerful positions to the Sunni majority.<sup>213</sup> These minority groups feared what might emerge if Assad was removed, especially an extremist Sunni-led government that might extract revenge. This fear of extremism was also apparent in the secular Sunni sections of society who also feared extremism and saw Assad as a bulwark against jihadism. Coupled with this ethnic, religious component there was also a generation split. Older Syrians who remembered the unstable situation prior to Hafez's coup and also witnessed the instability and descent into radicalism in Iraq and Lebanon were drawn towards the regime as it offered stability. Moreover, the Syrian military did not abandon the regime. Thousands of Syrian soldiers and officers did join the rebel opposition however these actions were undertaken by individuals and not by the institution. Unlike Egypt or Tunisia where whole battalions defected. The reason for this was that the Syrian officer corps had been filled with loyalists, with mostly Alawis backgrounds. Most of the

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<sup>212</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. Ibid. p.81.

<sup>213</sup> Ibid. p.34.



elite divisions: The Republican Guard, the Third Corps and the Fourth Armoured Division were estimated to be 80 per cent Alawi.<sup>214</sup> Many of these factors might not have led to direct support for the regime but ensured the oppositions' difficulty to coalesce. The misinterpretation of events and the societal structure of Syria was not appreciated by the EU or US prior to implementing sanctions. 'The structure of its ruling regime and the complexities of its relationship with society would mean that Syria could not mimic Tunisia and Egypt in the swift exit of their leaders'.<sup>215</sup> Thus belief that Assad could be toppled by sanctions alone was flawed.

An unwanted outcome of the sanction regime's objectives was that it escalated the violence and reduced EU policy options. The announcement on the 18th August 2011, and subsequent sanction objective that Assad 'step aside' arguably pushed Syria towards civil war. The policy raised the stakes that regime change was the official EU and US policy and galvanised both domestic and international actors not to compromise. Indeed, the announcement raised the expectation of the Syrian opposition that the EU and US were committed to removing Assad and made them less likely to compromise with the regime. Whilst Assad's allies like Russia and Iran hardened their resolve to support the regime to counter Western democratic or influential expansion.<sup>216</sup> The decision of the 18th August 2011, went against clear recommendations from the EU, French, British and even US delegations in Damascus. In the Foreign Affairs Council (FAC) preparatory meetings in August the EU delegation from Syria explained that 'a call to the top of the leadership to step down would be equal to a point of no return'.<sup>217</sup> Meanwhile French, UK and US Ambassadors in Damascus were warning that the regime was not close to collapse. UK Ambassador Simon Collis stated on the 19th July 2011, 'Assad can still probably count on the support of some 30-40% of the population' further warning that the regime would be unlikely to collapse under economic pressure, as was perceived in Western capitals. US Ambassador Robert Ford informed Washington that the US would not be able to bring about the removal of Assad. Whilst, French Ambassador Eric Chevallier was reportedly involved in a 'verbal brawl' with Nicolas Sarkozy's diplomatic adviser Nicolas Galey, in early August 2011, as he vehemently rejected the idea that Syria was the next inevitable 'domino' to fall in the Arab Spring. The response by Galey 'your information does not interest us ... Bashar al-Assad must fall and he will fall' illustrates the US and EU failure to heed officials on the ground.<sup>218</sup> The outcome predicted by the local delegations was correct. The sanctions implemented in May 2011, had already made the EU appear as a 'hostile enemy' to some members of the Syrian government and the August decree for Assad to

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<sup>214</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.83.

<sup>215</sup> Ibid. p.70.

<sup>216</sup> Ibid. p.112.

<sup>217</sup> Bouris, Dimitris, and Anis Nacrou. *The ins and outs of the EU's shortcomings in Syria* (IEMed, 2022) Available from:

<https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022] p.92.

<sup>218</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*.p.116.

step aside retrospectively, signed the EU out of ‘any active political role’.<sup>219</sup> The scale of sanctions implemented in August to December 2011 and characterisation as *coercive*, entailed the EU had reduced its policy options once it became apparent that the Assad regime would not collapse. The imposition of sanctions guaranteed EU participation in mediation efforts up to the end of 2015. However, the dynamics of the conflict changed in September 2015 when Russia intervened militarily from discussions of political solutions to military solutions.<sup>220</sup> The EU’s inability or lack of desire to change policy ensured its irrelevance thereafter.

An unwanted outcome of the EU sanction regime was that it did not limit the actions of the Assad regime. The Assad regime learnt different lessons from international responses in the first few months of the Arab Spring. First, the invasion by Saudi Arabia and United Arab Emirates into Bahrain, on the 14th March, to crush protesters received no international condemnation and demonstrated that violence could be successful in quelling unrest. Second, the overwhelming international response to Libya, which on the 17th March, passed UN Resolution 1973, might have limited the influence of hardliners in the Assad regime to use unlimited violence for fear of an international intervention. Indeed, in the first year and especially after the death of Gadaffi in October 2011, the regime did not deploy all its forces at once but incrementally increased violence.<sup>221</sup> There is little doubt that the regime was fearful of the international response to its conduct against protesters. This does demonstrate the Syrian perspective at the beginning of the conflict was that the EU and US could threaten the regime. However, the EU and US decision to use *coercive* sanctions that were not feasible for the Assad regime to comply pushed the regime outside their spheres of influence. Indeed, the *coercive* sanctions used against Syria emboldened its allies Russia and Iran to guarantee Assad’s survival. Thus, the EU and US squandered the opportunity to maintain leverage over the Assad regime. Once this leverage evaporated the regime’s limitations on violence diminished. Once it became clear that Syria would not be a victim to a NATO intervention, like occurred in Libya, the regime pushed the limits of acceptable behaviour. The culmination of this indifference to EU and US threats was illustrated in the brazen act of the regime to use chemical weapons in August 2013, and thus crossing Obama’s ‘red line’. This action would have been unimaginable in 2011. Although there was international condemnation that ultimately led to a Russian mediated UN mission to remove chemical weapons, their use did not abate. In fact chemical weapons have been a prominent element in the Syrian government’s arsenal, the Organisation for the Prohibition of Chemical Weapons (OPCW) has confirmed their use on multiple occasions in 2017 and as recently as April 2020, in the rebel town of Lataminah.<sup>222</sup> Thus the EU sanction regime

<sup>219</sup> Bouris, Dimitris, and Anis Nacrou. *The ins and outs of the EU’s shortcomings in Syria* (IEMed, 2022) Available from: <https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022] p.92.

<sup>220</sup> Ibid. p.92.

<sup>221</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.88.

<sup>222</sup> Jaecke, Gregor. And Labude, David. *Country report: De-escalation zones in Syria*, (Konrad Adenauer Stiftung, June 2020) Available from:

has been unable to stop the use or escalation of chemical weapons in the Syrian conflict.<sup>223</sup> The initial reaction of the regime in 2011 demonstrates that the EU and US did have leverage over the regime. However the demand that Assad step aside diminished this leverage and forced the regime to seek help abroad. The subsequent actions or inaction by the US and EU emboldened the regime to act with impunity.

The EU sanction regime had the unwanted consequence of increasing the number of refugees. Sanctions were only one factor of many that drove millions of Syrians to seek asylum. The vast majority remained in neighbouring countries, Jordan, Lebanon and Turkey. However, large numbers of refugees, arguably driven by the impact of sanctions, also made their way to Europe with a peak in 2015. This caused a major problem for the EU as it was torn between liberal tendencies to accept the refugees but also nativist or populist backlashes in many member states. The decision by German Chancellor Angela Merkel to suspend on the 21st August 2015 the Dublin Regulation,<sup>224</sup> and the opening of the ‘Balkan Route’ led to 500,000 refugees arriving in 2015 and another 750,000 in 2016. Although, at first met with German good will as demonstrated by the slogan ‘Wir Schaffen das’ (We can do this) the political honeymoon was short lived with a backlash occurring by the New years eve, when women were assaulted in Cologne’s main station.<sup>225</sup> Immigrants had historically been used by populists as targets for scapegoating, but the large increase of Syrian refugees when there was a generalised fear of terrorism, brought the migrate issue to the top of the political agenda in 2015. All contemporary EU populist parties portrayed the migration as either a racial, religious or civilisational threat. Whilst many of these views were rejected by the political mainstream a major impact was a shift to the right, by centrist parties’ immigration policies.<sup>226</sup> This was particularly pertinent for the EU as the Commission’s proposal for mandatory quotas for Syrian refugees caused a huge upsurge in xenophobic and populists sentiments in all member states, and particularly in Eastern Europe. This partly fuelled the political success of the Polish party The Law and Justice, which won both the Presidency and control of Parliament in 2015 and has played a significant role in the reelection campaigns of Hungarian Prime Minister Viktor Orbán.<sup>227</sup> Whilst in Southern Europe, which was heavily impacted by the economic crisis of

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<https://www.kas.de/documents/252038/7938566/De-escalation+zones+in+Syria.pdf/4a717753-1fff-352b-b6ff-1abba5f7fdb8?version=1.1&t=1592814733641> [last accessed 19/04/2022] p.1.

<sup>223</sup> Turkmani, Rim, and Mustafa Haid. *The role of the EU in the Syrian conflict*. (Human Security Study Group 2016). Available from:

[https://brussels.fes.de/fileadmin/public/editorfiles/events/Maerz\\_2016/FES\\_LSE\\_Syria\\_Turkmani\\_Haid\\_2016\\_02\\_23.pdf](https://brussels.fes.de/fileadmin/public/editorfiles/events/Maerz_2016/FES_LSE_Syria_Turkmani_Haid_2016_02_23.pdf) [last accessed 19/04/2022].p.18.

<sup>224</sup> Which stipulates that Refugees have to apply for asylum in the first EU country of arrival.

<sup>225</sup> Hasselbach, Christoph. *Five years on: How Germany's refugee policy has fared*, (DW, 25/08/2020) available from: <https://www.dw.com/en/five-years-on-how-germanys-refugee-policy-has-fared/a-54660166> [last accessed 19/04/2022]

<sup>226</sup> Slocum, John., *The Transnational Diffusion of Populism*, in *Populism in Europe: from symptom to alternative* by Woertz E. Report# 01. (CIBOD, Barcelona, 2017). p.16.

<sup>227</sup> Feledy, Botond., *Hungary: Populism or Politics?*, in *Populism in Europe: from symptom to alternative* by Woertz E. Report# 01. (CIBOD, Barcelona, 2017).p.41.

2009-2013, this was seen as another heavy handed intervention by Brussels that threatened member states identities.<sup>228</sup> The impact of migration also played a significant role in the withdrawal of Britain from the EU. Objectively the refugee crisis did not impact Britain significantly, as it was not part of the Schengen Zone, was geographically difficult to get to and had a high degree of autonomy over its borders. However, the perception of the crisis was very different. As demonstrated in Pew research conducted in the spring of 2016, prior to the Brexit vote 70% of those polled were ‘unhappy’ with the EU response to the migrant crisis and 52% saw the refugees from Syria and Iraq as a ‘major threat’.<sup>229</sup> Coupled with already long-standing issues with immigration the Leave campaign used the refugee crisis for their own political gain. This was demonstrated in a number of ways: first there was an active policy to not use the word ‘refugee’ but rather classify what was occurring as a ‘migrant’ crisis, diminishing the need to help and also connecting the Syrian’s with previous waves of European migrants; Second, there was an attempt to connect the deal offering Turkey visa-free travel in the EU, as a move towards Turkish EU membership illustrated in posters stating “Britain’s new border is with Syria and Iraq”.<sup>230</sup> Finally, the Leave campaign also made connections between the arrival of refugees as imminent, which was demonstrated a week before the referendum, by UKIP’s leader Nigel Farage infamous ‘breaking point: We must break free of the EU and take back control of our borders’ poster that had as a background a large column of Syrian refugees.<sup>231</sup> The outcome of this was that in December 2015, 45% of respondents stated that the refugee crisis in Europe made them more likely to vote leave.<sup>232</sup> Ultimately, many factors caused the withdrawal of the UK and the rise of populist parties across Europe in 2015/2016 but there is little doubt that these groups were able to coat-tail the sentiments brought about by the refugee crisis. This issue remains controversial in member states, as illustrated by Denmark, who intends to start sending refugees back to Syria.<sup>233</sup> While sanctions cannot nor should be totally blamed

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<sup>228</sup> Colomina, Carme., *Populism ‘Made in the EU’*, in *Populism in Europe: from symptom to alternative* by Woertz E. Report# 01. (CIBOD, Barcelona, 2017).p.24.

<sup>229</sup> Poushter, Jacob. *European opinions of the refugee crisis in 5 charts*, (Pew Research Center, 16/09/2016) available from:

<https://www.pewresearch.org/fact-tank/2016/09/16/european-opinions-of-the-refugee-crisis-in-5-charts/> [Last accessed: 19/04/2022]

<sup>230</sup> Taylor, Ros, *Brexit and the mainstreaming of the British far right*, (London School of Economics, 05/07/2017) available from:

<https://blogs.lse.ac.uk/brexit/2017/10/05/brexit-and-the-mainstreaming-of-the-british-far-right/> [Last accessed: 09/05/2022]

<sup>231</sup> Garrett, Amanda. *The Refugee Crisis, Brexit, and the Reframing of Immigration in Britain*, ( Council for European Studies, (01/08/2019) available from:

<https://www.europenowjournal.org/2019/09/09/the-refugee-crisis-brexit-and-the-reframing-of-immigration-in-britain/> [last accessed 19/04/2022]

<sup>232</sup> NatCen Social Research, *What UK thinks EU*, (Field work dates: 30 November 2015 - 3 December 2015) available

from: <https://whatukthinks.org/eu/questions/does-the-current-migrant-crisis-in-europe-make-you-more-or-less-likely-to-vote-to-leave-the-eu/> [Last accessed: 19/04/2022]

<sup>233</sup> Skydsgaard, Nikolaj., *Denmark firm on returning refugees to war-torn Syria*, (Reuters, 27/04/2021) available from:

for this outcome, it certainly was a factor in pushing Syrians to flee. Therefore, an unwanted outcome of the sanctions and subsequent EU responses was the rise of populist anti-EU sentiment across the Union.

An unwanted impact of sanctions and the refugee crisis it engendered was that it made the EU susceptible to inventive neighbours. Turkey was the primary route for Syrian and Iraqi refugees and by 2015 Turkey had received 2.5 million and spent \$8 billion aiding them with limited international support. As a consequence Turkey made little effort to stop refugees' attempts to travel, often in dangerous circumstances, to Greece. The opening of the Balkan route to Germany in August 2011 did not slow the numbers of refugees and by October 2015 the EU was negotiating a Joint Action Plan with Turkey and final agreement in 2016. The plan envisioned that all 'new irregular migrants' that arrived in Greece would be returned to Turkey and exchanged for a registered asylum seeker to the EU. Moreover, the EU would aid Turkey with €6 billion, which by December 2020, €3.9 billion had been disbursed and granted Turkish nationals visa-free access to the EU and a promise to revive Turkey's EU accession process. The agreement did successfully end the crisis with crossings across the Aegean Sea dropping from 885,000 in 2015 to 42,000 in 2017.<sup>234</sup> However, beyond the criticism the deal received from some circles it also demonstrated a method of holding the EU to ransom by inventive neighbours. Although Turkey acted as a 'good fence' for many years, President Erdoğan regularly threatened opening the borders to migrants and in February 2020 did so prompting a brief crisis before the Covid-19 pandemic closed the borders once again.<sup>235</sup> Importantly, other EU neighbours have learnt the Turkish method of 'weaponizing migrants' or using them as blackmail. In May 2021, Morocco utilised this method when it permitted migrants, in particular minors, to cross into Spanish held Cueta in an attempt to punish Spain for receiving the pro-independence for Western Sahara, Polisario Front leader, Brahim Ghali after contracting Covid-19.<sup>236</sup> Whilst, others like Belarus lured migrants and refugees in November 2021 to cross the border with Poland, in a similar attempt to gain concessions from the EU. Thus, an unwanted outcome of the Syrian sanction regime is the inventive use of migrants and refugees as pawns to apply pressure on the EU.

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<https://www.reuters.com/world/europe/denmark-firm-returning-refugees-war-torn-syria-2021-04-27/> [last accessed 10/04/2022]

<sup>234</sup>Kirişci, Kemal., *As EU-Turkey migration agreement reaches the five-year mark, add a job creation element*, (Brookings, 17/03/2016) available

from: <https://www.brookings.edu/blog/order-from-chaos/2021/03/17/as-eu-turkey-migration-agreement-reaches-the-five-year-mark-add-a-job-creation-element/> [last accessed 19/04/2022]

<sup>235</sup>Naoum, Diana., *Greece Restarts Suspended Asylum Procedure*, (Human Rights Watch, 05/05/2020) available from: <https://www.hrw.org/news/2020/06/05/greece-restarts-suspended-asylum-procedure> [Last accessed: 19/04/2022]

<sup>236</sup> Torreblanca, José Ignacio., *This time is different: Spain, Morocco, and weaponised migration*, (European Council on Foreign Relations, 26/05/2021) Available from:

<https://ecfr.eu/article/this-time-is-different-spain-morocco-and-weaponised-migration/> [last accessed 19/04/2022]

An unwanted outcome of the sanction regime was that it was unable to maintain the EU position in the mediation process. The escalation of the conflict to include foreign military forces led to the exclusion of the EU in mediation efforts. This occurred in two settings. First the Lausanne talks, in October 2016 which included discussions between the US, Russia, Turkey, Saudi Arabia, Qatar and Iran and was described as ‘involving those with direct influence on the ground’.<sup>237</sup> Second, in the discussions that came to be called Astana talks, which included Turkey, Russia and Iran meeting in Kazakhstan, in 2017. This was successful in creating four ‘de-escalation zones’ in Eastern Ghouta, Homs, Daraa and Idlib.<sup>238</sup> This mediation brought a de-escalation of violence and was praised by the UN envoy Staffen de Mistura. Despite the initial euphoria, by 2021 only Idlib remained in rebel hands. Russian and Assad regime forces initiated offenses with extensive use of bombing and chemical weapons forcing Eastern Ghouta to surrender on April 2018, Homs in May 2018 and Daraa in July 2018. The remaining zone in rebel hands, Idlib, has continued to exist due to extensive Turkish aid and soldiers, although its territory has been reduced in stages, in what some have called a salami operation approach. The last remaining rebel enclave, which hosts 3 million people, faced immense military pressure in the period 2018-2020.<sup>239</sup> However, since March 2020, and the Covid-19 pandemic a ceasefire has existed.<sup>240</sup> The Eastern half of Syria that was largely controlled by ISIS from 2014-2015, was initially taken and administered under the US backed Syrian Democratic Forces (SDF) in Raqqa. However, this territory was largely incorporated by the Assad regime, after the alleged betrayal by the Trump administration in August 2019, when the US and Turkey implemented the Northern Buffer Zone Agreement.<sup>241</sup> Despite this setback, the Kurds still control north-east Syria comprising around 20-25% of the country.<sup>242</sup> It is evident that the role of the EU in mediating a peace was limited, its exclusion from the major summits after 2015 demonstrates this. Indeed the role of negotiating a political mediation ultimately succumbed to Assad’s desire for a military solution, backed by Russia and Iran.

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<sup>237</sup> Wintour, Patrick and Borger, Julian., *Syria talks involving US to take place this weekend, says Lavrov*, (The Guardian, 12/10/2016) available

from: <https://www.theguardian.com/world/2016/oct/12/unexpected-talks-syria-moscow-switzerland-us-russia-airstrikes-aleppo> [last accessed 19/04/2022]

<sup>238</sup> Jaecke, Gregor. And Labude, David. *Country report: De-escalation zones in Syria*, (Konrad Adenauer Stiftung, June 2020) Available from:

<https://www.kas.de/documents/252038/7938566/De-escalation+zones+in+Syria.pdf/4a717753-1fff-352b-b6ff-1abba5f7fdb8?version=1.1&t=1592814733641> [last accessed 19/04/2022].p.2.

<sup>239</sup> The Economist, *Why NATO should grit its teeth and help Turkey in Idlib*, 07/05/2020. available from: <https://www.economist.com/leaders/2020/03/07/why-nato-should-grit-its-teeth-and-help-turkey-in-idlib> [last accessed 19/04/2022]

<sup>240</sup> BBC, *Syria war: Russia and Turkey agree Idlib ceasefire* (05/03/2020) available

from: <https://www.bbc.com/news/world-middle-east-51747592> [last accessed 19/04/2022]

<sup>241</sup> Aljazeera, *US troops start pullout in Syria as Turkey prepares operation*, (07/10/2019) available

from: <https://www.aljazeera.com/news/2019/10/7/us-troops-start-pullout-in-syria-as-turkey-prepares-operation> [last accessed 19/04/2022]

<sup>242</sup> Loft, Philip., *Syria and its civil war: A future under Assad?*, (House of Commons Library, 26/11/2021) available from: <https://researchbriefings.files.parliament.uk/documents/CBP-9378/CBP-9378.pdf> [last accessed 19/04/2022].p. 6.

## 2.5 Could other feasible foreign policy tools have performed better than sanctions against Syria?

The use of sanctions against the Assad regime were not guaranteed to fail. However, a number of factors that include: a change in the structural geo-political environment of the Middle East brought about by the end of *Pax Americana*; the flawed objectives of the EU sanction regime; the disunity of the Syrian opposition; the lack of additional EU foreign policy tools; and the greater interest of other powers made the feasible success of sanction alone unlikely for the EU to achieve its objectives in Syria.

There were arguably few policy options available to the EU during the Syrian crisis as a major contributing factor to instability was the end of *Pax Americana* in the Middle East. Prior to the Arab Spring profound structural changes were occurring in the Middle East that impacted the United States, and by proxy EU, role in the region. First, after the failures of the 2003-2011 occupation of Iraq there was a perception that US dominance of the region, which had been prominent since the end of the Cold War, had begun to unravel. Second, the financial crash of 2008 and election of Barack Obama prompted a rejection of the US's previous military interventions and signalled a reluctance by Washington to be an active hegemon.<sup>243</sup> Meanwhile, other regional powers such as Iran, Turkey, Qatar, Saudi Arabia and Russia took advantage of the geopolitical opportunity that emerged following the 2003 invasion of Iraq. Pertinently, the events of 2011 changed three regional countries Egypt, Syria and Iraq from being 'players' to being 'prizes' to fight over.<sup>244</sup> Academic Fawz Gerges states that 'America's moment' was over and that multiple regional and global players filled the power vacuum.<sup>245</sup> Meanwhile, the weakness of many States in the region also cultivated the conditions for non-state actors, such as Hezbollah, Al-Qaeda, al-Nusra, ISIS and many others to increase their profile and capabilities. Some authors refute that the region gave way to a multipower dynamic but rather a bipolar system of confrontation between Saudi Arabia and Iran, in what Gregory Gause portrays as a 'New Middle East Cold War'.<sup>246</sup> In contrast, some academics like Robert Lieber refuted the idea that US power was structurally declining, as no power came close to matching US capabilities, but rather it was a political decision and that the US could continue to dominate under another administration.<sup>247</sup> Although, this position has not been realised under the Trump nor Biden

<sup>243</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.48.

<sup>244</sup> Hinnebusch, Raymond., *Structure over agency: The Arab uprising and the regional struggle for power. in The Eastern Mediterranean in Transition: Multipolarity, Politics and Power*. (Taylor and Francis, 2016) pp. 119-132. available from: <https://doi.org/10.4324/9781315615851> [last accessed 19/04/2022]

<sup>245</sup> Gerges, Fawaz A. *Obama and the Middle East: the end of America's moment?*. Macmillan, 2012. p.108.

<sup>246</sup> Gause, Gregory., *Beyond Sectarianism: The New Middle East Cold War*, (Brookings Doha Center, 11/07/2014) Available from: [https://oaktrust.library.tamu.edu/bitstream/handle/1969.1/166935/New\\_MiddleEast\\_ColdWar.pdf?sequence=1](https://oaktrust.library.tamu.edu/bitstream/handle/1969.1/166935/New_MiddleEast_ColdWar.pdf?sequence=1) [last accessed 10/04/2022] .p.1.

<sup>247</sup> Lieber, Robert, *Rhetoric or Reality? American Grand Strategy and the Contemporary Middle East* (2014). APSA 2014 Annual Meeting Paper, Available at SSRN: <https://ssrn.com/abstract=2452301> [last accessed 10/04/2022].p.2.

administration who in both cases accelerated this trend. In either scenario, of US decline or disengagement the vacuum of power resulted in rivalry which depending on the perspective caused or prolonged the conflicts in Syria, Libya and Yemen. Moreover, the breakdown of US hegemony did not emerge overnight but became apparent through various powers exploring the limits of possible action. This is most prominent in the case of Assad's use of chemical weapons but is also relevant with regional allies, such as Turkey who bought weapon systems from Russia and Saudi Arabia, who invaded Bahrain in 2011, without prior US permission. The increase of agency and eventual plurality of competing objectives demonstrated the absence of US hegemony and brought about 'the era of regional uncertainty'.<sup>248</sup> The EU had the potential to become a player in this vacuum but through a mixture or combination of limited strategy, little interest and institutional weakness it was outmanoeuvred by other powers. Whilst the other regional powers arguably had less resources they were willing to use a variety of foreign policy tools that the EU was not willing or capable of utilising. The sanction regime implemented by the EU was not sufficient to counter the often militarily active role of other powers, either directly or through proxy militia groups. The failure of policy therefore made the EU a mere observer to the military events in Syria.

The unfeasible objectives of EU sanctions against the Assad regime ensured failure. Sanctions as a policy tool in 2011 were seen as an effective measure to achieve objectives. It had arguably worked in the Comoro Islands, Côte d'Ivoire, Tunisia, Egypt and Libya. However, the resilience and foreign interest in Syria was underestimated in 2011. First, as has been explained the Assad regime had cultivated sufficient support to not be toppled easily but the regime was still susceptible to EU and US pressure in 2011. The issue therefore was not that sanctions as a foreign policy tool were necessarily incorrect to use but rather the objectives of those sanctions. The demand that Assad step-aside was not feasible for the regime to comply with. Moreover, it changed the perception of the EU from a conflict crisis moderator to an antagonistic power in the eyes of Damascus. Meanwhile, the demand for Assad to go threatened the strategic interests of Russia and Iran who came to the regime's aid. Had Assad had no allies to rely on it is conceivable that the regime would have eventually collapsed. However, Western policy makers did not have other credible tools available to use after sanctions. Once the West had used all its punitive sanctions in August 2011, they lost the ability to shape the conflict. Two subsequent events shaped the dynamic thereafter. First, in August 2013 when the regime used chemical weapons and the West did not respond with force. Second, the intervention of Russia in September 2015 changed the conflict by guaranteeing Assad's position and increasing the potential for a military solution. The EU could have changed its objective and adopted a policy that actually reflected the political reality but this was not done. Moreover, the EU lost agency and the ability to find an exit strategy in the field of sanctions. In late 2019 the US congress passed the *Caesar Syria Civilian Protection Act*, which sought to prohibit

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<sup>248</sup>Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*.p.26.



third-country transactions with Syria and became effective in June 2020.<sup>249</sup> This is significant as even if the EU did decide to remove or lessen sanctions it would have little impact, as most EU businesses would refrain from entering the Syrian market, for fear of infringing the *Caesar Act*. EU discussions of using reconstruction aid for political concessions from Assad are thus impossible without parallel US support. The inspiration for the *Caesar Act* stems from the experience of the Trump administration's withdrawal from the Joint Comprehensive Plan of Action (JCPOA) or more commonly known Iranian nuclear deal of 2015. European companies were authorised to trade with Iran under EU law but refrained from doing so for fear of US sanctions.<sup>250</sup> Thus, even in the field of sanctions the EU has lost much of its agency. The lack of tools available to the EU ensured its eventual irrelevance. It is for that reason the EU needs, in the words of Jossep Borrel, to 'learn the language of power' meaning hard power if it is to guarantee its interests in the future.

The unfeasible EU objectives in Syria could be due to the fractured nature of the Syrian opposition. The inability of a viable, functional Syrian opposition to the Assad regime could be a larger reason for the failure of EU and US objectives. The rebels formed more than 1000 independent militias all with competing objectives, religions and ideologies making it difficult to coordinate. There was often as much fighting between these groups as there was against the Assad regime. The EU had great hope in 2012 of cooperating with the Syrian National Coalition (SNC), helping it in terms of diplomacy and legitimacy.<sup>251</sup> However, it was never able to overcome its internal divisions. Without a feasible Syrian opposition to support, the EU had limited feasible options towards gaining its objectives in Syria. Whilst Britain, France and the US did briefly arm various groups this ultimately was stopped for fear of arming extremists.<sup>252</sup> The US ended up supporting the larger more competent Kurdish groups. Although, this was more important in securing objectives against ISIS, then opposing the Assad regime. Therefore, the lack of a Syrian opposition that could negotiate or replace Assad remained a limitation to EU involvement beyond sanctions.

The EU lacked feasible alternative policy options due to its structural design and lack of strategy in Syria which resulted in a minimalist foreign policy. As explored previously the EU Council requires unanimous agreement among the EU member states in the implementation of foreign policy tools. However, as demonstrated in May 2013 this unanimity towards policy options in Syria did not exist beyond sanctions. Despite British

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<sup>249</sup> The Carter Center, *U.S. and European Sanctions on Syria*, (September 2020) Available from: [https://www.cartercenter.org/resources/pdfs/peace/conflict\\_resolution/syria-conflict/us-and-european-sanctions-on-syria-091620.pdf](https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/syria-conflict/us-and-european-sanctions-on-syria-091620.pdf) [Last accessed: 10/04/2022]. p.7.

<sup>250</sup> Ibid. p.17.

<sup>251</sup> Haase, Nina., *EU boosts status of Syria's National Coalition* (DW, 11/12/2012) available from: <https://www.dw.com/en/eu-boosts-status-of-syrias-national-coalition/a-16443081> [last accessed 19/04/2022]

<sup>252</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.23.

and French desires to expand EU policy by providing arms to Syrian rebels this was resisted most prominently by Austria with the final outcome being that individual members could provide arms. This outcome limited the feasible options for the EU to undertake in Syria, as without the unanimous support of its members, options beyond sanctions were impossible. Simultaneously, the EEAS was perhaps ill-equipped to deal with the Syrian crisis, having only been established in January 2011. It relied heavily on member states and had not yet developed a reputation for developing strategy. Rather it was viewed as a mere ‘facilitator’ and arguably was more focused on expanding its competencies as a ‘player’ during the Iran nuclear deal negotiations, which were concluded in June 2015.<sup>253</sup> Thus, the Council and the EEAS were contestably unable to develop a coherent EU strategy in the early stages of the conflict. Beyond sanctions and humanitarian aid there was little EU strategy with regard to Syria and possibly with the Southern Neighbourhood. The EU’s shifting concepts for the region from ‘partnerships’, ‘privileged status’ and ‘strategic agreements’ does not mask the fact that the Southern Neighbourhood received little interest or committed resources.<sup>254</sup> Indeed, the *New Agenda for the Mediterranean*, approved in April 2021, which ‘aims for a green, digital, resilient and just recovery, guided by the 2030 Agenda for Sustainable Development, the Paris Agreement and the European Green Deal’ is immensely underfunded with only €7 billion earmarked for the period 2021-2027.<sup>255</sup> By comparison the Western Balkans is set to receive €14 billion and Bulgaria alone €8 billion in the same period, despite their significantly smaller populations and geographic spread.<sup>256</sup> Moreover, during the initial years of the Syrian conflict, the EU was criticised for its competing agencies and initiatives. This was first demonstrated between the overlapping competencies of the ENP and later EU *Global Strategy* and those of agencies like the Union for the Mediterranean (UfM) which led to funding being diffused across EU initiatives with the outcome being that some agencies still lack relevant roles and purposes.<sup>257</sup> Therefore, the pertinent issues of limited funding and competing objectives have restrained EU influence in the region. Overall, the EU was not politically and strategically in a position to guide events in Syria. Still reeling from the economic fallout from the 2008 crash, the main EU organs and members were focused on maintaining the

<sup>253</sup>Bouris, Dimitris, and Anis Nacrou. *The ins and outs of the EU’s shortcomings in Syria* (IEMed, 2022)

Available from:

<https://www.iemed.org/wp-content/uploads/2020/12/07.The-Ins-and-Outs-of-the-EUs-Shortcomings-in-Syria.pdf> [last accessed 10/04/2022] p.92.

<sup>254</sup>Mirel, Pierre. *From the Barcelona Process to the Mediterranean Programme, a fragile Partnership with the European Union*. European Issues, n.601 (Fondation Robert Schuman, 2021) available from:

<https://www.robert-schuman.eu/en/doc/questions-d-europe/qe-601-en.pdf> p.1.

<sup>255</sup>Council of the European Union, *A new agenda for the Mediterranean: the Council approves conclusions on a renewed partnership with the Southern Neighbourhood* (Press Release, 19/04/2021) Available from:

<https://www.consilium.europa.eu/en/press/press-releases/2021/04/19/a-new-agenda-for-the-mediterranean-the-council-approves-conclusions-on-a-renewed-partnership-with-the-southern-neighbourhood/> [last accessed 19/04/2022]

<sup>256</sup>Mirel, Pierre. *From the Barcelona Process to the Mediterranean Programme, a fragile Partnership with the European Union*. European Issues, n.601 (Fondation Robert Schuman, 2021) available from:

<https://www.robert-schuman.eu/en/doc/questions-d-europe/qe-601-en.pdf> p.7.

<sup>257</sup>Ibid. p.1.

Union, as it struggled through the crisis of Greek debt, Southern European recessions and ultimately the rise of populism and Brexit. There is no doubt the EU had an interest in Syria but due to its structure and lack of strategy it could not compete with other powers competing to fill the vacuum of power in the region.

The greater strategic interest of other powers in Syria guaranteed that sanctions could not be successful alone. The staunch support of Iran and Russia limited the ability of the EU to change events in Syria. Russia's involvement in the war stemmed from Syria hosting Russia's only Mediterranean naval installation at Tartous. Prior to 2011, Assad had courted Putin, especially during Syria's diplomatic isolation (2005-2010) and became a consumer of Russian weapons. The purchase of these weapons required Putin to write off \$13 billion worth of Cold War debt but in return Assad diplomatically supported Putin, notably endorsing Russia's invasion of Georgia in 2008. Whilst the Iranian-Syrian relationship emerged out of the Iranian revolution in 1979 when both loathed Israel and Saddam Hussein's Iraq. In 2011, Iran had three priorities in supporting Assad: First Iran wanted to resist what it perceived as US and Israeli plans to dominate the region; Second, to maintain support for Palestinians and Lebanese in their struggle with Israel, for which Syria was a vital land bridge; and finally to become a dominant regional power.<sup>258</sup> The support of these two powers demonstrated that significant pressure would be required to remove Assad. Once Russia intervened in September 2015, the feasibility of EU sanctions working diminished. Whilst the feasibility of the EU undertaking other policy options was not realistic. Indeed, even had the EU committed to arming rebels there is no guarantee they would have been any more successful than Turkey in changing the outcome of the conflict. There is little doubt that the international dimension of the conflict fueled the civil war. Foreign states were influential in escalating the uprising into a civil war. Whilst when the war was underway their policies ensured that the conflict continued as several powers perceive Syria as a battleground in the struggle for dominance in the post-American Middle East.<sup>259</sup>

The feasible success of any policy in the Syrian conflict is difficult to judge. The quantity of variables and the plurality of actors ensured that the use of any foreign policy tool entailed risks. There is no doubt that EU sanctions failed. However, the adoption of other tools could have had equally dubious success and have risked expanding the conflict. The most important obstacle for EU success was the inability to cooperate with a unified Syrian opposition. However, had this been achieved there was still the obstinate support of Russia and Iran for the Assad regime. Although, had an opposition with control on the ground existed then there might have been the possibility for a negotiated political solution to the conflict. As there was not, the Assad regime with its allies sought and have largely won a military solution.

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<sup>258</sup> Phillips, Christopher., *The Battle for Syria: International Rivalry in the New Middle East*. p.56.

<sup>259</sup> Ibid. p.23.

### 3. Conclusion

The intricacy of modern sanction regimes does not always imply a defined objective successful outcome. Indeed, judging sanctions solely on a ‘behavioural change’ basis does not permit a sufficient analysis of value and limitation of sanctions. Rather the approach in this dissertation of: placing the sanction regime within the broader policies implemented; characterising the sanctions as a tool for coercing, constraining or signalling; analysing the sanctions unwanted and wanted outcomes; and finally evaluating if the sanctions were the best policy option available, permitting a more dynamic interpretation of the effectiveness of EU sanctions. The CFSP sanction regimes against Russia (2014-2022) and Syria (2011-2021) were similar in that they were both cases of autonomous EU sanctions that had to be adopted due to the inability of the UNSC to act. This entailed that the basis of the sanctions and objectives could be outlined in EU documentation. Whilst these objectives are pertinent, solely relying on them in the analysis for the value and effectiveness of sanctions would entail that EU sanctions against Russia and Syria were failures as the objectives outlined were not achieved. However, it does not omit the fact that both regimes had value, even if that value was merely symbolic opposition or the best option of the tools available. Rather than outlining an objective outcome of the sanction regimes against Russia and Syria it is important to review their overall value and limitations as foreign policy tools. This conclusion will briefly summarise: the pertinent findings of both regimes; areas for potential future research and an interpretation of the future conduct of EU sanctions.

#### 3.0 Pertinent findings from the EU sanctions placed on Russia.

The value of EU sanctions against Russia between March 2014 to February 2022 is that they provided political space to engage in diplomacy. The limitation of the sanctions is that over time their impact was reduced. The EU sanction regime against Russia consisted of two concurrent objectives. First, was the ‘non-recognition’ policy of the Russian annexation of Crimea, which was considered a violation of international law. Second, was that the use of violence in Eastern Ukraine cease and that the Minsk II accords be implemented. The sanctions applied against Crimea were characterised as *coercive* sanctions, but were limited to the Crimea region. The sanctions implemented against Russia’s destabilising actions in Eastern Ukraine are characterised as *constraining*, as the ambiguity of the Minsk II accords permitted various outcomes, particularly in the final status of the regions of Donetsk and Luhansk. Overall, the sanctions placed against Russia were deemed *constraining* as a variety of policy options were available and the EU and Russia continued to conduct a broader relationship.

The value of the sanctions were that they were successful in bringing the parties to negotiate and largely froze the conflict for 7 years. Critics can highlight that the sanctions implemented against Russia after March 2014 did not alter their behaviour nor deter further aggressive actions. Indeed, Kremlin foreign interventionist actions, assassinations, disinformation campaigns, cyber attacks and ultimately the invasion of Ukraine are

demonstrative that sanctions failed to deter or constrain Russian actions. Moreover, the apathy of many other countries to instigate complementary sanctions with the Western powers, permitted Russia alternative economic relations and in turn lessened the impact of the sanction regime. However, the sanctions provided the EU and US policy options to increase or decrease measures based on Russian behaviour and provided space for diplomatic efforts. The Kremlin's rejection of a diplomatic solution, in February 2022, was brought about by the weakening impact of sanctions over time and the unwillingness by protagonists to sign the Minsk II agreement. Therefore, the failure of EU objectives was not due to the sanctions in isolation as they did effectively work for a time. Rather the inability to solve long term intractable policy positions by Russia, Ukraine, the US and EU engendered an overall failure in EU objectives.

The implementation of *constraining* sanctions on Russia reflected the feasibility of the sanctions at the time. Harsher *coercive* sanctions could have been perceived as excessive and would most likely not have gained the support of all EU members, such as Hungary who were sympathetic to the Kremlin. Indeed, even France and Germany sought not to isolate Russia, due to European dependency on Russian gas, but also the desire not to push Russia towards Beijing. It is the argument of this dissertation that the level of sanctions implemented against Russia prior to February 2022, were prudently proportionally. That Putin chose to invade Ukraine when this was certainly not the only option available to Russia only galvanised a united Western response towards *coercive* sanctions post February 2022 and for a time silenced former allies of the Kremlin. Importantly the Russian invasion does not immediately entail success in their objectives. The analysis in the value and limitation of sanctions is not zero-sum, in that they failed or succeeded but depend on whether the measures were the appropriate foreign policy tools in the case study. Although EU sanctions from March 2014 to February 2022 did not remove the option of a Russian invasion of Ukraine they did not provoke it either.

### **3.1 Pertinent findings from the EU sanctions placed on Syria.**

The desired outcome of the CFSP sanctions against Syria, between March 2011 and May 2021, as outlined in Council decisions and conclusions was a cessation of violence and the desire to implement a credible political solution, as outlined in the *Geneva Communiqué* and UN Resolution 2254. Implied although not explicitly stated in these documents was also the desire that Assad 'step aside'. The characterisation of the EU sanctions against Syria is broken into three phases: Phase 1, 9th May 2011 to 23rd August 2011; Phase II, 23rd August 2011 to 31st May 2013; Phase III, May 31st May 2013 to 27th May 2021. During Phase 1, EU sanctions are characterised as *signalling* the EU desire that Syria change course. The perception from London, Paris and Ankara was that Assad was a moderate who could be worked with and the hope was Syria could pacify protesters' demands like in Jordan or Morocco. Syria was not yet the focus of the Arab Spring, with more attention on events in Libya and Egypt. This perception of Assad changed in Phase 2 with the EU sanctions being implemented as *coercive*. On the 18th August 2011, the EU and US called for Assad to 'step-aside'. Galvanised by the presumed success of democratic

forces in Tunisia, Libya and Egypt the Western governments desired to be on ‘the right side of history’. This was a serious escalation that hoped to topple the Assad regime. Phase 3 is also characterised as *coercive* although it permitted exceptions to sanctions for the ‘Syrian National Coalition for Opposition and Revolutionary Forces’. Based on the objectives outlined in EU documentation the sanction regime against Syria was a failure. Whereas, there might have been an initial argument, in 2011, that the sanctions imposed performed a normative value, in the support of human rights and democracy the outcomes were mostly unwanted.

The *coercive* demand that Assad step aside exacerbated the conflict as it was not feasible for the Assad regime to comply. Moreover it reduced the willingness of the rebels to seek a compromise with the regime as they believed the West might intervene, as occurred in Libya. Prior to August 2011, the EU was the largest trading partner with Syria, but the dramatic escalation of sanctions left the EU with no leverage over the regime. Freed from constraints the Assad regime broadened its use of weapons to cluster bombs and chemical weapons. Meanwhile, the economic vacuum left by the EU was filled by Iran and Russia. Whilst the EU did maintain some influence in peace mediation efforts this ended with the Russian military intervention in September 2015. As a consequence the EU became a bystander to events as the Assad regime and its patrons sought a military solution. Had the EU demand been less *coercive* the outcome could have been more favourable and thus illustrates the importance of objectives in the formation of sanction regimes.

The unwanted outcomes of the Syrian sanction regime on the EU were multiple. Having failed to force the Assad regime to collapse or negotiate, the spill-over effects of the sanctions fuelled in part the refugee crisis that destabilised the region and Europe in 2015. This led to two main outcomes: The rise of populist parties in Europe; and the weaponization of migrants to blackmail the EU. The large increase of Syrian refugees brought the migration issue to the top of the political agenda in 2015 and surged the popularity of extremist parties. While, the agreement between the EU and Turkey, in 2016 to stem the flow of refugees exposed to others such as Morocco and Belarus, a method to blackmail the EU. The crisis demonstrated the dichotomy between EU ideals and political reality and can be partly attributed to the flawed sanction policy implemented in Syria.

The principal reason for the failure of the Syrian sanction regime was the imposition of unfeasible demands for Assad to comply with and the relinquishing of any form of leverage. Therefore, a key lesson from the Syria sanction regime is that it is *better to be effective than righteous*. However, it is arguable whether other EU foreign policy tools could have performed any more effectively. Two factors imply the EU would have struggled with alternative policies. First, the lack of a united Syrian opposition limited the EU involvement in the crisis beyond sanctions. In 2013 the EU acquiesced to member states to arm rebel groups but they did so on an individual basis. Nonetheless, this policy was scaled down after extremists allegedly captured supplies. Besides, even had a viable group to arm been identified it is arguable if the EU would have been more successful than

Turkey in achieving objectives. Second, a number of other powers had a greater strategic interest in Syria than the EU and could have increased their support if necessary. This included Russia and Iran but also Saudi Arabia, Qatar and Turkey. Thus, the internationalisation of the Syrian conflict ensured that neither the Assad regime or opposition forces sought a negotiated peace, as they could always rely on the support of their patrons. Therefore, while EU sanctions did fail in Syria this was primarily because of the unwillingness of the conflicting parties. Without a negotiated solution sanctions remained the only politically viable option available to the EU to utilise in the circumstances, as it was unable to galvanise consensus among its members towards the use of other coercive foreign policy tools.

### **3.2 Intersection of the two sanction regimes.**

The EU sanctions against Syria in 2011 arguably influenced the EU's response to Russia in 2014. In both regimes the EU tried to use sanctions to compel the actors towards a conflict resolution, negotiation and lasting peaceful settlement. This is illustrated in the EU objectives for the implementation of the Minsk II agreement, *Geneva Communiqué* and UN Resolution 2254. Both regimes ultimately failed to implement these agreements but lessons were learnt between them.

The most important lessons from the Syrian regime was to have feasible demands and maintain leverage. The US and EU demand on the 18th August 2011 for Assad to 'step aside' exacerbated the conflict and was a valuable lesson for the sanction regime against Russia in 2014. The objective of the Russian sanctions were not *coercive* and engendered both Ukraine and Russia to undertake dialogue and negotiation of the Minsk II agreement in 2015. Both actors reached a point where there was no better alternative to negotiations. Ukraine could not count on greater Western support to reconquer Eastern Ukraine and it was in Russia's interest to freeze the conflict. Despite the accords never being implemented, the objectives of the sanctions did promote dialogue for a time. Therefore, the EU did appreciate the lesson from 2011 to not threaten regime change. Indeed, in March 2022 when President Biden remarked that Putin 'cannot remain in power' the EU was quick to distance itself with President Macron noting the desire not to 'escalate things' but to continue 'holding discussions'.<sup>260</sup>

The second lesson learned from 2011 was not to squander leverage. Rather than topple Assad or cultivate negotiations, EU sanctions were perceived as an aggressive action that only invited other countries, like Russia and Iran, to fill the economic void. This lesson was appreciated in the Russian sanction regime, with some nations like Germany advocating greater economic interdependence, through commercial enterprises like Normstream II, to maintain influence and leverage. A Germany approach of binding first the USSR and later Russia, with the idea that they could change Russia through trade. However, the differing

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<sup>260</sup>Reuters, *Reactions to Biden saying Putin Cannot Remain in Power*. 27/03/2022. Available from: <https://www.reuters.com/world/europe/reactions-biden-saying-putin-cannot-remain-power-2022-03-27/> [Last accessed 12/05/2022]

contexts between Syria and Russia were not appreciated. From Russia's perspective the reliance of Europe on Russian oil and gas was a weakness rather than credible threat or leverage over the Kremlin. Demonstrating that the implementation of sanctions cannot be copied but need to be adapted to each case.

Thus, some lessons were learnt between the Syrian and Russian sanction regimes. The need for feasible sanction objectives was certainly appreciated. However, the inability of the EU to lessen its dependence on Russian raw materials, between 2014 to 2022 undermined the credibility of EU threats towards Russia in early 2022.

### 3.3 Future areas of research

This dissertation has been limited to CFSP sanctions undertaken against Russia and Syria. However, two prominent topics that could be explored for their value and limitation as a EU foreign policy tool would be restrictive measures under Article 96 of the ACP-EU Partnership and the horizontal sanction regimes available to the EU.

The value and limitation of implementing Article 96 of the ACP-EU Partnership Agreement, also known as the Cotonou agreement, has been convincingly portrayed by Clara Portela.<sup>261</sup> The EU's capacity to 'interrupt development aid' under Article 96 arguably has greater success in achieving goals, as there is a feasible condition to fulfilling EU demands coupled with the positive incentive that aid resumes. The instigation of this restrictive measure occurs for normative values, such as safeguarding democracy or human rights protection. However, there is debate, by some ACP countries, about its alleged arbitrary usage and whilst it is largely successful there are cases, such as Zimbabwe in 2002, when its demands were not fulfilled. Therefore, further research of the criteria that makes Article 96 successful and the scenarios for its usage could be evaluated.

Future investigation into EU horizontal regimes is necessary to evaluate their effectiveness. Constituting the newest of mechanisms available to the EU none of the regimes are a decade old: with EU autonomous sanctions against terrorism, established in 2015, following a string of attacks across Europe and utilised for the first time in 2016 against Islamic State operatives; Cyber-attack sanctions in June 2017; and the EU Global Human Rights Sanction Regime established on the 7th December 2020. The latter human rights regime has received particular academic and general interest as it is based on the US Global Magnitsky Act and the implementation of these sanctions is usually undertaken with coordination with the US, UK, Australia, Canada and New Zealand. Proponents such as Geoffrey Robertson perceive this horizontal sanction as an important tool for justice by ending the impunity of perpetrators of human rights abuses to enjoy any of the benefits of the countries implementing the sanctions.<sup>262</sup> Indeed, the other benefits of this and other

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<sup>261</sup> Portela, Clara. *Aid Suspensions as Coercive Tools? The European Union's Experience in the AfricanCaribbean-Pacific (ACP) Context*. (2007). pp-39- 50.

<sup>262</sup> Robertson, Geoffrey. *Bad People: And How to Be Rid of Them: A Plan B for Human Rights*. (Biteback Publishing, 2021).pp.5-6.



horizontal sanctions is that the EU can use them to enforce normative values without undermining whole relationships with countries. This is demonstrated in EU sanctions against Xinjiang officials involved in the detention of Uighurs. Nonetheless, potential pitfalls, as outlined by Christina Eckes, are the legal limits of EU individual sanctions that often require evidence and the option to be delisted.<sup>263</sup> For this reason the EU version of the Magnitsky law is not as ambitious as others, omitting such crimes as corruption. Ultimately, this dissertation's opinion is that these horizontal sanctions will become more prominent as a tool, as they could be expanded to other infringements such as a horizontal regime for degradation of the environment.

### **3.4 Predictions on the future use of EU sanctions.**

The EU's competency as a global actor has expanded over the last decade and is likely to continue. The election of Macron in April 2022 will strengthen the cause for a geo-political Commission and provide the political capital towards more ambitious goals that did not exist under the Chancellorship of Angela Merkel. Moreover, the invasion of Ukraine on the 24th February 2022 has resulted in a paradigm shift for EU members and institutions with many former policy taboos being discarded, such as the parameters of sanctions and the deliverance of weapons to conflict zones. These developments will bring new challenges both in their implementation and in the decision-making process to use them. This dissertation is limited to two potential developments. First, that the credibility of the EU depends on the outcome in Ukraine. Second, the effectiveness of sanctions will reduce as the global economy fragments.

The credibility of the EU and broader concept of multilateralism is at stake in the conflict in Ukraine. The statement might perhaps appear grandiose but utilising the historical comparison of the actions of the League of Nations (LON) during the Italian invasion of Abyssinia in 1935 some relevant analysis can emerge. Both Ukraine in 2022 and Abyssinia in 1935 faced: an aggressive great power; mobilised a surprising resistance; and were led by the charismatic leaders of Volodymyr Zelenskyy and Haile Selassie who mobilised global public attention to their causes. In both cases sanctions did not deter the aggressive powers, despite the global community threatening them for months prior to invasion. In both cases multilateral institutions had to prove their credibility and chose the use of sanctions to do so. In many ways the issues that faced the League of Nations in 1935-1936 are faced by the EU in 2022.

The first similarity is the extent of the sanctions to use. The contemporary issue is the desire not to permanently alienate Russia and further push it towards Beijing. This was a similar worry with regards to Italy and sustaining its membership in the Stresa Front against a revanchist Germany. In the case of the LON, sanctions were implemented but critically oil and access to the Suez Canal were not included. The EU similarly initially

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<sup>263</sup> Eckes, Christina. *EU global human rights sanctions regime: is the genie out of the bottle?*. Journal of Contemporary European Studies (2021): 1-15. pp.9-13.

omitted oil, gas and a full exclusion of SWIFT. The importance of this is demonstrated in the economics of the conflict. As of the 23rd April 2022 the EU and members collectively have provided €12 billion of aid to Ukraine.<sup>264</sup> Meanwhile, as of the 27th April 2022 the EU spent €44 billion buying Russian gas and oil.<sup>265</sup> Therefore, the EU is undoubtedly funding the conflict. The arguments for not cutting off Italy and Russia is illustrated in the example of sanctions against Syria. If all leverage is removed then there is no influence to stop the escalation of violence and the vacuum will be filled by other powers. This is a legitimate argument but when sanctions are used against a Great Power, such as Italy and Russia, the use of sanctions is a consequence that relations are antagonistic and not the cause. Moreover, the sanctions against Syria failed to achieve objectives as sanctions were the only coercive tool available to the EU. This is not the case in Ukraine. Whereas, in Syria there was no legitimate opposition force to supply with weapons there is still the legitimate government of Ukraine which changes the prospects in achieving some policy successes. Therefore, it is the position of this dissertation that two options are available. Either the EU should place an embargo on oil and wean itself off its dependence on Russian gas or it should place taxes on Russian oil and use the money to fund the Ukrainian war effort. The former position has currently been chosen by the Commission, but will struggle to be implemented as Hungary and Slovenia oppose it. Despite ideas that ‘coalitions of the willing’ to enforce the embargo occur, the practicality of how this would work in the internal market is debatable. Better therefore, to tax the oil and use the money to fund Ukraine. Europe would still receive its energy supply and Russia would indirectly fund the Ukrainian military.

For the EU to succeed where the LON failed is for Ukraine not to be conquered. Some commentators have optimistically outlined that Ukraine could repulse the Russian military, retake Crimea and could result in the collapse of the Putin regime.<sup>266</sup> This is unlikely, the EU necessity that Ukraine not be conquered does not mean outright victory. Russia still has the capacity to escalate the conflict with use of chemical or even tactical nuclear weapons. The most likely outcome of the conflict is a negotiated peace, in which the EU must make sanctions attached to the outcome. This includes potential Russian annexations or ‘liberations’ of new states. EU abhorrence that international borders be changed by force will have to be accepted in a potential future negotiation, a compromise it has already made

<sup>264</sup>The Economist, *Which Countries have pledged the most support to Ukraine?* 02/05/2022. Available from: <https://www.economist.com/graphic-detail/2022/05/02/which-countries-have-pledged-the-most-support-to-ukraine> [Online date accessed 06/05/2022]

<sup>265</sup>The Economist, *Europe Should Levy a High Tariff on Russian Energy*, 30/04/2022. Available from: <https://www.economist.com/leaders/2022/04/30/europe-should-levy-a-high-tariff-on-russian-energy> [Online date accessed 06/05/2022]

<sup>266</sup>Cohen, Eliot A. *Why Can't the West Admit That Ukraine Is Winning?* (The Atlantic, 21/03/2022) Available from:

<https://www.theatlantic.com/ideas/archive/2022/03/ukraine-is-winning-war-russia/627121/> [Online date accessed 06/05/2022] and Lutsevych, Orysia. *What would victory actually mean now for Ukraine – and for Europe?* (The Guardian, 02/05/2022) Available from: <https://www.theguardian.com/commentisfree/2022/may/02/russia-defeat-ukraine-vital-peace-security-europe> [Online date accessed 06/05/2022]

between Israel, Palestine and Azerbaijan, Armenia. Both Western and Moscow commentators surmise that internal opposition or pressures will change external policies and it is more likely that the West will break ranks before Russia. The full economic consequences of the sanctions have yet to be felt in Europe, with steep increases in energy bills likely for the winter of 2022-23, which is already coupled with other inflationary pressures. Therefore the durability both politically and economically of EU sanctions are unknown. Meanwhile, the desired coup in the Kremlin might be more destabilising than if Putin remains in power. Therefore, the outcome of the conflict is still far from over although it is certain to determine the future of European security and the credibility of the EU.

The effectiveness of sanctions will diminish as the global economy fragments. The condolences of the financial crash of 2008, the Trump Administration's trade wars, the Covid-19 pandemic and the war in Ukraine have all undermined the global economic order and exacerbated slowbalisation.<sup>267</sup> Beliefs at the end of the Cold War that economic free-markets would spread democracy and promote multilateralism have floundered. Rather, globalisation has increased inequalities and threatened democracy.<sup>268</sup> Today more of humanity lives under an authoritarian regime than democratic and the trend is set to continue. Whereas, communism was an ideological threat to capitalism in the 20th century today Liberal Capitalist Democracies are now threatened by what economist Branko Milanovic characterises as Political Capitalist Systems. Political Capitalist countries gain their legitimacy from economic growth but have no need of democracy to achieve this.<sup>269</sup> Today this grouping arguably constitutes 30% of the global economy and poses a significant threat to the liberal order.<sup>270</sup> To counter this threat the US has already undermined some of its own creations, such as the World Trade Organisation, where it holds the Appellant Body hostage, as it is no longer perceived as working to the benefit of US strategic interests. Choosing instead to circumvent the WTO, through trade wars with countries like China for economic violations such as: dumping, intellectual property theft, currency manipulation unilaterally. The paralysis of the WTO has increased the development of Preferential Trading Areas (PTA's) and shift towards spheres of economic

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<sup>267</sup> The Economist, *The Steam Has Gone Out of Globalisation*, 24/01/2019. Available from: <https://www.economist.com/leaders/2019/01/24/the-steam-has-gone-out-of-globalisation> [Online date accessed 06/05/2022]

<sup>268</sup> Rodrik, Dani. *The globalization paradox: Democracy and the future of the world economy*. WW Norton & Company, 2011. pp.200-205. And Reich, Robert B. *The system: Who rigged it, how we fix it*. (Vintage, 2020). pp.1-5

<sup>269</sup> The Economist, *A scholar of inequality ponders the future of capitalism*, 02/11/2019. Available from: <https://www.economist.com/finance-and-economics/2019/11/02/a-scholar-of-inequality-ponders-the-future-of-capitalism> [Online date accessed 06/05/2022]

<sup>270</sup> The Economist, *Globalisation and Autocracy are locked together. For how much longer?*, 19/03/2022.

Available from: <https://www.economist.com/finance-and-economics/2022/03/19/globalisation-and-autocracy-are-locked-together-for-how-much-longer> (Last accessed 23/04/2022)

influence.<sup>271</sup> The EU and other large actors are undertaking policies to secure vital supply chains and create more resilient or arguably autarkic economies. This is primarily due to trade wars and the Covid-19 pandemic, but importantly sanctions also play a significant role. Already China is reorganising its economy, especially its exposure in foreign currency reserves in response to the sanctions imposed on Russia. Whilst sanctions are a useful policy tool their effectiveness reduces after use, as actors undertake measures to reduce the impact of the threat posed by sanctions. This cycle also fuels geo-political rivalry and reduced interdependency. Importantly, the effectiveness of sanctions will diminish if the global economy continues to fragment. Meanwhile, the EU global share of the economy is likely to decline relative to powers like China, making itself vulnerable to economic coercion. A prospect already demonstrated by China against Lithuania. It is therefore important to appreciate the effectiveness of sanctions whilst they last. It is the prediction of this dissertation that in the coming decades the use of sanctions will shift from being vertical in nature to being horizontal and targeting more individuals rather than whole nations. This might seem paradoxical considering events in Russia, but it is the opinion of this dissertation that this is the peak of economic sanctions in a vertical sense. The tools used against Russia in 2022, will not be effective against similar powers in 2032. Therefore, the EU will need to focus on utilising other tools if it is to achieve success in the coming decades.

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<sup>271</sup> Trebilcock, Michael ., *Advanced Introduction to International Trade Law*, 2nd ed. (Edward Elgar, 2020) p.222.

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