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CANADA'S SANCTIONS REGIME: TRANSPARENCY, ACCOUNTABILITY AND EFFECTIVENESS

**Report of the Standing Committee on Foreign Affairs and
International Development**

Ali Ehsassi, Chair

**JANUARY 2024
44th PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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has the honour to present its

TWENTY-THIRD REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied Canada's sanctions regime and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

The Administration of Canada’s Sanctions Regime

Recommendation 1

That the Government of Canada provide detailed explanations for all measures imposed pursuant to its autonomous sanctions legislation, including specific rationales for the listing of individuals and entities under the relevant regulations. 18

Recommendation 2

That the Government of Canada ensure that its Consolidated Canadian Autonomous Sanctions List is user-friendly, searchable and regularly updated, and that each entry includes the information necessary for compliance activities and the rationale for the designation. 18

Recommendation 3

That, within a reasonable time frame, the Government of Canada publish more detailed written guidance on its autonomous sanctions legislation and regulatory measures adopted pursuant to this legislation to enable and enhance sanctions compliance. 21

Recommendation 4

That the Government of Canada publish comprehensive information for the public outlining the processes by which sanctions are imposed and by which exemption permits may be issued, and that it update this information as appropriate. 22

Recommendation 5

That the Government of Canada institute service standards for the processing of permit applications pursuant to its autonomous sanctions legislation, while respecting the exceptional nature of permits and the scrutiny required. 22

Recommendation 6

That the Government of Canada adopt clear, consistent, and comprehensive humanitarian carve-outs across its sanctions regimes and related legislation, in line with international humanitarian law and relevant resolutions of the United Nations Security Council. 25

Recommendation 7

That the Government of Canada publish detailed written guidance explaining the humanitarian carve-outs in its sanctions regimes, consistent with the protection of impartial humanitarian action under international humanitarian law. 26

Recommendation 8

That the Government of Canada explore the establishment of an external consultative body on sanctions, including representatives from civil society, the financial sector and the private sector, which would meet regularly, advance meaningful dialogue on Canada’s sanctions regime, and develop an effective process for collecting feedback and documentation..... 28

The Governance and Resourcing of Canada’s Sanctions Regime

Recommendation 9

That the Government of Canada report to Parliament on the implementation and results of the \$76 million that was announced in October 2022 to strengthen Canada’s capacity to implement its sanctions..... 32

Recommendation 10

That the Government of Canada allocate budgetary resources to the sanctions units within Global Affairs Canada, the Royal Canadian Mounted Police, the Canada Border Services Agency, and all other implicated departments and agencies, at a level commensurate with the growing importance of sanctions policy and the increasing complexity and challenges associated with sanctions implementation and enforcement. 32

Recommendation 11

That the Government of Canada reinforce specialized training programs on sanctions for all implicated personnel..... 33

Recommendation 12

That, as part of the expansion in budgetary and training resources recommended above, the Government of Canada take specific steps to further strengthen the capacity of the Royal Canadian Mounted Police and the Canada Border Services Agency to enforce Canada’s sanctions regime. 33

Recommendation 13

That, building on the recommendation contained in the 2017 report of the House of Commons Standing Committee on Foreign Affairs and International Development – entitled *A Coherent and Effective Approach to Canada’s Sanctions Regimes: Sergei Magnitsky and Beyond* – and in light of developments since that time, the Government of Canada review the way in which it is administering its autonomous sanctions legislation and the *Export and Import Permits Act* to ensure it is maximizing the efficiency, effectiveness, and resourcing of their complementary aspects. The review should seek to determine whether the separate units in Global Affairs Canada that are responsible for administering this legislation should be amalgamated in whole or in part. 33

Recommendation 14

That the Government of Canada, in collaboration with international partners and working closely with other relevant law enforcement agencies, develop a strategy to address sanctions violations – including offshore export havens and jurisdiction shopping – while increasing the enforcement of existing controls. 33

Recommendation 15

That, within a reasonable time frame, the Government of Canada conduct a comprehensive review of the departmental and agency mandates, authorities, coordination mechanisms and reporting relationships supporting its sanctions regime, with equal emphasis given to the needs and challenges associated with sanctions policy, administration, and enforcement, and that it publish the results. As well, in the process of conducting this comprehensive review, that the Government of Canada consider other models or systems in place used by allies to enforce, coordinate, and monitor sanctions. 39

Recommendation 16

That, in Budget 2024, the Government of Canada provide details on the structure and mandate of the proposed Canada Financial Crimes Agency. 40

Recommendation 17

That the Government of Canada consider designating a unit within the proposed Canada Financial Crimes Agency responsible for sanctions enforcement. 40

Recommendation 18

That the Government of Canada publish comprehensive data annually on Canadian exports of dual-use goods, as it does for military goods, including the value of those exports, descriptions of the goods, and their authorized end users. 43

The Multilateral Coordination of Canada’s Sanctions Regime

Recommendation 19

That the Government of Canada increase its investment in dedicated capacity for sanctions diplomacy with the objective of maximizing the number of partners that are applying the same or similar sanctions measures, closing any implementation gaps that may exist, and countering any sanctions circumvention that may be taking place. 45

The Effectiveness of Canada’s Sanctions Regime

Recommendation 20

That the Government of Canada present an annual report to Parliament on its autonomous sanctions, including an overview of the objective and assessed impact of each regime established in relation to a foreign state, alongside a summary of the amount of assets in Canada that have been effectively frozen and transactions that have been blocked and any seizure or restraint orders that have been made, as can be publicly disclosed in accordance with the *Privacy Act* and the protection of Canada’s national security interests. 52

Recommendation 21

That the Government of Canada review its autonomous sanctions on a regular basis to ensure that the measures are calibrated precisely to achieve each regime’s intended objective and that the associated designations remain appropriate. 52

The Coherence and Consistency of Canada’s Sanctions Regime

Recommendation 22

That the Government of Canada review its autonomous sanctions legislation to determine whether any harmonization or further elaboration of its human rights and corruption triggers is required. 54

Recommendation 23

That the Government of Canada review its autonomous sanctions legislation and the approaches of like-minded jurisdictions to identify best practices and ensure that Canada’s legislative framework corresponds to Canada’s interests and commitments in relation to national security, foreign policy, and human rights and is designed in a way that enables the government to address the full range of circumstances in which the imposition of sanctions may be required. 56



CANADA'S SANCTIONS REGIME: TRANSPARENCY, ACCOUNTABILITY AND EFFECTIVENESS

INTRODUCTION

When 2022 began, Russian forces were massed near the country's border with Ukraine and Russia's government was issuing ultimatums to Ukraine's transatlantic partners that were widely considered to be unacceptable. U.S. Secretary of State Antony Blinken had warned that, if Russia continued down the path of aggression, it would face "economic measures that we haven't used before—massive consequences."¹ Nevertheless, on 24 February 2022, Russia chose to reject diplomacy and violate international law by launching a full-scale invasion. The seriousness of the situation was immediately apparent through the announced response. U.S. President Joe Biden indicated that the "strong sanctions" he was imposing on Russia, in coordination with partners that included Canada, Japan, the United Kingdom and the 27 members of the European Union (EU), would "limit Russia's ability to do business in Dollars, Euros, Pounds, and Yen," and "impair their ability to compete in a high-tech 21st century economy."²

The "severe consequences"³ promised by Canada included restrictions on Russian individuals and entities, as well as key members of the Russian state and their contacts.⁴ Valid export permits to Russia were cancelled and the issuance of new ones was stopped. All Canadian financial institutions were prohibited from engaging in any transactions with the Russian Central Bank, and dealings prohibitions were imposed on

1 United States (U.S.), Department of State, [*Secretary Antony J. Blinken at a Press Availability*](#), 7 January 2022.

2 U.S., The White House, [*Remarks by President Biden on Russia's Unprovoked and Unjustified Attack on Ukraine*](#), 24 February 2022.

3 Prime Minister of Canada, Justin Trudeau, [*Justin Trudeau, Statement by the Prime Minister on Russia's attack on Ukraine*](#), 23 February 2022.

4 Global Affairs Canada, [*Backgrounder: Canada imposes additional economic measures on Russia in wake of its military attack against Ukraine*](#); and Global Affairs Canada, [*Canada imposes additional economic measures on Russia in response to Russia's attack on Ukraine*](#), Backgrounder.



Russian sovereign wealth funds. Furthermore, through coordinated action, certain Russian banks⁵ were removed from SWIFT, the global interbank payments system.⁶

When Canada's Minister of Foreign Affairs, Mélanie Joly, appeared before the House of Commons Standing Committee on Foreign Affairs and International Development (the committee), on 24 March 2022, she described an "unprecedented mobilization" to impose sanctions against Russia.⁷ By that point, Canada had sanctioned more than 1,000 Russian and Belarusian individuals and entities,⁸ prohibited imports of Russian crude oil, and prevented Russian and Belarusian aircraft and vessels from accessing Canada. Minister Joly told the committee that the sanctions have "a clear, precise goal: to suffocate the Russian regime and the individuals who have financed and allowed this invasion."⁹ When she again appeared before the committee in early August 2022, the minister indicated that Canada had "the strongest sanctions regime in the G7 when it comes to Ukraine."¹⁰

By September 2022, it had become clear that the sanctions against Russia were wide-ranging and wide-reaching, but that, notwithstanding the constraints it was facing and however costly for its economy and society, Russia's aggression against Ukraine was unrelenting. While new sanctions measures continued to be announced, the focus shifted to implementation and enforcement. Against this backdrop, the committee

5 The Russian banks that were excluded from the world's primary financial messaging system – SWIFT – were already subject to sanctions imposed by the European Union and Group of Seven countries. See European Commission, [Ukraine: EU agrees to exclude key Russian banks from SWIFT](#), News release, 2 March 2022. However, not all Russian banks were disconnected from SWIFT because of the need to allow for certain transactions to be settled, particularly in relation to energy supplies to European countries. See Owen Walker, "[EU plans to evict largest Russian lender from Swift but spare energy bank](#)," *Financial Times*, 4 May 2022. SWIFT, which is owned and controlled by its shareholders of financial institutions, and overseen by the G-10 central banks and the European Central Bank, is incorporated under Belgian law and must comply with EU regulations. See Swift, "[Swift and sanctions](#)," *Compliance*. The EU took measures to exclude seven Russian banks on [2 March 2022](#), as well as three Belarusian banks on [9 March 2022](#). An additional three Russian banks and one Belarusian bank were excluded on [3 June 2022](#). See European Council, Council of the European Union, [Timeline – EU restrictive measures against Russia over Ukraine](#).

6 Prime Minister of Canada, Justin Trudeau, [Canada announces additional measures to support Ukraine](#), 24 February 2022; Department of Finance Canada, [Canada and G7 partners prohibit Russian Central Bank transactions](#), News release, 28 February 2022; and European Commission, [Joint Statement on further restrictive economic measures](#), Statement, 26 February 2022.

7 House of Commons, Standing Committee on Foreign Affairs and International Development (FAAE), [Evidence](#), 24 March 2022, 1540 (the Honourable Mélanie Joly, Minister of Foreign Affairs).

8 Since 2014, Canada has imposed sanctions against 632 entities and 2,149 individuals in response to Russia's aggression against Ukraine. See Government of Canada, [Sanctions – Russian invasion of Ukraine](#), last updated 10 November 2023.

9 FAAE, [Evidence](#), 24 March 2022, 1540 (Hon. Mélanie Joly).

10 FAAE, [Evidence](#), 4 August 2022, 1305 (Hon. Mélanie Joly).

determined that it was time to review the effectiveness of Canada's sanctions regime.¹¹ In so doing, it built on its February 2023 report examining Canada's response to the war, but also—more broadly—on recommendations the committee had made in 2017 following a comprehensive study of Canada's sanctions legislation. Since that time, Canada's legislative framework for sanctions has been amended several times, broadening its scope but also increasing its complexity. In addition to considering these developments, the committee's belief that this review was timely and necessary was informed by its understanding that sanctions have become a core instrument of Canadian foreign policy. Their use has become both more frequent and extensive. Furthermore, their imposition is being called for in many cases by Canadian civil society, including during the committee's work on other conflicts and crises around the world.

To study Canada's sanctions regime, the committee heard from witnesses over six meetings held between 1 June and 27 September 2023 and received written briefs, as listed in the appendices to this report. In all, the committee's work underscored that sanctions are a means to an end, intended to achieve certain policy objectives. As a tool, their effectiveness is determined by their design and use, and measured against their intent. At the same time, the committee was reminded that sanctions are not imposed in a vacuum. Other economic and political factors and actors can amplify or blunt their impact.

The committee therefore sought to determine whether this tool needs to be sharpened and whether the legislative framework and governmental machinery that shape and enable its use need to be reinforced. The report that follows explores these questions and presents the committee's conclusions. It begins with background information on Canada's sanctions regime. It then summarizes the key findings from the committee's study in relation to this regime's administration, resourcing, and effectiveness. Finally, the report addresses the coherence of Canada's sanctions legislation and the consistency of its application against foreign states and nationals. Throughout, the committee's 2017 recommendations serve as a reference point.¹²

11 FAAE, *Minutes of Proceedings*, 21 September 2022.

12 For the full list of recommendations, see FAAE, *A Coherent and Effective Approach to Canada's Sanctions Regimes: Sergei Magnitsky and Beyond*, Seventh report, April 2017.



CANADA'S SANCTIONS REGIME: AN OVERVIEW

The Legislative Framework

The word “sanctions” is not used in Canadian regulations or the Charter of the United Nations (UN). It has become short-hand reference for a range of measures that the UN or states acting autonomously can impose to restrict or prohibit activities that would otherwise be permissible. When imposed against individuals and entities, sanctions typically take the form of a “dealings prohibition,” often referred to as an “asset freeze.” Essentially, financial dealings with designated persons are prohibited, rendering their assets effectively frozen. States can also impose what are sometimes called “sectoral” or “economic” sanctions against foreign states, which can vary in their scope.

In Canada, sanctions are imposed through regulations, which are made pursuant to the *United Nations Act*, the *Special Economic Measures Act (SEMA)* and the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*. The *United Nations Act* is the legislative mechanism through which Canada implements decisions of the UN Security Council, which are binding on all UN member states. The SEMA and the Magnitsky Act are Canada’s “autonomous” sanctions legislation, and—therefore—the focus of most of this report. The Government of Canada can use them to impose measures additional to those authorized by the UN Security Council or in the absence of Security Council action, in certain circumstances.¹³

Under the SEMA, sanctions can be imposed in relation to a foreign state when the Governor in Council determines that at least one of the following criteria has been met:

- an international organization of states to which Canada belongs has called for economic measures to be imposed against a foreign state;
- a grave breach of international peace and security has occurred and has resulted—or is likely to result—in a serious international crisis;
- gross and systematic human rights violations have been committed in a foreign state; or
- a foreign public official or associate is responsible for or complicit in acts of significant corruption.¹⁴

13 Government of Canada, “[Canadian sanctions legislation](#),” *Canadian sanctions*.

14 [Special Economic Measures Act](#), S.C. 1992, c. 17, s. 4(1.1).

The latter two circumstances were added to the legislation in 2017 through the same bill that created the Magnitsky Act. While both pieces of legislation include human rights and corruption triggers, there are differences in how they can be used, an issue that is explored again in the final section of this report. SEMA sanctions can be imposed against individuals and entities, including state institutions. Moreover, because SEMA sanctions are connected to foreign states, the Act allows for a broader range of possible restrictions and prohibitions than is the case with the Magnitsky Act, including those related to the transfer of technical data and technology, the importation, exportation, sale or shipment of designated goods, the docking of ships, and the landing or overflight of aircraft.

Through the Magnitsky Act, the Governor in Council can only impose sanctions against foreign nationals. These “listings” or “designations” can be made in cases where the Governor in Council has determined that a foreign national is responsible for or complicit in acts of significant corruption or gross violations of human rights perpetrated against human rights defenders or activists in any foreign state.¹⁵

In addition to the power to freeze the assets of sanctioned persons, the authority to “seize, forfeit, dispose of and redistribute assets belonging to sanctioned individuals” was introduced to the SEMA and the Magnitsky Act in June 2022, along with certain procedural safeguards.¹⁶ These complex measures did not have any precedents.¹⁷ The committee was informed that Canada was the first country to adopt this kind of asset seizure legislation.¹⁸

In addition to Canada’s core sanctions legislation, outlined above, there are some related mechanisms. These include the counter-terrorism provisions of the *Criminal Code*, under which terrorist entities can be listed, enabling Canada “to apply appropriate criminal

15 [Justice for Victims of Corrupt Foreign Officials Act \(Sergei Magnitsky Law\)](#), S.C. 2017, c. 21, s. 4(2); and FAAE, [Written Response from the Department of Foreign Affairs, Trade and Development related to the meeting of Thursday, February 3, 2022](#). In comparison to this “more specific threshold” in the Magnitsky Act, which addresses violations perpetrated against “people who are engaged in some form of public advocacy or activism regarding human rights,” the SEMA can be imposed “in response to gross and systematic human rights violations that have taken place in a foreign state and that have been committed against anyone” (see p. 2).

16 FAAE, [Evidence](#), 1 June 2023, 1110 (Alexandre Lévêque, Assistant Deputy Minister, Strategic Policy, Department of Foreign Affairs, Trade and Development); and Government of Canada, [Order Respecting the Seizure of Property Situated in Canada \(Volga-Dnepr Airlines or Volga-Dnepr Group\): SOR/2023-120](#).

17 FAAE, [Evidence](#), 1 June 2023, 1130 (Alexandre Lévêque).

18 *Ibid.*, [1110](#). For details on the first use of this legislative authority, see Global Affairs Canada, [Canada starts first process to seize and pursue the forfeiture of assets of sanctioned Russian oligarch](#), News release, 19 December 2022; and [Order Respecting the Restraint of Property Situated in Canada \(Roman Arkadyevich Abramovich\) \(SOR/2022-279\)](#).



measures.”¹⁹ An additional mechanism for controlling trade with states of concern is provided by the *Export and Import Permits Act* and its Area Control List. The *Freezing Assets of Corrupt Foreign Officials Act* can be used to provide a form of assistance—that is, an “initial step toward possible mutual legal assistance.”²⁰ Such assistance, carried out through asset freezes that target officials and former officials of foreign states who have misappropriated property, is pursued upon request in situations of state turmoil or political uncertainty.²¹ The authority to restrict admission of sanctioned individuals to Canada is provided by the *Immigration and Refugee Protection Act*.²²

The Process for Designations

As the number of sanctions designations has increased, questions have been raised about how decisions to list specific individuals and entities are being made.

For UN sanctions, Canada is, as noted, obligated to comply with UN Security Council decisions. Consequently, once the Council establishes a sanctions regime and lists individuals and entities for asset freezes and travel bans, the Government of Canada has to give effect to those designations through regulations established under the *United Nations Act*.

When it comes to autonomous sanctions, Global Affairs Canada (GAC) emphasized to the committee that these sanctions are “one of many tools we have in our tool kit to intervene, to signal or to have punitive impacts on countries.” Deciding whether sanctions are the most appropriate tool begins with a determination of the “interests and vulnerabilities” that Canada has in a relationship. The department considers which levers available to Canada would have “the greatest impact.”²³ The unit within the department that is responsible for sanctions policy provides “the support, the advice, the considerations and the potential ramifications when the geographic leads”—i.e., the officials responsible for relationships with countries and regions—“look for additional tools to apply pressure.”²⁴ During a previous study, the department had informed the committee that “[b]roader political and international contexts are also considered when deciding whether sanctions or any other tools in Canada’s foreign policy toolbox may be

19 Government of Canada, “[Canadian sanctions legislation](#),” *Canadian sanctions*.

20 Ibid.

21 *Freezing Assets of Corrupt Foreign Officials Act*, S.C. 2011, c. 10.

22 Government of Canada, “[Canadian sanctions legislation](#),” *Canadian sanctions*.

23 FAAE, *Evidence*, 1 June 2023, 1135 (Alexandre Lévêque).

24 Ibid.

an appropriate response.”²⁵ This analysis considers “potential impacts on, among others, Canadian business, interests, and broader foreign policy objectives.”²⁶ Furthermore, it was emphasized to the committee during this study that Canada’s sanctions policy generally involves “a lot” of information exchange with key partners and allies.²⁷

Global Affairs Canada used the example of the SEMA sanctions on Russia to explain how decisions about designations are shaped by what the government is aiming to accomplish. In this case, the sanctions have been tailored to apply pressure on President Putin.

It’s the individuals who are close to him. It’s the individuals in the Duma. Hundreds of them are listed, because either we know they are complicit—and we know this because of their voting record in the Duma—or we know they have the ability to change things. We want to exert pressure on them to apply pressure on the regime. It’s also the oligarchs, because we know of their proximity to the regime. First of all, there’s the fact that they’ve gained from a criminal regime, and second, they have an ability to put pressure on political decision-makers.²⁸

The designations reflect those who “benefit from the proceeds of their illicit activities,” and those who are culpable by association.²⁹ They are, therefore, carefully selected. The department emphasized that the sanctions are “absolutely not a tool to block all Russians from coming into the country or from having dealings with Canadians.”³⁰

Regarding the process, as noted earlier, regulations can be made under the SEMA and the Magnitsky Act if the Governor in Council is of the opinion that one or more of the triggers in the legislation has been met. As for determining the specific individuals and entities who may be listed for sanctions pursuant to those regulations, Global Affairs Canada indicated that the process relies on “sufficient evidence obtained through open sources to provide a package that respects due process and the rights of individuals.”³¹ Every order in council proposing a new regulation, the committee was told, is subject to a challenge function, which is the Department of Justice’s role.³² When the legislative

25 FAAE, [*Written Response from the Department of Foreign Affairs, Trade and Development related to the meeting of Monday, February 28, 2022.*](#)

26 FAAE, [*Written Response from the Department of Foreign Affairs, Trade and Development related to the meeting of Thursday, February 3, 2022.*](#)

27 FAAE, [*Evidence*](#), 1 June 2023, 1145 (Alexandre Lévesque).

28 [*Ibid.*](#), [1200](#).

29 [*Ibid.*](#)

30 [*Ibid.*](#)

31 [*Ibid.*](#), [1115](#).

32 [*Ibid.*](#), [1145](#).



threshold is met, and if the vetting and consultation processes are satisfied, the order in council can be put through the system. The decision to impose sanctions ultimately rests with the Governor in Council, “on the recommendation on an application from the Minister of Foreign Affairs.”³³

The Rise of Autonomous Sanctions

This study focused primarily on Canada’s part in what one submission called the “age of autonomous sanctions.”³⁴ Another witness attributed this trend in the history of sanctions to the “impasse we see today on sanctions at the UN Security Council.”³⁵

When the committee last studied these issues, in 2016, Canada had imposed sanctions in relation to five states under the SEMA and four states under both the *United Nations Act* and the SEMA. One state, North Korea, was also on the Area Control List, pursuant to the *Export and Import Permits Act*, which requires that a permit be obtained from the Minister of Foreign Affairs before any goods or technology can be exported or transferred to the listed state. As of 29 November 2016, 992 individuals and entities were subject to dealings prohibitions under the SEMA, along with 12 Russian entities that were subject to restrictions on the provision of debt and equity financing.³⁶ Today, SEMA sanctions are in place in relation to 16 states.³⁷ As of 10 November 2023, there were 4,046 entries on the Consolidated Canadian Autonomous Sanctions List,³⁸ which includes sanctions imposed under the SEMA and the Magnitsky Act, the latter of which was adopted following the committee’s 2017 report.³⁹ Most of Canada’s autonomous sanctions are still imposed under the SEMA, which—as noted above—now includes human rights and corruption triggers. Of the entries on the consolidated list, 73 were foreign nationals listed pursuant to the Magnitsky Act.⁴⁰

33 Ibid., [1120](#).

34 Andrea Charron, [written brief](#), 15 June 2023, p. 1.

35 FAAE, [Evidence](#), 6 June 2023, 1225 (Erica Moret, Senior Researcher and Coordinator, Sanctions and Sustainable Peace Hub, Geneva Graduate Institute, As an Individual).

36 FAAE, “[Appendix A: The Legislative Approach in Canada](#),” *A Coherent and Effective Approach to Canada’s Sanctions Regimes: Sergei Magnitsky and Beyond*, April 2017.

37 Government of Canada, [Canadian sanctions legislation](#).

38 Government of Canada, [Consolidated Canadian Autonomous Sanctions List](#).

39 Global Affairs Canada, [Canada adopts Justice for Victims of Corrupt Foreign Officials Act](#), News release, 18 October 2017.

40 [Justice for Victims of Corrupt Foreign Officials Regulations \(SOR/2017-233\)](#).

In response to Russia's aggression against Ukraine and other crises around the world, Global Affairs Canada indicated that, between the beginning of 2022 and 1 June 2023, Canada imposed 79 rounds of autonomous sanctions, "representing an overall 150% increase in the use of this foreign policy tool over the previous five years combined."⁴¹ Another witness observed that the "rise in Canada's prominence in autonomous sanctions practice" is being carried out "in close coordination with the EU, the U.K. and the U.S. in particular, alongside others."⁴² The committee was told that responding to situations in this plurilateral way "allows Canada to join allies in addressing breaches of international law and to play something of a leadership role in international foreign and security policy."⁴³ Coordination on sanctions has also been "a force multiplier."⁴⁴

The main message of the committee's 2017 report was that Canada's sanctions regime needed to be strengthened. As one example, the committee called on the government to "properly resource and reform the structures responsible for its sanctions regimes, in order to effectively impose sanctions on targeted states and persons."⁴⁵ According to Global Affairs Canada, in the years since the 2017 report was tabled, the department "has introduced important measures to strengthen the administration and coherence of the regimes, such as establishing dedicated capacity for sanctions policy and operations."⁴⁶ Nevertheless, the department also conveyed that "the global landscape has changed dramatically," which has caused an "unprecedented transformation" in the sanctions environment.⁴⁷ As a result of this shift, the "demands and challenges associated with implementing, enforcing and regulating Canada's sanctions regime have expanded exponentially."⁴⁸

These demands and challenges are addressed in the remaining sections of this report. The committee notes that many of these same concerns were raised in testimony

41 FAAE, [Evidence](#), 1 June 2023, 1110 (Alexandre Lévêque).

42 FAAE, [Evidence](#), 6 June 2023, 1225 (Erica Moret).

43 Ibid.

44 Ibid.

45 FAAE, "[List of Recommendations](#)," *A Coherent and Effective Approach to Canada's Sanctions Regimes: Sergei Magnitsky and Beyond*, Seventh report, April 2017.

46 FAAE, [Evidence](#), 1 June 2023, 1105 (Alexandre Lévêque).

47 Ibid., 1110.

48 Ibid.



provided to the Standing Senate Committee on Foreign Affairs and International Trade, some of whose resulting recommendations align with those contained in this report.⁴⁹

SHARPENING THE TOOL AND REINFORCING THE TOOLKIT

The Administration of Canada’s Sanctions Regime

Sanctions are a foreign policy tool whose use is determined by government. Yet, the compliance activities that give effect to these measures must be carried out by actors in the private and non-profit sectors. During this study, witnesses spoke about the compliance burden they face and underscored the need for better guidance, more clarity, and enhanced transparency.

Designations

In order to comply with Canada’s sanctions, Canadians need to know who has been designated and what forms of activities, dealings and transfers are prohibited. In turn, parliamentarians, academics, and civil society who scrutinize and analyze these decisions need to understand their rationale. Furthermore, the committee was told, the signalling effect of sanctions can only be achieved if the measures—and their targets—are broadly known.

The committee’s 2017 report called for the publication of a consolidated list that would contain “all information necessary to assist with the proper identification of those listed” under the SEMA. Furthermore, the committee wanted “a clear rationale” to be provided for the listing and delisting of sanctioned persons through information that is “easily accessible to the public through the Global Affairs Canada sanctions website.”⁵⁰

Nevertheless, during this study, the committee heard that, while a list does now exist, understanding why Canada has designated specific persons continues to be a challenge.

Andrea Charron, Professor, University of Manitoba, remarked that Canada’s autonomous sanctions list is “clunky to search.”⁵¹ In her brief, Professor Charron acknowledged the

49 See Senate, Standing Committee on Foreign Affairs and International Trade, *Strengthening Canada’s Autonomous Sanctions Architecture: Five-Year Legislative Review of the Sergei Magnitsky Law and the Special Economic Measures Act*, tenth report, May 2023; and government [response](#), 13 October 2023.

50 FAAE, “[List of Recommendations](#),” *A Coherent and Effective Approach to Canada’s Sanctions Regimes: Sergei Magnitsky and Beyond*, Seventh report, April 2017.

51 FAAE, [Evidence](#), 27 September 2023, 1735 (Andrea Charron, Professor, University of Manitoba, As an Individual).

“limitations on the information that can be shared publicly about listed persons due to Cabinet confidence and restrictions on how personal information can be collected, shared, and published due to privacy considerations.”⁵² However, her brief implied that the broad narratives that are being included in press releases that typically accompany sanctions decisions are insufficient, noting that “the exact circumstances for listing particular individuals or entities [are] not always specified.”⁵³ According to Professor Charron, Canada’s allies provide detailed listings, “including identifying information and reasons for listing.”⁵⁴

In Professor Charron’s opinion, while Canada’s published list “may work for the government,” it is “not working for the people who need to access the information to enforce the sanctions.”⁵⁵ Thomas Juneau, Associate Professor of Public and International Affairs at the University of Ottawa, raised a similar concern. It is difficult to hold the government to account for its sanctions policy, he said, in a situation where there is “access to the lists of sanctioned entities and individuals, but that’s about it.”⁵⁶ Beyond those in Canada who need a detailed understanding of Canada’s sanctions regime, Professor Charron also drew attention to the signalling purpose of sanctions, writing that a “signalling opportunity may be lost” if targets are not informed they have been listed. She believes that “Canada needs to clearly articulate the transgression and what is required for sanctions to be lifted.”⁵⁷

Detailed announcements, including the nature of the human rights violations or corruption that has taken place, and the victims of these crimes, can also help to advance accountability. The Raoul Wallenberg Centre for Human Rights believes that the communication of these details would strengthen the “naming and shaming” components of sanctions, ensuring that perpetrators are stigmatized, while “providing accountability for victims and elevating their voices.”⁵⁸ According to the centre, detailed sanctions announcements “could also help support media freedom and civil society

52 Andrea Charron, [written brief](#), 15 June 2023, p. 2.

53 Ibid.

54 Ibid.

55 FAAE, [Evidence](#), 27 September 2023, 1735 (Andrea Charron).

56 FAAE, [Evidence](#), 25 September 2023, 1240 (Thomas Juneau, Associate Professor, Public and International Affairs, University of Ottawa, As an Individual).

57 Andrea Charron, [written brief](#), 15 June 2023, p. 2.

58 Raoul Wallenberg Centre for Human Rights, [written brief](#), 22 June 2023, p. 8.



efforts on the ground by mitigating disinformation and providing credible data to pro-democracy and human rights campaigns.”⁵⁹

To strengthen the transparency of Canada’s sanctions regime and assist with compliance activities, the committee recommends the following:

The Administration of Canada’s Sanctions Regime

Recommendation 1

That the Government of Canada provide detailed explanations for all measures imposed pursuant to its autonomous sanctions legislation, including specific rationales for the listing of individuals and entities under the relevant regulations.

Recommendation 2

That the Government of Canada ensure that its Consolidated Canadian Autonomous Sanctions List is user-friendly, searchable and regularly updated, and that each entry includes the information necessary for compliance activities and the rationale for the designation.

Interpretive Guidance

When a person is designated through sanctions regulations, all Canadian companies – including banks – are required to search their systems to determine if they are in possession of any assets connected to the sanctioned person. If they are, those assets must be frozen and reported to the RCMP.⁶⁰ In its 2017 report, the committee called on the government to provide comprehensive written guidance “to the public and private sectors regarding the interpretation of sanctions regulations in order to maximize compliance.”⁶¹ In this study, Global Affairs Canada told the committee that it viewed the recommendation as having been “implemented,” but as part of “a continued and ongoing effort.”⁶² To support this position, the department mentioned its stand-alone webpage on sanctions, which contains “detailed Q and A, and some information to help

59 Ibid.

60 FAAE, [Evidence](#), 1 June 2023, 1225 (Superintendent Denis Beaudoin, Director, Financial Crime, Royal Canadian Mounted Police).

61 FAAE, “[List of Recommendations](#),” *A Coherent and Effective Approach to Canada’s Sanctions Regimes: Sergei Magnitsky and Beyond*, Seventh report, April 2017.

62 FAAE, [Evidence](#), 1 June 2023, 1110 (Alexandre Lévêque).

guide stakeholders, companies and private citizens.”⁶³ Furthermore, the department noted its efforts to engage in outreach.

Other testimony suggested that more needs to be done to address the long-standing concerns about the absence of regulatory guidance on Canada’s sanctions regime. Lawrence Herman, Counsel, Herman & Associates, Cassidy Levy Kent, linked these concerns to the “major” impact that sanctions are having on business relations and commercial transactions. To the best of his knowledge, since the 2017 report, “nothing has been done to improve or enhance guidance and transparency on how the government implements the sanctions regime.”⁶⁴ While GAC has issued advisories on doing business in Myanmar and in the Xinjiang region of the People’s Republic of China, Mr. Herman does not view these documents as “part of a regular or comprehensive guidance procedure.”⁶⁵

The committee heard that the members of the Canadian Bankers Association “have invested heavily in their efforts to comply with and thus enable the evolving [Canadian sanctions] regime.” While welcoming the government’s maintenance of an autonomous sanctions list, and its increased willingness to engage with stakeholders on sanctions matters, Angelina Mason, the Association’s General Counsel and Senior Vice-President, Legal and Risk, similarly emphasized the “need for written, publicly available guidance,” which, she said, is now “well understood.”⁶⁶

According to Ms. Mason, the publication of such guidance is “common practice for sanctions authorities in other jurisdictions, such as the United Kingdom and the United States, and in other regulatory contexts within Canada.”⁶⁷ The United States, for example, has published some 1,300 responses to “frequently asked questions.”⁶⁸ The committee is aware that the EU similarly publishes customized responses—including, for example, stand-alone explanations for the application of measures against Russia’s Central Bank, dual-use goods, and crypto assets, among other issues—along with

63 Ibid.

64 FAAE, *Evidence*, 25 September 2023, 1125 (Lawrence Herman, Counsel, Herman & Associates, Cassidy Levy Kent, As an Individual).

65 Lawrence Herman, speaking notes, 25 September 2023.

66 FAAE, *Evidence*, 6 June 2023, 1115 (Angelina Mason, General Counsel and Senior Vice-President, Legal and Risk, Canadian Bankers Association).

67 Ibid.

68 FAAE, *Evidence*, 6 June 2023, 1130 (G. Stephen Alsace, Global Head, Economic Sanctions, Royal Bank of Canada, Canadian Bankers Association).



guidance notes.⁶⁹ The consolidated document containing all these responses in relation to the Russia sanctions is 348 pages.⁷⁰

Such a model is not without precedent in Canada, even if it is not being done on the same scale as what is published in the U.S. and the EU. The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) provides guidance for businesses⁷¹ and indicates that it has been providing “policy interpretations” to persons and entities with obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its associated regulations since 2008.⁷² There are currently 135 entries in its policy interpretations database.

The guidance stakeholders are seeking in relation to Canada’s sanctions regime would involve explanations for “specific fact scenarios,” designed to address the “nuance on interpretation.”⁷³ Without such guidance, Ms. Mason commented, “you end up not being able to proceed, in an abundance of caution, because there isn’t clarity on exceptions.”⁷⁴ This behaviour is known as over-compliance or de-risking, which can affect activities that were not meant to be captured by the sanctions measures the government adopted, as is discussed again below in relation to the work of humanitarian organizations.

The committee was concerned to learn, in a study being conducted in 2023, that one of the most important steps the Government of Canada could take to improve the administration of its sanctions regime would be to act on a recommendation the committee had made in 2017. The committee believes that, as the regulator, the government has a responsibility to provide interpretive guidance, but also an interest in doing so. While recognizing the department’s position that it cannot provide legal advice to the public, the committee does not believe that the written guidance it is recommending would constitute advice of that nature. If it did, the Government of Canada would not be publishing written guidance in other regulatory contexts. As testimony emphasized, guidance would significantly assist with the compliance activities

69 See European Commission, “[Guidance documents and frequently asked questions](#),” *Sanctions adopted following Russia’s military aggression against Ukraine*.

70 See European Commission, [Commission Consolidated FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014](#), 23 October 2023.

71 Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), [Guidance and resources for businesses \(reporting entities\)](#).

72 FINTRAC, [Policy interpretations database](#).

73 FAAE, *Evidence*, 6 June 2023, [1120](#) and [1150](#) (Angelina Mason).

74 *Ibid.*, [1120](#).

that Canada's "first enforcers"⁷⁵—its financial institutions and businesses—must undertake, while ensuring that Canada's sanctions policy is being implemented with the scope that was intended.

Recommendation 3

That, within a reasonable time frame, the Government of Canada publish more detailed written guidance on its autonomous sanctions legislation and regulatory measures adopted pursuant to this legislation to enable and enhance sanctions compliance.

Permits

In accordance with the SEMA and the Magnitsky Act, the Minister of Foreign Affairs has the discretionary power to grant permits authorizing specified activities or transactions that would otherwise be prohibited by the regulations. To determine whether a permit application is necessary, Canadians are told to consult the regulations and to seek the advice of private legal counsel.⁷⁶

Witnesses noted concerns about this process, which Angelina Mason conveyed has been "streamlined" in other jurisdictions.⁷⁷ The United States, which is generally considered to be the most significant sanctioning jurisdiction, routinely issues general licences that "authorize particular types of transactions for a class of persons, without the need to apply for a specific licence."⁷⁸ According to Ms. Mason, this approach "has not been used in Canada, although it is possible under the law."⁷⁹ It is the understanding of the Canadian Bankers Association that, without "guidance and clarity in the law," Global Affairs Canada "has been flooded by permit applications."⁸⁰ Apparently, the resulting backlog has left Canadians "waiting with unclear timelines for formal responses."⁸¹

75 FAAE, *Evidence*, 27 September 2023, 1635 (Andrea Charron).

76 Government of Canada, "[Permits and Certificates](#)," *Canadian sanctions*.

77 FAAE, *Evidence*, 6 June 2023, 1115 (Angelina Mason).

78 Ibid. Also see U.S., Department of the Treasury, Office of Foreign Assets Control (OFAC), [Selected General Licenses Issued by OFAC](#). For the general licences issued by the United Kingdom, see Office of Financial Sanctions Implementation and HM Treasury, [OFSI General Licences](#), last updated 10 November 2023.

79 FAAE, *Evidence*, 6 June 2023, 1115 (Angelina Mason). Also see [Special Economic Measures Act](#), S.C. 1992, c. 17, s. 4(4)(b).

80 FAAE, *Evidence*, 6 June 2023, 1120 (Angelina Mason).

81 Ibid.



When asked about this issue, Global Affairs Canada told the committee that “there isn’t a specific plan to put in place a specific service standard right now.” Officials acknowledged that they have received an “exponential explosion of permit requests,” which has forced them “to prioritize those that are of higher priority and significance.”⁸² The department also stressed, however, that “every case is unique,” which necessitates the assessment of applications “on a case-by-case basis” to ensure there would be no adverse impact on Canada’s national security.⁸³

The management of permit applications is a complex issue because they could involve a wide range of activities, goods, and transactions. In a previous study, the committee examined the geopolitical repercussions of Canada’s decision to grant a permit—that was subsequently revoked—for the maintenance of turbines used in a Russian state-owned gas pipeline, in a context in which Russia was weaponizing energy supplies to apply pressure against Ukraine’s partners.⁸⁴ However, in this study, the committee was given a qualitatively different example of a permit scenario, whereby the sanctioning of a bank interrupts the ability of an aunt to send money to her niece to pay for tuition.⁸⁵

Recognizing these complexities, and mindful of the need to achieve efficiency without compromising on due diligence, the committee recommends the following:

Recommendation 4

That the Government of Canada publish comprehensive information for the public outlining the processes by which sanctions are imposed and by which exemption permits may be issued, and that it update this information as appropriate.

Recommendation 5

That the Government of Canada institute service standards for the processing of permit applications pursuant to its autonomous sanctions legislation, while respecting the exceptional nature of permits and the scrutiny required.

82 FAAE, [Evidence](#), 1 June 2023, 1115 (Alexandre Lévesque).

83 Ibid., [1140](#).

84 FAAE, “[The Sanctions Waiver for the Nord Stream 1 Turbines](#),” *The Russian State’s Illegal War of Aggression Against Ukraine*, tenth report, February 2023.

85 FAAE, [Evidence](#), 1 June 2023, 1150 (Alexandre Lévesque).

Humanitarian Carve-outs

As noted above, sanctions regimes can have unintended consequences when they are designed and administered in a way that leads to de-risking behaviour. This behaviour can have an adverse impact on humanitarian action.

These consequences were summarized by Alain Dondainaz, Head of Mission to Canada, International Committee of the Red Cross (ICRC). He told the committee that “private sector actors have become increasingly hesitant to support humanitarian activities in certain contexts because of sanction risks, particularly in contexts where there are overlapping sanctions regimes.”⁸⁶ The organization has also found that a decreasing number of suppliers will support humanitarian activities “in contexts perceived to be a high sanctions risk.”⁸⁷ The perception of legal, operational and duty of care risks is hindering the impartial humanitarian organizations who “must engage with governmental entities and non-state armed groups to negotiate access and carry out their work providing aid based upon needs.” As Mr. Dondainaz explained, the “increased risks may also restrict the ability of donors to fund impartial humanitarian organizations in certain contexts.”⁸⁸ It is the ICRC’s position that these risks can be mitigated, and the associated impediments lessened, through “well-framed and standing humanitarian carveouts for exclusively humanitarian activities undertaken by impartial humanitarian organizations.” Such carve-outs are meant to ensure that international humanitarian law is being upheld, without undermining the objectives of sanctions regimes.⁸⁹

To address concerns about humanitarian operations in sanctioned contexts, the UN Security Council adopted Resolution 2664 in December 2022. The resolution creates a standing and standardized humanitarian carve-out in relation to asset freezes across UN sanctions regimes.⁹⁰ Amendments the Government of Canada made in June 2023 to 14

86 FAAE, *Evidence*, 25 September 2023, 1220 (Alain Dondainaz, Head of Mission to Canada, International Committee of the Red Cross).

87 Ibid.

88 Ibid.

89 International Committee of the Red Cross, *written brief*, 29 September 2023, p. 1.

90 United Nations (UN) Security Council, *Resolution 2664 (2022)*, 9 December 2022, para. 1. The exemption supersedes and clarifies any conflicting paragraphs in previously adopted Security Council resolutions and will apply “with respect to all future asset freezes imposed or renewed by [the] Council in the absence of an explicit decision by [the] Council to the contrary.” For the sanctions regime that applies to interactions with the Taliban in Afghanistan, the Security Council maintained the specific humanitarian exemption that it had made in December 2021 through *Resolution 2615* (para. 4). Regarding the UN sanctions regime for ISIL (Da’esh) and al-Qaida, Resolution 2664 provides that the standing exemption in Resolution 2664 will apply for two years and notes that a decision on whether to extend it will be made before the end of that period (para. 2).



sets of regulations under the *United Nations Act* aimed to fulfill Canada’s UN obligations and enshrine carve-outs for humanitarian assistance into those regulations, as outlined by the Security Council.⁹¹

Austin Shangraw, the ICRC’s Legal Advisor, characterized Resolution 2664 as a “very important measure” and an “important model that can influence countries as they’re looking to incorporate humanitarian carve-outs in their domestic autonomous sanctions as well.”⁹² Indeed, the ICRC wants carve-outs to be standardized across Canada’s sanctions regimes⁹³ to ensure clarity and certainty for humanitarian activities.⁹⁴ The ICRC also called for Canada’s carve-outs to apply to all transactions related to humanitarian activities, “meaning the administrative transactions required to implement these activities are included in the carveout” (e.g., paying staff salaries; renting office space; procuring goods and services).⁹⁵ Furthermore, the ICRC is seeking recognition that humanitarian activities go beyond meeting basic needs and include such activities as visiting detainees and clarifying the whereabouts of missing persons, as well as support for essential services.⁹⁶ Finally, their brief urged that policy guidance be made available to the private sector on the implementation of the carve-outs.⁹⁷

The Canadian Red Cross supported these points. It also placed further emphasis on the need for future humanitarian exemptions to “include reference to their application to third parties when they work with humanitarian organisations in situations governed by sanctions.”⁹⁸ The Canadian Red Cross argues that all Canadian sanctions regulations

91 [Regulations Amending Certain Regulations Made Under the United Nations Act: SOR/2023-134.](#)

92 FAAE, [Evidence](#), 25 September 2023, 1255 (Austin Shangraw, Legal Advisor, International Committee of the Red Cross).

93 On the need for clarity and consistency across Canada’s legislative framework in relation to humanitarian exemptions, the Canadian Red Cross mentioned the *United Nations Act*, the SEMA, the *Criminal Code* provisions on anti-terrorism financing, and charities laws. See FAAE, [Evidence](#), 25 September 2023, 1255 (Catherine Gribbin, Senior Legal Advisor, International Humanitarian Law, Canadian Red Cross). Non-governmental organizations can also face delays and uncertainty because of differing requirements and restrictions across sanctioning jurisdictions. The Mennonite Central Committee Canada informed the committee that its humanitarian work in North Korea can require authorizations under the SEMA and the *Export and Import Permits Act* in Canada, as well as licenses from the U.S. OFAC and Bureau of Industry and Security, and the UN 1718 sanctions committee. See Mennonite Central Committee Canada, [written brief](#), 5 October 2023, p. 3.

94 International Committee of the Red Cross, [written brief](#), 29 September 2023, pp. 2–3.

95 *Ibid.*, p. 3.

96 *Ibid.*

97 *Ibid.*

98 Canadian Red Cross, [written brief](#), 18 October 2023, p. 1 and 4.

should be drafted with this consideration in mind.⁹⁹ More broadly, and to ensure consistency going forward, the Canadian Red Cross urged relevant departments, when updating or changing Canada's sanctions regimes, to improve "functional interoperability with the other legislative frameworks which govern the humanitarian sector."¹⁰⁰ This would include the *Criminal Code* and its anti-terrorism financing provisions.¹⁰¹

The Canadian Red Cross also highlighted the importance of public communications. The organization wants to see reinforcement of "the apolitical nature of humanitarian assistance and the critical necessity of providing impartial humanitarian assistance to those in need."¹⁰² U.S. communication about its sanctions in the wake of the devastating earthquake that struck Türkiye and Syria in February 2023 was cited as an example. In that case, the U.S. advised that, while its sanctions programs covering Syria already contained "robust exemptions for humanitarian efforts," the Treasury decided to issue "a blanket General License to authorize earthquake relief efforts so that those providing assistance can focus on what's needed most: saving lives and rebuilding."¹⁰³ An accompanying compliance communiqué answers a series of questions in relation to permissibility, including by informing U.S. financial institutions that they can process transactions related to authorized humanitarian assistance by non-governmental organizations in Syria "unless they know or have reason to know a transaction is not authorized." Furthermore, the categories of activities that constitute "disaster relief activities" are specified, with examples and links to "frequently asked questions" documents provided.¹⁰⁴

Recommendation 6

That the Government of Canada adopt clear, consistent, and comprehensive humanitarian carve-outs across its sanctions regimes and related legislation, in line with

99 Ibid., p. 2 and 4.

100 Ibid., p. 2 and 5.

101 [Bill C-41](#), which received Royal Assent on 20 June 2023, introduced an exception in the *Criminal Code* for the delivery of humanitarian assistance in geographic areas controlled by terrorist groups, including Afghanistan. Applications to carry out activities beyond humanitarian assistance (e.g., health and education projects) will be dealt with on a case-by-case basis through an authorization regime. See Public Safety Canada, [Legislation to support humanitarian aid to vulnerable Afghans receives Royal Assent](#), News release, 23 June 2023.

102 Canadian Red Cross, [written brief](#), 18 October 2023, p. 1.

103 U.S., Department of the Treasury, [Treasury Issues Syria General License 23 To Aid In Earthquake Disaster Relief Efforts](#), News release, 9 February 2023.

104 U.S., OFAC, [Compliance Communiqué: Guidance for the Provision of Humanitarian Assistance to Syria](#), 8 August 2023.



international humanitarian law and relevant resolutions of the United Nations Security Council.

Recommendation 7

That the Government of Canada publish detailed written guidance explaining the humanitarian carve-outs in its sanctions regimes, consistent with the protection of impartial humanitarian action under international humanitarian law.

Dialogue and Expertise

Testimony suggested that a more collaborative environment is generally needed in Canada on sanctions matters. Erica Moret, Senior Researcher and Coordinator, Sanctions and Sustainable Peace Hub, Geneva Graduate Institute, recommended the creation in Canada of “something of a trisector group,” which would bring together government—including those responsible for sanctions design and regulatory administration—with civil society and the private sector. Expanding on this idea, Ms. Moret emphasized the importance of regular meetings, something that has been “very important in other countries to allow for regular exchanges with relevant stakeholders that can be flexible, respond to changing situations on the ground, and also allow for policy change where needed.”¹⁰⁵ She also cautioned that such a process could take time, allowing the necessary trust to build.¹⁰⁶

The Tamil Rights Group specifically urged “greater transparency and more involvement from civil society and [non-governmental organizations, NGOs].” Katpana Nagendra expressed her organization’s desire to see “a clear and formalized pathway for NGOs to communicate requests to implement sanctions.”¹⁰⁷ Calling for the same pathway, B’nai Brith Canada argued that the government should be required to reply when civil society organizations submit information on human rights abuses and corruption and request that sanctions be implemented in response. The organization suggested that the replies should outline the reasoning for the government’s decision to pursue the measures or not.¹⁰⁸

Witnesses supported the desire to see formalization of the dialogue that is taking place with references to their monitoring roles, field work and related expertise. Organizations like Tamil Rights Group, Ms. Nagendra emphasized, which documents the human rights

105 FAAE, [Evidence](#), 6 June 2023, 1245 (Dr. Erica Moret).

106 Ibid., [1300](#).

107 FAAE, [Evidence](#), 25 September 2023, 1120 (Katpana Nagendra, General Secretary, Tamil Rights Group).

108 B’nai Brith Canada, [written brief](#), 27 October 2023, p. 8.

situation in Sri Lanka and pursues legal avenues for accountability, can access “a wide variety of evidence that can help outline chain of command and identify perpetrators of gross human rights violations.”¹⁰⁹ Ms. Nagendra therefore believes that Global Affairs Canada “should be working more closely with our group and others in the identification of evidence and perpetrators to be sanctioned.”¹¹⁰

A similar perspective was brought forward by Human Rights First, a non-profit organization that has built a “global coalition of 300 civil society groups to advocate for the use of targeted human rights and anti-corruption sanctions, both in the U.S. and in other jurisdictions with Magnitsky-style sanctions programs.”¹¹¹ The organization estimates that “one-third of all U.S. global Magnitsky sanctions have had a basis in recommendations from civil society.”¹¹² This influence reflects the functions that civil society fulfil. Supervising Staff Attorney Amanda Strayer noted that these include the gathering of information that is essential for evidence-based designations, “based on years of research, monitoring, interviews with victims and on-site documentation.” Civil society, she said, also “plays a vital role in understanding the impact of sanctions and their enforcement.”¹¹³ For her third point, Ms. Strayer described how civil society groups “identify gaps in the implementation of sanctions programs and urge governments towards more equitable use of these tools.”¹¹⁴

The coalition’s work in Canada is led by the Raoul Wallenberg Centre for Human Rights, which reiterated that “[s]ome of the most impactful precedents and policies” in relation to sanctions have been “proposed by civil society and pursued by Parliament.”¹¹⁵ Based on this understanding, the centre suggested that oversight roles and processes should be enshrined in Canada’s legislation. The centre envisions the public or parliamentarians being able “to petition the government to initiate a sanctions designation, repurpose assets, or mandate a fulsome explanation if the government declines to do so.”¹¹⁶

109 FAAE, [Evidence](#), 25 September 2023, 1120 (Katpana Nagendra).

110 Ibid.

111 FAAE, [Evidence](#), 15 June 2023, 1220 (Amanda Strayer, Supervising Staff Attorney, Accountability, Human Rights First).

112 Ibid.

113 Ibid.

114 Ibid.

115 Raoul Wallenberg Centre for Human Rights, [written brief](#), 22 June 2023, p. 13.

116 Ibid.



Another witness, Elisabeth Braw, Senior Fellow, American Enterprise Institute, was asked how the unpredictability of sanctions—i.e., the deterrence that is achieved through surprise—can be preserved while balanced against the need for parliamentarians to understand why specific decisions are being made. Although she was not aware of any existing examples, Ms. Braw replied that “a consultative body, an advisory body, involving both the government and Parliament” could provide “some scrutiny and legitimacy to such decisions.”¹¹⁷

On the role of academia, Professor Charron argued that there has been “very little engagement” from the government. She thinks that Global Affairs Canada “needs research chairs in foreign policy and sanctions specifically.”¹¹⁸

The committee agrees with the importance of developing sanctions expertise in Canada and facilitating its exchange with government. Qualifying this statement is the committee’s concern about procedural fairness and its awareness of government’s responsibility to respect the evidence-based nature of sanctions designations, in accordance with Canada’s legislative framework. With those considerations in mind, the committee recommends:

Recommendation 8

That the Government of Canada explore the establishment of an external consultative body on sanctions, including representatives from civil society, the financial sector and the private sector, which would meet regularly, advance meaningful dialogue on Canada’s sanctions regime, and develop an effective process for collecting feedback and documentation.

The Governance and Resourcing of Canada’s Sanctions Regime

Testimony underscored that the realization of the steps called for above, and the recommendations that follow, will require additional financial and human resources within government. To be effective, this machinery requires formal coordination and the ability to draw on specialized expertise.

117 FAAE, [Evidence](#), 15 June 2023, 1155 (Elisabeth Braw, Senior Fellow, American Enterprise Institute, As an Individual).

118 Andrea Charron, [written brief](#), 15 June 2023, p. 4.

Capacity

The Government of Canada has recognized the need to enhance its capacity in relation to sanctions. In Budget 2018, the government announced its intention to provide Global Affairs Canada and the Canada Border Services Agency (CBSA) with \$22.2 million over five years “to strengthen Canada’s sanctions system, including funds for the development of sanctions policy, coordination with international partners, and providing guidance to Canadians on sanctions obligations.”¹¹⁹ On 7 October 2022, when announcing sanctions in relation to Iran, the government communicated plans to invest \$76 million,

to strengthen Canada’s capacity to implement sanctions and ensure [the government] can move more quickly to freeze and seize sanctioned individuals’ assets, including through a dedicated bureau at Global Affairs Canada and additional support to the [Royal Canadian Mounted Police, the RCMP] to investigate and identify assets and gather evidence.¹²⁰

When the committee’s study began, the department’s website indicated that there was already a Sanctions Policy and Operations Coordination Division within Global Affairs Canada.¹²¹ After questioning officials, it was not readily apparent to the committee how the announced bureau will be substantively different than the existing division. The department articulated the general vision of consolidating “all expertise on sanctions in one unit.”¹²²

The committee was told that, before its 2017 report was tabled, “there were maybe two or three individuals” within Global Affairs Canada who worked on sanctions full time. After the division was created, there were “around 10 people.” According to the department, the \$76 million will generate “significantly” greater capacity.¹²³ Even so, from a comparative perspective, the committee was informed by another witness that the new sanctions unit in the United Kingdom “has grown dramatically in recent times and is now sitting at around 160 individuals.”¹²⁴ Hundreds of people work on sanctions within the U.S. Treasury.¹²⁵

119 Government of Canada, “[A Strong Sanctions Regime](#),” *Budget Plan*, 2018.

120 Prime Minister of Canada, Justin Trudeau, [Canada to implement new measures against the Iranian regime](#), 7 October 2022.

121 Government of Canada, “[Contact us](#),” *Canadian sanctions*.

122 FAAE, [Evidence](#), 1 June 2023, 1115 (Alexandre Lévesque).

123 *Ibid.*, [1135](#).

124 FAAE, [Evidence](#), 6 June 2023, 1225 (Erica Moret).

125 *Ibid.*, [1245](#).



Superintendent Denis Beaudoin told the committee that the RCMP “did have a say in the \$76 million that was announced.” However, since that time, the RCMP has found that “sanctions evasion is a bigger issue than anticipated.” This finding is not all that surprising, he explained, given the expanded use of sanctions since 2022. To make this point, Superintendent Beaudoin remarked that, “if you’re not sanctioning or designating many people, you’re not going to have the same level of sanctions evasion.” Even so, he also commented that, if Canada continues to impose sanctions in the same way, “we’re going to need more resources to better enforce.”¹²⁶

In the experience of Erica Moret, who has provided research and strategic policy advice to the sanctions unit in Global Affairs Canada, the unit is “staffed by extremely dedicated, expert and hard-working officials, who have adapted well to the fast-changing global sanctions landscape.”¹²⁷ Nevertheless, given the “very steep rise” in the use of sanctions, she believes that an expansion in staffing, training, capacity, and resources “appears to be warranted.”¹²⁸ As noted previously, there has been a significant expansion in the sanctions measures adopted since the committee’s 2017 report. There are now, for example, 1,455 individuals and 483 entities listed for dealings prohibitions under the SEMA Russia regulations alone,¹²⁹ along with restrictions on certain sectors, including the financial and energy sectors. Among other measures, there are also prohibitions in relation to a new Restricted Goods and Technologies List, as well as prohibitions on the provision of services to the Russian oil, gas, chemical and manufacturing industries. Furthermore, the maritime transport of Russian crude oil and certain petroleum products is restricted, unless the products are purchased at or below the price set by the G7+ Price Cap Coalition.¹³⁰

Professor Thomas Juneau emphasized that sanctions are labour-intensive—that is, they “are easy to announce but hard to implement.”¹³¹ According to him, while the rationale for imposing more sanctions on Iran and Russia, among other actors of concern, is understandable, the reality is that “we already cannot fulfill our current commitments, let alone new ones.”¹³² From Professor Juneau’s perspective,

The bottom line is that we need resources. There is just no way around that. The \$76 million that was announced last fall as part of the package of sanctions on Iran was a

126 FAAE, [Evidence](#), 1 June 2023, 1245 (Superintendent Denis Beaudoin).

127 FAAE, [Evidence](#), 6 June 2023, 1225 (Erica Moret).

128 Ibid.

129 [Special Economic Measures \(Russia\) Regulations \(SOR/2014-58\)](#).

130 Government of Canada, [Canadian Sanctions Related to Russia](#).

131 FAAE, [Evidence](#), 25 September 2023, 1210 (Thomas Juneau).

132 Ibid.

positive first step, but keep in mind that it takes years to generate the necessary capabilities. You need to hire people; you need to give them security clearances in a context in which we already have massive backlogs; you need to train them for highly specialized positions and so on.¹³³

Further to this observation, Professor Charron urged the development of “Canadian-specific training” on sanctions.¹³⁴ Given the complexity of Canada’s sanctions regime, Angelina Mason similarly argued that “it is critical that any government department or agency involved in the regime, including GAC, be properly resourced and that staff receive extensive training on and have sufficient knowledge of this highly technical area of the law.”¹³⁵

Other testimony considered the resources Canada has attached to enforcing the economic and trade restrictions it puts in place. Lawrence Herman was asked about the CBSA’s enforcement role in comparison to the reported activity of U.S. Customs and Border Protection, specifically in terms of preventing the importation of goods that have been produced using forced labour from the Uyghur minority population of the People’s Republic of China.¹³⁶ He replied that the CBSA “does a very good job within their existing resources,” but that there are considerable practical challenges involved with such interdiction and inspection activities. Mr. Herman agreed “that it is somewhat embarrassing to see how aggressively the United States...manages to enforce sanctions and to see how rather tepid our apparent enforcement is.” The variance in outcomes, he said, is a function of resources.¹³⁷

When it comes to sanctions, enforcement activities may also need to extend beyond Canada. Canada’s sanctions must be respected by all persons in Canada, but they also must be complied with by Canadian persons located or engaged in activities abroad.¹³⁸

To prevent sanctions circumvention, the testimony provided by Kelsey Gallagher of Project Ploughshares suggested there is a need to examine supply routes that may be

133 Ibid.

134 FAAE, [Evidence](#), 27 September 2023, 1720 (Andrea Charron).

135 FAAE, [Evidence](#), 6 June 2023, 1120 (Angelina Mason).

136 The committee was told that, in Canada, there have been “no specific seizures of shipments that have been seized due to forced labour.” The forced labour regime is administered through the customs tariff. See FAAE, [Evidence](#), 1 June 2023, 1255 (Fred Gaspar, Vice-President, Commercial and Trade Branch, Canada Border Services Agency).

137 FAAE, [Evidence](#), 25 September 2023, 1135 (Lawrence Herman).

138 Government of Canada, [“Frequently Asked Questions,” Canadian sanctions.](#)



established by Canadian companies in third states.¹³⁹ Mr. Gallagher raised specific allegations in relation to the Streit Group, an armoured vehicle manufacturer that maintains a Canadian headquarters in Ontario, but which “has established parallel manufacturing centres in several countries with weak export control regimes.”¹⁴⁰ There have been suggestions, according to him, that the Streit Group “engages in jurisdiction shopping to identify export control havens that it uses to supply military goods to its most problematic customers and evade arms embargoes.”¹⁴¹ The embargoes he was referencing seemed to be connected to UN sanctions. Mr. Gallagher also stated that, while “an RCMP investigation was reportedly launched in 2016 following allegations of sanctions violations, no findings have been made public and there is no public record of any subsequent action.”¹⁴² One way of addressing this problem, he said, would be through “a review of the effective enforcement of Canada’s brokering controls, which were incorporated into the Export and Imports Permits Act in 2018.”¹⁴³

Cognizant of the foundational importance of resources to the effective design, implementation, and enforcement of sanctions, the committee recommends:

The Governance and Resourcing of Canada’s Sanctions Regime

Recommendation 9

That the Government of Canada report to Parliament on the implementation and results of the \$76 million that was announced in October 2022 to strengthen Canada’s capacity to implement its sanctions.

Recommendation 10

That the Government of Canada allocate budgetary resources to the sanctions units within Global Affairs Canada, the Royal Canadian Mounted Police, the Canada Border Services Agency, and all other implicated departments and agencies, at a level commensurate with the growing importance of sanctions policy and the increasing complexity and challenges associated with sanctions implementation and enforcement.

139 FAAE, *Evidence*, 8 June 2023, 1210 (Kelsey Gallagher, Researcher, Project Ploughshares).

140 Ibid.

141 Ibid.

142 Ibid.

143 Ibid.

Recommendation 11

That the Government of Canada reinforce specialized training programs on sanctions for all implicated personnel.

Recommendation 12

That, as part of the expansion in budgetary and training resources recommended above, the Government of Canada take specific steps to further strengthen the capacity of the Royal Canadian Mounted Police and the Canada Border Services Agency to enforce Canada's sanctions regime.

Recommendation 13

That, building on the recommendation contained in the 2017 report of the House of Commons Standing Committee on Foreign Affairs and International Development – entitled *A Coherent and Effective Approach to Canada's Sanctions Regimes: Sergei Magnitsky and Beyond* – and in light of developments since that time, the Government of Canada review the way in which it is administering its autonomous sanctions legislation and the *Export and Import Permits Act* to ensure it is maximizing the efficiency, effectiveness, and resourcing of their complementary aspects. The review should seek to determine whether the separate units in Global Affairs Canada that are responsible for administering this legislation should be amalgamated in whole or in part.

Recommendation 14

That the Government of Canada, in collaboration with international partners and working closely with other relevant law enforcement agencies, develop a strategy to address sanctions violations – including offshore export havens and jurisdiction shopping – while increasing the enforcement of existing controls.

Roles and Responsibilities

In addition to resource allocations, the committee examined the roles and responsibilities for sanctions within the Government of Canada. When asked to explain the government's structure, Global Affairs Canada emphasized that it is the regulator and that the Minister of Foreign Affairs "is the overall administrator of the sanctions regime and has an oversight role."¹⁴⁴ The department is therefore the lead in

144 FAAE, *Evidence*, 1 June 2023, 1150 (Alexandre Lévesque).



determining designations.¹⁴⁵ Enforcement of Canada’s sanctions regime is the purview of the CBSA and the RCMP, which carry out investigations when sanctions evasion is suspected to have become criminal in nature.¹⁴⁶ The CBSA is the lead agency on matters of inadmissibility.¹⁴⁷

Global Affairs Canada chairs an “interdepartmental governance committee,” and the department conveyed its belief that “co-operation has greatly increased and improved.”¹⁴⁸ When the CBSA was asked to identify the lead for interdepartmental coordination on sanctions enforcement, Fred Gaspar, Vice-President, Commercial and Trade Branch, described an “iterative process,” and mentioned working-level committees. While acknowledging that there “is no one person who is in charge of interdepartmental organizational models,” Mr. Gaspar stressed that “there is no organizational barrier to our working well together,” before remarking: “We do it every day.”¹⁴⁹ Speaking from the RCMP’s perspective, Superintendent Beaudoin similarly said, “We know who the individuals are in the departments dealing with sanctions, and everybody has open communication and can call meetings on any subject as needed.”¹⁵⁰

Taking a comprehensive approach to Canada’s governmental machinery, the committee also sought to understand how sanctions enforcement is being integrated with broader efforts to combat financial crime. In Budget 2022, the government announced its intention to create a Canada Financial Crimes Agency, a commitment that was reiterated in Budget 2023. The Department of Finance informed the committee that Public Safety Canada was “developing options for the potential scope and mandate of such an agency.”¹⁵¹ The department further indicated that sanctions evasion—as a financial crime—“is in the universe of the potential sorts of crimes that such an agency could potentially provide support on, be it in an advisory capacity or in an enforcement capacity.”¹⁵² Already in existence is FINTRAC, which Canada established more than 20 years ago “to have a role in terms of sharing information in respect of money laundering, terrorist financing and

145 FAAE, [Evidence](#), 1 June 2023, 1235 (Superintendent Denis Beaudoin).

146 Ibid., [1215](#).

147 FAAE, [Evidence](#), 1 June 2023, 1240 (Richard St Marseille, Director General, Immigration Policy and External Review, Canada Border Services Agency).

148 FAAE, [Evidence](#), 1 June 2023, 1150 (Alexandre Lévêque).

149 FAAE, [Evidence](#), 1 June 2023, 1210 (Fred Gaspar).

150 FAAE, [Evidence](#), 1 June 2023, 1305 (Supt Denis Beaudoin).

151 FAAE, [Evidence](#), 1 June 2023, 1215 (Jeremy Weil, Acting Senior Director, Financial Crimes Governance and Operations, Department of Finance).

152 Ibid.

threats to national security.”¹⁵³ Once certain amendments included in the 2023 budget implementation act come into force,¹⁵⁴ regulated entities will be required “to report to FINTRAC directly in respect of sanctions, sanctions evasion and property related to sanctions.”¹⁵⁵

Other information relevant for combatting financial crimes could be generated by the “publicly accessible and scalable beneficial ownership registry of corporations governed under the *Canada Business Corporations Act*,” which the government is establishing.¹⁵⁶ The required legislation was tabled by the Minister of Innovation, Science and Industry. While characterized as “an important and impactful legislative initiative,” the committee was reminded that most businesses are incorporated provincially and that “real estate ownership is not a part of the proposed Federal registry, thereby excluding a significant forum used for the laundering of ill-gotten gains.”¹⁵⁷

It appears that the government is still determining how various pieces of its machinery concerned with sanctions evasion and financial crimes will fit together. When the committee’s study began, the Government of Canada launched a public consultation “to examine ways to improve Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime.” Russia’s invasion of Ukraine, the consultation noted, had raised questions over whether and how this regime “should respond and adapt to these threats.”¹⁵⁸ One chapter of the accompanying consultation paper considered the establishment of the new financial crimes agency. The government asked respondents to provide their views as to whether the mandate of this agency, which will “lead” enforcement in relation to

153 FAAE, [Evidence](#), 1 June 2023, 1250 (Annette Ryan, Deputy Director, Partnership, Policy and Analysis, Financial Transactions and Reports Analysis Centre of Canada).

154 The amendments made by Bill C-47 ([Section 181](#)) to Subsection 7.1(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, requiring regulated entities to report to FINTRAC in relation to orders and regulations made under the SEMA and the Magnitsky Act, will come into force on a day fixed by order of the Governor in Council. Another amendment made by Bill C-47 is in force. FINTRAC is required to disclose designated information to the Minister of Foreign Affairs when that information is relevant to orders and regulations made pursuant to the SEMA and the Magnitsky Act, but only when such information is determined to be relevant to the investigation or prosecution of a money laundering offence or terrorist activity financing offence. See [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#), S.C. 2000, c. 17, s. 55(3)(h) and (i).

155 FAAE, [Evidence](#), 1 June 2023, 1250 (Annette Ryan).

156 Innovation, Science and Economic Development Canada, [Government of Canada tables new legislation to create a beneficial ownership registry](#), News release, 22 March 2023.

157 Raoul Wallenberg Centre for Human Rights, [written brief](#), 22 June 2023, p. 11.

158 Department of Finance Canada, “Process,” [Consultation on Strengthening Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime](#).



financial crimes, should include efforts to combat sanctions evasion.¹⁵⁹ The paper also reiterated the government’s intent “to review the mandate of FINTRAC to determine whether it should be expanded to counter sanctions evasion and the financing of threats to national and economic security.”¹⁶⁰ The paper acknowledges that FINTRAC’s current mandate and legal framework limit it to undertaking analysis of suspected sanctions evasion in situations where evasion intersects with potential money laundering or the financing of terrorist activities. This framework “limits the ability of FINTRAC to identify sanctions evasion trends, typologies and indicators that could be valuable to the financial sector and law enforcement.”¹⁶¹

Lessons may be learned from other like-minded jurisdictions. For example, the committee was made aware that,¹⁶² in March 2023, the United Kingdom’s government announced that it will be expanding the Combatting Kleptocracy Cell¹⁶³ within its National Crime Agency “to target more corrupt elites and their enablers, while consolidating the effectiveness of UK sanctions.”¹⁶⁴ In addition to the broader measures it outlined to tackle economic crime, the United Kingdom’s three-year plan conveys the government’s intention to expand the capacity of its Combatting Kleptocracy Cell “to target corrupt elites primarily through their assets hidden in the UK, including supporting cross-government work on criminal breaches of sanctions and working in partnership with agencies around the world to target individuals and deny assets.”¹⁶⁵

As part of its reflection on the mandates and functions that exist in Canada in relation to sanctions policy and the combatting of sanctions evasion, the committee considered other structural models. In the United States, the Office of Foreign Assets Control

159 Department of Finance Canada, [Consultation on Strengthening Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime](#), 6 June 2023, p. 35 and 37.

160 Ibid., p. 7.

161 Ibid., p. 70.

162 Written response to questions, Professor Paul James Cardwell, 25 August 2023. Professor Cardwell’s response indicated that, currently, “the Office of Financial Sanctions Implementation (OFSI), in the [UK] Treasury, is responsible for implementation and enforcement of sanctions, in cooperation with the National Crime Agency, Department for International Trade (and the Export Control Joint Unit) and His Majesty’s Revenue and Customs (HMRC).”

163 The Combatting Kleptocracy Cell was established within the United Kingdom’s National Crime Agency in July 2022. It “focuses on investigations into corrupt elites and Politically Exposed Persons (PEPs) laundering their assets within the UK.” See United Kingdom, [Factsheet: economic crime in the UK](#), Policy paper, 26 October 2023.

164 United Kingdom, Home Office and HM Treasury, [New plan puts UK at the forefront of fight against economic crime](#), News release, 30 March 2023.

165 United Kingdom, HM Government, [Economic Crime Plan 2: 2023-2026](#), p. 52.

(OFAC), within the Department of the Treasury, has the lead role for the administration and the enforcement of economic and trade sanctions programs.¹⁶⁶ Furthermore, the OFAC is characterized as being “part of Treasury’s Office of Terrorism and Financial Intelligence.”¹⁶⁷ The Treasury notes that its work on sanctions is “conducted in close partnership” with other parts of the U.S. government, “in particular the Department of State and the National Security Council, which lead the formulation of the foreign policy and strategic goals that sanctions serve, as well as the Department of Justice.” The State Department “also implements certain sanctions authorities in consultation with the Treasury.”¹⁶⁸ Erica Moret told the committee that Canada “lacks an investigative or enforcement body like OFAC.”¹⁶⁹ Yet, her testimony suggested that this component of Canada’s sanctions regime has become more important than ever. She observed that “Russia and other actors are using sophisticated evasion and circumvention techniques in coordination with other sanctions targets,” a reality that has made enforcement “the name of the game.”¹⁷⁰

Different perspectives were provided to the committee regarding whether an OFAC-type model would be appropriate—and feasible—for Canada. Thomas Juneau said that he would support “formally giving Global Affairs a stronger role in coordinating sanctions.” He emphasized that the U.S. system is “so different from ours, not just because of its sheer size but because it’s a different system of government.” At the same time, he acknowledged the argument that “OFAC plays a very strong coordinating role that GAC cannot play because of silos within our system and because of the difficulties in sharing information with CBSA, RCMP and others involved in monitoring and enforcing sanctions.” Nevertheless, Professor Juneau believes that “part of the answer would be to give GAC greater tools.”¹⁷¹ He also commented on the standing that the GAC sanctions bureau—as announced in October 2022—might have within Canada’s governmental machinery. He remarked that the extent of this bureau’s coordinating and gathering power, its “authority to bang heads and cajole and coerce departments to share information and work together,” is not clear, but he hopes that it is “more than right now.”¹⁷²

166 U.S., Department of the Treasury, Office of Foreign Assets Control, [About OFAC](#).

167 OFAC, [Mission](#).

168 U.S., Department of the Treasury, [The Treasury 2021 Sanctions Review](#), October 2021, p. 1.

169 FAAE, [Evidence](#), 6 June 2023, 1230 (Erica Moret).

170 Ibid.

171 FAAE, [Evidence](#), 25 September 2023, 1230 (Thomas Juneau).

172 Ibid., [1235](#).



The other perspective the committee heard was that the emphasis needs to shift to “domestic law and domestic enforcement.”¹⁷³ To support this perspective, Michael Nesbitt, Professor of Law, University of Calgary, noted that there have been no charges levied under the Magnitsky Act, and that only one individual and one company have ever been charged for violations under the SEMA, which was enacted in 1992. The charges against the former “fell apart,” while the latter case resulted in a plea agreement.¹⁷⁴

Professor Nesbitt suggested that Canada would benefit from a system of civil law enforcement for sanctions, “with significantly higher fines available to coincide with the freezing and seizing provisions” that were enacted in 2022. A strictly criminal law regime, he noted, encounters the challenge known as the “intelligence to evidence dilemma.”¹⁷⁵ He believes that a civil law regime “would allow for greater fines, which would have more of a deterrent effect and provide benefits associated with avoiding some of the troublesome aspects of our criminal disclosure regime and the elevated standard of proof in criminal trials.”¹⁷⁶

On the issue of governmental machinery, Professor Nesbitt called for a re-examination of the assumption that GAC should be treated and resourced as the “sole lead” for managing Canada’s autonomous sanctions.¹⁷⁷ In this regard, he highlighted the roles and resource needs of the CBSA and RCMP and suggested that FINTRAC and the Canadian Security Intelligence Service “need heavier involvement and information-sharing powers,” which he said may also be true of the Communications Security Establishment and the Treasury Board. Finally, Professor Nesbitt remarked that the role of the Public Prosecution Service of Canada is “often overlooked” and expressed his opinion that this office has “no internal expertise” on sanctions.¹⁷⁸

Brandon Silver, Director of Policy and Projects, Raoul Wallenberg Centre for Human Rights, stated that Canada needs “a whole-of-government approach to sanctions.” He believes this could be advanced through the creation of “a single focal point to ensure interdepartmental co-operation and co-operation amongst allies internationally.”¹⁷⁹ Such

173 FAAE, *Evidence*, 15 June 2023, 1215 (Michael Nesbitt, Professor of Law, University of Calgary, As an Individual).

174 Ibid.

175 Ibid.

176 Ibid., 1220.

177 Ibid.

178 Ibid.

179 FAAE, *Evidence*, 6 June 2023, 1110 (Brandon Silver, Director of Policy and Projects, Raoul Wallenberg Centre for Human Rights, As an Individual).

a focal point, Mr. Silver argued, could improve coordination “among the myriad and often regrettably disparate and siloed government departments, whether it be FINTRAC, RCMP, CSIS, the Department of Justice, GAC and the like.”¹⁸⁰ Pointing to different models in the U.S. and the United Kingdom, Mr. Silver’s brief suggested that an intergovernmental task force should be formalized to support the sanctions bureau in GAC and the focal point he is suggesting.¹⁸¹

The committee takes note of Professor Nesbitt’s observation that what is lacking in Canada’s governmental machinery, at present, is a body like the U.S. OFAC, which can provide the “links” between the objectives informing sanctions policy, the designations that give effect to that policy, and the compliance and enforcement activities backing them up. Such links are made, he said, through expertise on financial flows and corporate structures.¹⁸² Work that Canada and its allies have done together to counteract Russian sanctions evasion reveals why these links are important. Among the “typologies” of evasion that have been identified are the use of family members and close associates to ensure continued access to and control of wealth, including by transferring the beneficial ownership of legal entities and other property. Other evasion methods include investment in real estate to hold wealth and the use of complex ownership structures and the expertise provided by “enablers” to avoid identification.¹⁸³

After reviewing all these roles and responsibilities, the committee determined that there is a need for further clarity on accountability for sanctions matters. Nevertheless, given the complexity of these issues and the different perspectives that were brought forward, the committee is not prepared, without conducting a more in-depth examination of this aspect of its broader study, to pronounce itself on the specific manner in which Canada’s machinery should be organized.

Recommendation 15

That, within a reasonable time frame, the Government of Canada conduct a comprehensive review of the departmental and agency mandates, authorities, coordination mechanisms and reporting relationships supporting its sanctions regime, with equal emphasis given to the needs and challenges associated with sanctions policy, administration, and enforcement, and that it publish the results. As well, in the process

180 Ibid., [1140](#).

181 Raoul Wallenberg Centre for Human Rights, [written brief](#), 22 June 2023, pp. 6–7.

182 FAAE, [Evidence](#), 15 June 2023, 1245 (Michael Nesbitt).

183 Department of Finance Canada, [Global Advisory on Russian Sanctions Evasion Issued Jointly by the Multilateral REPO Task Force](#), 9 March 2023.



of conducting this comprehensive review, that the Government of Canada consider other models or systems in place used by allies to enforce, coordinate, and monitor sanctions.

Recommendation 16

That, in Budget 2024, the Government of Canada provide details on the structure and mandate of the proposed Canada Financial Crimes Agency.

Recommendation 17

That the Government of Canada consider designating a unit within the proposed Canada Financial Crimes Agency responsible for sanctions enforcement.

The Multilateral Coordination of Canada's Sanctions Regime

While its study focused on Canada's sanctions regime, the committee understood that Canada's sanctions are interacting with a complex array of state and private actors and that they are being imposed within a globalized economy. Testimony indicated that, while Canada can act alone, or in concert with its allies, the effectiveness of its sanctions measures will inevitably be affected by the behaviour and decisions of others.

Limits in Reach

Elisabeth Braw emphasized to the committee that the globalized business environment of the 21st century is different than the Cold War era, during which the West was collectively "such a powerful economic force." Today, she said, "countries that aren't willing to toe the line with us, that don't support our use of sanctions, that are indifferent or that simply want to take advantage of another country's predicament because it is under sanctions are in a position to undermine our sanctions." China, for example, has expanded its trade with Russia since 2022, as have India and others. The effect, Ms. Braw noted, is that Western sanctions "are not as powerful as they would be if applied against a background of no other business activity with a sanctioned country."¹⁸⁴

Given that the use of sanctions is now, for the most part, expected, Ms. Braw observed that the leaders of targeted states factor the punishment of sanctions "into their cost-benefit analyses when they consider whether to pursue the action that we, the [W]est, are trying to deter." In her assessment, this calculus is one of the main challenges with sanctions: "They are such a useful tool that they are still extremely predictable, and that

184 FAAE, [Evidence](#), 15 June 2023, 1105 (Elisabeth Braw).

makes them less powerful as a deterrent.”¹⁸⁵ What is more, cost-benefit analyses are different in authoritarian regimes than in democracies. The leadership of a targeted regime, such as the one in Russia, Ms. Braw noted, “will think first of themselves and second of their country” in terms of bearing the costs of sanctions.¹⁸⁶ For that reason, she emphasized the importance of designing sanctions with the intent of imposing a specific impact on the leadership of the targeted state.

The dominance of the U.S. and the EU in the international financial architecture, combined with the imposition of sanctions, may be contributing to the pursuit of alternative systems. The committee learned that China has developed the Cross-Border Interbank Payments System (CIPS) and Russia the System for Transfer of Financial Messages (SPFS). The Global Head for Economic Sanctions at the Royal Bank of Canada, G. Stephen Alsace, indicated that there has not been a move of significant traffic toward these alternative systems, but “they are on the rise, and there is certainly that risk of capital flight away from [the SWIFT] system.”¹⁸⁷

Amplification through Partners and Harmonization

Other testimony suggested that the avenues for sanctions circumvention described above can be closed off, in part, through enhanced coordination. Even so, the committee was encouraged to be realistic about the extent to which the reach of autonomous sanctions can be extended and was reminded that there are legislative constraints to the cooperation that can be pursued.

Sophie Marineau, PhD Candidate, International Relations, remarked that the sanctions on Russia have been imposed by “a huge number of countries” and “caused certain countries, like Monaco and Switzerland, to set aside their historical policy of neutrality.” At the same time, she indicated that Russia has been able to turn to other economic partners, principally China and other BRICS countries, “the group of countries attempting to challenge the current world order to some extent.”¹⁸⁸ Ms. Marineau observed that it would be “extremely hard” to get China to impose sanctions on Russia given that China “is walking a very fine line of neutrality,” whereby China is trying to avoid encouragement of Russia’s war against Ukraine, but also any destabilization of Russia or souring of China’s relations with the West. Consequently, in the words of

185 Ibid.

186 Ibid., 1110.

187 FAAE, *Evidence*, 6 June 2023, 1130 (G. Stephen Alsace).

188 FAAE, *Evidence*, 27 September 2023, 1715 (Sophie Marineau, PhD Candidate, International Relations, As an Individual).



Ms. Marineau, efforts should be conceived of not so much in terms of trying to limit “black knights” (i.e., the countries that undermine the cohesion of sanctions), but, rather, determining how we can “urge other partners to get behind the sanctions.”¹⁸⁹

The committee was also reminded of the amplifying effect of coordinated sanctions during the testimony of Paul James Cardwell, Professor of Law, King’s College London, who focused his remarks on practices in the EU. He noted that the EU is “capable of being powerful” when agreement can be reached on sanctions among its 27 members. Furthermore, the research he has conducted with colleagues has addressed the “trend since the mid-2000s to invite third states around the EU’s borders to align with EU sanctions.” This research has revealed that 5 to 10 additional states usually undertake to align themselves with EU sanctions, thus increasing their potential weight.¹⁹⁰

Professor Charron argued that, where possible, Canada should align its sanctions narratives with those of the EU and other partners to ensure that messages are consistent, and norms are reinforced. She has determined that, to date, transatlantic coordination on human rights sanctions has been “concentrated almost exclusively on China and Russia.”¹⁹¹ To ensure that coordinated sanctions are seen as defending universally accepted norms and not as the convergence of “geopolitical interests,” Professor Charron believes that coordinated listings should be pursued “in instances of gross human rights violations outside of geopolitical rivals.”¹⁹² She also suggested that the effectiveness of sanctions can be monitored in a coordinated way, including by exchanging information on indicators. One existing example, involving Canada, is the Russian Elites, Proxies and Oligarchs Task Force. Erica Moret noted that this task force “has used information sharing and coordination to identify and exert pressure on sanctioned Russian individuals and entities.”¹⁹³

In addition to pursuing coordination on targets as a whole, other testimony illustrated why sanctioning jurisdictions should better coordinate the specific measures they impose. Vladzimir Astapenka addressed the committee as a representative of the United Transitional Cabinet of Belarus, which was established by exiled leader Sviatlana

189 Ibid., [1730](#).

190 FAAE, [Evidence](#), 8 June 2023, 1110 (Paul James Cardwell, Professor of Law, The Dickson Poon School of Law, King’s College London, As an Individual).

191 Andrea Charron, [written brief](#), 15 June 2023, p. 5.

192 Ibid.

193 FAAE, [Evidence](#), 6 June 2023, 1225 (Erica Moret).

Tsikhaneuskaya in August 2022 to represent “the real national interests of Belarus.”¹⁹⁴ Mr. Astapenka noted that different levels and types of sanctions have been applied against Russia and Belarus, respectively, since Russia launched its full-scale invasion of Ukraine on 24 February 2022, with the complicity of the regime of Belarussian President Alexander Lukashenko. These differences exist, he said, despite the customs union that allows “free circulation of products between these [two] countries.”¹⁹⁵ Mr. Astapenka remarked that, when loopholes exist, “we promote evasions of the sanctions; we promote black or grey schemes to provide the goods.” In this regard, he also noted the “skyrocketing” trade countries such as Armenia and Kyrgyzstan have had with Russia and Belarus.¹⁹⁶

Addressing concerns about loopholes from a more general perspective, Kelsey Gallagher told the committee that dual-use goods from Western countries “have been found integrated into numerous weapons systems that Russia has deployed in its ongoing assault on Ukraine.”¹⁹⁷ Such goods, he noted, can be rerouted through third countries. Yet, Mr. Gallagher observed that, in contrast to its annual reporting on the export of military items, the Government of Canada “publishes almost no information on its actual export of dual-use goods, unlike a number of like-minded states.”¹⁹⁸ He urged the publication of data that should include, at a minimum, the “value of those exports, descriptions of the goods, and their authorized end users.” According to Mr. Gallagher, focusing on “transfers to destinations that have been identified as conduits to bypass export controls ... would provide greater insights on the potential proliferation of sensitive Canadian technology abroad.”¹⁹⁹

Recommendation 18

That the Government of Canada publish comprehensive data annually on Canadian exports of dual-use goods, as it does for military goods, including the value of those exports, descriptions of the goods, and their authorized end users.

Brandon Silver discussed sanctions coordination, and the consequences of its absence, from the perspective of the jurisdictions like Canada that have adopted laws allowing them to impose Magnitsky-style sanctions—i.e., targeted sanctions in response to human

194 FAAE, *Evidence*, 15 June 2023, 1115 (Vladimir Astapenka, Deputy Representative, Foreign Affairs, United Transitional Cabinet of Belarus).

195 Ibid., 1135.

196 Ibid., 1120.

197 FAAE, *Evidence*, 8 June 2023, 1210 (Kelsey Gallagher).

198 Ibid.

199 Ibid.



rights violations and corruption. According to him, across these jurisdictions “Magnitsky decisions are overwhelmingly undertaken unilaterally and without structured co-operation amongst allies, despite the shared interests, values and threats we all may be seeking to address.”²⁰⁰ Mr. Silver suggested that the practical consequences are possible asset flight to non-sanctioning jurisdictions and diminished “rhetorical and reputational value” from the sanctions, “as the listing can be presented as a singular aberration amongst more reasonable democracies, rather than an achievement in the pursuit of justice and accountability.”²⁰¹ To address such concerns, the Raoul Wallenberg Centre for Human Rights is suggesting the establishment of an “international contact group” of jurisdictions with Magnitsky laws, which it believes “would greatly assist with the coordination and multilateralization of sanctions implementation while also creating a forum for the sharing of best practices.”²⁰²

At the same time, the committee was reminded that coordination is constrained by the legislative frameworks of sanctioning states. Global Affairs Canada noted that, while there are commonalities, each jurisdiction has “unique triggers” in its legislation, as well as different thresholds of acceptability “for what constitutes a sufficient evidentiary package” when it comes to designations.²⁰³ That said, the government previously informed the committee of coordination that has been possible in relation to economic sanctions, including alignment on the prohibition of Russian aluminum and steel imports and joint efforts to impose a price cap on Russian-origin crude oil and refined petroleum products.²⁰⁴

To maximize the impact of Canada’s sanctions, in furtherance of policy objectives that Canada and its like-minded partners share, the committee recommends:

200 FAAE, [Evidence](#), 6 June 2023, 1110 (Brandon Silver).

201 Ibid.

202 Ibid.

203 FAAE, [Evidence](#), 1 June 2023, 1145 (Alexandre Lévêque).

204 [Government Response to the Tenth Report of the House of Commons Standing Committee on Foreign Affairs and International Development: The Russian State’s Illegal War of Aggression Against Ukraine](#), p. 5.

The Multilateral Coordination of Canada's Sanctions Regime

Recommendation 19

That the Government of Canada increase its investment in dedicated capacity for sanctions diplomacy with the objective of maximizing the number of partners that are applying the same or similar sanctions measures, closing any implementation gaps that may exist, and countering any sanctions circumvention that may be taking place.

The Effectiveness of Canada's Sanctions Regime

When the committee last studied Canada's sanctions regime, it sought to determine whether sanctions "work."²⁰⁵ The answer then and now depends on context and intent. Individual sanctions regimes can have different purposes, aiming to change, constrain or condemn behaviour, and the stated purpose can change over time. As noted, the realization of the policy objective that is set can be influenced by the degree to which the regime is multilateral in nature and harmonized in application, and by attributes of the target. Furthermore, as is discussed in greater detail below, sanctioned states have varying degrees of economic and political power within the international system, and some country-to-country relationships and economic flows are more important or sensitive to disruption than others. When it comes to specific individuals and entities, while the "naming and shaming" function of a designation is in the control of the sanctioning state, the more practical effect of the sanction—the dealings prohibition—depends on whether the person in question holds any assets in the sanctioning jurisdiction or is seeking to conduct any transactions with persons in that jurisdiction.²⁰⁶

Objectives and Targets

Sophie Marineau presented an analytical framework to help the committee understand the factors that could determine the impact of the sanctions that Canada and its partners impose. While it is "impossible to define the exact level of measures required

205 FAAE, "[Do Sanctions Work?](#)" *A Coherent and Effective Approach to Canada's Sanctions Regimes: Sergei Magnitsky and Beyond*, April 2017.

206 The equivalent of approximately \$136 million of assets in Canada have been effectively frozen since 24 February 2022 as a result of the SEMA Russia regulations, while another \$306 million in financial transactions have been blocked. However, only \$79,000 in assets have been frozen through the SEMA Iran regulations, and "there have been no reports of frozen assets under the SEMA Haiti Regulations." See RCMP, [Update on the reporting of frozen assets under the Special Economic Measures Act - Russia Regulations](#), News release, 28 September 2023.



to have a real impact on the sanctioned state’s policy,” she identified certain factors as being “decisive in determining the effectiveness of a sanctions regime.”²⁰⁷

The most important factor influencing the likelihood of behaviour change is the “economic cost imposed on the sanctioned state.”²⁰⁸ The second factor is its political regime. Ms. Marineau observed that sanctions are much more likely to have an impact on a democracy than an autocracy. Another consideration is stability. She noted that a weak state or one that is “facing economic woes will be more vulnerable to the application of a sanctions regime.” Also important are the “ties between the sanctioning state and the sanctioned state.”²⁰⁹ Particularly relevant here is the significance of the economic relationship and trade revenue that is being put at risk. Fifth is the importance of international cohesion. Success, Ms. Marineau said, will depend on whether the majority of the targeted state’s economic partners impose sanctions against it. Without such cohesion, she explained, the target “may find alternative suppliers to those who are imposing the sanctions,”²¹⁰ echoing the limitations outlined by Elisabeth Braw. The final factor is time. According to Ms. Marineau,

Sanctions often force sanctioned states to turn inward and develop their own industries to become self-sufficient, or to find new economic partners to replace those lost as a result of sanctions. In the long term, this makes the state more able to function as a dictatorship or less dependent on imports and goods from sanctioning states. The effects of sanctions then become extremely limited.²¹¹

That said, another witness framed the time factor less as a concern about the targeted state’s ability to adapt and more in terms of the patience that is required on the part of sanctioning states to allow the economic restrictions they are imposing to have their desired impact.²¹² In all, Ms. Marineau observed, it is the “cumulative effect” of the factors she outlined that determines the efficacy of a sanctions regime.²¹³

The challenges that are involved in assessing efficacy are evident in the case of the sanctions Canada and its partners have imposed on Russia in response to its aggression

207 FAAE, [Evidence](#), 27 September 2023, 1640 (Sophie Marineau).

208 Ibid.

209 Ibid.

210 Ibid.

211 Ibid.

212 FAAE, [Evidence](#), 8 June 2023, 1115 (Benjamin Schmitt, Senior Fellow, Department of Physics and Astronomy and Kleinman Center for Energy Policy, University of Pennsylvania, As an Individual).

213 FAAE, [Evidence](#), 27 September 2023, 1645 (Sophie Marineau).

against Ukraine. When asked what these measures have achieved, Global Affairs Canada emphasized the objectives of constraint, isolation, and accountability,²¹⁴ and responded that “Russia’s ability to wage its war has been significantly reduced” and its “economy has shrunk.”²¹⁵ The department cited the number of international companies that have exited Russia, as well as the restrictions in place on the materials and components necessary for weapons production. While conceding that sanctions have not necessarily delivered a “fatal blow,” the department believes there is “no doubt” that they have hurt Russia’s economy.²¹⁶ In this regard, officials emphasized the importance of comparing current forecasts for the Russian economy with the situation prior to 24 February 2022.²¹⁷ In October 2023, the International Monetary Fund (IMF) raised its forecast for Russia’s 2023 gross domestic product (GDP) growth from 0.7% to 2.2%. However, the IMF attributes this growth to the short-term impact of the Russian government’s spending on the war. In the larger picture, before the war, the IMF had estimated Russia’s potential growth to be about 1.5% of GDP. That figure has now been downgraded to 1% of GDP.²¹⁸

Ms. Marineau provided a similar description of the challenges Russia is facing. She noted, for example, that “around 70% of Russian banks’ international assets” have been rendered inaccessible, and that “[a]lmost a third of Russia’s budget is now devoted to military spending, which has slowed down its economic development.”²¹⁹ That said, Ms. Marineau voiced caution in respect of attributing direct causality to the sanctions. Given the complexity of the global economy, and Russia’s place within, it is difficult to determine which effects “can be attributed to sanctions alone, let alone Canadian sanctions on their own.” For those reasons and based on the “paramount” importance of international cohesion in the application of sanctions, Ms. Marineau told the committee that “Canada’s efforts must be analyzed in a more global perspective where the efforts of all partner states count.”²²⁰

214 FAAE, [Evidence](#), 1 June 2023, 1125 (Alexandre Lévêque).

215 Ibid., [1120](#).

216 Ibid., [1125](#).

217 Ibid.

218 International Monetary Fund, [European Department Press Briefing: Economic Outlook in Europe](#), Transcript, 13 October 2023.

219 FAAE, [Evidence](#), 27 September 2023, 1645 (Sophie Marineau).

220 Ibid.



Immediate Costs

The committee focused primarily on trying to understand the effectiveness of Canada’s autonomous sanctions in relation to foreign states. That said, the committee was reminded that Magnitsky-style sanctions,²²¹ targeted against individuals, can have an immediate and concrete impact. According to Brandon Silver, such targeted sanctions have been a “powerful tool.” They are, he said, “protecting Canadian sovereignty from the corrosive effects of corrupt foreign capital and from the rights abuses of those who would seek to co-opt and undermine our democracy and financial institutions.”²²²

This was the legislation’s intent. The Honourable Raynell Andreychuk was the Senate sponsor of the bill that became Canada’s Magnitsky Act. The aim, she said, was “to entrench human rights as an equal pillar with the foreign policy aspects” that were already being addressed through the SEMA.²²³ While the situation in Russia—where Sergei Magnitsky “was detained without trial, tortured and consequently died in a Moscow prison on November 16, 2009”²²⁴—was of concern, the bill was universal in scope. It aimed to support human rights defenders and their families everywhere. These are people, the Honourable Raynell Andreychuk emphasized, “who have sacrificed their lives, been jailed and tortured and have suffered innumerable losses...due to the fact that they stood up for what was right and just in their country.”²²⁵ According to the former Senator, the bill was designed to prevent the perpetrators of such crimes from accessing states with Magnitsky laws. In her words, “We do not want their money parked in banks in Canada. We do not want it parked in real estate in Canada. We do not want them to be in our countries.”²²⁶

There is evidence that the inadmissibility triggered by the Magnitsky Act has worked. The CBSA informed the committee that, with regard to designations made under the Magnitsky Act, “[a]ll identified occurrences of sanctioned individuals have been stopped abroad through the refusal of visas.” Furthermore, there are no “recorded incidents of

221 The Raoul Wallenberg Centre advocates that the term “Magnitsky sanctions” be used to refer to actions taken pursuant to the human rights and corruption triggers under both the Magnitsky Act and the SEMA. Brandon Silver suggested that the application of the SEMA—instead of the Magnitsky Act—against individuals responsible for human rights violations is “an issue of rhetoric rather than substance.” See FAAE, *Evidence*, 6 June 2023, 1135 (Brandon Silver).

222 Ibid., 1110.

223 FAAE, *Evidence*, 8 June 2023, 1120 (the Honourable Raynell Andreychuk, former Senator, As an Individual).

224 *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, S.C. 2017, c. 21, preamble.

225 FAAE, *Evidence*, 8 June 2023, 1120 (Hon. Raynell Andreychuk).

226 Ibid.

anyone arriving in Canada requiring removal, which was the objective of the Magnitsky approach.”²²⁷

Law professor Craig Martin also reminded the committee that the preventative aspect of sanctions should not be forgotten. He observed that sanctions enforcement is often conceived of in terms of the number of prosecutions that are initiated. This focus, he said, “sort of misses the point that sanctions often have their effectiveness in the way in which, for example, financial institutions refuse to process transactions or lawyers advise their clients not to engage in certain trade.” Quite a “profound effect” can be achieved, Professor Martin suggested, even in the absence of sanctions prosecutions.²²⁸

Overall Effect

Even when these complexities are taken into account, other testimony indicated that more robust analysis of the effectiveness of Canada’s sanctions regime is needed. The ability to conduct this analysis, however, could require the development of and investment in new tools. According to Erica Moret, in Canada and beyond, mechanisms to assess the effectiveness of sanctions “are not very well developed yet.”²²⁹

As a starting point, Professor Juneau noted that it is difficult to evaluate success when, in many cases, “the stated object of sanctions is not the same as the de facto objective.” Citing such examples as Iran and Russia, he argued that, because the stated objective of changing the regime’s behaviour is “not happening,” the de facto objective becomes the regime’s weakening, an outcome that is harder to measure. Using the example of Iran, he referenced the country’s “negative economic growth, double-digit inflation and very high unemployment,” but pointed out that it is “very hard to say” how much of this economic decline is a direct result of sanctions and how much the regime’s mismanagement.²³⁰ Furthermore, Professor Juneau had also warned the committee that sanctions can have unintended consequences even when they are succeeding in imposing such costs. In the Iranian context, he highlighted the risk of entrenched “authoritarianism and corruption.” According to him, the Islamic Revolutionary Guard Corps, which defends Iran’s regime,

227 FAAE, [Evidence](#), 1 June 2023, 1305 (Richard St Marseille).

228 FAAE, [Evidence](#), 27 September 2023, 1705 (Craig Martin, Professor, Law, As an Individual).

229 FAAE, [Evidence](#), 6 June 2023, 1240 (Erica Moret).

230 FAAE, [Evidence](#), 25 September 2023, 1235 (Thomas Juneau).



“has been able to build a massive economic empire and therefore become more powerful as part of the regime’s efforts to evade sanctions.”²³¹

In addition to the policy clarity needed for evaluation, other witnesses called for an emphasis on quality over quantity in sanctions designations. Professor Charron wrote that “Canada has over 2000 names listed for various target regimes but no studies on whether listing such entities helps to underline human rights and other international norms or simply creates the impetus for entities to rename and reorganize to make tracking their abuses harder.”²³² She characterized Canada’s approach as “fire and forget,” whereby names are added to sanctions lists, “and then that’s the last we hear from it.”²³³ In Professor Charron’s estimation, “We spend a lot of time up front on whom to target, but we don’t spend a lot of time on looking at what the effect is on these targets and whether we should be maybe adjusting with allies and in response to events on the ground.”²³⁴

That is not to say that Canada’s measures are never adjusted. The sanctions against Myanmar’s military provide an example. They were first imposed under the SEMA in 2007 in response to the deteriorating humanitarian and human rights situation in the country, but were then eased in 2012 following improvements in democratic governance. Most of the SEMA prohibitions were suspended at the time, but designations against certain listed individuals and entities and an arms embargo remained in place.²³⁵ In 2018, targeted measures were added through the designation of “seven senior military officials who occupied positions of authority during the military clearance operations against the Rohingya in Rakhine state.”²³⁶ The committee heard that Canada was then “among the first countries to impose new sanctions” in response to the 1 February 2021 military coup against the elected National League for Democracy government and has imposed additional rounds of sanctions since then.²³⁷ Going forward, Zaw Kyaw, spokesperson for

231 Ibid., [1210](#).

232 Andrea Charron, [written brief](#), 15 June 2023, p. 3.

233 FAAE, [Evidence](#), 27 September 2023, 1705 (Andrea Charron).

234 Ibid.

235 For further details, see Government of Canada, [Canadian Sanctions Related to Myanmar](#).

236 FAAE, [Evidence](#), 6 June 2023, 1220 (Zaw Kyaw, Spokesperson, Government of the Republic of the Union of Myanmar).

237 Ibid.

the national unity government of Myanmar, urged adjustments to strengthen these sanctions further still.²³⁸

With the view to ensuring that Canada's sanctions regime is designed to be responsive, Professor Charron wants to see the Government of Canada publish and review measures of the effect of sanctions "on a regular and consistent basis."²³⁹ In her view, Canada has sought to improve its sanctions "by creating more legislation and adding new requirements," yet still cannot answer the basic question, when posed, as to whether its sanctions are working.²⁴⁰ Regular review can also ensure that measures are lifted and persons delisted, when appropriate.²⁴¹ According to Professor Martin, transparent reporting can help to assess whether "sanctions are targeting the appropriate person and whether the evidence upon which that sanctioning designation is based is still current, accurate and just."²⁴²

The committee agrees that an annual report to parliament on Canada's sanctions regime would be an important step forward. Here, the committee notes Professor Charron's view that such a report would not be an onerous undertaking "because the information is readily available" to the government. As she said, "It requires somebody to put it together."²⁴³ The committee called for an annual report in 2017 and continues to believe that the reporting provisions that exist are insufficient. Under the SEMA, the only reporting requirement is for the Governor in Council to submit "a full report on the operation of any order or regulation made pursuant to the Act within sixty sitting days after the said order or regulation has ceased to have effect" (i.e., after it has been repealed).²⁴⁴ In terms of the committee's ability to conduct effective oversight, every

238 Ibid., and [1235](#). Canada announced additional sanctions in relation to Myanmar, in coordination with the United Kingdom and the United States, after the committee's study was completed. According to the government, these measures "aim to maximize concerted pressure on [Myanmar's military] regime to reverse course and limit its access to key resources and revenue to fuel its violence." See Global Affairs Canada, [Canada announces additional sanctions against individuals and entities supporting Myanmar's military regime](#), News release, 31 October 2023.

239 FAAE, [Evidence](#), 27 September 2023, 1635 (Andrea Charron).

240 Ibid.

241 Designated persons can apply to the Minister of Foreign Affairs to have their name removed from SEMA regulations. On 6 October 2023, the Government of Canada removed one individual from the Russia regulations after reviewing evidence which determined that the individual in question did not meet the criteria to be listed. See [Regulations Amending the Special Economic Measures \(Russia\) Regulations: SOR/2023-214](#).

242 FAAE, [Evidence](#), 27 September 2023, 1735 (Craig Martin).

243 FAAE, [Evidence](#), 27 September 2023, 1710 (Andrea Charron).

244 [Special Economic Measures Act](#), S.C. 1992, c. 17, s. 7(9).



order or regulation made under the SEMA must be tabled in parliament within five sitting days after being made.²⁴⁵ Copies are referred to the committee as sessional papers, pursuant to Standing Order 32(1), but no additional analysis is provided. Neither of these provisions requires the government to undertake regular review of Canada's sanctions regimes to ensure they remain fit for purpose.

The Effectiveness of Canada's Sanctions Regime

Recommendation 20

That the Government of Canada present an annual report to Parliament on its autonomous sanctions, including an overview of the objective and assessed impact of each regime established in relation to a foreign state, alongside a summary of the amount of assets in Canada that have been effectively frozen and transactions that have been blocked and any seizure or restraint orders that have been made, as can be publicly disclosed in accordance with the *Privacy Act* and the protection of Canada's national security interests.

Recommendation 21

That the Government of Canada review its autonomous sanctions on a regular basis to ensure that the measures are calibrated precisely to achieve each regime's intended objective and that the associated designations remain appropriate.

The Coherence and Consistency of Canada's Sanctions Regime

The committee's study and its previous work have elicited questions about the comprehensiveness, coherence, and application of Canada's autonomous sanctions legislation. Unlike in 2016, when the committee was ordered by the House to review certain statutes, this study had a more general scope and did not delve into Canada's legislation at a granular level. That said, the committee's final observation from this study was the sense that Canada could benefit from a review of the approaches taken by like-minded jurisdictions, to determine whether any gaps exist in Canada's own framework. Furthermore, while some testimony advised restraint, mindful of the need to avoid unintended consequences and ensure that sanctions remain a tool, and not the engine of Canada's foreign policy, others argued that Canada's existing legislative authorities are not being used as extensively or consistently as circumstances suggest is warranted.

245 Ibid., s. 7(1).

Legislated Parameters

Analysis provided to the committee focused, in particular, on the human rights and corruption triggers in Canada's autonomous sanctions legislation. Professor Charron conveyed that there are substantive differences between the SEMA and the Magnitsky Act and between Canada's legislation and that of key partners. The SEMA, she noted, applies to "gross and systematic" human rights violations, but "does not enumerate or further specify relevant human rights violations outside of its regulations."²⁴⁶ The Magnitsky Act does not require human rights violations to be systematic and "allows sanctions in response to isolated grave violations," such as extra-judicial killings or torture.²⁴⁷ Professor Charron contrasted this approach with the EU's Global Human Rights Sanctions Regime, which she described as having "a more defined listing criteria," outlining 12 specific violations, while also allowing sanctions to be applied in response to human rights violations that are widespread, systematic, or otherwise of serious concern to EU foreign policy.²⁴⁸

The Raoul Wallenberg Centre for Human Rights is of the view that the SEMA and Magnitsky Act provisions should be harmonized. Specifically, the centre argued that the requirement for gross human rights violations to be "systematic" should be removed from the SEMA, which the centre believes would provide more flexibility and align the SEMA with the Magnitsky Act's standard of "gross violations."²⁴⁹ Furthermore, the centre suggested that the Magnitsky Act should be amended to allow its provisions to be applied against entities in addition to individuals, as is the case with the SEMA.²⁵⁰

In light of these considerations, the committee recommends the following:

246 Andrea Charron, [written brief](#), 15 June 2023, p. 5.

247 Ibid.

248 Ibid. Also see [Council Decision \(CFSP\) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses](#), EUR-Lex.

249 Raoul Wallenberg Centre for Human Rights, [written brief](#), 22 June 2023, p. 4.

250 Ibid., p. 5.



The Coherence and Consistency of Canada's Sanctions Regime

Recommendation 22

That the Government of Canada review its autonomous sanctions legislation to determine whether any harmonization or further elaboration of its human rights and corruption triggers is required.

Potential Applications

Some witnesses and briefs suggested that Canada could be using its sanctions regime more systematically. In this regard, they called for international law, norms, and human rights to be supported and specific country situations to be addressed.

The Raoul Wallenberg Centre argued that Canada's autonomous sanctions should take into account "equity and vulnerability," in keeping with Canada's National Anti-Racism Strategy, feminist foreign policy, and commitment to universal human rights.²⁵¹ To support this point, the centre cited analysis revealing that "only 7% of Canada's Magnitsky cases mentioned female victims, and just 1% mentioned children," while none of the designations mentioned Indigenous or LGBTQ2IA+ people.²⁵² That is the case even though, as the centre observes,

LGBTQ2IA+ people are often the first targets of illiberal and authoritarian regression; attacks on indigenous peoples are often a core part of broader assaults on ecological protections and on environmental defenders confronting climate change; and Antisemitism is toxic to democracy and erodes the fundamental rights of all.²⁵³

The Raoul Wallenberg Centre identified other ways in which it believes that Canada's sanctions could be targeted to advance Canada's interests and principles. Further to the leadership role that Canada has taken on the Declaration Against Arbitrary Detention in State-to-State Relations, the centre suggested that the use of targeted sanctions in cases of arbitrary detention should be mainstreamed, including by enumerating it as a specific triggering criterion in the legislation.²⁵⁴ Additionally, the centre recommends that Canada's legislation should be amended "to expressly include a request from the Prosecutor of the [International Criminal Court, ICC], pursuant to the issuance of an ICC

251 Ibid., pp. 7–8.

252 Ibid., p. 7.

253 Ibid., pp. 7–8.

254 Ibid., p. 9.

arrest warrant, as a trigger for consideration of a sanctions' designation."²⁵⁵ Furthermore, the centre suggested that sanctions should be invoked in response to decisions of UN Special Procedures or treaty-monitoring mechanisms.²⁵⁶ According to Brandon Silver, taking these steps would "show our confidence" in multilateral institutions and in the "enforceability" of international norms.²⁵⁷

"Significant shortcomings" in the use of the SEMA and Canada's Magnitsky Act were identified by Amanda Strayer based on the findings of the report, *Multilateral Magnitsky Sanctions at Five Years*.²⁵⁸ The report, published in 2022, was co-authored with the Raoul Wallenberg Centre and examined the use of Magnitsky sanctions by Canada, the EU, the United Kingdom and the United States.²⁵⁹ As well as missing opportunities to advance the multilateralization of sanctions and "failing to provide accountability for marginalized victims of human rights abuses," the report found that Canada was rarely imposing sanctions in response to acts of corruption.²⁶⁰ Ms. Strayer also mentioned the report's finding that Canada's Magnitsky-style sanctions had shown an "incredible lack of geographic diversity."²⁶¹

Other witnesses focused their presentations on specific country situations. For example, Anaïs Kadian argued that the "human rights and international violations" she attributed to the Azerbaijani state in relation to Armenia and the ethnic Armenians in the territory of Nagorno Karabakh "fall squarely in those covered by section 4 of Canada's SEMA and also warrant the application of Canada's Magnitsky law."²⁶² In her opinion, the absence of sanctions in response to this behaviour, among which Ms. Kadian included the "seizure of 140 square kilometres of [Armenia's] sovereign territory" in 2022 and the subsequent blockade of the Lachin corridor between Nagorno-Karabakh and Armenia, has emboldened Azerbaijan's government.²⁶³

255 Ibid., pp. 9–10.

256 Ibid., p. 10.

257 FAAE, [Evidence](#), 6 June 2023, 1110 (Brandon Silver).

258 FAAE, [Evidence](#), 15 June 2023, 1220 (Amanda Strayer).

259 See Human Rights First, Open Society Foundations, Raoul Wallenberg Centre for Human Rights, and Redress, [Multilateral Magnitsky Sanctions at Five Years](#), November 2022.

260 FAAE, [Evidence](#), 15 June 2023, 1220 (Amanda Strayer).

261 Ibid., [1255](#).

262 FAAE, [Evidence](#), 6 June 2023, 1215 (Anaïs Kadian, Attorney, As an Individual).

263 Ibid.



The committee’s study also drew attention to the situation in Sri Lanka. Katpana Nagendra characterized Canada’s decision in January 2023 to sanction four Sri Lankan state officials under the SEMA as “a great step in exposing the atrocity crimes, including genocide, that Tamils have been facing at least since 1948, including the anti-Tamil pogrom of 1983 and, most recently, the 2009 Mullivaikaal massacre.”²⁶⁴ Nevertheless, and even though Canada led the way on these sanctions, Ms. Nagendra explained why her organization believes they need to be expanded. According to her, the “vast majority of Sri Lankan officials with responsibility for gross human rights violations are still not held to account.”²⁶⁵ Furthermore, in the time since the four designations were made, “the culture of impunity has not changed in Sri Lanka.”²⁶⁶ In addition to sanctions, the Tamil Rights Group wants to see greater utilization of and support for international justice mechanisms, namely those connected to the International Court of Justice and the International Criminal Court. In this regard, Ms. Nagendra remarked that sanctions are “only the beginning” of the quest for justice and accountability.²⁶⁷ These points were reiterated by another non-profit organization, People for Equality and Relief in Lanka.²⁶⁸

Recommendation 23

That the Government of Canada review its autonomous sanctions legislation and the approaches of like-minded jurisdictions to identify best practices and ensure that Canada’s legislative framework corresponds to Canada’s interests and commitments in relation to national security, foreign policy, and human rights and is designed in a way that enables the government to address the full range of circumstances in which the imposition of sanctions may be required.

When reflecting on Canada’s sanctions legislation, the committee was mindful of the testimony of former Senator Raynell Andreychuk, who noted that the bill she brought forward to establish a Canadian Magnitsky law was intended to be the “first stage” and not the end of the process.²⁶⁹ Speaking as someone who spent years working on Canadian foreign policy, including as a diplomat and then as Chair of the Senate committees on human rights and foreign affairs, among other roles, the former Senator reminded the committee that Canada has many foreign policy levers that can be exerted

264 FAAE, [Evidence](#), 25 September 2023, 1120 (Katpana Nagendra).

265 Ibid.

266 Ibid., [1140](#).

267 Ibid., [1140](#).

268 FAAE, [Evidence](#), 25 September 2023, 1225 (Archana Ravichandradeva, Executive Director, People for Equality and Relief in Lanka).

269 FAAE, [Evidence](#), 8 June 2023, 1125 (Hon. Raynell Andreychuk).

in response to situations of concern.²⁷⁰ Determining how sanctions fit into that broader machinery and landscape, her testimony implied, deserves greater consideration. The committee agrees, and, in concluding this report, reiterates its intention to keep raising this question and scrutinizing the answers.

270 *Ibid.*

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

| Organizations and Individuals | Date | Meeting |
|---|------------|---------|
| <p>Canada Border Services Agency</p> <p>Fred Gaspar, Vice President, Commercial and Trade Branch</p> <p>Richard St Marseille, Director General, Immigration Policy and External Review</p> | 2023/06/01 | 68 |
| <p>Department of Finance</p> <p>Jeremy Weil, Acting Senior Director, Financial Crimes Governance and Operations</p> | 2023/06/01 | 68 |
| <p>Department of Foreign Affairs, Trade and Development</p> <p>Stephen Burridge, Director, Sanctions Policy and Operations Coordination</p> <p>Marie-Josée Langlois, Director General, Strategic Policy Branch</p> <p>Alexandre Lévêque, Assistant Deputy Minister, Strategic Policy</p> | 2023/06/01 | 68 |
| <p>Financial Transactions and Reports Analysis Centre of Canada</p> <p>Michael-John Almon, Manager, Strategic Intelligence and Research Analytics</p> <p>Derly Lavertu, Manager, International Relationships</p> <p>Annette Ryan, Deputy Director, Partnership, Policy and Analysis</p> <p>Stéphane Sirard, Assistant Director, Program Delivery and Modernization</p> | 2023/06/01 | 68 |

| Organizations and Individuals | Date | Meeting |
|---|-------------|----------------|
| <p>Royal Canadian Mounted Police</p> <p>Supt Denis Beaudoin, Director, Financial Crime</p> <p>C/Supt Richard Burchill, Director General, Financial Crimes</p> | 2023/06/01 | 68 |
| <p>As an individual</p> <p>Anaïs Kadian, Attorney</p> <p>Erica Moret, Senior Researcher and Coordinator, Sanctions and Sustainable Peace Hub, Geneva Graduate Institute</p> <p>Brandon Silver, Director of Policy and Projects, Raoul Wallenberg Centre for Human Rights</p> | 2023/06/06 | 69 |
| <p>Canadian Bankers Association</p> <p>G. Stephen Alsace, Global Head of Economic Sanctions, Royal Bank of Canada</p> <p>Angelina Mason, General Counsel and Senior Vice-President, Legal and Risk</p> | 2023/06/06 | 69 |
| <p>Government of the Republic of the Union of Myanmar</p> <p>Zaw Kyaw, Spokesperson</p> | 2023/06/06 | 69 |
| <p>As an individual</p> <p>Hon. Raynell Andreychuk, Former Senator</p> <p>Paul James Cardwell, Law Professor</p> <p>Benjamin L. Schmitt, Senior Fellow, Department of Physics and Astronomy and Kleinman Center for Energy Policy, University of Pennsylvania</p> | 2023/06/08 | 70 |
| <p>National Resistance Front of Afghanistan</p> <p>Ali Maisam Nazary, Head of Foreign Relations</p> | 2023/06/08 | 70 |
| <p>Project Ploughshares</p> <p>Kelsey Gallagher, Researcher</p> | 2023/06/08 | 70 |

| Organizations and Individuals | Date | Meeting |
|--|-------------|----------------|
| As an individual Elisabeth Braw, Senior Fellow, American Enterprise Institute Michael Nesbitt, Professor of Law, University of Calgary | 2023/06/15 | 72 |
| Human Rights First Amanda Strayer, Supervising Staff Attorney, Accountability | 2023/06/15 | 72 |
| United Transitional Cabinet of Belarus Vladimir Astapenka, Deputy Representative, Foreign Affairs | 2023/06/15 | 72 |
| As an individual Lawrence L. Herman, Counsel, Herman & Associates, Cassidy Levy Kent Thomas Juneau, Associate Professor, Public and International Affairs, University of Ottawa | 2023/09/25 | 73 |
| Canadian Red Cross Catherine Gribbin, Senior Legal Advisor, International Humanitarian Law | 2023/09/25 | 73 |
| International Committee of the Red Cross Alain Dondainaz, Head of Mission to Canada Austin Shangraw, Legal Advisor | 2023/09/25 | 73 |
| People for Equality and Relief in Lanka Archana Ravichandradeva, Executive Director | 2023/09/25 | 73 |
| Tamil Rights Group Katpana Nagendra, General Secretary | 2023/09/25 | 73 |
| As an individual Andrea Charron, Professor, University of Manitoba Sophie Marineau, PhD Candidate, International Relations Craig Martin, Professor, Law | 2023/09/27 | 74 |

| Organizations and Individuals | Date | Meeting |
|--|-------------|----------------|
| Royal United Services Institute Tom Keatinge, Director, Centre for Financial Crime and Security Studies | 2023/09/27 | 74 |

APPENDIX B LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

B'nai Brith Canada

Canadian Red Cross

Charron, Andrea

Government of the Republic of the Union of Myanmar

International Committee of the Red Cross

Mennonite Central Committee Canada

Raoul Wallenberg Centre for Human Rights

Schmitt, Benjamin L.

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 68 to 70, 72 to 75 and 84 to 87](#)) is tabled.

Respectfully submitted,

Ali Ehsassi
Chair

Supplementary Opinion of the Conservative Party

Conservatives support the Committee's Report but wish to add the following observations and recommendations not captured in the Report.

Sanctions enforcement intersects with anti-money laundering and anti-terrorist financing enforcement. Canada's sanctions regime is not as effective as it could be because of gaps in the legal framework related to money laundering and terrorist financing.

One gap is the exemption of lawyers from mandatory reporting requirements regarding suspicious financial transactions set out in federal legislation. This poses a significant threat to Canada's ability to combat sanctions evasion.

In February 2015, the Supreme Court of Canada struck down¹ provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* on the grounds the legislation infringed on lawyers' duty to their clients. The provisions required lawyers to collect and report suspicious financial activity involving their clients to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

The Government of Canada declined to respond to the Court's ruling by introducing constitutionally compliant legislation to amend the *Act* and subject lawyers to the mandatory reporting requirements. Instead, the legal profession's self-regulatory bodies were allowed to create and implement anti-money laundering and anti-terrorist financing rules the profession.

These rules governing lawyers are not detailed and rigorous enough to ensure sufficient scrutiny of clients' financial transactions relating to money laundering and terrorist financing. Several reports have highlighted the problems with the legal profession's rules concerning money laundering and terrorist financing, including reports from the Financial Action Task Force,² the Department of Finance³ and the Cullen Commission.⁴

Therefore, Conservative members on the Committee make the following recommendation:

That the Government of Canada introduce constitutionally compliant legislation to amend the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to subject lawyers to the mandatory requirements of the *Act* and require them to report suspicious transactions to FINTRAC.

The other gap in Canada's sanctions regime concerns FINTRAC's legislated mandate. The Committee heard that FINTRAC's mandate limits it to undertaking an analysis of sanctions evasion only where that evasion intersects with money laundering or terrorist financing

¹ Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC 7.

² The Financial Action Task Force, [FAFT Report: Professional Money Laundering](#), July 2018.

³ Department of Finance Canada, [Assessment of the Inherent Risks of Money Laundering and Terrorist Financing in Canada](#), July 2015.

⁴ Cullen Commission; German, P., [Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos conducted for the Attorney General of British Columbia](#), March 31, 2018.

activities. This limited mandate restricts the ability of FINTRAC to identify sanction evasion trends, typologies and indicators that would be helpful in sanctions enforcement.

Therefore, Conservative members of the Committee make the following the recommendation:

That the Government of Canada introduce legislation to expand the mandate and legal framework of FINTRAC to allow it to better counter sanctions evasion and the financing of threats to national and economic security.

Supplementary Opinion of the New Democratic Party of Canada

New Democrats proposed this study on Canada's sanctions regime out of concern for the lack of transparency regarding investigation and enforcement of Canadian sanctions imposed in response to Russia's illegal invasion of Ukraine. We were further concerned that the Government of Canada had not fully implemented recommendations in the 2017 Foreign Affairs and International Development Committee's report, "A Coherent and Effective Approach to Canada's Sanctions Regimes: Sergei Magnitsky and Beyond."

We are grateful to the witnesses for their testimony and to the analysts for their important work.

While we agree with the recommendations in this report, we offer this supplementary opinion to highlight three major weaknesses in the Government of Canada's approach to sanctions.

Primary among them is the lack of transparency as to why some people and institutions are added to Canada's sanctions lists and others are not. Despite clear evidence, Canada has not imposed sanctions on human rights violators from many countries, including India, China, Israel, and Azerbaijan. Canada has been reluctant to impose robust sanctions in contexts such as Saudi Arabia's role in the war in Yemen. New Democrats lament that these inconsistencies are due to political choices made by the current government rather than a real and universal commitment to human rights.

Second, New Democrats have repeatedly raised concerns about poor enforcement of Canadian sanctions. The government's failure to appropriately investigate, enforce sanctions, and seize assets of Russian individuals in the context of the current illegal invasion of Ukraine is unacceptable. We are alarmed that the testimony heard from government officials during this study, about lack of coordination among government departments and lack of resources to investigate and enforce sanctions, echoed much of the testimony heard during the 2017 study. The Liberal government ignored these problems for more than five years. It is well past time to act.

Multiple attempts by New Democrats to seek information on the above points – via Order Paper Questions, Points of Privilege, and Questions in the House and in Committee – were unsuccessful. Parliamentarians have a right to seek and receive this information on behalf of Canadians. The Government of Canada must do better.

Finally, New Democrats emphasize this report's two recommendations on Canadian arms exports and brokering. For years, we have called for greater transparency and oversight of exports of military and dual-use goods, including exports to the United States which go unreported. The Liberal government has shown no interest in addressing these problems despite many media reports suggesting Canadian arms are landing in the hands of human rights violators. This must end. New Democrats strongly encourage the Canadian government to find the political will it has thus far lacked and fix these egregious gaps in Canada's arms export regime.

NDP, December 2023

