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How EU sanctions work:
A new narrative

BY
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HOW EU SANCTIONS WORK: A NEW NARRATIVE

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Foreword

For over 20 years, the *Chaillot Papers* – our flagship publication series – have constituted a distinctive trademark for the (W)EU Institute for Security Studies. They have developed and evolved over time – not unlike the Institute itself – but they have always been identified with a particular approach to security issues, combining academic depth with a policy focus and broader effort to be accessible (and useful) to both the academic and the Pol-Mil and diplomatic community.

This tradition recently lost some of its momentum, in part due to the advent of new media formats and the growing importance of online products. Moreover, in January 2012 the Institute moved to the Champ de Mars area of Paris, away from its historical premises near the Palais de Chaillot – the iconic building after which the publication was originally named.

Nevertheless, an identifiable, widely recognised and intellectually respected 'brand' should never be abandoned (and, frankly, 'Mars Papers' would sound a bit bizarre ...) Hence this new restyled series of *Chaillot Papers*, inaugurated with this topical analysis of what has perhaps become the most important foreign policy tool of the European Union over the past few years: sanctions – or, more accurately, 'restrictive measures'.

The Institute has already devoted its attention to their nature and role recently, and will continue to do so in the future. In other words, *ce n'est qu'un début – continuons le débat*. This is ultimately what *Chaillot Papers* are for. We look forward to our readers' feedback.

Antonio Missiroli

May 2013

Introduction

The European Union has devoted growing attention to sanctions since the entry into force of the Maastricht Treaty.[1] In total, the Council has imposed Common Foreign and Security Policy (CFSP) sanctions targeting countries, economic sectors, groups, individuals and entities on 27 different occasions. The novelty in the area of sanctions is that targets are not only states, as in the recent cases of Iran and Syria, but they are also individuals and non-state entities, e.g. anti-terrorist lists, President Robert Mugabe and his associates, and several companies connected with the military junta in Burma/Myanmar. Additionally, the contexts in which sanctions are utilised can be diverse, ranging from the protection of human rights to crisis management and non-proliferation. Despite the fact that the effectiveness of sanctions has been much debated, the EU has developed a sanctioning policy and intensified its adoption of sanctions. Sanctions were traditionally seen as a way to impose economic penalties as a means of extracting political concessions from targets, but EU sanctions do not always impose a cost nor do they always seek to induce behavioural change. To this extent, a new narrative may be needed.

This study focuses on how EU sanctions work by providing an analytical framework to evaluate when sanctions succeed. The conventional wisdom on sanctions is based on a misleading interpretation of how they work. The vast majority of observers would expect sanctions to change the behaviour of targets by inflicting material pain that would force them to change their policies – the so-called 'pain-gain' equation'. In fact, sanctions influence targets not only by coercing, but also by constraining and signalling them. Sanctions could be the last step that aims at weakening a target when the parties have incompatible objectives, for instance in the case of Iran as well as members of al-Qaeda placed on the EU sanctions list. At the same time, the decision of the Council could have been inspired by a more nuanced view of the world than that suggested by the 'pain-gain' principle and assumed that imposing a heavy toll on citizens could, in fact, undermine the strategic objectives of the EU, as has happened in the case of sanctions against Uzbekistan. Additionally, the importance of the signalling dimension of sanctions

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1.   Sanctions are referred to as 'restrictive measures' in EU jargon. 'Targets' are entities or individuals against which restrictive measures are applied by 'senders', i.e. the actors that impose sanctions.

should not be underestimated. The act of imposing sanctions is perceived as making a strong foreign policy statement and this can be of use both domestically, targeting an audience calling for action, and externally, projecting a certain image of the EU abroad and sending specific messages to other actors as well.

This study argues that sanctions should be looked at in terms of how they influence individuals, non-state entities or states, referring essentially to the 'purpose' of sanctions rather than their intended objectives. Such a perspective contributes to shape more realistic expectations about what sanctions can achieve. Matching the institutional capacity to impose and to monitor sanctions with a clearer understanding of what sanctions can achieve as an instrument of foreign policy may contribute to change the 'reputation' of sanctions – to a point where they would be considered as effective as other foreign policy instruments without being tarnished by negative perceptions/evaluations of their efficacy or impact. This study does not intend to provide an in-depth assessment of the four case studies that are presented in the text and the process that led to the imposition of sanctions. Instead, the case studies are used to demonstrate that the current narrative on sanctions hinders our understanding of how sanctions work.

This *Chaillot Paper* is divided into four parts. The first part presents the EU as a regional sanctioner, focusing on the decision-making process and providing an overview of the record of EU restrictive measures. The second part introduces the new narrative of sanctions and its foundations. The third part briefly presents four case studies – Iran, Zimbabwe, Burma/Myanmar and four countries from the MENA region affected by the so-called Arab Spring events – with the objective of understanding how the conceptualisation of sanctions in terms of their three key purposes (i.e. coercing, constraining and signalling) can be useful to comprehend the complex reality of sanctions. Finally, the conclusions present recommendations on how to improve the EU sanctioning process and elaborate on the future role of sanctions in EU foreign policy.

CHAPTER 1

The EU as regional sanctioner

The EU has acquired an important role on the global stage in the past two decades and its sanctioning policy is one of the elements that have contributed to this.[2] The institutional capacities of the EU in imposing restrictive measures have developed from loose cooperation in the foreign and security policy sphere to a complex and well-developed mechanism that regulates how the 27 members can reach binding decisions in the security domain within the boundaries of the EU legal framework.

The legal basis for sanctions

The Treaty on European Union (TEU) includes restrictive measures as one of the possible tools that can be employed to pursue the goals of the CFSP. The Council imposes sanctions also when mandated by the Security Council of the United Nations and according to the terms of the Partnership Agreement between the African, Caribbean and Pacific Group of States (APC) and the European Communities (hereafter the Cotonou Agreement), which allows the EU to suspend humanitarian aid and to change the conditions of the agreement when signatory states have poor human rights records [Cotonou Agreement (second revision), 2010, Art. 96]. This study focuses only on CFSP measures imposed outside and beyond UN mandates.

The Treaty of Rome (1957) already implied that state members could coordinate their trade policies to produce the effects of economic sanctions,[3] but it was only from 1992 with the Maastricht Treaty that the EU started to impose *political* sanctions, which are the focus of this analysis.

There are three internal documents that are relevant for the EU's restrictive measures policy.

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2. Anthonius W. de Vries and Hadewych Hazelzet, 'The EU as a New Actor on the Sanctions Scene', in Peter Wallensteen and Carina Staibano (eds.), *International Sanctions: Between Words and Wars in the Global System* (London/New York: Frank Cass, 2005); Charlotte Beaucillon, 'Comment choisir ses mesures restrictives? Guide pratique des sanctions de L'UE', *Occasional Paper* no.100, European Union Institute for Security Studies, Paris, 25 January 2013.

3. Joakim Kreutz, 'Hard Measures by a Soft Power? Sanctions Policy of the European Union 1981-2004', Paper no. 45, Bonn International Center for Conversion (BICC), Bonn, 2005, pp. 7-8.

The first document is the 'Basic Principles on the Use of Restrictive Measures (Sanctions)' (hereafter referred to as 'Basic Principles') approved in June 2004 by the Political and Security Committee (PSC) to address a request by the Council to develop a policy framework for a more effective use of sanctions. The 'Basic Principles' states that the EU should impose sanctions in accordance with the UN, but also autonomously whenever 'necessary' to meet the objectives of the EU ['Basic Principles on the Use of Restrictive Measures', 2004]. This document called for the use of targeted sanctions, and the second and the third documents were adopted to fulfil this goal.

The second is the 'Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the framework of the EU Common Foreign and Security Policy' (hereafter 'the Guidelines') approved in 2003 and updated in 2005, 2009 and 2012, containing definitions and directives on how to design and implement restrictive measures, as well as important information with regard to the different types of restrictions that can be imposed and on how to measure their effectiveness [Guidelines on Implementation and Evaluation of Restrictive Measures, 2009]. Finally, 'The EU Best Practices for the Effective Implementation of Restrictive Measures' (hereafter 'the Best Practices'), approved in 2008, contains the relevant information on how to identify the correct designated individuals or entities, and on the administrative modalities for freezing assets and banning products, including the procedure on how to grant exceptions and exemptions to the measures [Restrictive Measures (Sanctions) - Update of the EU Best Practices, 2008].

Imposing sanctions is considered a foreign policy decision, therefore the EU can adopt them in order to attain any of the objectives indicated by Article 21, Paragraph 2 of the TEU: for the advancement of 'democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.' The 'Basic Principles' deals with this issue as well and states that EU restrictive measures should be adopted in supporting efforts to fight terrorism and to prevent the proliferation of weapons of mass destruction, and to uphold respect for human rights, democracy, the rule of law and good governance. The 'Guidelines' specify several important elements, stating that 'the restrictive measures do not have an economic motivation'. In more specific terms and looking at the experience of the EU, restrictive measures have been adopted to support democracy and human rights, to manage conflicts, to consolidate and assist democratic transitions, to counter the proliferation of weapons of mass destruction and to fight terrorism.

The decision-making process

The imposition of sanctions falls under the CFSP domain and the process is regulated by Articles 30 and 31 of the TEU. The right to undertake initiatives lies with any member state and with the High Representative of the Union for Foreign

Affairs and Security Policy, who can act also with the support of the European Commission. The sanction proposal, which is often announced in general terms at the Foreign Affairs Council, is discussed in greater detail by the PSC and scrutinised by the competent geographical working groups of the Council where member states delegates negotiate and decide by consensus who is to be listed and on the basis of what statement of reasons. The last step before the approval through the Committee of Permanent Representatives II (COREPER II) and the Council is the Foreign Relations Counsellors Working Group (RELEX) where the representatives of EU member states negotiate the specific and concrete terms of each and every restrictive measure. The European External Action Service (EEAS) enters the picture very early on in all these procedures by making suggestions about what measures are advisable, whom to target with sanctions and presenting drafts of the new legal base to be negotiated in detail in RELEX.

The Council is the pivotal actor as it is the forum where decisions are made, even if the enforcement of economic and financial sanctions required the direct involvement of the Commission when sanctions affected the functioning of the internal market. However, the Lisbon Treaty has accentuated the role of the Council which is now taking over the implementing power that used to be exercised by the Commission; in fact, the Commission can only suggest a draft of implementing regulation that in its view would ensure the common implementation of the new measures throughout the Union, but it is in the end the Council that decides and approves the regulation.

There are different types of targeted sanctions that fall within the former first and second pillars as described in the Treaty of the Functioning of the European Union (TFEU). When the Council makes a decision concerning CFSP under Chapter 2, Title V of TEU, both trade and financial sanctions require a Council regulation according to Article 215 of TFEU (financial and economic relations) to be implemented.[4] Under this procedure the Parliament should only be informed about the decision, but Article 75 of TFEU establishes an exception. When the EU acts to prevent and combat terrorism and related activities, the Council and the Parliament should adopt a regulation via the ordinary legislative procedure.

Sanctions that fall under the former second pillar, namely travel bans and arms embargoes, do not need further legislation from the EU beyond the Council's decision (mostly common positions prior to the Treaty of Lisbon, Council decisions since December 2009) with the exception of lists of specific items under arms embargoes, such as dual-use items, that can be compiled by the Council in *ad hoc* regulations. Arms embargoes are an exceptional case because of a provision on national security that has been part of the Treaties since 1957 [TFEU, Article 346]. For instance, the Common Rules on Arms Exports approved by the Council in 2008 strictly regulate under which terms weapons can be sold [Common Rules Governing Control of Exports of Military Technology and Equipment, 2008/944/

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4. Before the Treaty of Lisbon, the Council used to approve Commission regulations. Since December 2009 and according to the new guidelines adopted in December 2009, the Council resorts to Council regulations to implement economic sanctions.

CFSP] but the final word on interpreting and deciding on each sale rests with national governments. The movement of people from and to EU countries is in fact controlled by the national governments, responsible for monitoring their borders and ensuring that the decisions of the Council of Ministers are duly implemented.

Restrictive measures since the end of the Cold War: the record

The EU has received growing attention in the past number of years due to the fact that its activity in the field of sanctions has increased substantially.[5] The EU has resorted to restrictive measures with increased frequency over time: in December 2012 it administered 17 different sanctions regimes. This raises questions regarding the type of crisis that provokes EU intervention. It seems appropriate to identify five different categories that emerge from both the analysis of EU documents and the analysis of each case: (i) conflict management (e.g. Afghanistan in 1996 and Libya in 2011); (ii) democracy and human rights promotion (e.g. Belarus and Uzbekistan); (iii) post-conflict institutional consolidation (e.g. the Federal Republic of Yugoslavia and Guinea); (iv) non-proliferation (e.g. Iran and Libya in 1994); and (v) countering international terrorism (e.g. al-Qaeda and its associates, but also Libya in 1999).

The two principal categories are human rights promotion and post-conflict institutional consolidation. Upholding human rights has been frequently cited by the Council to justify the imposition of restrictive measures, from cases where targets were governmental leaders who established a brutal rule in a country, as in Burma/Myanmar and Zimbabwe, to cases of violent regime change, as in Guinea. The Council has also applied sanctions in different phases of crises that require concepts that are able to capture how sanctions can be useful in different circumstances. When a conflict is over, the new authority may struggle with the re-establishment of its legitimacy to rule the country and the stability of the process is often undermined by the presence of a number of spoilers. The EU has imposed sanctions under such unstable conditions, as for example in response to the events that followed the wave of protests known as the Arab Spring, to consolidate the recognised institutions and to establish their authority. This has also been the case in the Federal Republic of Yugoslavia (FRY), since a number of individuals were actively engaged in protecting and supporting indictees of the International Criminal Tribunal for the former Yugoslavia (ICTY) who had been at large for over ten years after the end of the conflict. These types of sanctions are hardly understandable if we think of them as foreign policy tools that aim at

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5. Mikael Eriksson, *Targeting Peace: Understanding UN and EU Targeted Sanctions* (Farnham, UK/ Burlington, VT: Ashgate, 2011); Seth G. Jones, *The Rise of European Security Cooperation* (Cambridge/ New York: Cambridge University Press, 2007); de Vries and Hazelzet, op. cit. in note 2; Kreutz., op. cit. in note 3.

inflicting pain on targets to extract political concessions, since the EU asked ICTY indictees to go voluntarily into custody. The practice of sanctions has changed and they are used in different contexts, therefore a new narrative to understand their adoption is required.

CHAPTER 2
How do sanctions work?

The quest to understand whether sanctions 'work' has been going on for as long as the existence of sanctions themselves. In 1985, David Baldwin wrote that there are few subjects in political science that command more consensus than those which claim that sanctions do not work.[6] In 1999, Daniel Drezner began his interesting contribution to the debate on the success of sanctions by listing several opinions by scholars and practitioners holding that sanctions are ineffective.[7] In reality, the terms of the debate are more elaborate than this, but most of the evaluations are either based on a naïve 'pain-gain' approach or on specific findings that did not find useful applicability in the policy realm. This fallacy of the debate also affects the discussion about the EU as studies focusing on the Brussels experience in imposing sanctions are undermined by similar problems. The very recent report on the subject by Konstanty Gebert still reminds us that sanctions are 'designed to cause damage to the targeted party',[8] while the book by Clara Portela[9] does not manage to go beyond the 'pain-gain' equation criticised by Galtung in 1967.[10]

The outcome is a negative perception of EU sanctions that emerges from policy and academic circles. Santini and BassiniTabrizi[11] wonder whether EU sanctions on Iran are like old wine in a new bottle – but if the terms of the debate are not adjusted to more pragmatic standards, it would be plausible to claim that it is the old bottle that makes the wine bad. This section presents the terms of the debate on the success of sanctions and introduces a different perspective on how to look at sanctions in order to reach more definite and thorough conclusions. While classical approaches to the study of sanctions examine whether they change the behaviour of targets or serve policy objectives, it is the argument of this paper that a more nuanced approach to sanctions would shed new light on this foreign policy instrument.

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6.   David A. Baldwin, *Economic Statecraft* (Princeton, N.J.: Princeton University Press, 1985).

7.   Daniel W. Drezner, *The Sanctions Paradox : Economic Statecraft and International Relations* (Cambridge/New York: Cambridge University Press, 1999).

8.   Konstanty Gebert, 'Shooting in the Dark? EU Sanctions Policies', *Policy Brief* no.71, European Council on Foreign Relations, London, January 2013, p. 2.

9.   Clara Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (London/New York: Routledge, 2010).

10. Johan Galtung, 'On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia', *World Politics*, vol. 19, no. 3, 1967.

11. Ruth Hanau Santini and Aniseh Bassiri Tabrizi, 'EU Sanctions against Iran: New Wine in Old Bottles?', *ISPI Analysis* no.97, Istituto per gli Studi di Politica Internazionale (ISPI), Milan, March 2012.

The shifting paradigm for success

The literature on success can be divided into two categories. The first has heavily relied on the pain-gain logic to analyse and understand sanctions. The second has attempted to look at sanctions according to a goal-driven approach, namely that of observing if sanctions have achieved a policy objective or not. Despite the interest that this topic has received, a common understanding on how sanctions operate has not been reached aside from a widespread belief that sanctions do not work well. Indeed, it comes as no surprise to students of sanctions to come across denunciations of the effectiveness of sanctions in the first sentences of a book or an article on the issue. Despite the predominantly negative verdict of the literature on sanctions' effectiveness, the EU has increasingly resorted to the use of sanctions over time. The argument of this study is that unduly negative evaluations of sanctions have led to an erroneous interpretation of their utility.

The first of the abovementioned categories believes that sanctions work when the target changes its behaviour. This assumption is based on a pain-gain logic according to which targets will obey senders in order not to have to pay the costs imposed on them by sanctions. This thesis has divided this group into two factions, one which holds that sanctions work when targets change their behaviour, and the other which holds that sanctions do not work if targets do not change their behaviour. According to various studies, those holding an 'optimistic' view of the effectiveness of sanctions claimed a 34 percent success rate, while the 'pessimists' cited a low point of 5 percent.[12]

This approach is not only misleading, but it is also erroneous. It is misleading because it does not help to explain why sanctions are used if they do not change the behaviour of targets. The behavioural change of targets is clearly only one aspect of the story and to focus on the micro level with such a rigid approach may hide crucial elements of sanctions dynamics. The approach is also erroneous because it is based on wrongful assumptions of what sanctions are in reality. There are at least three such common assumptions. The first assumption is that sanctions are intended to change the behaviour of targets, but this is hardly the case when sanctions are used in intractable conflicts or with criminal actors. The second assumption is that sanctions ought to impose an economic burden on targets, but in reality this is not always a good idea. For instance, the consequences of imposing a burden on civilians should be considered if sanctions are imposed with the intention of strengthening the sender strategy. It has often happened that sanctions become an easy pretext for the target to blame foreign powers for poor economic performance, which is often due more to domestic reasons than to the effects of sanctions. Targeted governments tend to blame sanctions for their country's economic problems and strengthen the will of the people to resist the pressure as a way of stirring up national pride and protecting national independence.

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12. See Robert A. Pape, 'Why Economic Sanctions Do Not Work', *International Security*, vol. 22, no. 2, 1997. See also G.C. Hufbauer, J.J. Schott, K. A. Elliott and B. Oegg, *Economic Sanctions Reconsidered* (Washington, DC: Peterson Institute for International Economics), third edition, 2007.

The third is the wrongful assumption according to which all targets are equal and there is a comparable likelihood of obtaining compliance regardless of the reason that has led to the imposition of sanctions, as if a criminal group should generate the same expectations about its reactions to sanctions as an international bank or a trading company. These are clearly demanding criteria that few foreign policy instruments are likely to meet entirely satisfactorily.

The literature also offers the view of sanctions as objective-driven policy instruments, assuming that sanctions can be linked to the accomplishment of policy goals. Policy goals can be intended both in general and more specific terms. For instance, K. R. Nossal treats sanctions as 'punitive' instruments attributing to their very imposition the essence of their existence. More specifically, some commentators and academics have categorised sanctions in terms of compliance, subversion, deterrence, international symbolism and domestic symbolism, and efforts have been made to distinguish between primary, secondary and tertiary objectives at the same time, including 'the protection of the weak against the strong, the reduction of the will of ruling elites, the societal support for the imposition of the measures, the symbolic value of fighting against certain ideologies and the deterrence of similar actions by other actors'.[13]

These ways of looking at sanctions are valuable for having explored the issue from a different perspective. However, they fall short of creating analytical concepts that could find an easy and direct application to encompass the full variety of cases and hardly account for the broad array of foreign policy tools that are used at the same time. In fact, the EU never uses sanctions only when dealing with third parties: in particular, diplomatic tools and financial aids are often also utilised. Another element of complexity is constituted by the evolution of sanctions to their current targeted form. From being characterised in the past as 'embargoes', namely decisions to harm entire societies without discriminating among their components, almost all sanctions imposed today are 'targeted', namely they are aimed at non-state actors (i.e. individuals, groups or companies for the most part) and/or they concern only specific economic sectors or specific products. The rationale is to design the restrictive measures in order to maximise their impact on the actors responsible for the wrongdoings, and to minimise the unintended consequences on innocent civilians.[14] This transformation in the way in which sanctions are conceptualised and applied changes the equation because multiple targets, multiple objectives and multiple forms of sanctioning have become central and more elaborated conceptual frameworks have to be developed.

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13. Kim Richard Nossal, 'International Sanctions as International Punishment,' *International Organization*, vol.43, no. 2, 1989; James Lindsay, 'Trade Sanctions as Policy Instruments: A Re-Examination', *International Studies Quarterly*, vol.30, no. 2, 1986; James Barber, 'Economic Sanctions as a Policy Instrument', *International Affairs*, vol.55, no. 3, 1979.

14. David Cortright and George A. Lopez, *Smart Sanctions: Targeting Economic Statecraft* (Lanham, MD: Rowman & Littlefield Publishers, 2002).

How sanctions work: coercing, constraining and signalling

The first step towards understanding why the EU resorts to imposing sanctions is to place them in a more pragmatic perspective as *one* policy instrument imposed in any given situation, and not as *the* policy instrument. The logical step from this assumption is to look at how sanctions influence targets and fit within a broader system of instruments rather than thinking that sanctions alone can determine a behavioural change or the achievement of a policy objective.

This interpretation makes sanctions look like any other foreign policy instruments that can affect other actors by coercing, constraining or signalling them.[15]

The coercive aspect seeks a behavioural change on the part of targets. This influence is exercised through causing damage that alters the costs/benefits calculation of targets and creates the incentives for them to embark on specific policies. The essence of coercion is that targets are asked to do something that they can do without compromising their political survival. This also highlights the fact that targets are expected to know what to do to satisfy senders' demands, which is not always the case if one looks at official documents that impose sanctions. Indeed, requests can be very specific or very vague and there might even be no explicit demand at all, as in the case of individuals targeted by sanctions in Egypt and Tunisia. For instance, while asking President Lukashenko from Belarus to free political prisoners and asking President Karimov to accept the recommendation of the International Labour Organization (ILO) on child labour can be considered political actions that targets can undertake, the request to terrorist groups to give up their political struggle is less likely to be followed by voluntary compliance by targets. In this latter case, the change of behaviour should not be confused with the impossibility for the targets to carry out their intentions, which is the essence of the constraining logic.

This latter situation would be better described as having the purpose of constraining, which aims at undermining the capabilities of targets to achieve policy objectives. Senders do not make specific requests for action, but they attempt to curb the capacities of targets to embark on specific policies. Targets' compliance could determine political defeat and sometimes the suspension of rights (such as jailing) of individuals targeted by sanctions. This occurs when the interests of targets and senders are incompatible and a zero-sum game context determines the resilience of targets and the determination of senders, such as the sanctions on Laurent Gbagbo or Robert Mugabe and their associates. When looking at the most recent developments from comprehensive to smart sanctions, constraining sanctions are often used to fight groups or entities that are not willing to conform

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15. Francesco Giumelli, *Coercing, Constraining and Signalling. Explaining UN and EU Sanctions after the Cold War* (Colchester: ECPR Press, 2011).

to the established norms of international society, such as targets included in the terrorist list, but also to assist democratic consolidation by sanctioning individuals and groups that, in post-conflict phases, can derail the constitutional institutions as in the cases of the several lists created with regard to the former Yugoslavia. Constraining sanctions intend to make the life of targeted individuals and entities harder by materially limiting their capabilities to act.

Finally, the signalling aspect of certain sanctions should not be relegated to a residual category of non-effective sanctions. This is a more nuanced way of exercising power by including two further elements in the picture. The first is that targets are to be influenced in different ways than imposing material damage on them, so sanctions that do not extract heavy tolls from targets would still make sense according to the context. This has been the case for Uzbekistan and China, but also for Transnistria against which much stronger sanctions would not have increased the chances of success measured in terms of the behavioural change of the leaders. Imposing harsh sanctions can backfire in the long term as the toll is inevitably extracted from those groups that might otherwise be allied with the EU, as the case of Iran may soon confirm if the oil sanctions are kept in place in their current form.

The second is the existence of audiences, both domestic and international, that are of equal importance to the direct targets of sanctions. In order words, targets of signalling sanctions can be the international community, states, populations, non-state entities and individuals. This dimension of sanctioning is relevant to show commitment, to escalate a dispute, to prove political coherence, to underline the importance of a norm in international relations and to stigmatise non-compliance with that norm. The EU sanctions on China appear to be in place also because of pressures exercised from Washington despite the meagre impact that the restrictive measures have on the arms trade with Beijing. Other measures such as the ones in Libya from 1999 to 2004, in the Comoros in 2008 and in the Democratic Republic of the Congo from 1993 to 2003[16] fostered a certain image of the EU rather than creating expectations for real impact on the ground. The targets of signalling sanctions are not always the ones indicated in the decisions of the Council, but there could also be audiences to consider. The distinctive character of the signalling dimension is that the effects caused by sanctions are not the product of economic damage.

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16. These were all measures imposed before or outside the scope of the UN mandates: Libya from 1999 to 2004, Comoros in 2008 and in the DRC from 1993 to 2003.

Table 1[17] summarises the classification of sanctions.

Table 1 – Sanctions classification according to purpose			
		Request feasibility	
		High	*Low*
Direct Material Impact	*High*	Coercing	Constraining
	Low	Signalling	

The *Guidelines* deal more in depth with the objectives, stating that 'in general terms, restrictive measures are imposed by the EU to bring about a change in policy or activity by the target country, part of country, government, entities or individuals, in line with the objectives set out in the common position'. This view expressed by the EU limits the range in which sanctions can contribute to foreign policy objectives since the ideas of constraining and signalling are not explicitly highlighted. While the concept of signalling presents difficulties in being formalised by practitioners, the idea of constraining goes hand-in-hand with the utilisation of sanctions as law-enforcement tools as undertaken by the EU in the past.

There are four advantages in using a multi-purpose approach in the study of sanctions. The first advantage is that of going beyond the behavioural change approach and considering the different ways in which sanctions can influence international events. In other words, this means going beyond a mere costs/benefits analysis. The second is the added value of focusing on the context since each sanctions case is characterised by different phases and in each of these there could be multiple targets that can be better understood by examining the different ways in which they can be influenced by restrictive measures. This leads to the third advantage: as the three logics are not mutually exclusive, the complexities of sanctions regimes (for instance, multiple targeting) can be captured and the assessment becomes more comprehensive. Finally, a clearer understanding of how sanctions can produce the effects desired by senders is vital to create the right expectations of what sanctions can do in foreign policy.

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17. The primary logic is defined by whether sanctions have a direct material impact on targets and whether senders formulate clear demands. The coercive element is determined by the fact that targets can comply with the demands of the sender without incurring political defeat, the constraining element is determined by a material impact on targets that cannot comply with the demands of the senders, and the signalling element is dominant when there is no material impact provoked by sanctions on targets.

The logic and type of sanctions

What is interesting when looking at the aggregate data for EU sanctions is that it is evident how the coercive dimension is not the dominant one in the vast majority of cases. This should be the starting point for any investigation, whether effectiveness, implementation or any other issue is at stake. Each sanction case can have its own dynamic and some cases go on for much longer than others. In order to describe the different characteristics of how sanctions can change over time, the concept of *episode* has been used. Any sanction case can be sub-divided in 'episodes', with each episode corresponding to a different phase of the case. A new episode begins when a relevant element of the sanctions case changes, for instance when the purpose changes or when other foreign policy instruments are used with sanctions. The total number of cases is 27, but the total number of episodes is 45 and this latter value is used to create the list of sanctions. Within this list there are certainly some interesting insights. For instance, coercion appears to be the dominant purpose in only a handful of cases, while signalling and constraint appear more frequently, as summarised by Table 2 below.

Table 2 – Frequency of dominant logic of sanctions in EU restrictive measures		
Dominant logic	Episode	Share of total of episodes (45)
Coercing	4	6.82 per cent
Constraining	20	45.45 per cent
Signalling	21	47.73 per cent

As mentioned above, the three logics are not mutually exclusive, as they identify how power is exercised through sanctions, which means that different logics can be at work at the same time. Additionally, the advent of targeted sanctions has allowed senders to include multiple targets in the list, of which some are intended to be coerced, while others constrained and signalled. Examples of this last instance are the EU sanctions in Zimbabwe and Transnistria where the Council imposed restrictive measures to favour one political faction against the other.

One of the reasons that explain the frequent use of sanctions is their flexibility when it comes to when they can be imposed. Restrictive measures are used in very diverse crises and they can be tailored to complement other policy instruments. Other more cherished and studied methods of exercising power, such as the use of force, can only be employed under limited circumstances in terms of scenarios, political acceptance, and unpredictability of impact and consequences. Another explanation for their wide use is the ineluctability of sanctions in crises cycles

assuming that states would resort to the use of force only after having exhausted other foreign policy options, such as the imposition of restrictive measures. This is even truer for the Security Council and for normative actors such as the European Union when attempting to avoid a conflict or as a preparatory step to escalate the crisis as a way to weaken the enemy. Sanctions are ductile and they are adopted often as a necessary step when a crisis becomes salient, but these are only general considerations that confirm the need to go beyond the simple debate on whether sanctions 'work', with their effectiveness defined in terms of the target's behavioural change.

What sanctions does the EU impose?

Drawing on its past experience, the EU has learned the lessons from its sanctioning practices, leading it currently to opt for mostly targeted sanctions. In contrast to the typical form of restrictive measures in the past, which used to be embargoes, namely the prohibition of trade with one political community – be it a city, region, or state – targeted sanctions are directed at individuals and at non-state entities.

Targeted restrictive measures can be divided into four categories. The first one is arms embargoes, which refers to the prohibition to sell weapons and services related to the strengthening of military capacities of individuals, groups, political parties and/or states. The second category is travel bans, and they consist in the prohibition to member states to issue visas to certain individuals, with certain exceptions. The third category is that of economic measures, which refers to the restriction of imports/exports of specific technologies, goods and services that could be used by targeted actors to pursue a specific policy objective. Finally, financial measures refer generally to the freezing of funds of certain individuals, entities or restrictions and thorough prohibitions on financial transactions, export credits or investments. In general terms, the four categories of sanctions cannot be treated equally when the expectations for sanctions success are formed. In this perspective, what to expect from an arms embargo is radically different from a travel ban or a commodity boycott, while a ban on trading a specific technology should not create the same expectations as a ban on the sale of petroleum products.

Travel bans refer to the denial of admission to and transit through EU territory and are the most commonly adopted EU sanction. This measure is imposed with the objective of creating personal inconvenience and discomfort to listed individuals, and it may sometimes be ambitious to expect compliance. Nevertheless, there are instances in which travelling is central to the maintenance of prestige and power, such as in the cases of businessmen in Burma/Myanmar and Cote d'Ivoire, but also for those people or groups that rely on travel to achieve their political objectives, such as the leaders of Transnistria, for whom international recognition is a necessary resource to obtain their main policy goal. These premises would place sanctions within their context and acknowledge whether they function as a device to withdraw political recognition, create personal discomfort or to signal

discontent with specific individuals, entities and/or unwanted policies. In any case, a travel ban remains a travel ban: the expectations should not be extremely ambitious, especially with regard to certain targets. Travel bans can undermine capabilities, change costs/benefits calculations and function as a powerful 'name and shame' enforcement tool. But they generally have rather limited repercussions, unless travelling is a key factor in maintaining power.

Arms embargoes refer to the prohibition of selling weapons and related services not only to entire countries, but also to regions or actors in them. This is the second most commonly imposed EU sanction, probably because it is the least harmful for the targeted society, but also because it can be easily justified in the public debate. Indeed, the first instinct of international institutions and governments when dealing with conflicts is to limit the amount of weaponry in the conflict-affected area. However, arms embargoes are not neutral in their impact and they have been the object of severe criticism for their inability to stop the inflow of weapons into the areas subjected to this restriction. First, the ban on weapons may work in favour of the strongest actor in the conflict, who may also be the one that the EU is attempting to weaken. Second, the way in which a regional arms embargo is designed can help to reduce the supply of specific equipment to conflict-torn areas, but in a globalised world it would be naive to believe that this measure alone could determine the evolution of a crisis in the short and medium term. Nevertheless, arms embargoes can limit the amount of weapons in certain areas and have a powerful signalling effect on audiences.

The third most common sets of sanctions are financial restrictions. These can take several forms, such as the seizing of bank accounts, prohibition of financial transactions and denying loans to central banks of targeted countries. Asserting the expected impact of financial restrictions should be based on a carefully planned analysis deriving from the form of sanction and its relative importance in the overall context. For instance, the freezing of assets may not have a significant impact if only a few and secondary targets are involved, but if the list of individuals and entities is long and encompasses high-profile individuals, then the expectations should be radically different. Financial sanctions can also have a very wide impact on entire sectors and societies according to how they are designed. The freezing of the accounts of the ports of Abjian and San Pedro led to a halt of import/export activities in Cote d'Ivoire with grave consequences for the economy of the country. Attention should also be given to whether the restriction causes economic harm or represents the denial of future opportunities.

This brings up an element for the analysis that is relevant for both financial restrictions and economic boycotts. The type of 'bite' is qualitatively different if the economic loss reduces the current standard of living or undermines its possible improvement over time. In the former scenario, targets have to absorb an economic shock, but in the latter, targets simply continue their lives as normal. Financial sanctions, especially if imposed in coordination with other foreign policy instruments, can be used to change the costs/benefits calculation of targets, but they can also be used to deny goods and to constrain political actors.

Finally, commodity and service boycotts, which represent the rarest form of sanctioning practised by the EU, are similar to financial sanctions in their expected impact. They refer to the prohibition of trade in specific goods, such as timber, oil, diamonds etc, and services, such as insurance coverage for shipments. The degree of impact can be considerable, especially when the target relies on the sender for a specific type of technology, and the absence of specific commodities or services can fatally hamper the economic projects of targets. Denying commodities can also impose a toll in return for the alleviation of which a certain degree of compliance can be extracted, and a micromanaged strategy can also aim at altering the domestic distribution of power among actors in order to favour one constituency over others. It is common for an authoritarian regime to enjoy the support of a strong group that exploits one particular market, so affecting that market can have an impact on the calculations of the elite and on the groups that support the ruling power.

The four different types of sanctions are hardly ever mentioned when the media reports on the imposition or the lifting of sanctions. Or worse, no distinction is made between them. In fact, the analysis of why sanctions are imposed, together with the understanding of their purpose, is crucial to discuss how sanctions work and how we can create a new narrative for success.

Guidelines for assessing sanctions

The question of success remains yet to be answered and enhancing the understanding of how sanctions work is a leap forward in arriving at a definition of whether they are successful or not. Assuming that sanctions can coerce, constrain and signal, a new narrative should go beyond the mere assessment of the costs imposed on targets by considering also whether targets can comply with senders' demands. Nevertheless, this is not enough. Only determining the extent to which sanctions meet their political objectives may not be sufficient for the assessment. Three further steps are required when one looks at sanctions.

The first one is to *determine the form of sanctions*. Targeted or sectoral sanctions, arms embargoes or financial restrictions have different effects that should be duly considered in any assessment. The form of sanctions allows for the formulation of realistic expectations of what sanctions can achieve and how.

The second element is focusing on *how sanctions work*. The previous paragraph has elaborated a typology to identify and classify the different purposes of sanctions so it can be established whether they intend to coerce, to constrain and to signal. Efforts should be made to identify the primary purpose of sanctions, but attention should also be directed to what extent the other two logics are in place and in relation to what targets. Whether a material impact is expected should be known when sanctions are imposed, but the evaluation of success should also include an awareness of the unintended consequences of sanctions.

Finally, to complete the assessment, the question 'what would have happened had sanctions not been imposed?' should be asked. This refers to the so-called *comparative utility of sanctions.* This counterfactual exercise is important in order to enhance the assessment as it needs to be determined whether sanctions were the best option available to senders. The assessment of any foreign policy action is made after an evaluation of the options available to policy-makers and this is a procedure that should be applied also to the study of sanctions. In other words, did sanctions bring about effects that could not have been generated by other foreign policy tools and at a lower cost?

The purpose of this procedure is only to identify a few key aspects according to which the success of sanctions should be measured. In fact, this research does not intend to provide a definitive answer to the question of whether sanctions work, which seems to be a quest made difficult by the lack of available data and by biased judgments on crisis disputes. This is not, however, the occasion to carry out a full review of the case studies or an in-depth overview of the signals that could be sent out to audiences and targets. Instead, the objective of this study is to shift the focus of the discussion to how sanctions work and to create a new narrative in regard to how they should be conceptualised. This three-step approach is part of this effort.

How do EU sanctions work?

This *Chaillot Paper* started off by highlighting how, despite the controversy surrounding international sanctions, the EU has resorted to sanctions numerous times in the past two decades. The analysis so far has stressed the need for a new sanctions narrative that would contribute to make sense of this puzzle. This section intends to look at a few concrete instances of the application of sanctions in order to show how a narrative built on the logic of sanctions, that relies on the three-step evaluation process outlined in the previous chapter, can contribute to increase awareness about how sanctions work. This is not supposed to be a thorough assessment of any of the four country case studies, but rather it intends to show that sanctions operate in different contexts, have different objectives and, especially, different logics that should be considered in any evaluation. The cases are selected because of their public relevance, but also because the analysis with new lenses confirms the need for a new narrative on sanctions that would enhance our understanding of a policy device that is used very often by policy-makers and practitioners.

Iran

The case of Iran exemplifies many of the problems that exist in assessing the effectiveness of sanctions: multiple senders, resilience of targets, conflict of interests among different key players (i.e. the US, the EU, China and Russia) and incompatibility of objectives between senders and targets. Given this context, the decision of the EU to impose additional sanctions on top of those decided by the Security Council may seem unwise, but if one looks at the different players of the game, including the audiences and how sanctions can influence them, then the assessment may lead to some interesting conclusions.

Iran concealed its plans to enrich uranium and was accused by the international community of violating the Non-Proliferation Treaty (NPT). The response of the International Atomic Energy Agency (IAEA) and the international community was to convince Teheran to reveal its plans and to follow the principles enshrined in the NPT that would allow Iran to process uranium for peaceful purposes. Despite several offers, including that of building a nuclear power plant in Russian territory to replace the site in Bushehr, the United Nations imposed sanctions in December

2006 when it became clear that Teheran did not intend to cooperate with the IAEA. The Council of the European Union received the sanctions imposed by the UN – travel ban, arms embargo, freeze of assets and commodity boycotts – but decided to interpret extensively the guidelines indicated by Resolution 1737 approved by the Security Council and extended the freeze of assets and the travel ban to 23 new targets. The EU list was associated to the UN's and extended several times in 2008 and 2009 to reach 79 targets with Council decision 413 of June 2010 [Council Decision 413 of 26 July 2010, 2010/413/CFSP].

Iran's lack of cooperation, which was also confirmed by the discovery of new nuclear power plants, met with a strong response from the Security Council, which tightened the screw in 2008 and 2010. The Council followed suit and went regularly beyond the UN mandate by extending the list of targets, by compiling a long and detailed list of technologies that were not supposed to be sold to Iran due to the risk of them being used to support either the nuclear or the missile programme, and by imposing a number of financial restrictions on Iranian financial institutions and an embargo on oil and gas in 2012 [Council Decision 35 of 23 January 2012, 2012/35/CFSP].

This last round of sanctions was particularly harmful to the Iranian economy. At the current point in time, the EU has indicated about 350 targets beyond the UN listing, including the Islamic Revolutionary Guard Corps (IRGC) and the Islamic Republic of Iran Shipping Lines (IRISL). Additionally, following the violent repression of the 2010/2011 protests in Iran, the Council decided to impose a travel ban and a freeze of assets with Council decision 235 of 11 April 2011 on individuals responsible for the repression and a ban on export of equipment that could have been used by the government to that end. The October 2011 listing indicated 59 individuals [Council Implementing Decision 670 of 10 October 2011, 2011/670/CFSP].

This broad picture confirms that sanctions were used with different intents at the different stages of the crisis. The first element to be noted is that a coercive dominant aspect has been replaced over time by a constraining one. The ban on technologies, the prohibition and limits on financial transactions and the oil embargo were added over time and indicate the intention to cripple the regime's capacity to continue with the enrichment of uranium. The Iranians have shown resilience towards this objective and it is unlikely that they would voluntarily abandon their ambitions. This is the rationale that justifies the screw-tightening approach undertaken by the international community and, in particular, by the West. The constraining aspect is now the dominant one, but not the only one.

Western powers have two sets of audiences to deal with when it comes to solving the issue of non-proliferation. The first one is Israel with its fears linked to the threatening presence of a nuclear-capable Iran. Against a background of rumours linked to possible military strikes carried out by Israel to attack the nuclear sites

in Iran,[18] which could spark a war with unpredictable consequences in the region, the US and the EU have decided to send a strong signal towards the resolution of the problem. Secondly, the credibility of the NPT is at stake and inaction from the international community in the face of an open attempt to defy it may undermine the non-proliferation regime and create the conditions for others to embark on similar policies, triggering a new arms race. Even if Iran is turning out to be a resilient target, the imposition of sanctions has contributed to reinforcing the credibility of the NPT and to the establishment of standards that every country is supposed to meet in order to avoid the consequences suffered by Teheran.

Finally, if sanctions are not working, it is unclear why lifting them should convince Teheran to cooperate with the international community given that Iran's plan to proceed with uranium enrichment was commenced when sanctions were not in place. Without considering options linked to other foreign policy tools, such as the use of force, lifting sanctions does not appear to be a better option than keeping them in place.

Burma/Myanmar

The EU imposed sanctions for the first time on Burma/Myanmar in 1991 with a declaration of the President condemning the refusal of the State Peace and Development Council (SPDC) to accept the results of the elections held in 1990. The EU maintained the sanctions until 2012, when an unexpected 'sea-change' led the military-backed government that won the elections to turn power over to civilians. The previous leadership had not showed signs of yielding to the requests of the EU, but sanctions should not be deemed unsuccessful because of that.

The first aspect to be considered is that the 21 year-sanction regime is characterised by at least three different episodes, and in each of them the restrictive measures emphasised different logics. Initially, the measures seemed to aim at pointing out that the EU was not in agreement with the policy of the government. The Council was well aware of the little material impact that sanctions had, but it nevertheless kept them in place because of the priority attached to signalling. Over time, sanctions became the main policy instrument to address human rights violations and were further extended to include a long list of individuals and a number of economic products, thus increasing the constraining aspect and undermining the power of the junta. Finally, sanctions were used to sustain the consolidation process by limiting the misbehaviour of potential spoilers.

Following the 1990 victory of the National League for Democracy (NLD), the refusal to relinquish power to the NLD and the arrest of its leader Aung San Suu Kyi, the EU imposed sanctions with a declaration of the President in 1991 halting non-humanitarian aid, implementing an arms embargo and withdrawing the

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18. Matthew Kroenig, 'Time to Attack Iran. Why a Strike Is the Least Bad Option', *Foreign Affairs*, vol. 91, no. 1, 2012.

military staff of embassies. The first common position was adopted in 1996 after the honorary consul of several European nations, Mr. James Leander Nichols, died during detention after having been charged with the unauthorised use of fax machines.[19] On that occasion, the EU imposed a travel ban on the individuals responsible for the death of the consul, on the authorities for hampering the transition to democracy of the country, and on those supporting the regime. Common Position 635 of 1996 also suspended bilateral contacts with Burma/Myanmar. As of 2000, the assets of the members of the military junta and their supporters were frozen and the list encompassed 386 individuals and entities in early 2007 [Common Position 248 of 23 April 2007, 2007/248/CFSP].

The second episode begins with the imposition of an economic boycott in 2007 when the Council decided to address the repression of peaceful rallies with a ban on goods from which the leaders of the junta and its supporters allegedly benefited (e.g. timber, gold, tin, iron, copper, etc) [Council Common Position 750 of 19 November 2007, 2007/750/CFSP]. From that moment, the constraining aspect of the restrictive measures became dominant, as the military junta was asked to relinquish power by the EU and clearly it would not be realistic to expect this outcome to happen because of EU sanctions. However, the internal political environment changed after the 2010 elections when the Union Solidarity Development Party (USDP) took steps to return the power to the civilian parties and embarked on liberal reforms that opened up the economy.[20]

The EU welcomed this unexpected development and began to lift sanctions gradually. The objective was to accompany the transition process by delisting a number of individuals and entities down from 1854 targets reached in 2010 [Council Decision 232 of 26 April 2010, 2010/232/CFSP]. The 2012 election of Aung San SuuKyi led to the suspension of all sanctions with the exception of the arms embargo. The US also followed suit and the West resumed trade, or rather, began to trade with Burma/Myanmar.

Any evaluation of sanctions must take into account the different phases or 'episodes' in the sanctions process and the various logics underpinning the different phases. Initially, the EU attempted to create an impediment to the functioning of the government in Rangoon, but the strategy was mainly based on the restrictive measures, with limited efforts made to favour the transition through other means. It appears that sanctions kept economic relations frozen, but the political dimension sent signals to the military junta, as well as to human rights groups that supported action in Burma/Myanmar. If sanctions were intended to change the behaviour of targets according to the degree of direct material impact, then the first fifteen years

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19. Morten B. Pedersen, *Promoting Human Rights in Burma. A Critique of Western Sanctions Policy* (Plymouth: Rowman & Littlefield Publisher, 2008).

20. International Crisis Group, 'The Myanmar Elections', *Asia Briefing* no.105, International Crisis Group, Brussels, 27 May 2010.

of EU sanctions on Burma would be difficult to explain. While the imposition of restrictive measures was not followed by the immediate creation of democratic institutions in Burma/Myanmar, it is highly questionable that lifting them would have solved the problem.

First, lifting the sanctions did not receive full support from the Council, and second, it is unclear why the military junta would have been more willing to discuss its internal policies with the EU had sanctions not been imposed. In fact, it would have been more likely to see even richer generals ruling the country with little spillover to society at large and, especially, limited possibilities for the people to rise against the regime. The second phase of sanctions did play a more invasive role and restricted the economic benefits that certain actors enjoyed by trading with the EU. It could be argued that sanctions played a key role in paving the way for the opening up that occurred after the 2010 elections. The ruling class, after twenty years of isolation, may have realised that they would be in a better position by opening the country to foreign investments and trade. The final phase merely accompanied the process whereby the sanctions constituted a tool in the hands of the EU to oversee and sustain the transition from a closer perspective.

Zimbabwe

The EU imposed restrictive measures in Zimbabwe after its 2002 rigged elections. The ruling elite in Zimbabwe supporting President Robert Mugabe had been harshly criticised for jeopardising years of economic development and for perpetuating poor human rights practices. Reacting to this scenario, several political actors, including the EU, decided to intervene in order to favour the establishment of a more democratic system. Among the several policy initiatives launched by Brussels, a number of restrictive measures were adopted to oppose the brutality of the regime. In the different episodes of sanctions, the logic was to pave the way for the emergence of an opposition group to replace the current leadership of the Zimbabwe African National Union-Patriotic Front (ZANU-PF). Especially after a power-sharing agreement reached in 2009, sanctions aimed at constraining Mugabe's power to continue playing a key role in the ruling of the country.

This sanctions case should be split into two main episodes. The first one began in 2002 with the imposition of a series of measures to weaken Mugabe's leadership by freezing the accounts of his closest associates, family members and supporters and prohibiting them from travelling in the EU.[21] The list included only 20 individuals in its initial version with Common Position 145, but it was constantly updated and extended to over 240 targets (203 individuals and 40 companies) with Common Position 68 [Council Common Position 68 of 26 January 2009, 2009/68/CFSP].

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21. Mikael Eriksson, 'Targeting the Leadership of Zimbabwe: A Path to Democracy and Normalization?', Department of Peace and Conflict Research, Uppsala University, Uppsala, 2007.

After five years of sanctions and economic indicators showing a collapsing economy, the 2008 elections forced Mugabe's party to accept the presence in government of the opposition party led by Morgan Tsvangirai, which was closely supported by the EU and the international community.[22]

After a few months of negotiations, a power-sharing agreement was reached and, shortly thereafter, the restrictive measures changed their purpose with the first delistings in early 2010 [Council Decision 92 of 15 February 2010, 2010/92/CFSP]. From constraining the activity of the government, the EU began to adjust sanctions to consolidate the transitional process, to favour cooperation among the parties and to encourage the approval of a new constitution. The purpose of these latter sanctions was to coerce the listed actors into aligning their behaviour with the new ruling elite, with the specific exceptions of Mugabe and his family members, whose participation in ruling Zimbabwe is strongly opposed by the EU and its member states. The recent renewal of the measures confirmed this trend. On the one hand, the number of targets decreased to 101 (91 individuals and 10 entities), and on the other, sanctions were lifted in return for the successful implementation of the constitutional referendum scheduled for March 2013.[23]

The behavioural change approach leaves little hope for a positive evaluation of EU restrictive measures on Zimbabwe. Obviously, saying that sanctions were bad does not explain why the EU did not lift them for ten years and simply invoking the argument that it is difficult to lift sanctions once they are imposed does not suffice. The explicit overall policy objective was to turn Robert Mugabe into a democratic ruler who could bring Zimbabwe back to economic prosperity. Mugabe did not transform into a promoter of democracy, but the expectations were less ambitious than that and, to this extent, sanctions should be evaluated rather differently. During the first episode, sanctions constrained the activity of the government of Zimbabwe in perpetuating anti-democratic practices. To the extent that the EU never interrupted humanitarian aid and trade with the African country, sanctions created a number of problems for the ruling elite that were not in place before. The coercive potential of sanctions was not fully exploited, for instance by envisioning a political solution wherein Mugabe would have remained in power, and the signal was clear insofar as the EU was committed to support the democratisation process and to favour a regime change.

The alternatives were to impose heavier sanctions or not to resort to sanctions at all. The former would have had far greater humanitarian consequences, aggravating an already dramatic situation, and the removal of sanctions would have signalled lack of interest of the European Union towards democracy and human rights violations. Sanctions were a political step to signal involvement and commitment, aside from thwarting the path to Mugabe's rule. The second episode shows that sanctions can be used to create incentives, to affect the costs/benefits calculations of targets – seducing former Mugabe supporters to jump on the bandwagon of

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22. International Crisis Group, 'Zimbabwe: Political and Security Challenges to the Transition', *Africa Briefing* no. 70, Brussels, 3 March 2010.

23. Adrian Croft, 'EU Suspends Most Zimbabwe Sanctions after Referendum', *Reuters*, 25 March 2013.

the power-sharing agreement and to sustain the consolidation process with the implicit promise that they will play a role in the future of the country and/or that their companies are more likely to prosper under the future administration rather than under Mugabe.

Despite the long-term timeframe, this process is slowly taking place, but sanctions can have only a limited effect on certain dynamics of domestic politics in Zimbabwe. They can identify the actors that are not likely to participate in any process (i.e. Mugabe and his closest associates) and create an incentive for those who can 'switch sides'. Sanctions are to be seen under this perspective, and their opportunity costs may also increase if one looks at their alternatives. For instance, premature lifting would have caused political problems to senders *vis-à-vis* internal and international audiences, while the extension of sanctions would have not facilitated the transition process, but would rather have strengthened Mugabe's call for Zimbabwe's independence from foreign interventionism. Seen in this light, the analysis of the EU sanctioning policy in Zimbabwe appears more useful than the blunt attribution of a label of ineffectiveness.

Countries in the MENA region

The recent 'Arab Spring' uprisings have confirmed the need to look at sanctions from a different perspective. The behavioural change logic of sanctions explains neither why sanctions were imposed in Tunisia and Egypt nor in Libya and Syria. Instead, the coercing-constraining-signalling approach shows how sanctions work to undermine the legitimacy of despotic rulers and to consolidate the transition process by constraining the behaviour of former regime members.

The wave of protests in the Arab world commenced when Mohamed Bouazizi set himself on fire in December 2010. Harassed by local policemen, the youngster's suicide triggered an unstoppable popular uprising that led to the departure of the long-term president Zine El Abidine Ben Ali on 14 January 2011.[24] On 16 January, a provisional government was installed by the military and Prime Minister Mohammed Ghannouchi assumed the leadership of the country. From that moment onwards, a wave of revolts spread to Egypt, leading to the deposition of Hosni Mubarak in Cairo the following month.[25]

Sanctions were imposed right after the collapse of the domestic regimes and, in line with a behavioural change approach, induced targets to do something that they would not have done otherwise. In fact, the sanctions imposed did not explicitly ask their targets to do anything, but the freezing of assets and the travel bans were imposed on a number of individuals only to recover the funds

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24. International Crisis Group, 'Popular Protests in North Africa and the Middle East (IV): Tunisia's Way', *Middle East/North Africa Report* no.106, ICG, Brussels, 28 April 2011.

25. International Crisis Group, 'Popular Protest in North Africa and the Middle East (I): Egypt Victorious?', *Middle East/North Africa Report* no.101, ICG, Brussels, 24 February 2011.

that the targets had been accused of stealing from their own countries. The ban concerned 48 individuals in Tunisia and 19 in Egypt, in both cases involving former presidents, their family members and closest associates. In both decisions, the Council stated that:

In this context, restrictive measures should be imposed against persons having been identified as responsible for misappropriation of [...] State funds and who are thus depriving the [...] people of the benefits of the sustainable development of their economy and society and undermining the development of democracy in the country. [Council Decision 72 of 31 January 2011, 2011/72/CFSP; and Council Decision 172 of 21 March 2011, 2011/172/CFSP]

The assets freeze was based on a constraining logic with the former leaders, which also contributed to legitimise the new rulers. The function of sanctions in inducing a change in behaviour could not have been part of the equation as no behavioural change was requested. The expectations of this ban are limited to facilitating and assisting, for instance, the Egyptian authorities to seize the resources that the Mubarak family and their supporters appropriated during their years in power. There is nothing that targets could do to have the funds released, so the logic of sanctions is to constrain the life of targets without attempting to ask them to do anything in particular, which would be the essence of coercion. The measurement of effectiveness should therefore be based not on whether Mubarak and Ben Ali return their assets, but, for instance, on the amount of resources frozen and on the constraint placed on the former leaders from actively using them to undermine the transitional process in their home country.

The cases of Libya and Syria are more complicated. While Tunisia and Egypt saw the EU only trying to assist local authorities to consolidate a transition from years of autocratic rule, in Libya and Syria the EU restrictive measures contribute to undermine the capabilities of the current regime to stay in power. The use of sanctions in Libya can already be divided into two episodes. The first was motivated by the desire to weaken Muammar Gaddafi and the second by the intent to sustain the transition towards a new regime.

In the first phase of the conflict in Libya, the EU imposed restrictive measures as part of a larger strategy aimed at isolating Gaddafi and changing the political leadership in Libya. In February 2011, the Council added 10 individuals to the 16 included in the blacklist of the Security Council with Resolution 1970 [Resolution 1970 of 26 February 2011, S/RES/1970]. The beginning of the second episode is marked by the defeat of Gaddafi, which eventually occurred on 11 October, already in sight, and started with the EU deciding to maintain the ban in force to assist the consolidation process in Libya by listing 39 targets (down from 69 in August 2011) that could have acted to undermine the transition towards the establishment of democratic institutions in the country [Council Decision 625 of

22 September 2011, 2011/625/CFSP]. Once again, the success of sanctions can be assessed only if considering how sanctions are intended to influence the course of events, namely by preventing certain targets either from seizing national funds or acting to undermine the new authority.

The Syrian case confirms the utility of the three purposes via the dynamic of the sanctions case. After an initial threat phase, the EU resorted to coercive measures to persuade Assad into negotiating with the rebels and the international community. The EU imposed a travel ban on a number of individuals, but Assad was not targeted in the first round (unlike Gaddafi, Ben Ali and Mubarak) [Council Decision 273 of 9 May 2011, 2011/273/CFSP]. After the call for cooperation fell on deaf years, the EU extended the list to include Assad and his family in order to make their lives more difficult and to favour a change of regime in Syria [Council Implementing Decision 302 of 23 May 2011, 2011/302/CFSP]. This is the point of no return for sanctions as it becomes highly unlikely that Assad will comply with the demands of the EU. This demonstrates the constraining logic of sanctions, which inspired the imposition of the US/EU coordinated oil embargo on Syria in the summer of 2011 [Council Decision 522 of 2 September 2011, 2011/522/CFSP]. Success is not determined by whether Assad remains in power, but rather the effectiveness of sanctions is borne out by the degree of constraint imposed on Assad and his regime.

In any of these cases, the critical review of sanctions is good practice, but the call for lifting should be accompanied by a proposal of what should be done in their place. The alternatives to sanctions do not appear to guarantee better results at lower costs. In the absence of sanctions, Assad may have had a greater incentive to limit the use of force to preserve his legitimacy in the eyes of the international community, but in fact he began to use violence when sanctions were not in place. Moreover, their lifting at this point of the crisis would serve to legitimise Assad's behaviour rather than condemn it.

In each of the abovementioned cases the signalling dimension is of utmost importance. The popular uprisings in Tunisia, Egypt, Libya and Syria were encouraged by the West and both the EU and the US felt the obligation to support the rise of the anti-regime movements. Not acting would have sent a very negative signal to their internal audiences and to the international community, undermining the importance of democratic values and the importance of democratic institutions in the international system.

Towards a new narrative

This study has offered a new narrative to analyse and understand the adoption of restrictive measures by the European Union. The total of 27 different sanctions regimes adopted after the end of the Cold War cannot be understood if sanctions are simply seen as foreign policy tools used to change the behaviour of targets by imposing an economic cost on them (the 'pain-gain' equation). Instead, EU sanctions should be seen as coercive, constraining and signalling devices in foreign policy. This perspective contributes to a new narrative on sanctions that clarifies why they are imposed and how we should think about their effectiveness. This study, however, is not meant to be a thorough evaluation of the effectiveness of EU sanctions or an in-depth reconstruction of the decision-making process that has led to the imposition of sanctions. Instead, its goal is to help lay the foundations for a more pragmatic understanding of how sanctions work.

This paper has endeavoured to look at sanctions through a new prism and its conclusions contrast with the frequently negative perception that surrounds the effectiveness of sanctions. The mainstream approach overestimates both the importance of the material costs that sanctions impose on their targets and the behavioural change indicator of success. Instead, a new narrative should attempt to contextualise the restrictive measures imposed by the EU and to look at how they influence their targets, which has been defined as the purpose/logic of sanctions. Accordingly, sanctions can be successful even when targets do not change their behaviour, but, as an exercise of power, restrictive measures can also do well in constraining and signalling targets in the international system.

The analyses of the restrictive measures imposed on Iran, Zimbabwe, Burma/Myanmar and on countries in the MENA region confirm the utility of this perspective. While conventional wisdom on sanctions would find little evidence for success, the alternative narrative based on the three-step evaluation procedure demonstrates that sanctions could be the lesser evil in place besides performing a limited role in a complex foreign policy engagement strategy where they are only a small component. The following table presents the three purposes in relation to the case studies.

Table 3 – Sanctions classification according to purpose*			
		Feasibility	
		High	*Low*
Direct Material Impact	*High*	Coercing (Iran I, Syria I)	Constraining (Egypt, Libya and Syria II)
	Low	Signalling (Burma/Myanmar)	

* The number 'I' or 'II' next to the name of the sanctions case refers to episodes I and II identified in the previous chapter

The three purposes may be at play simultaneously when sanctions are imposed and the three levels should not be disregarded in any analysis. For instance, when coercion is not dominant, then signalling could be optimally achieved by sanctions. The constraining element could also be central when sanctions are imposed to oust political actors from power who would, quite understandably, try to resist and to oppose that change. Additionally, the alternatives to sanctions may be worse than the disease that they fight since not imposing measures on a country such as Iran could precipitate the crisis into much worse case scenarios. The four cases were selected because they have been the focus of much public and political attention, but also because they offered the opportunity to highlight certain aspects of the new narrative based on the purposes rather than on the behavioural change or the objectives of sanctions.

Challenges and opportunities for EU sanctions

A new narrative was needed to enhance the understanding of the process of imposing sanctions, but it also allows us to identify a number of issues that weaken the effectiveness of sanctions and which cannot be disregarded. Especially when sanctions become increasingly more targeted on individuals and specific products, legal challenges and implementation problems can seriously undermine the effectiveness of sanctions and, sometimes, also be counterproductive.

One natural consequence of imposing targeted sanctions is that targeted individuals will claim rights granted to them by domestic legal systems. The EU is no exception to this and this trend was set in motion when individuals placed on the terrorist blacklist started to appeal to the Court of First Instance (the General Court following the entry into force of the Lisbon Treaty) and to the Court of Justice claiming that their rights of due process, fair trial and effective remedy had been violated. The Kadi case lodged in 2005 and concluded in 2008 was the first of many judgements in which the Court found that the EU was in violation of the Treaty, even if the Council was simply implementing a UN resolution. Other

delistings followed, notably those of the son of Tay Za in March 2012, who was included in the Burma/Myanmar listing, and those of the Iranian Banks Saderat and Mellat in early 2013. There are dozens of pending cases under consideration (from Côte d'Ivoire, Iran and Syria above all), and although many of them could end up confirming the decision of the Council, fear of the legal challenges affects the EU's capacity and its degree of freedom.

The result is that the debate has shifted from the political opportunities of imposing sanctions, to what is legally allowed and how targets can appeal to the Court of Justice against decisions that may violate rights recognised by the European Union. The Council has become increasingly nervous when sanctions are discussed, and member states are afraid that the Court may strike down their decisions, so the consequence is that the Council may decide to resort to sanctions on fewer occasions for fear of negative reviews from the Court of Justice.

The second challenge is that the more specific sanctions become, the easier it is to evade them. Domestic societies have a number of automatic sanctions that can be imposed to punish certain behaviours, such as tickets for parking in a tow-away zone or legal penalties for evading taxes, but violations still occur all the time. If circumvention and evasion episodes happen in a context of a fully functional institutional capacity designed to combat crime and to monitor the implementation of laws, it would be naïve to think that targets will not find multiple methods to avoid the effects of very specific measures in a context in which the institutional oversight is very weak. Measures like the prohibition to trade in certain sectors and to conclude financial transactions with specific companies in third countries are extremely difficult to implement and to enforce. The circumvention of sanctions undermines the credibility of the senders, because the inability to implement and enforce the measures is often interpreted as signalling the lack of power of the sender.

Targeted sanctions become entangled in legal webs and can be evaded, but they also provide policy-makers with a potentially infinite range of diplomatic responses to crises. For instance, targeted sanctions allow policy-makers to punish undesired behaviour without alienating the civilian population. Targeted sanctions can assume several shapes and forms, so they grant senders the power to play carrot/stick games by lifting/imposing restrictive measures that follow the dynamics of crises, and they can be used in different contexts (i.e. democracy promotion, counter-terrorism, anti-proliferation, crisis management and peacebuilding). The requirement for such a strategy to be effective is to have a strong institutional capacity to implement sanctions and, by being aware of this fact, EU member states can enhance their cooperation in monitoring and information sharing over time.

What to improve in the EU's sanctioning policy

The adoption of the three purpose approach can yield important advantages in each sanctioning phase, from designing to monitoring and implementing. There should be three priorities for the immediate future: (i) pre-assessment phase, (ii) monitoring and (iii) policy coherence.

First, the Council needs to run thorough pre-assessment evaluations of the effects that sanctions are expected to have. This phase could be overseen by the security division of the EEAS, which could trigger a process of institutionalisation of memory, while the discussion on this point is conducted by the member states in the RELEX meeting or in any other relevant committee (the PSC for instance). This strategic thinking can easily improve the reputation of sanctions in foreign policy because the imposition of sanctions is often coupled with unclear expectations rather than a careful evaluation of what sanctions can actually cause. The focus on the logic of sanctions can narrow the gap between what the Council wants to achieve and what sanctions can achieve.

Second, EU institutions need to be empowered when it comes to implementing and monitoring EU restrictive measures. In fact, since the entry into force of the Lisbon Treaty, the Council has taken over the implementing powers that used to be exercised by the Commission, *de facto* returning powers from EU institutions to the member states. Instead, EU institutions (the Commission or the EEAS) should be given the capacity to investigate and monitor what happens after sanctions are decided by the Council. A proposal in this direction could be that of following the example of the Security Council and establishing panels of experts that would collect information on how states operate and how targets attempt to evade sanctions. This would create a positive spiral as member states would have an incentive to strengthen cooperation and knowledge would be institutionalised on evasion strategies and techniques.

Finally, sanctions cannot be disconnected from other foreign policy tools. In fact, sanctions should be devised and designed to *complement* other decisions linked to foreign assistance, use of force and diplomatic activity. Even with regard to this aspect, the EEAS should be the key institution in bringing together the knowledge available on each case and coordinate actively the strategy to be undertaken towards crises. Efforts have been made in this direction, but member states should increase their cooperation if sanctions are to be used in the future.

EU sanctions in the next decade

How the EU's sanctioning practices develop and evolve will determine what form of sanctions will be used in the next decade. According to this ongoing debate, there are two main scenarios for the future.

The first one is that the importance of sanctions will be substantially reduced. The growing legal challenges raised by the Court combined with frustration linked to the lack of capacity to implement EU decisions firmly and coherently across the EU territory may discourage the use of targeted sanctions in the future in favour of other foreign policy instruments, such as the use of diplomacy or force.

Nevertheless, at the moment refraining from imposing sanctions does not seem like a viable option, which makes it more likely that the Council could return to adopting broader forms of sanctions, such as sectoral measures and embargoes. Even if softened by a number of exceptions and exemptions that would aim at reducing unnecessary human suffering, sanctions would hit sectors instead of companies and individuals in order to relieve EU institutions from the burden of proof. In other words, sanctions would be considered as a purely political instrument and the responsibility for their effects would be politically, and not legally, assumed by the Council.

This second scenario is more likely to shape the future of sanctions. Given their endurance in the international system and the limited alternatives to their imposition, the best mix could emerge as a combination of targeted sanctions with wider sanctions, assisted by slightly improved EU capacities to administer sanctions regimes, both in terms of policy planning (by adopting the three purpose approach that would offer benchmarks for gauging success) and in terms of monitoring the measures. Whatever negative perceptions still persist regarding the use of sanctions, it does not change their actual strategic importance and the fact that they will still be needed in the future. Considering the increasing level of legalisation of the international system – covering a wide range of issues from countering international terrorism to money laundering – restrictive measures could be used less for policy-sensitive issues of crisis management and more for the fight against organised crime and cybersecurity. Targeted sanctions are in many ways akin to law-enforcement mechanisms and it would be appropriate to use them at the international level as well. The EU, as an emerging international security provider, should be ready to take on this challenge.

Annexes

List of CFSP restrictive measures

	Case
1.	EU/Afghanistan 1996–99
2.	EU/Belarus 1998–99
3.	EU/Belarus 2004–2007
4.	EU/Belarus 2007–2010
5.	EU/Belarus 2010–present
6.	EU/Bosnia and Herzegovina 2001–2006
7.	EU/Bosnia and Herzegovina 2011–present
8.	EU/Burma/Myanmar 1991–2007
9.	EU/Burma/Myanmar 2007–2011
10.	EU/Burma/Myanmar 2011–present
11.	EU/China 1989–2008
12.	EU/China 2008–present
13.	EU/Comoros 2008
14.	EU/Côte d'Ivoire 2010–2012
15.	EU/Côte d'Ivoire 2012–present
16.	EU/DRC 1993–2003
17.	EU/Egypt 2011–present
18.	EU/FRY 1996–98

19.	EU/FRY 1998–2000
20.	EU/FYROM 2001–2009
21.	EU/Guinea 2009–2011
22.	EU/Guinea 2011–present
23.	EU/Guinea-Bissau 2012–present
24.	EU/ICTY 2001–2011
25.	EU/Indonesia 1999–2000
26.	EU/Iran 2007–2010
27.	EU/Iran 2010–present
28.	EU/Libya 1999–2004
29.	EU/Libya 2011
30.	EU/Libya 2011–present
31.	EU/Milošević 2000–present
32.	EU/Nigeria 1993–98
33.	EU/Nigeria 1998–99
34.	EU/Sudan 1994–2004
35.	EU/Sudan 2004–2005
36.	EU/Syria 2011–present
37.	EU/Transnistria 2003–2010
38.	EU/Transnistria 2010–present
39.	EU/Tunisia 2011–present
40.	EU/US 1996–98
41.	EU/US 1998–present

42.	EU/Uzbekistan 2005–2009
43.	EU/Zimbabwe 2002–2009
44.	EU/Zimbabwe 2009–present
45.	EU/Terrorists 2003–present

- Note: 'present' refers to December 2012.

Abbreviations

ACP	African, Caribbean and Pacific Group of States
CFSP	Common Foreign and Security Policy
COREPER	Committee of Permanent Representatives
DRC	Democratic Republic of Congo
EEAS	European External Action Service
FRY	Federal Republic of Yugoslavia
IAEA	International Atomic Energy Agency
ICTY	International Criminal Tribunal for the former Yugoslavia
MENA	Middle East and North Africa
NLD	National League for Democracy
NPT	Non-Proliferation Treaty
PSC	Political and Security Committee
RELEX	Foreign Relations Counsellors Working Group
TEU	Treaty on European Union
TFEU	Treaty of the Functioning of the European Union
UN	United Nations