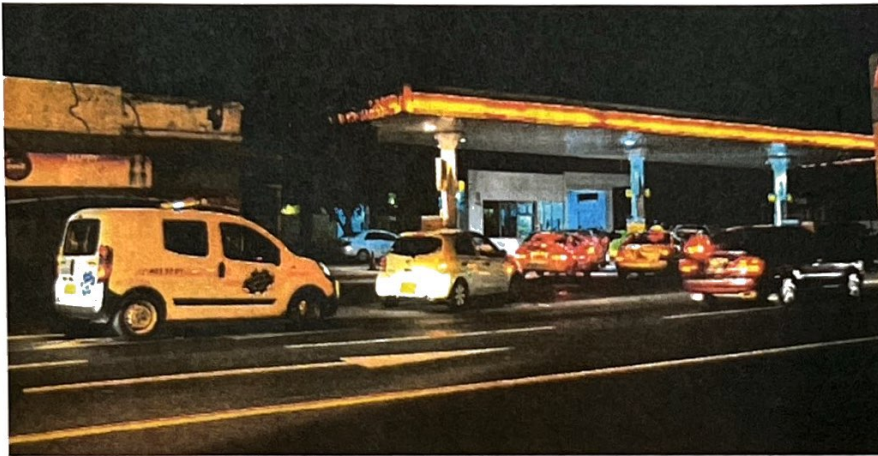


RUSSIA-UKRAINE CONFLICT

WHAT ARE SANCTIONS
AND WHY SHOULD WE CARE?

IN 2001, I remember waking up to sirens in the local radio announcing military action from the USA in Afghanistan in the search for Osama Bin Laden – a war that lasted 20 years and left the country under Taliban rule. Fast forward 21 years, last Tuesday 22 February, as I was watching a BBC news reporter live from Ukraine's capital, Kyiv, sirens blasted live on tv at 9am sharp Mauritian time, warning of military action from Russia. Having acquired over 15 years of experience in the oil and gas industry and as an ethics and compliance officer, I have been watching this Russia-Ukraine conflict from my professional lens. In this article, I will explain what sanctions are, how it will impact Mauritian businesses and why we should care.



We have already seen an adverse impact on fuel price in Mauritius: it is projected to increase, and gas prices are projected to increase too, with Germany suspending its pipeline project with Russia – a supply/demand hydrocarbons crisis will be felt on Mauritius.

► What are sanctions?

Sanctions and economic restrictions are designed to react to events and activities that threaten international peace and security. In effect, sanctions can be imposed on a government or country as a whole ("blanket sanctions"), a company or other type of organisation, an industry sector or on individuals. Essentially, every country is able to develop its own sanctions regime to decide who they want to punish as a reaction to a threat to their peace or security. There are a number of sanctioning authorities and the main or influential ones come from the United Nations, UK, EU and USA.

To illustrate, sanctions can be imposed on a government such as North Korea because of concerns about their nuclear proliferation activities, seen as a threat to other countries about how such weapons may be used. Therefore, by introducing blanket sanctions on North Korea, it limits their ability to trade with other countries, companies or individuals, thereby ensuring they do not have enough money to continue funding their nuclear weapons programme.

Sanctions are also designated on individuals (e.g. terrorists or senior government officials seen as hostile); on companies (e.g. known to be providing funding to terrorism or illegal activities); or it can be on an industry sector. Regarding the latter, sanctions were imposed on Russia's oil sector in 2014 following its annexation of the Crimea region in Ukraine as it was seen as a hostile act, resulting in Western companies being limited as to how they can do business with those connected with the Russian oil sector, thereby reducing Russia's oil industry revenue.

Furthermore, sanction programmes are often motivated by theme, e.g. human rights violations; or corruption – the UK introduced an anti-corruption sanctions regime in 2021 on parties considered as destabilising democracy or engaging in serious corruption (such as the Gupta brothers in South Africa).

► How could sanctions impact Mauritian businesses?

In Mauritius, our laws adopt sanctions imposed by the United Nations Security Council and there is a National Sanctions Se-

cretariat in place that publishes updates and guidelines with regards to sanctions compliance. The application of sanctions can manifest itself into financial asset freezes (such as bank accounts), travel bans or confiscation of real estate and other property. It is perhaps important to remember that sanctions compliance was one of the five strategic deficiencies found by FATF (Financial Action Task Force) which placed us under the so-called 'blacklist'.

There is no doubt that sanctions compliance is a complex area of law as it changes everyday. However, whilst Mauritian compliance officers should apply the domestic law, Mauritian financial services companies or other companies with international businesses should be alert to the changing landscape of sanctions imposed by foreign jurisdictions and assess how these may impact their businesses.

When sanctions are introduced via laws by foreign jurisdictions such as the UK, EU and USA, it has a global impact on businesses and trade activities performed by other jurisdictions, including Mauritius. This is simply because ma-

ny international businesses often have to comply with the sanctions laws of the countries of their business partners (such as suppliers, customers, subsidiaries, joint venture partners or affiliates) located in, or subject to the laws of, those foreign jurisdictions.

In addition, doing business in a foreign currency such as the US Dollar may give sanctions scope on a transaction if, for example, a payment was designated to a party on a sanctions list – dollar transactions are cleared in the USA, so a dollar clearing bank will apply the transaction freeze. The impact is then that a local business may not be able to import or export goods and may have to restructure transactions in a different currency, making business even more complicated. In the case of the sanctions programmes being imposed on Russian companies and individuals, sanctions apply to those parties irrespective of where they are located, i.e. they do not have to be in Russia for sanctions to take effect.

International companies are increasingly sensitive to sanctions compliance as breaches come with heavy penalties, including criminal penalties on individuals.

For example, US sanctions may impact a USA passport holder in Mauritius and cannot engage into any work, decision or execution of transactions that may fall within the scope of a US sanctions programme on Russia. Moreover, there is growing pressure on companies to avoid evading sanctions through restructuring for fear of reputation damage or boycott by customers.

► Impact on fuel, food and the local economy

Back in 2001, my local entourage did not seem alarmed, same for the Arab Spring events, war in Syria, and now too with the Russia-Ukraine conflict. These are events far from home, but make no mistake, our economy and cost of living will be impacted, not least because of the sanctions landscape that is changing everyday.

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Other impact reported concern the increase in the price of cars as Russia is a major producer of metals used in car manufacturing. There may also be an increased competition for food imports globally if supply of wheat and sunflower products from Russia and Ukraine is impacted.

Finally, with Mauritius having an important tourism market from Russia and real estate projects seeking investment from abroad, Russia's potential ban from the SWIFT payment network and worsening new sanctions may impact our economy. Brace, brace!

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