

# Sanctions history and key actors

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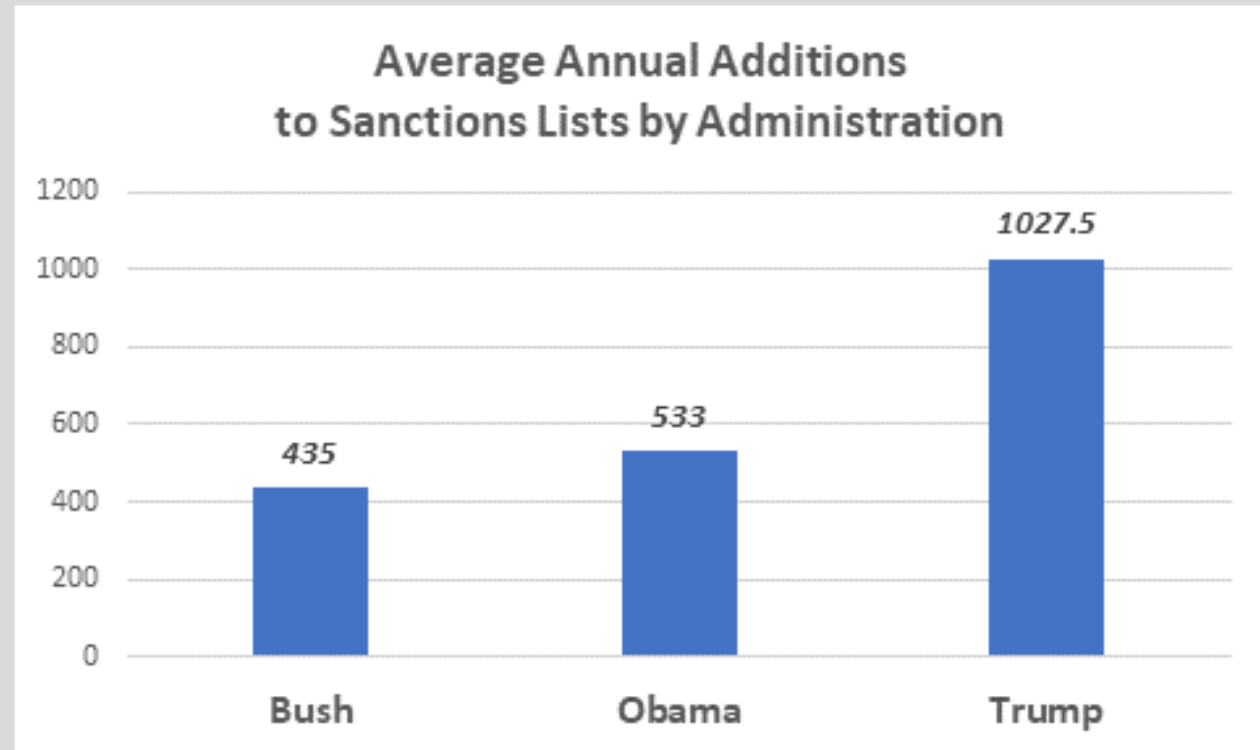
- Pre-cursors to modern sanctions
- Sanctions decade
- UN structures and practice
- US structures and practice
- EU structures and practice

# Departing debate

If you see this sign –  
it's your time to  
take over the  
conversation 😊

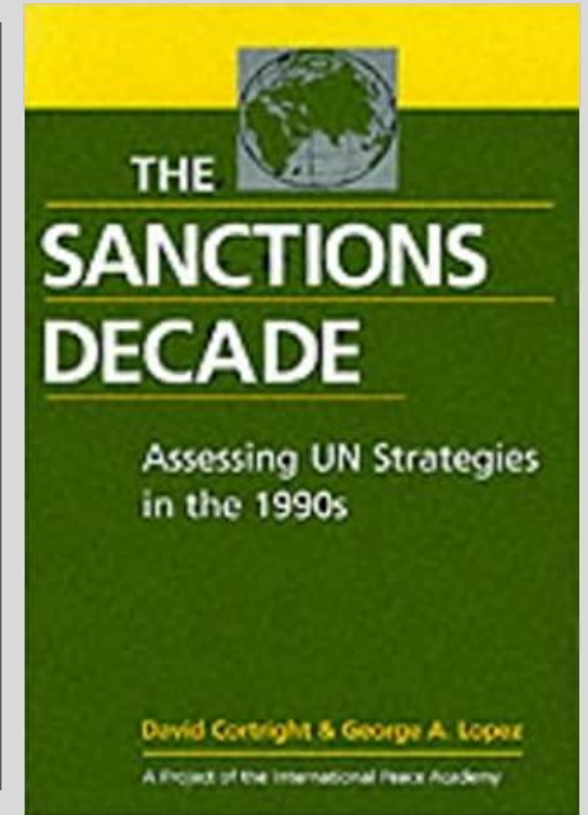
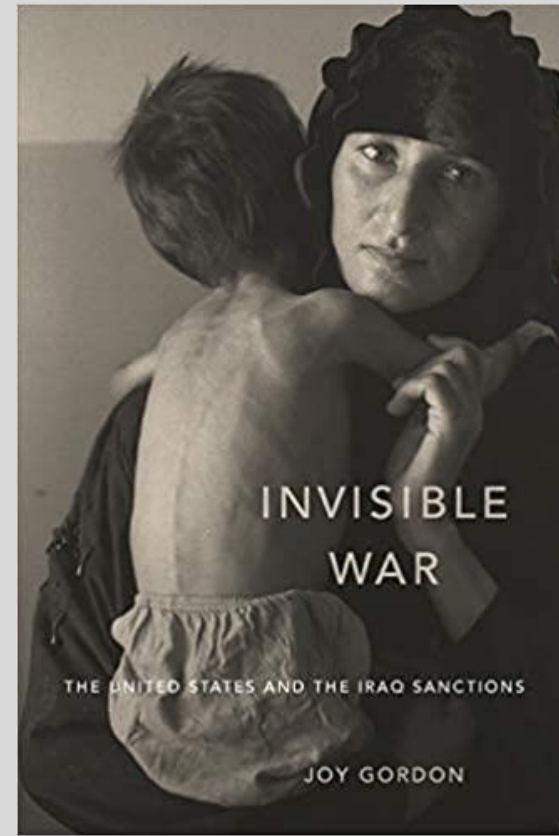
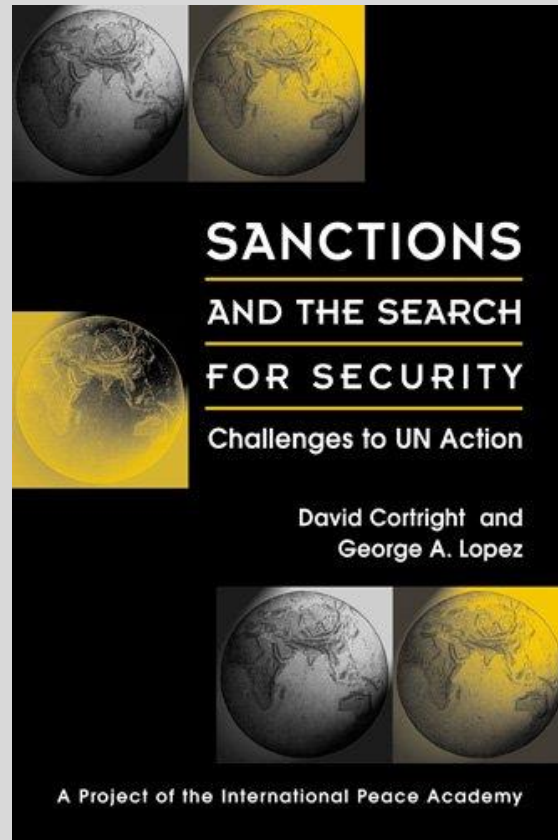
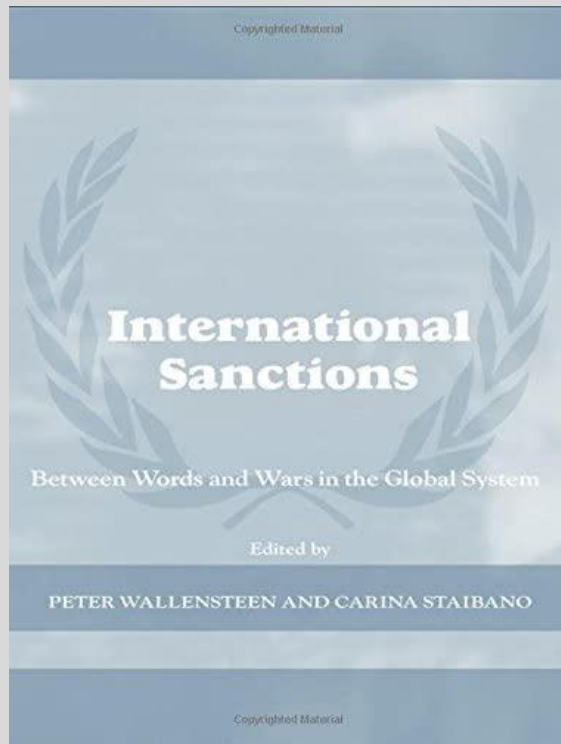


- What would you infer from this graph?
  - About the goals of sanctions
  - About the style/procedure of sanctions
  - About the character of sanction regimes
  - About the various sanction actors we cover

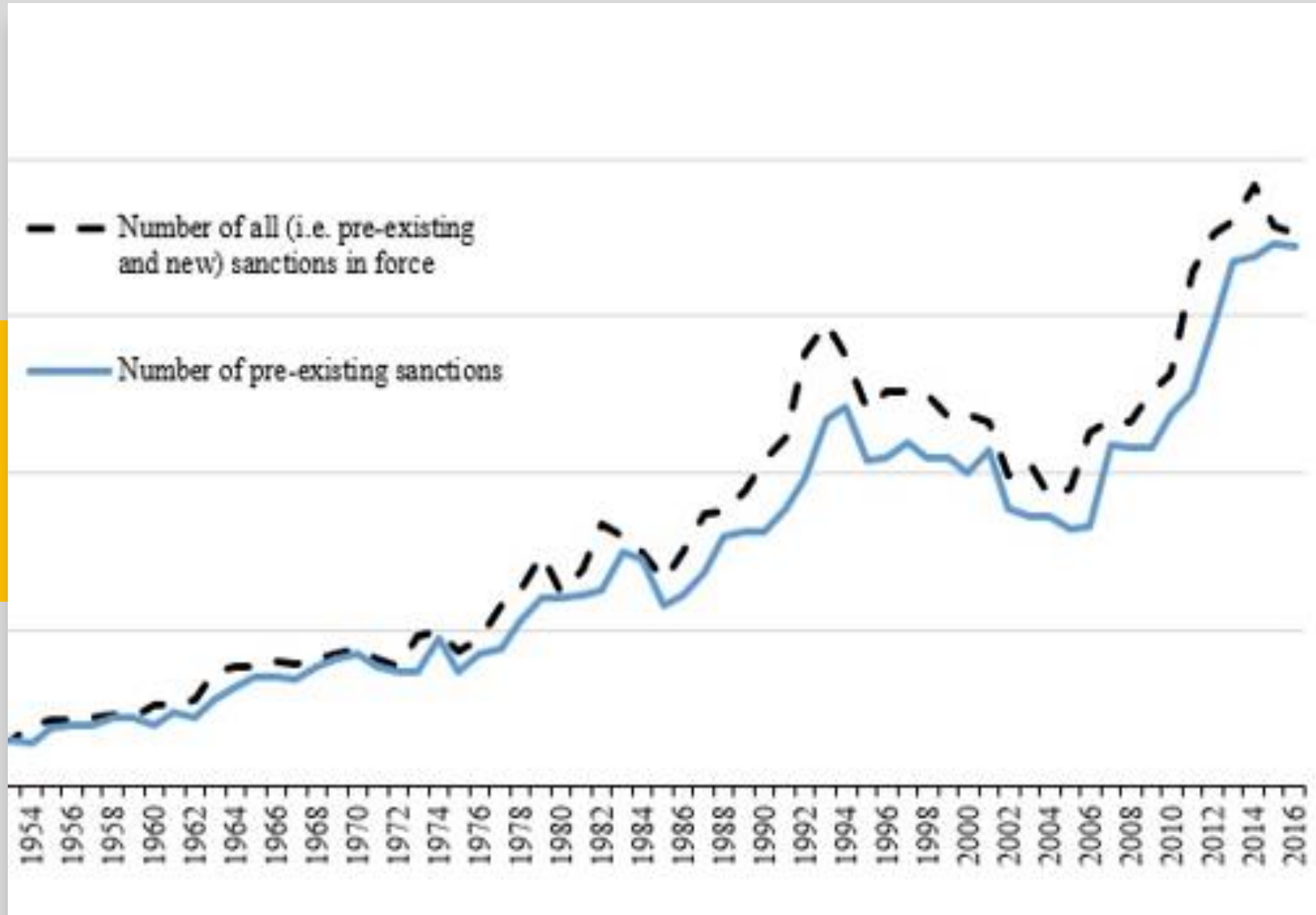


# Sanctions history as punitive and bargaining measures

- As Farral states *“precedents existed for most of the forms of coercion short of the use of force envisaged by Article 41”* (assigned chapter)
- Historical uses of blockades, tariff hikes, embargoes, citizen exclusion, fishing rights limitation, asset seizure (or indeed person seizure or detention)
- **The distinguishing feature is the use of sanctions as part of economic statecraft or warcraft rather than to uphold or safeguard agreements, standards, treaties, or norms**
- League of Nations sets first coordinated international peace-time precedent of norm-upholding sanctions imposition – Italy 1935-36



# Sanctions decade 1990-2000

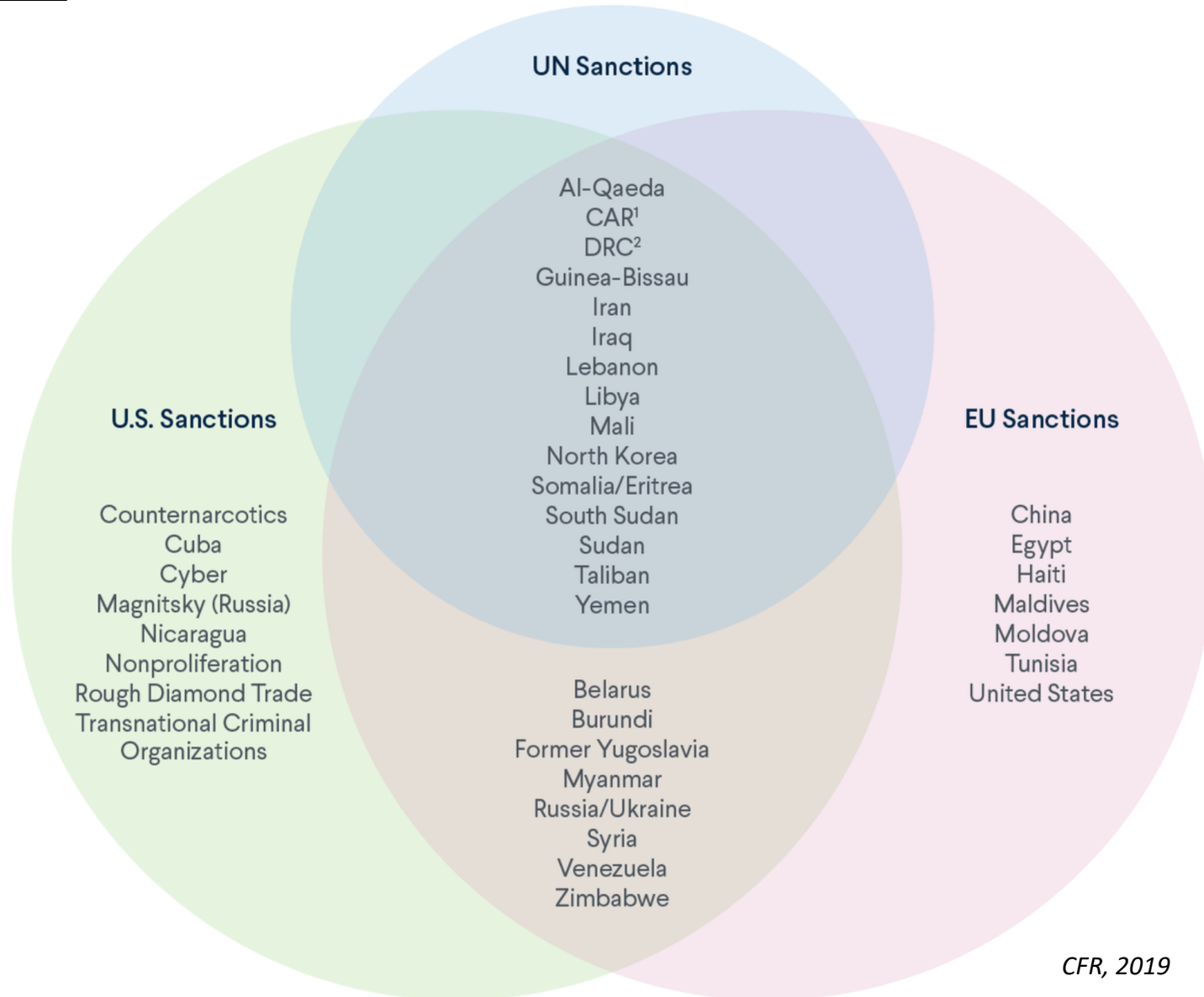


## Decade impact on actors

- Severe impact on targets, but also on actors
- Significantly more nuance introduced requiring created and altered institutions
- Altered goals
- UN Sanction Committees
- UN Panels of Experts
- UN Ombudsperson
- OFAC privileges
- EU CFSP and horizontal

# Sanction senders

- UN sanctions
- EU sanctions
- US sanctions
- ECOWAS Sanctions and moratoriums
- AU sanctions and suspensions
- UK, Japan, Australia, China
- League of Arab states sanctions



# UN action

- Nonexistent legal term in the UN Charter
- Article 39
  - The Security Council shall determine the **existence of any threat to the peace, breach of the peace, or act of aggression** and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.
- Article 41
  - The Security Council may decide what measures **not involving the use of armed force** are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include **complete or partial interruption of economic relations** and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.
- definition:
  - dependent on initiator body/agent
  - general: **the deliberate, government- inspired withdrawal, or threat of withdrawal, of customary trade or financial relations in order to achieve behavior change in the target**
- Southern Rhodesia 1966-1979
  - white minority rule unilaterally imposed
- South Africa 1977-1994
  - apartheid, arms embargo



# Sanction senders – UN

## GOALS

- **Interstate conflict**
  - specifically useful to signal the commitment of the international community to the resolution of the crisis
  - leverage toward negotiation if economic
  - arms embargos as standard to support mitigation
  - typically less targeted
  - Eritrea/Ethiopia, Iraq
- **Intrastate conflict**
  - sanctions not utilized at outset (save arms embargoes)
  - heavier sanctions post-peace agreement violation
  - commodity sanctions increasingly useful against non-state actors
  - targeted approach fostered
  - focal point of sanctions improvement
  - Liberia, Angola, Yemen

# Sanction senders – UN

## GOALS

- **norm-breaking states**
  - sanctions on the balance – should not isolate target
  - sanctions as crucial bargaining chip for punishment and incentive
  - specific circumstances (what to do with failed states?)
  - no human rights enforcement post-CW
  - North Korea, Iran, South Africa, Libya to 2003
  - includes reciprocity/secondary sanctions (sanctions for violating of sanctions)  
– Liberia 2001, Eritrea 2009
- **terrorism**
  - new type of sanctions targeting
  - extreme monitoring challenges, geographical distribution
  - sanctions primarily a form of containment and disapproval signaling
  - different result versus state actors Sudan 1996, Libya, and non-state actors – primarily Al-Qaeda and Taliban since 1999
  - the only horizontal regime applied by the UN

# UN structures

- UN Charter reliance, **requires triggering**, initiation by members or GA
- UN SC veto power
- UN DPA
  - censorship role, filter
- **UN Sanction Committees**
  - remaining veto/consensus quorum
- **UN Panels of Experts / Monitoring groups**
  - monitoring role, first in 1997
  - institutional limitations
- **UN Ombudsperson – for Al’Qaeda regime**
  - Delisting POC, <https://youtu.be/4V4AuckG-OU>
- UN DPKO
  - enforcement role

# UN naming and shaming?

# Sanctions committees

## ACTIVITY OF SANCTIONS COMMITTEES IN 2012

|                                 | Consolidated<br>Number of Listings | Committee<br>Meetings | Notes by Chair* | Communications<br>by Chair* | Communications<br>Received* |
|---------------------------------|------------------------------------|-----------------------|-----------------|-----------------------------|-----------------------------|
| <b>Somalia/Eritrea 751/1907</b> | 14                                 | 10                    | 114             | 72                          | 135                         |
| <b>Al-Qaida 1267/1989</b>       | 284                                | 16                    | 124             | 126                         | 207                         |
| <b>Iraq 1518</b>                | 297                                | 0                     | 0               | 0                           | 1                           |
| <b>Liberia 1521</b>             | 64                                 | 3                     | 25              | 31                          | 68                          |
| <b>DRC 1533</b>                 | 40                                 | 4                     | 29              | 50                          | 68                          |
| <b>Côte d'Ivoire 1572</b>       | 8                                  | 4                     | 20              | 27                          | 33                          |
| <b>Sudan 1591</b>               | 4                                  | 7                     | 38              | 18                          | 20                          |
| <b>Lebanon 1636</b>             | 0                                  | NA                    | NA              | NA                          | NA                          |
| <b>DPRK 1718</b>                | 31                                 | 5                     | 116             | 27                          | 154                         |
| <b>Iran 1737</b>                | 121                                | 4                     | 49              | 44                          | 88                          |
| <b>Libya 1970</b>               | 22                                 | 7                     | 129             | 197                         | 157                         |
| <b>Taliban 1988</b>             | 134                                | 8                     | 73              | 47                          | 74                          |
| <b>Guinea-Bissau 2048</b>       | 11                                 | 2                     | 2               | 18                          | 2                           |

Data for 2012. \*=as of 30 November 2012.

Sources: Annual reports of sanctions committees and Security Council Affairs Division

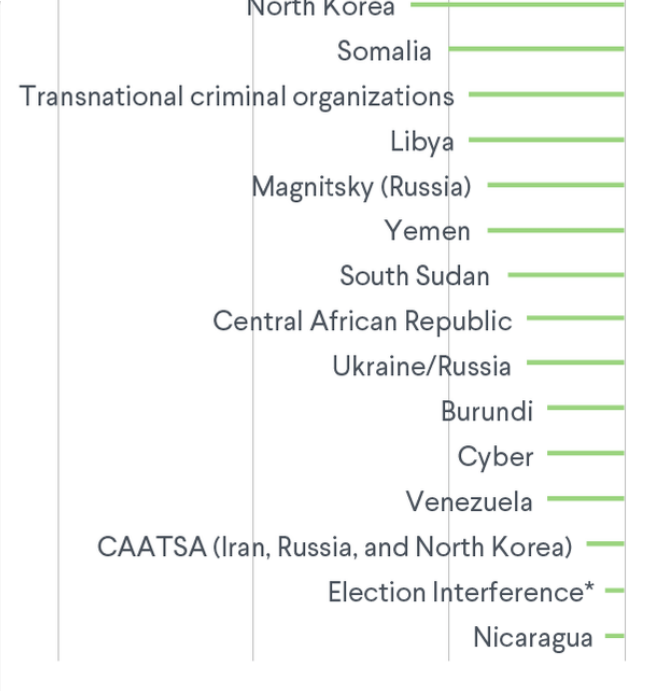
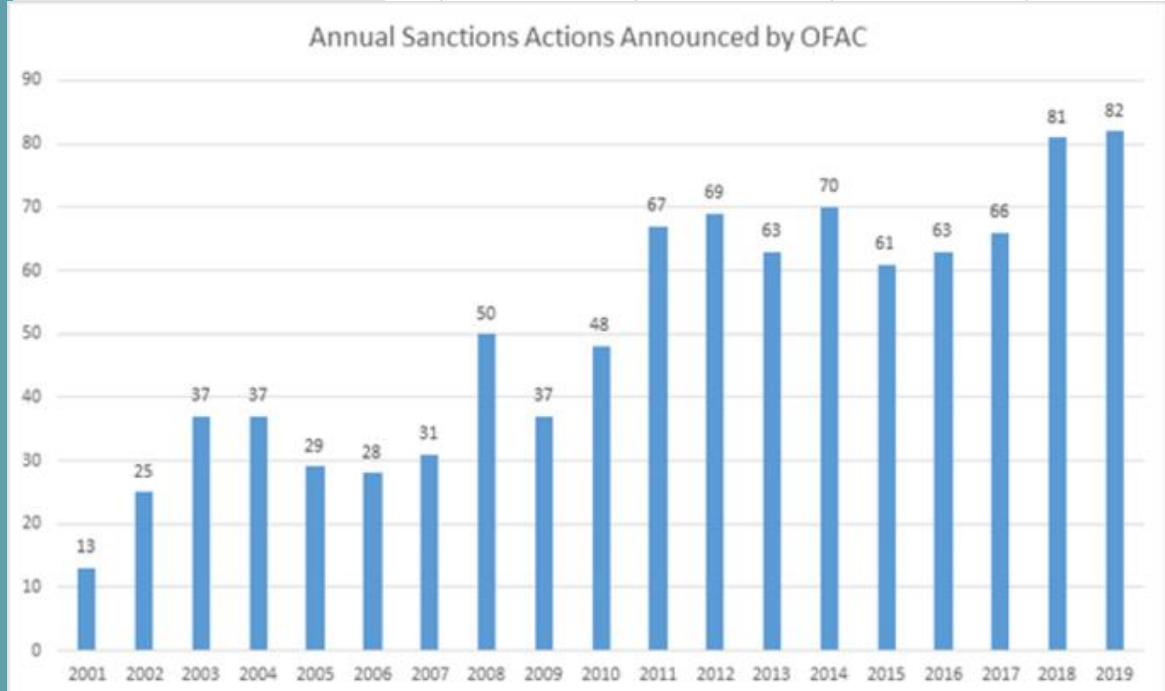
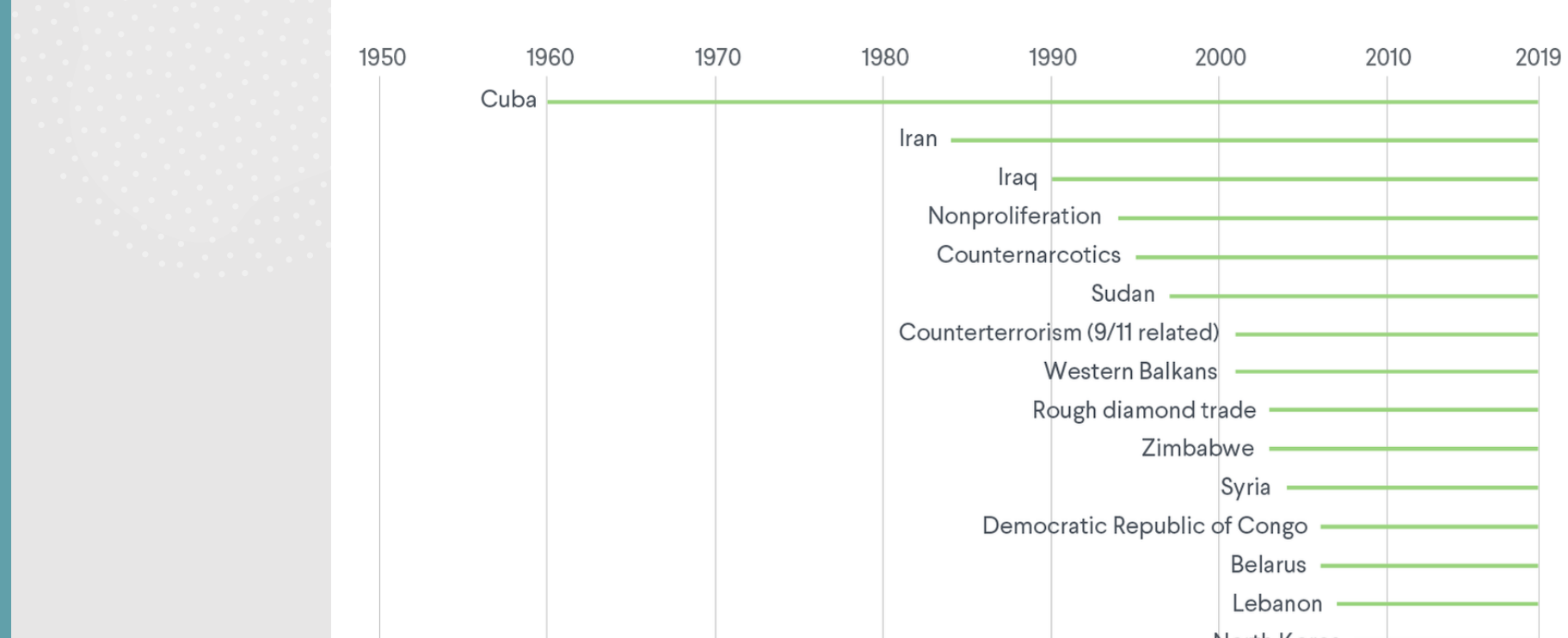
7. In the absence of a specific monitoring mechanism to ensure the effective implementation of the arms embargo, the Committee would like to recall its previous observation that it relies solely on the cooperation of States and organizations in a position to provide information on violations of the arms embargo. During the reporting period, no violations of the arms embargo were brought to the attention of the Committee.

*S/2007/782*

# Sanction senders - USA

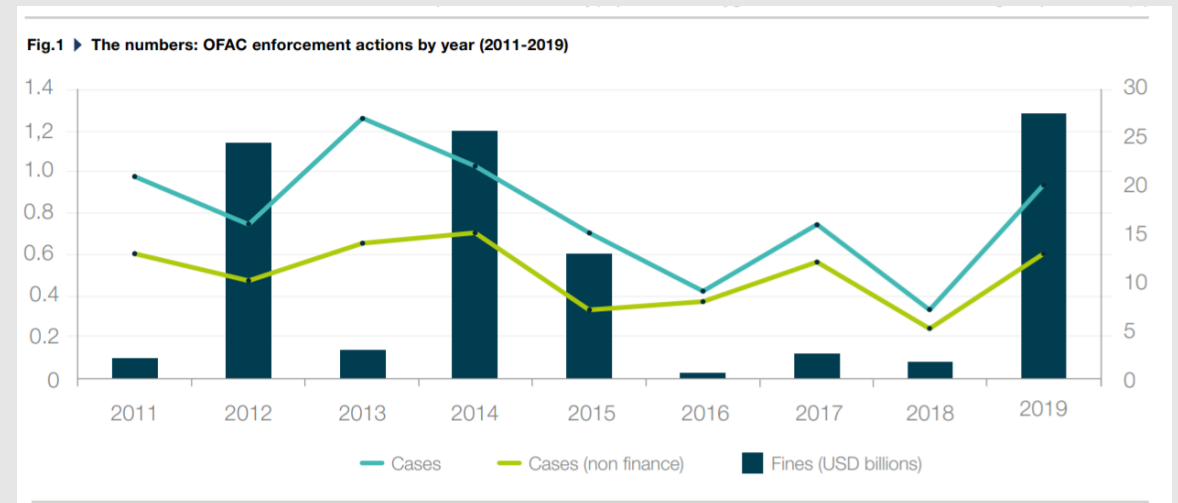
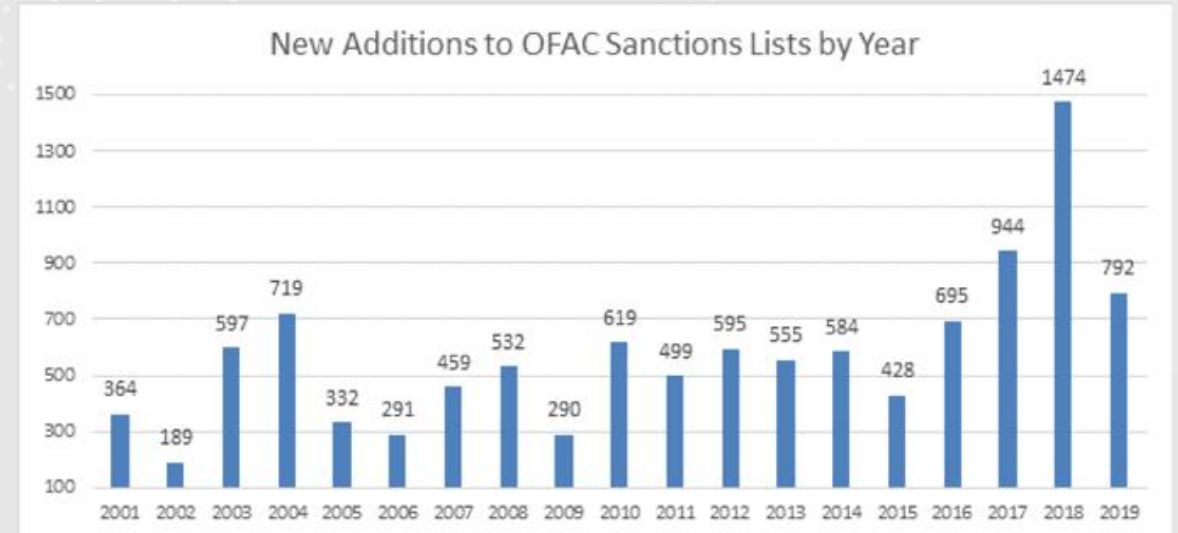
- President Executive Order (based on prolonged emergency), or Act of Congress, or both initiate
- **OFAC – Office of Foreign Assets Control of the US Treasury - administrator**
  - administers and enforces Executive orders implementing sanctions
  - very broad powers of action without external scrutiny
- **26 regimes in force**
  - these however include general type regimes as Non-proliferation regime, Diamond trade control regime, Transnational criminal organizations, Counter-terrorism sanctions regime, etc.
- **Country regimes**
  - Iran, DPRK, Cuba
  - Prohibits citizens and entities from commerce with any entity from these countries in the field of the imposed sanctions
- **Horizontal regimes**
  - Counter-terrorism, counter-money laundering, counter-organized crime, counter-proliferation, diamond trade, election interference, Magnitsky
- **SDNs**
  - Over 7000 individuals (most produced by horizontal regimes)
- **CAATSA – 2017 - Countering America's Adversaries Through Sanctions Act – Iran, DPRK, Russia – extends extraterritorial sanctions by automatically compelling the president to enact sanctions against violators of US sanctions**

# Sanction senders - USA



# Sanction senders - USA

- **OFAC**
- Considerably more occlusive listing/delisting than UN and EU procedures
- Enforces strict liability
- Holds access to US financial system
- Applies 50% ownership rule
- No minimum dollar value of transaction
- Requires establishment of OFAC compliance and screening procedures



# Sanction senders - EU

- **“restrictive measures”** under CFSP (i.e. not our debate on GSP or tariffs)
- European Commission (now High Representative) proposes Common Position, adopted by Council regulations or decisions unanimously!
- subsequently 28 legislative bodies implement measures
- is not bound by “triggering” but rather consensus in the Council
- EEAS prepares designations, CJEU vets designations
- **currently 42 measures in force**
- EU – China arms embargo since 1989
- Maastricht 1992
  - first legal basis for political sanctions
  - Chapter 2 of TEU, under CFSP, Article 29
- first cases
  - Nigeria 1993 – 1999, arms and travel ban
  - Sudan 1994 – 2005 , arms
  - Afghanistan 1996 – 1999, arms
  - Belarus 1998 – travel ban and financial



# Sanction senders – EU

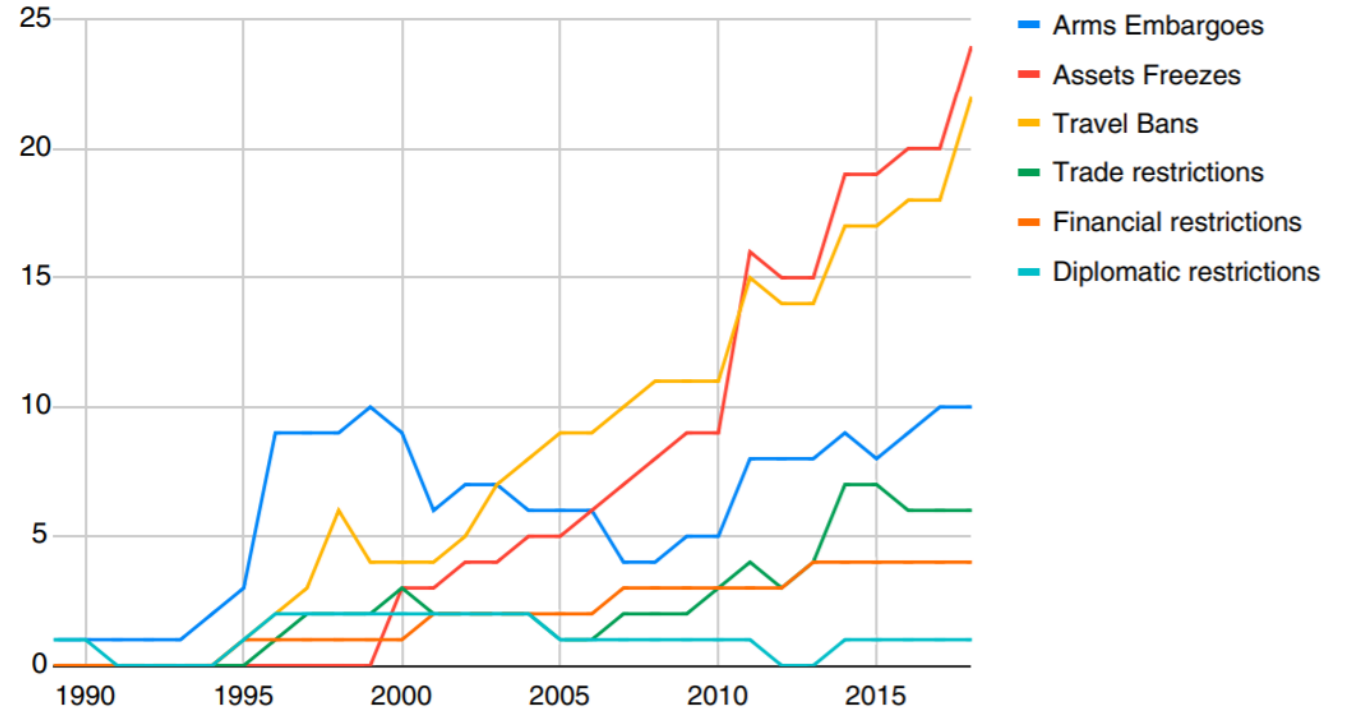
Asset freezes and travel bans to support human rights and democracy have increased as has precise targeting

2018 - Guidelines On Implementation And Evaluation Of Restrictive Measures (Sanctions) In The Framework Of The Eu Common Foreign And Security Policy

2018 - EU Best Practices for the effective implementation of restrictive measures

**Table 4.** Why sanctions are imposed.

| Triggering cause       | Frequency | share |
|------------------------|-----------|-------|
| Democracy promotion    | 37        | 44%   |
| Crisis management      | 28        | 33%   |
| Post-crisis management | 23        | 27%   |
| Non-proliferation      | 8         | 9%    |
| Terrorism              | 6         | 7%    |
| EU Interests           | 11        | 13%   |
| International norms    | 13        | 15%   |

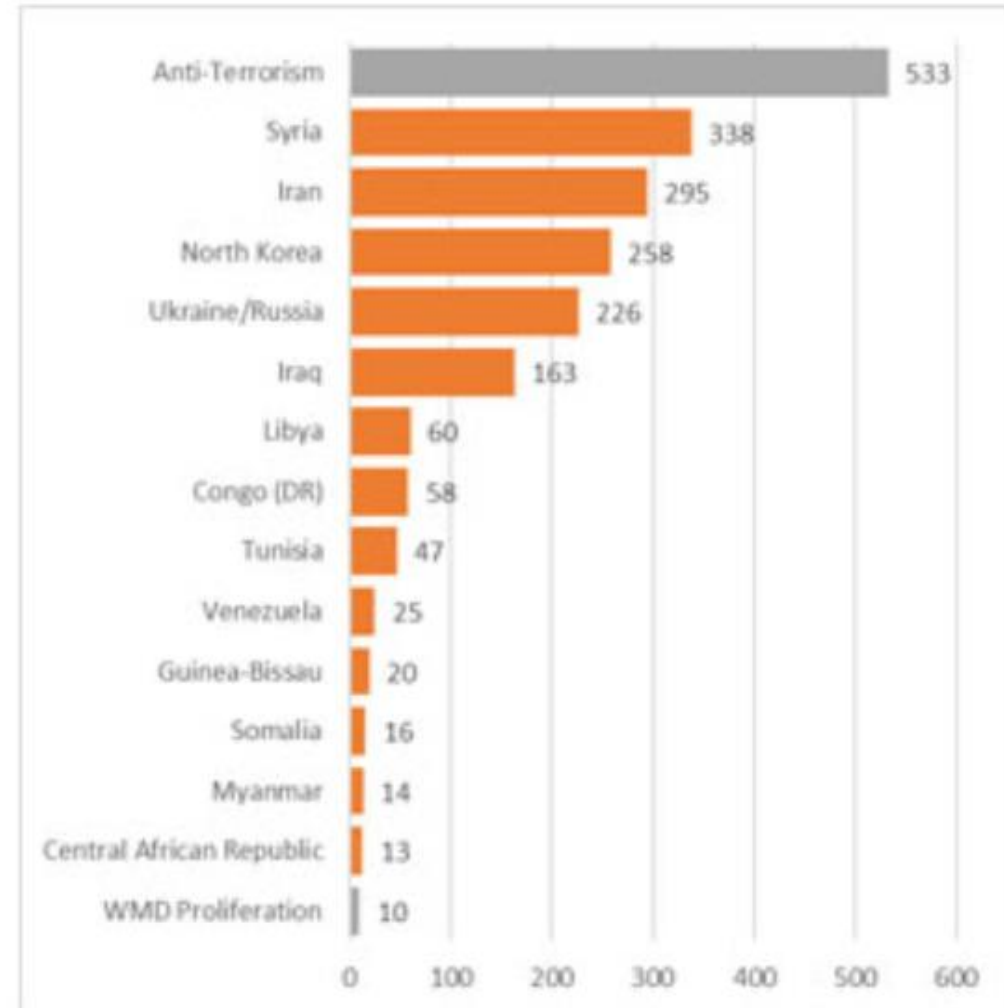
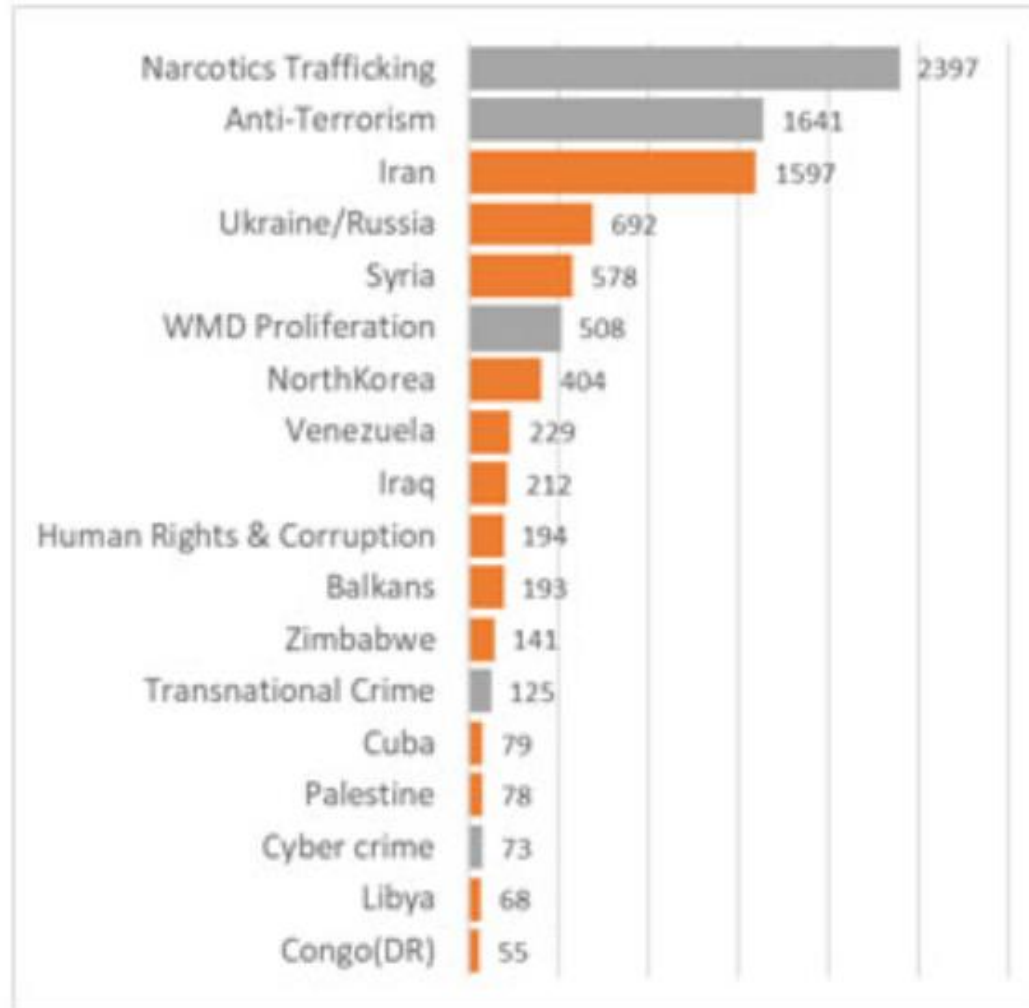


**Figure 2.** Types of EU sanctions. *Giumelli et. al 2021*

# EU

- 2018 first horizontal regime
  - Chemical weapons CFSP 2018/1544 - allowing the EU to apply travel bans and asset freezes to those “involved in the development and use of chemical weapons anywhere”
  - Syria, Skripal
- Cyber attacks,
- 2020 (December) Global Human Rights Sanctions Regime
  - 22/3/2021 – 11 individuals + 4 companies - The violations targeted today include the large-scale arbitrary detentions of, in particular, Uyghurs in Xinjiang in **China**, repression in the **Democratic People’s Republic of Korea**, extrajudicial killings and enforced disappearances in **Libya**, torture and repression against LGBTI persons and political opponents in Chechnya in **Russia**, and torture, extrajudicial, summary or arbitrary executions and killings in **South Sudan** and **Eritrea**.
  - Asset freeze, travel ban, AND prohibition of trade with (including partial ownership)

*U.S. Designated entities per Sanctions Regime / E.U. Designated entities per Sanctions Regime*



*U.S. Types of Designated Entities*

/

*E.U. Types of Designated Entities*

