

Senate Environment and Communications References Committee
Inquiry into oil and gas exploration and production in the Beetaloo Basin

QUESTION ON NOTICE / Spoken

001 – Public Hearing 25 March 2022

Topic: Communication with other departments

Senator Sarah Hanson-Young

Question

CHAIR: We will start, of course, with the questions in relation to the 41 individuals with close links to President Putin who were sanctioned on 7 March. Did Ministers Payne, Pitt or Taylor have any involvement or communication with your department in the decision about who was on that list? ...

CHAIR: Obviously, it makes sense to have Minister Payne involved in those conversations. What I'm interested in is whether Minister Pitt or Minister Taylor were involved in any of the conversations.

Mr Walter: The decision-maker in relation to the Autonomous Sanctions Act listings made under the Autonomous Sanctions Act, which is the legislation in play here, is the Minister for Foreign Affairs. It will depend on which tranche of sanctions we're talking about, but we obviously reach out to our departmental colleagues where we need information that would be relevant to those sanctions. In terms of consultations the minister might have had with her colleagues, I think that would have to be a question for her.

CHAIR: Is that a question you could refer to the minister for us, please?

Mr Walter: We'll see what information we can obtain.

CHAIR: Thank you. Was there any communication between DFAT and the departments of Ministers Pitt and Taylor?

Mr Walter: Is there a specific set you're asking about? Is this in relation to that set that you mentioned? There are a lot of tranches of sanctions here. I think we're up to tranche 14 today. I don't know whether you know, Mr Playle? We might have to take that on notice and check what consultation there was in relation to that one. It feels like a very long time ago at this point for both of us.

Answer

It is unclear to which tranche of sanctions the question relates. There was no tranche of 41 individuals sanctioned on 7 March 2022.

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QUESTION ON NOTICE / Spoken

002 – Public Hearing 25 March 2022

Topic: Rio Tinto

Senator Sarah Hanson-Young

Question

CHAIR: In relation to the individual link to Rio Tinto and the operations in Queensland, it's on the public record that Rio Tinto were here in Canberra negotiating in relation to this in February. Who were they negotiating with? Who were they talking to?

Mr Walter: We were present at the evidence given earlier. We're not aware of any discussions that Rio Tinto had with ministers, and no outcomes of those discussions were communicated to the department—if they occurred. I have no information about whether they occurred or not.

CHAIR: Could you take that on notice, Mr Walter, in case there is anybody within your department who is aware?

Mr Walter: We can certainly see if the minister—

CHAIR: And if the minister is aware. Thank you.

Answer

The Department is unaware of any discussions Rio Tinto may have had with Ministers while in Canberra.

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QUESTION ON NOTICE / Spoken

003 – Public Hearing 25 March 2022

Topic: Statement on sharing of information

Senator Sarah Hanson-Young

Question

CHAIR: So a sharing of information—

Mr Walter: Sharing of information enforcement activity.

CHAIR: Is that a relatively new thing?

Mr Walter: I can't remember. The ministerial discussion occurred a week and a half ago, I'd say.

There was a public statement about that. We'll provide that on notice so the committee has it.

Answer

The first ministerial meeting of the multilateral Russian Elites, Proxies and Oligarchs (REPO) Task Force was on 16 March. The following is the text of the press statement released by the attending ministers:

“We, the undersigned Finance, Justice, Home Affairs, and Trade Ministers and European Commissioners, jointly commit to prioritizing our resources and working together to take all available legal steps to find, restrain, freeze, seize, and, where appropriate, confiscate or forfeit the assets of those individuals and entities that have been sanctioned in connection with Russia’s premeditated, unjust, and unprovoked invasion of Ukraine and the continuing aggression of the Russian regime.

“Russia’s latest invasion of Ukraine represents a further assault on the fundamental norms and laws, including the UN charter, that underpin the international order. By working together to hunt down the assets of key Russian elites and proxies and to act against their enablers and facilitators, we take a further step to isolate them from the international financial system and impose consequences for their actions, and we encourage other countries to also take up this critical effort.

“The Task Force that we have launched today demonstrates our unwavering support for Ukraine and our collective resolve and joint commitment to holding accountable those who have complicity in Russia’s unjust war. We are determined to deny them the ability to hide and benefit from their assets in all jurisdictions and to undermine the integrity of the international financial system.”

Dan Tehan MP, Minister for Trade Tourism and Investment, Australia

Chrystia Freeland, Deputy Prime Minister and Minister of Finance, Canada

Didier Reynders, Commissioner for Justice, European Commission

Mairead McGuinness, Commissioner for financial services, financial stability and Capital Markets Union, European Commission

Bruno Le Maire, Minister for Economy, Finance and Recovery, France

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Eric Dupond-Moretti, Minister of Justice, France

Christian Lindner, Federal Minister of Finance, Germany

Robert Habeck, Federal Minister for Economic Affairs and Climate Action, Germany

Marta Cartabia, Minister of Justice, Italy

Daniele Franco, Minister of Economy and Finance, Italy

NINOYU Satoshi, Chairperson of the National Public Safety Commission, Japan

FURUKAWA Yoshihisa, Minister of Justice, Japan

SUZUKI Shunichi, Minister of Finance and Minister of State for Financial Services, Japan

Priti Patel MP, Secretary of State for the Home Department, United Kingdom

Rishi Sunak MP, Chancellor of the Exchequer, United Kingdom

Janet L. Yellen, Secretary of the Treasury, United States

Merrick B. Garland, Attorney General, United States

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QUESTION ON NOTICE / Spoken

004 – Public Hearing 25 March 2022

Topic: Penalties for sanctions breaches

Senator Malarndirri McCarthy

Question

Senator McCARTHY: You say it is an offence. What is the offence in terms of penalties?

Mr Playle: For individuals, the maximum penalty is 10 years in prison. In terms of bodies corporate, there are very large fines. I'm sorry, I can't remember the maximum fine right now, but we are talking in the millions.

Senator McCARTHY: Okay. Please take that on notice.

Answer

Contravening a sanctions measure or sanctions permit is punishable for individuals by up to 10 years in prison, and/or a fine the greater of 2500 penalty units (\$555,000 as of 1 July 2020) or three times the value of the transaction.

Contravening a sanctions measure or sanctions permit is punishable for bodies corporate by a fine the greater of 10,000 penalty units (\$2.22 million as of 1 July 2020) or three times the value of the transaction.

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QUESTION ON NOTICE / Spoken

005 – Public Hearing 25 March 2022

Topic: Ownership of Falcon Oil and Gas

Senator Sarah Hanson-Young

Question

Nearly 80% of Falcon Oil and Gas' ownership register is not publicly disclosed. Can DFAT provide the full ownership details it has available for this company?

Answer

Information held by the department on Falcon Oil and Gas Australia was provided on a confidential basis. This question would be better directed to the company itself.

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QUESTION ON NOTICE / Written

006 – Public Hearing 25 March 2022

Topic: Assets owned by Mr Viktor Vekselberg

Senator Sarah Hanson-Young

Question

Please detail all the assets owned by Mr Viktor Vekselberg that has been collected by DFAT.

Answer

Section 24 of the *Autonomous Sanctions Regulations 2011* requires any Australian who freezes an asset under Australian sanctions laws to inform the Australian Federal Police (AFP). As at 1 July 2022, the AFP has advised that it has not been informed of any assets being frozen in relation to the designation of Viktor Vekselberg for targeted financial sanctions.

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QUESTION ON NOTICE / Written

007 – Public Hearing 25 March 2022

Topic: Origin and Falcon joint venture

Senator Sarah Hanson-Young

Question

In their testimony, Origin said that Mr Vekselberg owns the equivalent of 4% of the Origin and Falcon joint venture. If the NT government issues this joint venture a production permit, are they providing an asset to Mr Vekselberg as an effective 4% owner?

Answer

The onus to comply with Australian sanctions laws rests, in this example, on the Northern Territory Government.

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QUESTION ON NOTICE / Written

008 – Public Hearing 25 March 2022

Topic: Environmental Management Plan or Aboriginal Areas Protection Authority permit

Senator Sarah Hanson-Young

Question

Would an Environmental Management Plan or Aboriginal Areas Protection Authority permit be considered an ‘asset’ for the purpose of the autonomous sanctions legislation?

Answer

Section 4 of the *Autonomous Sanctions Act 2011* defines ‘asset’ as ‘an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired’. Depending on the terms on which it is granted, a licence or permit may be an asset for the purposes of the Act.

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QUESTION ON NOTICE / Written

009 – Public Hearing 25 March 2022

Topic: Granting Joint Venture - Beetaloo Drilling Program

Senator Sarah Hanson-Young

Question

If the federal government gave the joint venture a grant under the Beetaloo Drilling Program before the 30 June 2022 closing date, will this be deemed by DFAT to be an 'asset' for the purpose of the autonomous sanctions legislation?

Answer

Section 4 of the Autonomous Sanctions Act 2011 defines 'asset' as 'an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired'.

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QUESTION ON NOTICE / Written

010 – Public Hearing 25 March 2022

Topic: Department of Industry consultation with DFAT

Senator Sarah Hanson-Young

Question

At any point since the Beetaloo Drilling Program was established last year, has the Department of Industry sought your advice on issuing a grant under the Beetaloo Drilling Program to Origin and Falcon?

Answer

No.

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QUESTION ON NOTICE / Written

011 – Public Hearing 25 March 2022

Topic: Legality of subsidising exports

Senator Sarah Hanson-Young

Question

Is subsidising exports legal under WTO law?

Answer

The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) disciplines the use of subsidies.

Determining whether a subsidy is prohibited under WTO law requires case-by-case analysis of the nature, terms and purpose of the subsidy, including whether it falls within any relevant exceptions. Under the SCM Agreement, a subsidy granted to enterprises which export shall not, for that reason alone, necessarily be regarded as a prohibited export subsidy.

Further information is available on the WTO's website - [WTO | Subsidies and Countervailing Measures overview](#).

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QUESTION ON NOTICE / Written

012 – Public Hearing 25 March 2022

Topic: Legality of fracking in international trade law

Senator Sarah Hanson-Young

Question

Have you sought legal advice on whether fracking and building pipelines is lawful under trade law?

Answer

No.

QUESTION ON NOTICE / Written

013 – Public Hearing – 28 March 2022

Topic: Origin Energy

Senator Sarah Hanson-Young

Question

Can you please indicate to the committee the basis upon which Origin Energy Limited was determined to not be in breach in Australia's sanction law.

Answer

Australian sanctions laws apply to activities in Australia and to activities undertaken overseas by Australian citizens and Australian-registered bodies corporate.

Australian sanctions law prohibits:

- directly or indirectly making an asset available to (or for the benefit of) a designated person or entity
- using or dealing with an asset, or allowing or facilitating another person to use or deal with an asset, owned or controlled by a designated person or entity (the assets are 'frozen' and cannot be used or dealt with).

Sanctions laws may be contravened where these circumstances are established.

The Australian Sanctions Office (ASO) in the Department of Foreign Affairs and Trade does not comment on the substance of individual sanctions assessments. However, assessments by the ASO are made on a case-by-case basis, based on the information available at a given point in time. The onus remains on individual entities to understand and comply with sanctions.