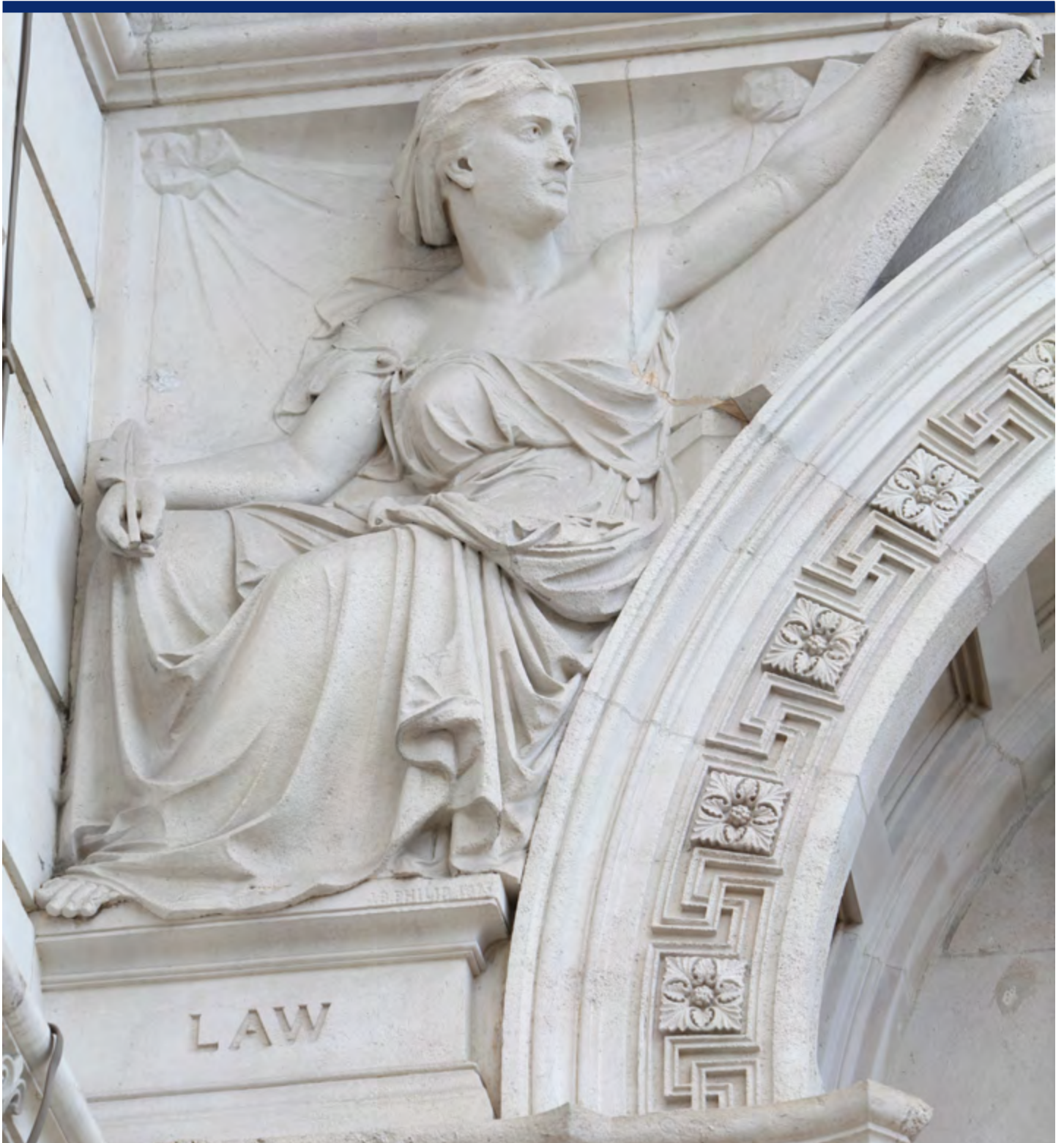




Foreign, Commonwealth
& Development Office

FCDO Legal Directorate

Annual Review 2022-23



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Legal Adviser's Foreword

Welcome to FCDO Legal Directorate's Annual Review for 2022–23.

This publication gives an overview of the varied work of our Directorate over the last year. For obvious reasons it's been an exceptionally busy year, as we have worked on many aspects of the United Kingdom's response to Russia's invasion of Ukraine, including on use of force, sanctions, potential compensation mechanisms and accountability for international crimes. The Directorate has also been closely involved in the negotiation of the Windsor Framework with the EU, the successful conclusion of UN negotiations for the BBNJ Agreement (Biodiversity Beyond National Jurisdiction—see page 22), international and domestic litigation, the COVID-19 inquiry, and a host of other issues, working in close collaboration with lawyers across the Government Legal Profession. Our Directorate Mission and Purpose Statement (page 6) summarises the many areas on which we work and our core purpose, which is to advance the successful delivery of United Kingdom foreign and development policy, within the law.

Our Directorate has continued to grow and evolve since our 2021 Review. You can get a flavour of our team structure in the following pages. We have established a new team to strengthen our work on treaty law, practice and processes and to lead our international law outreach. The London Conference on International Law in October 2022 was a high point of our year—we are delighted to convene and chair the LCIL steering committee and are already planning the next Conference for October 2024. Another highlight was the Government Legal Profession International Law Conference in June 2022; this year's GLP Conference will encompass international and EU law, and we look forward to gathering colleagues from across many government legal teams for that.

I took up the role of FCDO Legal Adviser and Director General Legal in May 2022, following



the retirement of Sir Iain Macleod (missed by us all!). I am delighted to re-join a Directorate I had previously belonged to for 18 years. I am hugely proud of the expertise, skill and dedication of the team here and of the impressive way they have all delivered on FCDO and HMG priorities over the last year.

Whether you are a fellow civil servant, a potential future recruit, an external contact or friend of Legal Directorate, we hope you enjoy the Review and find it an informative update. Do follow our X (Twitter) feed [@UKintlaw](#) if you would like to hear more during the year.

Sally Langrish

FCDO Legal Adviser and Director General



Top photo: Chanaka Wickremasinghe, Legal Adviser to the United Kingdom Mission to the United Nations. *Three bottom photos:* Legal Directorate staff, including FCDO Legal Adviser Sally Langrish and Legal Director Andrew Murdoch, at the London Conference on International Law

Our Mission and Purpose

FCDO Legal Directorate's core purpose is to advance the successful delivery of United Kingdom foreign and development policy, within the law.

We are HMG's leading team for international law, with a wide range of expertise including diplomatic and foreign relations law, national security law, international humanitarian law, human rights law, international criminal law, overseas territories law, law of the sea and ocean policy, EU law, public law, commercial law, information law, development law, sanctions and trade law. Many of us are lawyers; we also include teams of colleagues specialising in policy, treaties, litigation, legal outreach and knowledge management and business management.

We help the government to govern well, within the rule of law, using our expertise and influence to promote the UK's national interest and maintain our high reputation in these fields. We work to shape an open international order, advancing the values of freedom, the rule of law, the integrity of sovereign States, justice and accountability. We also work collaboratively with colleagues in FCDO and across Whitehall to build knowledge of international and EU law and to share best practice on treaty-making.

In our Directorate culture we are committed to running a well-managed, happy, diverse and inclusive team that exemplifies FCDO and Civil Service values and where all our people can develop their skills, talents and careers.

Our core functions are:

- 1. Legal services:** we provide excellent legal services across the range of FCDO's business, working collaboratively with policy colleagues to provide prompt, accurate and practical advice to FCDO Ministers. We develop and draft legislation. We participate in international negotiations and legal diplomacy as an integral part of our work. We post lawyers abroad to engage with international organisations and courts, including in Brussels, Geneva, New York, Strasbourg and The Hague.
- 2. Litigation:** we represent the UK before international courts and tribunals, including the International Court of Justice, the European Court of Human Rights and the International Tribunal for the Law of the Sea. We handle domestic litigation affecting the FCDO, promoting best practice and a consistent approach.
- 3. Ocean Policy:** we lead for FCDO on Ocean Policy and the UN Convention on the Law of the Sea (UNCLOS), bringing together relevant departments across government. We represent and negotiate for the UK on law of the sea at the UN and the International Seabed Authority.
- 4. Treaty expertise:** we are home to FCDO's Treaty Centre of Excellence, leading on treaty law, treaty policy and treaty procedures to enable good treaty making by FCDO and other government departments. We partner with other departments to support their negotiations and to get UK treaties signed and ratified.
- 5. Promoting excellence in international and EU law:** through the FCDO Law Faculty, we build legal knowledge and awareness across FCDO and Whitehall, to support good policy-making. We lead the Government Legal Profession's Centres of Excellence for international and EU law, offering training and guidance to develop expertise in our own team as well as for legal colleagues across government.
- 6. International law outreach and diplomacy:** we partner with leading academics and practitioners to maintain and enhance the UK's strong reputation in the international law world, including through our external events and the London Conference on International Law. We foster close working relations with our counterparts in foreign governments, working with other States to advance UK objectives and perspectives in international negotiations and conferences. We ensure that UK views on international law issues are articulated with clarity and impact, supporting the positive development of international law and State practice.



Our Teams

Legal Directorate is led by FCDO Legal Adviser and Director General Sally Langrish. The Directorate has five Directors: Paul McKell, Andrew Murdoch, Paul Berman and (job-share) Catherine Holmes and Naomi Davey.



We are organised into twelve legal, policy and operational teams, based in King Charles Street, London and Abercrombie House, East Kilbride:

- » **The Business Management Team** supports Directorate governance and ensures efficient administration of our work. The team manages our resources; supports our security and information technology services; processes secondary legislation; and helps us with recruitment and people management and running a happy and well-managed Directorate.
- » **The Central Litigation Unit** provides FCDO with strategic litigation advice, support and expertise on a wide range of legal challenges and cross-Whitehall litigation involving FCDO. The team also advises Ministers and reports in to FCDO's Management Board on litigation risk.
- » **The Development, Corporate and Operations Team** advises on development-related work and supports the central operations of FCDO in London and across the global network, advising on international, public, commercial and corporate law. The team also advises FCDO teams dealing with East and Central Africa. With the Foreign Relations Team, it supports the FCDO response to the COVID-19 inquiry.
- » **The Europe and Human Rights Team** advises FCDO teams dealing with Europe and Central Asia, including Gibraltar and the Sovereign Base Areas, and advises on European and United Nations human rights issues, UN institutions, the UN General Assembly 6th Committee and the Commonwealth. Team members are the United Kingdom Agents before the European Court of Human Rights.
- » **The EU Trade and Relations Team** advises on the interpretation and implementation of the Trade and Cooperation Agreement and its supplementing agreements; the negotiations on United Kingdom participation in EU Programmes; governance and dispute resolution matters under the Withdrawal Agreement; and manages the conduct of all litigation before the Court of Justice of the European Union in which the United Kingdom is involved.
- » **The Foreign Relations Team** advises on consular and protocol issues and international justice, and advises FCDO teams dealing with Afghanistan, India and Pakistan. It also works in conjunction with the Central Litigation Unit and other teams on litigation and inquiries.

- » **The National Security Team** advises on national security issues, including counter-terrorism, intelligence policy, cyber and outer space. It also advises the FCDO teams dealing with the Middle East, North Africa and the Americas.
- » **The Ocean and Overseas Territories Team** provides advice on law of the sea issues, the Overseas Territories and the polar regions. It is a mixed legal and policy team and includes the Ocean Policy Unit.
- » **The Private Office** is a small team which directly supports the FCDO Legal Adviser in her Legal Adviser role and as a member of FCDO's senior management team.
- » **The Sanctions and Asia Pacific Team** (formerly the Multilateral and Sanctions Team, with a broader portfolio) leads on sanctions issues and advises FCDO teams dealing with North East Asia and South East Asia.
- » **The Treaty, Economic and Knowledge Team** is a combined legal, policy and operational team. The team leads on treaty work, advises on international economic law, climate and environmental issues, and advises FCDO teams dealing with West and Southern Africa. It also leads the Directorate's work on the International Law Commission, knowledge and information management, learning and development and legal diplomacy and outreach.
- » **The Windsor Framework Team's** main focus is on Northern Ireland and the Windsor Framework. The team advises on all matters relating to the implementation of the Windsor Framework; this includes coordinating advice with lawyers across Whitehall.



David Rutley, FCDO Parliamentary Under Secretary of State (Americas and Caribbean), addressing a Legal Directorate all-staff meeting

The Year in Legal Directorate: April, May and June 2022

In May 2022 the **new FCDO Legal Adviser and Director General, Sally Langrish**, joined Legal Directorate. Sally joined from the Government Legal Department where she was Legal Director for the Department for International Trade from 2016, and before that was the Legal Director at Department for Business, Innovation and Skills.

At the same time, the number of Directorate teams increased by three. In May, we were joined by the **EU Trade and Relations Team** and the **Northern Ireland Protocol Team** (now the Windsor Framework Team) when they transferred to FCDO from the Cabinet Office (see page 16), together with new colleagues for our Business Management Team. In June the **Treaty, Economic and Knowledge Team**

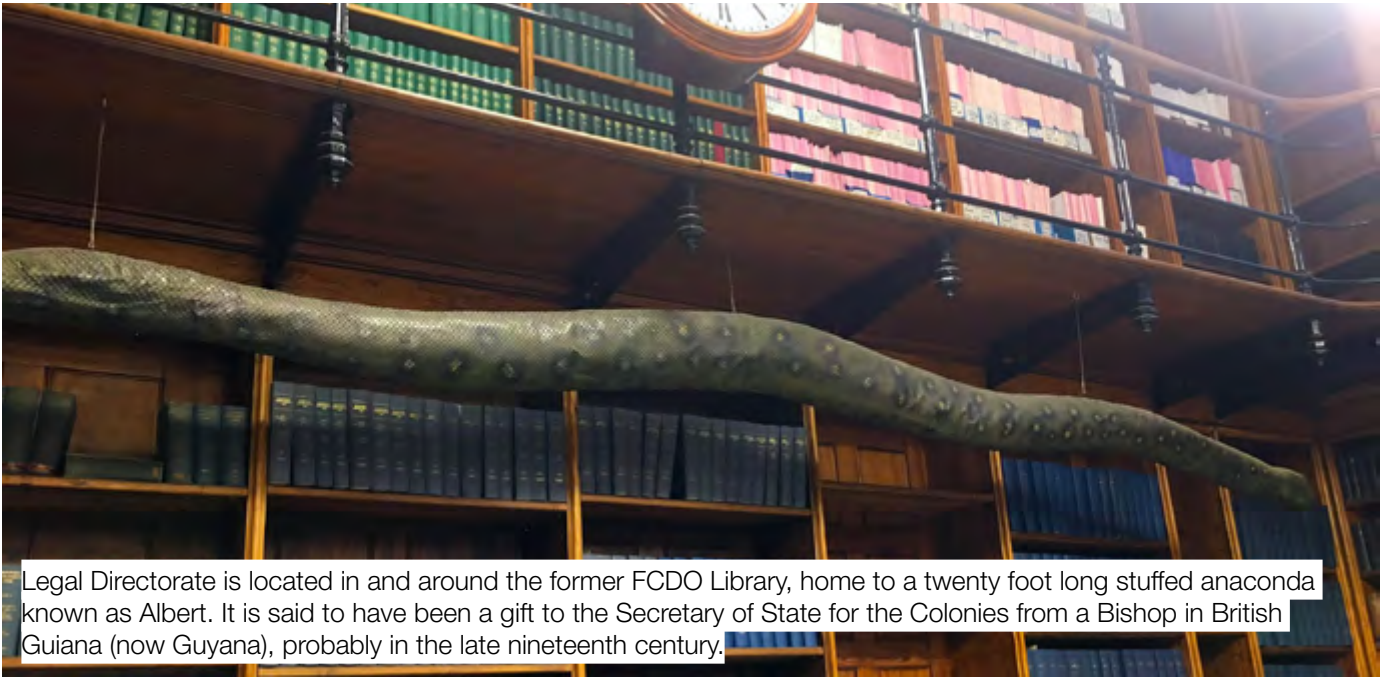
was created, bringing existing strands of work together for the first time (see page 32).

The first three months of the business year 2022-2023 were dominated by the **United Kingdom's response to the invasion of Ukraine by Russia** (see page 14), as was the rest of the year. Having provided immediate all-hours legal support in response to the invasion, we continued to work closely with policy colleagues on the many issues arising from the conflict.

Lawyers covering national security and treaty matters advised on **Sweden and Finland's applications to join NATO**, including the first ever use of section 22 of the Constitutional Reform and Governance Act 2010 to enable swift United Kingdom ratification of the



Delegates at the Digital Twins of the Ocean Summit



Legal Directorate is located in and around the former FCDO Library, home to a twenty foot long stuffed anaconda known as Albert. It is said to have been a gift to the Secretary of State for the Colonies from a Bishop in British Guiana (now Guyana), probably in the late nineteenth century.

Accession Protocols. This was also a busy time for other international negotiations and meetings. In May, the National Security Team participated in a meeting of the **UN Open-Ended Working Group on responsible behaviours in outer space**. Throughout the year, team members have continued to work with policy colleagues and other States on behaviours in space, including participating in the informal meeting of States on 1-3 June 2022 to discuss the draft *Woomera Manual on the International Law of Military Space Operations*. Continuing a long-term piece of work, the Multilateral and Sanctions Team also advised on the **AUKUS project** to enable Australia to establish a conventionally armed, nuclear-powered submarine capability, working alongside our trilateral partners to ensure the project is fully compatible with the UK's non-proliferation and safeguarding obligations.

In May we also partnered with Defra to host the **Digital Twins of the Ocean (DITTO) Summit at Lancaster House**. This was an international meeting, led by the UN DITTO Programme – which supports ocean protection, ocean governance and a sustainable Blue Economy, and supported by the G7 Future of the Seas and Oceans Initiative. The meeting attracted 80 delegates from 19 States and was livestreamed

to a global audience. Delegates are pictured opposite at Lancaster House.

One of **FCDO Law Faculty's** most popular sessions, our regular course on international humanitarian law, run in partnership with the British Red Cross Society, was held in May. The Law Faculty, part of FCDO's International Academy, equips FCDO and other government staff with the knowledge and expertise they need to understand the legal context of FCDO work. This enables them to write and deliver policy that takes account of relevant domestic



Law Faculty





and international legal frameworks, respond to legal challenge and advise Ministers with confidence. Our programme of events— attracting around 700 attendees in 2022-23— includes courses on treaties, the law of the sea, the politics of the International Criminal Court, official development assistance and understanding legal risk.

Starting in May and continuing through the year, National Security Team lawyers attended negotiations in Vienna (May 2022, January 2023 and April 2023) and New York (in August

2022) for the new **UN cybercrime treaty**. This is a UN General Assembly-mandated process to elaborate a comprehensive international convention on countering the use of information and communication technologies for criminal purposes. Negotiations are expected to conclude in New York at the beginning of 2024. At the same time, lawyers from the Multilateral and Sanctions Team and subsequently National Security Team advised on the planning and preparation of the United Kingdom's engagement with the quinquennial **Chemical**



Dapo Akande, now a member of the International Law Commission.

In June 2022, **Treaty Section** officiated at its first in-person treaty signature event following COVID-19 lockdown restrictions. This ceremony, relating to a double taxation treaty between the UK and Luxembourg, was held at HM Treasury. The Convention was signed by Lucy Frazer MP for the United Kingdom and Yuriko Backes for the Grand Duchy of Luxembourg.

Finally, as summer got underway, the **London Legal Walk** in June was a great opportunity to get out and raise money for a good cause, supporting charities that provide legal advice and representation to those in need.

Weapons Convention Review Conference, which took place in The Hague in May 2023.

Closer to home, lawyers in the Development, Corporate and Operations Team and the Foreign Relations Team worked closely with the FCDO COVID-19 Unit and the Government Legal Department to support **FCDO's response to the United Kingdom COVID-19 Inquiry**. The Inquiry formally launched in June 2022 and is structuring its investigations by module. As each module is announced, FCDO considers whether to seek Core Participant status. FCDO has been providing written evidence to the Inquiry, and at the time of writing is a Core Participant in Module 2 (Core UK Decision Making and Political Governance).

The **Northern Ireland Protocol Bill** (the United Kingdom's then proposed solution to the difficulties relating to the Northern Ireland Protocol in the absence of successful negotiation outcomes) was introduced to Parliament in June 2022. The Northern Ireland Protocol Team was the lead on this Bill.

In June, the Europe and Human Rights Team worked with others across the Directorate to organise the annual **International Law Conference for the Government Legal Profession**. An audience of around 200 government lawyers joined us at Lancaster House. The conference focused on the Russia-Ukraine conflict, and speakers included, in addition to FCDO and other government lawyers, the Attorney General and Professor

FCDO Legal Directorate's role in the United Kingdom's response to Russia's invasion of Ukraine

On 24 February 2022, Russian armed forces commenced their full-scale invasion of Ukraine. Coming after Russia's unlawful seizure of Crimea in 2014 and contribution to the unrest and violence in the East of Ukraine, the invasion represented a significant escalation in an already troubling situation.

Legal Directorate has enabled the United Kingdom's response by helping policy and decision makers to navigate the complex national and international legal issues raised by the conflict. In the immediate aftermath, lawyers provided 24-hour legal support. Teams from across the Directorate continue to collaborate closely with policy colleagues to bring an end to the conflict, ensure the security and defence of Ukraine, and pursue accountability for those responsible.

While it is not possible to touch on all the challenging legal issues raised by the conflict that the Directorate has advised on, the examples below give an insight into the kinds of cutting-edge domestic and international legal questions we have had to tackle, and how integral legal issues are to realising the United Kingdom's foreign policy objectives.

Sanctions

Responding immediately to Russia's aggression, the United Kingdom, in lockstep with allies, set about imposing the largest and most severe package of sanctions ever imposed on a major economy. The Multilateral and Sanctions Team (now the Sanctions and Asia Pacific Team) has been pivotal in realising this policy aspiration.

Extensive work was undertaken – at great pace, and often in collaboration with other government departments – to amend both primary and secondary legislation to impose a very wide range of new financial, trade and transport restrictions, and expand HMG's legal powers to

designate individuals and entities for sanctions measures. At the time of writing, some 27 Statutory Instruments on sanctions have been made, and work is ongoing to ensure the legal framework keeps pace with the demands of the developing situation.

The Directorate played a pivotal role in reviewing and advising on some 1,500 designation decisions to ensure that these are legally robust. Continuing work includes defending these decisions against legal challenge. Of note, in March 2023, the Sanctions and Asia Pacific Team led on the successful defence of the first challenge against a United Kingdom sanctions designation to come to court, under the bespoke process prescribed by s.38 of the Sanctions and Anti-Money Laundering Act 2018.

At the international level, the Directorate advised on the UN General Assembly resolution adopted in November 2022 recommending the establishment of an international register of damage, loss or injury caused by internationally wrongful acts of the Russian Federation in or against Ukraine. At the Council of Europe Summit in May 2023, a Register of Damage for Ukraine was established, with the United Kingdom joining as a founding member along with 36 other member States and some non-Council of Europe States including the US and Japan.

Accountability

The Foreign Relations Team and Europe and Human Rights Team have supported the United Kingdom's various efforts to hold Russia and those responsible for illegal acts committed in Ukraine to account.

With respect to international criminal justice, the Foreign Relations Team advised on United Kingdom efforts in March 2022 to refer the



situation in Ukraine to the International Criminal Court under Article 14 of the Rome Statute. This referral secured the support of 42 other States, making it the largest State referral in the Court's history. It enabled the ICC Prosecutor to expedite an investigation that led to arrest warrants being issued for both Vladimir Putin and Maria Alekseyevna Lvova-Belova (Russia's Presidential Commissioner for Children's Rights) for the war crimes of unlawful deportation and transfer of population (children) from occupied areas of Ukraine to Russia.

In January 2023 the Foreign Relations Team advised on the United Kingdom's decision to engage in discussions with a core group of likeminded partners seeking to ensure criminal accountability for Russia's aggression against Ukraine.

Moving beyond criminal accountability, the Europe and Human Rights Team is advising on the United Kingdom's efforts to support Ukraine in two key pieces of international litigation. At the International Court of Justice, the United Kingdom has intervened in Ukraine's case against Russia, relating to misconstruction and abuse of the 1948 Convention on the Prevention and Punishment of the Crime of

Genocide. And within the Council of Europe, the Europe and Human Rights Team is also leading on the United Kingdom's intervention in support of Ukraine's case against Russia before the European Court of Human Rights. Ukraine alleges that Russia has committed mass and gross human rights violations in its military operations on the territory of Ukraine since 24 February 2022.

European Union work in 2022–2023

In May 2022 two new legal teams joined FCDO Legal Directorate to work on the UK-EU relationship, following a machinery of government change which transferred policy responsibility for coordination of that relationship from Cabinet Office to FCDO. The teams were, at that point, called the **EU Trade and Relations Team** and the **Northern Ireland Protocol Team**.

This move involved the Directorate resuming a central function in the United Kingdom's relationship with the European Union, which it had previously held until 2016. This new post-Brexit role for the Directorate involves the wider co-ordination and Centre of Excellence functions across the two key UK-EU treaties (the Withdrawal Agreement and the Trade and Cooperation Agreement) previously housed in Cabinet Office.

For the period from May 2022 to March 2023 (and indeed prior to that) the UK-EU relationship

was defined by the need to find a sustainable, long-term approach to the Northern Ireland Protocol. For much of the period that backdrop led to difficulties in progressing other areas of cooperation. This was the context for the EU Trade and Relations Team working on the first (and, so far, only) instance where the United Kingdom initiated formal consultations with the European Union under the Trade and Cooperation Agreement dispute resolution mechanism because of the EU's refusal to agree the United Kingdom's participation in various Union research programmes. Members of both teams also collaborated on the United Kingdom's response to six "Letters of Formal Notice" and one "Reasoned Opinion" from the European Commission (pre-litigation stages of the infraction process) relating to the United Kingdom approach to the Northern Ireland Protocol. However, certain policy areas were able to progress despite this context: for





example, the United Kingdom and European Union continued negotiating over the Peace Plus Financing Agreement relating to the funding programme supporting peace and prosperity in Northern Ireland. The resulting Agreement was laid before Parliament in March 2023.

The focus for the (then) Northern Ireland Protocol Team through much of the year was on simultaneously developing the Northern Ireland Protocol Bill (the United Kingdom’s potential unilateral approach to resolving the issue) and supporting its passage through Parliament, while working on the development of United Kingdom policy on a negotiated solution. From the latter part of 2022 onwards, negotiations with the European Commission on the Protocol intensified and the Northern Ireland Protocol Team co-ordinated a cross-Whitehall effort, which eventually culminated in the agreement of the new Windsor Framework arrangements announced in February 2023. The arrangements provide—among other things—for a new “green lane” for internal United Kingdom (GB-NI) trade and the “Stormont Brake”, a mechanism

enabling new European Union rules to be stopped from applying in respect of Northern Ireland in certain circumstances with the agreement of a minimum number of Members of the Legislative Assembly in Northern Ireland.

The agreement of the Windsor Framework meant that end of the business year involved the two European Union teams (with the Northern Ireland Protocol Team now renamed the **Windsor Framework Team**) supporting the preparations for the Withdrawal Agreement Joint Committee and Trade and Cooperation Agreement Partnership Council held back to back on 24 March 2023. The Joint Committee formally adopted certain instruments forming part of the Windsor Framework and the Partnership Council meeting was characterised by a positive, constructive tone with the United Kingdom and European Union noting various areas of cooperation, such as cybersecurity and counterterrorism dialogues. The teams continue to work on implementing the Windsor Framework and new strands of UK-EU cooperation.

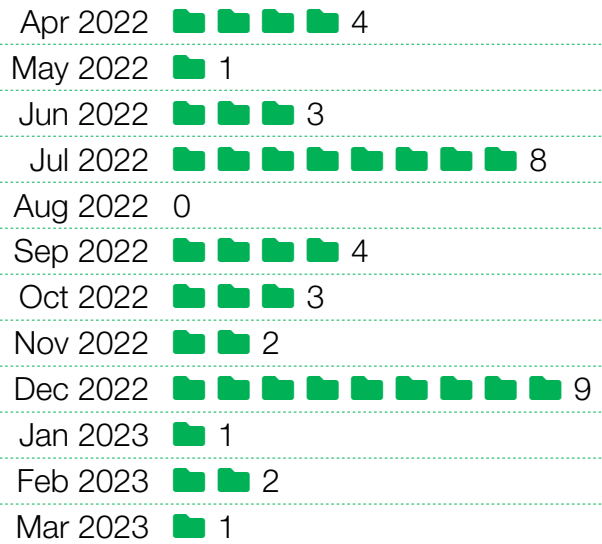
Working in the Business Management Team

The Legal Directorate Business Management Team expanded during 2022-23 when Cabinet Office Europe Legal Advisers staff joined under a machinery of government process (see page 16).

A review of the team and its work showed the need for an expanded team with a greater offering of support functions. We began a recruitment process that has been ongoing throughout the year, and the team now offers a wide range of business management support across the Directorate, with capacity steadily growing.

We carry out various functions including registering and laying of Statutory Instruments, onboarding new staff, raising Purchase Orders and paying invoices, managing office accommodation, providing PA support to the Directors, travel booking, financial reporting, HR support and general support across all the Directorate teams.

Number of statutory instruments laid/ uploaded/made each month, April 2022-March 2023

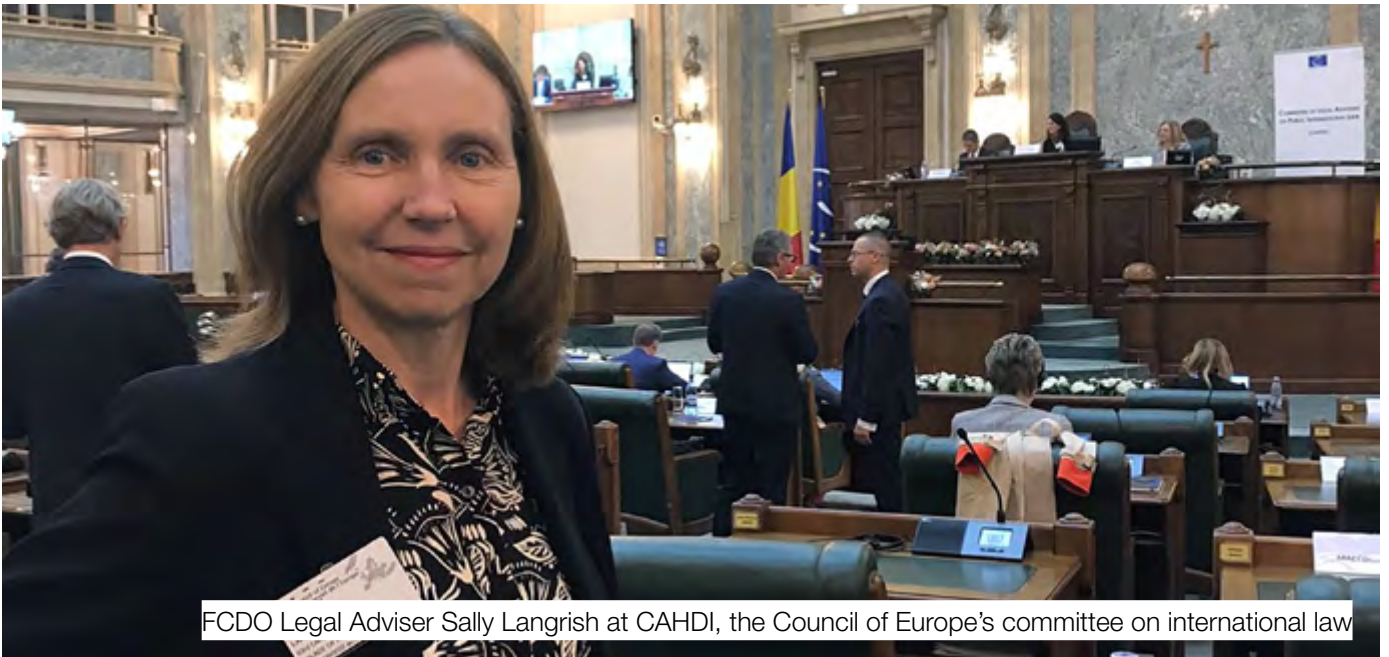


Total: 38



Mai, one of the Business Management Officers, comments on her role:

"I thoroughly enjoy working in the Legal Directorate as it is an inspiring and forward-thinking place to work that provides different learning opportunities. I particularly enjoy working within the Business Management Team as we work efficiently to provide support for the wider Directorate. Everyone in the team is helpful as well as keen and willing to share knowledge and skills with other members to ensure we all have the opportunity to develop and challenge ourselves with new tasks."



FCDO Legal Adviser Sally Langrish at CAHDI, the Council of Europe's committee on international law



Paul Berman, FCDO Legal Director (centre), at the London Conference on International Law



Ambassador and UK Permanent Representative to the United Nations, Dame Barbara Woodward, accompanied by a representative of the FCDO Ocean Policy Unit, visiting the International Maritime Organization Headquarters in London

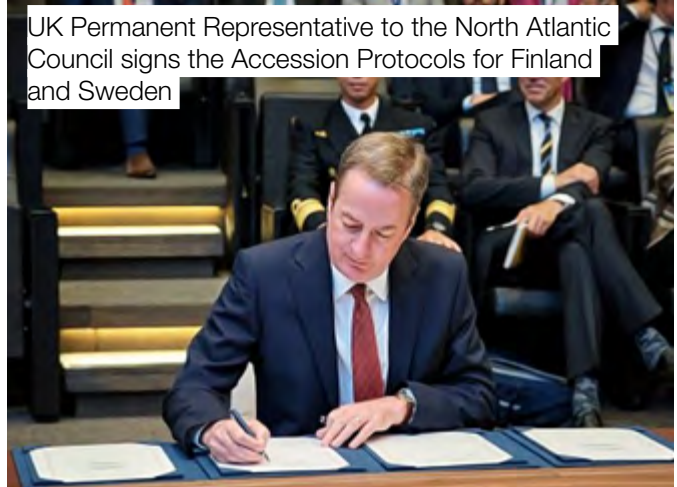
July, August and September 2022

Following **Finland and Sweden's formal applications to join NATO** in May 2022, Treaty Section, working closely with other colleagues in FCDO at home and overseas, urgently arranged for both instruments of accession to be drafted, cleared and submitted for Foreign Secretary signature. **Treaty Accession Protocols, Explanatory Memoranda and Written Ministerial Statements** were laid before Parliament on 5 July 2022, enabling the United Kingdom Permanent Representative to the North Atlantic Council to join other NATO Ambassadors to sign the Accession Protocols later the same day, in what NATO Secretary General Jens Stoltenberg said was “truly an historic moment.”

Following changes earlier in the year to expand the **criteria to designate persons for sanctions**, work in response to the Russian invasion of Ukraine continued to intensify over the summer. Amendments to the regulations introduced in July again significantly expanded the sanctions designation criteria. Together with changes made in March to the primary legislative framework, this work enabled the designation of individuals and entities—with the Multilateral and Sanctions Team leading the legal work—to continue with significant volume and pace.

Further regulations made in July also again broadened restrictions on trade with Russia—including bringing in prohibitions on the provision of certain professional and business services to persons connected with Russia. These added to the extensive new financial, trade and transport sanctions previously introduced.

Throughout July and August, the Multilateral and Sanctions Team also supported the **Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons**. Unfortunately, despite intense work to agree an outcome document, consensus was blocked by Russia at the last minute.



UK Permanent Representative to the North Atlantic Council signs the Accession Protocols for Finland and Sweden

In August 2022, the Europe and Human Rights Team filed the United Kingdom's Declaration of Intervention, seeking to intervene in the **Ukraine v. Russia (Genocide Convention) case** before the International Court of Justice, in accordance with Article 63 of the Statute of the Court. Following objections by Russia, the Court elected to consider the question of admissibility by using the written procedure, and the United Kingdom filed written submissions on that point in February 2023. The Court has now confirmed the United Kingdom's intervention. In late August, following a significant amount of work from members of Multilateral and Sanctions Team, Ministers also announced the United Kingdom's intention to intervene in the **Gambia v. Myanmar case** before the Court, concerning the alleged violations of the Genocide Convention by Myanmar.

Between 15 and 26 August, the fifth session of the Intergovernmental Conference on a new **Agreement under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction** convened at the UN Headquarters in New York. The United Kingdom delegation was led by the Ocean and Overseas Territories Team. See page 22 for more about their role in reaching this landmark agreement. Ocean science work continued in September when



FCDO co-chaired (with Defra) the new United Kingdom **National Committee for the UN Decade of Ocean Science for Sustainable Development**.

The United Kingdom made its first request for formal consultations with the EU under the **Trade and Co-operation Agreement dispute resolution mechanism** over the EU's refusal to agree the United Kingdom's participation in EU research programmes. The EU Trade and Relations Team formed part of the delegation presenting the United Kingdom position.

Also in September, Russia engaged accountability mechanisms under the

Biological and Toxin Weapons Convention to assert that peaceful biological research between Ukraine and the US violated the Convention. This included the first ever use of Article 6 to refer a complaint about biological weapons to the UN Security Council. The Multilateral and Sanctions Team worked closely with policy colleagues to respond effectively to the Russian allegations.

Law of the Sea: Biodiversity Beyond National Jurisdiction and Deep Sea Mining

2022-23 was a busy year on law of the sea issues. 2022 marked the 40th anniversary of the United Nations Convention on the Law of the Sea (UNCLOS) and March 2022 saw the House of Lords International Relations and Defence Committee publish its important report on whether UNCLOS remains fit for purpose 40 years on. On 12 December 2022, the Commission of Small Island States on Climate Change and International Law submitted a **request to the International Tribunal on the Law of the Sea for an advisory opinion** on obligations of States Parties to UNCLOS relating to climate change effects and impacts.

Legal Directorate's Ocean and Overseas Territories Team continued to lead the United Kingdom delegation in multilateral negotiations on a new Agreement under UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (**BBNJ Agreement**). The fifth and final session of the Intergovernmental Conference convened at the UN Headquarters in New York between 15-26 August 2022 and 20 February-4 March 2023 and, after very intense negotiations, including a marathon 36-hour final session, agreement was finally reached on an English language version of the text. The agreement was formally adopted on 19 June 2023 and will be opened for signature on 20 September. 60 States are required to ratify the Agreement for it to enter into force.

The BBNJ Agreement is an historic agreement for biodiversity and will play a key role supporting the delivery of the Kunming-Montreal Global Biodiversity Framework, including helping to achieve the target of effectively conserving and managing at least 30% of the ocean by 2030. It is also a demonstration that UN multilateral diplomacy can still succeed in reaching an ambitious agreement on issues of shared interest and concern. It helps to reinforce

the role of UNCLOS as the legal framework for all activities in the ocean and seas.

The United Kingdom delegation brought together policy and legal teams from FCDO and Defra, and harnessed United Kingdom scientific input—experts from the National Oceanography Centre and Natural History Museum were on speed-dial during negotiations. Close engagement with United Kingdom NGOs, industry and academia helped to deliver a workable final text. The UK delegation played a proactive role in achieving this success, working tirelessly with international partners to build consensus, facilitate discussion and find compromises. Our work now continues in earnest to ensure the Agreement can be implemented quickly and effectively and to allow the United Kingdom to ratify it at the earliest opportunity.

The **deep seabed beyond national jurisdiction** (known as 'The Area') has also been in increased focus. Under UNCLOS and the 1994 Part XI Implementing Agreement, the International Seabed Authority (ISA) is charged with the management of the Area and its mineral resources for the benefit of humankind. Deep-sea mining technology has advanced significantly since then, along with the potential value of the minerals, such as those within polymetallic nodules. These critical minerals could assist in the production of sustainable technologies such as batteries and solar panels. At the same time, understanding of the potential impacts of mining the fragile marine environment, and appreciation of the gaps in our knowledge, have increased.

The Ocean and Overseas Territories Team leads the United Kingdom delegation on the negotiation of the regulations to govern exploitation (i.e. mining) of the deep seabed. These multilateral negotiations gained extra impetus in June 2021 when Nauru announced



International Conference on the Agreement under UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction

plans to sponsor an application for an exploitation licence, triggering a timetable for the ISA to adopt exploitation regulations. These regulations must ensure effective protection for the marine environment from any harmful effects that may arise from mining activities.

Negotiations have recently been taking place three times a year at the ISA in Kingston, Jamaica, and the next round of negotiations will be in October 2023.

An Assistant Legal Adviser writes...

Adam: Assistant Legal Adviser in London

By way of background, I grew up in Yorkshire and studied law in the North East, where I stayed on to work in private practice in public law and human rights, focusing on legal aid work. From there, I went on to serve as a Legal Officer in the Royal Air Force, which is where I got a taste for international law, in particular international humanitarian law. I left the armed forces to join FCDO's Legal Directorate in January 2022, not having previously worked in government.

For me, a key attraction of the Directorate was the quality and breadth of the work on offer, tracking two of my primary areas of interest and experience: public law and international law. Working for the government also offered the promise of a bit more geographic stability for my family, while still having scope for international travel, and even the possibility of applying for overseas postings in due course.

I started in what is now the Sanctions and Asia Pacific Team, and it didn't disappoint. As is common for Assistant Legal Advisers, I picked up a broad portfolio of work, both leading on thematic areas (including, for example, on sanctions and counter-proliferation work relating to chemical/biological weapons) and advising policy colleagues who focus on a particular geographic region (for me this was China and North Korea). This means tackling aspects of both national and international law, and—while the balance differs across the teams—having scope to get involved in a mix of advisory work, litigation and legislative drafting.

I find that because you're supporting an internationally facing department that is responding to global events in real time, you never quite know what the day is going to bring. It is not uncommon to start the day with a clear plan for what you will get done, and end the day having done something completely different!



The breadth of work is simultaneously one of the best and most challenging aspects of the job. Lots of this was quite new to me, and joining the team leading on sanctions, just before Russia invaded Ukraine, was a baptism of fire. As you might imagine, the tempo was fast and the pressure was high. But I felt really well looked after by my manager, and couldn't have asked for more supportive colleagues, and I quickly found my feet. I commute into London, but have usually had options to work from home two or three days a week, which I find helps. Looking back, I learnt so much, and it was great to have the opportunity to help enable the United Kingdom's response to Russia's aggression.

Usually you can expect to stay in a team for around three years. However, on the back of a reorganisation of work, I recently joined the National Security Team. As a result, my portfolio has changed. I've picked up new geographic work and started to get involved in the broader range of interesting national security work the team does. Thus far I've had opportunities to travel to Geneva and the USA, and even put my previous military experience to good use on a range of work on international humanitarian law, which is great. I'm looking forward to everything else the team and the Directorate has to offer.



Top and middle: Government Legal Profession International Law Conference



FCDO Legal Directors Andrew Murdoch (left) and Paul McKell (right)

October, November and December 2022

An autumn highlight was the **Opening of the Legal Year dinner**, which Legal Directorate hosted at King Charles Street on 3 October 2022. The Opening of the Legal Year is an annual tradition in the United Kingdom dating back to the Middle Ages and is a reaffirmation of our commitment to the rule of law, access to justice and the right to independent legal representation. We welcomed a group of senior judges, lawyers and policy experts from the United Kingdom and overseas to FCDO to mark the occasion. Amongst our distinguished guests were the Lord Chief Justice, Head of the Judiciary of England and Wales, Master of the Rolls and Head of Civil Justice in England and Wales, and Chief Justices from Zambia, Ghana, Gambia, Nigeria, and a Supreme Court Judge from Kenya.

This was closely followed by the **second London Conference on International Law**, held at the QEII Centre in Westminster. FCDO are co-convenors of the Conference and chair its steering committee. We were delighted to see so many people attending the event and enjoying the opportunity to meet colleagues old and new in person following the three-year gap since the first London Conference. Read more about it on page 28.

Later in October, FCDO Legal Adviser Sally Langrish, along with colleagues from the Europe and Human Rights Team and the British Embassy in Washington DC, joined the legal team at the UK Mission to the United Nations in New York for **International Law Week**. International Law Week takes place while the UN General Assembly's



Sixth (Legal) Committee considers the Report of the International Law Commission and includes a series of side events on international law. Sally gave the United Kingdom's opening statement on the International Law Commission Report and met with her counterparts from across the world to discuss topical legal issues, including the legal response to the invasion of Ukraine. She also attended the General Assembly debate on the International Court of Justice.

Geneva was also the location in November for a roundtable discussion convened by the United Kingdom Mission on the challenges and opportunities in promoting greater implementation of **international law related to conflict-related sexual violence** (CRSV) at a national level. The discussion was co-chaired by Lucinda Stallard (Legal Counsellor, UK Mission, pictured right), Antonia Mulvey (Founder and Executive Director of Legal Action Worldwide) and Madeleine Rees (Secretary General of Women's International League for Peace & Freedom). This was the first in UK Mission Geneva's International Law Series, launched by Lucinda in 2022. Since then she has convened seminars and panel discussions, bringing in lawyers from across Geneva-based delegations, international organisations, NGOs and academic organisations.

In November and December 2022, the EU Trade and Relations Team was involved in two sets of important negotiations. The first was the United Kingdom completion of the third post-Brexit set of **annual fisheries negotiations as an independent coastal State**, including bilaterally with the EU, trilaterally with the EU and Norway, and with coastal States in the North-East Atlantic and beyond. The conclusion of the main negotiations means the United Kingdom fishing industry will benefit from fishing opportunities in 2023 worth over £750 million. Then in December we supported the negotiation of a Memorandum of Understanding with the North Seas Energy Cooperation. This will facilitate cooperation on the development of **renewables in the North Seas**, particularly hybrid projects that combine interconnectors



and offshore windfarms, opening up the potential for a North Sea grid.

In December, lawyers from the Foreign Relations Team attended the **International Criminal Court Assembly of State Parties** in The Hague. The annual Assembly of State Parties is responsible for a range of important decisions. This year the Assembly agreed a resolution on further reform of the Court as well as an increased budget to allow the Court to fulfil its important work across a range of situations (including Libya, Sudan, Ukraine/Russia and others).

States in Emergency—International Law at a Time of Reckoning: The London Conference on International Law

On 10-11 October 2022, around 500 legal specialists from the United Kingdom and around the world met at the QEII Centre in Westminster for the second London Conference on International Law.

The inaugural London Conference was held in 2019 and was conceived by FCDO and others with the aim of highlighting London and the United Kingdom's role as a centre of international law, and the importance of the international legal order. The 2022 Conference theme was 'States in Emergency—International Law at a Time of Reckoning.' Attended by academics, judges, barristers, government lawyers and other leading figures in international law, it challenged participants to consider the role of international law in dealing with today's global crises and emergencies.

FCDO was a co-convenor of the Conference, FCDO Legal Adviser Sally Langrish chaired the Conference steering committee and the Treaty, Economic and Knowledge Team acted as Secretariat. This gave FCDO a leading role in many aspects of Conference organisation.

Over the two days, four plenaries and 12 panel sessions covered an array of topics, including the climate emergency, human rights, international criminal justice, security, cyber warfare and ethical challenges for practitioners. Speakers and panellists included the Rt Hon Lady Arden of Heswall DBE, former Justice of the UK Supreme Court; the Rt Hon Michael Ellis KC MP, HM Attorney General; Karim Khan KC, Prosecutor of the International Criminal Court; and Dame Rosalyn Higgins GBE KC, former President of the International Court of Justice. Sally Langrish led an 'In Conversation' session with Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel.



Sally Langrish in conversation with Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

Among more than 70 speakers, who came from around the world—including from Japan, New Zealand, the US, Switzerland, Germany and France—were FCDO Legal Directorate lawyers, who discussed issues at the heart of FCDO's work such as the role and effectiveness of sanctions, jurisdiction and enforcement at sea, and cyberwarfare and the law of armed conflict.

The opportunity to hear from so many leading international lawyers, and to connect with colleagues old and new, was a highlight of the Conference. A theme running through the event was the important role played by a strong international legal system in supporting international security and democracy and dealing with difficult issues such as the war in Ukraine. Key to international law's effectiveness is the ability of its practitioners to exchange views, learn from each other, and broaden our perspectives. The Conference was a valuable platform for FCDO to collaborate with other practitioners and strengthen our networks.

[Recordings of the Conference plenary sessions and a selection of photos can be seen on the Conference website at http://thelondonconference.org/.](http://thelondonconference.org/)

Working in the Central Litigation Unit

Working in the Central Litigation Unit (CLU) is full of interest and variety, and often goes beyond routine litigation case management, ranging from dealing with requests for assistance from international courts and tribunals including the International Criminal Court, to developing highly specialised e-discovery capabilities.

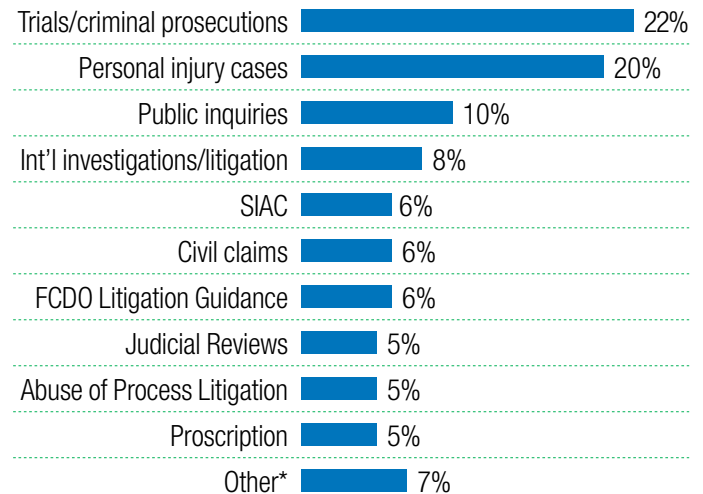
In 2022-2023 CLU drew on its extensive experience in supporting FCDO witnesses at coronial inquests to create comprehensive Witness Support Guidance. This Guidance is accessible to all FCDO staff, who can draw on it for practical advice and support if they are faced with the prospect of giving evidence in inquests and wider legal proceedings.

This year CLU staff are trailblazing their way to gaining legal qualifications and are currently being supported by the Directorate to sit the Solicitors Qualification Examinations. This is alongside gaining legal work experience within the Directorate, further building on their existing casework on challenging personal injury claims, judicial reviews, public inquiries and litigation risk monitoring.

CLU continues to build expertise in colonial legacy litigation, and this work is likely to continue to occupy the political agenda due to increasing debate on Britain's imperial past and strategic work by FCDO.

Team members have also taken an active interest in legal outreach, including attendance at the London Conference on International Law, providing the opportunity to learn more about wider international law issues and network with others from different parts of the legal profession. As with the wider Directorate, as a team we pride ourselves in working inclusively, flexibly and with agility, including incorporating team members working remotely from overseas.

Central Litigation Unit—Range of Work



*"Other" comprises: Management Board Litigation Risk updates (2%); First Tier Tribunals (2%); Consultation (2%); and Investigatory Powers Tribunal (1%)

January, February and March 2023



Legal Directorate representative at the meeting of the World Health Organisation intergovernmental negotiating body

2023 began with the launch of the **Treaty Centre**, a new FCDO Centre of Excellence. See page 32 to read more about this.

Lawyers from the Foreign Relations Team joined discussions on the **proposed Special Tribunal on the Crime of Aggression against Ukraine**. The United Kingdom is part of a core group of States participating in these discussions and in the first quarter of the year we travelled to Prague and Tallinn for discussions with the other States who are members of the core group.

The Foreign Relations Team was also involved in successfully defending a judicial review in the High Court against the Foreign Secretary's decision in the case of *Kanu v. Secretary of State for Foreign, Commonwealth and Development Affairs*.

Working with the Department for Transport, the Europe and Human Rights Team supported delivery of **driving licence recognition and exchange agreements** with Italy (January 2023) and Spain (April 2023) after lengthy

negotiations. These have made a significant difference to the lives of a large number of British citizens resident there.

In February the **Windsor Framework arrangements**, agreed between the United Kingdom and the European Union, were announced. See page 16 for further details.

The Peace Plus financing agreement—a UK/Ireland/EU-funded programme to support peace and prosperity in the border counties of Ireland and Northern Ireland—was laid before Parliament, with the EU Trade and Relations Team leading on the negotiations.

Lawyers in the Development, Corporate and Operations Team and at the UK Mission in Geneva have been supporting the FCDO Global Health Team in negotiating a **new treaty on pandemic prevention, preparedness and response**, working closely with colleagues at the Department for Health and Social Care. In February and March, at the fourth meeting of the intergovernmental negotiating body at the World

Health Organisation, Member States agreed that textual negotiations should commence. This followed a year of discussions on the scope of the instrument, and marked the start of an intense period of negotiation, with an ambitious aim to reach agreement by May 2024. This is an important contribution to efforts to improve global health security through stronger collective international action, co-operation and mutual accountability.

In March, lawyers from the Europe and Human Rights Team spoke at the **Ministry of Justice Human Rights Conference** on their work with the European Court of Human Rights. In the same month, team members attended the Council of Europe Steering Committee for Human Rights ad hoc negotiation group on the **accession of the European Union to the European Convention on Human Rights**. After 18 rounds of highly technical negotiations over many years the group adopted a package of revised draft accession instruments which pave the way for the EU to accede to the Convention while ensuring the continued functioning and effectiveness of the Convention system and the Court.

The early part of 2023 also saw lawyers from the Treaty, Economic and Knowledge Team working with lawyers at the UK Mission in New York on negotiations leading to the UN General Assembly resolution requesting, from the International Court of Justice, **an advisory opinion on the obligations of States relating to climate change**.

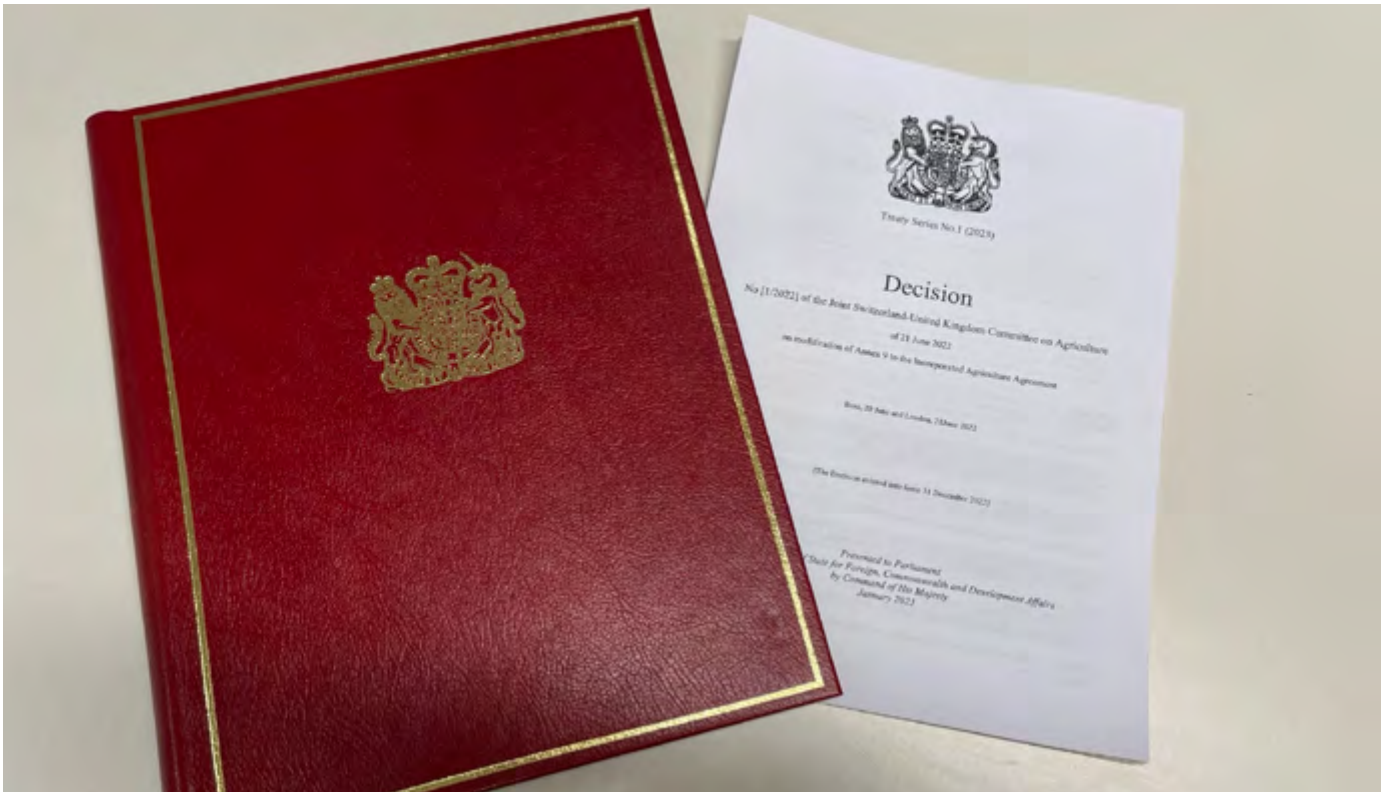
In March 2023, judgment was handed down from the High Court in the **first court review under section 38 of the Sanctions and Anti-Money Laundering Act 2018**. This was the first case to consider a designation challenge of this type and ended with a positive result for the United Kingdom government, with the Court upholding the designation.

A lawyer from the Foreign Relations Team joined colleagues at the UK Mission to the United Nations in New York for negotiations on the **draft Convention on Crimes Against Humanity**. This draft Convention is a negotiating priority for the United Kingdom in New York. This work included drafting and delivering statements

to the Sixth Committee of the United Nations General Assembly on a range of important draft provisions, including those concerning extradition, mutual legal assistance and the establishment of jurisdiction.

Towards the end of March FCDO Legal Adviser Sally Langrish and colleagues visited Strasbourg to attend **CAHDI, the Council of Europe's Committee of Legal Advisers on Public International Law**. The Committee brings together over 40 Legal Adviser equivalents across Europe, with observers from the G7 and other States and international organisations. The agenda this time was wide ranging, with a focus on Russia and Ukraine as well as a variety of other items including treaties, immunities and the work of the International Law Commission. In the margins of this meeting, Sally and colleagues attended meetings of the core group of likeminded partners to progress consideration of how best to pursue criminal accountability for Russia's illegal invasion of Ukraine.

The Treaty Centre of Excellence



Set up in June 2022, the Treaty, Economic and Knowledge Team supports FCDO's high profile and increasing work in the areas of treaties, international economic law, climate change and environmental issues. It also leads the Directorate's work on the International Law Commission, knowledge and information management, learning and development and legal diplomacy and international law outreach. The multi-disciplinary team covers all aspects of FCDO's lead responsibilities for treaty work including legal advice, treaty procedures and practice (through Treaty Section) and treaty policy.

An early milestone for the team was the establishment of a new Treaty Centre. Bringing together the different strands of treaty work, the Centre's objectives are to ensure quality and consistency in United Kingdom treaty-making across government; to develop knowledge, understanding and capability of treaty law, policy and procedures across government; and to demonstrate FCDO leadership on treaty matters across government and internationally.

The Treaty Centre's work, encompassing legal advice, guidance and training, policies and procedures, will support and promote the international rule of law, and thus stability in international relations.

FCDO Treaty Centre is a Government Legal Profession Centre of Excellence. Centres of Excellence are formal networks of government lawyers with recognised expertise in an area of law or legal practice that has relevance across a number of different government departments. They supplement and enhance the quality of legal advice and work by providing expertise on specific matters, creating and maintaining guidance and other material, providing updates and training, and taking responsibility for considering and publicising strategic trends.

Legal Directorate is also home to the Europe Centre of Excellence, which became part of FCDO in 2022 when two teams of lawyers joined us from the Cabinet Office (see page 16). It is responsible for advising lawyers

in other government departments on queries about the EU (Future Relationship) Act and for maintaining and updating guidance on the Trade and Cooperation Agreement and the EU (Future Relationship) Act. Its work is now complemented by the Treaty Centre of Excellence, which will support United Kingdom treaty making activities, becoming a key resource for government legal colleagues as they support the government and undertake treaty work.



The FCDO Legal Library



The Treaty Information Manager writes...

In addition to supporting other government departments with the conclusion of treaties, FCDO Treaty Section, part of the Treaty, Economic and Knowledge Team, provides information on treaties to which the United Kingdom is or has been a party. This includes running the [UK Treaties Online \(UKTO\) database](#) and providing our Treaty Enquiries Service. UKTO contains the details of around 15,000 treaties involving the United Kingdom, but if you cannot find what you are looking for, the Treaty Enquiries Service may be able to help. Here, the Treaty Information Manager reflects on the role:

I have worked in the Civil Service for over 20 years and (what is now) FCDO for most of that period. My time in Treaty Section, through a number of different roles, has provided the opportunity to accumulate a fund of specialised knowledge on a surprisingly pervasive and fascinating topic. As everybody in our team will attest, the work takes time and dedication to master. The effort involved in that achievement has contributed to my lasting affection for it.

An especially rewarding aspect is answering enquiries posed within and outside government. Enquirers include legal professionals,

academics, students and the public from around the world. We received over 300 enquiries last year. They range tremendously in nature, complexity and even spans of time from the yet to be signed to those involving States and empires long vanished. Although we have many invaluable electronic resources, I find there remains a certain charm and sometimes necessity in consulting aged dusty tomes. There is the further benefit of supporting the dry-cleaning industry.

Some questions are patently beyond the remit of the service but they are all answered and it's gratifying to consider that many a successful authentication of a birth certificate is partly due to my intervention... Others illustrate a fundamental misapprehension of the subject matter and I've found confusion is not limited to any one group of clientele. I take great pleasure in the knowledge that my work helps to illumine and demystify, assisting the beleaguered in exiting the treaty labyrinth.

To find out more about UK Treaties, go to <https://www.gov.uk/guidance/uk-treaties>





At CAHDI, the Council of Europe's Committee on Public International Law



At the London Conference on International Law



Professor Dapo Akande, member of the International Law Commission



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