

The instruments of economic warfare, then and now

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The measures taken by Louis XI in 1462 and 1463 form an arsenal each element of which has a contemporary equivalent. The following table offers a comparative reading. It shows the permanence of certain levers across the five centuries that separate the situations compared.

Instrument of 1462–1463	Contemporary equivalent	What is at stake for a financial centre
Prohibition forbidding the king's subjects to attend Geneva	sanctions and embargoes targeting persons, sectors or countries	termination of relations with the clients and counterparties targeted
Prohibition of transit through the kingdom	restrictions on access to payment, shipping and insurance infrastructure	rupture of payment and logistics chains
Fine imposed on Genoese merchants	so-called secondary sanctions targeting foreign persons	exposure of banks and traders in third countries
Royal safeguard	investment protection treaties, public guarantees	security of assets and persons
Exemption from the droit d'aubaine	succession and tax treaties, certainty in succession matters	attractiveness for international private clients
Specialised jurisdiction of the fairs	commercial courts, international arbitration	predictability of dispute resolution
Lengthening of the Lyon fairs	depth and liquidity of markets	concentration of counterparties and flows

The fine imposed on the Genoese merchants deserves particular attention. Foreign merchants, who were not subjects of the King of France, were penalised for having breached a prohibition issued by that king, because

they had used his territory to travel to Geneva. The king thus exercised his power over foreigners by reason of a territorial connecting factor. Contemporary sanctions often rest on a comparable logic. A state can reach foreign banks or companies as soon as their transactions pass through an infrastructure under its jurisdiction, for instance a clearing system in its currency. Several major European banks paid considerable penalties to the American authorities during the 2010s for dollar transactions held to be contrary to United States sanctions.¹

For Geneva institutions, this reality translates into permanent vigilance. Switzerland applies the sanctions decided by the United Nations Security Council and, on the basis of the Embargo Act, may adopt the sanctions imposed by its principal trading partners, with the State Secretariat for Economic Affairs responsible for their implementation.² Since 2022, Switzerland has to a large extent adopted the European Union's sanctions against Russia.³ But a Geneva institution operating in dollars or euros must also take account of the American and European regimes, whose reach extends beyond the borders of those jurisdictions.

The exemption from the *droit d'aubaine* likewise finds a direct echo in wealth management practice. International private clients attach considerable importance to the security of the transmission of their wealth: recognition of wills, forced heirship rules, inheritance taxation, coordination between national laws. The decision of a neighbouring state can alter this balance. France's denunciation of the Franco-Swiss convention on inheritance taxes, with effect from 2015, offers an example.⁴ As in the fifteenth century, the certainty in succession matters offered to a foreign clientele depends in part on decisions taken outside the centre.

Caution. The comparison between the measures of Louis XI and contemporary sanctions has its limits. Modern sanctions operate within a legal framework comprising legal bases, procedures, remedies and international commitments. The royal ordinances of the fifteenth century depended on the will of the sovereign. The permanence of the economic levers should not obscure the importance of these safeguards.

For the practitioner, the lesson is operational. Every international business relationship should be subjected to an analysis of its jurisdictional connecting factors: nationality and residence of the parties, currency of payments, location of accounts, route of the goods, flag of the vessels, insurers and reinsurers. Each of these connecting factors may expose the transaction to a sanctions regime. The best-prepared institutions have continuity plans that provide for the handling of relationships affected by

a new measure, the documentation of decisions and communication with the authorities.

1 Notes

1. U.S. Department of Justice, press release of 30 June 2014, “BNP Paribas Agrees to Plead Guilty and to Pay \$8.9 Billion for Illegally Processing Financial Transactions for Countries Subject to U.S. Economic Sanctions”: penalties of USD 8.9736 billion (forfeiture of USD 8.8336 billion and a fine of USD 140 million) for transactions conducted from 2004 to 2012 on behalf of Sudanese, Iranian and Cuban entities; one-year suspension of dollar clearing for certain business lines, imposed by the New York Department of Financial Services. ↩
2. Federal Act of 22 March 2002 on the Implementation of International Sanctions (Embargo Act; SR 946.231), in force since 1 January 2003; SECO, “FAQ – Sanctions contre la Russie”: “The State Secretariat for Economic Affairs (SECO) is responsible for the implementation and supervision of sanctions in Switzerland”. ↩
3. SECO, “FAQ – Sanctions contre la Russie” (seco.admin.ch): “At its extraordinary meeting of 28 February 2022, the Federal Council decided to adopt the EU sanctions against Russia”; “All the measures are set out in the Ordinance of 4 March 2022 on measures in connection with the situation in Ukraine (SR 946.231.176.72)”; obligation to report frozen assets to SECO without delay. ↩
4. Denunciation by France, by diplomatic note of 17 June 2014, of the Franco-Swiss convention of 31 December 1953 on inheritance taxes, which ceased to apply to estates opened from 1 January 2015 (see Part E, Chapter V). ↩

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