

June 17-18, 2002

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Measures to strengthen the role of the UN in the implementation of sanctions

On June 17-18, 2002, the SPITS Working Group on Strengthening the Role of the UN in Implementing Targeted Sanctions held a series of briefings with the Media, NGOs, UN Experts Panels, UN Sanctions Committee Chairs, and relevant officials from the UN Secretariat, funds and programs. This report lists the recommendations that were presented by participants.

Cluster One: The Media, the UN, and Targeted Sanctions

Several measures were recommended to help the UN to promote transparency in the application of targeted sanctions; to improve the UN's capacity to communicate with accredited UN correspondents; to promote broader public understanding of the scope and purpose of particular targeted sanctions regimes, particularly in sanctions-affected countries; and to better utilize the media's skills and information sources in on-going efforts to monitor and enforce targeted sanctions.

- Establish a system of routine press briefings on the work of the Sanctions Committees (SACOs) to inform media about the rationale for and objectives of UN Security Council (UNSC) sanctions resolutions and of amendments to on-going sanctions regimes, the release of Expert Panel and Monitoring Mechanism reports, as well as to provide periodic commentary on debates regarding particular sanctions regimes and the wider issue of UN sanctions reform. The function of spokesperson could be undertaken either by the UNSC Presidency, directly by SACO Chairs, and/or by a designated member of each Experts Panel. More frequent and transparent interaction between the SACOs and the media would encourage confidence in the SACOs and encourage the media to report on both the progress and problems of monitoring and enforcement of UN sanctions by UN agencies and member-states.
- Augment the liaison role of the Office of the Spokesman of the Secretary-General between the media, the UNSC Presidency, and the SACOs by initiating regular reports by SACO chairs to the UNSC Presidency, who can then relay this information to the Office of the Spokesman, regarding activities, schedules, meetings of the SACOs and related Experts Panels, and the overall progress of specific sanctions regimes
- Arrange for routine background press briefings by UN Experts Panels, timed to coincide with the formal release of Expert Panel reports, to give media regular

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opportunities for direct questioning of experts' findings and for conducting more thorough background research for their news reports.

- Ensure a coordinated and timely media message and reduce pre-emptive leaking of Expert Panel reports by introducing system of formal press embargoes and/or by establishing clear guidelines for all SACO and Experts Panel members regarding disciplined procedures for public release of Expert Panel reports.
- Media representatives expressed concern over the uneven quality of Expert Panel findings, noting that the standards of evidence and verification employed are often less rigorous than those of professional journalism. In countries with stringent libel laws, media outlets can be held to account for disseminating unsubstantiated allegations, even where these are made by third parties. For these reasons, some outlets have demurred from reporting on Expert Panel findings altogether. The promotion of wider media coverage of sanctions efforts, therefore, will require a concerted effort to improve the quality of Expert Panel investigations and to ensure the veracity of Expert Panel findings.
- To improve the reach of the UN message to sanctions-affected countries, identify and provide information support to key media outlets with access and legitimacy in these countries.
- NGOs can better deploy their advocacy role by pressuring UN and member states to act more vigorously upon the recommendations of the Experts Panel Reports.

Cluster Two: NGOs, the UN and Targeted Sanctions

Discussions with NGO representatives yielded several recommendations to better incorporate NGO field knowledge and expertise, particularly as concerns efforts to reduce the unintended humanitarian impact of sanctions, in the design and implementation of targeted UN Sanctions; to promote better information exchange between relevant NGOs, the UNSC, and SACOs; and to improve participation of indigenous NGOs in conflict-affected countries in the effective implementation of targeted sanctions.

- Establish standardized models and processes for routine NGO participation in UN-led humanitarian evaluations of the impact of targeted sanctions regimes, including prior impact assessments and periodic follow up of actual sanctions impact on civilians.
- Provide policy and financial support to the Office for the Coordination of Humanitarian Affairs' (OCHA) proposed project on Assessing the Humanitarian Implications of Sanctions, which seeks to develop and implement a UN-wide standardize sanctions-assessment methodology.
- Encourage greater interaction between relevant NGOs and the SACOs through more frequent NGO briefings on sanctions-related issues, perhaps through the use of the Arria formula of informal meetings between the SC members and key experts and actors. To make this an effective mechanism, schedules of relevant SC and SACO meetings should be provided to NGOs well in advance to allow them the needed preparation time.

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- Create more effective mechanisms to routinely channel and effectively utilize the sanctions-relevant information, especially regarding humanitarian impacts and sanctions violations, that is possessed by NGOs into relevant UN bodies, to complement the official information supplied by cooperating member-states.
- Incorporate in all Experts Panels the humanitarian impact assessment model adopted by the Liberia Experts Panel in its upcoming report.
- Explore ways to bring the expertise of human rights NGOs to bear on the problem of ensuring that procedures for compiling lists of sanctions targets are transparent and in conformity with international human rights norms and due process.
- Improve intra-NGO cooperation that brings the varying skills and resources of relevant humanitarian, advocacy, and policy analysis NGOs, both international and field-based NGOs, around discrete types of targeted sanctions (e.g. arms embargoes, travel bans, financial controls).
- Encourage the relevant international and field-level NGOs to undertake regular reporting of sanctions violations, to complement the monitoring of the SACOs.
- Encourage the creation of an NGO-based website that lists UNSC sanctions commitments and tracks their performance on follow up.

Cluster Three: The Role of UN Experts Panels and Sanctions Monitoring Mechanisms

Participants agreed that the UN Experts Panels and Monitoring Mechanisms have made a signal contribution to the UN's overall capacity to refine and tighten targeted sanctions measures and that their role in "naming and shaming" of sanctions violators has led to improvements in the implementation of targeted sanctions. The discussions concerning ways to improve the work of the Experts Panels yielded a number of specific recommendations for enhancing the investigative, administrative, and information-management capacities of the Experts Panels as well as for ensuring the timely and effective follow-up actions by the Security Council and member states on the recommendations of Expert Panel reports.

Improving the Experts Panels Investigative Capacity & the Quality of Experts Panel Findings

Establish Common Guidelines

- The lack of common guidelines for the work of the Experts Panels was a repeated theme of these discussions. Participants suggested that the Stockholm Process take the lead in drafting model guidelines for UNSC consideration.
- Ensure that the Experts Panels receive a thorough orientation on the background to their mandate, the work of previous panels, the parameters of their work, and the expectations placed on them. Orientation should also include clarification of how the SACOs and the Secretariat function.
- The UNSC should establish a set of common ethical and procedural guidelines for all Experts Panels and Monitoring Mechanisms. Guidelines should cover, inter alia: interpreting UNSC mandates; procedures for liaising with SACO, the Secretariat, the

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media, and other UN agencies; viable work-plans and field visit guidelines, investigative methodologies, reporting formats and citation requirements, common and rigorous standards of evidence for identifying and verifying sanctions violations, for evaluating reliability of sources, and for managing lists; procedures for public release of EP reports. Common guidelines are needed to ensure the improved veracity of Experts Panel findings, which was deemed essential to the continued public credibility and effectiveness of the Experts Panels in supporting sanctions implementation. Guidelines should allow some room for tailoring to the specific mandates of different panels.

- Members of past and current Experts Panels should have systematic input into the creation of common guidelines and to consolidate emerging best practices, preferably through their formal inclusion on a proposed committee to establish Experts Panel guidelines.
- Consider establishing comprehensive methodology for design and implementation of specific sub-types of targeted sanction (arms embargo, travel ban, financial freeze). That is, rather than have 12 separate and disparate arms embargoes, establish a single model by which they could be coordinated and implemented in tandem. In this regard, the UN should evaluate the potential for wider application of commodity and trade certification schemes.

Establish Common Criteria/Process for Selection of Experts

- The Security Council and Secretariat should systematize and make rigorous and transparent the criteria and procedures for selection of panel experts, so as to ensure that each Experts Panel has the appropriate mix of regional and functional expertise, that the selection process remains independent and objective, and to guard against emerging tendency towards “selection by convenience”, in which already vetted and known experts are recycled from past panels -- a practice which offers both speedy composition of new Experts Panels and informal continuity and interaction among the different panels, but which may not always ensure the right complement of skills.
- Experts Panels should be complemented with a legal advisor to ensure solid evidentiary standards that can ensure veracity of findings, enhance public credibility of reports, and provide member-states with evidence of sanctions-violations usable in courts of law.

Improve the Accuracy of Lists & Establish Review Mechanism

- To improve the use of lists of alleged sanctions violators and to ensure their composition is accurate, non-arbitrary, verifiable, up-to-date, and of manageable size, SACOs and the Secretariat need to work with the member states supplying the information and the Experts Panel investigators to establish transparent procedures.
- To ensure justice and accountability, and to ensure compliance with international human rights norms and the protection of due process, the present practice of providing member-states the right of reply to allegations of sanctions-violations among their officials should be complemented with a mechanism for judicial review for all persons, including non-state actors, named on lists.

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Strengthen Logistical, Administrative, and Budgetary Support

- UNSC sanctions resolutions that mandate the creation of an Experts Panel need to take full account of logistical and budgetary support that the panel will require to fulfill these mandates, including the provision of an adequate time period for investigation and reporting and adequate financing. Financial and material resources should be anticipated, budgeted, and supplied from the outset, as failure to do so has led to sometimes costly delays in field investigations and in late remuneration of experts.
- The *ad hoc* character of the Experts Panels has helped preserve their flexibility and independent authority, but has had diminishing returns over time, as the proliferation of panels has strained the ability of the Secretariat to provide needed administrative and logistical support. Such support is even more essential to those Experts Panels that are not based at UN Headquarters in New York. To provide supplementary support, while ensuring the independence of the panels -- which is the *sine qua non* of their credibility--the Security Council should support the creation of a small, permanent Expert Panel Support Office within the Secretariat to provide core administrative support. Such a facility would help to avoid costly and wasteful duplication of work, provide a modicum of institutional memory and information-pooling between different panels that is currently and woefully lacking, and reduce the administrative and logistical burdens of the panel members. Overall, a permanent mechanism would enhance the effectiveness and deterrent capacity of the Experts Panels and thereby strengthen UN sanctions implementation.
- Permanent Office for core administrative support should include:
 - *Administration/Management Functions*: to ensure provision of office space, computers, telephones, travel documentation and arrangements, and budget management;
 - *Registry of Experts*: to systematize and consolidate a roster of experts from those nominated by member states, based on best practices, according to clear criteria, and that includes relevant types of expertise: country experts, sanctions experts, law enforcement professionals, specialists on international transport, small arms smuggling, financial flows, etc.;
 - *Centralized Information Archive/Database*: Currently the materials and information accumulated by the individual Expert Panels is scattered among the individual panel members who collected it and, thus, remains inaccessible to both the Secretariat and new Experts Panels, whose work could benefit from it. There is an urgent necessity to establish a system where the accumulated information and documentation can be consolidated within the Secretariat. Such a facility will require a dedicated information manager to work with designated panel members on an on-going basis to ensure data that is usable, up-to-date, secure, and accessible to all SACO and panel members;
 - *Legal Consultation*: to provide legal advice to Experts Panel investigations and verify that report findings meet evidentiary requirements;

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- *Liaison Function*: to coordinate work of the Experts Panels and arrange periodic briefings with the UNSC, the SACOs, the Secretariat, and relevant departments and agencies, including UN field offices [e.g. the Department of Political Affairs (DPA), The Department of Peacekeeping Operations (DPKO), the Department of Disarmament Affairs (DDA), and OCHA], as well as other relevant agencies in wider UN family (e.g. The UN Office for Drug Control and Crime Prevention (UNODCCP), the World Customs Organization (WCO), and Interpol)

Promote Follow-through on Expert Panel Recommendations

Follow through on the recommendations of the Experts Panel reports is the responsibility of the SACOs, the UNSC, and member states. While most Experts Panels have been extended by the Security Council beyond their original 3-6 month terms, with the notable exception of the Sierra Leonean Panel's recommendations concerning Liberia, there has been little by way of decisive or consistent follow-through on the accumulating Expert Panel recommendations, either by the UNSC or member-states. Participants attributed lack of follow-through to two factors: 1) recommendations that are largely aspirational and not ripe for implementation; and 2) a lack of time and attention by an otherwise burdened Security Council.

SACOs/Security Council

- While recognizing the symbolic importance of including broad, normative recommendations, SACOs should work with Experts Panel members to ensure Reports include specific, implementable recommendations for UNSC consideration.
- The Security Council should conduct a thorough review of possible follow actions on EP reports before renewing or their extending mandates.
- SACO Chairs must be more proactive in championing their respective Experts Panel and ensuring their concerns and findings are placed on the SC's agenda.
- SACO chairs, working with their respective Experts Panels and Secretariat should ensure that sufficient time is allotted for panel members to brief the Security Council, and for UNSC members to review and deliberate report findings before publication.
- The Security Council should work to ensure consistent follow through on specific panel recommendations, including recalling member-states to their responsibilities under Chapter 7 of the UN Charter to comply with and support UN sanctions.

Member-States

- Even in the absence of direct Security Council encouragement, member-states can and should undertake follow through on Experts Panel recommendations where they have the capacity to do so. Notably, member states should undertake domestic criminal investigations, and where proven, appropriate legal prosecution, of those of their citizens alleged by panel reports to have been complicit in the violation of UN sanctions regimes.

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- As the Experts Panels lack subpoena powers and are compelled to rely on the cooperation and intelligence of member-state law enforcement bodies, member-states have ultimate responsibility for ensuring transparency of sanction compliance and enforcement, and should ensure that verifiable supporting documentation of sanctions violations is supplied to the appropriate Experts Panel.

Cluster Four: The UN Security Council, Sanctions Committees, and the UN Secretariat

Participants spoke of the need to better utilize the existing capacity and resources and to integrate the potential synergies of the Security Council, Sanctions Committees, Secretariat, and specialized UN agencies and field operations towards more systematic and coordinated implementation efforts.

Security Council

- The UNSC should determine in advance whether a particular sanctions regime is to be part of an overall operational policy tool for the maintenance and promotion of international peace and security and whether the objectives can be reconciled with the national security interests of SC members.
- The UNSC should apply sanctions with greater deliberation and specificity, and with a clear assessment of risks, costs, and chances of success.
- The UNSC needs to clarify the nature of the Secretariat's role in the operation of UN Sanctions policy, specifically the operational role of the DPA Sanctions Branch, the analytical role of other relevant departments (e.g. OCHA, DDA) and their relation to the Security Council and SACOs, to dispel confusion among other agencies and to set realistic expectations of the specific supporting, advisory, and implementing capacities of the Secretariat. As a first step, the SC may seek to commission an independent expert to assess the role of the Secretariat.
- The UNSC should ensure that the design of sanctions regimes mandated by UNSC resolutions receives prior informed input of specialized agencies (DDA, OCHA, DPA), especially regarding the anticipated humanitarian impact and other political and economic risks entailed, and should ensure that sanctions regimes are in fact implementable prior to introduction.
- The Security Council should ensure that sanctions are endowed to succeed via the provision of adequate material and human support for each sanction regime. Borrowing from both the Yugoslav and the Afghanistan experiences, the UNSC should develop a model for sanctions implementation assistance at both the regional and frontline-state level.
- The UNSC should ensure that UN observer, peacekeeping, and peace enforcement missions in countries under UNSC sanctions have mandates that will allow/require them to report on sanctions violations. Also, the UNSC should make clear the importance of sanctions monitoring and enforcement to all troop-contributing countries.

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Sanctions Committees

- Before UNSC members take on chairships of SACOs, they should ensure that they have the full political and financial commitment of their capitals to support and implement the UN sanctions regime at hand.
- SACO Chairs need to assume a more proactive and creative liaison function between the Secretariat, the Experts Panels, and the UNSC. They need to provide regular leadership and guidance for Experts Panels' work as well ensure that panel concerns, findings, and recommendations receive full UNSC briefings, with the participation of other relevant member states.
- SACOs should explore avenues of informal consultation to better engage the General Assembly in the implementation (especially monitoring and enforcement) of sanctions.
- SACOs need to provide clear sanctions reporting instructions, following from UNSC mandates, to member-states.
- SACOs should provide regular bulletins to relevant humanitarian agencies regarding exemptions from sanctions regimes, so that they can adapt their polices and operations accordingly.

UN Secretariat, Departments and Agencies

- The DPA Sanctions Branch should be staffed to its fully assessed complement.
- The Secretariat should undertake to assist in providing better public information to member states and the general public to convey the message that targeted sanctions are a potentially valuable and useful policy tool. They can be an important instrument of deterrence and prevention, and not just crisis management and containment, provided that they are reformed to effectively mitigate negative humanitarian impacts and costs to front-line states, while intensifying peaceful pressure on those targeted actors whose behavior the UNSC seeks to change.
- Together with the Security Council, the General Assembly, and other relevant UN departments and agencies, including OCHA, DDA, DPKO, UNICEF, the Secretariat should work to integrate targeted sanctions into a broader diplomatic strategy of conflict prevention and conflict resolution that includes, good offices, mediation, and, where necessary, the threat or use of force. This integrated approach should more effectively integrate the information and capacities of UN field offices and missions.
- The Secretariat should seek to identify mechanisms by which the information and analysis accumulated by the Experts Panels, especially regarding illicit arms, financial, and commodity flows can inform and be informed by the work of other relevant UN agencies and departments and external agencies (e.g. DPA, DDA, OCHA, ODCCP, WCO, Interpol, The International Organization of Supreme Audit Institutions (INTOSAI), and the OECD).
- The Secretariat should assist OCHA to find the needed human and financial resources to complete and implement its exercise in developing a methodology for

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the routine pre-assessment of the humanitarian impact of UN Sanctions. Ways should be explored to expand this methodology to include follow-up reporting on other political and economic impacts, as well as to extend it to all relevant agencies. These impact assessments should become a standard component of the Expert Panel reporting framework (as has been done in the upcoming Liberia Experts Panel Report)

- The Secretariat, especially key departments (DPA, DPKO, UNICEF, OCHA) should undertake to review regular reports from their respective field-staff to determine whether information relevant to sanctions implementation is being passed on to UN headquarters. If so, steps should be taken to systematize and disseminate it to the SACOs and Experts Panels. If not, consideration should be given to requiring field-staff in affected regions to prepare periodic sanctions monitoring reports.
- To inform and mobilize member-states, the Secretariat could hold regular briefings for sanctions experts to inform member states as to the progress and challenges of effective implementation, as well as to receive regular input from member-states as to challenges they face in sanctions monitoring and enforcement.
- The Secretariat, particularly DPA, can do more to engage Regional Organizations in support of sanctions implementation, by inviting their regular input and by assisting them to build the technical capacity for sanctions monitoring and enforcement
- As sanctions are a primary instrument in the UNSC's effort to promote and maintain international peace and security, consideration should be given to giving sanctions a standard budgetary line in the UN budget. The Secretariat should prepare and justify a budget proposal, outlining what full sanctions support (from design through implementation, monitoring and enforcement) would need, as currently there is no global estimate of how much is being spent on sanctions implementation and how this is being spent.