

12 June 2002

Chair person: Andrés Franco,

Ambassador Deputy Permanent Representative

Rapporteur: Michel Page,

Project Officer-Security and Peacebuilding, International Alert

Measures to Strengthen the Role of the UN in the Implementation of Sanctions

This report lists recommendations that were presented by participants during the Working Group's meeting in Gimo 3-5 April 2002.

Cluster One The UN: the Secretariat and the Sanctions Committees

The Sanctions Branch

Size

Establish additional criteria to define an appropriate size for the Sanctions Branch possibly through more specific roles for the Branch that may or may not include duties in the field of implementation.

Assign the SACOs with even professional support from the Sanctions Branch.

Expand the role of the Sanctions Branch to include the circulation of documents (with comments) the provision of historical advice and others.

Assure flexibility in the size of the Sanctions Branch to respond to a dynamic and variable role as required by the SACOs.

Systematise the role of the secretariat in the area of institutional memory.

Assign to the Sanctions Branch a coordinating role in the UN system's response to the implementation of sanctions.

Sanctions Committees (SACOs) should,

- Establish specifically how the Branch fits into the efforts of implementation on a case by case basis, and follow up closely any requests in that direction.
- Identify those tasks that may possible for the Sanctions Branch to do given certain political considerations.

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- Co-ordinate parallel political processes in progress in order to maximise UN capacity in the field of implementation . The coordination of the logistical support for the EPs in the field could be provided by the Sanctions Branch.

Information and Analytical capacity

Enhance the UN's investigative/analytical capacity in the area of sanctions through in house expertise on geographical or thematic areas to support the SACOs.

Identify a core group of experts to provide SACOs with periodic briefings and updates.

Establish an Internet portal on sanctions to support both the Branch and the SACOs as a repository of research with perhaps a different page for each regime. The system could have information publicly available (thus aiding transparency) while other information could be password protected within firewalls. It is a low cost option that may not address all the information needs but could greatly assist the maintenance of institutional memory. Outside academic institutions may be involved.

Inform to members states in detail of Security Council decisions on sanctions to protect the credibility of the UN including factual information, sanctions violations (implementation), humanitarian consequences, and impact on third states.

Maximize the level of transparency of the SACOs and the understanding of its decisions and their motivation by member states and other actors that are necessary for the implementation of sanctions.

Create channels of dialogue, communication and interaction between the SACOs and other UN agencies.

Budget Availability and Trust Funds

Confirm the UN regular budget as the main funding source for sanctions implementation.

Use Trust Funds only for specific areas in the area of implementation that appear to be marginal, i.e. not central to the issue of implementation.

Create general guidelines on the minimum administrative support that is required for each EP to facilitate the cost estimates elaborated between the Secretariat and the panels.

Create a reasonable budgetary allocation that Chairs of the SACOs may use for activities relevant to implementation. This may enhance the possibilities of representatives from developing countries chairing SACOs.

Promote more intergovernmental body cooperation and coordination between the General Assembly and the Security Council to ensure the extra costs derived from implementation activities are covered swiftly, and that external funding to fulfil these requests is kept to a minimum to avoid slowing down the process.

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Consider a stronger commitment from the five permanent members in the area of financing implementation activities. Some lesson can be drawn from the discussion on peacekeeping operations taking into consideration that implementation of targeted sanctions can be relatively inexpensive if compared to peacekeeping operations (e.g. flexible-funding models). In the exploration of this recommendation, due consideration must be given to the impact of this option on the UN's development spending and the vulnerability of the individual SACOs.

Sanctions Committees

The Chair

Maximize the quality of the briefings provided for non-Council member states keeping in mind that SACOs are consensual and deficiencies in a committee must be the responsibility of the wider committee and not just the chairs.

Revisit the document produced by the SACO chairs known as *'The Chairs Report'* to identify proposals that have not been implemented.

Transparency and Ownership

Reach a balance of transparency that will not undermine sanctions but will assist non-Council member states in understanding the sanctions process and the reasons why sanctions are imposed. Non-Council members' should not feel left out of the process.

Publish the agenda of all SACOs meetings in the *Journal* to assist member states in assessing whether they should ask for more information or not and whether they need to attend briefing sessions (this is important especially for member states with relatively small missions).

Strengthen communication and coordination with the General Assembly whenever the Fifth Committee is assessing budgetary issues related to sanctions.

Promote transparency in all actions related to sanctions (imposition, implementation, lifting) to promote ownership by member states and enhance the possibilities of successful implementation. Emphasize explanations on the individual reasons of why sanctions are in place especially given the complexity and difficulty of targeted sanctions (e.g. management of lists where there is often difficulty in getting clarification on what or who is covered, especially in cases of individuals who have common names).

Enact a UN Freedom of Information Policy.

Accelerate and improve the publication of the *Reports of Statements of Members*.

Enhance the quality of the Summary Records for formal meetings. Informal meetings should be detailed by the Chairs in his briefing to non members.

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CTC lessons (not a sanctions committee)

- Improve the reporting mechanism by member states in response to the SACOs including reporting back when necessary. The Chair could out reach more to facilitate this outcome making sure UN members understand with precision what is required from them.
- Develop stronger links with regional organizations, and other international bodies such as the OECD, FATF.
- Develop a roster of experts which could be drawn to assist the SACOs.
- Develop contact points at missions for all targeted sanctions and inside member states.
- Organize public briefings and through political groups of relevance to the sanctions regime (EU, ECOWAS, Arab League, Rio Group, etc).

Cluster Two- Instruments Available to the UN for Implementation

The Expert Panels

Produce in the Security Council general guidelines for the work of the EPs including required standards of proof, references to heads of states, etc.

Evaluate on a case by case basis the independence of the EPs to avoid putting pressure on them to produce an outcome that is acceptable both to the Security Council and the SACOs.

Intensify the interaction between the SACOs Chairs and the EPs with respect to issues of implementation.

Guarantee familiarization activities for members of EPs before they go the field in order to enhance their understanding of the information that will be provided to them.

Strengthen and clarify the scope of EPs-Secretariat/Sanctions Branch relations. This could be achieved if there is clarity before hand on the administrative support that is needed for their work and the specific role of the Branch (i.e., purchase of travel tickets, office space, computer support).

Provide support and backing from the Security Council to the EPs giving due regard for its independent status.

Create a roster of experts to allow the formation of EPs rapidly.

Support the practice of “naming and shaming” of sanction violators but establish guidelines and general principles must be established. Monitoring sanctions that are difficult to

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implement is a major issue, and Security Council backing may be needed (for example if expelling representatives of targeted actors from member states).

Ensure that targeted sanctions imposed by the Security Council are implementable.

Assure geographical distribution in the appointment of members of panels to enhance the legitimacy and acceptability of the mechanism.

Define what the Sanctions Branch must do with the information received by the monitoring mechanisms (e.g. form a database). This should take into consideration that in the area of responsibility and accountability, the EPs are responsible to the Security Council and to the SACOs until they have issued their report. After that they cannot respond to any follow up corrections that the report may generate.

Select members of panels should with experience in the field of the sanctions, with appropriate geographic and gender balance, and based on names compiled from member states, and other specialized sources. The list of names can then go back to the SACOs for final approval.

Attach legal advice for the EPs to ensure that they can accumulate evidence that will allow law enforcement agencies the possibility of proving a crime in court. The Legal Department could be assessed a particular role in this regard, or could provide help in identifying outside sources.

Use clearly drafted language for the imposition of sanctions at the Security Council including avoiding clash between sanctions regimes and Human Rights conventions.

Institutionalize the monitoring of regimes through a mechanism that may be resorted to in those cases that do not have such a mechanism.

Assess the current system of monitoring to define whether there is a need of overhaul (identify deficiencies of the current system, budgetary allocation, institutional memory, publication of lists of debarred parties such as sanctions busters, and early warning functions).

Establish a roster to protect the secretariat from an overtly political role, and to protect the independence of the mechanism from the Security Council.

The EPs should,

- Establish fluent relations with other branches of the Secretariat including OCHA, DPKO, funds and agencies. Chairs should have a special responsibility in this regard. If members of the panel are not located in NY, a visit to NY for consultation could be scheduled.
- Draw on the experiences of other sanctions regimes, and the SACOs and the Secretariat should facilitate this exchange to build on synergies and lessons learned.

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- Assure good relations with member states. Chairs of the EP have a lead role in making sure that appropriate channels of communication are used to obtain cooperation from member states. The difficulties in gathering intelligence information, the need to avoid sharing the preliminary findings with governments, are special challenges for the EPs.
- Specify questions in their work to facilitate specific answers from governments. Elaboration of EPs lists is inevitable in this regard to be verified.
- Avoid misunderstandings over possible overlaps between different mandates as each sanctions regime is different. Some issues of overlap can be readily identified and avoided while in other cases this overlapping may be useful to crosscheck and put pressure on sources (i.e. a good investigative technique deployed by both journalists and law enforcement).
- Establish a set of ethical guidelines explaining to a new EP member what their role is, how they can operate and what their ethical limits are.

Unintended Consequences

Continue to minimize the humanitarian impact of sanctions on the general populations of targeted states to enhance the possibilities of successful implementation.

Develop sophisticated methodologies to establish the humanitarian impact of sanctions including the establishment of a baseline so that the subsequent impact can be effectively measured, and drawing the distinction of the impact of sanctions as opposed to other causes of humanitarian suffering (drought, war etc.) building on the Liberia and Afghanistan experiences.

Define in the UN system key indicators to assess the humanitarian impact based on OCHA's experience that includes economics, public health, food security and nutrition, medical services, water and sanitation, environment, education, vulnerable groups, infrastructure, public order and governance and finally humanitarian assistance.

Create mechanisms of communication for Article 50 cases so that third party member states that might be affected by sanctions are consulted. This has implications on sanctions implementation.

Build on the assessment of the humanitarian assessments to apply a similar methodology, *mutatis mutandi*, with respect to third party states affected by sanctions.

Assess the impact of sanctions (humanitarian in the target country and/or on third parties) based on as many sources as possible including but not limited to governmental information.

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Pre-assess the impact of economic sanctions when possible to add to the credibility of sanctions while being mindful of the need for rapid imposition and implementation. Pre assessments need not be comprehensive, but if done, they should be aimed at obtaining an estimate of the range of potential impacts. Pre assessments should not be done for arms embargoes and travel bans.

Create communications strategies to counterbalance the use of humanitarian concerns as an argument to oppose sanctions, and acknowledge that short-term harm might block out the long term good of sanctions.

Lists (an issue of WG 3)

Define with clarity who should be responsible for the compilation of lists (SACOs, EPs, member states), and how should the lists be reviewed in a transparent manner. Lists are a necessary tool for the implementation of targeted sanctions.

Review the issue of judicial review of lists in the context of the responsibility of international organizations.

Consider the creation of a list of arms brokers that may be of assistance for the implementation of arms embargoes.

The Media

Engage the media in favor of implementation to explain the motivation of sanctions and demonstrate that something is being done.

Obtain information from the media when they act as “watch dogs” or engage them as an early warning system to highlight sanctions violations.

Develop more professional and systematic interaction with the media. To this end, Chairs may need to receive professional media advice from a journalist, or training, and establish solid relations with media representatives. An alternative is to have a spokesman/woman for the Security Council that could deal with the issues related to sanctions.

Promote editorial opinion pieces in prominent newspaper as an effective vector to promote ideas based on reports considered in the SACOs.

Identify global communication networks that have an impact in the targeted country (e.g. BBC in Liberia) to counter government propaganda.

Consider returning to the practice where SACO chairs held press conferences in coordination with press releases when a situation merits it hoping that there is news story for the media to report.

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Cluster Three UN Relations with Other Implementation Actors

Civil Society

Give ample opportunity to civil society organizations to participate at the UN in the area of implementation of targeted sanctions in the areas of information exchange and information management.

Establish a dual track interaction with large international NGOs that deal with international policy issues (most have representation in NY), and NGOs in the field. The contribution of local NGOs in targeted countries should be treated with great sensitivity and verified given the possible failure safety nets from the parties affected, and the natural bias of NGOs (as with government officials).

Take into consideration the 'new diplomacy' of NGOs alliances with likeminded nations that may work together for the implementation of sanctions building on the available experiences in landmines, small arms survey, Kimberly Process. These alliances are extremely good at mobilising the media in a determined direction.

Systematise and formalize the relationship with NGOs to transcend existing informal channels.

Other Actors

Determine the web of relations between the UN and different organisations for each sanctions regime.

Methodological Proposals

Future Work

Organize a specialized meeting of the WG in NY as follows:

- With selected current and former chairs of Targeted Sanctions Committees to discuss, among others, role of the Chair in the implementation of sanctions, budgetary restrictions, relations with the press, the Expert Panels and the Secretariat.
- With current and former members of the Expert Panels to listen to their suggestions on the monitoring mechanisms.
- With media representatives in New York that deal with sanctions to get their perspective on the SACOs and EPs.
- With NGOs accredited in NY that deal with sanctions.
- With representatives of the Secretariat including the Office of the SG, OCHA, DPKO, DPA, DPI, UNDP, UNICEF.

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Non papers

The WG needs the following non papers to complement its own understanding of the role of the UN in the implementation of sanctions:

- UN Budget for implementation of targeted sanctions
- UN relations with other relevant actors