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Chair person: Curtis Ward, Ambassador

Rapporteur: Tom Biersteker, Professor, Director

Measures to strengthen the capacity of states to implement sanctions

1. Targeted sanctions are more difficult to implement than comprehensive sanctions. Member states have the ultimate responsibility to implement them and must have the capacity to do so
2. Political will at all levels (beginning in the Security Council) makes a significant difference in the capacity to implement targeted sanctions. Capacity to implement is critical, but political will is prior to it.
3. Effective implementation requires constant dialogue between decision-making authorities at the UN and individual countries regarding implementation (not just declaring what states must do, but helping them to accomplish a common goal or objective). All, or nearly all, states must agree on the appropriateness of the targeted sanctions.
4. There is significant variation in the ability of states to implement targeted sanctions (particularly in some of the conflict regions of Africa), therefore it is important that the Security Council take this into consideration when crafting sanctions resolutions.
5. Create a platform for effective implementation of targeted sanctions. Capacity building has important implications for longer-term development.
6. If capacity to implement is not taken into consideration, there is a danger that a credibility gap will emerge, especially if the resolutions are effectively unimplementable for some member states (such as neighboring states of the target and other affected states).

Concrete measures

1. Draw on the momentum and lessons of UNSCR 1373 for the drafting of future sanctions resolutions -- it acknowledges that there should be assistance for capacity building to implement the resolution
 - a. reporting requirements (paragraph 6); states should report on what actions they have taken to seek help, if they need it; transparency of reporting on implementation, based on specific questions posed by the committee
 - b. offer of technical assistance (paragraph 8)

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- c. financial support (menu of choices: issue a directory; offer bilateral assistance from those members willing to provide it; offer donor community support; establish a trust fund or other internal funding instrument, include budgetary allocation within the resolution itself)
- d. states should be encouraged to appoint a central focal point on implementation (both at the mission and in the capital)

2. Draw on relevant international organizations (WCO, Interpol, ICAO) in design of sanctions resolutions (to assess their implementability), remaining mindful of the fact that there may be a trade-off between quick and decisive action and taking the time to consult with expert agencies about the feasibility of implementation of specific measures.

3. The Security Council should take into consideration whether its sanctions resolutions are realistic and implementable. It should ask what assistance may be necessary to implement the resolution. It should also consider future fine-tuning of the resolution, and the related issues of whether time limits or a sunset clause should be introduced.

4. A platform for effective implementation of sanctions should build on the detailed work of Interlaken and Bonn-Berlin that has identified specific measures needed and best practices for financial sanctions, arms embargoes and aviation or travel bans.

- a. begin with model law as basis -- suggest that this become a priority of the SC
 - b. measures should be introduced into domestic legislation making states responsible for the criminal prosecution of violations by their nationals
 - c. guidelines administrative practices (sectorally specific) should be identified
 - d. public information and dissemination of information about the sanction
5. Lack of implementation may be caused by an incapacity, or an unwillingness to enforce a targeted sanction.

a. In cases of lack of capacity, possible measures to strengthen capacity to implement at the national level (beyond a focus on the sanctions resolution itself) include:

- (1) sanctions assistance missions/offices
- (2) provision of technical assistance (training, seminars, and operational assistance from the UN, regional organizations, and other international institutions, WCO, ICAO, Interpol, etc., joint collaborations with other organizations like the FATF)
- (3) expert panels can be an instrument of transparency that enable the investigation of violations (and monitor implementation)
- (4) mutual evaluations, along the lines of the FATF (leading to the possibility of naming and shaming)
- (5) transgovernmental cooperation, with periodic meetings among national regulatory authorities (along the lines of the coordination among financial sanctions institutions)
- (6) encourage private sector initiatives (like the Wolfsberg Group in finance) to develop recommendations for "best practices"

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b. In cases of unwillingness to implement a targeted sanction (intentional non-compliance), possible measures include:

(1) secondary sanctions

6. Recommend that the SC devote a month encouraging effective implementation of targeted sanctions; a Council presidency might choose to adopt a theme of encouraging effective implementation of sanctions, with the goal of an output document, including general guidelines for the implementation of sanctions and a listing of resources available

7. The Secretariat could act as a repository to provide an online data base for provision of information about the implementation of targeted sanction (along the lines of 1373). It could also improve consultation with relevant technical organizations (ICAO, WCO), and should be encouraged to facilitate the transmission of information to member states requesting technical assistance.

8. Create a statement of principles for effective implementation of targeted sanctions. (This should be one of the goals of the April meeting).

9. In an effort to provide a "platform" for effective implementation, develop guidelines for implementation of targeted sanctions for individual member states, a check-list of key items which would vary by type of sanction. (This should also be one of the goals of the April meeting).

10. The issue of potential compensation (inducements/incentives) to those most affected needs further consideration.

Potential research priorities:

1. Survey abilities/deficiencies of regional organizations which might be called upon for training and technical assistance in key areas (ECOWAS, SADC).

2. Evaluate the effectiveness of CTC reporting requirements (assess levels of implementation).