

Part II: Measures to Strengthen the Role of the United Nations in the Implementation of Targeted Sanctions

1. Introduction

- § 16 THE PURPOSE OF Part II is to recommend practical and effective policy options that may contribute to strengthening the role of the Sanctions Committees of the Security Council and the UN Secretariat in the implementation of targeted sanctions. Thus, it seeks to identify major strengths and weaknesses for both the Secretariat and the Sanctions Committees that have an impact on their ability to contribute to the implementation, monitoring, and enforcement of targeted sanctions.
- § 17 While primary responsibility for implementing targeted sanctions enacted by Security Council resolutions rests with Member States, effective implementation depends on strong coordination and communication between the UN and Member States. The Sanctions Committees of the Security Council and the UN Secretariat play a critical facilitating role, both in establishing a framework of procedures for sanctions implementation, and providing support to Member States. The Committees, increasingly assisted and strengthened by affiliated Panels of Experts and Monitoring Mechanisms, are the main bodies tasked with monitoring Member State compliance with UN Security Council sanctions resolutions, identifying violations of sanctions resolutions, and recommending to the Security Council ways to improve follow up action where poor compliance

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is discovered. Within the UN Secretariat, the role of providing substantive advice and technical and administrative support to the Sanctions Committees falls to the Security Council Subsidiary Organs Branch (SCSOB, Sanctions Branch) of the Security Council Affairs Division (SCAD), within the Department of Political Affairs (DPA).

- § 18 Overall, there was a consensus among participants that improved implementation is both necessary and desirable. While various options were explored, it was generally agreed that the goal of enhancing implementation of UN targeted sanctions should proceed, wherever possible, by rationalizing and upgrading current capacities and working methods, rather than by the creation of a new and elaborate institutional apparatus. By better utilizing the existing capacity and resources of the UN system and by developing synergies among the Security Council, Sanctions Committees, the Secretariat, and specialized UN agencies and field operations, the UN can achieve more systematic and coordinated implementation.

2. The Security Council and Sanctions Committees

The Capacity and Working Methods of the Sanctions Committees

- § 19 Sanctions Committees (SACOs) have the lead role in monitoring the implementation of Security Council resolutions on targeted sanctions. The tasks commonly assigned to the Sanctions Committees center on reviewing measures taken by Member States to implement sanctions (including through the solicitation and receipt of periodic reports), and monitoring sanctions violations. Sanctions Committees have also been tasked with maintaining lists of sanctioned individuals and entities. In those instances where an independent Panel of Experts or a Monitoring Mechanism is also established, the Sanctions Committees provide support to the experts, ensuring that their investigations proceed in accordance with rel-

evant Security Council resolutions, receive and deliberate reports of their findings, and present those findings to the Security Council. They may also solicit the assistance of specialized UN agencies, such as requesting assessments of the humanitarian impact of specific sanctions regimes. Customarily, Sanctions Committees also are assigned the task of considering requests for humanitarian and other exemptions to the sanctions measures. Finally, the Sanctions Committees are the UN's public face on sanctions, responsible for making available to the general public all relevant information regarding their respective sanctions mandates, including through Internet websites.

- § 20 To their credit, Sanctions Committees have, in recent years, shown both ingenuity and dedication in their efforts to ensure these tasks are performed effectively. However, even under the best of circumstances, this is a tall order to fulfill. Like peacekeeping, sanctions are a key tool by which the Security Council seeks to maintain international peace and security under Chapter VII of the United Nations Charter. However, sanctions implementation has no institutional equivalent to the Department of Peacekeeping Operations (DPKO). Typically, Sanctions Committees must proceed with numerous political, administrative and time constraints, which are sometimes exacerbated by poorly specified or incomplete Security Council mandates. Most often, the core tasks of sanctions monitoring – soliciting and receiving reports of sanctions measures undertaken by Member States and reviewing the work of the independent Expert Panels – have taken priority over those of broader coordination and information dissemination.

Coordination among UN Actors and Ownership by Member States

- § 21 To promote effective implementation, sanctions should be integrated 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 in accordance with Chapter VII of the United Nations Charter. An integrated strategy requires more effective coordination both among the key sanctions bodies and

between them and other relevant UN agencies and departments. Despite some notable exceptions, including the recent informal meetings between the Sanctions Committees concerning Sierra Leone, Liberia and Angola/UNITA, coordination among the Sanctions Committees remains sporadic. Coordination between Sanctions Committees, the Secretariat and other relevant UN agencies is likewise *ad hoc*. Among the Sanctions Committees and Expert Panels, this lack of systematic coordination can lead to unnecessary duplication of work, whereby Experts monitoring different sanctions regimes sometimes inadvertently pursue similar leads, make use of the same sources and make uncoordinated approaches to the same technical or regional organizations. While Sanctions Committees have undertaken periodic consultations with humanitarian agencies, the full potential of other UN agencies and departments to assist in sanctions implementation and the implications of sanctions implementation for their own work has not been fully explored.

- § 22 Likewise sporadic are Sanctions Committee efforts to engage Member States, both directly, through briefings and consultations, and indirectly, through dissemination of information to the broader public and the mass media, in support of UN sanctions implementation. In the absence of continuous and effective public communication, UN sanctions efforts remain vulnerable to myriad misperceptions including active anti-sanctions propaganda campaigns, which can erode commitment among Member States. Indeed, maximal transparency of all aspects related to the sanctions process (from imposition, through implementation, to lifting) was identified as one of the most critical components for improved sanctions implementation.
- § 23 States that are not members of the Security Council feel excluded from a process which they are nonetheless bound to implement in accordance with the Charter of the United Nations. A resulting lack of Member State ownership over sanctions has had predictable consequences for effective implementation. While the decision to impose sanctions remains a prerogative of the Security Council, the sense of exclusion experienced by States not members of the Coun-

cil can be reduced by more frequent information briefings and consultations which communicate, *inter alia*: (1) the rationale behind sanctions; (2) what is expected from Member States; (3) the complexity and difficulty of imposing targeted sanctions (including the problematic nature of managing lists, when information supplied by Member States is incomplete); (4) Security Council efforts to reduce untoward humanitarian and economic impacts including those affecting third-parties; and (5) instances of sanctions violations.

- § 24 While briefings to the mass media are a useful way to disseminate this information they cannot substitute for direct interactions with non-Security Council Member States. Innovative lessons on promoting Member State communication and compliance could be drawn from the experience of the Counter-Terrorism Committee (CTC). For example, the CTC practice of conducting web-based consultation and information dissemination may offer an applicable model for use by Sanctions Committees. Ultimately, improved implementation depends upon more sustained engagement with Member States.

Lessons of the Counter-Terrorism Committee for Sanctions Implementation

- § 25 Under United Nations Security Council Resolution (UNSCR) 1373 (2001), the mandate of the Counter-Terrorism Committee renders it qualitatively distinct from Sanctions Committees (for more on this, see Part III). Properly speaking, the CTC is not yet charged with the implementation of sanctions, but with measures to identify and eliminate all sources of support for terrorist groups. Unlike the mandates underpinning Sanctions Committees, UNSCR 1373 has relatively straightforward requirements and does not have an end point. Sanctions mandates, on the other hand, have various objectives and varying levels of complexity, depending on the type of sanction involved: travel bans are relatively easier to implement than financial sanctions, while arms embargoes are rarely implemented effectively. Finally, because of the terrorist attack of September 11, 2001, the CTC enjoys an unprecedented level of political support,

support that is no less critical to successful sanctions implementation, but which, for a variety of reasons, is typically lacking.

- § 26 This said, several innovative aspects of the Counter-Terrorism Committee might be relevant to the goal of improved sanctions implementation. First, the high level of Member State reporting on compliance with UNSCR 1373 is a function not only of the compelling circumstances under which it was enacted, but also of innovations in the reporting requirements and formats that the CTC has developed for Member States. Second, the CTC facilitates the provision of technical assistance to Member States whose capacity for counterterrorism is weak. Third, the CTC has successfully established a solid working relationship with other relevant international and national bodies. Finally, the work of the CTC Chairperson has been assisted by the assignment of an expert on technical assistance. Consideration should be given to adapting these innovations to assist Sanctions Committees and Member States to better comply with sanctions resolutions.

The Role of the Sanctions Committee Chairperson

- § 27 The effectiveness of the Sanctions Committees in implementing targeted sanctions depends heavily on the initiative and capacity of the SACO Chairperson. Currently, the Chairperson has an open-ended and broad mandate that contributes to a heavy workload. Encompassing both political outreach and technical assistance, the mandate of the Chairperson includes, *inter alia*: raising awareness among Member States of implementation issues; encouraging Member State compliance through the fulfillment of their reporting requirements; assisting in the delivery of Expert Panel reports to the Security Council; and providing information on the purpose and progress of UN sanctions to Member States and the wider public.
- § 28 The personality of the individual Chairperson can have a positive impact on implementation, but his/her role should be seen and understood within the context of the Committee as a whole. The experience of Ambassador Robert Fowler of Canada in the implementation of sanctions against UNITA is frequently cited as an ex-

ample of the role that a pro-active Chairperson can play in the implementation of targeted sanctions. In many cases, however, home governments do not have adequate financial resources to devote to sanctions implementation. To overcome such disparities, and the uneven capacities of different Sanctions Committees, the UN should consider ways to provide supplementary financial support to Sanctions Committees.

- § 29 The initiative and activism of the Chairperson should be encouraged. Ideally, the Chairperson should provide routine liaison with the affiliated Expert Panel and the Sanctions Branch, coordinate the Committee's work with that of other Sanctions Committees, and provide routine briefings with Member States and the media. Yet, in the absence of improved substantive and administrative support, these are enormous burdens for even the most engaged Chairperson and can seriously hamstring effective implementation.
- § 30 To relieve the burden on Chairpersons, various proposals were considered, such as creating the post of a United Nations Security Council (UNSC) mandated Sanctions Coordinator, assigning a technical advisor to each Committee, designating a technical and liaison officer from the Sanctions Branch to assist Sanctions Chairpersons, and upgrading the role of Vice-Chairpersons to take the lead on technical issues, while leaving strategic and political matters to the Chairperson. To relieve the burdens on incoming Chairpersons, consideration should be given to engaging them in Sanctions Committee consultations early on, perhaps by including them in relevant briefings and consultations prior to their formal appointment to a Sanctions Committee.

Follow-through on Expert Panel Recommendations

- § 31 Follow-through on the recommendations of the Expert Panel and Monitoring Mechanism reports is the combined responsibility of the Sanctions Committees, the Security Council, and Member States. Most Expert Panels have been extended by Security Council resolutions beyond their original three to six-month terms. Despite this, there has been little by way of concrete follow-through action

– either by the Security Council or Member States – on the accumulated Expert Panel recommendations. The Sierra Leone Panel’s recommendation to impose sanctions on Liberia is a notable, if partial, exception. Lack of follow-through can be attributed to two factors: recommendations that are largely aspirational and not ripe for implementation; and a lack of time and attention by an otherwise over-burdened Security Council. Just as the Expert Panels should be encouraged whenever possible to make practical recommendations, the Security Council should redouble its efforts to ensure that Member States act on them. In the absence of decisive follow-through, both the credibility of the expert investigations and monitoring activities and their capacity to bring Member States into compliance will likely diminish over time.

Unintended Consequences

- § 32 As is well known, sanctions can produce unintended humanitarian, social and economic consequences, for the civilian population of the targeted country as well as for affected third parties. Occasionally, these negative effects have created political conditions that have hampered the UN’s ability to ensure effective implementation. Reducing the negative impact of sanctions is the chief reason and objective of the shift from comprehensive to targeted sanctions. Yet, while measures such as arms embargoes, financial sanctions, and travel bans have fewer undue consequences as compared with the comprehensive trade sanctions they were designed to replace, they may still cause unintended harm to individuals, businesses, general populations of civilians, and third States. Unintended negative impacts of targeted sanctions include both the direct and extended social costs of the disruption of trade and commercial activities, increased incentives for criminal evasion, increased civilian dependence on criminal economic activities, and damage to the financial and reputational standing of individuals and entities associated with those who are listed as targets, as well as of those who may be unjustly targeted. The Security Council should continue its efforts to identify and anticipate these impacts, as well as to design more effective measures to minimize them, including improved design and

management of exemption procedures for third parties, whether states, entities, or individuals.

- § 33 To this end, humanitarian agencies and non-governmental organizations (NGOs) have commonly recommended that routine pre-assessments and mid-course assessments be undertaken as an integral part of all sanctions regimes. While desirable from a humanitarian point of view, any requirement for the conduct of impact assessments prior to sanctions imposition (pre-assessments) may pose serious complications for the introduction and further implementation of sanctions by the Security Council. In particular, compulsory pre-assessments risk extending the period between announcement of an intention to impose targeted sanctions and their actual imposition could provide opportunity for targets to develop strategies to evade financial sanctions, arms embargoes and travel bans. While impact assessments can aid improved implementation, there is a risk that pre-assessments could undermine the imposition of sanctions.
- § 34 For this reason, the Stockholm Report does not endorse an absolute requirement for humanitarian and economic pre-assessments when imposing targeted sanctions. However, the Security Council is strongly urged to take into consideration all available analyses of probable impact in order to make informed policy choices and to devise optimal approaches for mitigating any anticipated negative humanitarian and economic consequences, particularly those affecting civilians and third states.
- § 35 In contrast, the routine undertaking of periodic assessments of humanitarian, social, and economic impacts on third parties during the course of sanctions implementation is desirable and often more feasible. Aside from providing an additional way of evaluating the overall impact of sanctions, well-designed on-going assessments would be useful in distinguishing the impact of sanctions from other causes of humanitarian suffering and economic hardship, thereby reducing one of the main sources of opposition to sanctions generally.

- § 36 These assessments could draw upon the methodologies developed by the Inter-Agency Standing Committee (IASC) led by the Office for the Coordination of Humanitarian Affairs (OCHA). They could be conducted either by OCHA or by the Expert Panels and Monitoring Mechanisms, as was done in the case of the report of the Panel of Experts on Liberia submitted pursuant to Resolutions 1343 (2001) and 1408 (2002). In either case, the designation of the agent responsible for undertaking impact assessments should be clearly stated in the mandate of the Security Council. Likewise, the Security Council should ensure that these impact assessments are conducted according to the same rigorous standards as the Expert Panel investigations and are coordinated with these investigations. A similar reporting framework could be adapted for the purpose of evaluating the wider economic impacts of sanctions, both intended and unintended. In all cases, impact assessments should draw upon as many sources of information as possible.
- § 37 Those individuals and entities listed as targets for financial sanctions and travel bans, should be assured by the Security Council of the strictest protection and observance of their due process rights, including equality before the law, the right to be informed of the reasons behind the imposition of sanctions, the right to prepare a defense, the right to be heard, the right to view evidence, and the right to obtain a review. The Security Council should consider establishing clear guidelines for determining which individuals and entities are listed as targets, together with clear standards and procedures for delisting. In order to ensure accountability and transparency, the Security Council may consider the creation of an independent body to monitor the observance of due process rights.

Implementation on the Ground

- § 38 It has been frequently observed that the implementation of targeted sanctions encounters the greatest obstacles on the ground, that is, in the states and surrounding regions where actors are being targeted. While periodic Sanction Committee and Expert Panel field visits to the affected areas are useful and should be continued, these

were deemed insufficient to ensure continuous, rigorous, and coordinated sanctions monitoring at the critical local and regional levels. Further consideration should be given to adapting and extending to targeted sanctions regimes the model of the European Union Sanctions Assistance Missions (SAMs) used in the case of Yugoslavia and the proposed regional monitoring network that was proposed, but never implemented, by the (now superceded) sanctions against the territory of Afghanistan formerly controlled by the Taliban.

- § 39 It was also observed that the potential of more systematically drawing on the existing capacities of various UN field missions (political, humanitarian, observer, and peacekeeping) has not been fully explored, even though there appear to be potential synergies. For example, observer and disarmament missions in sanctions-affected areas often have immediate knowledge of arms flows, but this knowledge is not routinely fed into the main sanctions monitoring process. While the Security Council and Secretariat should be encouraged to undertake a systematic assessment of this mechanism for improved implementation on the ground, they should remain cognizant of the potential trade-offs involved. Any measure to give UN field missions a greater role in the provision of information for sanctions-monitoring purposes must also safeguard against the possibility that this role may compromise the integrity, neutrality and efficacy of these missions in fulfilling their primary mandates.

RECOMMENDATIONS

- § 40 From this analysis of how the sanctions regimes can be enhanced in the work of the Security Council and its Sanctions Committees, the following concrete recommendations can be suggested.

Box 1.**Strengthen the Role of the Sanctions Committees****Enhance the Capacity of the Sanctions Committees**§ 41 *For the Security Council*

- Ensure that Sanctions Committees are equipped with clear and complete mandates.
- Consider establishing a standard framework and format to guide all Sanctions Committees, so as to facilitate their work and to ensure consistency and continuity between them.

Improve Coordination among Sanctions Committees and Other UN Actors§ 42 *For the Security Council*

- 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, in accordance with Chapter VII of the United Nations Charter.
- Improve regular coordination among the Sanctions Committees, by building a requirement for coordination into sanction-mandating resolutions.
- Assign a coordinating role to an appropriate body or mechanism within the Secretariat, which could establish channels of dialogue and interaction between the Sanctions Committees, the Expert Panels and UN departments and agencies.
- Re-assess the various supporting, advisory, and implementing roles of the UN Secretariat and their relation to Security Council and Sanctions Committee mandates and roles.

Promote Transparency and Ownership§ 43 *For Sanctions Committees*

- Provide regular and detailed briefings or reports to Member States on the status of implementation of targeted sanctions, including factual information concerning sanctions violations, obstacles to implementation, efforts to mitigate humanitarian consequences, and to reduce the negative impact on third states.
- Encourage regular input from Member States as to challenges they face in sanctions monitoring and enforcement.
- Provide technical assistance on implementation following clear reporting instructions, consistent with Security Council mandates.
- Strengthen communication and coordination with Member States in

advance of Fifth Committee sessions of the General Assembly, where budgetary issues related to sanctions are being assessed.

- Provide regular briefings to relevant humanitarian and other operational agencies regarding exemptions from sanctions regimes, so that they may adapt their policies and operations accordingly.
- Consider extending the emerging practice by some Sanctions Committee Chairpersons of posting brief summaries of Sanctions Committee informal sessions on their Permanent Mission web pages.
- Arrange for the agendas of all Sanctions Committee meetings to be published in the *UN Journal* to assist Member States as well as the timely publication of the Reports of Statements of Members.

Utilize the Innovative Practices of the Counter-Terrorism Committee

§ 44 *For the Security Council*

- Improve the reporting mechanism by which Member States provide timely and meaningful information to the Sanctions Committees on measures taken in support of sanctions implementation and provide Member States with clear reporting instructions (see Part IV, Box 12).
- Consider adapting the methods of the CTC for facilitating the provision to Member States of needed technical assistance on sanctions implementation.

§ 45 *For Sanctions Committees*

- Develop stronger links with relevant experts and departments of regional organizations, and other international bodies, including Interpol and the Financial Action Task Force (FATF).
- Make full use of the Roster of Experts developed by the Sanctions Branch to assist in the selection of members for Expert Panels, Monitoring Mechanisms and for other technical experts.
- Develop Member State contact points at Permanent Missions to the UN for liaison on all targeted sanctions and make a national contact point registry available to all Member States.
- Consider adapting the methods of the CTC for facilitating the provision to Member States of needed technical assistance on sanctions implementation, including establishing a web-directory of available policy and legal models, training programs and the appointment of an independent technical assistance expert.

Enhance the Support for the Sanctions Committee Chairperson

§ 46 *For the Security Council*

- Consider options for providing expertise and capacity to assist the

Sanctions Committees, including either the creation of the post of Sanctions Coordinator, the assignment of a technical expert along the lines of the CTC, designating a technical and liaison officer from the Sanctions, or the upgrading the role and responsibilities of the Committee Vice-Chairpersons.

- Engage incoming Chairpersons in Sanctions Committee consultations early on, perhaps by including them in relevant briefings and consultations prior to their formal appointment to a Sanctions Committee.
- Mandate Sanctions Committee Chairpersons to hold regular inter-Committee meetings and to develop other measures to coordinate and harmonize their work.
- Revisit the document produced by the Sanctions Committee Chairpersons, known as “The Chairs Report,” to identify proposals that have not been implemented.
- Consider possible ways to provide supplementary financial support to Sanctions Committees.

Box 2.

Follow Through on Expert Panel and Monitoring Mechanism Reports

§ 47 *For the Security Council*

- Work to ensure consistent and timely follow-up action on implementing all recommendations of Expert Panel and Monitoring Mechanism Reports, including recalling member-states to their responsibilities under Chapter VIII of the UN Charter to comply with and support UN sanctions.
- Conduct a thorough review of possible follow-on actions recommended by Expert Panels and Monitoring Mechanisms *before* renewing of their extending mandates.
- Give greater consideration to the potential use of secondary sanctions, in instances of verified, chronic violations.
- Consider ways to ensure easing or lifting of sanctions against those targets who have demonstrated compliance.

§ 48 *For the Sanctions Committee Chairpersons*

- Consult with the independent experts to ensure that their reports include specific, actionable recommendations for Security Council consideration and follow up.
- Chairpersons should be proactive in drawing attention to the find-

ings of Expert Panels and Monitoring Mechanisms and ensuring that their findings and recommendations, including recommendations that lack follow-through, are placed on the Security Council's agenda.

- Chairpersons should ensure that sufficient time is allotted for independent experts to brief the Security Council, and for Council members to review and deliberate the findings of the Expert Panel and Monitoring Mechanism reports.

§ 49 *For Member States*

- Undertake timely and effective direct follow-up action on Expert Panel and Monitoring Mechanism recommendations, where the evidence warrants and where they have the capacity to do so. Notably, Member States should undertake domestic criminal investigations, and where appropriate, legal proceedings when citizens alleged by panel reports to have been active or complicit in the violation of UN sanctions regimes.
- Ensure that verifiable supporting documentation of sanctions violations and national compliance measures are supplied to the appropriate Expert Panel or Monitoring Mechanism, in accordance with Member State's responsibilities for ensuring sanction compliance and enforcement.

Box 3.

Mitigate Unintended Consequences of Targeted Sanctions

§ 50 *For the Security Council*

- Strengthen measures to use all available sources of information to identify and anticipate unintended negative impacts, as well as to design more effective measures to minimize them, including improved design and management of exemption procedures for third parties, whether states, entities, or individuals.
- Incorporate regular humanitarian, social, and economic impact assessments into sanctions monitoring procedures, following the practices developed by Sanctions Committees in accordance with UNSCR 1343 (2001) and 1408 (2002) and ensure sanctions mandates designate an appropriate agent to undertake them.
- These assessments should proceed under an established methodology, perhaps by adapting and expanding that developed by the OCHA-led Inter-Agency Standing Committee, taking into account the specificities of each sanctions situation.
- Improve mechanisms of communication for (UN Charter) Ar-

ticle 50 cases so that the concerns of third party Member States that might be unduly affected by sanctions, including possible requests for exemptions, may be more effectively addressed.

- Ensure the strictest protection and observance of the due process rights of those listed as targets and consider establishing clear guidelines for determining which individuals and entities are listed as targets, procedures for appeal and, where appropriate, for delisting.
- Consider the creation of an independent body to monitor the observance of due process rights of those designated as sanctions targets.

Box 4.

Explore Options to Improve Implementation on the Ground

§ 51 *For the Security Council*

- Strengthen the implementation capacity of regional actors and front-line states to provide continuous local monitoring of sanctions implementation, by considering the adaptation of the Sanctions Assistance Missions (SAMs) employed under the European Union Yugoslav sanctions regime, and the sanctions enforcement support teams as envisioned in UNSCR 1363 (2001), which foresaw the creation of a regionally-based network of national experts, under the authority of the 1267 Sanctions Committee.
- Request the Secretariat to undertake an assessment of the ways to better utilize the current capacities of UN field offices and missions (political, humanitarian, observer, disarmament and peacekeeping) to provide routine sanctions monitoring and reporting as part of their regular functions, taking care not to compromise their primary peacekeeping, diplomatic, or humanitarian missions.
- Consider the possibility of including a requirement to report sanctions violations in the mandates of UN Peacekeeping and Observer Missions.

3. Coordination between the UN and Other Relevant Actors

- § 52 Obviously the close cooperation between the UN and other international organizations, whether governmental, non-governmental or private, are important for the implementation of targeted sanctions. In this section, some linkages are identified and illustrated. The topic is also discussed in Part III and Part IV.
- § 53 Whether aimed at reducing the illicit flows of arms, finance, and commodities that sustain armed conflict or at deterring or punishing behavior that threatens international peace and security, targeted sanctions are a highly technical policy instrument. To be implemented effectively, they need the input and support of a wide range of specialized actors and agencies beyond the UN.

Relations with International Organizations

- § 54 There have been several efforts by the Security Council, the Sanctions Committees and their affiliated Expert Panels and Monitoring Mechanisms to work more closely with selected specialized international agencies such as Interpol, to better utilize their respective assets and expertise, and coordinate policy initiatives for sanctions implementation (for more on this, see Part III). Understandably, the degree of UN interaction with outside actors in specific instances will vary, depending on, among other factors, the precise nature of the sanctions imposed, that is, whether they include travel bans, financial or arms embargoes, or commodity bans, and on the regions and interests affected. While flexibility is desirable, the *ad hoc* and limited nature of these partnerships reduces the potential to be gained by the UN from more sustained forms of communication and coordination on sanctions implementation as well as sanctions design. Consideration should be given to the creation of some kind of mechanism to ensure routine avenues for improved coordination on sanctions implementation.

Relations with Regional and Sub-Regional Organizations

- § 55 Likewise, much more work needs to be done in bringing regional and sub-regional organizations into a coordinated effort of sanctions implementation. Too often, these organizations are overlooked or insufficiently marshaled in support of UN targeted sanctions. The European Union (EU) is a partial exception, having developed its own role in the implementation of sanctions, particularly in the areas of international trade and finance, and having had more regular interactions with the Security Council and the Sanctions Committees through Member States, often via the good offices of a EU Member State holding the Presidency of the Union and through regular briefings in New York and Brussels on EU perspectives on sanctions.
- § 56 Most other regional and sub-regional organizations, however, are not fully incorporated into the sanctions process. For example, despite recommendations by the Liberia Expert Panel to strengthen the ECOWAS moratorium, there has been little substantive engagement between the Security Council and ECOWAS. While many such regional actors and initiatives may require assistance in developing a full complement of technical expertise on arms embargoes, financial sanctions, commodity and aviation bans, they already possess strong regional knowledge of sanctions related behavior. Ways should be explored to ensure that the Sanctions Committees and the Sanctions Branch of the Secretariat more routinely utilize this knowledge.

Relations with Non-Governmental Organizations

- § 57 In recent years, the Security Council and the Sanctions Committees have taken great strides in bringing the perspectives and know-how of a range of NGO actors into the design and implementation of targeted sanctions. Under the Arria formula,* NGOs frequently give country and issue briefings to the Security Council. NGOs have also been the driving force in establishing the now widely accepted idea that the UN has a responsibility to prevent or reduce the human-

* The Arria formula is an informal arrangement that allows the Council greater flexibility to be briefed about international peace and security issues. It was first implemented in 1993 by Amb. Diego Arria of Venezuela.

itarian consequences of UN sanctions, and have lent their expertise to the design of impact assessment methods. A number of NGO practitioners have also served on Expert Panels. Most recently, NGOs have collaborated with UN Member States and the private sector in the Kimberley Process on the certification of rough diamonds, an initiative that flowed, in part, from the work of the Expert Panels in Angola and Sierra Leone in monitoring sanctions violations.

- § 58 These interactions with NGOs should be continued and strengthened, especially on issues where NGOs enjoy a comparative functional advantage or regional presence. In particular, the Security Council should improve ways to ensure that sanctions policy take into account the views of indigenous civil society actors. 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). The Security Council should also consider exploring ways to bring in the expertise of human rights NGOs to bear upon the problem of ensuring that the procedures for identifying and managing sanctions targets are transparent and in conformity with international human rights norms and the rights of due process.

Relations with the Private Sector

- § 59 Private sector actors have become increasingly important to international peace and security, a fact which has been acknowledged by the creation of the UN Global Compact, an initiative of the Secretary-General to promote greater private sector commitment to conflict prevention and sustainable development. With the partial exception of the Kimberley Process for the certification of rough diamonds, there has been no concerted effort to engage the private sector in sanctions policy. Yet, many private sector actors, including financial institutions, insurance companies, and transportation companies, have both a capacity and expertise to bear on sanctions implementation. Ways should be explored, to increase opportunities for consultation with key representative bodies of private sec-

tor actors on sanctions related issues, as well as to develop strategies and inducements for improved industry standards in ways that can be leveraged to complement the objectives of targeted sanctions and contribute to their implementation.

Relations with Media

- § 60 As both a source of information that may provide useful investigative leads and as a conduit for promoting well-informed public awareness of the course of UN sanctions efforts, the media are an indispensable partner for improved sanctions implementation. Given the wide room that exists for public misperception to undermine UN sanctions efforts, as well as the remedial potential of greater transparency, improved relations with the international media should be a priority area. Particular areas of priority include: improving the UN's capacity to communicate with accredited UN correspondents, promoting transparency in the application of targeted sanctions; conveying a better understanding to a broader public regarding the scope and purpose of particular targeted sanctions regimes, particularly in sanctions-affected countries (see Part IV); improved public dissemination of the reports of Expert Panels and Monitoring Mechanisms, including efforts to prevent unauthorized leaks that undermine their credibility, and more skillful and systematized utilization of open information sources in on-going efforts to monitor and enforce targeted sanctions.
- § 61 One way of accomplishing these objectives would be to improve the quality and profile of briefings on the work of Sanctions Committees and Expert Panels. The Secretary General's spokesperson regularly informs the media of decisions made by the Security Council but is not expected to promote the implementation of sanctions. The designation of a Security Council spokesperson may be desirable in this regard. Currently, the Chairs of the Sanctions Committees act as spokespersons for the Committee, but their effectiveness could be enhanced if they were provided with adequate professional support or if the function of spokesperson were assigned to another specially designated individual.

RECOMMENDATIONS

- § 62 From this analysis of how the sanctions regimes can be enhanced with regard to coordination and transparency between the UN and other actors, the following concrete recommendations can be suggested.

Box 5.**Improve Coordination between the UN and Other Relevant Actors**

- § 63 *For the Security Council*
- Consideration should be given to the creation of a mechanism to ensure routine avenues for improved coordination and information sharing on sanctions implementation with relevant external agencies, such as Interpol, the Financial Action Task Force, and the World Customs Organization (WCO).
 - Improve methods for routine engagement of regional and sub-regional organizations in support of sanctions implementation, both by inviting their regular input and by assisting them to build the technical capacity for coordinated sanctions monitoring and enforcement.
 - 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 Security Council and SACO meetings should be provided to NGOs well in advance to allow them the needed preparation time.
 - Ensure that a representative array of voices from civil society/NGOs are taken into account and included, where appropriate, 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. Establish a dual track interaction with large international NGOs that deal with international policy issues and NGOs in the field.
 - Explore ways to bring the expertise of the Office of the High Commissioner for Human Rights (OHCHR) and 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.
 - Explore options to increase opportunities for consultation with key private sector actors on sanctions-related issues.

Box 6.**Develop a Media Strategy**

- § 64 *For the Security Council and Sanctions Committees*
- Establish a system of routine press briefings on the work of the Sanctions Committees to inform media, particularly in countries or regions where targeted sanctions are being applied, regarding the objectives, progress and challenges of sanctions implementation.
 - Augment the liaison role of the Office of the Spokesman of the Secretary-General between the media, the UNSC Presidency, and the Sanctions Committees.
 - Arrange for routine background press briefings by UN Expert Panels, timed to coincide with the formal release of Expert Panel 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 Sanctions Committees and Expert Panel members regarding disciplined procedures for public release of Expert Panel reports.
- § 65 *For the Secretariat*
- Develop strategies to assist the Security Council in providing better public information to Member States and the general public and to convey the message that targeted sanctions are a potentially valuable and useful instrument of deterrence and prevention.

4. The Role of the Expert Panels and Monitoring Mechanisms

4 a. Establishing Expert Panels and Monitoring Mechanisms

- § 66 It is widely agreed that the creation of the independent Panels of Experts and Monitoring Mechanisms has been a signal innovation in the application of UN sanctions. Over the last few years, such expert groups have made a major contribution to improved understanding of the nature and scope of sanctions violations and of obstacles to more systematic compliance, thereby enhancing the UN's

overall capacity to refine and tighten targeted sanctions. Their status as independent bodies has allowed them to undertake the “naming and shaming” of sanctions violators. Though at times controversial, this practice has led to improvement in Member State awareness of the importance of improved compliance with targeted sanctions.

- § 67 As with any innovation, the work of the Expert Panels and Monitoring Mechanisms has proceeded with some measure of trial and error. Their experience provides several lessons on ways to improve their working methods, enhance their capacities, and maximize their contribution to the goal of implementation. Consultations with members of the Panels and Monitoring Mechanisms, with Sanctions Committee Chairpersons, and with officers of the Sanctions Branch, revealed a number of areas in need of further improvement.

The Selection of Independent Experts

- § 68 In the past, the procedure for the selection of independent experts for the panels and monitoring mechanisms was for the Secretariat to propose candidates for Security Council approval, based on suggestions provided by Member States and, sometimes, other experts in a particular field of specialization relevant to the mandated tasks of the particular sanctions regime. Following UN-wide practice, experts were selected according to criteria of both functional and regional expertise. While this process worked sufficiently well in identifying appropriate candidates, it has proven very time-consuming.
- § 69 Objections were raised that the established method and criteria for selecting experts were insufficiently standardized and transparent. In response, the Sanctions Branch recently has established an open and standing Roster of Experts from which future members of Expert Panels and Monitoring Mechanisms should be drawn. Both the roster and the criteria for expert selection will require further development, particularly in establishing transparent and uniform criteria of selection.

Systematic Orientation of Experts

- § 70 As panel members are drawn from a pool of experts from a variety

of specialized professions, with varying levels of knowledge of the inner workings of the UN and of UN sanctions policy, they would benefit from a more systematic process of orientation, including familiarization with the work and best practices of other Expert Panels and Monitoring Mechanisms. Many experts, however, have begun their work equipped with only the relevant Security Council resolutions and rudimentary instructions from their Sanctions Committee. While these instructions prescribe the mandate and basic parameters of the investigations, they do not always offer guidance as to how they might best proceed. Very often, experts have been left to “make it up as we went along,” only to discover later that they had inadvertently and needlessly duplicated the work of other panels and monitoring mechanisms.

Information Management

- § 71 Improvement is also needed in the area of information management. Currently, there is no centralized, retrievable database for the documents and information accumulated by the individual Expert Panels. Indeed, for lack of a home, this material largely remains in the custody of individual experts, thereby remaining inaccessible to both the Sanctions Branch and the other Expert Panels and Monitoring Mechanisms, whose work could benefit from it. There is an urgent necessity to establish a system within the Secretariat where the accumulated materials on sanctions monitoring and sanctions violations can be consolidated and made available to investigators, monitors, and UN policymakers.

Common Guidelines

- § 72 Likewise, Expert investigations have been hampered by a lack of procedural guidelines that could assist them in the design of working methods, investigative procedures, standards of evidence, and reporting formats. Of particular concern was the need for a clear and transparent set of principles to assure that investigations and reports meet the highest evidentiary standards. While all Expert Panels endeavor to be rigorous, in some cases, their reports have been found wanting, either because some allegations were based on

confidential sources or because sources of evidence were not included in the final reports.

- § 73 At times, a lack of verifiable sources on particular instances of alleged sanctions busting can prejudice the reception of the entirety of their findings. Indeed, some media representatives have noted that the standards of evidence and verification employed to substantiate allegations of sanctions busting may be 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 UN sanctions efforts, therefore, will require a concerted effort to improve the quality of Expert Panel investigations and to ensure high standards of evidence and appropriate explanations of panel findings.
- § 74 The Expert Panels and Monitoring Mechanisms should be provided with standardized reference guidelines to consult as they set about their work. In order to safeguard the independence and integrity of the Expert Panels, these guidelines should address procedural and methodological issues. They should not be used to dictate the content or scope of Expert Panel investigations or findings. These guidelines should draw on the best practices and lessons learned from the accumulated experience of existing Expert Panels and Monitoring Mechanisms, and should cover, *inter alia*: interpreting UNSC mandates; procedures for liaising with SACOs, the Secretariat, the 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; and procedures for public release of Expert Panel reports. The Guidelines should allow some room for tailoring to the specific mandates of different panels.

RECOMMENDATIONS

- § 75 From this analysis on how the sanctions regimes can be enhanced in the work of the Expert Panels and Monitoring Mechanisms, the following concrete recommendations can be suggested.

Box 7.**Improve the Capacity of Expert Panels and Monitoring Mechanisms****Strengthen Logistical, Administrative and Budgetary Support**§ 76 *For the Security Council*

- Ensure that sanctions resolutions that mandate the creation of an Expert 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.
- Continue to study the proposal submitted by Member States to establish a unified independent expert mechanism.

§ 77 *For the Sanctions Branch*

- As a matter of priority, establish a system within the Secretariat where the accumulated materials on sanctions monitoring and sanctions violations can be consolidated and made available to investigators, monitors, and UN policymakers.
- Ensure that the Expert 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 Sanctions Committees and the Secretariat function.

Establish a Common Process for Selection of Independent Experts§ 78 *For the Security Council and Sanctions Committees*

- Make use of the standing Roster of Experts recently established by the Sanctions Branch, to facilitate more rapid selection of experts. Avoid re-appointing the same experts to new panels, as institutional habituation may undermine their independent perspective.
- Supplement the recently established Roster of Experts by developing rigorous and transparent criteria and procedures for the selection of panel and monitoring mechanism experts, so as to ensure that each

Expert Panel has the appropriate mix of regional and functional expertise and that the selection process remains transparent and objective.

- Supplement Expert Panel and Monitoring Mechanism investigations with legal expertise to ensure their findings meet solid evidentiary standards. The UN Office of Legal Affairs might be enlisted to assist identifying relevant legal experts.

Establish Common Guidelines for Expert Panels and Monitoring Mechanisms

§ 79 *For the Security Council and Sanctions Committees*

- Provide the Expert Panels and Monitoring Mechanisms with standardized reference guidelines to consult as they set about their work. These guidelines should be suggestive rather than mandatory, in keeping with the principle of independence of the expert investigations.
- Develop guidelines drawing on the best practices and lessons learned from the accumulated experience of existing Expert Panels and Monitoring Mechanisms, as well as relevant recommendations of the General Working Group on Sanctions, and allow flexibility for tailoring to the specific mandates of different panels.

4 b. Lessons from Expert Panels

- § 80 In an effort to assist the Security Council in this area, this report provides a set of model guidelines for Expert Panel and Monitoring Mechanism investigations (See Box 8 below). These guidelines are the product of several consultations with past and present Expert Panel and Monitoring Mechanism members, officers of the Sanctions Branch and Sanctions Committee Chairpersons. Taking account of the need to preserve the independent status of the Panels and Monitoring Mechanisms, they are meant to be illustrative rather than prescriptive. Also, in deference to the varying mandates and functions of the different Expert Panels and Monitoring Mechanisms, these guidelines should be tailored to the specific needs and purposes of each sanctions regime. They build on some lessons that have been learned and are summarized in the following paragraphs.

Mandate

- § 81 Expert Panels and Sanctions Monitoring Mechanisms (Panels/Mechanisms) are independent bodies established by the Security Council for a limited time in order to discharge their respective mandates. While their work is to be conducted with broad independence, they are intended to support the monitoring role of the Sanctions Committees by providing specialized expertise and information regarding compliance and non-compliance with sanctions regimes. Experts, nominated by the Security-General in their personal capacity, should endeavor to understand the scope and purpose of their role and responsibility within their respective mandate. Of particular importance is the need for each Panel/Mechanism to clearly understand the Sanctions Committees and UN Security Council objectives: particularly, whether the Panel/Mechanism mandate is to identify and investigate violations generally, monitor member-state compliance, or both.

Consultations

- a) With Sanctions Committees and Their Chairs
- § 82 Throughout the term of their mandate, Expert Panels and Monitoring Mechanisms should conduct on-going consultation with the relevant Sanctions Committees and their Chairpersons. Consultations with Sanctions Committees and their chairs will be particularly useful in clarifying the terms of reference at the outset and as a source of substantive political and strategic advice to the experts when formulating the public presentation of their findings. The Committee Chairpersons can provide considerable guidance for the Panels/Mechanisms, especially on procedural concerns, however, in substantive matters, the Committee's consensus is necessary. Bilateral contacts between the Committee Chairpersons chairs and the other members could, therefore, facilitate consultation with Panels/Mechanisms. Also, the Sanctions Branch should organize a full orientation and briefing with all relevant UN departments at the outset of their work. It is recommended that the Panel/Mechanism arrange for meetings with other international organization and agencies on their own initiative.

b) With Other Expert Panels

- § 83 Newly established Expert Panels and Monitoring Mechanisms should avail themselves of the accumulated experience and knowledge of other prior and on-going panels. For this purpose, disbanded panels should ensure that the documentation they collect is delivered to the Sanctions Branch of the Secretariat. In order to facilitate the dissemination of information, the Secretariat should upgrade its capacities to provide institutional memory and manage the relevant documentation. Regular exchange of work-plans between Panels/Mechanisms can enhance their work in particular areas and can greatly assist them in avoiding duplication. The convening of periodic retreats by the Secretariat of the members of Expert Panels and Monitoring Mechanisms to permit an informal exchange of experience could prove useful.

Coordination of Work Plans

- § 84 Expert Panels and Monitoring Mechanisms may choose to work together out of a centralized office or to pursue their investigations from various locations, subject to the Security Council's decision. Particularly in the latter case, it is incumbent upon the Chairperson of the Expert Panel or Monitoring Mechanism, or the members, where a Chairperson is not designated, to regularly reconvene the group in order to coordinate work and collectively assess their progress. The Sanctions Branch of the Secretariat can offer administrative and logistical support to this end, as resources allow. It is necessary, therefore, to determine the financial needs and resources available early in the process. A harmonized working method and division of labor between the panels and Committees regarding investigative functions should be agreed upon early in the process. Likewise, follow-up activities must also be coordinated between the groups and their respective Committees to ensure that the two bodies do not work at cross-purposes. The Secretariat should continue to make administrative improvements to such ends by tracking correspondence dispatched by panels.

Ensure Solid Evidentiary Reporting Standards

- § 85 While the reports of the Expert Panels and Monitoring Mechanisms are available for public consumption, their primary purpose is to provide sanctions-related information to the Sanctions Committees and the Security Council, and should be written with this purpose in mind.
- § 86 As the credibility of the process depends upon the veracity of investigative findings, reports should be drafted according to the highest possible evidentiary standards. At a minimum, particular findings should be corroborated by two independent, verifiable sources. Investigators should endeavor to ensure that every assertion is corroborated by solid evidence.
- § 87 In the absence of subpoena powers, experts will rely on two sorts of information: confidential information supplied by cooperating states and/or international officials, journalists, and private individuals; and information in the public domain. Investigators should take particular care in weighing the reliability of confidential information, keeping in mind the identity and role of the source supplying it.
- § 88 When the reliability cannot be fully established, experts should evaluate the degree of reliability according to standard criteria (see Table 1). While a decision to report on allegations lacking full, transparent validation is at the discretion of the panel or monitoring team, such allegations should normally be avoided.

Table 1.
Criteria for Coding Reliability of Sources and Validity of Information

§ 89 Source Reliability “Source Codes”		§ 90 Validity of Information “Information Codes”	
A	When there is no doubt of the authenticity, trustworthiness and competence of the source; or if the information is supplied by an individual who, in the past, has proved to be reliable in all instances .	1	When the information is known to be true without any reservations .
B	When a source from whom information in the past has, in the majority of instances, proved to be reliable .	2	When the information is known personally to the source, but is not known personally to the reporting officer.
C	When sources from whom information in the past has, in the majority of instances, proved to be unreliable .	3	When the information is not known personally to the source but is corroborated by information already recorded.
X	In the case of previously untried sources, when there is doubt about the authenticity, trustworthiness or competency of the source.	4	When the information is not known personally to the source and cannot be corroborated in any other way (at this time).

The table presents 16 different degrees for determining the reliability of sources and validity of information with A1 being the highest and X4 the lowest.

Drafting Final Report and Recommendations

- § 91 While the format of particular reports is left to the discretion of each Expert Panel and Monitoring Mechanism, it should seek to conform as closely as possible to the relevant UN Security Council mandate. Reports of other panels may offer useful models. Overall, reports should be as action-oriented as possible.

- § 92 When drafting their reports, it is incumbent upon the Expert Panels and Monitoring Mechanisms consider the desired impact of their findings. Accurate phrasing of allegations regarding non-compliance or outright violations of sanctions is as vital to the report as reliable evidence; a poorly worded or vague formulation can undermine the credibility of the entire report. Particular care should be taken in identifying names; reports should ensure that individuals are only identified in conjunction with specific activities and should avoid linking individuals to broader violations in the absence of traceable trails of evidence. Standards of evidence should be stated at the outset of the report and carefully adhered to. Wherever possible, reported allegations should be supported by explicit identification of sources.
- § 93 Special care should be paid to formulating recommendations for Security Council consideration, as this is typically the most scrutinized section of the report. Where possible, recommendations should prescribe specific and practical actions that flow from critical findings. Although Panels/Mechanisms can introduce some factual amendments to their reports after submission, it is important to avoid any substantive change.

Field Visits

- a) Planning
- § 94 To facilitate field visits, the Expert Panels and Monitoring Mechanisms should endeavor to undertake prior consultations with the relevant local and regional UN offices and governmental representations, as these consultations may be a useful source of logistical and informational support for their work. Visits to the field have proved a useful way for Sanctions Committee Chairpersons to gain a first hand understanding of the sanctions regimes they are charged with overseeing. Should a Committee Chairperson plan a visit around the same time as an expert group, coordination will be needed to define roles and avoid duplication.
- b) Relations with Local Authorities
- § 95 Members of Expert Panels and Monitoring Mechanisms need to

remain cognizant of the limitations of their investigative authority, specifically their lack of subpoena power. Achieving the objectives of collecting information and monitoring national compliance with UN sanctions depends upon the extent to which investigators solicit the good offices and cooperation of national authorities, as well as regional governmental organizations (AU, EU, OAS, etc.). A strong element of diplomacy and tact is essential, especially where evidence may implicate state officials in non-compliance or outright violations of UN sanctions. To facilitate good relations and to promote national compliance, relevant state authorities should be given the opportunity to view and act on panel findings in confidence.

c) Personal Security

- § 96 Given the nature of the behavior being investigated, it may not always be possible to confront those found to be complicit in sanctions-busting activities, as doing so may jeopardize the personal safety of members of the Expert Panels and Monitoring Mechanisms. In judging which course of action to pursue, panel members must carefully weigh the potential security risks against the desired positive outcome.

d) Confidentiality of Sources

- § 97 Upholding the confidentiality of sources of information regarding sanctions busting or non-compliance may be necessary to ensure the personal safety and standing of individual sources. While such confidential information may be useful in identifying investigative leads, it should not be the sole basis of public assertions of alleged violations. The credibility of findings and the integrity of the process require that evidence be as transparent and verifiable as possible. In all cases, the efforts should be made to ensure the veracity of information gained in confidence against independent and verifiable sources.

Media Relations

- § 98 Under the guidance of the relevant SACO Chair, Panel/Mechanism members should develop an effective media strategy. As both a source of information that may provide useful investigative leads and as a conduit for promoting public awareness of the course of UN sanc-

tions efforts, the media is an indispensable partner. During the course of investigations and field visits, however, experts should exercise prudence in dealing with the media, as premature leakage of expert findings may obstruct investigations, risk exposing confidential sources, and otherwise complicate the progress of sanctions compliance. In dealing with the media, the Panel/Mechanism may elect to adopt some of the standard practices used for the release of other prominent UN reports, including press conferences, in coordination with the Office of the UN Spokesman, preferably with the Committee's approval. Reports should be made available to the media only after they have been delivered to the Security Council for review. In all public statements, it is desirable that expert panel and monitoring mechanism spokespersons reiterate to the public the purpose and scope of the UN mandate under which these investigations proceed.

RECOMMENDATIONS

- § 99 From this analysis of how the work of the Expert Panels and Monitoring Mechanisms can be enhanced, the following model guidelines can be suggested.

Box 8.

Model Guidelines for Expert Panels and Monitoring Mechanisms

- § 100 *Mandate by the Security Council*
Expert Panels and Sanctions Monitoring Mechanisms shall
- Define their activities according to the mandate given by the UNSC, and consult with the relevant Sanctions Committee, through the Chair, possible ambiguities or queries regarding said mandate.
 - Identify violations to the sanctions regime, monitor member-state compliance, and produce specific recommendations for action, unless instructed otherwise.
- § 101 *Consultations*
Expert Panels and Sanctions Monitoring Mechanisms shall
- Maintain on-going consultations with the relevant Sanctions Com-

mittee Chair from the outset and until findings are made available to the public.

- Avail themselves of the accumulated experience and knowledge of other prior and on-going Expert Panels and Sanctions Monitoring Mechanisms and ensure that all documentation collected in the course of their investigations is delivered to the Secretariat.
- Maintain their independence while their investigations are being conducted.
- Give the opportunity to relevant state authorities to view and act on their findings in confidence, and make available, whenever appropriate, any evidence of wrongdoing to the relevant governments for their review and comment.

§ 102 *Coordination of Work Plans*

Expert Panels and Sanctions Monitoring Mechanisms shall

- Define a clear division of labor among the Chairperson and group members, and clarify their respective functional roles in the investigation.
- Undertake prior consultations with the relevant local and regional UN offices in support for their work.
- Solicit the good offices and cooperation of national authorities in New York and/or in capitals.
- Consider a careful balance between the potential security risks derived from the investigative activities and the need to produce a positive outcome.

§ 103 *Evidentiary Standards and Sources of Information*

Expert Panels and Sanctions Monitoring Mechanisms shall

- Draft reports according to the highest possible evidentiary standards, including corroboration of particular findings by independent, credible sources.
- Consider carefully the reliability of confidential information supplied by cooperating state and international officials, journalists, and private individuals taking into consideration the identity and role of the supplying source.
- Avoid using confidentially or anonymously supplied information as the basis for allegations or as the sole basis of any assertions of wrongdoing.
- Ensure that evidence be as transparent and verifiable as possible to protect the credibility of findings and the integrity of the process.
- Identify sources of information whenever appropriate.

§ 104 *Final Report**Expert Panels and Sanctions Monitoring Mechanisms shall*

- Ensure that the report complies with the requirements of the UNSC mandate under which the investigation is authorized.
- Consider that the primary purpose of the report is to provide information and recommendations to the Security Council, and consequently, use a format that may contribute effectively to the purposes defined by the Security Council.
- Pre-assess the impact of the report in consultation with the Sanctions Committee, in particular when dealing with specific names of individuals, organizations, or states.
- If figures are mentioned, for example, those measuring the value or volume of shipments in sanctioned commodities, a footnote indicating the source should be included.
- While information concerning background and context may be appropriate, seek to produce a report that is factual and include sources whenever possible.

§ 105 *Relations with the Media**Expert Panels and Sanctions Monitoring Mechanisms shall*

- Establish clear criteria, in close cooperation with the relevant SACO Chair, to communicate with the media.
- Exercise prudence in dealing with the media during the course of investigations and field visits.
- Make reports available to the media only after they have been delivered to the Security Council for review.

5. The Capacity of the UN Secretariat

The Role of the Sanctions Branch

- § 106 The work of the Sanctions Branch (Security Council Subsidiary Organs Branch) was assessed in reference to its primary functions in providing substantive, technical, and administrative support to the Sanctions Committees and their affiliated Expert Panels and Monitoring Mechanisms. An abiding concern was to determine whether

the Sanctions Branch possesses adequate human, administrative, analytical and informational, and budgetary capacity to provide assistance to the Sanctions Committees and their affiliated Expert Panels and Monitoring Mechanisms in a timely and effective manner.

Human Capacity

- § 107 While the staff size of the Sanctions Branch has not been a hindrance to the effective discharge of its responsibilities in the past, the long term trend of increasing use of UN sanctions and the creation of Expert Panels and Monitoring Mechanisms has created new challenges which has led to a proliferation of tasks for the Branch.
- § 108 Should this trend continue, the capacity of the Branch needs to be re-evaluated in light of its expanded duties vis-à-vis the proliferation of expert groups, particularly if the relevant bodies decide to assign a formal sanctions coordinating role to the Secretariat. While improved capacity is needed, such efforts should proceed in an incremental and minimalist fashion.

Analytic and Information Capacity

- § 109 The Sanctions Branch does not have the capacity to fulfill its mandated task of compiling and producing analytical information related to the work of the Sanctions Committees. Although the unit does not act as an investigative branch, it does make use of a wide range of sources including reports from other UN departments, non-governmental organizations, and the media. This information is then passed to the Expert Panels, whose task it is to undertake independent monitoring and investigation of sanctions compliance.
- § 110 Within existing resources, the Branch continues to develop database systems for tracking the more traditional activities of the Sanctions Committees. However, the Sanctions Branch has insufficient capacity to systematically archive and evaluate the information collected by the expert groups, or to store this information in a retrievable database. This is a condition that seriously impairs the ability of the Sanctions Branch to provide institutional memory to the Sanctions Committees, vis-à-vis the Expert Groups. Indeed, as it currently

stands, the lack of a central information depository means that the accumulated information and evidence of the Expert Panels and Monitoring Mechanism investigators largely remains in their personal custody. Priority should be given to establishing an in-house database for all sanctions-related documentation and information.

- § 111 In the future, in consultation with the Sanctions Committees, the Sanctions Branch could make this data available to the Sanctions Committees, members of Expert Panels and Monitoring Mechanisms and other authorized individuals through a security-protected Internet Web Portal. A centralized Internet web portal, whether housed at the UN or at a participating academic center, would enhance the interchange of ideas and information regarding sanctions implementation, while also adding to the transparency of UN sanctions issues. The system could be designed to serve both the wider interested community of scholars, advocacy groups, and think tanks, as well as the internal informational needs of key UN actors, with some information made publicly available (thus aiding transparency) while other information remains password protected, accessible to key UN officials only.

Institutional Support for the Expert Panels and Monitoring Mechanisms

- § 112 While the *ad hoc* character of the Expert Panels has helped ensure their flexibility and independent authority, the proliferation of panels has strained the ability of the Sanctions Branch to provide needed substantive administrative, logistical, and analytical support. Such support is even more essential to those Expert Panels that are not based at UN Headquarters in New York. According to those members of the Expert Panels who participated in the Stockholm Process, chronic shortcomings include: logistical and budgetary delays, which sometimes affected the timing of field investigations, lack of a centralized archive or database on the information collected by previous or parallel panels, and lack of coordination and information exchange among Panels who are engaged in parallel investigations, sometimes covering the same ground. A common refrain was

the need for enhanced logistical, administrative, substantive, and budgetary support.

- § 113 The Security Council should provide the Expert Panels and Monitoring Mechanisms with supplementary institutional support, while ensuring the independence of the panels, which is the *sine qua non* of their credibility. The Security Council should remain seized of the various options now being proposed by Member States to enhance routine institutional support for the Panels of Experts. 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 dedicated facility would enhance the effectiveness and deterrent capacity of the Expert Panels and thereby strengthen UN sanctions implementation.
- § 114 Whether this institutional support takes the form of an expanded Sanctions Branch a dedicated Expert Panel Support Office, or an Expert Mechanism, enhanced institutional support for the Expert Panels and Monitoring Mechanisms should be designed to provide core administrative and analytical support to the panels. This support may include the creation of a secure, up-to-date database of accumulated information available to all Expert Panels; strengthening the recently established standing Roster of Experts; and liaison among the Expert Panels and between them and other UN agencies and departments.
- § 115 As the Security Council considers various options to address this issue, it may wish to take the following observations into consideration:
1. First, the provision of substantive, logistical and administrative support to Expert Panels need not entail the creation of a new and cumbersome layer of UN bureaucracy or the replacement of the *ad hoc* Expert Panels and Monitoring Mechanism with a permanent monitoring mechanism. Instead, this goal could be accomplished by retaining the Expert Panels and Monitoring Mechanisms, as currently structured, but supplementing their work through the creation of a

small, dedicated Expert Panel support facility within the UN Secretariat.

2. Second, whatever form it may take, the envisioned support facility should have built-in safeguards to assure that its functions do not compromise the independence of the *ad hoc* Expert Panels and Monitoring Mechanisms.
3. Third, to meet immediate needs, the development of the recently established standing Roster of Experts, as well as the elaboration of transparent methods for their selection, and steps to centralize and store accumulated documents and information of past and current Expert Panels and Monitoring Mechanisms should proceed in the interim. These capacities can be built into the Sanctions Branch as currently structured and need not await a decision by the Security Council of the final form of the proposed support facility.

Budgetary Resources

- § 116 That adequate budgetary support is critical to the effective implementation, monitoring and enforcement of targeted sanctions is self-evident. Thus far, however, the Sanctions Branch and Sanctions Committees have had to scramble to secure financing of the Expert Panels and Monitoring Mechanisms. Ideally, this financial support should be anticipated, budgeted, and supplied from the outset of the creation of an Expert Panel or Monitoring Mechanism, as failure to do so can lead to unnecessary and costly delays in their field investigations, incomplete investigations, and the late remuneration of experts.
- § 117 To date, however, it has proven difficult to ascertain the realistic budgetary needs of the Expert Panels or of UN sanctions implementation more broadly. In particular, there has been no systematic assessment of the budgetary requirements of the Expert Panels and Monitoring Mechanisms, a problem exacerbated by frequent recourse to Trust Funds. It was also noted that those Sanctions Committees chaired by representatives of well-endowed states have had additional, extra-budgetary resources to draw upon. While this has improved the monitoring capacity of select sanctions regimes, it has also created a discrepancy in capacity and performance among sanctions regimes.

RECOMMENDATIONS

- § 118 From this analysis of how to enhance the capacity of the UN Secretariat, the following concrete recommendations can be suggested.

Box 9.**Enhance the Capacity of the UN Secretariat**

- § 119 *Upgrade Human Capacity of the Sanctions Branch*
- Ensure that the Sanctions Branch is adequately staffed to fulfill effectively its mandated tasks of providing administrative, logistical, and analytical support to the Sanctions Committees, Expert Panels, and Monitoring Mechanisms.
- § 120 *Improve Analytical and Information Capacity*
- Establish a centralized and accessible database of all sanctions-related information collected from Expert Panel and Monitoring Mechanism investigations as well as from other sources and provide a full-time information specialist to manage the database.
 - Further systematize and consolidate the newly implemented Roster of Experts of those nominated by member states and others, 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.
 - Consider establishing an Internet Web Portal on UN sanctions implementation Committees as a data-retrievable repository of sanctions-relevant research and reports that would be accessible to authorized users.
- § 121 *Ensure Adequate Budgetary Support for Sanctions Implementation*
- Confirm the UN regular budget as the main funding source for sanctions implementation.
 - Develop an assessment mechanism and general guidelines to determine the budgetary support that is required for each Expert Panel and Monitoring Mechanism to facilitate the cost estimates elaborated between the Secretariat and the panels.
 - Ensure an adequate budgetary allocation that Chairs of the Sanctions Committees may use for activities relevant to implementation, including travel to the region.