

## RECOMMENDED NATIONAL MEASURES

**Arms Embargoes**

- § 172 *Legal Framework*
- Ensure existing legislation is adequate to implement the full range of measures (e.g. export, follow-up export, re-export, licensing and transit restrictions) that may be imposed by a Security Council resolution: give effect to resolutions through regulatory or administrative action.
  - Develop administrative measures for the registration, licensing and monitoring of arms brokers (for example, by maintaining national lists of brokers convicted of offenses related to arms embargoes); the establishment of a list of controlled goods prohibited by the embargo; the establishment of catch-all clauses for goods not covered by national lists of controlled goods; the seizure prohibited goods and the funds used or intended for use in illegal arms transactions; the criminal prosecution of those who breach an arms embargo and; the authentication and reconciliation of end-use certificates.
- § 173 *Administering Agency*
- Consider how best to employ existing expertise and dedicate resources to the development and maintenance of knowledge on targeted sanctions.
  - Designate an official body or bodies to administer sanctions, such as import and export administration agencies or Customs; ensure cooperation between these agencies by designating a lead department and facilitate intra-governmental coordination.
  - Ensure effective communication at all levels – between the UN and Member States, between UN missions and capitals, and within the capitals (among those responsible for implementation).
- § 174 *Information Dissemination*
- Inform the public through notices in official journals and through the use of media and information technology.
  - Inform key actors, such as arms producers, distributors and brokers.
  - Share information (including records of arms production and surpluses) and intelligence among government departments and between governments to identify suspect shipments, destinations, transit routes and brokers.
- § 175 *Monitoring Compliance*
- Establish procedures for licensing and certification of end-users, including delivery verification.

- Promote the adoption of codes of conduct for arms suppliers, such as those set out by regional and sub-regional organizations.
  - Maintain a “black list” of groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, transportation, insurance and financing for acquisition, of illicit weapons, and ensure that those convicted of offenses cannot operate.
  - Utilize ports of entry (land, sea and air) as opportunities to monitor transfers.
- § 176 *Enforcement*
- Specify in legislation that breach of an embargo may result in criminal prosecution.
  - Impose penalties, including criminal penalties, appropriate to deter violations.
- § 177 *Sector-Specific Measures*
- Trace and verify arms shipments that are at possible risk of being diverted.
- § 178 *Relevant Regional and International Agreements*
- Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, July 2001 (A/CONF. 192/15).
  - Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC) Region, 14 Aug. 2001.
  - Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Material, 14 Nov. 1997.
  - European Union Code of Conduct for Arms Exports, 8 June 1998.
  - OSCE Document on Small Arms and Light Weapons, 24 Nov. 2000.
- § 179 *Relevant IGOs and NGOs*
- WCO ([www.wcoomd.org](http://www.wcoomd.org))
  - The Wassenaar Arrangement ([www.wassenaar.org](http://www.wassenaar.org))
- § 180 *Other Relevant Websites*
- Bonn International Center for Conversion ([www.smartsanctions.de](http://www.smartsanctions.de))
  - Small Arms Survey ([www.smallarmssurvey.org](http://www.smallarmssurvey.org))
  - British American Security Information Council ([www.basicint.org](http://www.basicint.org))
  - Stockholm International Peace Research Institute ([www.sipri.se](http://www.sipri.se))
  - The Fund for Peace ([www.fundforpeace.org](http://www.fundforpeace.org))
  - International Action Network on Small Arms ([www.iansa.org](http://www.iansa.org))

## 12. Recommendations to Counter Sanctions Evasion – by Type of Targeted Sanctions

- § 322 The following concrete recommendations are suggested for enhancing the ability to target sanctions accurately and effectively. It also includes the capacity to adjust the sanctions strategy to the counter-reactions of targeted actors. This is done for different types of sanctions, related to the three phases of sanctions implementation, and to the different issues of concern indicated in Section 11.
- § 323 The Guidelines and Recommendations that follow are addressed to the UN Security Council, which is ultimately responsible for the sanctions regimes, as well as to the Sanctions Committees, Member States and International Organizations bound by the decisions according to the UN Charter and to relevant non-governmental organizations that can be of assistance. They are organized to address particular problems relating to different phases in the sanctions regime.

### Arms Embargoes

- § 324 Arms embargoes aim to deny particular actors access to lethal weapons. Such weapons are often crucial resources for sustaining a group's or individual's ability to continue threatening international peace and security. In situations where such actors hold state power, arms embargoes have to be imposed on entire states. This gives arms embargoes some of the classic problems of comprehensive sanctions. In designing such sanctions, there is a need to consider the consequences of imposing asymmetric measures: the actors that already possess weaponry are likely to maintain that advantage vis-à-vis other actors in a society.
- § 325 General issues arising in arms embargoes and how they can be handled on the level of the UN Security Council have been discussed in the Bonn-Berlin Report, and are referred to here in parentheses (B).

§ 326 There are some particular problems of sanctions evasion in arms embargoes that need to be addressed throughout the sanctions regime. In the following, some issues of concern are addressed and guidelines are suggested for addressing them depending on the stage of sanctions implementation. Most states have arms export controls, which in principle means that a government structure is available for controlling the flow of arms or related military resources.

*Typical Problems in Arms Embargo Implementation*

§ 327 Recent experiences of the implementation of arms sanctions have illustrated a host of different problems that have to be addressed, to make such sanctions effective measures:

- Targeted actors may not only be states but also non-state actors such as rebel groups or terrorist networks. This creates challenges for identifying who is to be targeted to interfere with arms flows to the target most efficiently.
- Targeted actors frequently evade arms sanctions by turning to criminal networks or enlisting the services of organized or transnational criminal groups.
- While evaders and those who facilitate evasion may be known to many Member States and other officials, there is no established practice for compiling lists of these individuals and taking follow-up action against them.
- Substantial illicit trafficking of arms may occur prior to the imposition of sanctions, making it more difficult to disrupt established clandestine trade flows.
- In recent arms embargoes, trafficking of weapons by air transport has been extremely difficult to identify and disrupt.
- Targets may use “unconventional” arms which are below military standards, dual-use items and recycled weapons.
- Documents may cite neighboring countries as the final destination of a particular arms purchase.
- Arms embargoes may be applied in conflicts where a UN or regional peacekeeping mission may also be present. When sanctions are poorly enforced, the continued flow of weapons to the region creates ad-

ditional challenges for the peacekeeping mission and to international peace and security.

- Targeted actors often argue that arms sanctions should be lifted or suspended in order to support their right of self-defense.

Taking such problems into consideration the following recommendations have been identified with respect to different phases of sanctions implementation.

#### Recommendations for Improving Arms Embargoes: The Planning Phase

- § 328 *Pre-assessment and Contingency Planning*
- Consider the history of arms flows to the region to identify target's weapons sources, purchasing patterns, transfer networks, intermediaries, etc.
  - Consider the entire arms trading network in the region and whether previous reports of other Working Groups, panels or monitoring bodies contain useful information on activities of these networks and sanctions evasion strategies.
  - Identify states whose cooperation in implementing the arms embargo is most crucial for implementation and consider whether to place monitors in key countries.
- § 329 *Distinct and Accurate Definitions of Measures*
- Identify dual-use technologies and sub-military standard equipment available to targets and include them among sanctioned goods.
  - Identify weapons already available to the target, as well as target's indigenous production capacity. Consider including sanctions on imports of key components of weapons that might be produced by the target, including spare parts.
  - Identify porousness of borders and effectiveness of customs controls, surveillance and interception capabilities.
  - Ensure that targeted measures succeed in interfering with the activities as they relate to the target.
  - Identify individuals and/or entities responsible for engaging in weapons trade on behalf of the target actors and begin a list of possible additional targets to be included in sanctions measures.

### Recommendations for Improving Arms Embargoes: The Operations Phase

- § 330 *Responsibility*
- Identify sources of specific capacity-building measures and activities for key implementing Member States, international and regional organizations and encourage States to provide and accept such assistance to facilitate implementation and to stop sanctions evasion (e.g. provide assistance to ECOWAS to implement its regional moratorium on the import of small arms and light weapons).
- § 331 *Commitment*
- Identify key States, regional networks, individuals and entities and urge them to commit to swift and effective implementation. Prohibit, expose and penalize the activities of the organized or criminal transnational networks involved in trading arms with the target.
  - Ensure that the reporting requirements contained in sanctions resolutions are used to give the Security Council full information on the capacities and commitment of states to implement the required measures.
  - Ensure a quick flow of information to the Security Council from monitoring bodies that assess sanctions implementation.
- § 332 *Complementary Measures*
- Consider the most effective mix of targeted sanctions needed to change the target's behavior, such as coupling arms embargoes with other targeted sanctions. This could be financial sanctions combined with travel bans, as violations are reported, or if arms embargoes alone are not effective in changing the target's behavior.
  - Include complementary measures to interfere with financing, transport, control and exploitation of natural resources as they relate to arms embargoes.
  - Determine best practices or ways to use lists of known evaders or facilitators for the target and disseminate them to the Member States with requests for further investigation and follow-up action.
  - Work with ICAO to determine appropriate penalties for violations of arms embargoes by aircraft, such as through the falsification of export documents and falsification of flight plans.
  - Support initiatives for standardization of end-use certificates for arms transfers.
  - Reinforce and urge Member States to support Security Council efforts to introduce marking of light weapons and tagging of chemical precursors for weapons production.

- § 333 *Coordination*
- Coordinate relevant Sanctions Committees, regional organizations and Member States to ensure that arms embargoes and complementary measures are fully implemented.
  - Key officials in Member States – (e.g. police, customs officials) in the target’s region – must meet to coordinate their efforts in sanctions implementation.
  - Optimize the sharing of information, including sensitive information, among Sanctions Committees, Member States, regional and international organizations.
- § 334 *Technical Management*
- Designate appropriate technical experts to the relevant Sanctions Committee(s) to assist in coordinating the implementation of arms embargoes across the UN system. Consider ways to coordinate and provide support for air traffic surveillance and interdiction of aircraft suspected of sanctions-busting in zones of conflict, possibly through regional organizations. (B)
  - Ask Member States to revoke the registration of aircraft and licenses of pilots responsible for violating UN arms embargoes. (B)
  - If UN or regional peacekeepers are present in a region where arms sanctions are imposed, the Security Council should mandate or request the peacekeeping operation to report to the UN on enforcement of the sanctions or to monitor or enforce the sanctions.

### Recommendations for Improving Arms Embargoes: The Follow-Up Phase

- § 335 *Technical Assistance*
- Offer training programs for officials in key fields of sanctions implementation.
  - Assess whether the technical assistance provided has been sufficient, how it has contributed to implementation, and how it can be improved.
- § 336 *Flexible and Dynamic Response*
- Ensure that reports on implementation submitted by Member States are discussed and that the findings contained in them are used in determining further action once sanctions are implemented.

- Require reporting from Member States to highlight possible evasion and follow up with States to ask what measures they are taking in response to allegations of violations.
- Urge Member States to publicize names and information on those individuals, groups and entities who are failing to comply with sanctions.
- Sanctions Committee Chairs should issue Press Releases to publicize which Member States have submitted reports on implementation and note which have not.
- Use the benchmarks and best practices with respect to implementation to measure and possibly alter the response.

§ 337 *Positive Measures*

- Assist key countries in implementation.
- Design listing and delisting procedures so as to keep pressure on targets while ensuring that “normal” relations can be maintained with others.
- Consider increased assistance in fields of education, humanitarian support, etc. to reinforce the message that the entire nation is not being targeted.

§ 338 *Communication*

- Seize every opportunity to publicly explain why and how arms embargoes are being used against particular actors, and how those actors threaten international peace and security in order to counter the target’s anti-sanctions propaganda.
- Consider new ways of reaching the media in the target’s home country with the same message.

§ 339 *Delisting*

- In cases of sanctions on particular non-state actors, individuals or companies, Member States should be encouraged to carefully scrutinize and regularly review any lists of known evaders or facilitators for the target for possible mistakes in listing, and to respond swiftly and judiciously for requests for removal.