

Aviation Bans

- § 199 *Legal Framework*
- Ensure that adequate legal authority exists to implement sanctions at the national level.
 - Amend existing measures, or take regulatory or administrative action to deny targets permission to take off from, land in and fly over national territories.
- § 200 *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 the MFA, the Transportation Ministry, the aviation or air traffic control agency; ensure cooperation between these agencies.
 - 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).
- § 201 *Information Dissemination*
- Inform the public through notices in official journals and through the use of media and information technology, including aeronautical means of communication.
 - Inform key actors, such as the Civil Aviation Authority, Customs and Excise, airport authorities, air traffic control authorities and registered companies.
- § 202 *Monitoring Compliance*
- Provide guidelines to key actors regarding the application and scope of sanctions, including details of what to do in case of violations and information about required reporting.
- § 203 *Enforcement*
- National measures should ensure that contravention or evasion should be made a criminal offence with effective, dissuasive and proportionate penalties.
- § 204 *Sector-Specific Measures*
- Establish a central database, such as the ICAO register of aircraft, to maintain a list of prohibited aircraft.
 - Specify the criteria and process for considering and giving effect to decisions regarding exemptions and exceptions.
 - Point about seizure of aircraft, barring aircraft from take off and landing.

- § 205 *Relevant Regional and International Agreements*
 - Convention on International Civil Aviation, 7 Dec. 1944.
 - International Air Services Transit Agreement, 7 Dec. 1944.
 - International Air Transport Agreement, 7 Dec. 1944.
- § 206 *Relevant IGOs and NGOs*
 - ICAO (www.icao.org)
 - IATA (www.iata.org)
 - Interpol (www.interpol.int)
- § 207 *Other Relevant Websites*
 - Bonn International Center for Conversion (www.smartsanctions.de)

Aviation Sanctions

- § 370 Aviation sanctions (as a form of transportation sanctions) often aim to reduce the easy access to international contacts for particular actors, or groups of actors. International legitimacy may be gained through making or receiving visits. International travel is also necessary for financial dealings in which targeted actors may be engaged. By identifying typical travel routes and blocking such routes, international pressure is made obvious to the actors. Aviation sanctions may also take the form of grounding specific airlines or freezing aeronautical finance resources. In cases where all transportation from a particular country is blocked as a result of sanctions, the effects are likely to be similar to those resulting from the imposition of sanctions on the nation as a whole. Targeted states may close their air space in retaliation for the imposition of sanctions. A number of other travelers will be affected, and such effects must be assessed in terms of their economic and humanitarian impact.
- § 371 General issues related to aviation sanctions 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 below in parentheses (B).

When focusing on sanctions evasion there are some particular problems in aviation sanctions that need to be addressed throughout the sanctions regime. In the following, some issues of concern are addressed and guidelines are suggested for their handling, depending on the stage of sanctions implementation. The national authorities who are most important to implementation of aviation sanctions are those that regulate access to air space and airport operators. International cooperation focuses on the International Civil Aviation Organisation (ICAO) and regional cooperative arrangements.

Typical Problems in Implementing Aviation Sanctions

- § 372 The recent uses of aviation sanctions have illustrated some pertinent problems:

- Lack of communication and coordination between Security Council and International Civil Aviation Organization (ICAO) on aviation ban enforcement.
- Lack of technical capacity in many States to identify overflights of their territories and other violations of aviation sanctions.
- Targeted actors are able to re-register their planes under different names, file false flight plans, make false declarations, and make use of flags of convenience in order to evade identification and sanctions.
- If aviation sanctions are imposed and are effective, targets will likely divert their activities from aviation to rail, land and maritime transportation.
- Targeted aviation sanctions may result in target closing its airspace, which leads to additional costs for non-target airlines due to longer flying times, additional fuel needs, and the reduction of the amount of cargo that can be carried.

With these considerations in mind, the following recommendations are suggested:

Recommendations for Improving Aviation Sanctions: The Planning Phase

- § 373 *Pre-assessment and Contingency Planning*
- Identify the most accurate target for the ban, such as national air carriers or carriers with significant state ownership or management that might be appropriate targets for aviation bans.
 - Make an assessment of transport patterns used by the target.
 - Include measures in the sanctions resolution to prohibit the most likely evasion tactics used by the target. Include prohibition on any activity that is intended to circumvent the sanctions measures.
 - When aviation sanctions are considered, meet with ICAO and IATA to discuss ways of countering evasion. Discuss possibility of including penalties in the sanctions resolution on pilots who deviate or divert from their flight plans without good reason (e.g. engine failures, grave illness, weather or other emergency).
- § 374 *Distinct and Accurate Definitions*
- Find ways of dealing with subsidiaries of the main aviation compa-

nies or groups selected for sanctions, as well as national aircraft and private aircraft.

- Humanitarian pre-assessment or early assessment reports are important to determine impact of aviation ban on humanitarian flights, or general humanitarian requirements or particular medical needs in the target state, including medical evacuations.
- Humanitarian exemptions in the resolution must be very clear and should include provisions for emergencies, humanitarian need, and religious obligations.

§ 375 *Listing*

- Determine whether such sanctions concern all flights, or only flights by particular air carriers.
- If specific aircraft are listed, the registration numbers should be verified with ICAO. The organization's assistance should be sought to help disseminate lists of targets to its members.

Recommendations for Improving Aviation Sanctions: The Operations Phase

§ 376 *Commitment*

- Identify need in key implementing States for support and assistance for air traffic control and interdiction in target areas.

§ 377 *Complementary Measures*

- Consider coupling aviation sanctions with arms embargoes, if it is shown that air transport is used for arms deliveries and there is a need to impose arms embargoes.
- Consider coupling aviation sanctions with bans on spare parts for aircraft, the closing of airports, and the closing of airline offices.

§ 378 *Coordination and Technical Management*

- Seek involvement of ICAO in disseminating information to its members about aviation sanctions, soliciting their feedback and following up on implementation.
- Require Member States to distribute or broadcast "Notice to Airmen" (NOTAM) alerting all pilots if airspace is closed due to sanctions.
- Continuously collect information on any attempts that targets have made to evade aviation sanctions and alert appropriate authorities in Member States and in international and regional organizations.

Recommendations for Improving Aviation Sanctions: The Follow-Up Phase

- § 379 *Technical Assistance*
- Ask States to contribute mobile radar systems, global positioning satellites, or funding for such systems, to assist with monitoring of air traffic.
 - Ask States or international organizations to develop special training programs for airport and customs officials to increase awareness and ability to implement aviation sanctions.
- § 380 *Flexible and Dynamic Response*
- Consider revoking the registration of aircraft used to violate sanctions.
 - Consider revoking the licenses of pilots found to be violating sanctions.
 - Monitor whether targeted actors shift to other forms of transportation and consider appropriate counter-measures.
- § 381 *Positive Measures*
- Consider assistance to neighboring countries that may face increased land or maritime transportation flows as a result of aviation sanctions.
 - Develop alternative routes for non-targeted actors in the targeted country.
 - Implement contingency plan when airspace is closed, by creating a notice center.
- § 382 *Communication*
- Explain the purpose of the sanctions to international and local media and emphasize that the measures affect only specific individuals.
 - Prepare a strategy to explain possible negative effects on normal travel and trade.
- § 383 *Delisting*
- Be prepared to remove listed individuals in light of new information concerning their behavior and political affiliations.