

BACKGROUND PAPER ON TARGETED SANCTIONS

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Introduction: The Emergence of Targeted Sanctions

The post-Cold War period has been a time of increased Security Council activity. Throughout the 1990s, the Security Council met more often, passed more resolutions, and mandated more peacekeeping missions than in the four decades that preceded it. This same trend is evident in the use of sanctions by the Security Council. In the forty-five years before 1990, the Security Council imposed sanctions under Chapter VII of the Charter of the United Nations against only two States—Southern Rhodesia, in 1966, and South Africa, in 1977. By contrast, since the end of the Cold War, the Council has imposed sanctions in more than a dozen different conflict zones. The increased use of sanctions manifests the desire of the Council to enforce international norms through measures not involving the use of force. As the Strategic Planning Unit in the Executive Office of the Secretary-General noted in 1999:

[T]here is a widespread consensus that, when confronting major transgressions of international law, the international community needs some instrument of suasion that lies between diplomatic censure, on the one hand, and war, on the other. For this purpose, there is no real alternative to sanctions.¹

However, in the latter-half of the 1990s, *comprehensive* sanctions themselves became the object of criticism on several fronts. The primary focus of critics was the negative humanitarian impact that sanctions had upon civilian populations – particularly comprehensive economic sanctions. A previous Watson Institute project on the humanitarian costs of comprehensive sanctions concluded that the civilian suffering caused by such measures often overshadow their potential political gains; moreover, comprehensive sanctions complicate the work of humanitarian agencies, cause long-term damage to the productive capacity of target nations, and unfairly penalize their neighbors (who are often their major trading partners).²

In response to these criticisms of comprehensive sanctions there have been growing calls for the reform of the sanctions instrument, especially the use of targeted sanctions, directed against the policymakers responsible for reprehensible policies and the elites who benefit from and support them. Targeted sanctions make intuitive sense and respond directly to the criticisms leveled against comprehensive sanctions. Why not direct sanctions against the architects of the policies opposed by the international community, rather than against innocent civilians? In this way, targeted sanctions theoretically address the problem of the adverse humanitarian effects of comprehensive sanctions. If designed and implemented effectively, only dictators, demagogues, rebel leaders and their supporters would need to fear the effects of targeted sanctions.

The call for targeted sanctions has attracted much attention within the Council,³ as well as in the academic and NGO communities. Under the leadership of the Governments of Switzerland, Germany and Sweden, practitioners, experts, and academics collaborated on the design of targeted sanctions, in particular, targeted financial sanctions, travel and aviation bans, arms embargoes, and implementation issues. Part 1 of this background paper introduces the Interlaken, Bonn-Berlin and Stockholm Processes and provides a summary of their key findings. (NOTE: Copies of the manuals resulting from the three Processes will be distributed at the Workshop, and are available at the websites listed below). Part 2 shows how these Processes have informed recent sanctions activities by the Council. In this context, Part 3 surveys some

recent developments in the Council's use of targeted sanctions. The conclusions identify some of the key challenges pertaining to the use of targeted sanctions.

Part 1: The Sanctions Reform Initiatives of Switzerland, Germany and Sweden

The Interlaken Process on Targeted Financial Sanctions

Because of the growing interest in the use of targeted sanctions, the Swiss Government convened in March 1998 and again in March 1999, seminars of experts to explore ways of making United Nations targeted financial sanctions more effective. The sessions gathered representatives of governments, the private sector (financial community), the United Nations and other international organizations, as well as academia to discuss the challenges of designing and implementing targeted financial sanctions. The purpose of the sessions was to elaborate the specific requirements of financial sanctions, and to develop new options to refine the tool for exerting pressure directly on a targeted country's decision-makers through freezing their assets in world financial markets. The results of the 'Interlaken Process,' as it has come to be called, significantly advanced the collective understanding of the promise and feasibility of targeted financial sanctions. The Interlaken Process website – www.smartsanctions.ch – provides the findings and discussions of the Process, including the published outcomes of Interlaken I and II.

The first meeting (Interlaken I) focused on the specific technical requirements of financial sanctions and identified a number of preconditions necessary for targeted sanctions to be effective: clear identification of the target, ability to identify and control financial flows, and strengthening the UN sanctions instrument. The first order challenge concerns the target, and the need for analysis regarding the vulnerability of targeted governments and elites; success of targeting depends to a large extent on the characteristics of the targeted country. In addition, a clear delineation of parties covered by the sanctions, as well as the nature of the sanctions themselves (extending to all financial assets, including property, or just blocking financial transactions) is necessary. Participants also noted that speed and discretion in determining targets and the specific sanctions – which are often difficult to accomplish – are critical to success.

The second Interlaken meeting further developed recommendations on the technical aspects of targeting, but most importantly, addressed issues arising from differences in implementation of financial sanctions among States. Experts noted that many Member States lack the legal authority necessary to implement the requirements of Security Council resolutions, and even among those with such capacity, great variation exists among implementation and enforcement – undercutting the overall effectiveness of UN sanctions.⁴ In response, Interlaken II examined the basic elements required for national implementation, and developed a model law that would enable States to implement UN-authorized targeted financial sanctions quickly, fully and consistently (see Appendix 1). Also, to promote more uniform implementation across Member States, standardized texts or building blocks of language were developed that the Security Council could use in drafting sanctions resolutions. Overall, the Interlaken seminars concluded that targeted financial sanctions are *technically* feasible, but that concrete measures on national and international level are necessary for the instrument to be developed more fully and made effective.

To consolidate the contributions of the Interlaken Process into practical tools to refine financial sanctions, the Swiss Government asked the Watson Institute's Targeted Financial Sanctions Project to develop a manual for practitioners. *Targeted Financial Sanctions: A Manual for Design and Implementation*⁵ provides draft language for those developing Security Council resolutions imposing targeted financial sanctions (with options for different scenarios), and identifies "best practices" for the implementation of those measures at the national level. The Manual, which was presented to the Security Council in October 2001, is intended to serve as a guide for both Security Council members and national officials responsible for designing and implementing targeted financial sanctions. See Appendices 1 and 2 for a summary of the Interlaken Manual and the draft Model Law.

The Bonn-Berlin Process on Arms Embargoes and Travel and Aviation Related Sanctions

Following the model of the 'Interlaken Process,' the German Foreign Office, in cooperation with the United Nations Secretariat and Bonn International Center for Conversion, led an effort to examine the use of travel bans, aviation sanctions, and arms embargoes by the United Nations. These measures, like the targeted financial sanctions in conjunction with which they are often used, can also be tailored to target certain groups, economic sectors or individuals. To explore ways of improving such sanctions, the First Expert Seminar in Bonn in November 1999 brought together experts from governments, academia and NGOs to achieve three objectives. First, experts analyzed the deficiencies of the concerned sanctions, noting weaknesses at the UN-level and implementation problems on the ground. Second, experts discussed a broad range of proposals to increase the effectiveness of arms embargoes and travel and aviation bans. The third task was to select specific proposals from the broader list that would benefit from a more thorough examination by an Expert Working Group. The Bonn-Berlin Process website – www.smartsanctions.de – provides comprehensive information on the Process.

In selecting which proposals to focus on, the preference was for 'technical' (rather than 'political') issues that would be useful to those working on these issues at the UN and in national capitals. Four Expert Working Groups were established: the first group focused on developing model resolutions and proposals for the national implementation of travel and aviation sanctions; the second group concentrated on how to make arms embargoes more effective 'on the ground'; the third group developed model text for Security Council resolutions on arms embargoes; while the fourth suggested ways to improve monitoring and enforcement of arms embargoes at the UN level.

The Expert Working Groups met throughout 2000 and each produced draft reports, which were discussed at the Final Expert Seminar in Berlin, 3-5 December 2000. Participants in this seminar not only commented upon the work of the Groups, but also placed their proposals in the wider context of the sanctions debate. The final reports are published along with relevant commentary from the expert discussion in *Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions: Results of the 'Bonn-Berlin Process'*. This document was presented along with the Interlaken Manual to the Security Council at its meeting on 22 October 2001. A summary of the key findings contained in the Bonn-Berlin Manual can be found at Appendix 3.

The Stockholm Process on the Implementation of Targeted Sanctions

Recognizing the ongoing need to refine targeted sanctions to maximize their effectiveness, the Swedish Government continued the initiative that the Swiss and German Governments began. The ‘Stockholm Process,’ conducted in cooperation with the UN Secretariat and Uppsala University’s Department of Peace and Conflict Research, was organized in a format similar to that of the Interlaken and Bonn-Berlin Processes, and involved some 120 experts to focus on making targeted sanctions effective. Recognizing that “implementation” is essential for targeted sanctions to work, the Stockholm Process sponsored three Working Groups to make recommendations on different aspects of implementation – which can be found in the published outcome, *Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options*.

The first Working Group (responsible for Part II of the report) made recommendations on ways to improve implementation, particularly in terms of strengthening the role of the UN Secretariat. Proposals include designing sanctions with implementation in mind, maintaining support internationally for the sanctions regime, consistently monitoring and improving the regime, and building the Secretariat’s capacity.

Working Group 2 (responsible for Part III) focused on implementation at the national level. For all targeted sanctions, the Group stressed the importance of capacity-building and training programs, and noted that a Model Law can be used to enhance implementation. The Group also acknowledged that various types of targeted sanctions (financial, arms embargoes, aviation, etc.) require different national measures, and identified the measures for each type of sanction.

The third Working Group (authors of Part IV) took an in-depth look at all aspects of targeting and discussed how to overcome the evasion of sanctions. The group noted the need for accurate targeting and procedures to maintain an up-to-date target list, as well as emphasizing the need for States to report to the UN.

The work of the Stockholm Process continues through the Special Project on the Implementation of Targeted Sanctions of the Department of Peace and Conflict Research at Uppsala University. The project website – www.smartsanctions.se – provides complete information on the deliberations of the Stockholm Process Working Groups, and other relevant documents. A summary of the key findings of the Stockholm Process is provided at Appendix 4.

Part 2: Sanctions Reform in Practice

Table 1 (overleaf) illustrates the extent to which the Security Council has preferred targeted over comprehensive sanctions in the post-Cold War period. As the use of sanctions has evolved in this way, the Interlaken, Bonn-Berlin and Stockholm Processes have made several important contributions to the design and implementation of sanctions. In the areas of the listing and de-listing of targets, exemptions, and Member State reporting practices, innovations resulting from the reform processes have had concrete effects on the policy and practice of sanctions implementation.

TABLE 1: UNITED NATIONS SECURITY COUNCIL RESOLUTIONS IMPOSING SANCTIONS,
1990-2004*

CASES (chronological)	Comprehensive	Targeted financial sanction	Arms embargo	Travel ban	Aviation-related sanction	Oil embargo	Ban on trade in diamonds	Ban on trade in timber
Iraq	Res 661 (1990)	Res 1483 (2003)						
Yugoslavia	Res 757 (1992); Res 942 (1994)	Res 820 (1993)	Res 713 (1991); Res 1160 (1998)					
Somalia			Res 733 (1992)					
Libya		Res 883 (1993)	Res 748 (1992)	Res 748 (1992)	Res 748 (1992); Res 883 (1993)	Res 883 (1993) (limited to oil- transporting equipment)		
Liberia		Res 1532 (2004)	Res 788 (1992); Res 1343 (2001); Res 1521 (2003)	Res 1343 (2001); Res 1521 (2003)			Res 1343 (2001); Res 1521 (2003)	Res 1478 (2003); Res 1521 (2003)
Haiti	Res 917 (1994)	Res 841 (1993); Res 917 (1994)	Res 841 (1993); Res 873 (1993)	Res 917 (1994)	Res 917 (1994)	Res 873 (1993)		
UNITA (Angola)		Res 1173 (1998)	Res 864 (1993)	Res 1127 (1997)	Res 1127 (1997)	Res 864 (1993)	Res 1173 (1998)	
Rwanda			Res 918 (1994); Res 997 (1995)					
Sudan				Res 1054 (1996)	Res 1070 (1996) (although ban never went into effect)			
Sierra Leone			Res 1132 (1997); Res 1171 (1998)	Res 1132 (1997) Res 1171 (1998)		Res 1132 (1997)		
Afghanistan (Taliban and Al Qaida)		Res 1267 (1999); Res 1333 (2000); Res 1390 (2002); Res 1452 (2002); Res 1526 (2004)	Res 1333 (2000); Res 1390 (2002); Res 1526 (2004)	Res 1333 (2000); Res 1390 (2002); Res 1526 (2004)	Res 1267 (1999); Res 1333 (2000)			
Eritrea/Ethiopia			Res 1298 (2000)					
Democratic Republic of Congo			Res 1493 (2003)					

* This table summarises those resolutions *imposing* sanctions only (amendments that do not impose new measures are not included) and is current to April 2004. Sources: Office of the Spokesman for the Secretary-General, "Use of Sanctions Under Chapter VII of the UN Charter" <http://www.un.org/News/ocsg/sanction.htm>; the various sites of the Sanctions Committees available at <http://www.un.org/Docs/sc/committees/INTRO.htm> and; Security Council Resolutions available at <http://www.un.org/Docs/sc/index.html> (all accessed 20 April 2004).

Procedures for the listing and de-listing of targets

Prior to the Interlaken and Bonn-Berlin processes, the need for procedures to enable the de-listing of individuals erroneously targeted was recognized, but mechanisms to address them had not yet been developed. Three central questions relating to procedures for de-listing were identified: First, who may submit requests for removal from the list? Should individuals affected be permitted to do so, or should Member States do so on their behalf? Second, on what grounds should appeals be permitted? Beyond erroneous listing, how might a target show that his/her behavior has changed sufficiently to warrant removal from the list? And third, how should appeals be decided? Given that lists are made operational only through implementation by Member States, how should their interests in de-listing be considered by Sanctions Committees with the authority to remove names from the list?

Each sanctions reform process addressed these questions. Bonn-Berlin's Expert Working Group Travel and Aviation Sanctions debated the desirability of a procedure for allowing individuals to petition Sanctions Committees for removal from a list of targets.⁶ Although opinion was divided, the Group concluded that individuals ought to be able to make submissions for their removal from the list of targets. To reserve this power to Member States would be problematic in cases where leaders were targeted, or where non-state actors in conflict with states (e.g. the targeted sanctions against UNITA in Angola) were targets. The Group considered that individuals ought to be able to petition committees for removal on grounds that a genuine mistake has been made, or that the targeted individual has changed his/her behavior. However, regarding the question of how such decisions should be made, the Group noted that a change in behavior could be difficult to assess, and that political considerations are likely to dominate the Committee's decision-making. The Group codified this approach by a reference in the "Sanctions Committee" section of the mock resolution it presented.⁷

The Interlaken manual builds upon the Bonn-Berlin Expert Working Group in asserting that individuals should be able to petition for removal from the list on the basis that their listing is unfounded, or that their behavior has changed. However, the mock resolution included in the Interlaken manual elaborates a more detailed process for deciding upon petitions for removal from target lists. In a separate paragraph, the Interlaken manual suggests that, upon receiving a request for removal, the Committee may gather information, including from states and international organizations, in order to facilitate decision-making. Following consideration of this information, the Committee should indicate whether the prohibitions imposed against the target should continue to apply.

Subsequent to Bonn-Berlin and Interlaken, the Working Groups of the Stockholm Process generally endorsed existing approaches, adding that guidelines should be established by Sanctions Committees to ensure transparency regarding de-listing procedures. Beyond this, in light of concern resulting from the listing of Swedish citizens as part of the revised sanctions against the Taliban, al Qaeda and affiliates, the issue of legal safeguards for those targeted by sanctions was the subject of a separate study.⁸

The influence of the de-listing debate is most clearly seen in the work of the Sanctions Committee established pursuant to resolution 1267 (1999) concerning the Taliban. Although the

1267 Committee initially found it difficult to form a list,⁹ intervening events and subsequent resolutions have had the effect of improving the list of individuals and entities to which the measures apply. The list establishes categories of detailed information about those targeted, recognizing that some information may not be available for each target.¹⁰ It is updated periodically and sent to Member States at least every three months (resolution 1455 (2003), para. 4), and is also available on the Committee's website.¹¹

The Committee first circulated guidelines for the conduct of its work in November 2002, including a formal mechanism for considering requests for inappropriate inclusion on the target list.¹² Under this procedure, listed individuals, groups or entities may petition their government of residence and/or citizenship to request a review of the case. The targeted individual is responsible for establishing the grounds upon which such an appeal is based. The petitioned government is then asked to review all relevant information and begin bilateral discussions and information exchanges with the State originally responsible for inclusion, which may consult the Chair of the Committee. The petitioned government may then, preferably but not necessarily with the designating State, submit a request for de-listing to the Committee, who will reach a decision by consensus of its members.¹³ At the time of writing, four individuals and eleven entities have been de-listed.¹⁴

This procedure reflects the influence of the sanctions reform processes insofar as it addresses the three central questions regarding de-listing, set out above, and is articulated in formal guidelines. Contrary to the recommendations of the sanctions reform processes, however, the 1267 Committee denied targeted individuals from petitioning the Committee directly, did not clearly identify the grounds of appeal, and deferred to bilateral discussions between states the issue of resolving requests for de-listing. In contrast to the 1267 Committee, the 1343 Committee (on Liberia) allowed appeals for removal from individuals, in exceptional circumstances.¹⁵ These appeals may also come from the state of which the target is a citizen, or from a UN office. While this Committee did not establish the grounds upon which appeals may be considered, the procedures for deciding upon such appeals are specified, as suggested in the sanctions reform processes. These procedures have been maintained by the Sanctions Committee established pursuant to resolution 1521 (2003), and extend to the administration of the targeted financial sanctions imposed by resolution 1532 (2004).¹⁶

Both the 1267 and 1343 Committees' consideration of the de-listing issue appear to have been informed by the sanctions reform processes. While neither Committee's approach follows the Interlaken and Bonn-Berlin models precisely, those models specify three important questions (who may submit a claim that a target be removed, on what grounds, and how should such a appeals be decided?) that have guided subsequent policy developments.

*Exemptions*¹⁷

Until recently, virtually all resolutions dealt with exemptions to financial and travel prohibitions in a similar manner, with the Council authorizing the sanctions committee to make exceptions to the prohibition for humanitarian, medical or religious reasons. Paragraph 7(b) of resolution 1343 (2001) concerning Liberia, authorizing exemptions to a travel ban established in the previous subparagraph, is quite typical: "*Decides* that measures imposed by subparagraph (a) above shall

not apply where the Committee established [by this resolution] determines that such travel is justified on the grounds of humanitarian need, including religious obligation...”. Thus, two areas were left vague: first, the precise criteria for granting exemptions; and second, how the exemptions process was to be administered.

The Interlaken Process tackled the first of these issues by developing a menu of fifteen specific exemptions to a financial sanction that the Council could include in a resolution.¹⁸ On the second point, the Interlaken Manual also suggests that to avoid overburdening the sanctions committee, some (or all) of these exemptions could be left to States to administer.¹⁹ The Bonn-Berlin Expert Working Group on travel bans similarly supported the development of criteria and a process for administering exemptions. The Stockholm Process, while not suggesting specific text or procedures, did note the importance of the Council providing “clear and complete mandates” to sanctions committees, and called for greater transparency of the exemptions process.²⁰ Recent activities of two sanctions committees have reflected both the general call for greater clarity, as well as the specific suggestions made in these processes.

Resolution 1452 (2002) establishes separate procedures for three different kinds of transactions excluded from the assets freeze against Usama bin Laden, al-Qaida, the Taliban and associated individuals and entities. First, paragraph 1(a), offers a list of specific purposes for which an exemption may be granted, many of which are suggested in the Interlaken Report – namely, foodstuffs, rent, medicines, taxes, insurance, utility charges, legal services, and the maintenance of funds. Moreover, such exemptions are granted by a State notifying the 1267 Committee of its intention to do so and not receiving a negative decision by the Committee within 48-hours of notification – the amount of time recommended in the Bonn-Berlin manual.²¹ Alternatively, the second exemption, which permits payments from frozen accounts for “extraordinary expenses,” requires a positive statement of approval by the Committee (subparagraph 1(b)).

Resolution 1452 also establishes two cases under which adding funds to a targeted account is acceptable. The first allows for payments of “interest or other earnings due on those accounts” to be added (subparagraph 2(a)) and the second permits “payments due under contracts, agreements or obligation that arose prior to the date on which those accounts became subject to the” prohibitions (subparagraph 2(b)). Both of these exemptions are included in the Interlaken Manual. Further, the Committee is not involved in the administration of this exemption, as the authority remains entirely with Member States.

The Council has also responded to the call for greater transparency in the administration of exemptions. Subparagraph 3(a) of resolution 1452 (2002) charges the Committee with the task of maintaining “a list of the States that had notified the Committee of their intent to apply the provisions of paragraph 1(a) above...and as to which there was no negative decision by the Committee.” Similarly, the Liberia Committee, established pursuant to resolution 1343 (2001), also maintained a list of the exemptions to the travel restrictions that it approved with the authority granted to it by resolution 1343 (2001) para. 7(b). That Committee granted eighteen exemptions to the travel ban.²²

Consistent with the recommendations of the Interlaken, Bonn-Berlin and Stockholm Processes, the Liberia Committee in 2003 went beyond the 1267 Committee by establishing a clear and

detailed procedure for the administration of exemptions to the travel ban (imposed by resolution 1343 (2001), paragraph 7(a)). The procedure called for any request to be submitted in writing to the Chair of the Committee, established a deadline for the submission of such applications, and noted the Committee's right to attach conditions to any exemptions it may grant. The Committee also specified exactly what information must be included in an application for an exemption to the travel ban, which includes information on the proposed traveler, the purpose of the travel, a complete itinerary, and the modes of transportation to be used.²³ Again, the successor Sanctions Committee, established under resolution 1521 (2003), has maintained these procedures.²⁴

Member State reporting practices

As a result of the Security Council's Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001), the quality and quantity of reporting by Member States to subsidiary bodies of the Council has increased dramatically.²⁵ While this record of compliance reflects enhanced political will surrounding the issue of terrorism, the substance of the reporting requirements set out by the CTC also owes much to the sanctions reform processes.

In the past, the quality of reports submitted to sanctions committees has been variable, sometimes consisting of no more than one sentence indicating that States had "taken all necessary steps to comply with the requirements of the resolution." Some states failed to submit reports at all. Participants in both the Interlaken and Bonn-Berlin Processes suggested measures to improve Member State reporting, without which monitoring of sanctions at the UN level is made more difficult.

The Interlaken Manual²⁶ enumerated specific categories of information that sanctions committees should require from states in order to monitor effectively the implementation of financial sanctions, and suggested the types of information to be elaborated in the text of the resolution itself, along with specific time periods at which reports are to be submitted. Further, the use of templates was endorsed as a means of ensuring that states are appraised of the information sought by Committees. Similarly, the Bonn-Berlin Expert Working Group advanced the idea of a questionnaire for states to respond to regarding implementation that could form the basis of their reports.²⁷

To facilitate Member States' preparation of reports on actions to implement resolution 1373, the CTC adopted detailed guidance along the lines suggested in the manuals regarding the format and substance of reporting requirements. In a guidance note issued in October 2001, the Chairman of the CTC requested that Member States structure their reports to the Committee as responses to a series of specific questions that relate to the paragraphs of resolution 1373.²⁸ This was particularly important in establishing a threshold for substantive reporting, and helped to serve as a basis for dialogue with States. Under CTC procedures, reports are evaluated by experts, who then provide the basis for formal responses to Member States.

In light of these developments, and the high rate of compliance with 1373 reporting requirements, the Stockholm Manual took note of lessons from the CTC process and sanctions regimes. Working Group 3 developed "Guidelines to Assist States in Preparing Reports on Sanctions Implementation,"²⁹ with detailed questions concerning the implementation of different

types of targeted sanctions. Subsequent developments have further reinforced more detailed reporting by establishing clear criteria against which states are to report. The text of resolution 1455 (2003) calls for states to report on, “[A]ll ... investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities with Member States territories” (para. 6). The Sanctions Committee also issued guidance for Member State reports, including the specification of 26 items against which states are to report, broken down by type of sanction.³⁰ Beyond the 1267 Committee, the Liberia Panel of Experts referred directly to the outcomes of the Stockholm Process in developing a model questionnaire for Member State reporting on the implementation of the targeted measures against the Liberian leadership.³¹

Other influences

The sanctions reform processes have influenced Council action in other ways. For example, regarding the targeted financial sanctions against UNITA, the Monitoring Mechanism suggested that Member States ought to investigate the movement of targeted funds “before and after” the location of those funds, and proposed that evidence of “such exhaustive investigations, applied retroactively, have been made on all identified accounts should be provided.”³² The idea of such “retroactive reporting” was initially proposed in similar form in the Interlaken Manual, which also offered resolution draft text to require such investigations.³³

The Bonn-Berlin Report noted that effectively implementing a travel-ban requires collecting “as much information as possible about the individuals concerned,” or listed – a point also stressed in the Interlaken report for targeted financial sanctions.³⁴ The list of travel ban targets maintained by successive Liberia Sanctions Committees utilizes five types of identifying information (name; alias; date of birth; passport number; and designation)³⁵ – all but the last of which can be found in the target information the Bonn-Berlin Report recommends collecting for a travel ban. The list developed by the 1267 Committee seeks to provide an even greater number of “identifiers” for each target, including all the Interlaken suggestions³⁶ as well as others (like, national identification number and the date placed on the list). This Committee’s list of targeted entities follows Interlaken’s recommendations as well, asking for any known aliases, addresses and other relevant information.³⁷ Finally, this information must not only be collected, but efficiently disseminated – causing the Bonn-Berlin Expert Working Group to suggest the “increased use of the Internet,” and making all “relevant information ... available on a website,”³⁸ which is exactly what these two Committees have done.

The recent contributions of the Stockholm Process regarding Expert Panels have also influenced UN policy. For instance, Working Group 1 identified the need not only to provide specific mandates to these bodies, but also clear guidance on how to proceed in achieving them and methods to be used.³⁹ In drafting resolution 1474 (2003), which renews the Somalia Arms Embargo Panel of Experts, the Council appears to have followed this advice. Eight specific subparagraphs (paragraph 3(a-h)) are offered that clearly detail the mandate and operations of the group.

Part 3: Recent Developments in the Application of Targeted Sanctions

Beginning with the Interlaken Process, the use of targeted sanctions by the Security Council has been beneficially informed by the three sanctions reform processes. These processes, however, do not cover all possible uses of targeted sanctions. In the period since the publication of the Stockholm Manual, the Security Council has continued to apply targeted sanctions in new and innovative ways. Most recently, the Council has applied “facilitative targeted sanctions,” i.e. targeted sanctions as a positive inducement to factions supporting a peace agreement or settlement backed by the international community.

With the adoption of resolution 1521 on 22 December 2003, the Security Council’s previous sanctions measures concerning Liberia were given a revised legal basis. As in the case of neighboring Sierra Leone, measures are being applied in an effort to support the implementation of the Comprehensive Peace Agreement and to assist the new Government in Monrovia to regain control over its natural resources. The larger intent is to ensure that the resources will not be used to fuel further instability and conflict, but will be used to the benefit of the Liberian people.

In this regard, the application of such “facilitative targeted sanctions” represents an inversion of the usual sanctions model – from a means of applying pressure on a target considered to be a threat to international peace and security in an effort to change their behavior, to a means of ensuring a certain degree of transparency and governance within a target state to facilitate the implementation of a peace arrangement that has the support of the Council. To achieve these goals, targeted sanctions must be designed to *facilitate* the engagement of a group or entity the international community wishes to support. Such an approach offers a number of potential benefits: [1] constructive dialogue between the sanctions committee and the targeted entity or entities; [2] improved possibilities for the wider UN system to play a supportive and more effective role in sanctions monitoring and enforcement; [3] improved possibilities for coordinated and effective public information campaigns to explain to local populations the reasons for sanctions, the goals of the sanctions and the benchmarks for their lifting; and [4] increased likelihood that the private sector could play a constructive role in zones affected by sanctions, and in fragile conflict/post-conflict situations more generally.

This new approach to the application of targeted sanctions can be seen in other recent resolutions of the Security Council, especially those concerning the DRC in 2003 and 2004. An arms embargo on a particular region of the eastern DRC (North Kivu, South Kivu and Ituri) was put into place following the conclusion of the Global and All Inclusive Agreement on the Transition in the Democratic Republic of the Congo (signed in Pretoria on 17 December 2002). This agreement opened the door for monitoring by UN peacekeepers and thought is being given to ways of using targeted sanctions to support the maintenance of the peace settlement.

Conclusion: Current and Future Challenges in Designing and Implementing Targeted Sanctions

There has been a significant evolution in the design and implementation of targeted sanctions over the course of the past twelve years. Beginning with the targeting of the government of Libya in 1992 and the poorly implemented targeted sanctions directed against the regime of Raoul Cedras in Haiti in 1994 (with vague identification of members of the Haitian government, gradual introduction, inconsistent implementation, and with enough advance notice to render the effects of the targeted sanctions inconsequential), there have been dramatic improvements in the targeting of sanctions. There is considerably more detailed information today about the identification of individuals listed, as well as important procedural improvements in the listing and de-listing of individuals (in response to legitimate human rights concerns). There have also been major improvements in the quality of the expert monitoring of sanctions implementation and important innovations in the reporting process. More recently there has been a creative and transparent policy dialogue designed to facilitate effective implementation and creative thinking about ways to move from negative sanctioning to positive facilitation of internationally supported peace agreements.

Thus, it appears that there has been a significant amount of institutional learning within the UN system, facilitated to a significant degree by the recommendations that came out of the Interlaken, Bonn-Berlin and Stockholm Processes. Policies regarding the listing and de-listing of targets, the definition of key terms used in sanctions resolutions, and the administration of exemptions, as well as other issues such as reporting and monitoring mechanisms that utilize “retroactive reporting” of the movements of assets have drawn upon the work of the three sanctions reform processes.

Nevertheless, important challenges remain in the design and implementation of targeted sanctions.

1. Targeted sanctions can have unintended, harmful consequences.

While targeted sanctions are less injurious to innocent civilians than comprehensive economic sanctions, they are not without unintended side effects. Several different types of unintended, adverse effects are possible.

First, it may not be possible to limit the economic effects of targeted sanctions to the intended targets alone. Most targets (be they individuals, groups, or economic sectors) are embedded in a larger network of suppliers, service sector providers, and/or consumers such that the effects of a targeted sanction cannot be entirely restricted to the targets. There will be an inevitable “trickle-down” effect on untargeted, unintended, and otherwise innocent actors.

Second, for targeted sanctions to have credibility, they must address the legitimate concerns of injured parties, especially inappropriately targeted individuals. The recent example of Swedish citizens being mistakenly listed is instructive as to the need for Sanctions Committees to be able to respond quickly to wrongly-targeted parties. Failure to address this issue with transparent and efficient processes of de-listing will lend credence to a growing concern among human rights

activists concerning the violation of the individual rights of targeted parties. Recent initiatives to debate this issue are an important step in developing policy responses.⁴⁰

Third, sanctions of any type, including targeted sanctions, create strong incentives for evasion. A political economy of sanctions evasion (illegal financial transfers, arms smuggling, commodity smuggling) can leave a legacy of corruption that may prove difficult to root out after sanctions have been lifted. The practices established, the lessons learned, and the lucrative benefits derived from a regime of sanctions evasion may linger on in the form of continued smuggling, tax evasion, and general corruption.

Fourth and finally, there are the unintended effects on neighboring States. The burdens of implementing targeted sanctions still fall disproportionately on certain States, particularly neighboring States. The international community needs to find effective ways to provide technical assistance and means of special financial support to such affected parties, including Article 50 assistance.

2. Effective sanctions require “parallel implementation” among States.

As it may only take a handful of sanctions-evaders to undermine a sanctions regime, broad international implementation is necessary for targeted sanctions to be effective. Inconsistent implementation across States creates loopholes in the regime and undermines its effectiveness. Therefore, variations in the willingness and capacity of Member States to implement sanctions measures remain a key challenge.

The experience of the United Nation’s Counter-Terrorism Committee (CTC) may provide some useful insights. The CTC has established a system for the provision of technical assistance to States seeking to improve their domestic capacity to implement Security Council measures. As States put into place the legal and administrative infrastructure to counter terrorism pursuant to resolution 1373, greater opportunities exist to build on that capacity in creating more effective targeted sanctions regimes in the future. Fundamental to enhanced implementation, however, is genuine capacity building at the national level, which requires time and dedicated technical and financial resources by the international community.

3. Greater information on targets is needed in imposing and monitoring sanctions.

As noted above, practices of gathering information on targets – whether individuals or sectors of economic activity – have improved, however, gains in this area could be consolidated and extended.

All three Processes stress that sanctions must be crafted to individual circumstances, and thus emphasize the importance of careful planning and designation of the targets. However, effectively doing so requires significant information regarding the targeted individuals and sectors. For instance, what are the names and aliases of targeted individuals? What access might they have to certain public funds? Or once the sanctions have taken effect, by whom are they being violated and through what methods? Have targeted individuals sought to evade sanctions

by exploiting different sectors of economic activity? Such information is not always readily available, particularly when a crisis arises unexpectedly and the Council must act quickly.

While this problem is not easily overcome, there are several things that the Council or Sanctions Committee could do, building on previous practices, to gather more detailed information on targets. Greater use of expertise at the outset may help in the identification of individuals or funds. For example, the retention of a professional investigative firm to assist the Monitoring Mechanism of the UNITA sanctions to trace UNITA's financial assets proved useful, contributing to the Reports of that Mechanism.⁴¹ In addition, outreach to academic experts who have devoted considerable time to the historical analysis of various targeted countries or groups could yield information generally unavailable to Member States. Not only might such efforts produce information that helps to target sanctions better initially, but also assist in the monitoring and analyzing of such measures to improve their implementation and effectiveness.

4. Facilitative targeted sanctions pose special challenges.

Whereas past issues have benefited from discussion in the three sanctions reform processes, current issues, especially those relating to "facilitative targeted sanctions," are yet to be debated in such a forum. Of course, these uses of targeted sanctions may prove fleeting, or may be superseded by subsequent developments in the application of targeted sanctions. Still, with new uses of targeted sanctions, new challenges arise. We identify three.

First, if targeted sanctions are to be used as a means of ensuring transparency in the control of natural resources, it is imperative that the criteria for lifting sanctions, and the method for assessing these criteria, be clearly specified and robust.

Second, as states subject to "facilitative targeted sanctions" move towards the achievement of stated objectives, selective modifications of these measures may be required to ensure the security, stability and prosperity of the targeted state. How can targeted sanctions be appropriately calibrated in this regard?

Finally, as the threat to peace and security in the targeted state subsides, what kinds of ongoing engagement, whether on the part of the Council or other parts of the UN system, is appropriate to ensure that the objectives of sanctions are lasting?

Despite all of the above-mentioned challenges, there is evidence to suggest that targeted sanctions have proven to be effective in some cases in the past (although, of course, "success" remains difficult to measure precisely).⁴² Retrospective analyses of the Libyan,⁴³ Liberian,⁴⁴ and UNITA⁴⁵ cases have all credited targeted sanctions with increasing pressure on leaders towards the removal of the threat they posed. More comprehensive studies might yield more precise findings about the contributions of targeted sanctions to stated goals and their other effects on the ground.

A Model Law to Implement Sanctions at the National Level

The idea of a Model Law – national enabling legislation to provide the government of the relevant Member State with the appropriate powers to adopt secondary legislation to give effect to decisions of the Security Council taken under Article 41 of the UN Charter – was initially proposed as part of the Interlaken Process. Subsequently, participants in the Bonn-Berlin Process endorsed the Model Law approach and suggested refinements to the Interlaken Model Law. The “Consolidated Model Law” reproduced below is extracted from the Stockholm Process Manual (see pp. 81-89) and represents the further consideration of approaches to model legislation for this purpose.

Consolidated Model Law

Preamble

For Civil Law Countries:

Whereas the United Nations Security Council may decide, in accordance with Article 41 of the Charter of the United Nations, on measures not involving the use of armed force to be deployed to give effect to its decisions, and may call upon the members of the United Nations to apply such measures.

Whereas such measures may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Whereas the Members of the United Nations have agreed to accept and carry out the decisions of the Security Council in accordance with the Charter of the United Nations.

Whereas [the Member State] is a member of the United Nations.

For Common Law Countries

An Act to enable effect to be given to decisions under Article 41 of the Charter of the United Nations.

Article 1

If, under Article 41 of the Charter of the United Nations, the Security Council of the United Nations calls upon [*the Member State*] to apply measures to give effect to a decision taken under that Article, then in accordance with [*the Member State*]’s obligations under Article 25 of the Charter the [*relevant authority*] shall forthwith adopt such [*national measures*] as appears necessary or expedient to implement such measures effectively.

Article 2

The [*national measures*] shall apply notwithstanding rights and obligations conferred or imposed prior to, as well as after, the [*national measures*] coming into force, unless expressly stated otherwise; and compliance with the [*national measures*] (or with the legislation of another State adopted pursuant to the same resolution of the Security Council) shall be a complete defense against any claim based on the above mentioned rights and obligations.

Article 3

The [*national measures*] made under paragraph 1 shall apply within the territory of [*the Member State*] and to all nationals of and entities incorporated in or organized in accordance with the laws of [*the Member State*], wherever located or operating, and on board of vessels or aircraft under [*the State's*] jurisdiction.

Article 4

Contravention or evasion of the [*national measures*] shall be an offence, subject to the penalties specified in the [*national measures*]. Such penalties shall be effective, dissuasive and proportionate, and may include the forfeiture of any property, documents or funds deriving from, used or dealt with in connection with the contravention or evasion.

Article 5

[National measures] made in accordance with this law shall have effect notwithstanding the provisions of any other law.

Summary of the Interlaken Manual

The Interlaken Manual comprises two parts, analyzing the design and implementation of targeted financial sanctions respectively.

Part 1 suggests that resolutions should be comprised of 12 parts and provides model text for each:

- A Preamble, establishing the context of the resolution;
- Identification of the objectives of sanctions, defining the goals of the sanctions and serving as the criteria against which responses of the target may be measured;
- A statement of the specific prohibitions imposed by the sanctions, answering four critical questions:
 1. Whom are the measures to be imposed against?
 2. Who will implement the measures?
 3. When and for how long are the measures to be effective?
 4. What are the components of the financial sanctions?

It is in this section of a resolution that definitions of key phrases, such as “funds and other financial resources”, may be given. Such definitions are critical for consistent and effective implementation of targeted financial sanctions. Further, innovative methods for implementing prohibitions are elaborated. For example, the “retroactive reporting” option requests that States submit reports on the movement of targets’ assets in the period immediately prior to the imposition of sanctions, in order to track the movement of funds and constrain their future use.

- Acknowledgement that there may be exemptions and exceptions⁴⁶ to the measures imposed, for example, for humanitarian purposes;
- A clause calling upon international organizations to observe the sanctions, even though they are not bound by Security Council resolutions;
- Establishment of a Sanctions Committee and the specification of its duties;
- An outline of procedures to enable individuals to petition the Sanctions Committee for removal from the list of targets, to minimize the consequences of erroneous targeting;

- Reporting requirements to be imposed upon Member States, their scope and frequency;
- Measures to enable the effective monitoring of the sanctions imposed, such as to allow for the creation of an Expert Panel;
- An appeal to States to recall that the measures imposed are binding under the Charter;
- A clause to enable implementing States to ensure non-liability for compliance with sanctions, facilitating effective implementation by the private sector notwithstanding other existing rights and duties; and
- A “sunset clause” to provide the means for the suspension and lifting of sanctions upon the achievement of the objectives identified in the resolution.

Part 2 of the Manual specifies the legal and administrative elements necessary at the national level, and focuses on “best practices” for implementing targeted financial sanctions:

- Legal Framework
 - Ensure that adequate legal authority to implement sanctions at the national level exists without needing to engage the legislative process for each Security Council resolution (e.g. by enacting enabling legislation such as the Interlaken Model Law – see Appendix 2 for further discussion of the Model Law).
 - Give effect to resolutions through regulatory or administrative actions.
- Administering Agency
 - Designate an official body or bodies to administer sanctions – including the consideration and determination of requests for exceptions and exemptions, where permitted – such as the MFA or the financial supervisory agency.
 - 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).
- Information
 - Inform the public through notices in official journals and through the use of media and information technology.
 - Communicate with banks and financial institutions; notify them directly, including through outreach activities, and provide specific and timely guidance for the implementation of sanctions.

- Notification should include a statement of the legal basis for sanctions; the precise time period within which transactions should be examined; definition of targets; detailed guidelines about what is prohibited; information on exemptions; and information concerning to whom reports should be sent, and applications for exemptions or exceptions and questions regarding sanctions should be addressed.
- Compliance
 - States should monitor the activities of banks and financial institutions to encourage compliance with financial sanctions, including capacity building, reporting and external auditing requirements.
 - Financial institutions should employ methods to recognize and stop transactions, and be encouraged to raise their internal supervisory standards to conform to multilateral initiatives, including through the use of technology.
- Exemptions and Exceptions
 - Designate a responsible agency and determine the process to consider exemptions and exceptions.
 - Where many requests are made to national level authorities, consider a process authorizing categories of approved transactions (general licenses) to expedite administration.
- Administration of Assets
 - Unless otherwise called for by Security Council, standard practices concerning crediting interest to and debiting charges from frozen accounts should generally be followed.
- Enforcement
 - Clearly define acts constituting a breach of sanctions, the nature of such violations (civil or criminal), and specific penalties (prison sentences and/or fines) appropriate to deter violations.
 - Encourage compliance and foster cooperative relations with financial institutions through a system of warnings and civil penalties.

Summary of the Bonn-Berlin Manual

The key findings of the Bonn-Berlin Process are:

- Regarding resolutions to implement arms embargoes:
 - Use standard language in drafting resolutions imposing arms embargoes
 - Develop consensually a list of goods and services falling under an arms embargo
 - Review the implementation of arms embargoes regularly.
- Regarding resolutions to implement travel bans:
 - Use the term “travel ban”, which has a broader application than “visa ban”
 - Determine targets with precision and consider extending the prohibitions to those likely to influence the behavior of elites (such as their family members)
 - Consider measures to enable targets to have their names removed from the list
 - Consider procedures to determine when and how exemptions and exceptions to the prohibitions should be granted
 - Identifying time limits for travel bans may be less important than it is in the case of arms embargoes.
- Regarding resolutions to implement aviation bans:
 - There are several forms of aviation bans, ranging from a ban on specific aircraft to a total ban on international air travel; in addition, bans upon the provision of services to targeted airlines, and the closure of their offices, may be considered
 - Be precise in wording exceptions and exemptions to the prohibitions imposed
 - Consider allowing a delay before the imposition of aviation bans, to allow targeted aircraft to return to their home base.
- Regarding the implementation of arms embargoes, and travel and aviation bans, at the national level:

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 for arms embargoes; measures to deny permission for take-off from, landing in and flight over national territory, in the case of aviation bans) 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 of 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.

Administering Agency:

- 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).

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.

Monitoring and compliance:

- Establish procedures for licensing and certification of end-users of arms, 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 arms transfers
- For travel and aviation bans, provide guidelines to key actors regarding the application and scope of sanctions, including what to do in case of violations and information about required reporting.

Enforcement:

- Specify in legislation that breach of an embargo or ban may result in criminal prosecution
- Impose penalties, including criminal penalties, appropriate to deter violations
- Trace and verify arms shipments that are at possible risk of being diverted.
- Establish a central database to maintain a list of prohibited persons or aircraft.

Summary of the Stockholm Manual

The key findings of the Stockholm Process are:

- Design sanctions resolutions with implementation in mind
 - In drafting sanctions resolutions, anticipate what will be required in order to implement the measures; this requires a clear view of the purpose of the prohibitions, the targets and may include an early assessment of the likely impact of the sanctions.
 - Establish a Sanctions Committee with necessary authority – in particular a reporting mechanism – to follow through on the measures imposed; the role of the chairperson of the sanction committee is important and requires considerable support from the Council and from the UN Secretariat.
- Maintain international support for the sanctions regime
 - Ensure that implementing Member States are fully informed of the rationale of the measures, to promote a sense of “ownership” of the measures by the whole international community.
 - Ensure transparency in decision making, so that the goals and measures are properly translated into action by all UN members; for example, update the media on the sanctions and their implementation.
 - Targeted sanctions are designed to minimize detrimental humanitarian effects; to maintain international support it is important to ensure that such effects are avoided.
- Monitor, follow up and improve the measures throughout the sanctions regime
 - Ensure that Expert Panels and Monitoring Mechanisms for the follow-up of sanctions have the competence and authority to perform in-depth investigations and that Panel reports meet the highest evidentiary standards.
- Strengthen the sanctions work of the UN Secretariat
 - As a service to Sanctions Committees, Member States, Expert Panels and Monitoring Mechanisms, develop an in-house information database on sanctions within the UN Secretariat.
 - The UN should operate a continuously updated, public research database on current sanctions regimes.

- The issue of a special UN sanctions coordinator is raised in this Report for further discussion.
- These measures for improving sanctions implementation will not occur without sufficient allocation of budgetary resources.
- Although different, much can be learned from the UN Counter-Terrorism Committee
 - Specific innovations introduced by the CTC that are relevant to sanctions implementation include: the creation of contact points in all Member States, the continuous reporting of activities, and the development of ideas for capacity-building.
- Effective sanctions requires capacity-building and training programs
 - As the implementation of targeted sanctions may be a strain on state capacity for many Member States, consider measures to train staff and develop institutions, especially in areas critical for sanctions implementation (police, customs, transportation services, financial controls, etc.).
- Implementation can be enhanced through a Model Law
 - Model legislation can be useful for Member States when developing their legal frameworks for sanctions implementation.
- Implementation will vary depending on the type of sanctions
 - The measures needed to implement the range of targeted sanctions will vary; however, there are generic requirements of national implementation (legal framework, administrative agency, information, monitoring, enforcement, etc.) and of strategies to counter evasion (precise definitions of targeted actors, maintaining commitment, considering complementary measures, etc.).
- Maintaining accuracy in sanctions targeting is crucial
 - Sanctions regimes face different challenges at different stages, but the actions in each stage can improve the performance in the next.
 - The planning of sanctions is important for the operations of sanctions, which in turn requires vigilant follow-up procedures; it is necessary to expect retaliation against neighboring countries and thus positive inducements should be available. Also strategies of socially and politically isolating the targeted actors in their own state should be considered.
 - Processes for listing individuals and entities as targets and for removing them from such lists (de-listing) are crucial.

- Reporting on sanctions implementation
 - In order to assist Member States in their duties, consider developing a questionnaire to be addressed to Member States on matters of sanctions implementation; such a questionnaire would ask questions on contact points, specific measures for particular types of sanctions, and types of assistance that may be needed, while encouraging Member States to identify available resources for such support.

Endnotes:

- ¹ Andrew Mack and Asif Khan, Strategic Planning Unit, Executive Office of the Secretary-General, United Nations, “UN Sanctions: How Effective? How Necessary?” April 1999, prepared for the Second Interlaken Seminar on Targeting United Nations Financial Sanctions, 104.
- ² Thomas G. Weiss, David Cortright, George A Lopez, Larry Minear (eds.), *Political Gain and Civilian Pain*, Lanham, MD: Rowman & Littlefield, 1997, based in large part on the work of the Humanitarianism and War Project of the Watson Institute for International Studies at Brown University.
- ³ The Security Council established an informal Working Group in April 2000, to examine means of improving the effectiveness of sanctions.
- ⁴ See “Targeted Financial Sanctions: Harmonizing National Legislation and Regulatory Practices” by the Watson Institute Targeted Financial Sanctions Project at http://www.brown.edu/Departments/Watson_Institute/tfs/index.html for a detailed discussion of the legal and regulatory differences in implementing targeted financial sanctions across major currency countries.
- ⁵ The Manual is available online at www.smartsanctions.ch and www.watsoninstitute.org/TFS/TFS.pdf.
- ⁶ See Bonn-Berlin Manual, pp. 55-58.
- ⁷ Bonn-Berlin Manual, p. 55.
- ⁸ See, Iain Cameron, “Targeted Sanctions and Legal Safeguards,” Report to the Swedish Foreign Office, October, 2002. Available at: <http://resources.jur.uu.se/repository/5/PDF/staff/sanctions.pdf>
- ⁹ Resolution 1267 was passed in October 1999. A modest list of targets was not circulated until April 2000 (see press release SC/6844, 13 April 2000).
- ¹⁰ For individuals, the Committee seeks the name(s), title, designation, date and place of birth, aliases, nationality, passport number, national identification number, address, and other supplementary information of those listed; while for entities, it seeks the name, aliases, former names, address and other supplementary information. As we mention below, the kinds of information now requested about targets may represent the further influence of the sanctions reform processes. Compare “New Consolidated List of Individuals Associated with the Taliban and Al-Qaida Organisation” (available at <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>) with the Interlaken Manual, p. 8.
- ¹¹ The list is available at: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>
- ¹² Guidelines of the Committee for the Conduct of its Work (adopted on 7 November 2002 and amended 10 April 2003). The de-listing procedure is set out in section 7 of the amended guidelines, available at: http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.
- ¹³ For further information, refer to Section 7 of the Guidelines document. http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.
- ¹⁴ See <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.
- ¹⁵ See “Procedures for updating and maintaining the list of persons subject to travel restrictions pursuant to resolution 1343 (2001),” 18 March 2003. Available at: http://www.un.org/Docs/sc/committees/Liberia2/Proced_TBL.pdf
- ¹⁶ See http://www.un.org/Docs/sc/committees/Liberia3/1521tbl_proc.pdf regarding the travel ban and http://www.un.org/Docs/sc/committees/Liberia3/1532_guide.pdf regarding the targeted financial sanctions.
- ¹⁷ The Bonn-Berlin Manual offered a definition to distinguish “exemptions” (not requiring the approval of the Sanctions Committee) and “exceptions” (requiring approval of the Committee). This definition is followed in the Interlaken Manual, but has not been observed in practice. For present purposes, the use of the terms should be understood on a case-by-case basis.
- ¹⁸ Interlaken Manual, pp. 72-75.
- ¹⁹ Interlaken Manual, pp. 20-21.

Endnotes continued:

- ²⁰ Stockholm Manual, pp. 24-25.
- ²¹ Bonn-Berlin Manual, p. 58.
- ²² See: <http://www.un.org/Docs/sc/committees/Liberia2/Liberia2waiverEng.htm>.
- ²³ See http://www.un.org/Docs/sc/committees/Liberia2/waiver_proc_en.pdf.
- ²⁴ See http://www.un.org/Docs/sc/committees/Liberia3/1521waiver_proc.pdf.
- ²⁵ For example, there has been universal compliance in submitting “first round” reports and near-universal compliance in submitting “second round” reports. Most recently, see “Work programme of the Counter-Terrorism Committee (1 April-30 June 2004),” Annex to UN Doc. S/2004/284, 13 April 2004.
- ²⁶ See pp. 30-32.
- ²⁷ See Bonn-Berlin Manual, pp. 34-35, 61, 81-82.
- ²⁸ Note from the Chairman, Guidance For the submission of reports pursuant to paragraph 6 of Security Council resolution 1373 (2001), 26 October 2001. See: <http://www.un.org/Docs/sc/committees/1373/guide.htm>
- ²⁹ Stockholm Manual, pp. 129-32.
- ³⁰ Guidance for reports required of all States pursuant to paragraphs 6 and 12 of resolution 1455 (2003). Date not specified. Available at: http://www.un.org/Docs/sc/committees/1267/guidanc_en.pdf
- ³¹ See S/2003/779, pp. 37-38.
- ³² See Report of the Monitoring Mechanism on Sanctions against UNITA, S/2002/486, 26 April, 2002, p. 37, para. 235.
- ³³ Interlaken Manual, pp. 17-18.
- ³⁴ Bonn-Berlin Manual, p. 58; Interlaken Manual p. 8.
- ³⁵ http://www.un.org/Docs/sc/committees/Liberia2/1343_list.htm
- ³⁶ Interlaken Manual, p. 8.
- ³⁷ <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>
- ³⁸ Bonn-Berlin Manual, p. 58.
- ³⁹ Stockholm Manual, p. 56.
- ⁴⁰ For example, the German and Swedish Missions to the UN sponsored a Workshop on “Terrorism and Targeted Sanctions,” in November 2003.
- ⁴¹ For example, see Report of the Monitoring Mechanism on Sanctions against UNITA, S/2001/966, 21 October, 2001, p. 44.
- ⁴² On the difficulties of measuring the “success” of sanctions, see David A. Baldwin, “The Sanctions Debate and the Logic of Choice,” *International Security*, Vol. 24 No. 3 (1999/2000), pp. 80-107.
- ⁴³ Martin Indyk, “The Iraq War Did Not Force Gaddafi’s Hand,” *Financial Times* (London), March 9, 2004, page 21. See also Thomas E. McNamara, “Why Qaddafi turned his back on terror,” *International Herald Tribune* (Paris), May 5, 2004.
- ⁴⁴ “Liberia: Leaving Office ‘To End Bloodshed in Liberia,’ Taylor Accuses U.S. of Backing Rebels,” Africa News, AllAfrica, Inc., August 11, 2003.
- ⁴⁵ Note the remarks of Alcides Sakala, an aide to Jonas Savimbi, in Alex Vines in “Monitoring UN sanctions in Africa: the role of panels of experts,” in Trevor Findlay (ed.), *Verification Yearbook 2003* (London, Vertic, 2004) p. 253.
- ⁴⁶ See the endnotes to Part 2 of this paper regarding the difference between an “exemption” and an “exception.”