

The Emergence, Evolution, Effects, and Challenges of Targeted Sanctions

**Paper prepared for the conference
Sanctions Economiques: Vers de Nouvelles Pratiques
Paris, FRANCE
14 June 2004**

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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 on 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 against Iraq. For example, a Watson Institute project on the humanitarian costs of comprehensive sanctions concluded that the civilian suffering caused by such measures often overshadowed their potential political gains; moreover, comprehensive sanctions complicate the work of humanitarian agencies, can

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.

cause long-term damage to the productive capacity of target nations, and unfairly penalize their neighbors (who are often major trading partners).²

In response to these criticisms of comprehensive sanctions, there were growing calls for targeted, or so-called “smart” sanctions, directed against the policymakers most directly 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, and the elites that support them would need to fear the effects of targeted sanctions.

Over the course of the past decade or so, there has been a considerable amount of development of targeted sanctions, as explored in greater detail below. For analytical purposes, it is useful to distinguish between three different types of targeted sanctions: [1] sanctions targeted on individuals, groups, or corporate entities; [2] sanctions targeted against particular commodities or sectors of an economy; and [3] sanctions targeted against particular regions of a country. Indeed, the understanding of “targeted” has evolved within the Security Council over the past decade. In a form of ‘learning by doing,’ the Security Council has developed different understandings of the concept of “targeting” and has applied them to achieve different goals in different situations.

The call for targeted sanctions has attracted a great deal of attention within the UN Security Council,³ as well as the academic and NGO communities. Beginning at the end of the 1990s and under the leadership of the governments of Switzerland, Germany and Sweden respectively, practitioners, experts, and academics collaborated in three multi-year processes to improve the design of targeted sanctions. The Swiss sponsored the Interlaken Process, concentrated on targeted financial sanctions. The Germans organized the Bonn-Berlin Process to assess travel restrictions, aviation bans, and arms embargoes. The Swedes explored implementation issues for all of the different types of targeted sanctions.

The Evolution of Targeted Sanctions

At the beginning of the 1990s the United Nations tended to rely upon comprehensive sanctions to enforce agreements or as an alternative to military

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.

intervention and the direct use of force. Both Iraq in 1990, and the former Yugoslavia in 1992 and again in 1994, were the objects of comprehensive sanctions regimes.

Sanctions against a government

The first departure from this pattern of imposing broad, comprehensive sanctions came with the targeting of sanctions against the *government* of Libya in 1992 and 1993. Not only was the government of Libya singled out for sanctioning, but the sanctions were also applied to specific sectors of the Libyan economy (finance, aviation, and oil transporting equipment) in which the government played a leading role.

Sanctions against the leadership of a government

One of the most important institutional innovations in the targeting of sanctions came a year later with the targeted sanctions applied against the regime of Raoul Cedras in Haiti in 1994. This was the first instance in which specific members of a government were identified for sanctioning. In many ways, however, the implementation of the targeted financial sanctions against Haiti provided a textbook illustration of how not to impose targeted sanctions against individuals or groups. The Security Council passed a Resolution in May of 1994 targeting the funds and financial resources of “all officers of the Haitian military, including the police, and their immediate families; [...] the major participants in the *coup d'état* of 1991 and in the illegal governments since the *coup d'état*, and their immediate families; [and] those employed by or acting on behalf of the Haitian military, and their immediate families.” There was no specific list of names of targets appended to the Resolution; instead, the same operative paragraph requested the Haiti Sanctions Committee “to maintain an updated list, based on information provided by States and regional organizations, of the persons falling within this paragraph.” Perhaps most importantly, the Security Council did not *request* states to implement the financial sanctions against the designated persons, but *urged* them to do so; the Resolution was therefore not legally binding upon Member States.

Ambiguity about the targets, and vacillation about the application of targeted sanctions, created a great many opportunities for evasion. Moreover, despite the language of the UN Resolutions, the sanctions were applied erratically in most instances: first to the leaders only, then to their families, and still later to elite supporters of the regime. By the time all the targets were publicly identified, they had had ample time to move and protect their financial assets. In contrast to the actions against Iranian assets in 1979, and Iraqi and Kuwaiti assets in 1990, in the Haitian case the targeted financial sanctions were applied incrementally and inconsistently, with little evidence of political will and ample notice to potential targets (who were given two weeks advance notice that that unless they changed their behavior, their assets would be frozen). Like the Libyan experience the year before, the UN combined targeted financial sanctions against Haiti with travel bans on designated individuals and the sectoral targeting of arms, aviation, and the oil industry.

Expert Panels and Monitoring Mechanisms

Rwanda and the Sudan were both the objects of sectorally targeted sanctions in the middle 1990s (primarily against arms imports and the means to bring arms into the country via the aviation industry), but the next set of institutional innovations came with the targeted sanctions against the UNITA in Angola in 1997 and 1998. The Angolan sanctions combined sanctions targeted against individuals (targeted financial sanctions and travel bans) with sectoral targeting (i.e. sanctions imposed on the import of arms, as well as on the aviation and oil industries, and later a ban on the trade of diamonds). In the wake of the ineffective implementation of the Haiti sanctions, however, UN Security Council Resolution 1127 imposed a travel ban on senior members of UNITA and the adult members of their immediate families. In May 1999, the Council established a Panel of Experts, the first time that a body of this kind had been created. The Panel, whose mandate was to collect information on UNITA sanctions-evasion and to offer recommendations on how these sanctions could be made effective, presented its first report to the Security Council on March 10, 2000.

In nine short paragraphs, the Panel described the sources of UNITA's funding, the nature of its holdings, efforts by the leaders of organization to circumvent the financial sanctions, and drew conclusions. The Panel concluded that:

“for practical as well logistical reasons the bulk of UNITA's assets are retained in the form of rough diamonds which are packaged and sold as needed, with the proceeds sometimes going to UNITA officials or representatives abroad who may deposit the money in banks for short periods of time in order to complete or facilitate particular transactions. [...A] network of banks, financial institutions and money managers continue to be connected with UNITA and its representatives and suppliers, and to be used by them for important though limited purposes.”⁴

In light of this finding, the Panel recommended that “banking procedures be developed to facilitate the identification of individuals covered by sanctions, and the freezing of assets.”⁵ By identifying the role of heads of state and other countries in circumventing the sanctions, the panel and the sanctions committee to which it reported established new (and highly controversial) precedents.

In April 2000, Security Council Resolution 1295 established a Monitoring Mechanism to build upon the work of the Panel and investigate violations of UNITA sanctions. Following a detailed report in December 2000,⁶ the mandate of the Monitoring Mechanism was extended by Resolution 1348 (2001). In the course of these events, the Sanctions Committee established pursuant to Resolution 864 reported that it

⁴ Ibid., paragraph 124.

⁵ Ibid. paragraph 128.

⁶ UN Doc. S/2000/1225 (21 Dec., 2000).

has circulated and maintained a list of targets, in line with its duties under Resolution 1173.⁷

More Detailed Listings

The next major development in the evolution of targeted sanctions came with the October 1999 passage of Security Council Resolution 1267, imposing a flight ban and financial sanctions against “the Afghan faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan.”⁸ The operative paragraph for the financial sanction requests that States shall freeze funds and other financial resources, including “funds derived or generated from property owned or controlled directly or indirectly by the Taliban, or by any undertaking owned or controlled by the Taliban.”⁹ This was the first instance of targeted financial sanctions being imposed *de novo* (not as part of a larger comprehensive or sectoral sanctions effort) and in the wake of the lessons of failed implementation in Haiti a few years previously.

The United States had previously unilaterally implemented sanctions against the Taliban in July 1999, by Executive Order of the President. In the initial summary released by the Office of Foreign Assets Control in the United States Treasury, however, there was only one individual named - Mohammed Omar - whose designation was given as Amir al-Mumineen, or “Commander of the Faithful.”¹⁰ Initially, there was no other identifying information, and no Taliban targets were included in their list of Specially Designated Nationals (SDNs) and Blocked Persons.¹¹ In the annexes to the European Commission’s (EC) Council Regulation implementing the Resolution, adopted seven months after the US action, there was no information included with regards to the funds and financial resources of the Taliban – information that should have been provided by the Taliban Sanctions Committee.¹²

⁷ UN Doc. S/1997/1027 (31 Dec., 1997), para. 10.

⁸ UN Doc. S/RES/1267 (1999), paragraph 1. It is interesting to note that the Islamic Emirate of Afghanistan is actually the name given to the portion of Afghan territory controlled by the Taliban, and not a name the group calls itself. It is unclear whether this is an error in the Resolution, or an example of the enduring tendency of the Security Council to address itself to states and not movements.

⁹ Ibid., paragraph 4(b).

¹⁰ Office of Foreign Assets Control, “An Overview of U.S. Sanctions against the Taliban (in Afghanistan),” available online at <http://www.treas.gov/ofac/t11tali.pdf>, as updated on September 1, 1999.

¹¹ Office of Foreign Assets Control, available online at <http://www.treas.gov/ofac/t11sdn.pdf>, as updated on February 2, 2000.

¹² Council Regulation (EC) No. 337/2000, OJ L 43, February 16 2000, 1 and 4. Improving the quality of national reporting to the sanctions committees and increasing the resources devoted to the sanctions work of the UN Secretariat have been recommended by sanctions experts at both Interlaken conferences, the ODI conference, and in testimony before the Select Committee of the UK House of Commons.

In April 2000, the Sanctions Committee issued a *Note Verbale*, defining “funds and financial resources” in line with the Interlaken definitions, and issuing an initial list of targets.¹³ With Resolution 1333 (December 2000), the Council established a Committee of Experts to provide advice on the implementation of the arm embargo and measures to close terrorist training camps being operated by supporters of the Taliban known as al-Qaeda. Osama bin Laden had been listed in the initial resolution, and the 1267 Committee (or the Al-Qaida and Taliban Sanctions Committee as it is now known) has become the principal operational enforcement agent for the listing and de-listing of groups and individuals designated as global terrorists and constituting a threat to international peace and security.

Reporting Requirements

Following the terrorist attacks of September 11, 2001, the United Nations Security Council passed Resolution 1373 and established the Counter Terrorism Committee (CTC). Although technically not a sanctions committee (as noted above, the operational aspects of enforcement are left to the 1267 Committee), the CTC has played a critical role in introducing institutional innovation in the design and particularly in the implementation of targeted sanctions. Under the leadership of UK Ambassador Sir Jeremy Greenstock, its innovative reporting and monitoring mechanisms – which call for routine reporting by Member States, the transparent posting of reports, and a policy dialogue between expert group members and Member State authorities – were subsequently identified as models for the design and implementation of targeted sanctions by all three of the working groups involved in the Stockholm Process on implementing targeted sanctions.

De-listing Procedures

In November of 2002, the 1267 Committee responded to important human rights criticisms of the listing procedures used by sanctions committees and developed a set of procedures for the listing and de-listing of individuals and corporate entities. As described above, the Sanctions Committee established pursuant to resolution 1267 (1999) concerning the Taliban had long been active in developing procedures for the listing and de-listing of targets. After authorizing States to freeze the assets of members of the Taliban (resolution 1267 (1999), para. 4) and members of Al-Qaida (resolution 1333 (2000), para. 8(c)), the Committee consolidated a list of the specific individuals and entities to whom those measures applied. The list established categories of detailed information about those targeted that need to be assembled, recognizing that some information may not be available for each target.¹⁴ The list is consistently updated and to

¹³ See the Press Release, UN Doc. SC/6844 (13 Apr., 2000).

¹⁴ 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. See “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>.

be sent to Member States at least every three months (resolution 1455 (2003), para. 4), and is also available on the Committee's website.¹⁵

The Committee has also sought to establish clear guidelines for the continued listing and de-listing of targets. Through resolution 1455 (2003), paras. 4 & 7, the Council requested that States and other organizations submit new names for listing, and new information on those already listed for consideration by the Committee. The Committee, in its own operating guidelines, has established a procedure for consideration of, and guidance regarding, new names submitted by States.¹⁶ Further, it elaborated a process for new information to be added that involves consultation with the original designating State, verification by a Monitoring Group established pursuant to resolution 1363 (2001), Committee approval, guidelines for disseminating an approved addition, and even what to do with information that is not added to the list.¹⁷

The 1267 Committee's Guidelines (section 7) establish a process for the removal of listed individuals and entities. Individuals, groups, entities, etc. are to petition their government of residence/citizenship, who will review all relevant information and then begin bilateral discussions and information exchanges with the original designating State – who may consult the Chairman 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.¹⁸ According to the latest reports of the Committee, four individuals and eleven entities have been de-listed.¹⁹

The Committee established pursuant to resolution 1343 (2001) concerning Liberia maintained the list of individuals subject to the travel sanctions imposed by para. 7(a) of the resolution. By the end of 2002, only one additional name had been added to the original list of targets. The Committee was more active in de-listing of individuals with a total of eighteen individuals being de-listed on five separate occasions. As with the list maintained by the 1267 Committee, this information is all publicly available on the Committee's website.²⁰ The 1343 committee has been replaced by the sanctions committee established to oversee resolution 1521, and the list of targets now extends to a total of 46 names.

¹⁵ The list is available at: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>

¹⁶ This procedure is outlined in Section 5 of the Guidelines of the Committee for the Conduct of its Work (adopted on 7 November 2002 and amended 10 April 2003). This document is available at: http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.

¹⁷ For further information, refer to Section 6 of the Guidelines document. http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.

¹⁸ For further information, refer to Section 7 of the Guidelines document. http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf.

¹⁹ See <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

²⁰ http://www.un.org/Docs/sc/committees/Liberia2/1343_list.htm.

Targeting to Support Implementation of a Peace Settlement

The most recent innovation in targeted sanctions dates from December 2003, when the Security Council first began to experiment with ideas about how to use targeted sanctions not as an exclusively punitive measure, but 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.

This inversion of the typical sanctions model – from a means of applying pressure on a target considered to be a threat to international peace and security, to a means of supporting groups that have the support of the Security Council – could signal a significant new departure in the way the targeting sanctions are applied in the future.

This new way of designing targeted sanctions, in which the instrument is applied to engage constructively a group or entity the international community wishes to support, potentially offers a number of 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.

Summary

Table 1 provides an overview of the number and type of targeted sanctions imposed by the Security Council in the past fourteen years. It is necessarily cursory, but can serve as an abbreviated means to convey the increasing frequency in application of different types of targeted sanctions.

Table 1

There has been a significant evolution in the design and implementation of targeted sanctions over the course of just the past twelve years. Beginning with the targeting of the government of Libya 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. As summarized in Table 2, 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 reinforcement of internationally supported peace agreements.

Table 2

Thus, it appears that there has been a significant amount of institutional learning within the UN, facilitated to a significant degree by the recommendations that came out of the Interlaken, Bonn-Berlin and Stockholm Processes.²¹ 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.

Preliminary Assessment of the Effects of Targeted Sanctions

Evaluating the effectiveness of any sanctions – comprehensive or targeted – is notoriously difficult. First, the evaluation depends critically on the criteria chosen for assessing effects. Is a sanction effective if there is a change in the behavior of a target, or more stringently, is it only effective if a target identifies the sanction as a source of behavioral change? Alternatively, is a sanction effective if it simply increases costs or makes a target’s activities more difficult to accomplish?

Second, sanctions are rarely applied in isolation. Typically, they are applied in combination with other measures, ranging from diplomacy to the use of force. Moreover,

²¹ See especially “Background Paper on Targeted Sanctions” prepared by the Targeted Financial Sanctions Project for the Workshop on United Nations Sanctions Reform, 2-3 May 2003, convened at the Watson Institute for members of the UN Security Council, Thomas J. Biersteker, Sue E. Eckert, Peter Romaniuk, and Aaron Halegua, May 2003.

as illustrated in both Tables 1 and 2, different types of sanctions (not just different types of targeted sanctions, but also comprehensive and targeted sanctions) tend to be imposed sequentially, in combination, or in an additive fashion. This renders analysis of a particular sanction extremely difficult.

Third, changes on the ground – typically on the battlefield – ultimately secure the most decisive changes in behavior. While it is most certainly debatable in most instances whether the costs are worth the benefits of military intervention, the victory of one party over another contributes to major change in which the independent effects of sanctions are difficult to establish.

Fourth and finally, a causal explanation of the independent effects of sanctions would typically require a formal, counterfactual historical analysis of the situation. Thus, it would be necessary to construct an operational model of the economy in an effort to isolate and estimate the effects of the removal of a particular resource that has been denied by the sanction.

Despite these caveats, there has been some evidence of the partial success of targeted sanctions over the course of the past decade. Three examples come to mind: Libya, Liberia, and Afghanistan.

First, the change in the behavior of the Libyan regime – from its denial of involvement in a terrorist act to the turning over of individuals involved for prosecution, and later for its provision of compensation to the victims of the attack – is extraordinary. While it is true that the Bush Administration claimed credit for this reversal (as a product of the demonstration effect of the US initiated war against Iraq in 2003), diplomats involved in detailed negotiations with the Libyan government maintain that the terms of the final settlement were on the table as early as 1999 and that the sustained sanctions played a major role in the outcome.²² Ambassador Martin Indyk, former US Assistant Secretary of State who opened negotiations with Libya in 1999, has argued:

“United Nations and US sanctions that prevented Libya from importing oilfield technology thus prevented Mr. Gaddafi from expanding oil production. The only way out was to seek rapprochement with Washington...Removing the sanctions and their stigma became his priority.”²³

Thus there is strong evidence that the cumulative effect of the sanctions against the government of Libya – on arms imports, travel, and oil related transportation equipment – had important effects.

More recent evidence of the success of targeted sanctions comes in the wake of Charles Taylor’s departure from Liberia. In this instance, it is clear that it was not sanctions alone that had decisive effects. The deterioration of the position of Taylor’s

²² Martin Indyk, “The Iraq War Did Not Force Gaddafi’s Hand,” *Financial Times* (London), March 9, 2004, page 21.

²³ Ibid.

militia forces following two months of bloody fighting with rival armed factions in Liberia, combined with strong political pressure from the U.S. Government and the imminent arrival of Nigerian peacekeeping forces, obviously played a major role. Nevertheless, in his farewell address to the Liberian people, Charles Taylor claimed that the downfall of his regime was occasioned by the advent of targeted sanctions first against arms imports, but more decisively against timber exports from Liberia. According to a report from *Africa News*:

“Taylor [also] said the international community, led by Washington and London, had denied Liberians the right to defend themselves by imposing an arms embargo and that timber sanctions had starved Liberia of revenue. ‘Something as simple as a toothpick cannot be exported from Liberia,’ said Taylor.”²⁴

This assessment of the decisive role played by the timber sanctions was echoed by a senior official in the Bush Administration and is also supported by reports from the UN Monitoring Group on the Liberia sanctions.

A third illustration comes from the experience with the aviation ban imposed on Afghanistan in 1999. In the wake of the attacks of September 11, 2001, we now know that the decision to designate the Afghan national carrier, Ariana Airlines, was based on U.S. intelligence estimates of its critical role in transporting drugs out, and arms in, to Afghanistan under the Taliban regime.²⁵ While this particular targeted sanction did not have the desired effect of persuading the Taliban regime to release Osama bin Laden and any of his associates, there is evidence that it made their operations more difficult (i.e. that it had the effect of degrading their ability to move goods, people, and money in support of their operations).

Obviously, not all targeted sanctions are as successful as these three examples might suggest. As already discussed above, the targeted financial sanctions directed against the regime of Raoul Cedras in 1994 provided a good lesson in what *not* to do. It is virtually impossible to separate out the independent effects of targeted sanctions imposed in the wake of years of comprehensive sanctions directed against Iraq and Yugoslavia. And it is far too soon to tell about the likely effects of targeting sanctions to support the implementation of a peace settlement.

Conclusion: Challenges in the Design of Targeted Sanctions

There has been significant institutional learning over the course of the experience with targeted sanctions over the past ten to fifteen years. However, important challenges to sanctions effectiveness remain. In concluding, three such challenges are identified.

²⁴ “Liberia: Leaving Office ‘To End Bloodshed in Liberia,’ Taylor Accuses U.S. of Backing Rebels,” *Africa News*, AllAfrica, Inc., August 11, 2003.

²⁵ Daniel Benjamin and Steven Simon, *The Age of Sacred Terror*, (New York: Random House, 2002) page 289.

1. *Effective targeted sanctions require “parallel implementation” across 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 process is based upon significant political will among States, such that every single one of the 191 Member States, has submitted a first-round report to the Committee. Most have submitted two or three reports. In addition, the CTC has established a system for the provision of technical assistance to States seeking to improve their implementation of the resolution. 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.

2. *Mitigate the unintended consequences of targeted sanctions.*

While targeted sanctions are less injurious to innocent civilians than comprehensive economic sanctions, they are not without unintended side effects. Four different types of unintended, and potentially 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. Indeed, with regard to one of the examples of success cited above, the case of Ariana Airlines in Afghanistan, a senior UN official observed that the targeted sanction effectively destroyed one of the most effective institutions operating in the country at the time and that its banning contributed to a visible worsening of the humanitarian situation in the country.

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.²⁶

²⁶ Iain Cameron, “Protecting Legal Rights: On the (In)Security of Targeted Sanctions” Unpublished manuscript.

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.²⁷ 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.

3. Enhance effectiveness through greater information on targets.

As noted above, practices of gathering information on targets have improved, however, gains in this area could be consolidated and extended.

There is a broad consensus that sanctions must be crafted to individual circumstances, and thus it is important to invest in careful planning and designation of the targets. However, effectively doing so requires significant information regarding the targets. For instance, what are the names and aliases of the targets? What access might they have to certain public funds? Or once the sanctions have taken effect, by whom are they being violated? through what methods? Such information is not always readily available, particularly when a crisis arises unexpectedly and the Security Council must act quickly.

While this problem is not easily overcome, there are several things that the Council or Sanctions Committees 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.²⁸ In addition, outreach to academic experts who have devoted considerable time to the historical analysis of various targeted countries or groups could likely yield information generally unavailable to Member States. Not only might such efforts produce information that helps to target sanctions better initially, but also assists in the monitoring and analyzing of such measures to improve their implementation and effectiveness.

²⁷ Peter Andreas, "Criminalizing Consequences of Sanctions: The Political Economy of Embargo Busting in the Balkans," Unpublished manuscript.

²⁸ For example, see Report of the Monitoring Mechanism on Sanctions against UNITA, S/2001/966, 21 October, 2001, p. 44.

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 1333 (2000); Res 1390 (2002)	Res 1333 (2000); Res 1390 (2002)	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/ossg/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).

TABLE 2: THE EVOLUTION OF TARGETED SANCTIONS, 1991 - 2004

	<u>Targeting of Individuals</u>	<u>Targeting of Sectors</u>
1991		<i>Arms</i> (Yugoslavia)
1992	<i>Government of Libya</i>	Arms (Somalia, Liberia)
1993	<i>Government of Yugoslavia</i>	Arms (Haiti, UNITA-Angola) <i>Oil</i> (Haiti, UNITA-Angola) <i>Aviation, Oil Services</i> (Libya)
1994	<i>Leadership of Haiti</i> (unspecified)	Arms (Rwanda)
1995		Arms (Rwanda)
1996	<i>Government of Sudan</i>	Aviation (Sudan)
1997	<i>UNITA-Angola</i> <i>Military junta and adult</i> <i>family members of Sierra Leone</i>	Arms (Sierra Leone) Oil (Sierra Leone)
1998	<i>Non-governmental forces</i> (Sierra Leone)	Arms (Yugoslavia, Sierra Leone) <i>Diamonds</i> (UNITA-Angola)
1999	<i>Taliban and al-Qaeda</i> (Afghanistan)	Aviation (Afghanistan)
2000		Arms (Eritrea/Ethiopia, Afghanistan)
2001		Arms (Liberia)
2002	<i>De-Listing procedures</i> <i>introduced by 1267 Cmte.</i>	Arms (Afghanistan)
2003	<i>Updated, web-based lists</i> <i>maintained by 1267 Cmte.;</i> <i>Country reporting introduced;</i> <i>Saddam Hussein, senior Iraqi</i> <i>government officials and their</i> <i>families;</i> <i>Former Liberian President</i> <i>Charles Taylor, individuals and</i> <i>family members linked to Taylor</i>	<i>Timber</i> (Liberia) Arms (DRC, Liberia) Diamonds (Liberia)
2004	<i>Individuals named in resolution</i> (Liberia)	

