



Thomas J. Watson Jr. Institute  
for International Studies

# Targeted Financial Sanctions Simulation Exercise

DRAFT

NAVAL WAR COLLEGE, NEWPORT, RHODE ISLAND

*May 11–13, 2000*



*Exercise Report*

## **DISCLAIMER**

This report was prepared by the Targeted Financial Sanctions Research Project of the Watson Institute for International Studies at Brown University in Providence, Rhode Island, with assistance and input from senior staff of the U.S. Naval War College in Newport, Rhode Island.

The information contained in this report was either designed expressly for use in the Targeted Financial Sanctions Simulation Exercise, or is presented as a summary of the discussions that occurred during the exercise. As such, it should not be used for any other purpose without the permission of the organizers.

The scenarios presented during the exercise were created solely to challenge exercise participants with situations and issues that are or could be associated with the use of multilateral targeted financial sanctions as a policy tool. The targets described herein are fictional, and any resemblance between them and actual persons, authorities, entities or states is coincidental.

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A REPORT OF THE PROCEEDINGS OF THE  
**Targeted Financial Sanctions Simulation Exercise**

Naval War College, Newport, Rhode Island  
May 11–13, 2000

Sponsored by  
THE WATSON INSTITUTE FOR INTERNATIONAL STUDIES AT BROWN UNIVERSITY AND  
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*Prepared by the Targeted Financial Sanctions Research Project  
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## *Executive Summary*

1. The Targeted Financial Sanctions Simulation Exercise took place at the U.S. Naval War College in Newport, Rhode Island between May 11 and 13, 2000. Participants from a variety of backgrounds explored the major challenges to the establishment of an effective targeted financial sanctions (TFS) regime. Hypothetical scenarios entailing the application of different types of targeted financial sanctions were presented [p. 3]. The exercise focused on key challenges to implementation, including evasion and monitoring [p. 7], targeting. [p. 11], and the designing of an appropriate TFS regime. [p. 14] *See also Exercise Observations. [p. 19]*
  
2. Principal conclusions of the exercise include the following:
  - Targeted financial sanctions may be considered an alternative to comprehensive economic sanctions, which in practice have frequently injured large numbers of innocent victims in target countries and/or failed to change the behavior of decision-makers that the measures were intended to influence.
  - One of the most difficult problems in targeting financial sanctions is determining the identity of the potential targets in ways that will prevent them from moving their funds to secure havens prior to the imposition of sanctions. [p. 3]
  - Attention must be paid to the leverage that could be applied to those havens. [p. 14]
  - It is especially difficult to maintain the secrecy required to prevent asset flight with a multilateral, deliberative process. [p. 3]
  - When selecting targets, it is necessary to consider family members and close supporters of principals as targets in order to make financial sanctions effective. [p. 20]
  - To be successful, financial sanctions may need to be combined with other measures such as restrictions on travel. [p. 8]
  
3. While the exercise tested and reaffirmed earlier suppositions regarding challenges to the establishment of an effective targeted financial sanctions regime—harmonization of national policy implementation, multilateral coordination, and the flight of assets—innovative ideas and suggestions for follow-up work emerged from the sessions. These ideas include:
  - ‘retrospective reporting’ (see below);
  - an apparent consensus on the category of targets of sanctions;
  - refinement of possible goals to differentiate between prevention of flight and prevention of future use of assets; and
  - a distinction between TFS directed at the government of a target state, or more narrowly against the regime. [p. 21]

4. Participants unanimously endorsed the need to build upon the work of Newport and Interlaken I and II to develop practical recommendations and guidelines to refine the use of TFS. Specific policy and research recommendations include:
- development of guidelines and mechanisms for the national implementation of targeted financial sanctions;
  - ways to enhance the interaction between the private sector and public policy officials on targeted financial sanctions;
  - means to promote the adoption of enabling legislation and administrative mechanisms in Member States to implement TFS effectively;
  - ‘retrospective reporting’ on the transfer and movement of assets that may have taken place prior to adoption of a resolution imposing targeted financial sanctions;
  - further study and elaboration of the conditions/situations under which TFS are likely to be effective; and
  - more focus on targets, including possible participation by former targets in future exercises. [p. 24]

## *Background to the Targeted Financial Sanctions Simulation Exercise*

### ***The Research Project***

The objective of the Targeted Financial Sanctions (TFS) Research Project at the Watson Institute for International Studies is to develop practical proposals to help refine the use and increase the effectiveness of multilateral, targeted financial sanctions. The work of the Targeted Financial Sanctions Research Project has been made possible by two modest grants from the Carnegie Corporation of New York. Research to date has focused on the differing legal environments and administrative mechanisms of the major currency countries. Project members assisted with the design of model legislation for the imposition of targeted financial sanctions as part of the Swiss-sponsored 'Interlaken' process. Recent initiatives include interviewing key policymakers in European states to examine the specific mechanisms used to implement the targeted sanctions against the Federal Republic of Yugoslavia over events in Kosovo and organizing this Targeted Financial Sanctions Simulation Exercise in conjunction with the Decision Strategies Department of the Center for Naval Warfare Studies at the U.S. Naval War College.

### ***Goals of the Exercise***

The purpose of the simulation exercise was to explore the major challenges to the establishment of an effective targeted financial sanctions regime, including national policy harmonization, multilateral coordination, and the flight of assets to off-shore locations.

The results of the simulation will be used to evaluate the salience of these differing challenges, determine whether there are additional difficulties not yet identified, and consider strategies to overcome such impediments. The results are intended to help inform the development of multilateral guidelines for a targeted financial sanctions regime, and assist with the implementation of new legislation and administrative mechanisms by individual states.

### ***Methodology***

The approach of the organizers was to examine the principal challenges to the creation of an effective regime, by presenting and discussing hypothetical, yet plausible, scenarios entailing the application of targeted financial sanctions. Insights were provided by a highly qualified group of governmental officials, United Nations staff, and representatives of the private sector, listed at the end of this report.

One of the principal barriers to the creation of an effective TFS regime is the variation in legal and administrative implementation (and the absence of national policy harmonization) among major convertible currency countries. The scenario discussed during the first morning session was based on current policy practices, with the incorporation of Interlaken II language in a hypothetical UN resolution and was intended to explore how different member states would be likely to implement the resolution. It permitted consideration of which actors would bear the costs of implementation in the sender states, avenues of evasion for the intended targets, and ways in which compliance with the resolution could be monitored.

During the afternoon session of the first day, participants explored ways of overcoming some of the collective action problems commonly associated with targeting financial sanctions. One of the most difficult problems in targeting financial sanctions is determining the identity of potential targets in ways which will prevent them from moving their funds to secure havens in advance of the imposition of the

sanction. It is especially difficult to maintain the secrecy required to prevent asset flight with a multilateral, deliberative process. The afternoon scenario proposed a solution to this problem: impose a general financial sanction on the entire population, which would be lifted after a short two-week period on the vast majority of the untargeted population in the target country. Discussion focused on how targets might be identified during this period, how much prior agreement might be necessary to enable the scenario, and other possible alternatives to the ‘traditional’ approach presented in the morning session.

In the third and final session of the two-day exercise, organizers convened three small working groups and asked participants to design a targeted financial sanction that they thought might work well in practice against separate hypothetical targets described for each group. Each of the groups had a different hypothetical target country to address and an opportunity to present and discuss their ideas with the entire group. The workshop concluded with a collection of insights from participants on lessons learned during the exercise and priorities for future research and policy regarding targeted financial sanctions.

The exercise did not entail role-playing *per se*, but rather the interactions of international policymakers and practitioners working through a series of plausible scenarios that enabled them to assess the salience of different issues involved in the creation of a more effective global TFS regime. During the simulation exercise, discussion was facilitated with the use of networked computers in the Decision Support Center at the U.S. Naval War College using GroupSystems™ software. Using this procedure, participants were able to enter written comments anonymously to provide their reactions to questions that arose from a hypothetical scenario. Facilitators employed these written insights to stimulate oral discussion of salient issues. In keeping with the research purpose of this event, no comments, written or oral, will be attributed to any individual or group in this report.

### *Report Outline*

This report details the scenarios and various approaches presented during the exercise, notes participant responses, and introduces a preliminary analysis of the results of the exercise. The appendices include a participant list, the documentation distributed to participants during the exercise, and voting data where relevant.

The Federal Republic of Wazeria is a large country in eastern Asia, with a population of almost 100 million. A multi-ethnic state, it is a regional power in matters political, economic and diplomatic, and has retained relatively good relations with both its neighbors and the West. In recent years, however, there have been disturbing reports from human rights groups and journalists (both domestic and international) of increasing violence in outlying areas, linked to a marked deterioration in the relationship between the central government and an ethnic minority.

Wazeria has an export-oriented economy that relies heavily on the performance of the oil industry. Despite attempts at diversification, petroleum and natural gas still count for 52% of the government's export revenue. It is a mid-range producer, and a member of OPEC. It is a nominally democratic state, with close historic ties between the military and the dominant party, which has held power for most of the four decades since independence. The rule of this party has been marked by corruption, and oil is therefore also the principal source of personal wealth for Wazeria's political-military élite. The current head of state—himself a former general—is rumored to be a billionaire, while several of his key supporters within both the high reaches of business and the senior ranks of the military have become multi-millionaires since his accession to power in the late 1990s. The central government—dominated by this party—holds the true reins of power, and there is limited autonomy at the state or regional level.

The oil-rich Petrolandia region of Wazeria is its principal source for crude petroleum and related products. Among the roughly nine million inhabitants of Petrolandia, the Minoritatis are only one of four ethnic groups, but are the hardest hit by the environmental pollution that accompanies the extraction of oil. At less than 700,000 people, they are a relatively small minority in Wazeria, yet their demands for greater autonomy and a larger share of oil revenues, combined with a high degree of organized mobilization around these issues, have made them particularly troublesome for the government. The main political organization of the Minoritatis, the Minoritati Popular Movement (MPM), is known as a peaceful movement, and has strong links to international networks of human rights, indigenous rights and environmental activists.

Over the last few months, the tension that has existed between the Minoritatis and the government has flared into open violence, and a pattern has developed of acts of sabotage by Minoritati youths against the oil industry infrastructure, followed by harsh crackdowns by the army and police. In August of this year, fearing further disruption of oil production, the government arrested over fifty of the leaders of the Minoritati Popular Movement. In the riots that followed the arrests, nineteen soldiers and forty-three Minoritatis were killed, the highest death toll of any such clash in Wazerian history. In response, government forces swept through villages and towns in Petrolandia, conducting indiscriminate round-ups of Minoritatis, killing hundreds and generating massive flows of displaced persons, both within and over the borders of Wazeria. The dead and displaced were primarily, but not exclusively, Minoritati. Neighboring states are hard put to provide for the thousands of refugees, and are concerned at the destabilizing influence of the conflict on regional politics.

Meanwhile, the governor of the Petrolandia region—a member of a rival ethnic group, with long-standing personal animosity toward the Minoritatis—has used the violence as an opportunity to begin his own killing campaign. Targeted by armed groups under his personal supervision, including federal government troops, over three thousand Minoritati men, women and children have been murdered. The Government of Wazeria refuses to acknowledge the actions of this 'renegade' governor, and therefore claims that there is no behavior that it is required to restrain.

Testimony from Minoritati refugees, gathered by human rights researchers and foreign journalists, makes international headlines, increasing the pressure on the international community to respond to the growing human rights and humanitarian crisis. There are repeated overtures and warnings from the diplomatic representatives of several countries to the Government of Wazeria, all of which are rebuffed. The Security Council issues a resolution (S/RES/1477, not included in document packet) with three specific requests for the Wazerian Government: (1) cease the killing and forced expulsion of the Minoritati people, (2) put an end to the disruption to the security and peace of the surrounding region that has resulted from both the refugee flows and the pursuit of some refugees by government forces, and (3) allow international observers into the Petrolandia region. The Wazerian Government does not respond. After the lapse of a two-week deadline, during which a series of options for an appropriate response are discussed, the Security Council issued a resolution imposing targeted financial sanctions on the political-military élite of the Federal Republic of Wazeria.

*For the purposes of the simulation:*

- It is assumed that there is an Annex I to S/RES/1482, including a list of Wazerian authorities, entities and persons who are to be targets of the targeted financial sanctions. This Annex is not included in the document packet.
- The targets of this financial sanction have been identified based on information collected primarily from public sources.

***Basic assumptions, in effect for the entire exercise:***

- There are currently no multilateral comprehensive economic sanctions regimes in effect.
- Specific enabling legislation authorizing the implementation of Security Council Resolutions (giving them standing in domestic law), with implications for targeted financial sanctions—based in large part on the model or framework produced at the Second Interlaken Seminar on Targeting United Nations Financial Sanctions—is now in place in several additional Member States.
- All members of the Security Council are agreed that this is a crisis involving threats to international peace and security, and that pressure must be brought to bear on the Wazerian government and its supporters.
- Members of the Security Council have agreed during high-level informal consultations that a targeted financial sanction is the best tool for this particular situation.
- The Security Council is considering additional measures, but our discussion will focus on the targeted financial sanction imposed by the Council.

## SESSION 1

Presentation of Main Scenario: Natalie Reid

Facilitator: Paul Taylor

Technographer: Gregory Hoffman

The set of documents distributed to participants included a Security Council resolution and a list of definitions of terms used in the simulated resolution. The resolution is based on the building blocks for Security Council resolutions produced at the Second Interlaken Seminar on Targeting United Nations Financial Sanctions. These blocks of text were drafted for two principal reasons: (1) to provide a model to improve the clarity of SCRs, and therefore (2) to provide one of the bases for increased harmonization of national implementation. Please see appendices for these documents.

**Please note:** The questions included below were presented to participants using the GroupSystems™ software described in the background to the exercise. Initial ideas and comments were submitted anonymously using laptops provided to each participant. Organization of the raw data (responses, votes etc.) was also done using this software. The information was then displayed to participants on the larger screen and used to stimulate oral discussion of the question and the issues it presented. Due to the richness of the responses captured by GroupSystems™, though, not all the information entered on the laptops could be fully addressed during the time allotted in the discussion sessions. While special care has been taken in the preparation of this report to summarize both the electronic and oral discussions accurately, it has not been possible to include all that was submitted or said.

*Question 1: What would be the key challenges for governments and private sector actors in implementation of the Security Council resolution?*

Participant responses were organized into five categories: issues related to (1) public administration, (2) the private sector, (3) domestic law, (4) the Wazeria Sanctions Committee, and (5) other issues.

The group identified four of the main challenges facing national officials in the implementation of SCR 1482—differences in the definition of the key term “assets,” the location and/or identification of both assets and individual targets, the allocation of resources, and the existence or absence of political will. Three elements were submitted as central to the success of a financial sanctions regime: notification by the relevant authorities to both financial institutions and the public of the requirements of the regime, regular mandatory reporting by financial institutions on implementation, and full participation of the key financial and offshore centers in implementing the sanctions regime. Additionally, participants made three suggestions to improve implementation by national authorities—research into the history of movements of the assets of targets, as well as the location of their holdings; establishment of a team of experts (one participant specifically suggested national officials); and the potential use of penalties or secondary sanctions against those who contravene the regime.

With regard to the private sector, several challenges were cited. These included identification of target accounts, determination of ownership (and/or appropriate response) in the case of joint accounts or joint ventures, and divergence in the speed of implementation by financial institutions in different countries. Also, some participants were concerned about the status of the trade in government bonds of the sanctioned state on the secondary market, and the treatment that would be accorded transactions “in process” prior to the imposition of sanctions. During the oral discussion of this question and its responses, participants gave examples of cases in the past (Yugoslavia, Kuwait) where payments and other

transactions were permitted in certain situations. One participant noted that the need to avoid collateral harm makes the attempt to impose sanctions very difficult unless some discretion in application is allowed, and suggested that after sanctions are immediately put in place, there must be provision for adjustment in the initial implementation.

In terms of the legal issues associated with implementation of SCR 1482, participants focused on possible means for improving the implementation and effectiveness of the financial sanctions. Some participants pointed to the existence in the main financial center jurisdictions of the enabling and/or secondary legislation necessary to give effect to this (and other) Security Council resolution(s), while others suggested the harmonization of such legal instruments with a view to common implementation. In tandem with the suggestion under public administration, one participant wanted the inclusion of appropriate penalties for infraction in the regulations or guidelines issued by the relevant authorities; another, the assurance that in federal states the authority of the national implementing agency extended to subsidiary levels. Other participants were concerned about the issues of scope and jurisdiction, especially the question of the extraterritorial application of the laws and regulations of a given country. Two recommendations were made in this category: a focus on preventing the evasion of assets,<sup>1</sup> and precise definition and close monitoring of the exemptions to close possible loopholes.

Much of the discussion—in both ideas and comments submitted electronically and later oral discussion—focused on the issues and challenges facing the Wazeria Sanctions Committee. Some of the interventions focused on elaborating the tasks assigned to the Committee by the resolution, including: making the distinction between humanitarian and other goods, monitoring sanctions implementation and evasion, keeping the list of targets up-to-date and ensuring useful and uniform replies from Member States (especially major financial centers) about implementation. Others discussed the practices of the Committee, and had several recommendations. These included a rapid promulgation of guidelines for implementation (one participant suggested within one month of sanctions imposition) and a focus on enforcement and effectiveness, rather than a preoccupation with humanitarian concerns. There was a short discussion of the advantages and disadvantages of the consensus rule,<sup>2</sup> including the difficulties it posed in the case of differences of opinion between its members and possible weakening of the regime caused by the practice of issuing only decisions to which all can agree. One participant stated that one problem was that some governments have tried to use the Sanctions Committee to address political issues that should be addressed at the Security Council, and therefore argued that Sanctions Committees should focus on the administration of sanctions, not on political issues, while leaving the details of implementation to the national level. Two challenges that are faced by the Sanctions Committee in this scenario—and in all its real-world cases as well—are the existence (or not) of political will, and the provision of sufficient resources (financial, data and manpower) for it to accomplish its duties.

Other issues or challenges involved in the implementation of this resolution (and other cases of financial sanctions) suggested by participants included the time lag before sanctions imposition, collateral effects on third countries, identification of allies (and therefore potential proxies) of those subjected to sanctions, and monitoring of export payments. One participant asked whether international loans would also be frozen (a question that went unanswered), while another wrote about the link between the stated purpose of the sanctions and the design of the regime.

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<sup>1</sup> See discussion below on the distinction between prevention of asset evasion and prevention of use of assets as different possible goals of sanctions policy and practice.

<sup>2</sup> All decisions of the Sanctions Committee are taken by consensus. One participant pointed out that in practice, this means that all members of the Committee are bound to the common view (as represented by the actions or positions taken by the Committee), but not necessarily that there is unanimity among members.

There were several issues that the group felt were common to all categories, and therefore required the attention of all actors involved—the Sanctions Committee, national authorities, the private sector and relevant experts. They were (in no particular order): speed of implementation, harmonization of both practices and legal instruments, monitoring, gaining private sector compliance with sanctions implementation, existence of legal means for competent authorities to obtain information from financial institutions, and establishment of precise definitions of exemptions, with a view to preventing exploitation of possible loopholes created by those exemptions.

*Question 2: How could the targets evade the sanctions?*

Of all the possible ways in which targets in the Wazeria case could evade the financial sanctions, most participants thought that they would use fronts or proxies, be they other states, individuals or companies. Some thought that they could use false names, or establish false accounts. Possibly in light of the recent report on Angola sanctions-busting,<sup>3</sup> several participants suggested barter as another way in which targets could seek to evade, while others proposed the exploitation of exemptions, smuggling of oil or other resources, or over-invoicing. Past experience with other sanctions cases was indirectly invoked when some participants suggested that targets might lobby for the loosening of sanctions or use any human suffering caused by sanctions as a political tool to weaken the resolve of the international community. Other suggestions of means of evasion included the identification and use of assets not covered in the resolution, and the discovery of the methodology used to identify assets and its use in the subsequent sheltering of target accounts.

In the oral discussion following the submission of electronic comments, a few participants expressed concern about possible “leakage” of sanctions with regard to the oil sector. As the country in this scenario was a mid-range oil-producer, they argued, steps should be taken to ensure that targets could not use the oil to avoid the effects of a focused financial sanction, i.e. by barter or smuggling, or otherwise benefit from the legal sale of oil. A further intervention suggested that this would invite the passage of a ‘resolution 1483’ extending the sanctions to include restrictions on travel, thereby reducing the opportunity for smuggling easily portable assets like diamonds. Another participant suggested the use of a “basket” of targeted measures, including financial sanctions, a travel ban and an arms embargo. Participants were reminded that one of the basic assumptions of the exercise was that while the Security Council was considering additional measures, the discussion during the exercise was to focus on the financial sanctions imposed by SCR 1482.

In discussing this topic, as well as the previous question, one participant from the private sector stated that there must be government intervention for banks and other financial institutions to freeze a particular account or to block particular transactions. Without requests from governments (in the form of regulations, guidelines or the like) financial institutions could be sued for blocking a transaction because it “looks like” an illegal payment for oil.

The issue of the nature of the target and the design of the regime was introduced once again, as one participant suggested that the futures market could be used by an oil-producing country as a means of evasion, and that authorities might want to “clamp down” on activity in that market in anticipation of its use to evade planned sanctions.

*Question 3: How can the sanctions regime be monitored at the multilateral level and by whom?*

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<sup>3</sup> UN Doc. S/2000/203, Report of the Panel of Experts on Sanctions against UNITA.

This was a two-part question, first on methods (how?) and then on agency (by whom?). In response to the second part of the question, participants were equally divided between those who thought that states should monitor the regime and those who thought that the UN Secretariat should be responsible for monitoring. Some participants called for co-ordination of some sort between states, international and regional organizations. Some thought it should be the province of the Sanctions Committee, while others favored private monitoring by auditors or an expert panel authorized by the Committee.

There were several suggestions as to how the regime could be monitored. Almost every proposal for the Secretariat as monitor recommended the provision of additional resources as a prerequisite for it to carry out these duties. Several participants—wherever they saw the seat of ultimate responsibility for monitoring—recommended increased co-ordination between the private sector, national authorities, regional organizations, the UN Secretariat and the Sanctions Committee. Some saw reporting as the key element in the success of any monitoring effort, be it mandatory reporting from financial institutions, or full and regular reporting from Member States to the Sanctions Committee. In particular, participants commented on the need for more detailed information to be included in compliance reports (rather than perfunctory reporting) and for evaluations of Member States' implementation by independent assessors. Linked to this was the need for increased information exchange among all the actors involved in the implementation of sanctions, and technical assistance for some States for implementation. In addition, there were three more complicated recommendations from participants. One advised notifying the Committee of exceptions granted at the national level with a view to information exchange, harmonization, and/or mutual recognition of exceptions granted by countries; another, securing the co-operation of the primary trading partners and companies that have dealt with target in the past, to be used in future monitoring efforts; and the last, co-operation between national bank regulators to devise a means to measure the compliance with sanctions of entities under their purview. The discussion also addressed the role of expert panels, noting the difficulty of such groups in addressing politically-sensitive issues, but the need for objective and independent assessments of sanctions implementation.

## **SESSION 2: *An Alternative Approach***

Presentation of Alternative Scenario: Natalie Reid

Facilitator: Thomas Biersteker

Technographer: Gregory Hoffman

One of the greatest difficulties associated with targeted financial sanctions concerns the issue of targeting itself. In particular, how does the U.N. determine potential targets without revealing in advance that they are being targeted, thereby giving them the opportunity to disguise or move their assets to secure locations? In the morning session, the organizers avoided this problem by providing a list of targets and including it in an annex to the UNSC resolution (essentially assuming the issue as unproblematic, and/or taking the targeted list as given).

In the afternoon session, participants discussed an innovative idea raised at Interlaken II. It is the proposal that one way to overcome this problem would be to impose a general financial sanction on the entire population, followed by its immediate release on the overwhelming majority of the population within a limited period of time (two weeks). This would provide the international community with time to determine precisely whose assets should be targeted and remain frozen, and at least theoretically limit the humanitarian consequences of a general sanction, since most of the population would not remain targeted. It also holds the potential of maximizing the leverage of the international community, given the uncertainty within the target country over whose assets would remain frozen.

At the opening of the second session, participants were therefore presented with the following alternative method of imposing a targeted financial sanctions regime:

**A general financial sanction, against *all* Wazerian holdings overseas (i.e. against *all* natural and legal persons—authorities, entities and individuals), will be enacted immediately, with the stipulation that *specific targets must be identified and all other assets unblocked within two weeks.*<sup>4</sup>**

As a result, there was no presumed Annex I, listing specific targets, to the version of the resolution used for this session. The text of that resolution is contained in the annexes to this report. The two major differences between this version and the original version of Security Council resolution 1482— i.e. the inclusion of all Wazerian persons as temporary targets, and the stipulation of a short time period during which specific targets must be chosen—are reflected in the first two operative paragraphs of the new version.

*Question 1: Who should be a target?*

The first question produced a variety of responses. Participants were encouraged to submit as many different types of targets as they thought appropriate. These targets included not only the President of Wazeria and the Governor of Petrolandia, but also extended (in no particular order) to officials of the Wazerian Government, government ministers, military officials, business élites or leaders of industry, and family members of the leaders of Wazeria, however defined. After further discussion, participants appeared to reach consensus that appropriate targets include those individuals that have the power to comply with the SCR, as well as family, friends, and officials supportive of the decision-making elite. Following the submission of the suggestions, and a short period of consolidation of similar types of targets, participants then voted on whom—of all these potential categories—should actually be targeted by the Wazeria sanctions.<sup>5</sup> Each participant could select five potential targets, and the total votes were then tallied. The full vote is included in the appendices to this report, but particularly interesting are the group’s top three choices: “All close family members of the leaders”, “The President”, and “The Governor of Petrolandia”. The latter two are obvious choices—the first as head of state, the second as directly responsible for some of the actions that the sanctions are intended to stop. That family members would not only be included, but appear at the top of the list, seems to reflect the concern participants showed earlier for possible evasion strategies of primary targets. The results of this vote were then used to inform discussion of subsequent questions.

*Question 2: How should potential targets be identified?*

In the presentation of the second question, participants were encouraged to think beyond the ways in which potential targets have been selected in the past—to evaluate whether the current process is sufficient, and if the information used in the identification of potential targets is adequate. It was also pointed out that this question was different from the one that follows in that it did not ask about the

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<sup>4</sup> Note that, as expected, several participants raised the concern that the task of selection of precise targets would be almost impossible in the timeframe assigned in the simulation. As hoped, however, both the general approach proposed and the time limit imposed generated valuable discussion and debate.

<sup>5</sup> It must be noted, however, that several participants commented that the voting process—and particularly the consolidation—was too complicated for the time allotted. As a result, the different items on which they voted were not mutually exclusive categories, possibly leading to voting results that were not entirely reflective of participant preferences. See Appendix 4 for full voting results.

process of *selection* of targets (i.e. who would actually become a target for these sanctions), but about their *identification* (i.e. what sources and methods should be used to identify potential targets).

Responses were placed into four categories, in terms of actions that should be taken by national governments, the private sector, the UN, and other potential actors. In addition to suggesting generally that member states be responsible for the process of identification, several participants specifically proposed that intelligence information—provided singly or combined—from national agencies be used to inform the selection of actual targets. From the private sector, suggested sources included publicly available information such as newspapers, almanacs, and trade registers, and discussions with persons knowledgeable about Wazerian politics as well as the holdings and behavior of potential targets, such as expatriates, country experts, NGOs, diplomats, and multinational companies doing business in Wazeria.<sup>6</sup> In response to a written suggestion that SGS Holdings be used to identify potential targets, one participant replied that the information held by surveillance companies is generally restricted to multinational companies doing business in the target countries, and coupled this observation with the suggestion that the target category would therefore need to be enlarged (to include such companies). With regard to the UN, suggestions for the sources of information about potential targets varied from a (strengthened) UN Secretariat to the sanctions committee to an expert panel empowered by the Security Council.<sup>7</sup> There was a great deal of electronic discussion on how this process would work in the Wazeria sanctions committee, with particular focus on the politicization of such committees, the right of appeal of a target mistakenly placed on the list, and the difficulties involved in the committee making the decisions required in the time period provided.<sup>8</sup> Suggestions as to other potential players in identifying targets included the internet, computer software, and international financial institutions.

*Question 3: By whom and how should actual targets be selected?*

In formulating their answers to the main question, the group was encouraged by the facilitator to consider the following amplifying queries: “Think about not just who should make the political decision, but about how the decision-making bodies should operate. Are the present mechanisms sufficient? If not, how should it be done?” Most participants combined both parts of the question (i.e. ‘by whom’ and ‘how’) in their responses.

Answers to ‘by whom’ included (in no particular order) the sanctions committee, the Security Council, national governments, an expert panel, the Secretary-General, or any one of those actors in co-ordination with others (i.e. the Secretary-General and the Council, the Council and the committee). One participant suggested the sanctions committee with the assistance of any intelligence, public or private, that its members deem necessary, adding that deliberations should take place in confidence, and affirming that this latter provision would be essential for maintaining the legitimacy of the sanctions regime.

There were significant electronic discussions on three of the suggestions in this area. First, a proposal that the traditional Council representatives on the sanctions committee be replaced by experts on customs enforcement, monitoring and legal issues—supported by the argument that this would enhance the

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<sup>6</sup> In the verbal discussion that followed, one person pointed out that there exists the potential for conflict of interest in using private organizations, as opposed to private sources of information, for the identification process.

<sup>7</sup> There were, however, a number of objections voiced against the idea of ‘outsourcing’ this process to an expert panel. Although the point was to maximize the number of sources (and implicitly improve the quantity, if not the quality of the data currently available), it was argued that experts should only be one of those sources, and not the coordinating authority for the collection or analysis of the information.

<sup>8</sup> One participant mentioned the legitimacy of the group or authority that eventually established the list of actual targets, and affirmed his/her personal belief that only a UN body would have the necessary legitimacy.

legitimacy of the regime—met with the response that it was not the identity and experience of the representatives that mattered, but the issues placed before them and the positions mandated by their respective governments. Next, the suggestion that the Secretary-General be responsible for the selection of targets led to a discussion of relative advantages and disadvantages of the idea, including the moral authority of the position and the weight that it could lend to the selection decision, and the political implications of the decision for that office. Last, the recommendation of an expert panel as the decision-making authority in this case re-opened the morning debate, namely on the legitimacy and accuracy of such panels, as well as the possible signals this could send to the target. One of the participants who opposed the idea of expert panels making such decisions argued that ultimately, the targeting of sanctions is a highly political decision and probably should stay in a political setting. While agreeing that expert panels could not be responsible for determining the targets of sanctions, the group acknowledged the important assistance experts can provide and supported such consultations. Ultimately, a consensus emerged that, for reasons of legitimation, the “someone” who needed to make the final decision concerning targets was the UN—either the Security Council or the Sanctions Committee, with input from national governments based on reliable information.

Throughout the discussion of the alternative approach, some participants expressed reservations about the manner in which this approach to TFS would function, especially with regard to the effect of a general financial sanction on all Wazerian persons. In addition, objections to this approach included skepticism that sanctions could be lifted selectively within a limited period of time (two weeks), and concern that these sanctions would therefore prove to be much more comprehensive than intended. These reservations appeared to grow during the ensuing debate, eventually threatening to stall consideration of the alternative scenario. The simulation organizers therefore decided to engage this problem directly, by replacing the three questions originally envisioned for the second half of the afternoon session with one that went directly to the underlying reason for which an alternative scenario had been presented:<sup>9</sup> That question is given below. It must be noted, however, that some participants felt that the alternative approach presented in Session 2 held several benefits—chief among them, speed—and argued that it might be particularly useful in certain extraordinary circumstances, e.g. an act of aggression.

*Question 4: For achieving secrecy and speed, what alternative approaches might you suggest?*

Several participants in both the morning session and the afternoon session up until this point had argued that the issues of secrecy and speed in the design, imposition and implementation of targeted financial sanctions remained thorny problems. Given this observation, this question was phrased to offer participants the opportunity to propose their own solutions, with neither the restrictions nor the assumptions of the primary and alternative scenarios. As such, the discussion that followed—both electronic and oral—was something of a brainstorming session.

One suggestion was to tackle the twin problems was through a pre-assessment process, to be performed in secrecy under the auspices of the UN, possibly by a strengthened Secretariat with the aid and assistance of outside sources as necessary. Another participant recommended that a pre-emptive collection of data be undertaken by national governments, while a third proposal was the adoption of model language for use in

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<sup>9</sup> The three original questions were: “(4) What preconditions (prior agreements, procedures, etc.) are needed at the national and multilateral level for this alternative approach to work?”; “(5) What are the issues for economic actors in the sender states in this alternative approach?”; and “(6) What are the issues for the Security Council, the Wazeria Sanctions Committee and the UN Secretariat in this alternative approach?”

the drafting of Security Council resolutions, such as that produced at the Second Interlaken Seminar on Targeting United Nations Financial Sanctions.<sup>10</sup>

One participant remarked that a premise for much of the discussion seemed to be that without speed and secrecy, funds would be moved to ‘secure havens’ prior to the actual imposition of the financial sanction, and therefore proposed that more attention be paid to the leverage that could be applied to these ‘havens’.<sup>11</sup> A counter-suggestion, however, was that implementation focus instead on the most important financial centers, the representatives of which should be able to meet on short notice to agree on the general scope and specific targets of the sanction. Another submission posited that there could be two phases of sanction implementation—first, an immediate ‘hit’, for which secrecy and speed were paramount, and then a longer-term effort to find and block assets, possibly including secondary sanctions on non-cooperating off-shore financial centers, which should not be neglected.

There was also a short discussion of a proposal for national legislation that would allow banks to freeze assets and block transactions in anticipation of a UNSC resolution, thereby increasing the rapidity of the effect of sanctions. A slightly different proposal was that the provisions of the resolution be made available to financial institutions immediately, so that they could begin their own ‘increased diligence’ procedures with regard to questionable transactions, before the issuance of precise regulations by the relevant national administering authority. Another participant pointed out that while banks could stop payment for a brief period, without UNSC resolution, they would be engaging in illegal act in blocking funds. They can slow a transaction down and look at it, but are legal constraints on how far this can go. As a few participants pointed out, however, there are few states that have legislation similar to that of the United States or the United Kingdom (in certain cases). Furthermore, some argued, it would be unlikely that similar legislation would be adopted for reasons that were not more directly in national interests. At base, therefore, it would be a political decision as to whether the need for speed and secrecy outweighed other concerns.

In the end, the consensus of the group seemed to be that while speed was possible in the context of United Nations-authorized sanctions—albeit with the recommendations given above—secrecy was not.

## SESSION 3

Preliminary Briefing: Sue Eckert  
Technographer: Gregory Hoffman

To gain greater insight regarding the conditions under which TFS might be effective, the third session divided participants into three working groups each of which was given a different scenario (see Appendix 5 for scenario details). The groups were asked to design a targeted financial sanction for their respective situation; results were then presented to and discussed among the entire group.

The purpose of the session was to test the feasibility of imposing TFS on three different types of countries/economies: a moderately-sized oil-exporting country well-integrated into the world economy; a small agriculturally-based country in transition from a centrally planned economy; and an insular country with a command economy and minimal external trade. For each scenario, participants were asked to

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<sup>10</sup> The simulated resolutions used in the exercise were based on this model language, so it did in fact constitute one of the parameters of the discussions.

<sup>11</sup> See Exercise Observations, below, for discussion of the implication of the purpose of sanctions (i.e. to halt immediate flight vs. constrain future uses) for the relative importance of offshore locations and other ‘havens’.

consider five issues: 1) problems related to targeting; 2) prior consultation or procedures required; 3) compliance, enforcement, and monitoring; 4) possible evasion strategies of targets; and 5) other challenges to the effective functioning of the regime.

### ***Scenario 1***

The first scenario involved an oil-based economy in the Middle East. As the given facts did not specify the situation leading to the imposition of sanctions, the group assumed that the country's behavior constituted a threat to neighbors and was the reason for the imposition of TFS.

The objective of the sanctions was to restrain the target leadership. Additional sanctions beyond TFS were contemplated: an oil embargo was rejected because of the significant negative effects on the civilian population and disproportional response due to the country's dependence on oil; an arms embargo and travel restrictions were desirable as a means of putting pressure on élites and their families responsible for the policy.

The group focused on the need for a dialogue among major (5–8) financial centers to ensure that implementation procedures were in place and to gather intelligence. There was ample discussion of the need for the UN to act with speed and secrecy in adopting the necessary resolution; however, while acknowledging the challenge posed by the nature of UN proceedings, the group noted that secrecy was impossible but speed imperative. In addition, the group advocated the need for the Security Council to clearly delineate *at the time of imposition* the conditions for sanctions to be suspended or lifted (i.e. a clear exit strategy).

The group recommended that a panel of experts be subcontracted to work under the Sanctions Committee and with financial centers in refining the target list and monitoring implementation. The importance of a credible monitoring system (including perhaps private contracting) to guard against violations was underscored. Because of the disparity in Member States' ability to implement the sanctions effectively, the group recommended that the Sanctions Committee regularly assess States' reports and adherence to the sanctions; confirmed violations should be publicized (name and shame).

It was expected that targets would use front organizations and families to evade sanctions. The group acknowledged that oil revenues, which if targeted are easier to evade than an assets freeze, would continue to support the regime, but removal of the leadership was not the objective of the sanctions. In addition, the group proposed a new idea to establish a monitoring requirement for the country's oil companies' accounts around the world, in order to track flows and monitor economic activity. Such information could be useful if the UNSC chose to ratchet up the sanctions in the future.

Other challenges identified by the group included the inability to identify accounts due to bank secrecy requirements in certain countries, the importance of an effective monitoring mechanism in encouraging States' implementation of sanctions, and the need to exchange information concerning practices of targeted states.

### ***Scenario 2***

The second scenario involved an entirely different type of country—a small agrarian nation with a modest GDP and very limited impact on the world economy. Due to its location in Eastern Europe, the group

noted that the EU should/could play an important and constructive role in implementing the sanctions. As in the first scenario, the group assumed that actions by the targeted country represented a threat to its neighbors, and that the objective of the sanctions was to change the objectionable behavior of its leadership.

Beyond the leadership (president, key cabinet members and their families), recommended targets included henchpersons or cronies (agents of repression and supporters of the leadership, including companies owned and controlled by the above). There was a debate among participants concerning inclusion of government and other public bodies as targets (see below).

Consultation was required with EU Members, neighboring states and regional organizations, including opposition groups, as it was important to understand the impact of sanctions on neighboring states. The objectives of consultation were coordination within the EU, intelligence collection, and a better understanding of the most effective pressure points.

The group presumed that the SC resolution adopted included full financial sanctions on targets (freeze of assets, prevention of any access to any external funds), as well as the prohibition on financial services (use of lawyers etc. to facilitate fronts). In addition to the Sanctions Committee, the group believed an experts panel could play an important role in providing information on implementation of sanctions. The second group also specified the need for the resolution to include the specific criteria necessary for ending sanctions (what is expected from leadership, such as the end of human rights violations, admission of observers, independent tribunal for land and other economic abuses, etc).

Noting the important role of financial institutions in Member States in reporting assets transfers, the group also proposed that the resolution include a new requirement for retrospective reporting. States would be required to report all transactions carried out for or on behalf of target groups in a specified period before adoption of the SC resolution. Even though the element of surprise cannot be achieved due to the UNSC/EU consultation procedures, retrospective reporting could provide useful information by tracking where the funds went. Such reporting, as would be employed in chasing embezzled funds, is not a problem for banks and does not raise legal issues as long as it is required in the UNSC resolution. An additional benefit of this novel approach is the revelation of information regarding other potential targets.

The question of whether to target government assets was central in the group's discussion – most assumed it would be automatic, but others argued that it should not necessarily be the case, as the government itself is not the problem, but rather its leadership. A case was made for distinguishing between the government's and the leaders' assets, with an emphasis on targeting only responsible individuals. Broadening sanctions to the government would have a much greater humanitarian impact, and could disrupt civil society more generally (e.g. postal deliveries, payment of wages and pensions, etc). Moreover, if sanctions were targeted only on individuals, there is less need for an elaborate SC exemptions process (a complicated process that dissuades banks from participating because of the difficult and costly decisions). On the other hand, not sanctioning government accounts may induce the leadership to go after such assets. Some participants noted that it was inconceivable and ineffective to not sanction the government broadly, as in the FRY case. All agreed, however, that it was an issue worthy of further exploration.

Regarding the timing and the element of surprise, the group noted the importance of the EU adopting its position and implementing a regulation coincident with the SC resolution. EU regulations are binding and involve more extensive mechanisms among EU members to make sanctions effective than exist among UNSC members.

### ***Scenario 3***

The scenario presented to the third group concerned a highly isolated, autonomous country whose economy is closed to the outside world, making it difficult for sanctions to be effective. The group, in essence, gave up on targeted financial sanctions against individuals and instead imposed comprehensive financial sanctions on the country, including the government. Participants noted that it was a difficult case for TFS, in which the country posed a serious threat to international peace and security, but because of the insular nature of the country, it was not clear what the most effective actions would be to bring about a change in the regime's behavior. The group discussed whether in such circumstances of limited leverage sanctions can play an effective role, or whether alternative strategies such as positive inducements (carrots vs. sticks) may be more effective. In this instance, speed and secrecy are not as important given limited assets abroad. As in the case with the previous groups, the objective of the sanctions was to change the behavior of the leadership, but because the leadership/elite and government are one in the same, it was impossible to make a distinction between the two, and hence sanctions were imposed on individuals as well as the entire government.

The group included a travel ban along with financial sanctions, and noted the need for humanitarian exemptions. As was discussed by other groups, assistance to Member States would be necessary for effective monitoring. Given the nature of the economy, barter would likely be an evasion strategy, especially with other states not supporting the sanctions. The group noted the need for new mechanisms to monitor and detect evasion efforts, and the importance of prior consultations with neighboring countries. The unique situation regarding the importance of arms to the country (50% of its small budget going to the military) was also discussed.

Other challenges noted were the absence of unity on the UNSC, lack of resources for monitoring, and invulnerability of the regime (when limited leverage exists, consider positive inducements as an alternative to sanctions).

### ***Interdiction Software Utilized by Banks***

The larger group discussion of these different scenarios also yielded interesting information regarding the means by which banks screen transactions through the use of interdiction software. Utilized primarily by American financial institutions, filtering software for monitoring funds transfers has been a common voluntary practice for more than 15 years, in large part to ensure that US financial institutions are not being used inappropriately. Most institutions screen for reasons other than sanctions— primarily for reasons of safety, soundness, and reputation, and to meet regulatory requirements against supporting money laundering and fraud. The actual software is not very sophisticated, and many commercial packages are widely available. While some non-US banks screen for names from the Specially Designated Nationals list maintained by the Office of Foreign Assets Control, many do not routinely employ such screening methods. In general, financial institutions should be encouraged, not compelled to use interdiction techniques.

As an indication of the scope of transactions screened and blocked, it was reported that one US financial institution processes an average of 1 million transactions/month for funds transfers, of which 25,000 transactions are identified as potentially suspicious by the screening software. Of those transactions, approximately 60 are considered for action and rejected, 10 are blocked, and the remaining are found to be mistakes (e.g. someone who lives on Tripoli Street) that the software kicks out. It was noted that oil

payments are particularly susceptible to screening and tracking because they involve large sums and are relatively few in number.

The idea of making software available for Member States was discussed. While an individual bank's software is geared to specific company/country requirements, it might be possible to tailor commercial software for UN-specific sanctions, and make it available for Member States' use. Participants noted, however, that interdiction software can be defeated relatively easily through evasion techniques such as front companies, and it therefore represents an important, but not infallible, tool in enhancing TFS compliance.

## *Exercise Observations*

### *Session 1:*

1. The method of imposing targeted financial sanctions outlined in the main scenario followed what could be termed the ‘traditional’ approach. The regime was based on a Security Council resolution that included the provisions of the coercive financial measures, as well as a list of the exemptions to those provisions, and to which was appended a pre-determined list of the targets. While implementation of the sanctions regime remained the province of Member States, it was assumed that the purpose, scope, duration and other fundamental questions regarding the regime had been determined in the Security Council deliberations that led up to the imposition of sanctions. Indeed, the only significant departure from the manner in which previous UN-authorized regimes had been instituted was the use of resolution building blocks that had been prepared at Interlaken II.
2. As such, the bulk of the discussion—both electronic and verbal—in the first session was based on, if not limited to, the past experiences of the participants in the area of designing, imposing, implementing and monitoring financial sanctions. Of these experiences, three cases in particular seemed to have the most influence over the ways in which participants approached the issues and/or problems presented in the simulation: the comprehensive sanctions against Iraq since 1990, the Federal Republic of Yugoslavia sanctions over Kosovo, and the recent developments in the UNITA/Angola sanctions.
3. The focus of the responses and subsequent discussion of Question 1—on the Wazeria Sanctions Committee—is understandable, as a number of participants in the exercise came from either the Permanent Missions of Member States or the UN Secretariat. Throughout the exercise, it was apparent that those participants who were able to attend were greatly interested in and appreciated the interventions of their colleagues from different backgrounds. Several participants commented that greater participation from the private financial sector would have increased the variety of responses and added to the richness of the discussion.
4. Despite these three elements, however—a traditional approach, a focus on past experience, and a majority of similarly situated participants—several novel suggestions were made that would be repeated throughout the exercise, eventually becoming the topic of major discussions or the focus of end-of-exercise recommendations, including: research into the past behavior of targets and past movements of their assets, use of expert panels, additional resources to the UN Secretariat, and greater multilateral and multi-sector co-ordination between all the actors involved in the imposition, implementation and monitoring of targeted financial sanctions. [p. 7–9]

### *Session 2:*

1. At the opening of the second session, participants were presented with an alternative method of imposing a targeted financial sanctions regime. Instead of the traditional method of imposing financial sanctions, the proposal was to impose a general financial sanction on the entire population, followed by its rapid release on the overwhelming majority of the population within a limited period of time.

This would provide the international community with time to determine precisely whose assets should be targeted and remain frozen, and at least theoretically limit the humanitarian consequences of a general sanction (since most of the population would not remain targeted). It also holds the potential of maximizing the leverage of the international community, given the uncertainty within the target country over whose assets would remain frozen.

2. During the discussion of the question ‘who should be targeted?’, the consensus of the group appeared to be that it is necessary to include family members and close supporters as targets in order to make financial sanctions effective, i.e. to prevent evasion. Although there was some debate about definitions and justifications for targeting these individuals, it did not appear controversial to extend the sanctions in this manner.
3. The goals of a targeted financial sanction need to be thought through and articulated in advance. In particular, the international community needs to determine whether the principal goal is to prevent the flight of capital or assets to some safe haven, or whether the goal is to prevent the future use of capital or assets after flight to some other location(s). This decision would therefore have a significant effect on the design of the sanctions regime, and more particularly, on the relative importance of offshore havens versus major financial centers for the success or failure of TFS.
4. There appeared to be no firm consensus on a mechanism for identifying potential targets, which indicates that this remains a thorny problem. As regards the division of labor, however, participants seemed to agree that national governments should provide identifying information on potential targets to the UN, where either the Security Council or the Sanctions Committee would make the final decision on actual targets. There was also agreement on the need for increased co-ordination between the UN (Secretariat and Sanctions Committee), Member States, regional organizations and the private sector.
5. Participants raised four objections to the alternative approach. First, there was concern that a comprehensive financial sanction might not be lifted (based on the experience with the Iraq sanctions). Second, there were questions raised about the feasibility of lifting the comprehensive sanctions within the two weeks stipulated in the resolution. Third, there were concerns raised about whether the short-term humanitarian costs would outweigh the potential gains of identifying targets in this manner. And fourth, there were concerns expressed about the costs of the release of funds for the sender states (in particular, for the financial institutions within them). Nevertheless, there were some suggestions from participants that this method of imposing a targeted financial sanction might be particularly appropriate if the international community had to respond quickly to a situation of which it had no previous warning, such as aggression by one state against another.
6. One issue that emerged during the second session was the enthusiasm of some participants and the disquiet of others about the use of expert panels. For the latter, there appear to be three reservations: (1) increased resort to expert panels amounts to the ‘outsourcing’ of one of the responsibilities of the Sanctions Committee, and can be seen as the privatization of a public function; (2) concerns about the accountability of such panels, especially in the case of ‘naming & shaming’, where public accusations of sanctions-busting are made; (3) the question of the UN body that would authorize and oversee the panels. This last point appears to be the reflection of the recent debate, sparked by the Fowler Report on sanctions-busting in Angola, about the relative powers of the Sanctions Committees and the Security Council with regard to monitoring or administering sanctions regimes.

### *Session 3:*

1. All groups considered targeted financial sanctions in conjunction with other measures, such as arms or oil embargoes, but especially travel bans. Similarities in approaches to targeting individuals creates a synergy between TFS and travel bans; groups generally assumed that travel bans would be imposed on the same group to which TFS were applied.
2. On the question of the type of activity warranting the imposition of TFS, all groups assumed unspecified threats by the targeted nation to neighboring countries, and some degree of internal suppression or violation of human rights, but not WMD, terrorism or other extraordinary threats. The threshold of behavior triggering the imposition of TFS (or any sanctions for that matter) was not specifically addressed.
3. All groups defined the objective of TFS as changing or containing the objectionable behavior of the leadership, and specifically not removal of the leadership. Moreover, groups noted the importance of clearly defining the criteria for lifting or suspending sanctions (exit strategy) at the time of the imposition of sanctions.
4. The degree of agreement concerning the selection of targets was surprising. Groups broadly agreed to target responsible leaders, their family members, and cronies or supporters of the decision-makers. There appeared to be no aversion to reaching family members and close associates, including those living or studying abroad. Differences arose, however, over the issue of targeting the government beyond individual leaders. Arguments were advanced that sanctioning the government broadly would inflict significant damage on the civilian population, effectively shutting down civil society (post office, pensions, etc), thereby necessitating an elaborate sanctions exemptions regime to minimize humanitarian costs. As such, the sanctions were not specifically targeted. Others, asserting that it would be unimaginable not to sanction the government, contended that leaving government assets unaffected would invite targeted leaders to pilfer government accounts.
5. A common concern was expressed regarding the ability of Member States to implement TFS effectively, especially credible monitoring, reporting, and enforcement systems. Suggestions were made concerning the need for additional resources and assistance to states and regional organizations important for monitoring. The use of outside experts reporting to either the Sanctions Committee or Security Council, and regular assessment of countries' reports concerning implementation were also proposed.
6. While most groups noted the desirability and importance of speed and secrecy in the development of the UNSC resolution and implementation of sanctions, the reality of the UN process makes timing and surprise extremely difficult, if not impossible. Methods were discussed, however, to determine where funds were moved prior to the imposition of sanctions—retrospective reporting—which could provide a picture of what happened for some specified period prior to formal adoption of sanctions. In addition, enhanced monitoring even beyond sanctioned transactions, such as oil payments, was discussed as an effective means of monitoring economic activity within the targeted country.

## *Participant Recommendations*

At the conclusion of the simulation exercise, participants were asked, “what lessons have you drawn from this event, and what future work on TFS should get priority?”

### *Lessons Learned*

Overall, participants expressed satisfaction that the exercise illuminated key issues concerning TFS, and concluded that, notwithstanding the success of the effort, there is still much to be learned and work to be done. Comments indicated a wide variety of perspectives as to the effectiveness of various sanctions, and some continuing skepticism regarding the viability of TFS given the limited experience. Despite these questions, most participants agreed that TFS are technically feasible, but need to be refined. Greater understanding of how countries, especially those outside the United States, implement sanctions, is needed.

One of the most frequently cited lessons concerned the gap between policymakers (UN, diplomatic, and national government officials) and those financial practitioners charged with implementation of TFS. Participants repeatedly commented on the importance of the private sector, especially the financial community, in making TFS more effective. The group called for greater public-private dialogue—both domestic and international—and cooperation on the implementation of TFS.

In addition, participants focused on the importance of prior information-gathering and pre-assessment initiatives, as well as information sharing between Member States. There was a consensus that UN procedures need to be improved to facilitate this type of information development and exchange.

In sum, while TFS are neither an appropriate nor effective response in all situations, they can be made more effective, and are most likely to be so when implemented as part of a package of targeted measures (e.g. travel bans) and positive inducements.

### *Future Work*

Many excellent suggestions were offered at the conclusion of the exercise regarding future work on targeted financial sanctions. Participants emphasized the need to integrate the results of Interlaken I and II with those of the Newport simulation, and to move to the next level—specific recommendations and practical details of organization, processes, and tools to implement TFS.

Recommendations fell into the following general categories:

1. Development of guidelines and mechanisms for the implementation of targeted financial sanctions

In order to enhance the effectiveness of TFS, specific mechanisms need to be developed and put into place (often prior to the imposition of sanctions)—model legislation, model resolutions, UN procedures and guidelines concerning implementation of TFS, information-gathering and sharing mechanisms, reporting procedures, and monitoring and compliance measures.

Specifically, suggestions were made for the development of: model resolutions and language modules that could be adapted quickly to specific circumstances; general software that could assist Member States with implementation of TFS; methods to identify and decide on targets (interface of national intelligence, private consultants, and experts, that address concerns of accuracy, fairness, and the protection of confidential sources etc.); and better means of coordinating national/international monitoring and information-sharing efforts.

UN institutional innovations were also suggested that could aid the Secretariat, sanctions committees and Member States, such as expert panels and transgovernmental committees of officials; adequate resources for monitoring and compliance, including assisting Member States in implementing TFS; technical work on how to identify and freeze assets, as well as means to prevent exemptions from becoming loopholes; and additional work to develop new UN procedures regarding pre-assessments, and to help promote speed and secrecy in deliberations leading to imposition of TFS.

2. Further study and elaboration of the conditions/situations under which TFS are likely to be effective, and understanding of the impact of TFS under different conditions. In addition, more information on the ways countries implement TFS, especially countries other than the United States, would be helpful.
3. Recommendations on ways to enhance the interaction between the private sector and officials on TFS. Because implementation of TFS ultimately rests with the financial community, a better understanding and dialogue between the UN, national governments and financial institutions needs to be established. The tremendous expertise in the financial community should be more accessible to States in helping to build the capacity to implement and enforce TFS.
4. Means to promote the adoption of enabling legislation and administrative mechanisms in Member States to effectively implement TFS, including adequately staffed sanctions units to implement, monitor, and coordinate multilaterally TFS efforts. In addition, steps to harmonize implementation of TFS between major financial centers are needed.

A more detailed examination of TFS from the perspective of the targets, including possible participation by former targets in efforts to improve the effectiveness of TFS. The simulation exercise required participants to play the role of the sender of sanctions, but much could be learned from formerly sanctioned states regarding ways to circumvent sanctions. In addition, it was suggested that future work explore the unique challenges of dealing with targeted entities such as the Taliban or UNITA, rather than states.

5. Focus on enforcement and ways of thwarting evasion of sanctions and preventing exemptions from becoming loopholes. Suggestions included participation in future work by law enforcement specialists and financial experts familiar with means of hiding assets, and devising ways to obtain cooperation of haven jurisdictions.
6. New ideas suggested by participants which need to be further explored, including: “retrospective reporting” on transfers prior to adoption of a TFS resolution that could yield useful information concerning the location of assets; monitoring of economic activity, such as oil payments, not subject to sanctions; and the question of separating governments from sanctioned individuals.

The specific recommendation was made to bring together efforts underway on travel bans and arms embargoes with TFS, including consideration of additional simulation exercises. Such efforts should include more representatives from national implementing agencies, particularly from developing countries.

Participants agreed that technical and practical approaches to targeted financial sanctions should be further explored to provide operational guidance to make these coercive financial measures more effective. The objective of additional TFS work would be to demonstrate the feasibility and potential of TFS, notwithstanding their limited use thus far, and provide practical recommendations that could feed into the UNSC working group on sanctions.

## *Evaluation of Exercise: Next Steps*

Overall, participants found the Simulation Exercise to be a useful and effective means of exploring key issues concerning targeted financial sanctions, and a valuable contribution to future work on TFS. Indeed, when polled anonymously at the close of the exercise, all participants stated that they would take part in a similar event in the future. While the exercise tested and reaffirmed some earlier suppositions regarding major challenges to the establishment of an effective targeted financial sanctions regime, innovative ideas and suggestions for follow-up work emerged from the sessions. Participants universally endorsed the need to build upon the work of Newport and Interlaken I and II to develop specific practical recommendations and guidelines to refine the use of TFS.

As a result of the exercise, near-term initiatives by the Watson Institute for International Studies will focus on:

- distribution of an analytical report on targeted financial sanctions including recommendations based on the experience of Interlaken I and II and Newport;
- further refinement of model language for UN resolutions;
- development of a manual providing practical guidance for countries in establishing the legal and administrative machinery and procedures to implement that Member States can use in implementing targeted financial sanctions, including a compilation of “best practices”; and
- further analysis and delineation of the issue of targeting, potentially including an additional simulation focused on the experience of former targets of sanctions.

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# **A P P E N D I C E S**

*Documents prepared for and used in the Targeted Financial Sanctions Simulation Exercise*



## Security Council

Distr.  
GENERAL

S/RES/1482 (2002)  
25 October 2002

ORIGINAL:  
ENGLISH

### *Approach 1*

#### RESOLUTION 1482 (2002)

Adopted by the Security Council at its 4312th meeting,  
on 25 October 2002

#### The Security Council,

[PREAMBLE]

[...]

1. Decides that all States shall ensure that all assets owned or controlled, directly or indirectly, by the authorities, entities or persons identified in Annex I to this Resolution are frozen and that no funds or other financial resources shall be made available, directly or indirectly, to or for the benefit of any authority, entity or person identified in the Annex;
2. Decides that all States shall ensure that the prohibitions in paragraph 1 shall not apply to payments from accounts with banks or other authorized financial institutions for the following purposes:
  - (a) payments for medicines, pharmaceuticals, medical equipment and supplies, unless the Security Council has decided otherwise;
  - (b) payments for foodstuffs and basic agricultural equipment, unless the Security Council has decided otherwise; payments for educational items,

- news materials and items of a religious or cultural nature, unless the Security Council has decided otherwise;
- (c) payments for books and publications consistent with the goals and purposes of the United Nations, unless the Security Council has decided otherwise;
  - (d) payments for other goods intended strictly for humanitarian needs and authorized under the authority of the Security Council;
  - (e) payments of debts owed to creditors other than those in the Federal Republic of Wazeria, or who are an authority, entity or person referred to in paragraph 1, which debts were due or become due in respect of contractual obligations fulfilled by the creditor prior to the entry into force of this Resolution;
  - (f) payment of dues to the United Nations and other international organizations;
  - (g) payments related to the conduct of diplomatic and consular relations in accordance with international law;
3. Decides that all States shall prohibit the provision of financial services by any authority, entity or other person within their jurisdiction in relation to any assets in the Federal Republic of Wazeria or owned or controlled, directly or indirectly, by any authority, entity or person referred to in paragraph 1;
4. Decides that all States shall ensure that the prohibitions in paragraphs 1 and 3 shall not apply to the provision of the following financial services:
- (a) maintenance of accounts with banks or other authorized financial institutions, provided such accounts are frozen;
5. Calls upon international, regional and all other organizations to take measures pursuant to paragraphs 1 to 4 within their fields of competence;
6. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council to undertake the following tasks and to report on its work to the Council with its observations and recommendations:
- (a) To examine the reports submitted pursuant to paragraph 7 below;
  - (b) To seek from all States further information regarding the action taken by them concerning the effective implementation of this resolution;

- (c) To consider any information brought to its attention by States concerning violations of the measures imposed by this resolution and to recommend appropriate measures in response thereto;
  - (d) To promulgate guidelines to facilitate implementation of this resolution;
7. Requests all States and calls upon the organizations referred to in paragraph 5 to report to the Committee established by paragraph 6 above on action taken pursuant to paragraphs 1 to 4;
  8. Requests the Committee established by paragraph 6 to make periodic assessments on the technical effectiveness of the measures referred to in paragraphs 1 and 3, and requests the Secretary-General to provide the Committee with the appropriate support for that purpose, including the use of inputs from other sources;
  9. Decides that all States, including the Federal Republic of Wazeria, shall ensure that no claim shall lie at the instance of the Federal Republic of Wazeria, or of any authority, person or entity referred to in paragraph 1, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction, the performance of which was affected by reason of the measures taken by the Security Council in this resolution;
  10. Expresses its readiness to review all the measures in the present resolution with a view to lifting them if, after the provisions set forth in paragraphs 1 to 8 above have come into force, the Secretary-General reports to the Council that the Government of the Federal Republic of Wazeria has complied with the requests outlined in Resolution 1477 (2002);
  11. Decides to remain seized of the matter.
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### *Alternative Approach*

#### RESOLUTION 1482 (2002)

Adopted by the Security Council at its 4312th meeting,  
on 25 October 2002

#### The Security Council,

[PREAMBLE]

[...]

1. Decides that all States shall ensure that all assets owned or controlled, directly or indirectly, by:
  - (a) the authorities in the Federal Republic of Wazeria;
  - (b) any other entity, including any commercial, industrial or public utility undertaking in the Federal Republic of Wazeria; or
  - (c) any other person, natural or legal, who is a national of, or residing in or operating in the Federal Republic of Wazeria,

wherever they may be located, are frozen and that no funds or other financial resources shall be made available, directly or indirectly, to or for the benefit of the authorities, entities or persons referred to in this paragraph;

2. Decides that the measures set forth in paragraph 1 shall be limited by 6 November 2002 to certain specified persons or categories of person, and that all other assets owned or controlled, directly or indirectly, by any other person of the Federal Republic of Wazeria shall be released;
3. Decides that all States shall ensure that the prohibitions in paragraph 1 shall not apply to payments from accounts with banks or other authorized financial institutions for the following purposes:

- (a) payments for medicines, pharmaceuticals, medical equipment and supplies, unless the Security Council has decided otherwise;
  - (b) payments for foodstuffs and basic agricultural equipment, unless the Security Council has decided otherwise;
  - (c) payments for educational items, news materials and items of a religious or cultural nature, unless the Security Council has decided otherwise;
  - (d) payments for books and publications consistent with the goals and purposes of the United Nations, unless the Security Council has decided otherwise;
  - (e) payments for other goods intended strictly for humanitarian needs and authorized under the authority of the Security Council;
  - (f) payments of debts owed to creditors other than those in the Federal Republic of Wazeria, or who are an authority, entity or person referred to in paragraph 1, which debts were due or become due in respect of contractual obligations fulfilled by the creditor prior to the entry into force of this Resolution;
  - (g) payment of dues to the United Nations and other international organizations;
  - (h) payments related to the conduct of diplomatic and consular relations in accordance with international law.
4. Decides that all States shall prohibit the provision of financial services by any authority, entity or other person within their jurisdiction in relation to any assets in the Federal Republic of Wazeria or owned or controlled, directly or indirectly, by any authority, entity or person referred to in paragraph 1.
5. Decides that all States shall ensure that the prohibitions in paragraphs 1 and 4 shall not apply to the provision of the following financial services:
  - (a) maintenance of accounts with banks or other authorized financial institutions, provided such accounts are frozen;and until 6 November 2002:
  - (b) the services of auditors as necessary to comply with the requirements of law;
  - (c) insurance of existing assets outside the Federal Republic of Wazeria and, to the extent required by law, on natural persons.
6. Calls upon international, regional and all other organizations to take measures pursuant to paragraphs 1 to 5 within their fields of competence.
7. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council to undertake

the following tasks and to report on its work to the Council with its observations and recommendations:

- (a) To examine the reports submitted pursuant to paragraph 8 below;
  - (b) To seek from all States further information regarding the action taken by them concerning the effective implementation of this resolution;
  - (c) To consider any information brought to its attention by States concerning violations of the measures imposed by this resolution and to recommend appropriate measures in response thereto;
  - (d) To promulgate guidelines to facilitate implementation of this resolution;
8. Requests all States and calls upon the organizations referred to in paragraph 6 to report to the Committee established by paragraph 7 above on action taken pursuant to paragraphs 1 to 5;
  9. Requests the Committee established by paragraph 6 to make periodic assessments on the technical effectiveness of the measures referred to in paragraphs 1 and 4, and requests the Secretary-General to provide the Committee with the appropriate support for that purpose, including the use of inputs from other sources;
  10. Decides that all States, including the Federal Republic of Wazeria, shall ensure that no claim shall lie at the instance of the Federal Republic of Wazeria, or of any authority, person or entity referred to in paragraph 1, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction, the performance of which was affected by reason of the measures taken by the Security Council in this resolution;
  11. Expresses its readiness to review all the measures in the present resolution with a view to lifting them if, after the provisions set forth in paragraphs 1 to 8 above have come into force, the Secretary-General reports to the Council that the Government of the Federal Republic of Wazeria has complied with the requests outlined in Resolution 1477 (2002);
  12. Decides to remain seized of the matter.
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## *Definitions of Specific Terms Used in S/RES/1482 (2002)*

Adopted from the list prepared by Working Group 3 at the Second Interlaken Seminar on Targeting United Nations Financial Sanctions, March 1999.

### **Assets**

Any property or property interest, tangible or intangible, present, future, or contingent, and may include (without limitation):

- Any funds or financial resources (as defined below)
- Real property, including land and fixtures to land
- Moveable property, including goods and chattels
- Bullion, precious metals and stones
- Patents, trade marks and copyrights
- Contracts, licences, insurance policies
- Goodwill
- Judgements and claims having monetary value
- Documents evidencing an interest in assets

### **Assets freeze**

To freeze assets means that the assets may not be moved, transferred, altered, used or dealt with in any way that would result in any change in their volume, amount, location, ownership, possession or character; including portfolio management, except that any interest or income arising on any capital automatically repayable on maturity of any asset shall be paid into and held in a frozen account.

### **Funds or other financial resources**

Financial assets and economic benefits of any kind, including (without limitation):

- Cash
- Cheques, drafts, money orders and other payment instruments
- Deposits with financial institutions or other entities, balances on accounts, debts and debt obligations
- Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts
- Interest, dividends or other income on or value accruing from or generated by assets
- Credit, rights of set-off, guarantees, performance bonds or other financial commitments
- Letters of credit, bills of lading, bills of sale
- Documents evidencing an interest in funds or financial resources

### **Assets owned or controlled, directly or indirectly**

Assets of which any authority, entity or person referred to in paragraph 1 is the legal or beneficial owner, is entitled to or has de facto control over.

In determining ownership or control, a greater than 50% interest in the asset on the part of any authority, entity or person referred to in paragraph 1, or in an intermediate person or entity having ownership or control of the asset, will be determinative.

An interest of 50% or less in the asset, (or in an intermediate person or entity having ownership or control of the asset) may constitute ownership or control, depending on the factual circumstances, and in particular:

the representation of any authority, entity or person referred to in paragraph 1 in the management of the asset;

the extent of the interest of any authority, entity or person referred to in paragraph 1 in the asset;

the nature and identity of interests other than those of any authority, entity or person referred to in paragraph 1;

the spread and diversity of interests in the asset;

the ability of any authority, entity or person referred to in paragraph 1 to influence decision-making in relation to the asset.

These criteria are not exhaustive or restrictive, and any determination as to ownership or control of assets should be consistent with the objective of the assets freeze concerning the Federal Republic of Wazeria and the authorities, entities and persons referred to in paragraph 1.

### **Financial services**

Any activity, discretionary or otherwise, conducted as principal or agent, involving the provision, custody, management, utilisation, transfer, disposal, movement or exchange of funds or other financial resources and advice relating thereto, including (without limitation):

Banking Services, including the acceptance of deposits and movement of balances on accounts, lending, financial leasing, the extension of credit, money transmissions, purchasing or selling foreign exchange, issuing and administering means of payment, guarantees and commitments

Insurance and insurance-related services, including reinsurance and retrocession, insurance intermediation such as brokerage and agency, and services auxiliary to insurance such as consultancy, actuarial, risk assessment and claims settlement services

Trust creation and management

Investment services, including trading for own account or on account of customers, whether on an exchange, in an over-the-counter market or otherwise, in money market instruments (including cheques, bills, certificates of deposit), foreign exchange, transferable securities, other negotiable instruments and financial assets such as bullion, derivatives products (including financial and commodities futures and options), exchange rates and interest rate instruments (including products such as swaps and forward rate agreements)

Participation in issues of all kinds of securities, including underwriting and placement as agent and provision of services related to such issues

Money broking

Settlement and clearing services for financial assets, including securities, derivatives products and other negotiable instruments

Provision and transfer of financial information, and financial data processing

Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, deposit and trust services

Advisory, intermediation and other auxiliary financial services, including auditing, investment and portfolio research and advice

## *Voting Results: “Who should be targeted?”*

Multiple Selection (maximum choices = 5, though participants were allowed to choose fewer items)

Number of ballot items: 31

Total number of voters (N): 26

| <b>BALLOT ITEMS</b>   | <b># OF VOTES</b> |
|---|-------------------|
| 1. All close family members of the leaders  | 14                |
| 2. The President  | 13                |
| 3. Governor of Petrolandia  | 11                |
| 4. Military officials   | 9                 |
| 5. All ministers of government and vice-ministers   | 8                 |
| 6. Those government officials directly involved in the persecution of the Minoratis                         | 8                 |
| 7. Business élites supportive of the regime   | 7                 |
| 8. Entities involved in industries/sectors controlled by the leaders  | 7                 |
| 9. Officials of the Wazerian Government   | 5                 |
| 10. Foreign entities owned directly or indirectly by the leaders  | 5                 |
| 11. All those in a position to bring an end to the kind of excesses that forced the council to act          | 4                 |
| 12. Any person of substantial wealth with links to anybody identified for primary targeting                 | 4                 |
| 13. Those involved in decision-making surrounding the government reprisals on the national/regional level   | 3                 |
| 14. Other persons acting on behalf of officials of Wazeria  | 2                 |
| 15. Military leaders directly leading operations  | 2                 |
| 16. All appointees to government bodies or major private companies during the period of rule by the leaders | 2                 |
| 17. Business associates of President  | 2                 |
| 18. Large oil industries  | 2                 |
| 19. Members of parliament of ruling party   | 2                 |
| 20. Relevant government officials in Petrolandia  | 2                 |
| 21. Those who service the élite and provide them with access to funds e.g. their accountants.               | 2                 |
| 22. President's family  | 2                 |
| 23. Directors of parastatals  | 2                 |
| 24. Families of ministers of government   | 2                 |
| 25. Immediate family members of the decision-making élites  | 1                 |
| 26. Diplomatic officers wherever located  | 1                 |
| 27. Associates(has to be defined  | 1                 |
| 28. Central Bank Governor   | 1                 |
| 29. Governor's family   | 0                 |
| 30. President of national airline   | 0                 |
| 31. President of national oil company   | 0                 |

## *Session 3 Scenarios*

### **Scenario A**

- Middle Eastern country
- Population: 30 million
- GDP: \$130 billion
- Budget: \$23billion, of which more than 30% is spent on military
- Unemployment: 20+%
- Oil-based economy; OPEC member; exports 75–80% of product
- Other principal exports: foodstuffs 10%, textiles 8%
- Government nominally democratic but constitution allows President substantial powers which he generally treats as a minimum. Opposition is ruthlessly suppressed from time to time and is generally poorly organized.
- Society is Muslim based, hierarchical and male dominated.
- President Hassim has been in power for over 10 years and has designs on expanding his country's influence in the region.
- The country's foreign currency reserves are fairly widely spread among major world markets, notably Switzerland, UK, USA, France, Germany and Japan. They are believed to amount to more than \$1000bn in total. It is suspected, but wholly unconfirmed, that members of the Regime have their own "reserves" in a number of foreign locations.

### **Scenario B**

- East-central European country.
- Population: 15 million
- GDP: \$3 billion
- Budget: \$45 million
- Unemployment: 32%
- Relatively backward economy, substantially agricultural but with some manufacturing
- Principal exports: cheap cars, wine, finished textiles and leather goods mostly made up from imported components
- Government still emerging from communist era but making substantial strides towards democracy. President and "cabinet" make most of the decisions and expect, and get, rubber stamp approval from parliament.
- Society divided starkly into two camps, the A's (70%) and the B's (30%). In effect they are two different nationalities and have never lived, and probably never will live, comfortably with each other.
- President Nevlovint has been in power for two years, his predecessor having died in harness after more years in power than anyone cares to remember.

- The country has limited foreign currency reserves, much of which is held in European capitals. The current regime members have had relatively little time to amass their own personal pension funds, but Switzerland seems the most likely haven, if any.

## Scenario C

- Far eastern country
- Population: 31 million
- GDP: \$39billion
- Budget: \$11billion, of which 50% is spent on the military
- Unemployment: nil quoted
- Command economy in steady decline for some years. Difficulty in feeding the population which has in consequence failed to grow and may even have fallen in recent years.
- Principal exports: wood, rubber and small quantities of minerals. Total value: >\$1 billion
- Single party state with Ping Mai-chong in total control of all aspects of government.
- Any foreign currency reserves will be small and likely to be placed in regional neighboring countries, such as China and Japan.

### *Issues to be considered*

1. Issues/problems related to targeting
2. Prior consultation or procedures required
3. Compliance, enforcement, monitoring
4. Possible evasion strategies of targets
5. Other major challenges to the effective functioning of the regime