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Operational Conflict Prevention and the Use of Targeted Sanctions:
Conditions for Effective Implementation by the EU and UN

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Executive Summary

In the post-Cold War period the international community has turned with frequency to sanctions to influence the course of a conflict. As they offer an option “between words and war”, with relatively low costs associated with their imposition, it is not difficult to see why. With an emphasis on sanctions implemented against particular individuals and entities (natural and judicial) by the European Union (EU) and United Nations (UN), challenges to the effective implementation of the new generation of

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sanctions remain. The international community has overlooked recommendations from former reviews of sanctions policy. There are worrying signs that EU and UN policies have become less flexible in recent years. This damages their credibility – and has even led to accusations that they are ignoring the human rights of those listed.³

The EU and UN need a more strategic approach to sanctions: one that recognizes and responds to the dynamics of specific conflicts, rather than relies on well-worn routines. That is easier said than done: multilateral organizations are typically dire at developing focused strategies, and history shows that they are hard to mobilize in the early phases of conflicts.

Nonetheless, EU and UN officials should be able to articulate the intended goals and potential risks of their sanctions policies in coherent, context-driven strategy papers, rather

than merely pursue sanctions for their own sake. And there are relatively limited steps that the EU and UN could take to resolve the most obvious gaps in their sanctions policies: these are in the areas of management, coordination, information, evaluation and adaptability, and due process.

Better management: the EU and UN are understaffed when it comes to being equipped to effectively carry out planning, monitoring, coordination and evaluation of the measures decided upon by member states. They are in need of political and institutional support if the full potential of sanctions as a policy alternative to war is to be realized.

Better coordination: coordination is required at various levels if it is to address the full scope of sanction activity implied in effective design, implementation, monitoring and evaluation. One means of addressing these complex issues would be to institute the position of sanctions coordinator within each organization, to act as focal point, institutional memory, disseminator of information and overall link between various actors involved in sanctions implementation.

Better information: EU and UN officials dealing with sanctions need better information on the situations they are trying to shape, especially in designing and revising sanctions lists. Detailed information about a target’s identity, whereabouts, activity and overall behaviour should be compiled and used in the formation of sanctions lists. Acting as “service” organs to member states, units like the Security Council Subsidiary Sanctions branch at the United Nations could better coordinate such focus and the Crisis Management and Conflict Prevention Unit in the European Commission could

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³Iain Cameron, “Respecting Human Rights and Fundamental Freedoms and EU/UN Sanctions: State of Play” A report commissioned by the European Parliament, Policy Department External Policies (Oct 2008), 35.

play a similar role. These bodies should not collect intelligence, but can coordinate efforts in the design of sanctions lists that are operative, responsive and up-to-date.

Greater evaluation and adaptability: extending information-gathering activity once targeted sanctions have been applied, the UN and/or EU should frequently review whether or not the targeting is contributing to its original policy goals. If not, the sanctions policy should be reconsidered. This will again require staff capacities – by introducing evaluation specialists – but the net benefits would be far greater than the costs. More specifically, the EU's current policy of obligatory and routine updates of sanctions lists lacks flexibility, and puts routine before responsiveness.

Greater awareness of due process: the EU and UN must be conscious that, if they do not show sufficient respect for due process and the human rights of sanctions targets, they risk damaging their reputations – and handing public relations coups to the targets. They should all look for opportunities to delist questionable targets, such as secondary targets or the extended families of primary targets, where there is no clear evidence of impact.

If the EU and UN were to make improvements in these areas, they would reduce the gap between the political ambitions behind sanctions regimes and their implementation. If this can be achieved, sanctions can play an increased role in international security in the future.

Introduction

Few aspects of conflict management have seen such steady and profound transformation as sanctions. In contrast to the Cold War era – during which the UN only imposed sanctions programs against Rhodesia and South Africa – the 1990s saw a boom in sanctions activity and was promptly dubbed the *sanctions decade*.⁴ Concerns about the humanitarian impact of some of the earlier comprehensive regimes (most notably the one on Iraq) motivated three inter-governmental processes – the Interlaken, Bonn-Berlin, and Stockholm processes. These played a significant role in shifting sanctions policy and practice within both the United Nations and the European Union towards the introduction of “smart” and/or targeted sanctions.⁵

Arms embargoes, 74 of which have been introduced in the period 1990-2005, have continued to proliferate.⁶ Meanwhile the selective measures that characterize the new generation of sanctions have increasingly been recognised as an effective tool to ad-

Sanctions are increasingly recognized as an effective tool to address complex political emergencies, but they cannot be considered in isolation.

dress complex political emergencies before, or instead of, resorting to the use of force. However they cannot be considered in isolation from other tools and strategies. Targeted sanctions have, as UN Secretary-General Ban Ki-moon has put it, an “...enormous potential to contribute to the maintenance of international peace and security when not used

⁴ David Cortright and George A. Lopez, eds., *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder: Lynne Rienner Publishers, 2000).

⁵ The Interlaken process (led by Switzerland) concentrated on financial sanctions; the Bonn-Berlin process (led by Germany) on arms embargoes, and the Stockholm process (led by Sweden) on the implementation of targeted sanctions. Details of all three are available at www.smartsanctions.se. On the lessons from Iraq, see Peter Wallensteen, Mikael Eriksson, and Carina Staibano, eds., *The 2004 Roundtable on UN Sanctions against Iraq: Lessons Learned* (Uppsala: Uppsala University Department of Peace and Conflict Research, 2005).

⁶ Michael Brzoska, “Measuring the Effectiveness of Arms Embargoes,” in *Peace Economics, Peace Science and Public Policy*, article 2 (vol. 14, no. 2, 2008).

as an end in themselves, but in support of a holistic conflict resolution approach".⁷

Differences within the UN Security Council over fundamental issues such as the international response to terrorism, due processes, the responsibility to protect, as well as individual states' concerns that the imposition of sanctions represents undue intervention into the internal affairs of others, have in recent years made states more reluctant to list new

If sanctions mandated by collective actors represent convincing threats to their targets, they also present serious problems for those that implement them.

entities, at least at the same rate as they have previously. Yet the international community retains a wide array of sanctions regimes that seek to target government officials and non-state actors.⁸ If the sanctions mandated by collective actors like the UN represent convincing threats to their targets, they also present serious problems for those that implement them. Collective actors, like the UN Security Council or EU, have engaged in political commitments which, if not properly implemented, risk directly undermining their own legitimacy. Even when implemented effectively, they trigger questions regarding appropriateness of listing as well as legal challenges regarding de-listing. Questions like these are very complex both from practical, political and legal perspectives. And it is impossible to assess the success or failure according to the relatively narrow terms of a sanctions regime itself – instead, it is necessary to consider the fundamental question of impact (i.e. success and effectiveness) on the many issues at stake in the prevention, or

evolution of a given conflict.

What then are targeted sanctions? The logic of targeting is simple, that is: to select and put pressure on, by using political and economic means, those individuals who have political decision-making power in governments and groups operating in local armed conflicts, terrorism and political violence. At the same time, these measures seek to avoid the infliction of harm on the broader civilian population. The typical goal of such measures is to influence decision-makers by engaging or isolating them through targeted financial restrictions, and travel bans and other measures. Sanctions are also imposed against organizations and companies to prevent or ban the import or export of certain conflict resources, such as timber or diamonds, from identified conflict zones. Targeting involves different tactics, but in principle pressure is exercised by a combination of punitive measures, incentives and conditionality to entice or to coerce designated targets to change their behaviour. This sometimes has a larger symbolic value, while in other instances more direct and durable impact. Recent sanctions practice within both the European Union and the United Nations suggests that both types of change can be achieved; the critical issue is whether decision-makers within the bodies imposing the sanctions can agree from the outset on the particular effect they wish to achieve. Part of this has to do with the allocation of sanctions ownership: who ensures that a sanctions policy results in a particular type of impact?

Targeted sanctions can be tailored for use throughout different conflict phases. Interna-

⁷ UN News Centre, Secretary-General Ban Ki-moon, "Speech to the Symposium on Enhancing the Implementation of Security Council Sanctions," 30 April 2007.

⁸ Data is based on a review of all currently ongoing sanctions regimes put in place by the EU (including those sanctions regimes adopted by the EU on the basis of mandatory UN sanctions). Note that the real number of cases may be slightly lower, as I have made some differentiation between cases which could otherwise have been counted as one. I have deliberately chosen to distinguish targeted political sanctions from targeted terrorist sanctions although the measures are more or less the same. Hence, the al-Qaeda and Taliban related sanctions are excluded (as are all other forms of terrorism-related sanctions regimes). The sanctions regimes which I have in mind are: Belarus, China, Democratic Republic of Congo (DRC), Democratic People's Republic of Korea (DPRK), Former Yugoslav Republic of Macedonia (FYROM), Ivory Coast, Haiti, In Support of the Mandate of the ICTY (restrictive measures on those that help indictees to hide), To bring indictees to the ICTY, Iran, Iraq/Kuwait, UN, Lebanon and Syria (1), Lebanon and Syria, Liberia (1), Liberia (2) Libya, Moldova, Burma/Myanmar, Sierra Leone (1) Sierra Leone (2), Somalia, Sudan, Uzbekistan, Federal Republic of Yugoslavia (Serbia and Montenegro), Sanctions towards parts of Bosnia-Herzegovina previously held by Serb forces, [Bosnia-Herzegovina] Mostar, Bosnia-Herzegovina 'Sintra Peace Agreement spoilers', Serbia and Montenegro, Zimbabwe.

tional sender bodies, for example, can deter and prevent specific local actors from engaging in unwanted behaviour by placing them on a sanctions list, imposing a travel ban and targeting their assets before a conflict becomes violent. Such personal accountability can also be applied during ongoing armed conflicts or violence in order to further conflict resolution efforts, as well as in post-conflict situations as a means to contain and deter spoilers. To use targeted sanctions effectively, senders have to consider not only the particular context of the conflict addressed, but also the practicalities of implementation. In a complex chain of implementing actors, individual policy officials, desk-officers, country specialists and financial operators, as well as the representatives of member states on inter-governmental bodies, each play an important role in design and implementation.⁹

Targeted sanctions and Operational Conflict Prevention

As a tool for conflict prevention, targeted sanctions have much potential. This has also been evident in the transformation of the tool. However, a lack of attention to the detailed policy recommendations developed within the three inter-governmental sanctions processes (and the Stockholm process in particular) has resulted in that potential's consistent under-exploitation. For instance, targeted sanctions have a useful role to play in confronting "new" types of threats, whilst also addressing issues such as human rights abuses, organised crime, terrorism, and arms smuggling, some combination of which will be present in situations of high risk for the outbreak of open armed conflict. More can be done in these fields. Indeed, by sanctioning the leadership of armed movements and weak government elites,

the international community is already asserting its belief that it can have a decisive impact on the development of peace and security. It has been assumed that focusing on individual targets – restricting their opportunities for private, economic and political manoeuvre – will directly facilitate the disbanding of entire political conflict complexes. However, while the theoretical intention of targeting is logical and credible, reality is more complicated and the full scope of the tool has yet to be explored.

While the theoretical intention of targeted sanctions is logical, reality is more complicated.

History shows that engagement by the international community at early stages of a conflict is difficult to bring about. If not handled with great care, the introduction of sanctions may run counter to other efforts such as good offices and preventive diplomacy. But in some circumstances there may be a role for targeted measures, or perhaps even the threat of such in cases where leaders of groups and organizations pose immediate security threats to the local population as well as challenges to the wider international community. For maximum effect these measures have to be undertaken in concert with those other strategies already underway.

In the broader context of conflict management, the use of sanctions lists as a tactical tool to target particular perpetrators as well as to hold different types of perpetrators, spoilers, and deviants accountable for their political decisions or actions, will remain an important strategy at the multilateral level, including through judicial bodies such as international criminal courts. For example, over the last few years, targeted sanctions have been

⁹ For a more in-depth understanding of the design and implementation of targeting, see the outcome manual of the Stockholm Process on the Implementation of Targeted Sanctions: Stockholm Process on the Implementation of Targeted Sanctions (SPITS) and the Stockholm Peace Research Institute (SIPRI), *The United Nations Arms Embargoes: Their impact on arms flow and target behavior* (Uppsala University & Stockholm International Peace Research Institute, 2007).

applied to bring perpetrators and former war criminals – such as former presidents Slobodan Milosevic, Radovan Karadic, Saddam Hussein, and Charles Taylor – to international justice even as the International Criminal Court itself has pressed charges against individuals involved in several African conflicts. Meanwhile both arms traffickers and human rights abusers (in Belarus for example) have been placed on sanctions lists by the UN Security Council.¹⁰ More active planning and strategic thinking on how to pursue such targeting is required.

Each sanctions regime is distinct, but an absence of coordinated institutional enforcement undermines effective operational performance and the credibility of sanctions themselves.

The UN and EU terrorist lists of designated individuals targeted with travel bans and asset freezes, amounting to more than a thousand names altogether, have thus far been valuable tools to impede the physical movement of the targets, as well as to complicate their use of the international financial system.¹¹ Moreover, there is some indication that the stigmatization associated with the targeting may also have had a psychological impact.¹² Yet challenges to the criteria for inclusion, de-listing and notification of targeted entities on the lists have mounted over the last few years, and court cases ongoing in both Europe and the United States are likely to bring further attention to questions surrounding due process.

At the United Nations, sanctions lists are administered by the Security Council's subsidiary sanctions branch in the Department of Political Affairs, and operated by its various sanctions committees. At the European Union, the sanc-

tions lists are managed jointly by the Commission (Relex-directorate/the Unit for Crisis Management and Conflict Prevention) and by the EU Council Secretariat (particularly the presidency and the focal point). Both institutions are markedly understaffed when it comes to being able to effectively carry out planning, monitoring, coordination and evaluation of the measures decided upon by member states in comparison to, for instance, the number of actors needed to enforce a peacekeeping operation. They are in need of political and institutional support if the full potential of sanctions as a policy alternative to war is to be realized.

These observations are not new. Issues of implementation were discussed throughout the Interlaken, Bonn-Berlin and Stockholm processes. The latter in particular placed emphasis on the need for greater attention to coordination. While each sanctions regime is distinct, an absence of coordinated institutional enforcement undermines effective operational performance as well as the credibility of the sanctions themselves. A lack of commitment and credibility will be readily picked up by the targets of the sanctions, as well as domestic audiences within both the sender and the target states (such as Burmese human rights groups inside and outside Burma/Myanmar, or opposition forces inside Zimbabwe), and the international media.¹³

Coordination is required at various levels if it is to address the full scope of sanction activity implied in effective design, implementation, monitoring and evaluation. It should extend from policy makers through desk-officers dealing with the different aspects of sanctions implementation, for instance within policy planning and regional units, and encompass the distinct sets of relationships between headquarters and the field. One means

¹⁰ In 2008, the notorious arms trafficker Victor Bout was brought to justice (having been included on UN Liberia (UNSCR 1521/2003) sanctions lists.

¹¹ Thomas J. Biersteker, *Targeted Sanctions and Human Rights* Paper prepared for presentation at the Annual Meeting of the International Studies Association San Francisco, CA, March 2008.

¹² Aspects of this have been revealed through interviews with members of the Liberia sanctions list (UN sanctions) and the Zimbabwe sanctions list (EU sanctions) (research currently being carried out by the author).

¹³ Mikael Eriksson, *Targeting the Leadership of Zimbabwe: A Path to Democracy and Normalization?* (Uppsala: Uppsala University, Department of Peace and Conflict Research, 2007).

of addressing these complex issues would be to institute the position of sanctions coordinator within each organization.¹⁴ As sanctions scholars such as David Cortright and George Lopez have suggested, a sanctions coordinator could act as focal point, institutional memory, disseminator of information and overall link between various actors involved in sanctions implementation.¹⁵

Few engaged with the implementation of sanctions do not, at least informally, recognize the need for better coordination. That little concrete effort to pursue it has been made is a consequence of split attitudes within organizations, the neglect by senior management of appeals for institutional resources and support and, at the United Nations in particular, sensitivity towards the fractious politics of the Security Council. Consequently, sanctions management has in many instances lagged behind the innovations seen across the sanctions field. This backfires on the sender institutions, whose credibility with regard to sanctions is weakened.

Sanctions parameters

The starting point for effective sanctions implementation is recognition that each sanctions regime is unique. It will be shaped by the need to address a complex set of factors, including distinct actors, political and historical contexts, in each case embedded in a particular configuration of regional and international interests in the conflict theatre. Given that all sanctions regimes are both context-specific and designed to interact directly with that conflict's development, premium should be put on ensuring that they are as responsive as possible. This means that the sender should seek to put in place specific sets of measures that reflect the local political environment in order to

achieve change in the behaviour of the target. With a view to enabling maximum pressure on designated targets, a number of elements require consideration:

Type of conflict

Critical to the design of a sanctions regime is rigorous analysis of the conflict for which it is proposed. The nature of the conflict will determine the contours of the sanctions (rules and subsequent practices), as well as their expected impact. At the most basic level, an interstate conflict will, for example, demand a different response and framework than an intrastate conflict, while intrastate conflicts of course vary extensively with regard to scale, context, underlying causes and drivers.¹⁶

As sanctions regimes are context-specific and designed to interact directly with a conflict's development, premium should be put on ensuring they are responsive.

Besides the specific type of conflict, targeted sanctions are likely to have differing strategic purposes – and, it is to be hoped, impacts – depending on at what phase of a conflict they are being imposed, as well as the conflict's history.¹⁷ Zimbabwe, Iran and North Korea represent sanctions regimes imposed on states perceived by their senders as engulfed in downward crisis; Sudan, Burma/Myanmar and Côte d'Ivoire saw sanctions imposed on (widely varying) ongoing conflicts; while Sierra Leone and Liberia are post-conflict situations in which individual targeted sanctions remain in place for preventive purposes. Arms embargoes, for instance that which was introduced to address the fighting between Eritrea and

¹⁴The EU has established a focal point at the Council Secretariat. However, this focal point is not engaged in overall sanctions coordination (the position is only to take into account legal challenges posed by particular targets who consider themselves, or their organizations, as being unlawfully targeted).

¹⁵David Cortright and George A. Lopez, "A Sanctions Coordinator: Options for Enhancing Compliance," in *International Sanctions: Between words and wars in the global system*, eds., Peter Wallensteen and Carina Staibano (New York: Frank Cass, 2005).

¹⁶The EU and the UN may also consider engaging in situations in which they have not previously had recourse to sanctions, for instance in situations regarding failure to uphold human security, or cases in which inter-communal violence, non-state violence and one-sided government violence threaten peace and security (for example, moves have been made in the Security Council to target individuals which are engaged in child soldier recruitments).

¹⁷Innovative thinking on the relationship of sanctions and incentives to conflict resolution has been developed by Conciliation Resources in their recent Accord Issue no. 19, "Incentives, Sanctions and Conditionality- an international review of peace initiatives" (2008).

Ethiopia, are different again in that they have as a specific goal the limitation of a conflict already underway.

The sender also has to consider carefully how to ensure maximum legitimacy when engaging in a particular conflict context. For instance, will targeting be perceived as siding with one or the other party? Will targeting alter the conflict dynamics? Will targeting undermine other policy activities such as assistance programmes and/or dialogue efforts?¹⁸ Answering these questions is complicated by the fact that they are posed in multilateral settings. Member states of the sending body, be it the European Union or the United Nations, may have competing interests in and perspectives on a given conflict, but still

Member states may have competing interests in a given conflict, but still need to work towards designing sanctions regimes that reflect a common position.

need to work towards design of sanctions regimes that reflect a common position. Once agreement on a given course of action has been achieved, however, implementation of the sanctions regime will depend on it being effectively and jointly enforced. Finally, once targeted sanctions have been applied, the sender should review whether or not the targeting is contributing to its original policy goals. If not, the sanctions policy should be re-considered.

Type of sanctions

An important parameter for achieving greater sanctions impact is determined by the type of restrictive measures introduced. In the majority of situations in which it has turned to sanctions, the

international community has opted for arms embargoes. These have been frequently accompanied by other sanction measures, usually incorporating some mix of a travel ban and/or limitation of financial assets as well. To cite two examples: arms embargoes in Afghanistan have been implemented, at different moments, alongside targeted financial sanctions, travel bans, and sanctions on aviation, while the arms embargo in Côte d'Ivoire has been in force alongside travel bans, targeted financial sanctions and sanctions on diamonds.¹⁹

Unsurprisingly, each type of restrictive measure brings with it a completely new set of challenges for implementation, including diplomatic procedures, monitoring mechanisms and cooperation between different institutions. The implementation of an assets freeze is obviously very different from that of timber sanctions. However, it seems as though the international community, especially the EU, is moving towards a routine-based practice of targeted sanctions, making the implementation static rather than responsive and dynamic vis-à-vis events on the ground. For instance, rather than responding to targets' day-to-day behaviour, an "obligatory" yearly update of lists is being published. While routine procedures and firm institutionalization of sanctions practice is good and may lead to "speedy" implementation (although not quick enough), procedural rigidity may rebound on the sender since it does not always reflect events on ground.

Moreover, the international community seems increasingly divided, not so much on the type of sanctions it chooses to implement, but on whether sanctions regimes should aspire to have a direct and specific impact on their targets or settle for an impact that is primarily symbolic in nature. However, interviews with officials dealing with

¹⁸ While arms embargoes are typically implemented against all parties of a conflict, targeted travel bans and assets freezes have so far usually been put in place against one actor in the conflict (here the UN targeted sanctions against parties to the conflict in Côte d'Ivoire represents an exception as both the ruling party and the rebel opposition face sanctions).

¹⁹ The "Targeted Sanctions Toolkit" maintained by the Watson Institute for International Studies at Brown University has a useful database of UN resolutions imposing targeted sanctions (www.watsoninstitute.org). See also the Stockholm Process on the Implementation of Targeted Sanctions (SPITS) and the Stockholm Peace Research Institute (SIPRI), *United Nations Arms Embargoes* (2007).

sanctions implementation at the EU and UN suggest that officials have different understandings of targeted sanctions and that some view sanctions as more symbolic while others consider them as a means to achieve more direct impact. While it is probably not necessary to determine whether one kind of impact is more desirable than the other, clarity in the intent of the sanctions implementing bodies would seem a critical element of the strategy of the sanctions being pursued. Ambiguity risks undermining the sanctions as such, usually to the advantage of the target.

Type of target

In order to implement sanctions that achieve target impact, careful attention to the design of a sanctions list is required. For instance, detailed information about the targets' identities, whereabouts, activities, and overall behaviour should be compiled and used in the formation of sanctions lists. Acting as "service" organs to member states, units like the Security Council Subsidiary Sanctions branch at the United Nations could coordinate such focus, and similarly, the Crisis Management and Conflict Prevention Unit at DG Relex (EU Commission) could take on this coordinating role. This is not to say that these bodies should collect intelligence themselves, but that they should coordinate efforts in the design of sanctions lists that are operative, responsive and up-to date, i.e. well-planned and strategic.

One way to make a list more reflective of the political dynamics on the ground is to make use of expertise with direct insight into local dynamics. Here, the sender's representatives - among them member states' local ambassadors, EU and UN envoys - can play a crucial role in helping identify suitable targets. Most of the time sanctions

are implemented to put pressure only on one category of actor at a time, for instance a particular spoiler to a peace agreement, an obstructive government, or an individual with the capacity to fuel a conflict. In some instances, however, family members of the primary target or low-ranking government officials have also been placed on sanctions lists. As ever, the question to be asked is if the listing of a specific target is more or less likely to achieve the original goal. For example, does targeting family members, essentially those guilty "only by association" (such as the children of Charles Taylor of Liberia) make sense? Is it a good strategy to target an organization but not the individual leaders of the organization (as in the case of Hamas)? Is there any point in listing low-level government bureaucrats without direct or indirect responsibility for a conflict (as in Zimbabwe)? Finally, the sender has to be fully aware of the

The international community seems increasingly divided, not on the type of sanctions it chooses, but on whether sanctions regimes should aspire to have a direct impact on their targets or settle for an impact that is primarily symbolic.

fact that targeting a particular individual with an assets freeze or a travel ban represents an infringement of that particular individual's human rights. Unless the target is properly informed, and the reasons for the sanctions are properly motivated, targeting may create a backlash against the sender that directly undermines the goals of the sanctions themselves.²⁰

Sanctions strategy

Targeted sanctions can be used for many different purposes and in the context of a wide variety of

²⁰ An increasing number of legal challenges, disputing listing measures, are brought to various national courts.

broader political strategies. Sanctions are used to pursue behavioural modification, but also for retribution, punishment, signalling and, in some cases, to grant the sender a certain degree of self-satisfaction in “doing something”. Sanctions can be presented as a threat, as part of a sequenced set of political and economic measures, as a

In designing sanctions, senders have shown little interest in engaging targets in a strategy that embraces incentives, as well as negative measures.

means to temporarily halt a process or as a negotiation tool. Experience has shown, however, that their articulation within a coherent and strategic vision for international engagement in a given conflict situation is critical.

In the last fifteen years, “smart” sanctions have been introduced in order to try to achieve behavioural change in violent decision-makers. When designing sanctions, however, senders have shown little interest in engaging targets in a strategy that embraces incentives, or positive sanctions, as well as negative measures. Strategy papers analysing how engagement with a target could be designed are, for example, rarely prepared in advance of the imposition of sanctions.²¹ Notwithstanding this lacuna, several senior officials charged with political responsibilities have acknowledged sanctions as being of direct utility to their efforts. The former UN Special Envoy to Sudan, Jan Eliasson, for example, recalled using targeted sanctions as “drums beating in the background” during his attempt to encourage a peace process in Darfur.²² Similarly, the former Special Representative of the UN Secretary-General in Côte d’Ivoire, Pierre Schori, used targeted sanctions as part of a conscious strategy of coercion.²³

Selecting targets for listing and de-listing requires a high degree of political sophistication as well as flexibility. Accurate and nuanced information represents a vital asset for the establishment of sanctions lists, whether conceived as symbolic “blacklists” or with a view to directly impacting the conflict in question. Travel bans and/or asset freezes may be appropriate for hardliners within a given government or organization, for example, but inappropriate for more moderate figures. While constantly collecting and revisiting information in a dynamic and systematic way is important, knowing how much information is sufficient to proceed will never be easy. Meanwhile, listing and de-listing requires a sensitive touch if the legal safeguards of those to be listed are to be guaranteed. This issue has become increasingly complex as a consequence of the legal challenges to sanctions lists launched in some UN and EU member states.

Finally, when selecting which individual to include on a list, the sender also needs to be able to judge what the effect is likely to be in terms of that individual’s position and influence within the conflict. If the targeting of specific leaders is to take place, these measures have to affect those that are most likely to feel its impact. In March 2007, the UN Security Council imposed sanctions against military leaders in Iran as well as some entities involved in nuclear processing developments, while leaving out members of the government.²⁴ Was this the right way to go? In Zimbabwe, the EU adopted sanctions against family members of officials within the ruling political party. Was this likely to increase the chance of achieving the overall policy goal of the Union? Finally, are local commanders in Myanmar’s army chain of command “good” targets? It would seem hard to argue that they will feel the pain of a ban on their travel to the Euro-

²¹ The EU Commission has set out sanctions guidelines, but these are more general guidelines for sanctions design. More contextual and regime specific strategy papers are needed.

²² Mikael Eriksson, “Sanctions and the political process for Darfur: An interview with Jan Eliasson,” (UN Special Envoy for the Peace Process in Darfur, Sudan), in *Accord* Issue no. 19 “Incentives, Sanctions and Conditionality- an international review of peace initiatives,” (London: Conciliation Resources, 2008).

²³ Mikael Eriksson, “Interview with Pierre Schori, UN Special Representative to Côte D’Ivoire” Posted on the website of the Nordic Africa Institute, www.nai.uu.se (Uppsala: Nordic Africa Institute, 2007).

²⁴ See UNSCR 1747, March 2007. (UNSCR 1747, March 2007).

pean Union. In such complex contexts the utility of a more nuanced strategy should perhaps be considered as a means to engage certain targets in dialogue while isolating others.²⁵

Dynamic rather than static sanctions

There are obvious limits on the capacity of multi-lateral bodies such as the EU Council/Commission and the UN's sanctions committees to operate with the flexibility and dynamism necessary for ongoing interaction with targets of sanction regimes. Yet, a more enhanced, refined and speedy target interactive approach has to be taken in the overall sanctions policy. Currently, the Security Council and its sanctions committees rely on an expert panel and other monitoring mechanism reports but do not follow-up on the recommendations contained within them with any consistency. The EU meanwhile, has no sanctions reporting mechanism at all besides member states and delegation reports that indirectly mention sanctions. Neither organization has an established capacity to conduct thorough evaluations of the sanctions it imposes. This gap in oversight is problematic. In several cases where the EU and the UN have issued sanctions lists, targets remain untouched by the measures directed against them, and the only discernible difference in their behaviour is a heightened defiance of the sender.

A related problem is the extent to which the EU and the UN impose measures that are seemingly pointless from the outset. Why, for instance, are targets encumbered with travel bans and asset freezes in cases in which there is no evidence to suggest that these will have any impact? The UN Sudan sanctions committee, for example, imposed an asset freeze on commanders highly unlikely to take part in economic activities em-

bedded within the international financial system. Not to be outdone, the UN al-Qaeda/Taliban sanctions committee instituted a travel ban against local military commanders unlikely ever to leave Afghanistan.²⁶ Even in cases in which targets are likely to take part in economic activities or travel, the sanctions embody no provisions for the sender to detect evasive tactics, such as the use of fake passports. Similarly, in the absence of reliable means of personal identification, how can the relevant EU actor monitor listed Burmese military commanders' financial dealings with economic operators inside Europe?²⁷

Neither the UN nor the EU has an established capacity to conduct thorough evaluations of the sanctions they impose.

Cases such as these suggest that the political import of being seen to impose sanctions may sometimes outweigh commitment to what the sanctions actually achieve. They also illustrate the limits of a static and inflexible approach to sanctions implementation, rather than one that allows for a responsive engagement with the target over time. These limits are twofold: in the first instance a static approach based on random targeting may risk missing the real source of threat; secondly, the target may, if not feeling the pressure of the sanction, mock the sender, undermining its credibility at both local and international levels.²⁸

Whether multilateral bodies will ever have the capacity to act with the adroitness that management of targeted sanctions may require is debatable (the obstacles to flexible action at the United Nations are particularly evident, as noted above, given the consensual basis on which sanctions committees act). But they could certainly do much better. It is inherent in sanctions that they

²⁵ An interesting, and very sophisticated, use of targeted sanctions (both positive and negative) was made by the EU during the war in the Balkans.

²⁶ These examples echo an earlier case when, during the war in Angola, the UN Security Council included a military commander in UNITA on a travel ban list despite the fact that he had never left his home country.

²⁷ There is no evidence that the EU, despite immense listing efforts, has managed to freeze any Burmese assets at all.

²⁸ One of the targets put on the UN sanctions list in Côte d'Ivoire arranged a small party when he knew he had been targeted.

should be under constant review and adapted to realities on the ground. Conflicts change and so do the international community's objectives within them. But learning is possible, and if the political will to do better is there, implementation can change too.

Resource limitations and lack of political will across different institutional cultures may represent obstacles, but there are clear benefits to be gained from enhanced interaction with such partners.

Coordination

Beyond efforts to coordinate the design and implementation of targeted sanctions within sender organizations, there is much that could be done to improve coordination and the sharing of information with other international actors. These might include regional and sub-regional organizations as well as agencies with specific expertise relevant to sanction regimes (Interpol, the World Customs Organization [WCO] and the International Civil Aviation Organization [ICAO], for example), non-governmental organizations and the private sector. Resource limitations and lack of political will across the different institutional cultures and hierarchies may represent obstacles, but there are clear benefits to be gained from enhanced interaction with such partners.

As noted above, the benefits of coordination have been recommended both by sanctions scholars and in the findings of the Stockholm process.²⁹ Actions have been taken to improve channels of communication between the EU and the UN, and cooperation between Interpol and the Security Council in tracking targets. Absent so far, however, has been the sustained consideration by policy makers and sanctions implementers within

the primary sending organizations, in partnership with colleagues from other regional and multilateral organizations, of the benefits that could be reaped from their coordinated attention.

Meanwhile, both the EU and the UN could make better use of existing forces present in the vicinity of activities or individuals targeted by sanctions. There is perhaps the greatest potential for such an approach in situations in which arms embargoes are in place. When political circumstances allow, mandates could for example be given to peacekeeping troops to oversee implementation and sanctions evasion attempts (travel ban busting; smuggling of conflict commodities such as uncertified Kimberly diamonds and conflict timber, for example).³⁰ In the absence of such provisions, peacekeepers can only stand by and watch. Further care is needed to ensure that part of the mission of international forces is to support the implementation of individual as well as commodity-oriented sanctions.

Side effects and unintended consequences

The shift from comprehensive sanctions to targeted sanctions was directly informed by concerns regarding the massive and unintended humanitarian impacts of the former. The general relief that targeted sanctions avoid such obviously negative side effects does not, however, absolve us from considering their other unintended consequences. There has not yet been any structured evaluation of their negative impacts, but it is fair to assume that restrictions in trade of certain commodities may cause a greater impact than initially considered, with adverse implications for civilian populations. Meanwhile, recent developments have drawn attention to particular concerns targeted sanctions raised in regard to

²⁹ See in particular part II of the Stockholm Process Manual "Coordination between the UN and other regional organisations", Stockholm Process on the Implementation of Targeted Sanctions (SPITS) and the Stockholm Peace Research Institute (SIPRI), *The United Nations Arms Embargoes* (2007).

³⁰ Similar ideas have been supported elsewhere, for instance by Peter Wallensteen, "Save the Arms Embargo," *Policy Brief* no. 14, The Joan B. Krock Institute for Peace Studies (January 2008).

human rights.³¹

In several ongoing court cases listed individuals who claim their innocence have challenged the European Commission and the EU Council. The UN sanctions bodies have also come under increased pressure from listed targets and member state governments facing criticism from domestic constituencies. Targets claim, for example, that the deprivation of personal assets or the right to travel hinder them from reaching crucial medical facilities, meeting with their children and/or representing their countries. Others argue that they have not been judged or 'listed' by a court on the basis of considered evidence, but subjected to an arbitrary political process that reflects the interests of the sender. Valid questions have also been raised regarding the procedures for delisting, which are unclear. In many instances, individual targets do not have a place to turn to lodge an appeal in order to get rid of their financial ban, or to gain access to their frozen assets.

Increased international consideration of these issues – in early 2008 the Advocate-General of the European Court of Justice, in a ruling with significant implication, advised against a regulation of the European Council that froze the funds of an individual, Yassin Abdullah Kadi, in accordance with provisions of the UN Security Council's 1267 Sanctions Committee³² – has prompted some attention to measures that will bring greater transparency and accountability to the listing process. In fact, lately there have been a number of legal cases annulling sanctions decisions taken by the EU.³³ In the meantime, many states remain reluctant to come forward with proposals for names for listing because they are afraid of being dragged into complex and unfavourable legal processes.

The Way Ahead

In this paper, targeted sanctions have been presented as a tool whose utility for conflict prevention has been largely under-realized. The sanctions instrument has seen significant improvement during the last ten years, in part as a consequence of a deliberate move towards the use of targeted sanctions. Yet some elementary features are still neglected when it comes to implementation.

Attention has recently been drawn to human rights concerns that targeted sanctions raised.

The paper has suggested some of the means by which the international community might be able to improve the practice of implementation, as well as the sanctions' overall contribution to the prevention and resolution of conflict. The ideas put forward are for the most part not new, but require further efforts:

- enhanced political and institutional support to bodies responsible for sanctions design, implementation and monitoring;
- attention to coordination within and across organizations; emphasis on the contribution of sanctions to broader questions related to the strategy for international engagement;
- the preparation of strategy papers analyzing the possible contribution of a given set of sanctions before they are imposed;
- measures to improve the flexibility with which sanctions are implemented and follow-up to expert group reports and other monitoring mechanisms pursued;
- greater attention to the questions of due process and delisting, as well as the combina-

³¹ Cameron, "Respecting Human Rights and Fundamental Freedoms," 35.

³² The Advocate-General, Poiares Maduro, had argued that the regulation infringed upon Mr. Kadi's fundamental rights under EU Community law. See also several national sanctions listing cases, such as those referred to in "Freezing assets of terror suspects ruled unlawful by High Court", *The TimesOnline*, 4 April, 2008, and "Terror suspect who won court battle is named as a 'top al-Qaeda agent'", *The TimesOnline*, 26 April, 2008.

³³ On 23 October 2008, the Court of First Instance of the European Communities annulled the European Union Council of Ministers' decision (2007/868) to maintain the People's Mujahideen Organization of Iran (PMOI or MEK) on the EU terrorist list (Judgment of the Court of First Instance in Case T-256/07). On 3 September, 2008, the European Court of Justice annulled the EU freezing of assets imposed on Yassin al Kadi and Al Barakaat International Foundation (Judgment of the Court of Justice in Joined Cases C-402/05 P and C-415/05 P).

tion of positive and negative sanctions more generally.

In the end, targeted sanctions are just as precise as decision-makers and practitioners want them to be. Consequently, that these steps, or some similar to them, have not been implemented before now reflects broader questions of political will and institutional inertia, even a degree of ambiguity within the international community, regarding what senders actually want from the sanctions they impose. Enhancing the implementation of Security Council sanctions – itself the title of an April 2007 symposium organized by the Permanent Mission of Greece to the United Nations at the conclusion of its two year term as chairman of the Security Council’s working group on sanctions³⁴ – has become a goal that all can ascribe to. But for targeted sanctions to play their full role as a tool of operational conflict prevention, more will have to be done to match the aspiration for enhanced implementation with the practical steps that will allow it to be realized.

³⁴ This symposium, which brought together key governmental and expert actors involved in the Interlaken, Bonn-Berlin and Stockholm processes as well as the UN Secretary-General and representatives of the diplomatic community in New York, was held on 30 April 2007. A report on the symposium is available at: www.fourthfreedom.org

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