

Best Practices Guide for chairpersons of sanctions committees

Consultations with former, current and future chairpersons



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Introduction

The briefing paper summarizes existing practices that are the backbone of the Guide.

This presentation summarizes recommendations to some of the 25 thematic sections of the Guide that were originally expressed in:

- Note by the President of the Security Council, S/2017/507
- Compendium of the High Level Review of UN Sanctions
- Assessment of the HLR report



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Introduction 2 – your recommendations

To date, no recommendations exist in regards to:

Committee set up

Committee meetings

Objections to decisions by the committee

Implementation of committee decisions - Draft documents

Preparation of documents

Processing documentation

To complete the Guide we need your recommendations, insights, and suggested language.



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Role/election/handover/training

Election: Early transparent and inclusive informal consultations after SC elections -- Provisional agreement on appointment of chairpersons by 1 October, and outcome of consultations conveyed soonest – Early informational events for aspiring chairpersons of candidate-MS -- Redistributing chairperson positions among all Security Council MS.

Handover: Incoming chairs be provided written or oral briefings – Early consultations with panels -- E10 to observe Council meetings -- Elected MS to include a sanctions coordinator. -- Secretariat to support coordinator network.

Training: Incoming chairperson be briefed by outgoing chair -- Secretariat to develop comprehensive induction programme in consultation with other trainers -- Bilateral interactions between incoming and outgoing chairs and briefings by practitioners -- Preparation to focus on mitigating impacts of conflicts on women/girls/children OR “on the general population, and in particular on women, girls and children”.



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Penholders

1. One or more Council MS initiate and chair the informal drafting process.
2. Any MS of the Security Council may be a penholder.
3. Penholder or co-penholders, as early as possible to exchange information among all MS to consult and discuss the draft.
4. Penholder or co-penholders to provide reasonably sufficient time for consideration by all MS when drafting resolutions, presidential statements and press statements are placed under a silence procedure.
5. Any Council MS with willingness and ideas should be encouraged to take the initiative, including chairs or troop-contributing countries.



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Decisions and voting

1. Committee members avoid decisions that encumber the effectiveness of the committee's work, and the Council to review consensus decision-making.
2. The confidentiality of committee votes should be reconsidered.
3. Other sanction committees could adapt the Al-Qaida / Daesh Committee's practice of 'negative consensus', that is, that a sanctions committee's decision is adopted automatically unless it is rejected by consensus.



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Committee documentation - types of committee documents

1. MS should intensify efforts with publicizing decisions and other relevant information through correspondence, websites, outreach activities and other means, when appropriate.
2. MS intend to review periodically policies concerning access to their documents, as appropriate.



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Joint meetings

1. Council to encourage all chairs to meet regularly to discuss common concerns, best practices and ways to improve mutual cooperation.
2. Chairs of sanctions committees with similar themes should organise regular joint meetings, including in the regions, to promote understanding of similar issues and challenges.



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Outreach - general concerns

1. Provide on a regular basis informal substantive interactive briefings, and advertise them in advance in the Journal of the United Nations.
2. Chair to present committee reports to the Council during a public session.
3. Focus on cooperation, information-sharing and implementation requirements of key stakeholder states.
4. Organise cross-regime thematic discussions with a broad range of actors.



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Outreach - affected states, individuals, companies and entities

1. Seek the views of MS affected by sanctions, and foster dialogue with PoE
2. Formalize expectations in regards to cooperation, information-sharing and implementation by MS affected by sanctions.
3. Ensure effective communication of reasons for decisions (listing, delisting, denying exemptions) to relevant MS, national and regional courts and bodies, and regional organizations.
4. Promote awareness of existing assistance relevant for sanctions.



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Outreach - other stakeholders

1. Promote collaboration and communication between UN sanctions actors and regional organizations
2. Involve civil society to facilitate cross-cutting engagement, raise awareness, promote greater understanding of sanctions.
3. Encourage regional organizations to appoint a sanctions liaison officer.
4. Encourage regional organizations to provide designation-relevant information.
5. Engage civil society and their research and promotional capabilities, to raise awareness and understanding of the objectives of UN sanctions.



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Outreach - missions and visits

1. Chairpersons should to continue to travel periodically to regions applicable to their work.
2. Missions to be planned as early as possible in a transparent, efficient and inclusive manner.
3. Oral and written report at completion of mission.
4. Encourage focused itinerary with varied interlocutors.
5. Council to consider joint missions with the PSC/AU.



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Outreach - missions and visits 2

1. Review:

- National safeguarding provisions for women, girls and children.
- UN field organizations' monitoring and protection of women and children.
- PoE's monitoring of and reporting gender violence, unintended gender consequences of sanctions, and PoE's monitoring criteria

2. Visit with vulnerable women, girls, and children.

3. Investigate failures to protect vulnerable women and girls.

4. Spell out gender violence issues for related TOR for chairpersons' missions

5. Address S/GBV and CRSV issues, OR on “unintended consequences of the sanctions on the population and, in particular, on women, girls and children in conflict-affected regions”.



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Private sector

1. Outreach to private sector to raise awareness about risk factors, data-protection and privacy concerns, over-compliance.
2. Outreach to the private sector to ensure compliance with sanctions, dual use controls, end-use catch-all provisions, and supply chains guidelines.
3. MS enact sanctions-relevant national legislations and regulations specific for manufacturing and transportation sectors
4. Accountability for gender-specific impact of companies operating within or with sanctions-affected regions and populations, OR, alternative language focusing on “unintended consequences of the sanctions on the population and, in particular, on women, girls and children in conflict-affected regions”.



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Standardizing sanctions terms

1. Compile texts and definitions for terms routinely used for sanctions.
2. Sanctions actors should utilise standardised terms to reduce uncertainty
3. Standardize financial sanctions definitions and guidelines of terms
4. Standardize definitions for terms such as “arms and related material”, etc.
5. Standardize and clarify terms such as “exercising vigilance”.
6. Enhance dialogue about cross-cutting, functional clusters of issues
7. Best Practices Guides should include an annex of standardized texts and sanctions terms.



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Sanctions measures and implementation - embargoes and bans

1. Strengthen exchange on sanctions-related issues between MS and nonproliferation export control supplier regimes.
2. Update sanctions commodity lists and publish on the UN website.
3. Clarify catch-all provisions in resolutions.
4. Develop guidance on supply chain risks of specific industries.
5. Expand list of dual-use goods with items just below prohibition thresholds
6. Export control regimes review applicability of emerging technologies
7. Promote the use of Harmonized System Code.



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Sanctions measures and implementation - asset freeze, de-risking and exemptions

1. Develop typologies of illicit financing techniques.
2. Examine FATFT analysis of informal sector financing methods
3. Explore applicability new conflict financing (e.g. kidnapping, extortion, etc)
4. Draft model language to allow flow of funds to aid providers in sanctioned territories.
5. Participate in FATF discussions on risk aversion and de-risking.
6. Review, standardize exemptions to ensure their effectiveness
7. Highlight available exemptions and procedures in clear and precise language
8. Requests for humanitarian exemptions for all sanctions regimes.
9. MS inform international law enforcement agencies about exempt individuals
10. Simplify travel ban exemptions for participants in judicial procedures.



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Sanctions measures and implementation - thematic sanctions

1. Adopt thematic sanctions regimes to address emerging global threats.
2. Make better use of existing mechanisms in countering conflict resources, etc
3. Adopt due diligence-based sanctions against belligerents or organised crime.
4. Coordination between thematic SRSGs and gender/children violence.
5. Protect women and girls with UN-system wide sensitization and training.
6. Report perpetrators on gender/children violence to sanctions committees.
7. Emphasis increases women participation of women in decision-making.
8. Address transnational threats and new technologies
9. Enhance cyber investigative capacities and international cooperation.



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Sanctions and human rights

1. Mandates GoE with reporting of humanitarian impacts of sanctions
2. GoE and humanitarian experts should increase dialogue
3. Standardise evidence-based assessments humanitarian impacts.
4. Conduct periodic assessments of humanitarian impact of sanctions measures.
5. Commission pre-assessments of the humanitarian and socio-economic effects when contemplating imposition of broad sectoral or financial sanctions.



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Sanctions and mediation

1. Improve coordination among SRSGs, mediators and sanctions actors.
2. Exempt individuals for travel to mediation processes
3. Consider NAM initiative to apply Article 41 only after measures under Chapter VI are exhausted.
4. Convene a High-level Review-style informal consultation to explore practical applicability of Chapter VI measures.



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Designations, due process

1. Strengthen information and update identifiers on UN-designees
2. Convey violators' data in confidence to sanctions committee
3. Standardize designations for genocide, crimes against humanity and war crimes.
4. Automatically list persons sought by the ICC under a warrant for their arrest.
5. Maximize identifiers and make sanctions requirements more user-friendly.
6. Expand designation criteria to better address existing and emerging threats.
7. Improve fairness, transparency, human rights and due process
8. Consult with GoE about Focal Point's petitions, and provide reasons for denials.
9. Periodic reviews of designations and ensure designees are aware of exemptions and petitions for the removal of sanctions.
10. Provide reasons for listing, delisting, granting or denying exemptions
11. Ensure reasons for listing are current and appropriate.
12. Consider impact of sanctions on livelihoods with due diligence measures



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Expert groups

1. Improve fairness, transparency, human rights and due process.
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3. Periodic reviews of designations and ensure designees are aware of exemptions and petitions for the removal of sanctions.
4. Provide reasons for listing, delisting, granting or denying exemptions.
5. Ensure reasons for listing are current and appropriate.
6. Consider impact of sanctions on livelihoods with due diligence measures.
7. Ensure secretariat gender-balances appointments of experts groups.



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Expert groups

Appointments, interlocutors, collaboration, evaluation

1. Base appointments on expertise and merit.
2. Conditions of service should reflect experts' high-level functions.
3. Terms and conditions should be reflective of experts' important, specialised role.
4. Provide administrative and substantive support and adhere duty of care.
5. Get briefings from secretariat about protection provisions for experts.
6. Allow GoE access to UN system reporting, including code cables, DSS feed.
7. Standardize procedures for engaging MS in preparation of GoE reports.
8. Create "action plan" to better manage focus and key stakeholder states.
9. Improve performance assessment system for expert groups.



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Ombudsperson / Secretariat

1. Align term of appointment with the period of the mandate renewal.
2. Expand mandate of Ombudsperson to non-counter-terrorism sanctions regimes.
3. Extend of Ombudsperson to other sanctions regimes.
4. Protect independence and mandate renewal of Ombudsperson.
5. Administrative, contract and other support arrangements for the Ombudsperson should be reflective of distinct role.



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Integrating sanctions with other UN instruments

1. Review UN sanctions to enhance implementation or justify termination sanctions.
2. Include substantive section on UN sanctions issues in SG reports.
3. SG reports should address strategies with sanctions and other instruments as part of a broader partnership between the state in crisis and assisting UN actors.



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Capacity enhancements and assistance

1. Priorities include: development of a self-assessment tool, enhancing knowledge of available technologies, services and support, mobilizing private sector's services and technologies; exploration of potential funding sources.
2. SG assessments of required assistance enabling sanctions implementation.
3. Include in mandates of SRSGs requirement to assist with sanctions.
4. Tailor implementation assistance for financial and/or export controls.
5. Develop specific capacity assistance for natural resources sanctions.



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