

Best Practices Guide for chairpersons of sanctions committees

Consultations with former, current and future
elected member states of sanctions committee (E10)



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Introduction, structure, purpose

The briefing paper summarizes existing practices as 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, structure, purpose - 2

To date, no recommendations exist on the following themes:

Committee set up

Committee meetings

Objections to decisions by the committee

Implementation of committee decisions - Draft documents

Preparation of documents

Processing documentation

Secretariat

Additional recommendations, suggestions, and comments are welcome



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Election and handover

- Newly elected MS be invited to observe meetings of the Council and committees beginning 1 October after election (with exception).
- Secretariat to assist the newly elected members, including by providing briefing materials and induction seminars.
- Encourage early consultations between PoE, and incoming MS/Chairs.
- Incoming MS should include a sanctions specialist as sanctions coordinator to participate in the coordinator network



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Penholders

For consideration:

1. One or more MS serve as penholders to initiate and chair drafting process.
2. Any member of the Security Council may be a penholder.
3. Penholder or co-penholders exchange information among all MS , as early as possible to consult and discuss the draft.
4. Penholder or co-penholders to provide reasonably sufficient time for consideration by all MS when draft resolutions, presidential statements and press statements are placed under a silence procedure.
5. Allow any other MS, especially those contributing troops, to participate in drafting process.



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Induction and training

1. In addition to the secretariat's induction, bilateral briefings from outgoing delegations and independent practitioners;
2. These important sources of information do not replace briefings by practitioners who can speak freely, without institutional or national prerogative constraints.

Note: Recommendations for training in the form of a manual for incoming chairs and EIO – now implemented

3. Focus training on unintended positive and negative impacts on women, girls and children in conflict-affected regions.
4. Alternative approach to focus on unintended positive and negative impacts on the population and, in particular, on women, girls and children in conflict-affected regions.



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Decisions and voting

1. Committee members should avoid decisions that encumber the effectiveness of the committee's work, Council should review consensus decision-making practice.
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

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. Focus on cooperation, information-sharing and implementation requirements of key stakeholder states.
3. Present committee reports to the Council during a public session.
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 between them and the PoE.
2. Formalize expectations in regards to cooperation, information-sharing and implementation by MS affected by sanctions.
3. Engage on technical and procedural issues with key MS.
4. Ensure effective communication of reasons for decisions (listing, delisting, denying exemptions) to relevant MS, national and regional courts and bodies, and regional organizations.
5. 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 share designation-relevant information.
5. Emphasize overall outcomes and efficiency of sanctions, rather than technical compliance.
6. 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. Designate one MS to coordinate missions and visits, and draft TOR for the mission.
2. Ensure logistics support from secretariat for missions.
3. Consider joint missions with AU Peace and Security Council.
4. Meet not only with governmental interlocutors and conflict parties, but also with local civil society, non-governmental organizations and other interested parties.
5. Provide oral and written report at completion of mission.



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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 utilize standardised terms to reduce uncertainty and overcompliance.
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, in particular prohibited end-use.
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 validity of FATFT analysis of informal sector financing for UN sanctions.
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. Synergize sanctions mechanisms to counter financing of targeted entities and conflicts.
3. Adopt due diligence-based sanctions against belligerents or organised crime.
4. Coordinate thematic SRSGs and gender/children protection advisors.
5. Protect women and girls with UN-system wide sensitization and training.
6. Report perpetrators on gender/children violence to sanctions committees.
7. Increase participation of women in sanctions 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. Mandate GoE with reporting of humanitarian impacts of sanctions.
2. GoE and humanitarian experts should increase, dialogue including on impact preassessments.
3. Standardise evidence-based assessments humanitarian impacts, and allow standing exemptions.
4. Assess periodically 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.
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1. 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 quality of identifiers on UN-designees.
2. Convey violators' data in confidence to sanctions committee and share them with MS.
3. Standardize designations for genocide, crimes against humanity and war crimes.
4. Automatically list persons under an ICC warrant for arrest.
5. Expand designation criteria to target human rights violations.
6. Improve fairness, transparency, human rights and due process.
7. Consult with GoE about Focal Point's petitions, and provide reasons for denials.
8. Review periodically designations and raise awareness about exemptions and petitions for the removal of sanctions.
9. Provide reasons for listing, delisting, granting or denying exemptions.
10. Ensure reasons for listing are current remain pertinent and appropriate.
11. Consider impact of sanctions on livelihoods when adopting due diligence measures.



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Expert groups

1. Improve fairness, transparency, human rights and due process.
2. Consult with GoE about Focal Point's petitions, and provide reasons for denials.
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

Interlocutors, Collaboration, Evaluation

1. Appoint expertise based on expertise and merit.
2. Improve recruitment and conditions of service.
3. Terms and conditions should be reflective of experts' role.
4. Ensure safe and effective conditions even in high-risk environments.
5. Require briefings from secretariat about protection measures for PoE.
6. Allow PoE access to UN system reporting, including code cables, DSS feed.
7. Standardize consultation with MS when preparing PoE reports.
8. Create "action plan" to interact with sanctions-affected states.
9. Improve performance assessment system for PoE.
10. Review secretariat's gender-balanced recruitment and experts' gender-relevant monitoring competence.



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Ombudsperson/Secretariat

1. Align term of appointment with mandate renewals.
2. Expand mandate of Ombudsperson to non-counter-terrorism sanctions regimes.
3. Protect independence and decisions of Ombudsperson and SG's prerogative to appoint and renew.
4. Administrative, contract and other support arrangements for the Ombudsperson should be reflective of distinct role.
5. Refer petition through focal Point and PoE for comments.



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Integrating sanctions with other UN instruments

1. Review UN sanctions to enhance implementation or justify termination of sanctions.
2. Require SG reporting to include substantive section on UN sanctions issues.
3. Require SG to address strategies with implementation of sanctions and other instruments as demonstration of UN and state-in-crisis partnership.



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Capacity enhancements and assistance

1. Prioritize with 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 sanctions implementation assistance of an MS.
3. Include in mandates of SRSGs requirement to assist in sanctions implementation.
4. Tailor implementation assistance for financial and/or export controls.
5. Develop specific capacity assistance for natural resources sanctions.



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