



## Best Practicers Guide

Outreach Event on 26 October 2018 during International Law Week

The following statements were made after welcome and initial remarks by

- **H.E. Mr. Olof Skoog**, Permanent Representative of Sweden to the United Nations
- **H.E. Mr. Karel J.G. van Oosterom**, Permanent Representative of the Netherlands to the United Nations - experiences and challenges as chair of a sanctions committee
- **Ms. Loraine Rickard Martin**, CCSI - Presentation of the project on Sanctions Best Practices Guides
- **H.E. Mr. Paul Rietjens**, Legal Adviser and Director-General of Legal Affairs, Federal Public Service for Foreign Affairs, Foreign Trade and Development Cooperation of Belgium – on importance of due process for effective implementation of sanctions

**One Participant** expressed the view that the best practices guide books (for committee chairpersons and expert groups) were very much needed. While as chairperson of three sanctions committees, she had had the impression that she knew the countries, the issues she faced were related to the sanctions system. Poland was not a co-sponsor of the project, but it wished to contribute positively and creatively. She observed that an important question related to the role of the chairperson in promoting consensus decision-making. It was important for incoming chairs to understand practice and procedures, including where technicalities existed, in order to act creatively, without overstepping mandates. She was ready to share her experiences as a committee chair, including success stories. She encouraged the involvement of the representatives of affected and concerned states, both in the interest of transparency and as a positive and creative approach to the activities of her committees.

**Another Participant** noted that the project exercise described would, in his view, be useful not only for current and future Council members, but for all UN member states. Sanctions was a useful tool that would be sharpened by the collaborative measures outlined in the project. While all four specific themes mentioned sounded interesting, the issue of due process was key for his delegation. He wished to know more about the gender perspective that would be applied to the exercise.

**Another Participant** stated that, as an elected member of the Security Council, his delegation had placed a priority on improving the working methods of the Council, including the development of two guides which were planned for the latter part of the year. Emphasis should be placed, he noted, on finding ways to enhance collaboration on implementing S/2017/507 (Note by the President of the Security) including its provisions regarding sanctions. In this regard, his delegation strongly advocated for expanding the mandate of the Ombudsperson to all sanctions committees.

He added that his delegation's chairing of a committee had been a learning curve in which it had often benefited from informal interactions with concerned states in discussing ways to enhance collaboration. It would contribute added value regarding these consultations in due course. His delegation was very much in support of the proposed guides and looked forward to making a contribution in the near future.

**Another Participant** stated that as chair of a committee his delegation had faced a situation in which UN bodies had leased premises in the in the sanctioned state from a company that was under sanctions. The question arose as to how to pay the company. The lesson was that sanctions decisions often had unpredictable and practical effects on the ground. His delegation was encouraged that UN bodies would be invited to participate in the exercise, including UN peacekeeping missions, that know the practical issues that must be grappled with on a daily basis. He proposed the inclusion of specific case studies on which lessons could be drawn so that legal challenges arising from contradictions, as well as mistakes, could be foreseen and properly addressed in a timely manner.

Responding to participants' remarks, **Enrico Carisch from CCSI** observed that the past two or three years had witnessed improvements, among the elected members of the Council, and as exemplified by the efforts of Kuwait, statements by India, and the Non Aligned Movement, in terms of more open meetings and a fresh approach to the topic

of sanctions methodologies. The moment seemed to present a unique opportunity to make practical advances in the sanctions system with such a guide, and there appeared to be much interest in the initiative.

On the topic of gender perspective, it was one of the more important aspects of the work of CCSI partners in the past 10 to 15 years in the UN system, and at least three aspects needed consideration:

Victim communities, which typically consist of at least 50 per cent women, were often neglected because of the inability of UN expert groups to communicate with women in conflict regions, either because of language deficiencies or because most UN experts were men and are thus unable, because of social and other constraints, to interact easily with women in many countries. The UN sanctions system needed to adjust, for example, by including more competent females in expert groups who were able to communicate with women.

A second gender-specific challenge related to the consequences for women and girls in the family unit when a family member, usually male, was sanctioned. Often when funds were short, women and girls received less. This was an unintended consequence that might need to be addressed, yet no UN expert group has ever been asked to look into the issue.

Third, was the question of whether there were specific measures in sanctions resolutions that from a women's perspective might lead to new approaches in terms of the protective and preventive functions of sanctions. Speaking to women in victim communities would help to provide a better understanding of the issues. The Netherlands had contributed to such an add-on project and, he suggested, other states may wish to support a specialized discussion on the topic.

More generally, he added, in terms of unintended consequences and due diligence, one of the add-on projects concerned due process, specifically, as put forward in the Assessment report supported by Australia last year, that consideration be given to incorporating due process throughout the entire sanctions implementation chain, and not merely at the tail end. One could also consider empowering the Ombudsperson to be able to intervene anywhere in the sanctions system where the due process rights of an accused person were not being respected.

Some aspects to be considered, he noted, included indicators that trigger an expert group to look into a suspect as a sanctions violator, and how investigations should be conducted, while allowing the suspect an opportunity to respond in a meaningful way. There was a misconception that suspects were “bad people” with whom there could be no interaction. In fact, he noted, there were opportunities to interact in the field with many suspects targeted by sanctions, but there needed to be an understanding of the specific circumstances and the type of support needed by experts in order to do so. Enabling more rigorous work both in the field and by the committees in holding the experts to account in terms of evidentiary standards, could prevent some of the failures mentioned by Ukraine.

**The host** mentioned that the Netherlands delegation had hosted an Arria formula meeting at the beginning of the week, specifically on the sexual exploitation of women in conflict. One of the conclusions was that member states needed to do more in terms of putting forward women candidates to the panels of experts. Whereas the meeting’s specific discussion had focused on sexual exploitation, there was also a case to be made for gender parity in panels of experts, on which the record was not very positive, and which remained a challenge.

Emphasizing that today’s meeting was the beginning of a process, he noted that the consultation mechanism would begin with a session hosted by Belgium on 16 November 2018. He requested their continued input to ensure that the guide books were up to date and user-friendly, in order to assist with all aspects of sanctions implementation, from due process to the more day to day challenges faced by any chair of a sanctions committee.