



**United Nations Interagency Working Group
on Sanctions**

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Acronym List

AU: African Union
CTITF: United Nations Counter-Terrorism Implementation Task Force
DDR: Disarmament Demobilization and Reintegration
DPA: Department of Political Affairs
DPET: Division for Policy, Evaluation and Training
DPI: Department for Public Information
DPKO: Department of Peace Keeping Operations
EU: European Union
FATF: Financial Action Task Force
IAWG: Interagency Working Group
ICAO: International Civil Aviation Organization
ICC: International Criminal Court
IEMU: Integrated Embargo Monitoring Unit
IHL: International Humanitarian Law
IHL: International Human Rights Law
IMO: International Maritime Organization
IMF: International Monetary Fund
INTERPOL: International Criminal Police Organization
ISACS: International Small Arms Control Standards
MINUSCA: United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic
MONUSCO: United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MRM: Monitoring and Response Mechanisms
OCHA: Office for the Coordination of Humanitarian Affairs
ODA: Office for Disarmament Affairs
OHCHR: Office of the High Commissioner for Human Rights
OLA: Office of Legal Affairs
OSAPG: Office of the Special Adviser on the Prevention of Genocide
OSRSG-CAAC: United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict
UNFICYP: United Nations Peacekeeping Force in Cyprus
OSASG-Cyprus: Office of the Special Advisor of the Secretary-General on Cyprus
OSRSG-SVC: Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict
PKO: Peacekeeping Operation
MEWAD: Middle East and West Asia Division of the Department of Political Affairs
SALW: Small Arms and Light weapons
SCAD: Security Council Affairs Division
SPM: Special Political Mission
SRSG: Special Representative to the Secretary-General
UNCCT: UN Counter-Terrorism Centre
UNAMA: United Nations Assistance Mission in Afghanistan
UNDP: United Nations Development Program
UNEP: United Nations Environment Programme
UNHCR: United Nations High Commissioner for Refugees
UNICEF: United Nations International children's Emergency Fund

UNIFIL: United Nations Interim Force in Lebanon
UNIOGBIS: United Nations Integrated Peace-Building Office in Guinea-Bissau
UNMIK: United Nations Interim Administration Mission in Kosovo
UNOAU: United Nations Office to the African Union
UNOCI: United Nations Operation in Côte d'Ivoire
UNODC: United Nations Office on Drugs and Crime
UNOG: United Nations Office at Geneva
UNMIL: United Nations Mission in Liberia
UNRCCA: UN Regional Centre for Preventive Diplomacy for Central Asia
UNSMIL: United Nations Support Mission in Libya
UNSCOL: Office of the United Nations Special Coordinator for Lebanon
UNSOM: United Nations Assistance Mission in Somalia
UNTSO: United Nations Truce Supervision Organization
WB: World Bank
WCO: World Customs Organization
WFP: World Food Programme

Background

On 28 May, 2014 Australia, Sweden, Greece and Finland¹ launched a six month, High Level Review (HLR) of UN Sanctions. The aim of the review is to assess Security Council sanctions and to develop forward-looking recommendations to enhance the effectiveness of targeted UN sanctions. The HLR is composed of three working groups, covering: 1) UN integration and coordination on the implementation of UN sanctions, 2) UN sanctions and external institutions and instruments, and 3) UN sanctions, regional organizations, and emerging challenges.

In parallel to the Member State-led review process, the Department of Political Affairs (DPA) initiated an interagency working group (IAWG) to consolidate UN system inputs into the HLR. Twenty UN entities nominated focal points to serve on the working group.² During the first meeting, it was established that the members would cover and report to their respective offices on the content of the Review, identify key issues (from a UN system perspective) to bring to the attention of those leading the HLR, and would as a much needed forum for an in-house discussion on common goals and concerns relating to UN Sanctions³. Between June and September 2014, the IAWG met three times to develop a list of relevant questions based on the core themes of the HLR.⁴ The IAWG distributed the questions to UN Headquarters and Field Missions and compiled and summarized the inputs.

This report reflects the consolidated contributions of those UN entities to the HLR.⁵ Specifically, the document addresses issues such as UN sanctions infrastructure, cooperation between the Security Council, sanctions committees, monitoring groups, teams and panels⁶ and the UN Secretariat, cooperation between sanctions actors and UN staff in the field, arms embargoes, assets freezes, the effectiveness and the unintended impact of sanctions tools, the interaction of the International Criminal Court (ICC) with sanctions instruments and actors; UN sanctions actors' interactions with UN humanitarian and human rights entities, UN sanctions and regional organizations and emerging issues faced by UN sanctions actors.

¹ In collaboration with Compliance and Capacity International and the Watson Institute of Brown University.

² DPA, OLA, OCHA, WFP, UNHCR, UNICEF, ODA, OSRSG-SVC, OSRSG-CAAC, OHCHR, DPI, DSS, DPKO, UN Women, UNOG, UNODC, UNDP, UNEP, EOSG – Rule of Law, and OSAPG.

³ This written submission is primarily focused on the sanctions measures adopted by the Security Council. "UN sanctions" and "Security Council sanctions" are used synonymously.

⁴ The specific questions, developed through consultations of the United Nations Interagency Working Group on Sanctions, can be found in the annex.

⁵ The following UN entities submitted contributions: DPA (SCAD, MEWAD, Africa I & II, CTITF), OLA, UNIOGBIS, OCHA, WFP, UNHCR, UNICEF, OHCHR, UN Women, DPI, UNDP, UNEP, UNOCI, UNAMA, MONUSCO, ODA, OSRSG-SVC, UNAMI, UNOAU, OSRSG-CAAC, OSASG-Cyprus, DPKO, UNSCOL, and OSAPG. The remaining entities expressed their support for the initiative, while suggesting that sanctions did not immediately impact their work: UNRCCA, UNIFIL, UNTSO, and UNMIK.

⁶ Henceforth collectively referred to as "sanctions actors."

Recommendations

For the UN system

- The UN Secretariat should develop a clear and coherent system-wide policy on its interaction with UN Security Council sanctions. That should be accompanied with relevant operational guidance detailing how different UN entities may (or may not) interact with the sanctions machinery. In particular, guidance on information sharing between sanctions actors and the UN system should be developed.
- To assist in that process, the UN Interagency Working Group (IAWG) on Sanctions, established for the purpose of preparing UN inputs for the High Level Review of Sanctions, should be maintained as a forum to strengthen UN interaction with and support for UN sanctions regimes.
- Humanitarian and human rights organizations could more systematically assist the Department of Political Affairs (DPA) with impact assessments of UN sanction regimes. Where possible, entities should undertake an assessment and inform Council members of the extent to which proposed measures may impact critical humanitarian and human rights initiatives. Targeted measures, in particular assets freezes, should be periodically reviewed to consider their impact on humanitarian activities and on human rights.
- DPA should enhance the UN system's understanding of sanctions issues through regularized briefings, trainings, sharing of expertise, or collaborating with missions in the field. DPA should also raise awareness amongst national governments and provide policy guidance for UN field missions and UN agencies with field presences regarding the objectives, nature and scope of UN sanctions.
- A comprehensive induction programme should be developed for in-coming Chairs of sanctions regimes focusing on the management and procedural dimensions of sanctions committees and the roles of Vice Chairs. The Secretariat should provide a more in-depth orientation on specific sanctions regimes and the working methods of the sanctions committees for in-coming, working-level delegates who support the Chairs and who sit on specific sanctions committees. That orientation should also be provided, where possible, to new delegates from any member of the Council as and when they arrive at UN Headquarters.
- In addition to the handover notes between chairs, a short vignette-based, how-to (or "dos and don'ts") guide on chairing a subsidiary body should also be commissioned as a reference for in-coming members of the Security Council. That how-to guide should draw heavily on the experiences of Council members and former chairs of sanctions regimes.
- DPA should also strengthen its roster of experts on sanctions, including by developing a comprehensive outreach strategy to obtain the best experts to work for Security Council expert panels.
- DPA should establish Secretariat-level partnerships with key organizations that also work on sanctions issues, such as ICAO, WCO, IMO, WB, IMF, INTERPOL and FATF. The aim of those partnerships would be to adopt a consistent approach to dealing with

implementation issues across sanctions regimes and monitoring teams, groups, and panels (hereafter “expert panels”), as appropriate. Those partnerships should also focus on exchanging information and lessons learned on challenges to sanctions implementation as well as facilitating technical assistance to Member States, where appropriate.

- DPA, together with DPKO, should consider a study on sanctions monitoring performed by peacekeeping missions, such as the Integrated Embargo Monitoring Unit (IEMU) in UNOCI, as well as sanctions monitoring undertaken by other peacekeeping missions. Such a study should develop best practices for sanctions monitoring by peacekeeping missions.
- Many of the recommendations in this report will require additional resources. DPA, as the sanctions focal point in the Secretariat, should approach Member States to request additional resources, including through the creation of a UN sanctions trust fund.

For the Security Council

- The Security Council may wish to consider a regular triennial review of all UN sanctions with the aim of enhancing its effective implementation. Such a review could be undertaken on the basis of a report by the Secretary-General which would provide information on key sanctions trends, assess implementation issues, analyse linkages between Security Council sanctions regimes with other Council-mandated activities, and consider the impact of sanctions measures on human rights, due process and humanitarian work.
- The Council may also request the Secretary-General, where applicable and feasible, to include a substantive section on UN sanctions issues in his reports to the Security Council.
- The Council may wish to call on the Secretary-General to strengthen DPA's analytical support to Member States and expert panels on sanctions issues. A capacity similar to the best practices, guidance and policy planning units which exist in the Division of Policy, Evaluation and Training (DPET) in DPKO or the Policy and Mediation Division (PMD) in DPA should be established within DPA's Security Council Affairs Division (SCAD). That capacity would serve to capture best practices, draw substantive connections between existing sanctions regimes and expert panel reports, identify and mobilize UN system expertise, and maintain and develop new guidance on sanctions implementation issues.
- The Security Council may wish to request the Secretary-General, through DPA and in consultation with OLA and other relevant actors, to provide expert panels with: (a) additional guidelines and induction training to ensure that experts' inquiries and findings meet appropriately high evidentiary standards and due process; and (b) specific induction training dedicated to sanctions-specific investigation methodology and approaches. DPA should also establish systematic working methods for expert panels to mutually consult and share information, where appropriate.
- The Security Council may wish to increase the use of assessment missions in order to take stock of the effectiveness and humanitarian impact of UN sanctions regimes.

Ideally, a sanctions assessment component should be included in mission start-up planning and the field assessment, if a sanctions regime is being contemplated alongside other relevant mandated activities. Periodic assessments should also be undertaken to evaluate the continued relevance of sanctions measures, as well as to ascertain if conditions may have been met for the termination of sanctions. The recent Secretary-General's assessments, requested by the Security Council, on the partial lifting of the arms embargo on Somalia and the termination of sanctions in Liberia are good examples to build upon.

- To ensure preparedness for emerging threats, and to promote connections across sanctions regimes that have similarities (such as on counter-terrorism issues, non-proliferation, protection issues across sanctions regimes in Africa), the Council may wish to consider adding some crosscutting thematic sanctions regimes to complement country-based regimes (such as DRC, CAR, Yemen, Somalia/ Eritrea, etc.).
- The Security Council should consider expanding the designation criteria to address emerging threats, as well as include specific human rights violations not explicitly covered under existing regimes such as the use of children for extremist agendas, the role of mid-level commanders in facilitating human rights violations, gross violations of women's rights committed by extremist groups, sexual violence, other forms of gender-based crimes and targeted attacks against women, and failure to comply with the responsibility to protect.
- The Council may wish to consider adopting standing humanitarian exemptions, as in the case of the 751/1907 sanctions committee, as well as exemptions for humanitarian actors and their implementing partners (as stipulated in the case of UNSC resolution 1916 (2010)) across all relevant sanctions regimes.
- The Security Council and its relevant committees should assess the effectiveness and limitations of the current communications tools (open briefings, press releases, notes verbale, etc.) used by sanctions committees at Headquarters and at the regional and national levels. Concrete recommendations for strengthening awareness-raising at those three levels should be developed and implemented.
- Future UN sanctions regimes should have a standardized "listing/de-listing framework". Such a framework should include clear designation criteria and the requirement to provide detailed statements of case. In addition, narrative summaries should be publicly available, reference should be made to bio-metric information (to reduce false positives); and a clear reference should be made to the relevant de-listing mechanism.
- The Council should continue to improve the transparency and fairness of the sanctions procedures to ensure greater conformity with human rights and due process standards including by meeting the elements put forward by the Secretary-General in 2006.
- The Security Council may wish to consider strengthening the De-listing Focal Point mechanism to alleviate some due process concerns and to improve the efficiency and effectiveness of the mechanism.
- Given that expert panels have been in use for a considerable amount of time, the overall concept and practice of expert panels (including the Office of the Ombudsperson) should

be subject to a comprehensive review with the aim of enhancing that important tool of the Security Council and the sanctions committees. The Security Council may wish to request the Secretary-General to undertake such a review. Linked to that, the current practice of requesting expert panels to be the primary vehicles for the provision of national assistance should be re-evaluated. Instead, the Secretariat should provide such assistance.

For Sanctions Committees

- Chairs of sanctions regimes with similar themes (non-proliferation, counter-terrorism) or geographical scope (West Africa, Horn of Africa) should organize more frequent joint meetings (including in the regions) to promote understanding of similar issues and challenges. Targeted meetings with New York-based regional groups on challenges to sanctions implementation and possible assistance should also be organized by the Secretariat.
- The relevant sanctions committees should consider granting DPA permission to share expert panels' reports with relevant UN departments and field missions prior to the publication of those reports.
- The current practice, in some committees, of inviting senior UN field and Headquarters officials to brief on relevant issues should be systematized across the board, as appropriate.
- Chairs of sanctions committees should endeavour to travel to the countries or regions related to their work (S/1999/92).

For Expert Panels

- Humanitarian entities expressed their preference for expert panels to request information from them at the Headquarters level instead of in the field. As the focal point for UN sanctions, DPA should serve as the conduit or Headquarters focal point through which sensitive information is shared with expert panels.
- Expert panels should ensure confidentiality of information relating to victims and witnesses as well as preserve records of any obligation of confidentiality owed to third parties and the terms thereof in the filing and archiving of their records.

For Member States

- Member States should be encouraged to provide the Secretariat with as many competent and suitable candidates as possible for service on expert panels.
- Member States should ensure that implementation of sanctions at the national level is done in a manner consistent with their international human rights obligations.

Strategic Context for UN System Support to Security Council Sanctions

United Nations Security Council sanctions are an important Charter-based tool for the maintenance of international peace and security. While not specifically mentioned in Article 41 of the UN Charter, the UN system has provided critical support to the Security Council on sanctions issues. Today, there are more sanctions regimes than in the history of the Organization. There are currently 15 sanctions committees, of which 8 are focused on the African continent. There are 11 expert panels with a total of 66 experts that support the work of the sanctions committees, all at an average cost of \$22 million a year.

In the last decade, sanctions regimes have evolved to address specific human rights violations, including those related to the targeting of civilians, hate speech, and sexual violence in conflict. In addition, commodity bans (such as those on diamonds, timber, charcoal, oil and luxury goods) have become features of sanctions regimes. As UN sanctions have evolved, so too have techniques of evasion. Armed and other designated entities are finding new sources of income, channelled through even more covert means. Such emerging threats require better implementation of existing measures as well as the development of new sanctions measures. The threats also require the full cooperation of all Member States, regional and international partners, the private sector and the United Nations system.

In 2006, the Secretary-General proposed four elements to ensure that the application of targeted measures complied with fundamental human rights.⁷ In the same vein, the Security Council established the Focal Point for De-listing as well as the Office of the Ombudsperson (for the Al Qaida Sanctions Committee). Over one-thousand individuals and entities are currently listed by the Security Council. Thus far 51 individuals and 44 entities have been delisted by the committees through either the Focal Point for De-listing mechanism or the Ombudsperson. Further strengthening of due process in connection with the listing and de-listing of individuals and entities and with a view to observing international human rights standards remains an on-going concern for many.

Sanctions committees and experts are assisted and supported by DPA's SCAD. From August 2013 to July 2014, DPA provided support to over 85 meetings of sanctions committees and provided substantive advice on the drafting of some 45 reports to the Security Council and its sanctions committees. In 2013, DPA arranged and dispatched experts on 522 trips, and to ensure that the committees had the highest quality candidates to serve on those expert panels, DPA conducted 151 interviews (approximately 600 work hours) to fill 49 positions between January and July 2014. OLA, OHCHR, DSS, and the Ethics Office, among other UN entities, also provide ad hoc support and advice to the expert panels.

⁷ In the High Level Declaration on the Rule of Law adopted in September 2012, the UN General Assembly also further “encourage(d) the Security Council to continue to ensure that sanctions are carefully targeted, in support of clear objectives and designed carefully so as to minimize possible adverse consequences, and that fair and clear procedures are maintained and further developed.” There have been challenges to the UN targeted sanctions regime and implementing measures in regional and national courts, by political bodies at regional and national levels, by international human rights treaty bodies and special procedures of the Human Rights Council, and in other fora.

Moving beyond Headquarters' support, UN field missions are also mandated to monitor certain aspects of sanctions regimes, to cooperate with sanctions committees and expert panels as well as to provide assistance to national governments. UNMIL regularly conducts inspections of arms and ammunition for the Liberia security agencies. UNOCI provides an innovative example of a dedicated Integrated Embargo Monitoring Cell. MONUSCO has been called upon to use its advanced surveillance technology to monitor the arms embargo on the DRC. Special political missions, such as UNSOM, UNSMIL, UNAMA as well as some UN mediators, conducted their work in the same space where sanctions regimes have been adopted. On Somalia, for example, the Council specifically requested the Secretary-General and his Special Representative, to raise awareness amongst relevant Member States on the requirements to abide by the charcoal ban.

Today cooperation on sanctions issues brings the UN together with not only Member States and regional organizations but also with other international organizations and the private financial sector. INTERPOL, for example, now has agreements with ten of the 15 sanctions committees and there are 525 INTERPOL-UN Security Council special notices issued to facilitate the implementation of travel bans and assets freezes.

The rapid expansion of UN sanctions over the last decade is taking place at a time of expansion on many other peace and security fronts. Thus the demand for UN prevention efforts and mediation support is higher than ever as the Council increases its use of special political missions. Peacekeeping has also seen a decade of continuous expansion and UN partnerships with regional organizations are on the rise.

Therefore, while the UN system continues to enhance its support to UN sanctions, it is important to remember that while sanctions are not the only tool in the Security Council's toolbox, they remain an important one. While it may not always be appropriate to use that tool, when it is used, it needs to work well. Thus UN sanctions should be well-conceived, with clear objectives, including for their eventual termination. UN sanctions must also work coherently with other peace and security instruments of the Charter and be in line with the human rights standards. The UN system has its part to play in supporting the effective implementation of UN Security Council sanctions. The rest of this document is focused on the best ways for the UN community to do so.

Key Findings: Part One

UN System Policy and Guidance on Sanctions Issues

The interagency working group consultation process demonstrated that an internal UN system policy discussion on sanctions is long overdue. Currently, there is a general lack of awareness around sanctions issues, which is contributing to inefficiencies in implementation and varying degrees of support for UN sanctions regimes within the UN system. On the whole, the opportunity for UN entities to discuss sanctions issues through the **Interagency Working Group on Sanctions** was appreciated and members called for the working group to continue to function beyond the High Level Review.

Based on the above assessment, UN entities concluded that there is a **need for clear and coherent UN policy guidance on the interaction and support between UN entities and Security Council sanctions**. Such clarity could promote broader understanding and cooperation on UN sanctions and could improve the effectiveness of the tool while minimizing unintended consequences arising from its use.

That policy discussion should focus on a few key issues including the need for **operational guidance and standardised procedures for information sharing on sanctions issues and collaboration with the different actors in the sanctions architecture**. Another issue for discussion is the **need to promote greater awareness among and dialogue with senior management both at Headquarters and in the field regarding the nature and scope of UN sanctions** and the way in which sanctions interact with the work of the various UN entities. In addition there is continuing concern about the performance of expert panels, specifically with regard to evidentiary standards, due process, and independent review of listings and de-listings.

The policy discussion on sanctions should also take into account the fact that UN entities hold different views on UN sanctions. For example, there are legitimate concerns as to whether cooperation between humanitarian actors and UN sanctions regimes should be formalized, and if so, whether that should take place only at the Headquarters level, in the field, or both.

Promoting Cooperation in Headquarters and the Field on Sanctions

Four common themes emerged from the system-wide consultation. First, the knowledge within the UN system on sanctions' effectiveness is generally anecdotal and selective. Second, it is clear that the UN is not making full use of the expertise within the system to improve Member States' capacity at the national level. Third, current sanctions instruments could be further strengthened to address emerging challenges such as foreign fighters, bio-terrorism, and cyber-crimes. Finally, UN entities differ considerably regarding the nature and extent of their ability to cooperate with the enforcement of UN sanctions regimes.

Those four factors resulted in a **call for closer cooperation within the UN system on sanctions issues**. There was general consensus that closer cooperation with DPA (as the main focal point in the system on sanctions issues) was highly desirable. The IAWG members suggested that the interaction should include **regularized briefings, trainings, and the sharing of expertise in Headquarters and the field**. In addition, almost all IAWG members called on DPA to develop more systematized guidance on sanctions issues, in particular regarding the sharing of sensitive and confidential information.

UN entities differed, however, on the type of cooperation they envisioned with the broader sanctions machinery (the Security Council, its sanctions committees, and expert panels) and on the type of, and methods for, information sharing.

Cooperating with Humanitarian Agencies

UN humanitarian agencies reported three particular concerns. First, whenever their work has been conflated with a particular sanctions regime, they have found it more difficult to maintain access to vulnerable populations and they have found that their staff often faced increased danger from actors opposing UN sanctions. Therefore, humanitarian agencies requested that expert panels respect the importance of confidentiality when interacting with staff in the field and channel their requests for such interactions through DPA, at Headquarters level. UN humanitarian actors are ready to cooperate with expert panels, but noted that their ability to deliver their mandates would be impeded and the safety of their staff compromised if they were to be seen as information providers for sanctions actors. IAWG members from the humanitarian community were, however, willing to assist on an ad hoc basis, in cases related to the blocking of humanitarian access or the appraisal of unintended impacts of UN sanctions.

Other IAWG members noted the UN's own responsibility to act in compliance with Security Council sanctions to the extent applicable. Some IAWG members suggested that humanitarian actors' and sanctions actors' mandates were, in principle, both intended to contribute to the peace and security objective of the Security Council, with the important caveat that cooperation between humanitarian and sanctions actors is not a straight line and should be carried out in a manner that is cognizant of certain principles and realities governing the wide range of human rights and humanitarian actors in the field.

In seeking to strengthen cooperation and coordination between humanitarian and sanctions actors, it is necessary to be aware of certain considerations in order to avoid negatively impacting their respective mandates. A first consideration holds that human rights and humanitarian actors who are carrying out their mandates on the ground are themselves constrained and affected by sanctions. Second, to the extent that sanctions must be carried out in a manner consistent with international humanitarian, human rights and refugee law, UN human rights entities may report violations arising from the implementation of those sanctions. Third, as sanctions are an enforcement tool, it is important to avoid attributing enforcement roles to humanitarian actors which contradict their nature and purpose and impede their ability to function impartially on the ground.

Some IAWG members noted that there was a general lack of understanding amongst humanitarian officers in the field regarding what actions they can and cannot take vis-à-vis sanctioned individuals, entities and states. As a result, UN humanitarian workers may have inadvertently violated UN sanctions provisions in some cases and "over-complied" in others, thereby unnecessarily impeding much needed humanitarian care as a result. On the other hand, it was also noted that members of expert panels lacked understanding of the fundamental principles defining and governing humanitarian action, and did not make a clear distinction between humanitarian actors and other actors, such as peacekeeping operations, special political missions, or human rights actors.

Thus, the consultation process revealed a need to increase the engagement of senior managers at Headquarters and in the field. In addition, it highlighted a strong need for awareness

raising through regular briefings both at Headquarters and in the field on the basics of UN sanctions, including how they interact with other UN activities. The role of DPA as the sanctions focal point should also be more widely disseminated, so that UN entities in Headquarters and the field know where to turn for information and support on sanctions issues.

In order to overcome concerns regarding the use and sharing of information between UN entities on the sanctions process, **UN entities recommended the establishment of information-sharing arrangements with expert panels.** Those arrangements would specify what type of information might be shared, with whom it should be shared, how this information might be used. Such agreements are necessary in order **to assure UN entities that the information provided to expert panels will not be misused or place victims, informants, or interviewers at risk.** It was important for some agencies, especially humanitarian agencies, that the proposed agreements remain informal, not officially referenced and are agreed at a Headquarters level. **They requested that expert panels approach their offices through UN Headquarters and not through the field in the first instance.**

A specific proposal put forward to address those concerns was for the UN system to develop clear guidelines on information sharing, especially with expert panels. Such guidance should be provided to expert panels during their induction, as well as to senior management at Headquarters and in the field. **As the focal point for UN sanctions, DPA should serve as the conduit or Headquarters focal point system through which sensitive information is shared with expert panels.**

Finally, it was recommended that humanitarian organizations more systematically assist DPA with humanitarian impact assessments of UN sanction regimes.

Engaging with Human Rights and Protection Agencies

In contrast to the humanitarian perspective, the UN human rights and protection agencies generally desired deeper cooperation with sanctions actors as a means of better achieving their own mandates in respect to reporting on IHL and IHRL violations. They felt it was important to explore all the tools available for preventing proscribed acts or for heightening accountability for perpetrators of human rights violations. For example, one IAWG actor noted that they regularly share information with and support sanctions committees/expert panels, and request more feedback on the use of such information.

As another example, the Offices of the Special Representative for Children and Armed Conflict and the Special Representative for Sexual Violence in Conflict conduct systematic briefings to sanctions committees on their respective areas of expertise, which include proposing names of individuals and entities for possible sanctions designation. Such briefings have been welcomed by the sanctions committees. That practice should be extended to other relevant sanctions committees. In addition, a range of human rights and protection agencies have offered their own rosters and contacts for enlarging the pool of expertise available for expert panels. For example, UN Women has a roster of experts trained on the investigation of sexual and gender-based violence (SGBV) as international crimes. IAWG

members also **recommended expanding the designation criteria to include specific human rights violations not explicitly covered under existing regimes.**⁸

UN human rights and protection entities were concerned, however, that due process be observed and that the welfare of witnesses, victims, and interviewers be protected throughout the process of investigating and reporting on potential designees. To that end, it was also recommended that mutual understanding needs to be strengthened in the area of Monitoring and Response Mechanisms (MRM). MRM stipulates the type of information that can and cannot be disclosed from case files. Various IAWG members shared that they continue to be committed to providing expert panels with validated information on general trends and on the confirmation of violations. Such information cannot even be disclosed within the UN entities themselves let alone with expert panels. That is the backbone of MRM and a condition of information collection conducted in the field.

Interaction with the International Criminal Court

Three observations emerged from UN-wide inputs regarding the relationship between UN sanctions actors, the International Criminal Court (ICC), and other UN entities. First, a range of UN field staff have worked with expert panels. Second, in some cases, it appears that UN staff members in the field may be unaware of the UN's obligation to cooperate with the ICC. Third, a portion of those responding to the IAWG survey conflated ICC summons or arrest warrants with Security Council sanctions designations. These misunderstandings show the pressing need to raise awareness about the Security Council sanctions tool and the jurisdiction of the ICC. As a result, it was recommended that relevant Secretariat officials take additional measures, including **more frequent travel to the field, to raise awareness about UN sanctions mandates and cooperation with the ICC.**

Peacekeeping Operations and Special Political Missions

Peacekeeping operations and special political missions reported generally positive interactions with UN sanctions instruments and actors in the field. In cases in which field missions were mandated to cooperate with existing sanctions regimes, there was, overall, a good understanding of the regime in question, its scope and the ways in which the mission could assist in furthering compliance.

Notwithstanding those positive interactions, **field missions called for formalizing communication with a designated contact point at Headquarters on sanctions related issues.** Also requested were specific training and induction sessions for new staff or with the advent of a new sanctions regime.

Furthermore, it was pointed out that **assessment missions should be undertaken by DPA prior to a new sanctions regime, as and when possible.** In addition, **periodic reviews should be conducted to ascertain whether proposals could be made for adjustments or termination of sanctions by the Security Council.** It was also suggested that, **where**

⁸ With regard to impact assessments, OHCHR suggested that relevant country-specific input from its field presences, UN human rights treaty bodies, commissions of inquiry or special procedures of the Human Rights Council should be more systematically sought and taken into account.

applicable and feasible, field missions should include a substantive section on sanctions in their regular reports.

Some UN peacekeeping respondents noted that several peacekeeping missions have mandated arms embargo inspection or sanctions monitoring tasks, which may be replicated in other missions. However, there is currently little work being done to extract best practices from the experience of monitoring units in peacekeeping missions. There would be value, for example, in those monitoring units devising a common template for the recording of data concerning arms and ammunition, which could be shared among missions and expert panels. There would also be value in peacekeeping missions periodically briefing sanctions committees on their sanctions-monitoring mandates, such as the recent briefing by MONUSCO to the 1533 Committee. It was recommended that **DPA, together with DPKO, should consider undertaking a study on sanctions monitoring performed by peacekeeping missions with the aim of extracting best practices.**

Technical Assistance

UN assistance providers have already proved quite helpful in the recent Secretary-General-led assessments of the sanctions regimes in Somalia and Liberia. A range of UN entities from the field and from Headquarters assisted in the gathering and disseminating of views and material. Those final assessments, as presented to the Council, were richer as a result of that collaborative effort.

Yet UN assistance providers who may be useful on sanctions issues were otherwise of the view that existing UN expertise for capacity building and technical assistance are under-utilized. Those entities were eager to offer their capabilities both within the UN system and at the national level for disseminating skills essential to the implementation of UN sanctions. **UN system technical experts recommended garnering resources to fund additional trainings in the field both for Member States and UN field missions.** The expertise already exists, but funding and staffing resources are currently inadequate to allow for such recommendations to be implemented.

Headquarters Desk Officers

Several **desk officers** reported insufficient cooperation with the broader sanctions machinery. They expressed a **strong desire to build a more systematic relationship with DPA, sanctions committees and expert panels.** A particular concern was the ability of some departments to access reports of the expert panels before their publication. Some desk officers cited incidents in which Member States knew more about the reports of expert panels than the regional desks. Some desk officers were also of the view that the information they possess could be beneficial to sanctions policy making through the **provision of regular briefings to the sanctions committees and expert panels.**

Interactions with Other Regional Actors

It was not always clear to certain UN actors in the field which sanctions are mandated by the UN, which are adopted by regional organizations, and which are adopted by individual Member States. In a few cases, UN, EU, and AU sanctions generally overlap. However, in most

cases, UN, regional, and national sanctions differ quite considerably. There is, therefore, a **need to increase DPA's engagement with actors in the field to explain the mandates and scope of UN sanctions regimes in order to better distinguish those regimes from non-UN regimes.**

Emerging Issues

Within the UN system, there are different assessments of the effectiveness of existing sanctions measures. Some entities offered success stories and advocated greater breadth in sanctions designation criteria. Others felt that sanctions were effective in theory, but that incomplete implementation was undermining their purpose. Still others suggested that effectiveness itself was suspect, given the mismatched nature of traditional sanctions measures and the type of actors and entities under designation. Many IAWG members expressed a desire to see the Security Council adopt sanctions measures that are designed to be more effective in regions with porous borders, limited international travel and minimal formal banking practices.

Substantively, in relation to the use of sanctions instruments, UN entities were most concerned about the Islamic State in Iraq and the Levant (ISIL) and the phenomenon of foreign fighters, the issue of cyber-security, wildlife trafficking, and the increasing collaboration between terrorist and other organized criminal elements. Once again, they feared that current sanctions tools were either not being applied broadly enough to tackle those emerging challenges or that appropriate tools for tackling those challenges had yet to be developed.

IAWG members recommended three methods for addressing those current challenges. First, they suggested that **thematic sanctions regimes rather than, or in addition to, country-specific regimes could be created in order to confront global threats** such as incitement to genocide, sexual violence in conflict, human trafficking, gross violations of women's human rights, piracy, etc.

Second, they recommended that the **Security Council may wish to consider a regular triennial review of all UN sanctions with the aim of enhancing their effective implementation.** Such a review could be undertaken on the basis of a **report by the Secretary-General** which would provide information on key sanctions trends, assess implementation issues, analyse linkages between Security Council sanctions regimes and other Council-mandated activities, and consider the impact of sanctions measures on human rights, due process as well as on humanitarian work. The Council may also wish to request the **Secretary-General**, where applicable and feasible, to **include a substantive section on UN sanctions issues in his reports to the Security Council.**

Finally, IAWG members urged a **shift in thinking towards an assistance approach to sanctions implementation in which UN Secretariat entities play a far more active role in building state capacity**, as Member States need assistance to better implement UN sanctions measures.

Key Findings: Part Two

DPA's Security Council Affairs Division

DPA's SCAD is responsible for assisting the Security Council and its subsidiary organs in designing, implementing and evaluating sanctions infrastructure. Specifically, DPA staff assist sanctions resolution penholders in the drafting process, provide substantive and administrative support to Chairs and members of sanctions committees, offer substantive and administrative support to expert panels and engage the wider UN system in support of UN sanctions.

Over the last several years, DPA has made a series of concerted improvements in its support for UN sanctions. Improvements have included: standardizing the methods and formats of communication between committees, the Secretariat, and expert panels; re-launching DPA's roster of experts on sanctions; revamping the expert recruitment process; establishing induction programmes for Chairs, delegates and experts; posting a tentative and provisional programme of work (monthly calendar) of sanctions meetings/informal consultations on the sanctions committee homepage; and sending a survey to Chairs of sanctions committees concerning the quality of the Secretariat's support to committees and ways in which such assistance could be improved. In response to a request from the Security Council, DPA is working to consolidate all designated individuals and entities into a single UN Sanctions List, which will be translated into all six official UN languages. DPA is also redesigning the sanctions committees' website. Moreover, DPA led two Secretary-General assessment missions on sanctions issues, one on Somalia and one on Liberia. Finally, DPA conceptualized and conducted the first Inter-Panel Coordination Workshop in December 2013, which will be repeated this year.

Despite those improvements, many adjustments are still needed. The following priorities have been identified:

- further strengthening the independence and professionalization of expert panels, in particular on methodology, evidentiary standards and due process;
- increasing advisory and technical support to Member State's implementing sanctions;
- establishing additional partnerships with relevant international and regional organizations;
- strengthening partnerships with academics and think tanks working on sanctions issues;
- utilizing specialized databases for the investigative work of expert panels; and, finally,
- developing a roster outreach strategy to deepen the pool of potential experts.

To deliver on those, there is a need to take stock of DPA's capacities. Internal discussions within the UN system, as well as feedback from experts (from the 2013 Inter-panel Workshop), highlighted the following proposal: DPA's SCAD should adapt its current structure to include coverage of key sanctions thematic areas, as well as further strengthen its analytical support to Member States and expert panels on key sanctions measures. Building on this, **a capacity similar to the best practices, guidance and policy planning units which exist in the Division of Policy, Evaluation and Training (DPET) in DPKO or the Policy and Mediation Division (PMD) in DPA should be established within SCAD.** This would serve to capture best practices, draw substantive connections between existing sanctions regimes and expert panel reports, identify and mobilize UN system expertise, and maintain and develop new guidance on sanctions implementation issues.

DPA should also enhance its orientation towards the field, by raising awareness of Member States and UN field missions on sanctions issues, especially where new sanctions regimes are established. That field-based orientation should also include the provision of trainings on sanctions' implementation, monitoring and exemptions. **Lastly, DPA should enhance strategic partnerships** with key organizations, such as ICAO, WCO, IMO, WB, IMF, and WMO as well as with INTERPOL and FATF. The aim of those partnerships would be to adopt a consistent approach to dealing with implementation issues across expert panels and sanctions regimes, as appropriate. Those partnerships should also focus on exchanging information and lessons learned on challenges to sanctions implementation.

Support to Chairs and Sanctions Committees

Based on DPA's experience of working with Chairs and sanctions committees, as well as expert panels, several areas of improvement may also be considered within those aspects of the sanctions machinery.

Currently, there are three separate "mini inductions" on sanctions issues for in-coming members of the Security Council. Information on sanctions issues are conveyed at the "Hitting the Ground Running Seminar" organized by Finland; by UNITAR at its orientation course for new Council members; and by the SCAD-Security Council Report sanctions seminar. Much of the information provided is the same and not ideally targeted to the needs of specific audiences, bearing in mind the specific roles committee members need to play in the sanctions machinery.

A **comprehensive induction programme** should be developed for in-coming Chairs focusing on the management and procedural dimensions of sanctions committees. That induction programme should also address the **role of Vice-Chairs**. Such an induction should also clearly set out the substantive and administrative support provided by the Secretariat. In addition to the handover notes between chairs, a **short vignette-based, how-to (or "dos and don'ts") guide** on chairing a subsidiary body should also be commissioned as a reference for in-coming members of the Security Council. That how-to guide should draw heavily on the experiences of committee members and former chairs of sanctions regimes. It was recommended that related human rights issues be addressed in these inductions.

More in-depth training on specific sanctions regimes and the working methods of sanctions committees should be conducted for in-coming, working-level delegates who support the Chairs, as well as for those sitting on specific sanctions committees. Those trainings should include an orientation on how the overall sanctions machinery fits into the UN system. A similar training/orientation should **be provided, where possible, to new delegates from any member of the Council when they arrive at UN Headquarters.**

The manner in which sanctions regimes are established does not always make it easy for Member States to understand how the various sanctions regimes work and to identify the common elements across regimes. Member States currently have to engage with different experts panels and different sanctions regimes on issues of implementation. A more strategic, cross-cutting engagement on sanctions implementation may alleviate that difficulty. For one, **Chairs of sanctions regimes with similar themes (non-proliferation, counter-terrorism) or geographical scope (West Africa, Horn of Africa) should organize more frequent joint meetings (including in the regions)** to promote understanding of similar sanctions issues and challenges in order to benefit from lessons learned and to identify cross-cutting issues. As a service, the Secretariat should meet more frequently with the different regional groups in New

York to increase awareness on general sanctions issues. **Secondly, meetings with the various New York-based regional groups focusing on challenges to sanctions implementation and possible assistance should be organized.**

Related to that issue of support for sanctions implementation and the role of sanctions committees, additional means should be found to supplement current committee outreach efforts (open briefings, press releases, notes verbale, etc.) to promote awareness of sanctions regimes and their implementation. **The Security Council should assess the effectiveness and limitations of those current communication tools at Headquarters and at the regional and national levels. Concrete recommendations for strengthening awareness-raising at those three levels should be developed and implemented.**

The work of expert panels and their reports are an important source of information and advice provided to the respective sanctions committees. However, there is a need for sanctions committees to hear from a broader range of UN and other actors to ensure they receive a full range of information and perspectives before adjusting sanctions regimes. **The current practice, in some committees, of hearing briefings from senior UN field and Headquarters officials on relevant issues should be systematized across the board, as appropriate.** To that end, the Secretary-General's assessments of key dimensions of sanctions regimes should be encouraged, with the added goal of identifying areas of UN and other technical assistance. Recognition should be given, however, to the implications for the workload of DPA's SCAD, which leads those missions.

Finally, it was recommended that the **Chairs of sanctions committees be encouraged to travel to the countries or regions** related to their work.⁹ Travel would afford more insights and more access to relevant parties. Resources are available to enable Chairs to take advantage of the recommendation.

Substantive Advice and Support to Expert Panels

Expert panels are valuable assets for the sanctions committees. Their particular value added is their independence, impartiality and technical expertise, including their investigative skills. Therefore, it is necessary to ensure that experts are hired on the basis of their technical expertise so that they are able to fulfil their mandate. The Secretariat has established a transparent and rigorous process of identifying and selecting competent experts. **Member States should be encouraged to provide DPA with as many competent and suitable candidates as possible for service on expert panels. Beyond relying on Member States, DPA's SCAD should also strengthen its roster, including by developing a comprehensive outreach strategy to obtain the best experts to work for the Security Council expert panels.**

Given their responsibility to inform sanctions committees of developments in their mandated areas of work, which include information that can assist in the designation of individuals and entities for targeted measures, it is critical that the **work of expert panels adhere to a high standard. Several improvements are required in that regard.** Building on the 2006 Report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), **additional guidelines and induction training should be provided to expert panels** to ensure that their inquiries and findings meet appropriately high evidentiary standards and due process. **Expert panels with investigative mandates should receive specific induction**

⁹ The Security Council already encouraged such a measure in S/1999/92.

training dedicated to sanctions-specific investigation methodology and approaches. Since that does not yet exist, the Secretariat could commission a pilot orientation course on investigative approaches, in partnership with INTERPOL and other relevant partners.

The work of one expert panel can sometimes have a positive and supportive contribution to the work of another. **More systematic working methods should be established to encourage expert panels to mutually consult and share information, where appropriate.** DPA's annual Inter-Panel Coordination Workshop is one such means for achieving that goal, but others should be found. Other methods may include a general mandate for all expert panels to cooperate and share information with each other. There should be focused discussions between the relevant committees on how their sanctions regimes and their respective expert panels cooperate with each other at the discretion of the committee. The willingness to cooperate with others should also feature in the terms of reference and in the evaluation of experts.

Given that expert panels have been in existence for many years, it is also **recommended that the concept and practice of expert panels be subject to a comprehensive review with the aim of enhancing that important tool of the Security Council and the sanctions committees.** The assessment could look at questions such as what it means to be independent, the degree and nature of oversight of expert panels, and what type of training and team dynamics make for the most effective expert panels.

The work of expert panels can also have serious implications for peacekeeping missions and special political missions. In instances where expert reports were leaked, UN field missions had to manage the fallout from those reports, especially when the leaked reports implicate governments hosting the UN or reflect negatively on the UN mission. There is currently no formal mechanism for ensuring that expert panels share information with UN missions or share their reports with relevant UN departments. While it may not be feasible or even desirable to formalize the relationship between expert panels and UN missions, **the relevant sanctions committees should consider granting DPA permission to share expert panels' reports with relevant UN departments and UN missions when those are received from the expert panels.** DPA currently provides notes to relevant UN offices to draw their attention to relevant aspects in the experts' reports.

Finally, it was recommended that there be **a re-evaluation of the current practice of requesting expert panels to be the primary vehicles for national assistance.** Given experts' investigative, monitoring and reporting mandate, their presence may cause some states to feel ill-at-ease regarding gaps in their own capabilities. Thus, **it was proposed that certain UN entities, coordinated by DPA, offer assistance, as opposed to the expert panels.**

Key Findings: Part Three

Arms Embargoes

Arms embargoes are the most frequently applied among UN sanctions measure and they are usually the first applied. UN entities generally recognize, however, that compliance is very difficult without adequate Member State capacity, cooperation, and technical expertise. IAWG members observed two existing hurdles to improved implementation.

First, a number of peacekeeping missions expressed a desire to have their own, **embedded arms embargo monitoring units, similar to UNOCI's IEMU**¹⁰ in order to overcome compliance, capacity and cooperation challenges. The unit appears to be very useful as a direct interlocutor to the host country. It provides support to the Ivorian Government on border controls, effective compliance with the arms embargo and legal procedures relating to the WCO.

Moreover, IAWG members added that UNOCI's IEMU enjoys a very good relationship with the Group of Experts on Côte d'Ivoire. It provides them with full and easy access to its database and facilitates administratively and logistically their activities on the ground. In return, the unit benefits from more clarity on collected information and data from in-depth and highly professional assessments conducted by members of the expert panel, making use of their expertise in the field. Against that backdrop, the presence of a dedicated unit within a mission may significantly enhance the mission's capability to monitor compliance with UN sanctions by all concerned stakeholders in a given country. The Secretary-General acknowledged the importance of such a unit when he recommended, in his March 2014 report on the Central African Republic (S/2014/142, para. 78), that a small embargo cell be established within the proposed peacekeeping operation comprising experts on arms, natural resources and customs in order to support the panel of experts in monitoring the sanctions regime and to advise his Special Representative.

Other contributions from the field, however, suggested that while the IEMU appears to be a good model, and that other missions may benefit from having a similar unit, the unit itself suffers from a range of challenges which impede effectiveness. Ensuring adequate staffing of the unit with the required expertise was one such challenge identified. Before recommending that model as a best practice some IAWG members recommended **conducting a rigorous review of the IEMU**.

Second, IAWG members highlighted a second hurdle to improving implementation of arms embargoes. The Security Council and its sanctions committees are not sufficiently **drawing on existing expertise**, within the UN system, to assist in monitoring, training, and building local capacity on the implementation of arms embargoes. Three IAWG members expressed readiness to offer expertise in those areas, although funding support from Member States would be required.

The General Assembly-mandated International Ammunition Technical Guidelines (IATG)¹¹ provide best practices for securing improvised explosive devices (IEDs) and other

¹⁰ UNOCI's unit, in conformity with UN Security Council resolution 2153(2014), "regularly monitors compliance with the embargo on the importation of lethal weapons in Côte d'Ivoire at all entry points into the country (air, sea and land). The Unit performs regular arms control for the Mission and alerts on any suspected breach."

¹¹ GA resolution 66/42

dangerous goods, including on how to trace these goods across borders. The UN SaferGuard programme, under which the guidelines were developed, also provides a dedicated Quick Response Mechanism to rapidly deploy experts to assist States in interdicting explosives and ammunition. In the interagency framework of the United Nations Coordinating Action on Small Arms (CASA), 23 UN entities collaborated in the development and rollout of International Small Arms Control Standards (ISACS).¹² ISACS provide clear, practical and comprehensive guidance for practitioners and policymakers on fundamental aspects of small arms and light weapons control. The work covers issues such as stockpile management, marking, recordkeeping and tracing, border controls, law enforcement cooperation, collection and destruction.

It was recommended that the relevant UN system entities could help build national capacity on weapons management in some of the operational areas listed above, as well as in the area of legislative development for more effective SALW controls, using international standards and guidelines as a basis. ODA, in particular, could further promote the implementation of arms control instruments, especially through its three regional centres. In addition, it could provide useful tools to enforce embargoes, enhance the understanding and implementation of arms embargoes, and integrate, into a global framework, the existing disarmament/arms control initiatives.¹³ ODA could ensure synergies with existing international and regional arms control instruments and regimes, and contribute to building the capacity of Member States to control and manage armaments under sanction regimes, as well as in the post-conflict period transition following the termination of sanctions.

Financial Sanctions

The Security Council has never applied assets freezes alone and thus it is not possible to assess the impact of assets freezes in isolation. However, it is possible to comment on the perceived effects of asset freezes on the work of UN entities in the field.

First, it was widely observed that when designated actors do not rely on the formal financial sector, assets freezes have little to no effect. There is similarly no effect on the owners/CEOs of sanctioned entities who are not subject to travel bans or assets freezes. IAWG members called on DPA to assist the Security Council to develop new tools for targeting actors operating in informal economies. Many Member States do not have the capacity to monitor or enforce UN financial sanctions. Thus compliance is hampered and the overall effectiveness of the tool is reduced.

Entities working in humanitarian affairs reported an opposite effect: assets freezes tend to be too effective to the point of being detrimental. The list of designees can be cast so wide that UN sanctions can end up curbing the financial transactions needed to run UN humanitarian activities in the region. As a result, humanitarian actors often find themselves unable to continue

¹² The Small Arms Control Standards (ISACS) provide guidance to practitioners and policymakers on issues relating to small arms and light weapons control. Those standards help ensure that the UN system delivers, upon request, the highest quality advice and support to Member States on putting in place effective controls over the full life-cycle of small arms and light weapons.

¹³ ODA also has expertise related to WMDs and their delivery systems through its work with UNSCOM and UNMOVIC and, more recently, the investigations of the alleged use of chemical weapons in Syria.

their work due to a lack of funds and supplies or because they are blocked from accessing the population in need, in retaliation for sanctions imposed on local officials.

It is important to distinguish between direct and indirect effects of sanctions instruments. Some assets freezes have directly curbed funding for humanitarian initiatives. In other cases, however, the application of UN sanctions has stigmatized a certain region and, as a result, donors have been less likely to continue providing funds for humanitarian initiatives. In short, UN financial sanctions on a group or government in control of a given region can have a cooling effect on donors' willingness to continue aid programmes. The latter effect, one could argue, is more an issue of understanding and public relations than a direct effect of sanctions implementation.

Finally, UN humanitarian agencies noted that the extent of assets freezes and the restrictions they impose are insufficiently understood in the field. Too often, for fear of being found in violation of a UN sanctions provision, UN humanitarian officers will over-comply, and, as a result, withhold aid unnecessarily.

According to the UN-wide contributions, **before assets freezes are imposed it would be ideal to conduct an assessment of on-the-ground capacity to implement and the nature of the targets, bearing in mind that in some cases the Security Council may wish to act quickly.** Humanitarian organizations should be consulted as part of that **pre-implementation assessment regarding the extent to which proposed measures may impact critical humanitarian initiatives.** In addition, UN entities recommended that **assets freezes should be periodically reviewed.**

Simultaneously, both the humanitarian community and **DPA need to work to raise awareness regarding what assets freezes entail and what sort of aid is still permissible under those conditions.**

As in the case of arms embargoes, there are competent sectors of the UN with the necessary skills in training Member States in monitoring and enforcing assets freezes. For example, the United Nations Counter-Terrorism Implementation Task Force (CTITF) is engaged in a capacity-building project on terrorist designations and assets freezing. The project was designed to deliver training to interested states on designating terrorist individuals and entities and on freezing terrorist assets effectively, in accordance with the international legal framework and the FATF Recommendations. Almost all of CTITF's training modules are directly relevant to the freezing of assets under other UN sanctions regimes.

Humanitarian Exemptions

“Standing exemptions” are built into the text of Security Council resolutions and, therefore, allow for certain exceptions to a given sanctions regime. In certain cases, there is no need to notify the sanctions committee of said actions. There is one such “humanitarian standing exemption” in the case of the Somalia/ Eritrea sanctions regime. In resolution 2111 (2013), the UN granted a humanitarian exemption for the payment of funds necessary to ensure the timely assistance to those in need. Some members suggested **expanding appropriate humanitarian exemptions across all sanctions regimes.** In parallel to such an expansion; humanitarian actors would continue working towards the improvement of measures to prevent the diversion of aid, bearing in mind that respect for humanitarian principles is the most efficient guarantee that humanitarian aid will go only to those who really need it.

IAWG members offered additional recommendations regarding exemptions in general and humanitarian exemptions in particular. First, it was recommended that **DPA state exemptions in clear and precise language on the main page of each committee website** including a simple explanation, extracted from the committee guidelines, of:

- Who can apply for an exemption;
- How one can apply;
- The type of documentation needed to substantiate a claim;
- Where to submit the application;
- The amount of days the committee may take to come to a decision.

Since the Member State under sanctions typically has the most questions regarding the exemptions, DPA could consider hosting periodic briefings on the exemptions mechanisms with the Permanent Mission(s) concerned, with a view to promoting transparency and openness in the timely administration of the exemptions.

Key Findings: Part Four

Due Process

A core concern, raised by a majority of IAWG members, is to improve due process standards throughout the UN sanctions listing and de-listing process. The concern arose both from a desire to see the UN conforming to its own standards of human rights protections and fairness as well as from a wish to encourage wider compliance with UN sanctions through enhanced legitimacy and effectiveness.

In 2006, the UN Secretary-General proposed four basic elements. First, a person or entity against whom the Council has taken measures should have **the right to be informed** of those measures and to know the case against him/her/it as soon as and to the extent possible. The elements stipulated that the notification should include a “statement of the case”¹⁴ and information on how requests for review and exemptions may be made. An adequate statement of the case requires prior determination of **clear criteria for listing**.

Second, designated individuals and entities have **the right to be heard** via submissions in writing, within a reasonable time, by the relevant decision-making body. The right to be heard should include the ability to access directly the decision-making body, possibly through a focal point in the Secretariat, as well as the right to be assisted or represented by counsel. Time limits should be set for the consideration of the case.

Third, listed individuals and entities should have **the right to review** by an effective review mechanism. The effectiveness of that mechanism will depend on its **impartiality, degree of independence** and ability to provide an **effective remedy**, including the lifting of the measure.

Finally, the Security Council should, possibly through its committees, **periodically review** targeted sanctions, especially the freezing of assets, in order to mitigate the risk of violating the **right to property** and related human rights. The frequency of such reviews, it was argued, should be proportionate to the rights and interests involved.

Since 2006, there has been some progress towards implementing those standards by both the Security Council and the Secretariat.¹⁵ Within the Secretariat, DPA’s **framework** for approaching the issue focuses on improving due process standards at each stage of the designation process rather than simply focusing the debate around the process of de-listing. For

¹⁴ Most sanctions committees have adopted the practice of requiring designating States to submit a “statement of case” providing as much detail as possible on the basis for listing.

¹⁵ The High Commissioner for Human Rights has also urged the Security Council...to explore every avenue of possibility in order to ensure that sanctions imposed against individuals and entities are accompanied by rigorous procedural safeguards, including (a) individuals affected must have recourse to independent judicial or quasi-judicial review either of the decision to list or denial of a request to de-list; (b) the decision-making body must have access to the information justifying the listing, if necessary under condition of confidentiality. The affected person him/herself must receive enough information so as to be in a position to respond to the case made against him or her; (c) the independent review body must have the authority to grant appropriate relief in cases where human rights are violated, including by making a final order to delist; and (d) a reasoned determination of the review should be made public, subject to any necessary redactions on security grounds. Other UN human rights mandates, including the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism, have raised similar concerns.

example, expert panels now undergo an increasingly comprehensive induction training, which includes briefings from OLA on due process considerations, evidentiary standards and on basic human rights components in naming or recommending private individuals and entities for designation. During that training, it is emphasized that the credibility and integrity of experts' reports will be strengthened by ensuring that persons or entities that are being investigated have had an opportunity to rebut the allegations against them.

In addition to the expanded induction, it is recommended that **new resolutions adopting UN sanctions regimes should have a standardized "listing/de-listing framework." Such a framework should include clear designation criteria; the requirement to provide detailed statements of case; publicly available narrative summaries, references to bio-metric information (to reduce false positives); as well as a clear reference to the relevant de-listing mechanism.** That change became necessary due to the great degree of variation in listing procedures between different sanctions regimes, resulting in varying degrees of fairness.

However, serious challenges remain. One of these challenges is that not all experts or expert panels are equally trained in essential techniques for interviewing and reporting designations in a way that is compliant with basic human rights provisions. A second challenge is that often individuals are named in experts' reports but not designated by the committees. There are adverse consequences for those individuals who, as non-listed individuals, do not have recourse to either the Office of the Ombudsperson (for the 1267/1989 Committee) or to the Focal Point for De-listing. Yet, often, by the mere fact that they are publicly named in a report, they will suffer adverse effects on their reputation, ability to travel, to use banks and to participate in other aspects of daily life.

In light of successful human rights and due process challenges in various national and regional courts, OLA advised that UN sanctions regimes remain vulnerable to further challenges, thereby requiring continued efforts to improve the transparency and fairness of the sanctions procedures to achieve a more independent review and effective remedy. It was recommended that changes be made in line with the Secretary-General's 2006 non-paper.

Focal Point for De-listing

The Focal Point for De-listing was established within DPA by resolution 1730 (2006), as part of the Security Council's commitment to ensure that fair and clear procedures existed for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions. In 2009, the Security Council established an Office of the Ombudsperson (for the 1267/1989 Committee), the mandate of which built on the Focal Point De-listing process and which has been continually enhanced through successive resolutions. The Office of the Ombudsperson, however, deals with de-listing requests from individuals and entities on the Al-Qaida Sanctions List only.

The Focal Point De-listing process applies to all other sanctions regimes. Yet it has not been reviewed to date. There is general agreement that the Focal Point system is outdated and in serious need of a review and reform. There is a stark contrast between the due process accorded to individuals and entities on the Al-Qaida Sanctions List versus individuals and entities on the other sanctions lists.¹⁶

¹⁶ Additional tasks given to the Focal Point in resolutions 2083 (2012) and 2161 (2014), in connection with the processing of travel ban and assets freeze exemption requests and the receipt of communications from

There are several **improvements** that could be made to the current Focal Point de-listing process, thereby alleviating some due process concerns and also improving the efficiency and effectiveness of the procedure.

- There is currently no provision for sharing the request for review and comments with any other Member States other than the designating state(s) and state(s) of citizenship and/or residence. In addition, unless specified in the committee guidelines, the Focal Point does not inform the reviewing states of the outcome of the de-listing process. **It is recommended that all sanctions regimes are harmonized to allow for the sharing of de-listing requests and the outcome of their consideration with other relevant states.**
- There is currently no provision for sharing the de-listing request immediately with the committee. Rather it is shared once the reviewing states have provided comments or have had at least three months to review the request and have neither commented nor indicated that they need additional time to review. **It is recommended that the de-listing request be shared with the committee immediately.**
- There is no provision for sharing the de-listing request with expert panels immediately. Outside the Focal Point process, the experts may only receive the request once it is circulated to the committee. Once with the committee, the experts have little time to comment on the request or to provide any relevant information, which may support or oppose the de-listing. **It is recommended that the de-listing request be shared with the relevant expert panels immediately.**
- There is no clear provision for a finite period of time for states to review the de-listing request and for the committee to conclude its consideration of the request. **It is recommended that timelines be established.**
- There is no provision for the committee to provide reasons for maintaining or removing an individual/entity from its list, which could then be forwarded by the Focal Point to the petitioner. Recently, some committees have started to provide reasons to the Focal Point, on an ad-hoc basis. **It is recommended to extend this practice to all committees.**
- The Focal Point could inform individuals/entities directly of their listing, in cases where the address is known or where a relevant UN office may be in a position to assist the Focal Point. **It is recommended that the Security Council mandate the Focal Point to inform in such cases and call upon relevant UN offices to assist the Focal Point in this endeavour.**
- Another improvement would be that **all de-listing requests must be processed by the committee under the normal decision making process** regardless if any reviewing states comment on the requests.

de-listed individuals and from individuals claiming to have been subject to sanctions as a result of false or mistaken identity, pertain to individuals and/or entities on the Al-Qaida Sanctions List only, thereby creating two points of contact for the Al-Qaida sanctions regime and none, except in the case of travel ban exemptions which may be transmitted by the relevant UN office, for the other regimes.

- Procedures are also out-dated insofar as they only refer to “designating states”, but in some cases individuals/entities are listed by the Security Council itself. In those cases, **it is recommended that the Security Council specify who the reviewing states would be in the event of a de-listing request.**
- The Focal Point's responsibilities could also be widened to assist with any post-delisting challenges faced by the petitioners. By resolution 2161, the Focal Point may receive and transmit to the Al-Qaida Sanctions committee communications from individuals or entities delisted from the Al-Qaida Sanctions List. **It is recommended that the Focal Point be additionally mandated to inform all relevant committees about any post-delisting challenges faced by any delisted individual or entity.**
- **It is recommended that provision be made for the petitioner to be able to send to the committee, through the Focal Point, any information relevant to the de-listing request after a negative decision has been taken by the committee, with a view to the revisiting of that decision.**
- **It is also recommended that the Focal Point be enabled to forward information received from individuals/entities concerning mistaken identity, in particular in cases where there is no expert panel assisting the committee.**
- Another point for consideration is that while individuals may submit travel ban exemption requests through the relevant UN office, they cannot submit assets freeze exemption request through the Focal Point. **It is recommended that the Focal Point be authorized to receive and forward to the relevant committee assets freeze exemption requests for all sanctions regimes to the relevant committee.**
- There is no provision on any reporting or feedback to the Security Council or to the relevant committees on implementation of resolution 1730 (2006), such as the challenges faced, lessons learned, etc. However, DPA, for the first time, issued an informal report covering the activities of the Focal Point for the year 2013. **To be able to produce a more substantive report, the Focal Point would need a clear mandate from the Security Council.**

IAWG members widely shared a desire to see the Security Council **adopt a resolution calling for further changes to the Focal Point De-listing mechanism.** Adopting some or all of the above improvements would represent important first steps.

Alternatively, the Security Council could consider incorporating aspects of the Ombudsperson process into the Focal Point office, such as **fact-finding, dialogue, assessment and recommendation.** Such measures need to meet the elements put forward by the Secretary- General in 2006.

Such measures would require additional resources and capacity.

Annex

Questions for peacekeeping and special political field missions

- What is the current state of cooperation between your mission and the Chairs and members of sanctions committees, panels of experts and the Security Council Affairs Division of DPA? Is there a need to enhance understanding of and interaction between your mission and those entities? If so, in what areas and how?
- In what specific areas can UN sanctions regimes act in complementary or mutually reinforcing ways with peacekeeping/special political missions?
- Are the mission's current sanctions monitoring mechanisms, if any, effective? Would a dedicated monitoring unit, where appropriate, on the ground enhance the monitoring of sanctions measures (such as arms embargoes)?
- From the perspective of your mission, are imposed targeted measures (arms embargoes, assets freezes, travel bans, commodity bans, etc.) effective? Are there any unintended impacts on the work of your mission? What could be done to enhance the effectiveness of targeted measures without adverse impact on the work of the mission?
- How effective are existing international legal/political instruments, particularly arms control and arms regulation agreements and arrangements, to prevent violations of arms embargoes? How could these instruments contribute to more effective implementation of arms embargoes?
- What mechanisms or procedures, if any, does your mission have in place to deal with the various sanctions exemption regimes? To what extent are exemption regimes clear? Are the various exemption provisions working well? What could be done to make exemption regimes clearer and better understood?
- In what specific areas and in what ways could UN sanctions regimes better reconcile with human rights and humanitarian action and principles? What are the prospects and challenges for better dialogue and mutual understanding between sanctions actors and humanitarian/human rights actors?
- Is it clear to your mission what and how human rights and due process obligations have to be respected when implementing sanctions measures?
- From your mission's experience, have UN sanctions come into contradiction with sanctions implemented by Member States or by other international or regional organizations? If so, in what ways and how has it impacted on your work?
- Is there sufficient Headquarters policy guidance on sanctions issues? If not, what specific type of policy guidance should be developed?

- What, in the analysis of your mission, are some of the emerging issues or threats that may be appropriately addressed by UN sanctions?

Questions for UN Headquarters

- What is the current state of cooperation between your office and the sanctions chairs and committees, panels of experts and the Security Council Affairs Division of DPA? Is there a need to enhance understanding of and interaction between your office and these entities? If so, in what areas and how?
- When planning and managing a UN field mission, which elements would best contribute to the effective implementation of UN sanctions?
- Is there adequate information sharing, coordination and planning in Headquarters on UN sanctions issues? What specific problems have been encountered? What mechanisms or processes should be put in place to address these problems?
- From the perspective of your office, are imposed targeted measures (arms embargoes, assets freezes, travel bans, commodity bans, etc.) effective? Are there any unintended impacts on the UN system? What could be done to enhance their effectiveness while minimizing/managing unintended consequences?
- Are technical information and necessary expertise, including data on violations of sanctions and expertise on proscribed weaponry, readily available and easily accessible in implementing and monitoring arms embargoes?
- What role does, or can, your office play in providing assistance to countries that lack the knowledge and capacity to implement UN sanctions? This applies to countries under sanctions like (Somalia) but also to neighbouring states or any Member State.
- What role can your office play in national capacity building in weapons management, law enforcement, marking and tracing, border/customs control, and weapons collection and destruction?
- How should/could sanctions regimes enhance due process considerations when designating individuals on the various sanctions lists? What other aspects of due process should be considered? What could be the UN system contribution to the enhancement of due process?*
- What are the specific challenges¹⁷ encountered by the UN's human rights and humanitarian communities when asked to cooperate with sanctions committees, panels of experts or reporting to the Security Council? How can these challenges be managed?

¹⁷ For example, do assets freezes on listed individuals and entities, due diligence requirements on donor contributions, have an impact on your ability to access and deliver aid to people in need? Are local NGO and other partners affected by domestic legislation taken for the implementation of sanctions? Are there risks of maintaining contacts with listed individuals and entities, or administrative burdens for operating in certain areas covered by sanctions measures?

- When planning broader development assistance, what elements pose the greatest difficulty in giving full effect to sanctions?
- Is there sufficient Headquarters policy guidance on sanctions issues? If not, what specific type of policy guidance should be developed?
- What, in the analysis of your office/mission, are some of the emerging issues or threats that may be appropriately addressed by the instrument of UN sanctions?