

# Best Practices Guide

## for Chairs and Members of United Nations Sanctions Committees



**Australian Government**



**Belgium**  
UN Security Council 2019-2020 Fostering Consensus  
Acting for Peace

**Canada**



Permanent Mission  
of the Federal Republic of Germany  
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New York



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2019-20



**Permanent Mission of Sweden**  
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# **Best Practices Guide**

## **for Chairs and Members of United Nations Sanctions Committees**

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Cover: United Nations headquarters with bronze statue entitled “Let us Beat Swords into Ploughshares”: UN Photo/Milton Grant

# Preface

Any incoming Member State delegation or Chair of a United Nations (UN) sanctions committee can attest to the difficulties of acclimating to the complex world of UN sanctions. After receiving positive feedback from UN sanctions actors on a preliminary version of the Best Practices Guide released in December 2018, the sponsors, Australia, Belgium, Canada, Germany, the Netherlands and Sweden, decided to publish this expanded and updated 2020 Best Practices Guide for Chairs and Members of United Nations Sanctions Committees.

The Guide addresses, in short and concise language, the primary issues that principal sanctions actors, particularly the Chairs and members of UN sanctions committees, need to understand in order to reinforce the protective, preventive and coercive application of Security Council sanctions quickly and substantively.

To further promote these aims, the Guide also offers guidance on five challenges to the credibility and legitimacy of the UN sanctions system that are either new or are the subject of protracted differences of views. They include the streamlining of due process, enhancing private sector implementation efforts, the challenging relationship between gender rights and UN sanctions, the inadequate protection of humanitarian organizations from unintended sanctions consequences, and the muted sanctions response to the exacerbating effects of cyberthreats.

Experience has shown that accurate and actionable information is an important first contribution towards enhancing sanctions implementation capacity. The 2020 Guide is an invitation to all Member States, particularly those affected by the heaviest implementation burdens, to employ its guidance for more effective engagement with the UN sanctions system.

As the sponsors of the Guide, the governments of Australia, Belgium, Canada, Germany, the Netherlands, and Sweden, wish to express our gratitude to those who participated in the consultations held in New York, Addis Ababa, Brussels and Geneva in 2019, and through virtual meetings. The Guide reflects their collective insight, advice and experience with UN sanctions. We hope that future Chairs, members of committees and other UN Member States, sanctions monitoring experts and their coordinators, as well as other implementation and compliance professionals, will benefit from this guidance when joining forces to employ UN sanctions to protect and enhance global peace, security and human rights.



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# Acknowledgements and disclaimer

This Guide reflects the best practices of current United Nations sanctions implementation and compliance practitioners in their day-to-day application of UN sanctions for the purpose of securing sustainable global peace and security. While the principal beneficiaries of the Best Practices Guide are intended to be the Chairs and members of UN sanctions committees, this handbook inevitably also serves as guidance for the entire network of UN sanctions implementation stakeholders. The consultations that led to this handbook included, in addition to representatives of UN Member States, current and incoming members of the Security Council and Chairs of sanctions committees, as well as the voices of a large and global group of private companies and investors, humanitarian organizations, human rights and gender-based violence specialists, representatives of African Union and European Union countries, members of the UN Human Rights Council, former and current sanctions monitoring experts and coordinators, UN legal experts, and staff of the Security Council Affairs Division (SCAD).

The consultations began on 26 October 2018 with an introductory meeting jointly hosted by the sponsors of the Best Practices Guide project, followed by over 20 group meetings and dozens of individual consultations. A meeting was also held in Brussels for members of the European Union's Working Party of Foreign Relations Counselors (RELEX), representatives of the European External Action Service, and the European Commission. Other meetings took place in Addis Ababa for members of the African Union (AU), and in Geneva for members

of the UN Human Rights Council and representatives of international humanitarian organizations.

The purpose of these discussions was to identify and record:

- Current best UN sanctions implementation practices;
- Important new concerns related to sanctions implementation practices.

While the COVID-19 pandemic disrupted the adoption, implementation and monitoring of UN sanctions for most of 2020, changes in practices by UN sanctions actors are expected to be temporary and are therefore not reflected in this Guide.

## Four sections

[Overview of the UN sanctions system - The synopsis](#) introduces the elemental structure and functioning of the UN sanctions system, including its legal basis, the primary actors, their functions, and elements of their work.

[Section I – Sanctions implementation actors and roles](#): the key roles and functions of the primary sanctions actors and how they relate to the larger stakeholder network.

[Section II – Committee practices](#): Chairs and members of committees operate within internal guidelines and procedures, many of which are formalized while others are developed practice.

[Section III – Sanctions implementation and monitoring](#): list of sanctions currently in effect, a succinct description of sanctions types, how they work, and the compliance obligation standards that apply.

[Section IV - Significant new concerns](#): As the UN sanctions system evolves, the following five areas of concern require the urgent attention of all stakeholders: streamlining due process across all sanctions implementation practices; the information and guidance requirements of the global private sector; enhancing gender competence and balance; safeguarding humanitarian action in the design and implementation of sanctions; and raising awareness about the exacerbating effects of digital (or cyber) technologies on the implementation of sanctions.

As organizers of the project, we wish to express our appreciation to the sponsors of the Guide, the Governments of Australia, Belgium, Canada, Germany, the Netherlands, and Sweden. Special thanks are owed to Ambassador Joanna Wronecka of Poland. Her support and commitment to advancing the dialogue with sanctions-affected states is highly appreciated.

We extend thanks to delegations of the governments who supported many consultative meetings in New York, Nairobi, Brussels, Geneva and Addis Ababa. We would also like to thank Darren Hansen of Australia and Sandra Lyngdorf of Sweden for their valuable insights before and after the project became operational, and to CCSI collaborators Won Jang, Anna Spitzfaden, Jake Sprang, and Samantha Taylor for their assistance during the consultations.

While the development of the Guide was sponsored and supported financially by the above-named governments, the contents of the Guide do not imply governmental endorsement by any sponsoring state.

Enrico Carisch

Loraine Rickard-Martin



# Abbreviations

ARMS	UN Archives and Records Management Section
AU	African Union
CAR	Central African Republic
DPRK	Democratic People's Republic of Korea
DRC	Democratic Republic of the Congo
E10	Elected 10 members of the Security Council
E3/EU+3	European 3 and European Union plus 3 P5
ECOWAS	Economic Community of West African States
EU	European Union
EUC	End User or Usage Certification
FATF	Financial Action Task Force
HLR	High Level Review
HRC	United Nations Human Rights Council
IAEA	International Atomic Energy Agency
IGAD	Intergovernmental Authority on Development
IAN	Implementation Assistance Notice
ICAO	International Civil Aviation Organization
IED	Improvised Explosive Device
IHL	International Humanitarian Law
INTERPOL	International Criminal Police Organization
ISIL	Islamic State of Iraq and the Levant
JCPOA	Joint Comprehensive Plan of Action
LAIP	Libyan Africa Investment Portfolio

LAS	League of Arab States
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex
LIA	Libyan Investment Authority
LRA	Lord's Resistance Army
MTCR	Missile Technology Control Regime
NSG	Nuclear Suppliers Group
OAS	Organization of American States
OLA	UN Office of Legal Affairs
OPCW	Organisation for the Prohibition of Chemical Weapons
P5	Permanent 5 members of the Security Council
RELEX	EU Working Party of Foreign Relations Counselors
S/GBV	Sexual/Gender-Based Violence
SCAD	Security Council Affairs Division
SCSOB	Security Council Subsidiary Organs Branch
SRSO	Special Representative of the Secretary-General
SWIFT	Society for Worldwide Interbank Financial Telecommunications
UN	United Nations
UNODA	United Nations Office for Disarmament Affairs
WCO	World Customs Organization
WMD	Weapons of Mass Destruction

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# Overview of the UN sanctions system

UN sanctions are a tool to protect the peaceful advancement of human welfare when threatened by war, atrocities, proliferation of weapons of mass destruction (WMD) or terrorism. Legally, the role of UN sanctions is encoded in the United Nations Charter.

Article 41 authorizes the Security Council to decide on “measures not involving the use of armed force to give effect to its decisions”. Two conditions need to apply before proceeding to Article 41 measures:

1. The Security Council must determine under Article 39 “the existence of a threat to the peace, breach of the peace, or act of aggression” that requires a recommendation for taking measures under Article 41 or 42 (involving the use of armed force).
2. The Security Council under Article 40, to prevent aggravation of the situation and before making a recommendation under Article 39, may “call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable .... [and] shall duly take account of failure to comply with such provisional measures”.

The functions of the Security Council are described under Chapter V, with:

Article 24.1: ... “its Members confer on the Security Council primary responsibility for the maintenance of international peace and security.”

Article 24.2: ... “the Security Council shall act in accordance with the Purposes and Principles of the United Nations.”

The purposes and principles of the United Nations are defined under Chapter I, with:

Article 1.1 : “To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

Article 1.2 : “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”;

Article 1.3 : “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”; and

Article 1.4 : “To be a centre for harmonizing the actions of nations in the attainment of these common ends.”

When the Security Council adopts sanctions under Chapter VII of the UN Charter, it usually establishes a committee and a team of sanctions monitoring experts.

Committees are mandated to monitor sanctions implementation. Each committee is comprised of the 15 members of the Security Council. Committee Chairs and Vice-Chairs are drawn from the Permanent Representatives of the elected 10 members and are appointed by the Council, although some would like to change this practice by assigning the same responsibilities to the Permanent Representatives of the permanent five members.

The Security Council mandates sanctions monitoring experts (called panels or groups of experts, or monitoring teams) sometimes referred to as ‘experts’ or ‘expert teams’ for ease of reference in this Guide, to assist the committees in monitoring sanctions implementation, and some expert teams are also asked to make recommendations for targeted sanctions and improvements to the particular sanctions regime.

Experts operate as politically and institutionally independent information-gathering teams and are expected to adhere to their self-determined methodology, and ensure that their reporting and recommendations meet their evidentiary standards.

The Security Council Subsidiary Organs Branch (SCSOB) assigns a secretary to each committee, who heads a team of political affairs officers and support staff that provides substantive and administrative support to the committees and the experts.

Member States are the primary implementers of sanctions, under Article 25 of the UN Charter. Effective sanctions implementation requires the active support and participation of a range of actors including states, international organizations, the private sector, and civil society.

Security Council sanctions resolutions contain information about the underlying peace and security conditions they seek to address; the policy purposes and relevant sanctions provisions and required responses; the mandate of the sanctions committee; reporting obligations of states; the mandate and reporting requirements of the sanctions monitoring experts; and sanctions exemptions.

Committee guidelines are developed by each committee for its work and are published on the UN sanctions web page. Ideally, they are revised periodically to reflect changes in the sanctions regime.

Committees take decisions by consensus.

In designing a sanctions regime, the Council may devise targeted sanctions measures, usually including an embargo on arms or on WMDs, a travel ban, assets freeze or financial restrictions, commodity ban, restrictions on diplomatic relations, on educational services, and trade in cultural artifacts.

For most sanctions measures, specific, case-by-case exemptions are adopted that are subject to approval by the committee or by notification to the committee, as provided by the resolution.

Designated persons, companies or entities are subject to individual targeted sanctions (arms embargo, assets freeze, travel ban, etc.) determined in accordance with the designation criteria contained in the related resolution and evidentiary thresholds of the respective sanctions committee



and are sometimes based on recommendations by its expert team. In some circumstances the Security Council makes this determination. The names and identifying information of those designated are included in lists that are made public.

Criteria for the designation of individuals for targeted sanctions are contained in sanctions resolutions that, however, do not include information on due process rights. Chairs, members of the committee, and the experts have an obligation to ensure that such rights are fully applied.

The Office of the Ombudsperson was instituted with resolution 1904 (2009) in relation to Al Qaida/Taliban sanctions and was subsequently expanded to include the Islamic State of Iraq and the Levant (ISIL), while the Focal Point for Delisting was established by Security Council resolution 1730 (2006) for all other sanctions regimes.

Relevant documentation such as Security Council resolutions, committee guidelines, reports of sanctions monitoring experts, lists of designated persons and entities, annual reports, and SCSOB contacts are publicly available on each sanctions committee webpage, which are accessible on this UN sanctions website (<https://www.un.org/securitycouncil/sanctions/information>).



## Section I

# The roles and interactions of principal sanctions implementation actors

This section discusses the:

- Network of principal sanctions implementation actors, their roles, obligations and privileges in implementing and monitoring compliance with sanctions.
- Chair and committee members' responsibility to verify that sanctions monitoring experts adhere to the requirements of their methodology and evidentiary standards.
- Selection of experts and coordinators, their expertise and conditions of service, their monitoring, investigative and reporting obligations.
- Ombudsperson and UN Focal Point roles.
- Administrative and substantive support by the secretary to the committee and his/her role of facilitating the work of the experts, as well as SCSOB's broader support role.

## Security Council

### *Sanctions resolutions*

The Security Council is composed of five permanent members (China, France, the Russian Federation, the United Kingdom, and the United States), and ten elected state members, usually referred to as the Permanent Five (P5) and Elected Ten (E10), respectively. E10 members are elected for two-year terms on a rotation basis.

The Security Council may adopt sanctions to resolve conflicts, prevent atrocities, stop or disrupt terrorist threats, or the proliferation of WMD, or to address any other issue it deems to be a threat to international peace and security,. Decisions by the Security Council are binding on all UN Member States pursuant to Article 25 of Chapter V.

A Security Council sanctions resolution forms the basis for the work of the sanctions committee, the sanctions monitoring experts, and any other sanctions stakeholder. It typically describes the objectionable behavior, provides background to the prescribed action, and details the sanctions provisions, usually including embargoes, travel bans, assets freezes and other specialized measures, criteria for easing or lifting, and exemptions to address unintended humanitarian or other consequences.

The resolution contains directives, for example, to: establish a sanctions committee with a mandate to implement all aspects of the sanctions regime; establish an expert team with a mandate to monitor and report on compliance with the sanctions measures; require states to report their implementation efforts; and set out specific tasks for other stakeholders.

The drafting of a sanctions resolution is usually undertaken by the Council member(s) leading on the issue, called the penholder or co-penholders. Usually, permanent members assume the penholder role; but in recent years E10 members are increasingly calling for P5 members to share this responsibility. As is the case with any Security Council resolution, adoption requires a majority of nine members and no veto by any of the five permanent members.



individuals, companies or entities with respect to individual targeted sanctions.

Each committee is comprised of the 15 members of the Security Council and the Council elects a Chair and two Vice-Chairs from among the members. E10 delegations have been requesting with increasing urgency that P5 members share this laborious responsibility; but so far, this has not materialized. A link to the annually updated list of Chairs and Vice-Chairs of sanctions committees, can be found on the page of the Subsidiary Organs Branch: (<https://www.un.org/securitycouncil/content/subsidiary-bodies>)

### *Decision-making and the de-facto veto of each committee member*

Committees take decisions by consensus, which implies that each member of the committee may exercise its vote as a veto.

Most decisions are taken by a written no-objection procedure (“NOP”), meaning by email circulation, with a deadline for objection (normally three to five days as stated in the committee guidelines), submitted in writing.

Committee Chairs normally designate a representative from their delegation to take charge of the committee’s work. The representative works closely with the Committee secretary to draft and circulate documentation for action or information.

### *Interaction with expert teams*

Currently 10 of the total of 14 committees are assisted by sanctions monitoring experts who monitor compliance with all sanctions measures, investigate specific cases of non-compliance, and report their results to the committee.

Experts act under a mandate that is adopted with sanctions resolutions and updated, expanded or reduced in accordance with the evolving sanctions provisions. Committees may encourage experts to pay special attention to specific aspects of the sanctions measures, request clarification, or facilitate their work with non-cooperative states.

Committees are the primary recipients of experts’ communications, usually in the form of monthly progress reports, an interim report, and

a final report. Committees have over recent years exercised increasing oversight over the experts' work by requiring a work and travel plan at the beginning of a mandate, and by increasing their reporting obligations with monthly, quarterly, and interim reports. These reports should allow more proactive implementation guidance and support, for example, to sanctions-affected states with particularly heavy implementation burdens.

Committee members also have the opportunity to verify whether experts are following their established methodology and evidentiary standards. Where experts offer recommendations for designation in their confidential annex, committee members must verify all presented evidence and, in particular, ensure that each alleged violator was afforded due process rights. Specifically, committees should ensure that a right to reply to all allegations was granted to anyone recommended for designation, or even simply named in the report, and that their reply is made part of the experts' report or recommendation. Furthermore, the committee should verify that the experts have collected incriminating and extenuating information in a manner that is consistent with the committee's due process requirements (see 'Streamlining due process' on page 118).

## Methodology

Although expert reports generally include an agreed methodology, there is no standardized or comprehensive model that is used across the board. Committee members should be aware of the following criteria that have been identified in various consultations as essential for credible and authoritative UN sanctions monitoring. Committee members should verify that these principles are reflected in the methodology section of the experts' reports and ensure during briefings that they are also fully integrated into the conduct of the experts' monitoring and investigative work.

The experts' methodology should clarify:

- Their internal working dynamics;
- Special rights or responsibilities accorded to the coordinator, if any;
- Purposes and principles for interactions with governments, and in particular with states subject to sanctions;
- That the investigative conduct is consistent with the experts' standards for
  - compliance monitoring and investigation of potential sanctions violations;
  - verification of sources and information;
  - evidentiary standards;
  - handling of sensitive records;
- Safety and security procedures; and
- That their investigation, reporting and recommendations for designation are consistent with the committee's expectations of due process.

#### a) Internal working dynamics

In order for the committee Chair to submit a final report to the Security Council, all members of the expert team are required to sign it as evidence of their concurrence with the content. Ideally, experts serve as peer reviewers, even when each is focused on his/her specific area of expertise.

Experts who do not work in isolation from one another but monitor and investigate in teams of at least two members, tend to conduct balanced monitoring and achieve better consensus and enhanced accuracy of their investigative findings. This working style should come naturally to experts, as many investigative projects require a multi-expertise approach (such as arms tracing, financial transactions, and border management).



Additionally, the coordinator should arrange for regular and frequent team discussions to ensure full sharing of all pertinent monitoring and investigative insights, including written records about meetings and interviews.

A decision to initiate an investigation or monitoring effort should trigger an obligation for the lead expert to assume the responsibility of ensuring that:

- during all interviews with critical informants or witnesses, at least one other member of the expert team is present, including participation in conference calls;
- all interactions are recorded in writing contemporaneously and filed in the experts' archive;
- investigations are also undertaken to find mitigating or exculpatory information, and that these insights are reported along with incriminating information;
- all alleged violators are given a right to reply to all allegations and the reply will be reported together with the incriminating information.

In all important matters, specifically recommendations and the content of official written or oral presentations to the committee, experts should work on language that will be supported unanimously, and as a minimal rule, avoid decisions against which one or more experts strongly object.

Empirical evidence from over 20 years' of internal dynamics has shown that maintaining a collegial spirit during experts' mandates often poses a challenge. Many human factors tend to intrude and disrupt the productive and congenial processes that ensure the effectiveness of these teams. Committee Chairs and members should be aware of unfavorable internal dynamics as they can undermine the indispensable methodological principle of consensus decision-making.

A skilful and experienced coordinator may buffer some of these internal challenges. Conversely, inexperienced coordinators may cause dissention and problems.

### b) The coordinator's special rights and responsibilities

Fundamentally, no special authority is accorded to the coordinator and he/she is not endowed with more voting or decision-making powers. The coordinator's most valuable contribution to the committee's work is in safeguarding against methodological failures and maximizing the experts' consensual work style, decisions and recommendations. Ideally, experts support one another's insights and contributions to the final report and avoid strong dissent by one or several experts. Committees depend on the willingness of all experts to sign off on their reports, making it possible for the Chair to submit it to the Security Council and convene a committee meeting to discuss and decide on the experts' recommendations.

### c) Interaction with governments

As a fundamental methodological rule, expert teams are a vulnerable link in the sanctions monitoring mechanism. Other than their integrity, and often to the detriment of the experts' re-appointment prospects, nothing stands in the way of unfair pressures, coercion and threats that a Member State may wield with impunity against individual experts.

By observing sound methodological standards, experts and committees may avoid such failures. Experts are, of course, expected to interact with all governments affected by specific sanctions, record and report the essence of their statements, and offer a full right to reply to any allegations against any state that experts intend to report.

However, the Chair and the members of a committee should be very circumspect whenever governments apply undue pressure on sanctions monitoring experts. While the experts' interactions with Member States usually result in helpful collaboration, Chairs and members must be aware that some adversity may arise, particularly when a state is subject to sanctions restrictions and unwilling to cooperate or comply. Experts may also encounter difficult challenges from government officials who may oppose any narratives other than their own in the experts' reporting, or in the extreme, feed experts skilful misinformation. In these adverse situations, experts require the full backing of the Chair and the committee.

#### d) Compliance monitoring and investigation of potential sanctions violations

Principal sanctions actors should exercise accountability and transparency when carrying out sanctions policies, or risk accusations that the UN sanctions system operates outside international laws and rights, resulting in a loss of confidence and credibility. Sanctions procedures must therefore be based on verifiable records, consensus decisions where possible, and cases built on adequate evidentiary standards to which due process is applied at every step of the investigative and related processes.

The Chair and members should emphasize these principles when they meet a newly appointed expert team for an introductory briefing. They should also ascertain that experts have an opportunity to hold a multi-day inception meeting at the beginning of the mandate.

Typically, the following methodological themes should be discussed and determined by experts:

1. Practical purposes of the sanctions measures, or in other words, the implementation and compliance obligations that arise from all applicable sanctions resolutions;
2. Context in which the sanctions provisions were applied;
3. Approaches they intend to take to monitor implementation and compliance, and conduct investigations of alleged non-compliance;
4. Internal procedures the experts wish to adopt with respect to the anticipated monitoring and investigative tasks;
5. Evidentiary standards the experts commit to attaining as a benchmark that must be met before reporting topics and specifically before recommending individuals, companies or entities for designation;
6. Individual due process rights applicable to each investigatory and reporting step, that experts commit to observe, including the practical means by which hard-to-reach interlocutors will be offered full due process.

Following these deliberations, the experts should be invited to a briefing with the committee to discuss their preparation, including details

of their methodology, evidentiary standards, and how they intend to apply due process.

Experts, individually and as a team, should meet with the committee at the beginning of a mandate, and bilaterally with the Chair, penholder, and other interested members. The purpose of these exchanges and any follow-up during the mandate is for experts to fully understand how best to translate the committee's policy intentions into implementation and compliance obligations.

These communications should be direct between the two parties, and not filtered through the coordinator, a limited number of experts, or by communicating indirectly with experts through the committee secretary or political affairs officer. Direct communications also demonstrate the essence of the experts' independence, i.e., that they are solely responsible for the content of their reports.

The experts' interactions with interlocutors, particularly in-person meetings or conference calls, should be organized in a manner that minimizes allegations of misunderstanding or miscommunication. For this reason, experts should be able to travel and plan their communication strategy, and as a rule, conduct conversations in the presence of at least two experts taking notes and verifying relevant documents, photographs or videos that confirm or contradict key allegations, independently of each other.

Acting in pairs or more, experts will jointly record the key out-takes from their conversations with informants, and especially with alleged violators. This obligation applies regardless whether a conversation is prearranged or whether experts wish to benefit from the element of surprise of unannounced visits. Notes can eventually be reconciled into a single record entered into the team's archive, to serve as the basis for reporting to the committee.

Any face-to-face discussion with alleged violators has to be preceded by a clear declaration of the authority and purpose that enables experts to pursue the subject of the meeting. The interview should not be used to intimidate or threaten the interlocutor in order to extort an admission.

As experts build their monitoring and investigative records, they should continuously share their insights with all colleagues during team

meetings, conference calls or via email exchanges. These internal updates and consultations will enable the coordinator and individual experts to speak authoritatively to the committee Chair and members as the occasion arises. The committee may wish to understand both the content of the experts' report and how the information was obtained. Specifically, they may wish to be assured that an investigation was initiated after meeting *prima facie* tests, compare incriminating with exculpatory information, and ensure that all due process rights were extended before they agree to take forward the recommendations.

#### e) Verification of sources and information

Committee Chairs and members should insist that the experts' recommendations are based on valid verification of sources and informants. This obligation is particularly important whenever experts collect information from someone not directly involved in their monitoring or investigative objectives. In these situations, experts have traditionally claimed the formulaic solution that information is credible because it is obtained from "two independent sources".

However, in an age when information is freely available across millions of webpages, blogs and social media, this standard can no longer be eligible as it has become impossible to ascertain whether informants happened to read texts from the same sources published on multiple virtual platforms. Therefore, independent sourcing is no longer a verifiable criterion.

An alternative approach could be for experts to focus as much as possible on primary witnesses and those directly involved in the alleged circumstances. At the same time, experts should carefully collect all extenuating or exculpatory information. The combination of the two sets of information will provide experts with reliable facts against which the veracity of corroborating statements by third parties can be more accurately evaluated.

#### f) Evidentiary standards

Committee members should verify that the experts' investigations and recommendations are based on sound evidentiary standards. The first requirement is that the initiation of specific monitoring and investigative efforts is based on credible *prima facie* evidence.

The following priority order for assessing credibility is suggested:

- Documentary support, such as invoices, receipts, or commercial or military orders, photographic or video records;
- Testimony by credible eyewitnesses, representatives of governments or competent institutions;
- Testimony by directly involved or implicated participants;
- Credible media or civil society reporting;
- Situational outcomes or circumstantial evidence suggesting that the allegations could be true.

Once experts present a recommendation for designating a person or entity for individual targeted sanctions, the evidence should include, when applicable:

- Statements by the alleged sanctions violators;
- Statements of witnesses or participants in the alleged sanctions violation that were obtained in a manner consistent with the experts' agreed methodological requirements.
- Experts' observations, for example resulting from witnessing acts that contravene sanctions, or the results of such contravention, such as the presence of arms in an embargoed area that were manufactured after the onset of the embargo; or injuries sustained by victims.
- Corroborating documents or items, including photos, audio/video records, pieces of armaments, bullets, cartridges, or fragments of arms that support the alleged actions. Such records could verify financial and shipping services that enabled embargo violations, orders and invoices from commercial suppliers, valid or falsified documents and end-use certification, photographs of injuries suffered by victims of atrocities, or shells, firearms, proliferation technologies, or packaging of any military items, are frequently required evidence. Their corroborating power hinges, however, on the experts' ability to provide a verifiable chain of custody.

Authentication of origin is also required for all documentary evidence.

- Exculpatory information can include statements, documents or circumstantial evidence

#### g) Handling of sensitive records

Experts should systematically integrate into their archives: contemporaneously prepared reports of each monitoring or investigative step; records collected in the form of documents, photographs, audio/video recordings, or statements published through official government channels; and studies or reports obtained from UN or other credible sources.

The ability to check the documentation related to experts' monitoring or investigative work should be recognized by the Chair and members as an important tool that helps to protect experts from politically driven pressure from dissenting Member States. The ability to answer questions and quash suspicions with impeccable evidentiary records insulates experts from suspicions of bias. Committees should recognize and make use of such verification whenever internal controversies undermine the work of experts.

#### h) Safety and security

It is the nature of sanctions monitoring in conflict regions or in counterterrorism situations to have to operate, despite uncertainties, in difficult security and safety conditions. At the same time, experts cannot do their work if they are surrounded by intimidating forces.

The committee Chair and members should frequently remind experts that their physical security is a top priority and that as part of their methodology, they are expected to either develop safe work-around solutions or abandon a monitoring task if security risks cannot be tolerably managed.

Experts should also understand that serving in this capacity requires a high degree of competence and flexibility. Strategies for interviewing interlocutors who could be a threat to the security of experts or a meeting that requires travel through unsafe territory, should include:

- Requiring the interlocutors to meet with experts in neutral locations where manageable security concerns prevail;
- Enlisting a trusted third party to convene a meeting. Usually, this option applies only to a government that has verified control of the interlocutor;
- Interacting only in writing (email, or personal letters delivered by intermediaries), or by telephone, while rigorously establishing all supporting facts, such as ascertaining the whereabouts of the alleged sanctions violators, collecting exculpatory information that could lead to additional research, and excluding misleading or erroneous claims.

As an iron-clad rule, however, experts should never allow time to be their adversary. Experts stand under no obligation to deliver a complete package of supporting evidence at any given point in time. They can always consider the postponement of a task, a meeting or a recommendation for designation until safety and security conditions are favorable, or the collection of evidence of an allegation has advanced.

Work-around solutions are often also required in order to protect witnesses, victims or other innocent bystanders, including supporting UN staff, such as drivers or interpreters. Endangering them by hasty investigations is not only unconscionable and unprofessional; it can lead to the destruction of vital evidence and the disappearance of witnesses or assets.

### i) Due process

For a detailed description of committee Chair and members' attention to due process rights for those alleged to have violated sanctions, please refer to Section IV, Streamlining Due Process on page: 118.

## **Chairs**

### *Appointment*

Committee Chairs are traditionally selected from among E10 members and usually serve at least a one-year term, and usually for the second year of



their state's two-year term on the Security Council. Recent calls for changes in this approach may lead to P5 members sharing this responsibility in the near future.

Committee Chairs serve in their personal capacity. While in the absence of the Chair, the Vice-Chair would in the past take over his/her functions, recent practice has been, except for the chairing of formal meetings, to allow members of the Chair's delegation to act on his/her behalf.

### *Functions*

The Chair's primary responsibilities include convening committee meetings and interacting with committee members and other Member States. Recent trends, however, have been toward more Chairs also serving as co-penholders.

One of the privileges of the Chair is the submission of expert reports to the Security Council. In other words, even if a committee member objects to the content, causes delays by questioning any part of it, or attempts to block the release of a report, at the latest when the term of the Chair expires, he/she can simply submit it to the Council with little political cost.

The Chair coordinates committee meetings and related procedures, ideally by building consensus, collaborating with the penholder, reaching out to other sanctions actors, facilitating implementation efforts by Member States, and providing support to the committee's expert team.

A determined and focused Chair can greatly expand his/her role by taking an active approach. For example, the Chair can promote outreach efforts by the committee, with visits to the sanctions-affected region or countries to encourage more effective implementation and recommend possible changes to the sanctions policy. The Chair can also propose to the committee the inclusion of other stakeholders in consultations, in particular representatives of governments that face obstacles in, or are not disposed to, implementing sanctions.

A Chair can further convene, usually with the consent of the committee members, interested Member States for briefings to which members of the expert team, or external technical experts as appropriate, may be

invited. He/she can also hold press briefings, and in coordination with the committee, issue press releases.

A Chair can enhance his/her bilateral consultations with experts by providing assistance as required. For example, Chairs can be highly effective in intervening with reluctant states, representatives of international organizations, or enterprises that impede sanctions implementation.

Finally, a Chair can promote the committee's drafting of sanctions Implementation Assistance Notices (IANs) as one of the most effective ways to inform governments and the public about technical implementation and compliance expectations.

### *Vice-Chairs*

Committee Vice-Chairs serve in the capacity of their delegation rather than in their personal capacity. The practice has been that Vice-Chairs take over the functions of the Chair in his/her absence. However, in recent years, except for the chairing of formal meetings, the practice has changed to allow a member of the Chair's delegation to serve this function in his/her absence.

## **Member States**

### *Roles and obligations*

In the implementation of UN sanctions, Member States may be involved in three different ways:

1. As a Member State with implementation obligations under Article 25 of the Charter;
2. As a sanctions policy-maker when the state serves as a member of the Security Council and sanctions committees;
3. As a state that is directly subject to sanctions, or affected by geographic proximity, or economic implications, for example, by trans-border trade, or because of humanitarian consequences caused by refugee populations.

The obligations of UN sanctions on Member States are prescribed in Article 25 of the UN Charter: “The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” Consequently, Member States are compelled by virtue of their membership in the UN to implement all sanctions decisions by the Security Council and accept under the Charter’s Article 2.7 that UN sanctions may temporarily affect their sovereignty rights.

### *Sanctions Coordinator*

Most E10 delegations, as do the P5, appoint a sanctions coordinator in addition to their technical experts on the committees during their term on the Council. The responsibilities vary depending on a delegation’s sanctions policies and staff resources, but normally include a leading role in overseeing practice and precedent and cross-thematic issues.

Delegations whose resources cannot support the appointment of a full-time sanctions coordinator may decide to add this function to the responsibilities of an officer with another portfolio, e.g. within the office of the legal advisor. Experience shows that it is helpful that the sanctions coordinator has a legal background; but in general, if there is only one legal advisor, it is almost impossible for her or him to oversee the sanctions business in detail – the workload can be considerable.

### *Internal organization of committees*

Committee members accept the additional burden of preparing and allocating adequate diplomatic staff to meet the high demands of membership, which almost always also include the responsibilities of chairing a committee.

Some delegations assign a sanctions coordinator in order to conduct its policies in a coherent manner across all sanctions committees. Individual diplomats with regional and thematic expertise represent their delegations in the appropriate committees.

States that have recently served in the Security Council have stated that at least ten well-prepared diplomats are required to ensure competent participation in all sanctions committees. SCAD offers incoming Council members an induction programme on the functioning and particularities of sanctions committees. However, there is no formalized training for states' delegations that cover all interests and concerns a state typically needs to address during its Security Council term.

## Regional organizations

### *Traditional roles*

Traditionally, norm-breaking states or actors tend to encounter the UN sanctions system in collaboration with the relevant regional organization. The role of regional organizations in the maintenance of international peace and security is addressed in the UN Charter under Chapter VIII. Articles 52 and 53 define the involvement of regional arrangements or agencies in the peaceful settlement of disputes and eventual enforcement actions with the Council's explicit authorization; and Article 54 explains the reporting obligations of regional organizations to the Security Council.

To date, cases with members of the African Union (AU), the European Union (EU), and the Organization of American States (OAS) have triggered such collaborative efforts. The League of Arab States (LAS) has taken the lead with Syria's civil war, a situation where the UN did not engage with sanctions. Security issues within Asia have so far not triggered a coordinated response between the UN and Asian regional and subregional organizations.

In order to include regional organization's concerns in UN sanctions practices, annual meetings are usually arranged for the exchange of information and views. Chairs and members of Committees also often consult with representatives of these regional bodies as part of their outreach efforts.

## Sanctions monitoring experts

### *Purpose and functions*

With the post-Cold War emergence of armed non-state groups and combatants such as terrorists, militias or insurgents, the Security Council required a new, more flexible tool to protect international peace and security. Its traditional diplomatic mediation, backed by the threat of comprehensive sanctions or the deployment of armed force authorized under Chapter VII, was now a disproportionate and ineffective solution. The shift to targeted sanctions and the establishment of more nimble sanctions monitoring experts assisting Committees as eyes and ears in conflict regions proved to be a far more effective approach.

Sometimes called panels or groups of experts or monitoring teams, sanctions monitoring experts are mandated to:

- Monitor whether states' efforts to implement Security Council's sanctions resolutions are effective;
- Investigate failures to implement or comply with sanctions, and identify violations and violators;
- Report the findings of their monitoring and investigations;
- Recommend enhancements to sanctions policies and provisions;
- Recommend ways to mitigate the unintended consequences of sanctions on the population and, in particular, on women, girls and children;
- Recommend designations of those alleged to have violated sanctions; (not applicable to ISIL/AQ/Taliban sanctions);
- Provide assistance to states that lack implementation capacities (not applicable to all regimes).

### *Internal organization*

Expert teams consist of a coordinator and members with expertise related to the specific sanctions provisions. Over the history of sanctions monitoring experts, their numbers have ranged from as few as one member, to typically 4 to 6 experts in conflict-related sanctions cases, and as many as 10 experts appointed to the counterterrorism monitoring team.

Members have equal voting rights, as best demonstrated by the need for all experts, including the coordinator, to sign their final report in order for it to be accepted by the committee and to enable the Chair to convey it to the Security Council.

### *Qualifications and expertise*

The recruitment of experts should be balanced in regard to gender and geographical region. In practice, however, expert teams tend to be dominated by men from Europe and North America.

Members of expert teams are required to have specific expertise that matches the threats to, or breaches of, international peace and security on which sanctions are applied. The following types of expertise are required in almost all sanctions cases:

- Identification and tracing of arms, and/or sensitive proliferation technologies, and/or ballistic missiles, as well as related dual-use items and technologies, including under the catch-all provisions;
- Border management procedures for both cargo and personnel;
- International sea, air, and land-transportation;
- Financial transactions that relate to the facilitation of embargo violations, terrorism, or proliferation of WMD, as well as related money-laundering efforts;

For some sanctions cases, additional expertise is required, such as:

- Human rights and international humanitarian law (HL);
- Armed groups;
- Commodity extraction and trade;

- Regional issues;
- Nuclear arms technologies;
- Investigation.

### *Coordinator of the team of experts*

Prior to the mid-2000s, former ambassadors or Permanent Representatives were often appointed as Chairs of expert teams. When the title was changed so as to avoid confusion between the chairs of expert teams and committee Chairs, and for the purpose of consistency with the coordinator of the then Al-Qaida monitoring team, there was not only concomitant diminished prestige of this position, there was also reduced awareness of the important value that an experienced coordinator can add to the sanctions enterprise.

Regardless of the status afforded to a coordinator, the establishment of a productive working relationship between the committee Chair and coordinator, particularly where experts face significant resistance from interlocutors, is invaluable. An open line of communication between the Chair and the coordinator can also be useful to address possible tensions of committee members or other states toward the experts' monitoring efforts.

In contractual terms, coordinators are co-equals with other experts, with the same voting or decision-making privileges, except that they have an added burden of administrative tasks related to coordinating the activities of the team and liaising with SCSOB (the Security Council Subsidiary Organs Branch) and other UN offices. While they have no more authority than other team members, a few assume veto power over the decisions of all other members, or reject peer review of their own findings, sources or recommendations.

The much more frequent model is, however, that experienced coordinators lead by example, by promoting agreement on methodology, evidentiary standards and due process applications, conducting joint investigations, and coordinating the drafting of reports and responses to the committee.

Coordinators facilitate interactions between the experts and the Committee and between the experts and SCSOB. They normally deliver

the team's reports and presentations to the Committee and take the lead during bilateral meetings. Experienced coordinators will ensure that other members of the team have the opportunity to interact on areas of their particular expertise.

By default, coordinators have the role of managing possible reputational and security risks to individual experts or the team. Typical concerns that may need to be addressed are external attempts to impair the independence or to diminish the integrity of the experts' work, and the physical security of all experts operating in the field. In such cases, coordinators may request, informally or formally, the assistance of the Chair or committee members who are most likely in a position to support the experts.

In some cases, budgetary cuts have resulted in less support to experts by SCSOB political affairs officers, whether in conducting research or assistance in drafting official correspondence, Note Verbales, or reports to the committee.

### *Legal status, recruitment, appointment and conditions of employment*

SCSOB engages experts with a status of "UN experts on mission", which is not equivalent to UN staff in most regards.

In order to find qualified experts, SCSOB maintains a roster of experts, and periodically requests Member States to propose individuals with appropriate expertise. When SCSOB has decided on a selection of candidates for a specific expert team, the Under-Secretary-General for Political Affairs transmits the slate to the Chair, for circulation and approval by the committee members under a written no-objection procedure. If no committee member objects to one or several candidates, the Secretary-General formally appoints the experts. The appointment letter is placed on the committee's web page.

As most mandates are renewed on an annual basis, most experts are formally employed for approximately 12 months, with the option of several renewals. The maximum duration for service has changed multiple times over the past years, but currently, experts can serve up to 60 months consecutively.

As per Article 6 of the Convention on the Privileges and Immunities of the United Nations, "experts on mission have pseudo diplomatic rights"



and should be protected from arrest/detention/individual and/or property search. In practical terms, experts are obliged to respect local laws and UN policies, codes of conduct, and the terms of UN employment, including security obligations.

Experts do not share in the benefits accorded to UN staff, such as paid sick leave, vacation or maternity leave; health, accident and life insurance; educational subsidies; or opportunities to build a UN career.

### *Independence*

Experts are considered to be “independent” in the sense that they are solely responsible for the content of their reports. Their independence does not extend to the UN safety and security rules, or ethical and professional standards. Individual experts are also required to operate within the team’s rules as expressed in their methodology, and to abide by team decisions.

Experts are also independent insofar as they are obliged to adopt objective positions in their monitoring and investigations regardless of their political, religious, or cultural affiliations.

Experts are expected to resist external pressures, and not to cater to particular interests in exchange for favours, money, or for career advancement. Above all, experts are not supposed to act as agents or representatives of any state, organization, religion or political party. However, the latter point was substantially disrupted with the practice that commenced in 2006 of appointing a national of each P5 member to the counterterrorism and non-proliferation expert teams.

### *Recruitment of consultants and interpreters*

Budgets for sanctions monitoring experts used to allow for the hiring of short-term consultants, usually restricted to two to six months, if such supplemental expertise was required. Similarly, expert teams’ whose language proficiency was inadequate for specific field monitoring and investigative tasks could request professional interpreters. Some experts, such as the Sudan/Darfur team, used to have an Arabic-language interpreter for the entire duration of their mandate.

Although the decision concerning the recruitment of consultants or interpreters is not in the committee’s purview, committee Chairs and

members have, as a matter of methodology, an interest in their experts benefiting from the availability of adequate language support and specialty expertise, where required. Such assistance is of added urgency with the increased accessibility of victim communities in refugee and IDP camps, child soldiers, victims of sexual and gender-based violence (S/GBV), or informants on proliferation and terrorism-related violations.

Nevertheless, in recent years the experts' access to consultants and interpreters has diminished significantly because of budget cuts. As a work-around, team members have to double as interpreters/translators, and as has often been proved to be inefficient or a potential risk for the independence and confidentiality of experts' work, they have solicited assistance from UN security and other UN personnel, or from personal acquaintances.

Committees could insist on greater transparency on budget allocation. As funding for a significant number of political affairs officers is built into each expert team's budget, a committee may wish to request a minimal reallocation of funds to ensure that experts have the consultant expertise and support that they require.

### *Supporting experts in their communications with interlocutors*

In instances where states are reluctant or even hostile toward cooperating with experts on their government's implementation efforts or on non-compliance involving their citizens, companies or entities, the persuasive powers of the Chair or individual members of the committee can be invaluable. Support is sometimes also required when other interlocutors resist the experts' information requests, despite reminders.

Chairs and committee members have a range of possible actions available to them. The Chair can mediate privately with diplomats of the uncooperative state, or with the consent of the committee, send an official reminder of its obligations, arrange a bilateral meeting, or invite the Permanent Representative to a meeting with the committee. Finally, the Chair may also decide to include the resisting state's capital in a visit to the region. Consequences for states for their non-compliance are rare. There have been only two cases of secondary sanctions in the history of UN sanctions (Liberia and Eritrea).

### *Reporting obligations of experts and corrections*

Committee chairs and members depend on a regular flow of information from their experts in order to continuously assess the effectiveness of the Security Council's sanctions and overall conflict resolution objectives. For this purpose, experts' reporting obligations are mandated in the respective sanctions resolutions and are further refined by the committee. Most expert teams are obliged to provide an interim report and a final report. Over recent years, experts are frequently requested to also provide monthly and quarterly reports. Non-proliferation experts and the counter-terrorism monitoring team are also frequently required to draft thematic papers and studies.

Periodically, expert teams are scheduled to brief the committees in person, although for budgetary reasons such briefings have often been restricted to the coordinator or a selection of experts. The lack of regular interaction between the full committee and expert teams has intangible disadvantages as individual experts have less of an opportunity to learn about the committee's evolving policy and sanctions priorities.

To protect the independence and integrity of the experts' reporting process, in a case in which the committee Chair, or a member, or SCSOB may suggest changes to the text of an expert report, the final decision rests with the experts, including in cases where experts have demonstrably ignored methodological and evidentiary standards that may cause harm to states, individuals, companies or entities.

In cases where a correction is requested after publication of a report, a corrigendum may be issued as a separate document. Experts may of their own volition publish a corrigendum in cases where they discover a mistake after their report has been released.

There is no mechanism in place to address requested corrections to a report of a previous expert team, in cases where none of the members involved are on the current team.

### *Statements of case*

With the exception of the ISIL/AQ/Taliban Monitoring Team, all expert teams are mandated to recommend alleged sanctions violators for designation under individual targeted sanctions. In addition to their public

reporting, experts are invited to file statements of case, containing facts that support their recommendations, including any corroborating evidence, such as commercial and banking correspondence, photographic, audio/video records, or statements by witnesses. Additionally, the statements should include clear identification data for each of the designees.

Statements of case should be carefully protected as confidential documents. Well-developed statements tend to include the names and identities of witnesses or innocent parties that must be protected. In cases where the committee decides not to follow the experts' recommendation, the alleged violators may also suffer harmful consequences, should the statement become public knowledge.

### *Collaboration on preparation of reports*

Consistent with an expert team's methodology, committee Chairs and members should verify that the experts have interacted with all sanctions-affected states, individuals, companies and other entities named in their reports. This is not only a due process matter, it also signifies effective monitoring that prioritizes information from actors directly affected by sanctions.

Consequently, committee members may wish to confirm with experts that they have addressed all pertinent monitoring topics, and that they have allowed adequate time for states to respond and for clarifying all outstanding issues. Experts should reflect the concerned states' responses in their report. Committee Chairs should confirm that experts have sought similar collaboration with individuals, companies and entities that they intend to name in their reports.

Where named states, individuals, companies or entities decline to collaborate, experts should, at a minimum, request, in writing from the non-responsive party, responses to all pertinent questions and issues. The delivery of the letter should be timed to allow the recipient to answer before the mandate has expired.

### *Discussion of expert reports and mandate renewal*

Committee chairs and members officially receive the experts' reports four to five weeks before the end of their mandate. The Committee may review and discuss the report during one or multiple meetings. The experts

are usually invited to brief the committee on the content of their report at an informal committee meeting.

Members have an opportunity to raise questions, verify findings and working methodologies, and obtain further background information from the experts' recommendations and conclusions, and where appropriate, request additional corroborating evidence.

To avoid unnecessary delays or disruption of the process of submission of expert reports to the Security Council, committees need to ensure that throughout a mandate, experts have all the necessary resources and capabilities to produce an insightful and useful report, upon which they can act with confidence. To this end, committees may extend their discussion or schedule an additional meeting without the experts present, to deliberate possible next steps (see below 'Follow-up on expert reports and designations').

### *Content and quality of expert reports*

Committee Chairs and members are the ultimate arbiters of the quality of the experts' reporting. While they should avoid attempts to directly influence the content or quality of the reports, they can steer experts by questioning their monitoring and investigative approach, and by probing into how well experts adhere to their methodology and evidentiary standards. For each case where experts recommend an alleged violator for targeted sanctions, the committee can require a detailed explanation about how due process was applied.

Committees can be similarly empowered by making detailed inquiries about the experts' specific monitoring of the unintended consequences of sanctions on the population, and in particular on women, girls, and children, in conflict-affected regions; their methodology for conducting these aspects of their work; the extent to which the team achieved agreement; and whether or not men and women on the team worked in an egalitarian manner.

### *Follow-up on expert reports and designations*

Coordinators generally submit the experts' report directly to the Security Council president after it has been discussed by the Committee. A follow-up resolution is adopted to renew or adjust the sanctions and the experts' mandate. Fine-tuning of sanctions measures or implementation procedures in response to the experts' insights, including adjustments to

the number of appointed experts or required technical expertise are subject to negotiation. Often, however, a technical rollover of the experts' mandate is a way to separate more contentious policy matters from the required speedy resumption of the experts' monitoring work.

The Committee secretary prepares a table of experts' recommendations with proposed actions for discussion at an informal Committee meeting and its circulation for approval under the no-objection procedure.

Possible follow-up actions include:

- Decisions regarding the expert's recommended designations of individuals, companies or entities, often elaborated with a confidential statement of case for each recommended designation;
- Decisions regarding Member States' recommended designations of individuals, companies or entities, not necessarily elaborated in writing;
- A letter by the Chair on behalf of the committee to Member States, international and regional organizations, or to the heads of Secretariat departments and/or Special Representatives of the Secretary-General (SRSGs) to bring pertinent findings and recommendations contained in the report to their attention and request a reply;
- A Note Verbale addressed to all Member States and observers informing them of the release of the report, that includes a copy;
- Scheduling follow-up meetings with relevant interlocutors to explore the implementation of specific recommendations made by the experts, or to obtain additional information from Member States or UN organizations.

### *Publication of expert reports*

After the Committee has concluded its review of the experts' report, it is directly submitted to the Security Council president by the team's coordinator. The report is issued as a Security Council document, publicly

released, and made accessible on the web page of the respective sanctions committee. Experts, coordinators, and members of the committee may be available for further elaboration to the media, although no formalized guidance exists for experts beyond their contractually defined confidentiality obligations.

### *Performance evaluation of individual experts*

The primary evaluation of experts is made by the committee when it reviews and discusses their reports. Leaving aside politically motivated differences, the usefulness of a report usually depends, in the view of members, on the clarity and quality of evidence that supports each monitoring and investigative finding.

The coherence of a report should, however, not be the only criterion by which it is evaluated. An attentive committee will have committed the experts to a level of methodological integrity at the start of their mandate, that also includes a comprehensive application of due process. Chairs and members should, therefore, also evaluate how well the agreed methodology and due process of an expert team was actually applied.

Where individual experts fall short of their commitment, committees should communicate their evaluation to SCSOB, which for institutional purposes will also conduct a performance evaluation. SCSOB's evaluation criteria are not shared with the experts. The evaluation is an important, but not the sole, criterion that guides the decision about whether an expert's appointment will be renewed. In practice, many experts are submitted for renewal as a matter of routine. Others are replaced because of performance concerns, or because new candidates would assist in making a team more gender or geographically balanced.

### *Confidentiality obligations*

As detailed in their contracts, experts are bound by obligations and restrictions of confidentiality. Experts should share all information collected during their mandate with the committee in their written or oral reporting. Beyond the committee, information that is not published in their interim or final report should remain confidential.

However, that does not prevent experts from speaking in various public fora, for example, to the media, academics, open briefings, training sessions, and other opportunities through which the work of the UN sanctions system can be explained and publicized.

### *Induction and training of sanctions monitoring experts*

Enhancing monitoring best practices requires improving specific sanctions implementation skills, in addition to the specialized knowledge required for working within UN institutions.

No comprehensive training of sanctions monitoring experts currently exists. The reasons are multifaceted, but the fundamental reason is a lack of clarity on expert skill requirements.

There are two pillars of skills necessary for experts to fully deliver on their mandates. Training in the first pillar is necessary for experts before they take up their functions. The training curricula should enhance their competence and practical skills in the following areas:

- Pillar 1: Introduction to the UN and to Security Council sanctions, that will include three sub-topics:
  - A. Induction into the administrative workings of the UN sanctions system.
  - B. Legal dimensions of UN sanctions implementation.
  - C. General training in the UN sanctions system, its purposes, actors; interrelationships; and objectives.
- Pillar 2: Introduction to the role, responsibilities, tasks and methods of working as members of UN sanctions monitoring teams:

Tactical issues that experts are mandated to deal with when they are appointed, including methodology; due process; gender-conflict dynamics, internal gender and other dynamics; handling of confidential or sensitive sources (including children); memorializing information or maintaining a proper chain of evidence; and safe and secure operation in high-risk regions.



### *Responsibilities and mechanisms for expert training*

The development of the curricula and the training, as well as the funding, should be a collaborative process, overseen by a consortium of willing Member States. They would ensure the substantive contribution and participation of experienced former experts, expert trainers, sanctions coordinators of Member States, representatives of the Secretariat and other UN offices, and pertinent organizations, as summarized in the following table.

There are various ways in which such a consortium can be organized. For example, state members of the consortium could each accept a one-year term to chair any proceedings required for operating the training. States offering existing training on specific issue(s) would be invited to incorporate their programs into the proposed course approach.

*Table 1: Curriculum topics and likely mentors/trainers*

Pillar	Topics	Mentors/ presenters
1	<b>Sub-topic A: Induction into the administrative workings of the UN sanctions system:</b> Contractual obligations; status of experts in the UN system and conditions of employment; experts' obligations to the Secretariat and support provided to experts; working relationship between the secretary, other SCAD staff, and the expert team; conditions for renewal of contract; institutional archiving procedures and access to archives; UN policies regarding security, safety, harassment.	SCAD Committee Secretaries and administrative support personnel.
	<b>Sub-topic B: Legal dimensions of UN sanctions implementation:</b> UN sanctions as part of international law; distinctions between UN and other sanctions; rights and obligations of experts; rules and limits of immunity for experts on mission; conflicts of interest; evidentiary standards and protection of evidence; due process, legal aspects of monitoring, investigating, documenting and reporting procedures.	OLA, OHCHR, former monitoring experts, expert trainers, Member State experts, national experts
	<b>Sub-topic C: UN sanctions system, its purposes, actors and objectives:</b> Evolution of the UN sanctions system's objectives; scope of threats that are addressed with sanctions; related international institutions, legal instruments and voluntary frameworks; mandate of Security Council, committees, Member States; role of committee Chair, penholders, Secretariat, peacekeeping and other UN offices; role of secretary, Chair and committee vis a vis sanctions monitoring experts.	Former monitoring experts, expert trainers, Member State experts, national experts, representatives of UN agencies

2	<p><b>Tactical and procedural training:</b> sub-topics will evolve along with mandate priorities, and will likely include, in addition to expertise-specific modules: safe and secure field operations in high-risk regions; understanding a monitoring and investigative mandate; establishing group consensus by drafting a comprehensive methodology; principles of evidentiary standards, memorializing information, maintaining a safe chain of evidence; methods for maximizing due process; protecting internal gender equality and ensuring gender competence in expert monitoring and investigations; protecting confidential or sensitive sources (including children); procedures with non-cooperative interlocutors (states, individuals, enterprises, entities), including related safety and security procedures; private sector cooperation.</p>	<p>Former monitoring experts, expert trainers, Member State experts, national experts, representatives of UN agencies, corporate or industry representatives.</p>
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### *Eligibility for participation in training sessions*

Newly appointed members of sanctions monitoring teams should be strongly encouraged to participate in all sessions as well as individuals whom states wish to prepare for possible future service on sanctions monitoring teams.

Member States, particularly prospective Security Council members, would be invited to admit the diplomatic staff of their Permanent Missions to the trainings.

UN Secretariat, Agency, and field mission personnel would be invited to participate.

Participants would be fluent in either English or French.

## **Security Council Subsidiary Organs Branch**

### *Role*

SCSOB assists, enables and facilitates the work of the Committee members, the Chair, and expert teams, in all substantive, administrative and institutional aspects. The various types of assistance provided by SCSOB are as follows:

SCSOB provides committee Chairs with a support team consisting of a committee secretary, political affairs officers, and team assistants.

SCSOB also provides substantive contributions in the form of research and analytical services to the committee.

SCSOB assists the Security Council and the committees in the implementation and evaluation of UN sanctions and conducts training and Council-mandated sanctions reviews. SCSOB facilitates Secretariat-wide support and coordination with the UN system including through its chairing of the Inter-agency Working Group on Sanctions, and coordinating with the Office of Legal Affairs (OLA), the Department of Safety and Security, the Office of the Spokesperson, officials of peacekeeping missions, the United Nations Office of Counter-Terrorism, the International Atomic Energy Agency (IAEA), the Organization for the Prohibition of Chemical Weapons (OPCW), and other UN agencies and technical organizations.

SCSOB rosters, and selects experts for approval by the Committee, and facilitates their recruitment, and logistics and security assessments and support. A political affairs officer is usually assigned to support the experts and their coordinator in writing letters, drafting correspondence and reports, and arranging for interactions with officials of UN organizations, or governments.

SCSOB ensures, through other branches of the Security Council Affairs Division (SCAD), that electronic databases for committee records, Security Council resolutions, expert reports and other documents, and reports are maintained available to the committee.

## Secretary of the committee

### *Function and role*

The committee Chair and members are assisted by an SCSOB team consisting of a secretary, political affairs officers, and team assistants. In most cases, Chairs and their staff depend heavily on the secretary and his/her team for substantive support and guidance on practice and procedure, and for interfacing with officials of other UN agencies and offices.

The secretary and his/her team also provide logistical and administrative support to sanctions monitoring experts and facilitate interactions between the experts and the Chair, members of the committee, and other Member States.

Secretaries provide an annual programme of work of the committee for the Chair and assist in preparing the array of documentation needed for the smooth running of the committee, including the agenda and speaking notes for the Chair, records of committee meetings, drafts of committee guidelines, Implementation Assistance Notices, agendas, correspondence from the committee, and reports to the Council.

Secretaries are frequently asked by the Chair, his/her staff, and delegations of Member States, sometimes also by experts, to informally advise on a wide range of substantive and procedural matters.

### *Specific interactions with the Chair*

In most cases, the Chair and his/her staff are briefed by his/her predecessor soon after the election. Secretaries prepare an annual programme of work of the committee for the Chair and play an important role in providing information about procedural, operational, and pending issues.

The secretary's support is particularly important for Chairs' visits to sanctions-affected countries and regions. Secretaries will accompany them and facilitate the visit with logistics and other substantive support by peacekeeping missions and the office of the relevant SRSG. The support extends to arranging meetings with government officials, representatives of civil society, and international mediators.

## **Ombudsperson**

### *Purpose*

Under the Al-Qaida/Taliban sanctions regime, resolution 1904 (2009) established the Office of the Ombudsperson for the Al-Qaida Sanctions Committee as an independent and impartial reviewer of requests from individuals, groups, companies, or entities seeking to be removed from their designation for an assets freeze and travel ban. Subsequently, the Ombudsperson's mandate was expanded to also cover ISIL (Da'esh).

The Ombudsperson process is unique in the UN sanctions system as it places the burden of proof on the committee if it wishes to extend sanctions against the recommendations of the Ombudsperson on someone already

designated. The Committee can only prevail against the Ombudsperson's view if it agrees unanimously.

The Ombudsperson's Office is supported administratively by SCSOB, but as with experts, the Ombudsperson is independent of any institutional, national or other organizational allegiance. The Ombudsperson is appointed by the Secretary-General and serves according to a mandate by the Security Council for a period of 24 months. Since the establishment of the Office in 2009, three individuals have so far served as Ombudsperson.

In addition to the Ombudsperson process, members also have additional checks and balances available. For example, pursuant to paragraphs 29 and 32 of resolution 2255 (2015) and section 5 paragraph (c) of the committee's guidelines, Member States are strongly urged to consult with the Government of Afghanistan when considering submitting listing or delisting proposals to the committee in order to ensure coordination with the Government of Afghanistan's peace and reconciliation efforts. Member States are encouraged to copy the Permanent Mission of Afghanistan to the United Nations in all official communications addressed to the national contact point of the government.

## **Focal Point for De-listing**

### *Purpose*

Security Council resolution 1730 (2006) established a mandate for the Focal Point for De-Listing. An SCSOB political affairs officer carries out the mandate.

The Focal Point is mandated to accept delisting requests from listed individuals, companies or entities that are not designated under the ISIL/A-Q/Taliban regime. The Focal Point is also authorized to accept requests for exemptions from the travel ban and assets freeze for all UN sanctions regimes.

The Focal Point verifies the accuracy of a request, acknowledges its receipt to the sender, forwards it to the reviewing governments, and informs the appropriate committee should a government oppose the delisting request.

Once the committee makes a decision, the Focal Point conveys it to the applicant.



## Section II

# Committee practices

The following section describes the practices, tasks and obligations of Chairs and members of a committee.

It is segregated into distinct themes that reflect the daily work of this principal sanctions monitoring body, and describes election and handover procedures, organization and working methods, the types of actions and documents through which the Chairs and members implement their mandate, as well as their outreach efforts.

Some of these themes are contained in committee guidelines, while others are indicative of committee practice.

## Role and election of Chairs and committee members

### *Chairs and Vice-Chairs*

Chairs serve as the principal conduit to the Security Council, Member States, expert teams, and SCSOB, including the secretary, while coordinating within the purview described in the committee's guidelines, its meetings and procedures.

E10s are appointed to serve as members and Chairs of committees, in collaboration with the five permanent state members (China, France, the Russian Federation, the United Kingdom and the United States).

The General Assembly schedules the annual election of five non-permanent members of the Security Council, normally in June.

*Proposed inclusion in committee guidelines:*

The Chair of the committee will be appointed with the participation of all Council members, as well as the newly elected members, in transparent, efficient and inclusive consultations by the Security Council to serve in his/her personal capacity.

The Chair will be assisted by two delegations who will act as Vice-Chairs, and who will also be appointed by the Council.

Chairs and Vice-Chairs will be selected from among all fifteen members.

The Chairs and Vice-Chairs of each committee are elected by Security Council members (following informal consultations) and are announced in a Note by the President of the Council, usually before 1 October.

Chairs are elected in their personal capacity; therefore, if the Permanent Representative chairing a committee is replaced in the course of his or her term, the Council must elect a new chair, normally but not necessarily from the same delegation, to assume the vacated chairmanship. However, according to practice, if a Chair is unable to preside over a meeting, another of his/her delegation may fill in for the Chair, except for formal meetings, which are chaired by the Vice-Chair.

The chairing of committees is resource-intense and sometimes burdensome, especially for smaller delegations, and there is interest among some for this responsibility to be shared among all 15 Security Council members.

The process of selecting Chairs used to be a decision of the P5, but following the engagement of elected members, the process is now more transparent as it is facilitated by two Council members, of which one is an elected member.

*Penholders*

The Security Council's informal arrangement that permanent members almost exclusively assume the position of penholder for resolutions and other texts has been in existence since 2004.



*Proposed inclusion in committee guidelines:*

Penholders or co-penholders should regularly consult the Chairs of the related committee to benefit from his/her experience.

Penholders or co-penholders should commence the drafting process as early as possible to allow for an exchange of information and consultations among all Council members in at least one round of informal consultations or informal-informals. However, an evolution has been underway where in addition to their functions as Chairs and Vice-Chairs of the subsidiary organs, elected members have been increasingly serving as penholders or co-penholders.

Penholders or co-penholders initiate and Chair the informal process of drafting resolutions, presidential statements and press statements of the Council.

Chairs and other elected members are encouraged to reach out to penholders early in the process to convey their perspectives and proposals.

Penholder or co-penholders should provide a reasonably sufficient time for consideration by all Council members when draft resolutions, presidential statements and press statements of the Council are placed under a written no-objection procedure, recognizing that any Security Council member may request extension of and/or break silence if further consideration is required.

## Handover and training of Chairs and members

### *Chairperson*

Incoming Chairs are assisted by outgoing Chairs, the penholder(s), and the Committee secretary in informal meetings with written and oral briefings.

Handover briefings include committee records, and background information pertinent for preparing the incoming Chair, including draft documents under preparation by the committee.

### *Elected members*

Incoming members of the Security Council are encouraged to consult as early as possible with outgoing Chairs, the penholder(s), and the committee secretary, and the sanctions monitoring experts.

Incoming E10 delegations are invited to observe all meetings and informal consultations of the Council and its subsidiary bodies, as well as obtain all relevant communications of the Council and the committees, beginning on 1 October, following their election.

The Security Council will not invite newly elected members to private meetings of the Council or to informal consultations where exceptional circumstances exist (for example consultations for the selection and appointment of the Secretary-General).

The newly elected members may be invited to the monthly luncheon with the Secretary-General held in December immediately preceding their term of membership, at the discretion of the president of the Council for that month.

### *Organizational preparations*

The volume of daily committee communications is high. During their time as observers, incoming Security Council members should establish internal procedures for handling their chairmanship/s including committee documentation. Incoming members should decide what and how committee documentation is shared with their capitals.

Committee documentation is marked as either “for information” or “for action” and during their time as observers, incoming members can familiarize themselves with the types of documentation and practice receiving instructions from their capitals. Some members send a daily sanctions email to capital containing all documentation from all committees in order to make it easier for internal processing of information and to make it clear where instructions are needed and by what date.

Documentation which is sent from SCSOB to the Chair for approval usually has to be circulated to the committee on the same day, making it difficult to run it by capital. Therefore, most Chairs and their teams have broad authority to approve documentation without prior instructions from capital.

It is also important to establish a good working relationship with the committee secretary and supporting SCSOB staff, and to establish a focal point in the Mission for each chairmanship.

### *Sanctions coordinators*

Many members find it advantageous to designate in their Mission and in the capital, sanctions coordinators who are responsible for all sanctions related matters. Other members operate their term on the Council from their capital-based departments for international organizations or their legal affairs counsellors.

In either model, it is helpful for members to have dedicated sanctions experts on their Council teams in order to coordinate their delegation's policies, to identify opportunities across all committees to heighten awareness where members should be particularly vigilant.

Technical sanctions experts are helpful for understanding the many crosscutting issues that are often raised in several sanctions regimes and in dealing with the increasingly technical and complex sanctions implementation system.

### *Funding concerns*

Chairs and committees often travel to sanctions-affected countries, adding significant costs to participating delegations. Such committee visits offer valuable information-gathering opportunities for experts. It is, therefore, recommended to secure funds for participation in such trips before the start of the Council term.

### *Induction and training*

General Security Council induction and training events are held by SCSOB, Security Council Report and the Finnish government with its annual workshop for the newly elected members of the Security Council. These programs tend to focus on general Council procedures and institutional and administrative elements of sanctions and not on tactical implementation skills enhancement.

Outgoing and P5 members offer briefings and induction programs that address some practical aspects of implementation. To date, however, incoming members have no comprehensive, independent sanctions-specific induction and technical skills enhancement programs available.

At the same time, many delegations understand the need for and request specialized induction and skill-building exercises in order to better direct and evaluate monitoring experts' investigative procedures. Specifically, they understand that protecting the credibility of the sanctions process requires the effective application of a well-developed methodology, fair evidentiary standards, and due process for all suspected violators.

### Committee set up

Upon establishment of a new sanctions regime and a committee, the Chair and members should:

- Ensure that committee guidelines are drafted and adopted;
- Circulate a Note Verbale to all Member States, drawing attention to their obligations under the applicable resolution;
- Consider organizing open briefings to inform the international community of the progress of the new sanctions regime.

### Committee guidelines

It is a standing practice that each committee develops guidelines for its internal operations. However, committees do not require guidelines in order to conduct their work.

Typically, guidelines will include the following topics:

- Brief overview of the institutional arrangements;
- Details of the mandated actions for which the committee is responsible;
- Arrangements for holding committee meetings;
- Treatment of the meeting agendas;
- Decision-making;
- Listing procedures and identifying information;
- Publishing of the consolidated list;
- Updating procedures for designations;
- Delisting procedures;
- Procedures for receiving and deciding on exemptions to assets freezes and travel bans, including required information;
- Procedures to receive information from non-Council Member States;
- Outreach efforts to inform state governments and private sector actors about their implementation and compliance obligations;
- Interaction with the media.

## Committee meetings

### *Convening meetings*

The Chair can convene a committee meeting, formal or informal, at any time he/she deems necessary, or at the request of a member of the committee. Usually, the Chair provides at least two working days' notice but in urgent situations, shorter notice may be accepted.

The committee can hold a formal meeting to take decisions, or informal consultations to discuss any issue the members may wish to address. Most committee meetings are informal.

### *Provisional agenda*

The Chair, in consultation with the Secretariat, proposes a provisional agenda for each meeting and will accept additional items by members proposed either prior to the meeting, or at the beginning of the meeting, under ‘other matters’.

Agenda items are normally agreed prior to each meeting. The provisional agenda and all documentation for formal meetings are made available in the six official languages of the UN (an extra day for translation must be scheduled).

### *Interpretation*

Committee meetings, formal or informal, generally require interpretation services, unless committee members agree to hold the meeting without such services. Chairs should ensure that interpretation services are confirmed prior to announcing a meeting.

The secretary facilitates the provision of interpretation services for meetings of committees. However, Security Council meetings have priority for such services.

### *Documentation for meetings*

For formal meetings, the Chair should ensure that the secretariat has allocated adequate time for translation into the six official languages of all primary communications, reports, or documentation required under the agenda.

The length of time needed for translation depends upon the number of pages to be translated. A final expert team’s report may typically take four to six weeks to be translated and printed.

### *Announcements in the UN Journal*

Following adoption of the report of the Informal Working Group on General Issues of Sanctions, (S/2006/997), committees have announced the convening of formal and informal consultations in the UN Journal.

### *Attendance*

Meetings and informal consultations are closed, unless the committee decides otherwise. In addition to member delegations, the committee secretary, the political affairs officer, and the assistant to the secretary, attend the meetings.

The secretary consults with the Chair regarding the participation of staff members from other UN divisions and departments. Other representatives of states that are non-members of the Security Council, whether accredited, or not, may be invited by the Chair, in consultation with the members.

The expert team may be invited to attend all or portions of formal and informal meetings during which their work and reports are discussed.

### *Quorum*

The Chair decides when to begin the consultation/meeting. There is no requirement to meet a quorum, and the Chair will usually commence a meeting at his/her discretion regarding attendance.

The Chair will seek to facilitate committee decisions by consensus. The consensus practice applies to both procedural and substantive decisions.

### *Chairing of meetings*

The Chair manages formal meetings and informal consultations but if he/she is unable to Chair a meeting, he/she may nominate a representative of his/her delegation, except in the case of a formal meeting, where the Vice-Chair will preside.

### *Chair's speaking notes*

The Secretary and other staff of SCSOB support the Chair in the preparation of speaking notes and other documentation for meetings, for the Chair's approval. They will deliver the notes and documentation in one of the six official languages or in the national language of the Chairperson in cases where the Permanent Mission provides interpretation into English for subsequent interpretation into the official UN languages.

### *Press releases*

Following Committee guidelines or in accordance with paragraph 104 of the annex to the Note by the President of the Security Council of 30 August 2017 (S/2017/507), in reference to the working methods of the subsidiary organs, Chairs usually prepare, with the support of the Secretariat, a brief summary of the formal meeting or the informal consultations to be issued via a press release, upon consensus agreement on the text by members.

### *Records of meetings*

For formal meetings an official record is prepared by the UN Meetings Services.

## Voting and decisions

### *Principles of decision-making*

Since committees take decisions by consensus, there are no special rights attributed to the P5. Many decisions by committee members are based, at least in part, on reports from the experts. Consequently, before each decision, members should ensure that the experts' reporting meets basic methodological and evidentiary standards, as well as full application of due process.

### *Decision-making procedures*

Committees take decisions by consensus of the members present at the formal meeting to consider an issue or a recommendation.

The great majority of decisions are, however, made through a written no-objection procedure. Most communications and decisions are circulated for comments before being put under the no-objection procedure in order to ascertain where members stand on the issue and to facilitate consensus.

Because committees normally take decisions by consensus, unless otherwise stipulated in the guidelines, each non-permanent member can exercise voting powers equivalent to a veto. This factor serves to encourage the Chair to seek consensus on all issues that are up for a decision.

Details of committee decisions are not publicly released.



### *Holds and objections to committee decisions*

When a Chair circulates a proposed decision to all members, he/she requests them to indicate, in writing, any objection they may have to the proposed decision within a specified time period, usually five working days as per the committee's guidelines. Some guidelines provide for shorter time periods in emergency situations but usually no fewer than two working days. In exceptional cases, the deadline may be extended. If no objection is received by the end of the specified period, the proposed decision is deemed adopted.

A member may request more time during the no-objection procedure to consider the proposal by placing a "hold" on the matter. Holds can be technical or substantive in nature and although the member does not have to give the reason for its hold, it can be helpful for other members to know the nature of the hold. Once a hold has been placed, the matter is considered as "pending" and during this period, other members may place their own holds. After six months, the pending matter will be deemed approved unless a member turns its hold into an objection (block) or requests additional time to consider the proposal and extends the time for consideration, usually by up to three months. These time periods are set out in the committee's guidelines.

A hold placed by a member ceases to have effect when its membership of the committee ends, and new members are usually informed of all pending matters before their membership begins so that they may decide whether to place their own holds.

If a Chair receives an objection to a proposed decision by a member, in writing and with a copy to the Secretariat, it must be circulated to all members. Once an objection has been received, the matter is considered "dead" and the Chair will have to decide whether to put forward a new decision or leave the matter be.

If consensus cannot be reached on a particular issue, the Chair may undertake consultations or encourage bilateral exchanges among members to facilitate agreement and ensure the effective functioning of the committee. If consensus still cannot be reached, the guidelines of specific committees set out who has the discretion to submit the matter to the Security Council.

The Secretariat regularly circulates a table of pending matters (so called “holds lists”) to each Committee which indicates the type of decision (communications, request for guidance, updated committee guidelines, designation proposals, list amendment proposals, experts’ recommendations etc.), by whom it was submitted or proposed (Chair, members, expert teams, etc.) and the member(s) placing the hold.

### *Technical rollover*

In situations where time or political constraints make it unlikely that the Council will arrive at a substantive new sanctions resolution, or when there is simply no substantive change that would need to be addressed other than the extension or renewal of an existing mandate, a “technical rollover” is frequently the preferred solution.

In practical terms, the most frequent use of technical rollovers is in regard to renewals of expert teams or peacekeeping mandates. These rollovers are used to ensure the continuity of experts’ or peacekeepers’ work, while leaving the committee or the Council more time to consider reports, changing conditions, or recommendations for changes to sanctions policies or designations.

### *Designation decisions by the committee*

Before deciding on designation recommendations, Chairs and members should actively verify whether expert teams have adhered to comprehensive due process requirements for each of the reported allegations. It means that in critical situations members must be prepared to question individual experts concerning how they implemented their investigative methodology, and demand proof, including specific communications with the alleged violators.

Most committees - except for ISIL/AQ/Taliban where the Monitoring Team does not have a mandate to recommend designations – receive from their expert team interim and final reports, and recommendations for designation in the form of statements of case. In some regimes, these statements are formalized and require detailed accounts and identifying information.

However, the form does not require experts to explain how an investigation originated, or whether the initial and subsequently developed information was researched in a manner consistent with the methodology and due process practices agreed on by the expert team. The form also does not require experts to divulge the nature and sources of inculpatory and exculpatory information.

Committees, therefore, have limited ability to evaluate whether due process was applied, unless members make detailed inquiries to the experts during briefings. The same lack of transparency can apply to any other recommendation for designation that is presented to committees by members, other Member States, or SRSGs.

Justification for designations is supposed to be publicly available on the committee's webpages under Narrative Summaries of Reasons for Listing. The published information is almost in all cases far too general to provide any meaningful justification for a sanctions designation. Sometimes these justifications do not even summarize facts published in expert reports. The narratives may also provide no indication whether committees have considered any exculpatory information or the reasons why none was available at the time of the designation.

Accordingly, the public receives a distorted impression of the committee's efforts to base its decisions as much as possible on fair and clear procedures. It is all the more important that, at least internally, designation standards are maintained that befit the UN's values.

Statements of case should provide adequate identifiers. Without detailed identifying information, the committee should question how well the case is researched. Members should also be aware that inadequate identifiers impede the ability of governments to implement assets freezes or travel bans, and compliance by the private sector.

*Identifiers should include most of the following information:*

**For persons:** family name or surname, given names or first name, other relevant names (in original and Latin script); aliases; date of birth; place of birth; nationality(ies) and citizenship(s); gender; employment history, appointments or occupations; State(s) of residence; passport or travel document and national identification numbers; current and previous address; professional or functional title and/or any other information relevant to facilitate the application of the sanctions measures; and where available, any indications of assets.

**For companies and entities:** Name, including applicable brand or short name(s), acronyms, Internet handles, or known colloquial appellations (in original and Latin script); registration date (s), registration, tax or other identification numbers; subsidiaries, other affiliated companies and known front operations, nature of business or activity; website addresses; major shareholders or creditors, bank accounts or bank affiliations, any assets and other pertinent information that will assist in the application of the sanctions measures.

*Implementation of committee decisions - draft documents*

Decisions of the committee are usually drafted by the secretary in consultation with the Chair, who will also request circulation of the document for approval of the members under a written no-objection procedure. Following bilateral consultations between the Chair and one or more members as necessary, or a written no-objection procedure, the document will be finalized.

*Post-designation procedures*

Due process rights remain intact for all designees even after they are entered into the list for assets freezes or travel bans. Committees have

an obligation to ensure that due process remains available to them in a tangible and substantive manner.

This means that every person or entity under sanctions has an effective remedy, by appealing the designation when circumstances have changed and perhaps the application of sanctions is no longer justified. Such remedies cannot be restricted to the Focal Point for De-Listing's mandate but should be integrated into committee and expert team practices.

Experts and members can demonstrate their commitment to due process by periodically reviewing each case under sanctions, including by questioning individuals, companies and entities about the underlying actions that led to sanctions. Independently, they should also probe new information about their behavior, and where necessary, restate the justifications for listing, or argue for delisting.

It should not be an unusual occurrence, as is now the case, that sanctions monitoring experts recommend not only listings, but also delistings. The practice that began under the 1267 regime, to mandate full reviews of the justifications for all designations, should be extended to all sanctions cases.

## Committee documentation

### *Types of committee documents*

The Chair should ensure that confidentiality rules for committee documents are respected by members of the committee and those delegated by SCSOB to assist the committee. SCSOB attempts to prevent leaks and indiscretion regarding the most sensitive documents, such as draft expert reports and statements of case, by watermarking each copy with the name of the addressee.

### *Types of communications*

The following types of committee documents require the Chair's specific action:

**NOTE:** The Secretariat conveys the committee's Notes with a cover labelled "Note by the Chairman", identifying the document concerned,

and setting out whether the document attached is being circulated “for information” (no action required) or “for consideration” (for action) by the members of the committee; or whether it is distributed for “attention and consideration”, for example to initiate a potential committee decision through the written no-objection procedure, indicating the date and hour of the no-objection deadline.

A note may also communicate that an attached document:

- will be discussed at a forthcoming meeting;
- is accompanied by a draft reply circulated for the approval of the members, or for information.

Notes help standardize committee procedures and serve as the backbone of communications between the Chair, the members, and the Secretariat.

[COMM](#) (identified with S/AC.\_\_/YEAR/COMM.\_\_) designate incoming communications to the committee, usually from governments, international organizations or the experts. They require no special action by the Chair.

[OC](#) (identified with symbol: S/AC.\_\_/YEAR/OC.\_\_) identifies outgoing communications from the Chair (via the Secretariat). Unless the Chair is dispatching a simple letter of acknowledgement, the text of the OC is usually approved in advance by the committee under the written no-objection procedure.

[CRP](#) (identified with S/AC.\_\_/YEAR/CRP.\_\_) signifies conference room papers, such as evolving versions of draft guidelines. They require no special action by the Chair.

[Notes by the Secretariat](#) (identified with S/AC.\_\_/YEAR/Note\_\_) are for the Secretariat to send notes to transmit published material to members, for their information or action.

[Notes Verbales](#) (identified with SCA/\_\_/YEAR (\_\_)) convey official communications from the Chair of a committee to all members and observer states of the United Nations issued in either English, French or Spanish as per the preference of the recipient. A template provided by

the Correspondence Unit of the Department for General Assembly and Conference Management is used for all Note Verbale communications.

Press releases are disseminated with the symbol SC/\_\_\_\_ and are used to communicate with Member States, observer states, international organizations and/or the general public, typically in the UN working languages, English and French. Press releases will be posted on the committee webpage, as well as on the UN's Meetings Coverage and Press Releases website. Press releases are usually approved by the relevant committee.

Affixes are used with existing symbols (for example) S/AC.\_\_\_\_/YEAR/NOTE.\_\_\_\_/Rev.1) whenever an addition, revision or correction to a previous communication is circulated. Such supplementary communications are disseminated under the symbol of the original, but with the appropriate designation, Add./Rev./Corr. These documents require no special action by the Chair.

## Preparation and processing of documents

### *Sanctions review*

Periodically, a Chair will make a statement to the Security Council, prepared in consultation with the Secretary, following a committee meeting. Where the committee is supported by an expert team, the statement may focus on the experts' report and their recommendations.

The Chair's draft statement to the Council is circulated to members, either for information purposes and comments only, or in some cases, for their adoption.

### *Committee and Chair's reports to the Security Council*

The Chair is required to provide periodic reports to the Security Council as mandated in sanctions resolutions. Such reports are usually required in connection with sanctions reviews, or any other reporting as necessary and agreed by the Committee.

The Chair is also required to present the committee's annual report to the Security Council. These reports are typically prepared by the Secretariat, in consultation with the Chair's representative, and require approval of the members.

### *Press releases and briefings to the press*

The Chair may, with the approval of the committee, periodically provide information to the public, issue a press release or give a press briefing. He/she would normally share the talking points with the members in advance.

### *Implementation reports from Member States*

Most sanctions resolutions require Member States to report their implementation efforts to the relevant committee. These reports are initially circulated to the members of the Committee. Unless a member requests that its report be kept confidential, the reports are translated into the six official languages and published on the Committee webpage.

These reports require no action by the Chair.

### *Annual reports of committees*

The Note by the President of the Council ([S/1995/234](#)) requires Committees to summarize their activities in an annual report to the Council. The report, which is usually approved under a written no-objection procedure, is submitted by the Chair to the President of the Security Council, preferably before the Chair's mandate expires.

## **Expert reports**

### *Expert team reports*

Expert reports are conveyed to the Committee through a transmittal letter signed by the submitting experts and are addressed to the Chair.

Expert reports are to remain confidential until they are referred by the Chair in his personal capacity to the Security Council, without requiring unanimous consent by the members.

Generally, expert reports may be discussed in the committee before translation into the official languages.

### *Principles*

Experts have a mandate to report facts related to compliance with sanctions policies and investigations of violations or violators of sanctions.



Sensitive information should only be reported in confidential statements of case.

Experts are expected to report information only where they are able to agree that it amounts to a confirmed set of facts.

The reporting of their investigations should not only detail incriminating findings, but also include mitigating or exculpatory information.

Committees have an obligation to verify expert reports and statements of case for credibility and consistency with methodological and evidentiary standards as well as the application of due process for each alleged violation.

### *Structure of experts' final report*

Over the 20-year history of UN sanctions monitoring, the format and length of reports have varied greatly. In the extreme and only for a short period of time, SCSOB required reports to be less than 35 pages, excluding annexes, triggering protests by members because of the lack of actionable tactical information. The counter reaction led to the opposite extreme, to reports, for example, running only 47 pages but with Annexes to 487 pages, and statements of case.

Long-term practice has shown that reports of about 60 to 80 pages, plus a small number of original annexed documents that support alleged violations, meet the committee's information requirements without overloading it.

While there is no set policy on the structure of expert reports (there is some information in the report of the Informal Working Group on General Issues of Sanctions, S/2006/997), experience has shown that a report should typically consist of the following sections:

- Transmittal letter signed by all experts;
- Abbreviations;
- Summary of findings;
- Introduction that explains the experts' interpretation of their mandate and their methodology;
- Text that contextualizes the monitored conditions and trends that undermine or violate sanctions policy objectives;

- Monitoring reports on embargo, financial and travel restrictions, and any other applicable measures, often interspersed with case studies of violations;
- Cooperation from states, UN organizations and other interlocutors;
- Observations and recommendations for potential enhancement of the sanctions measures;
- Annexes.

### *Due process considerations*

Members should decide as a matter of principle on how to advise their experts in regard to their expectations about the application of due process to interlocutors alleged to have violated sanctions. The sub-chapter '*Streamlining due process*' offers guidance for such expectations (page 118).

In cases where corporate violators are reported by the experts, members may wish to ascertain whether the experts have sufficiently determined corporate culpability versus the individual responsibility of senior managers for the alleged sanctions violation. It may be a consequence of appropriate due process that not a company or an entity, but rather individual managers, should be considered for designation.

### *Overcoming dissent among experts*

Expert teams and their coordinators are expected to chart a monitoring and investigative course, including internal peer review, that enables all members to agree and sign-off on the content of their final report.

Responsible professionals may have valid disagreements, sometimes motivated by unconscious biases, when evaluating information. The vast majority of such differences can be reconciled through compromise or by excluding contentious issues when doing so does not undermine the integrity of the experts' work. While the committee or members should not interfere with the experts' internal consensus-building efforts, they should nevertheless be aware in instances where they cause unacceptable breaches of methodological standards.

Even where honest disagreements prevailed, expert teams have at times simply suppressed the dissenting expert(s), in some cases observing inadequate gender parity.

Internal challenges also materialize because of individual experts' lack of professional competence or technical expertise, unprofessional conduct because of political or personal biases, or negligence.

Dissent among experts is as common as the variations of approaches to managing them. One expert team's majority dissented from their coordinator and resigned to publish their own report on the internet. In a much more sensibly handled case, a coordinator mediated internal tensions to facilitate reflection of dissenting experts' views in footnotes to the team's final report.

Where personal performance deficiencies cause dissent, the coordinator or other experts are obliged to notify SCSOB and seek advice.

### *Expert signatures*

In practice, expert reports are considered to be valid documents that can be submitted to the Security Council and published as UN documents once it has been signed by all members of the team. In the interest of maintaining the independence of the experts, peer pressure may be leveraged against experts to sign-off on a report that one or more members may believe is unacceptable or omits important facts.

#### *Proposed inclusion to committee guidelines:*

Expert reports to be considered by the committee should be signed by all experts to demonstrate their concurrence with its substance.

Experts withholding their signatures may make the report ineligible for presentation to and publication by the Security Council.

As expert teams become more regionally and gender balanced, it is probable that disagreements over their reports will intensify.

Chairs and members should be aware of internal tensions and ensure that they are constructively managed without suppressing dissent. Chairs and members should also be aware that no guidelines or rules define

whether a report that lacks experts' signatures is valid for submission to the Security Council, publication as a UN document, and as a basis for the Committee to decide on further measures, including designations.

Committees will have to decide how to proceed in such cases. The easy path is to ignore the issue and hope that experts produce a consensus-based report. The more principled approach is to agree and state at the beginning of each mandate that the committee expects of their expert teams' consensus support for the entirety of their reporting, expressed with the signatures of all experts.

## Joint meetings

### *Joint meetings of committees*

Chairs of committees may decide to hold joint meetings or briefings, as long as the members of the concerned committees agree. During these meetings, no vote on specific issues will be scheduled. They are intended for the exchange of information, or in the case of joint public briefings, to interactively inform other members.

If committees and their Chairs decide to hold formal or informal joint meetings, the Chair must ensure that their respective committees have agreed on procedures on an ad hoc basis prior to the meeting.

The Chair should also ensure that documentation for joint meetings, such as Chair's notes, the meeting's provisional agenda or documents for discussion, can be issued jointly, referencing the involved subsidiary organs. Furthermore, for a formal joint meeting, the Chair should ensure that adequate time is scheduled for all requisite documents to be translated into the six official languages.

## Outreach

### *Purposes*

Committee guidelines often require Chairs and/or members to enhance the flow of information and strengthen engagement with non-Council members and other sanctions stakeholders. Such outreach efforts usually encompass open meetings and interactive briefings for:

- Member states;
- Sanctions-affected states;
- Sanctions-affected states' governments in their capital during regional visits by the Chair;
- UN agencies and peacekeeping missions;
- Regional and sub-regional organizations (AU, EU, LAS, OAS, ECOWAS, IGAD, SADC);
- Representatives of companies and other private sector actors such as civil society and non-governmental organizations.

### *Chair's visits to sanctions-affected regions*

Committee guidelines encourage Chairs and members to consider visiting countries, governments, regional organizations and civil society in sanctions-affected regions to provide information on sanctions measures and seek more effective implementation efforts.

SCAD's travel budget for Chairs is limited and does not cover other members' representatives. It is important for Chairs to clarify with SCSOB the availability of funds for his/her expenses and to inform other members of his/her delegation, or other members, of the need to seek travel funding. It is common for members to participate through their embassies in the region or to send a representative from capital.

SCSOB usually requests at least six weeks' notice to prepare a visit and will provide the Chair with a draft timeline for the organization of the visit. Some factors to keep in mind when selecting dates are public holidays and other possible high-level visits.

Before circulating draft terms of reference (ToR) for the trip to the committee under a no-objection procedure, the Chair usually consults with members to discuss the broad outlines, participation and timing. Once the time frame and locations to be visited have been tentatively decided upon, SCSOB will consult with and seek guidance from the Department of Safety and Security, the Department of Peacekeeping Operations and the relevant peacekeeping mission.

The next step is most often for the Chair to contact the Permanent Mission(s) of the country/countries the committee intends to visit and send letters seeking their prior consent and explaining the objectives of the trip.

The draft ToR for the visit normally lays out the general objectives, timing, participation, locations to be visited, the parties that the committee wishes to meet, etc. The ToR usually also specifies whether the Chair should report to the committee, orally and/or in writing, upon returning to New York on the observations and findings of the visit.

The Chair and others participating in the visit will most often need visas, medical clearances and vaccinations and SCSOB assists with these matters.

Before leaving for the visit, the Department of Safety and Security briefs the participants and the Chair receives a briefing package from SCSOB containing the ToR, schedule, contacts, maps, relevant resolutions, speaking points, curricula vitae, etc.

If specified in the ToR, the Chair reports to the committee after the visit. In his/her report, the Chair can make recommendations, and these are discussed by the committee when the report is presented at a committee meeting.

## Section III

# Sanctions implementation and monitoring

The following section explains:

- Sanctions regimes and measures that are currently in effect.
- Implementation and compliance obligations for states and the private sector.
- States' reporting obligations
- Exemption systems in effect.

## Introduction to UN sanctions measures

### UN sanctions currently in effect

The United Nations currently applies sanctions on the following conflicts and risk actors (regimes listed in chronological order of their adoption):

Somalia	Libya
ISIL (Daesh)/ Al Qaeda	Taliban
Iraq	Guinea-Bissau
Democratic Republic of the Congo	Central African Republic
Sudan (Darfur)	Yemen

Lebanon (Hariri assassination)	South Sudan
North Korea (DPRK)	Mali

Resolution 2231 endorsed certain permitting measures under the Joint Comprehensive Plan of Action (JCPOA) on Iran in the form of a non-sanctions regime. (see chapter: The Joint Comprehensive Plan of Action (JCPOA) on Iran).

### *Legal obligations*

Article 25 of the UN Charter determines that decisions of the Security Council are binding on Member States. Sanctions measures intended to be binding usually, but not always, explicitly invoke Chapter VII.

Therefore, UN sanctions are under international law the only globally binding sanctions, i.e., requiring all UN Member States to adjust, where appropriate, their laws and regulations to allow for full legal implementation and enforcement.

### *Prerequisite national constitutional, legal and regulatory instruments*

Given that Security Council decisions under Chapter VII of the UN Charter are internationally binding, sanctions should, in principle, require no other national, regional or international laws, conventions, or customary rules in order to be enforceable. However, most states adopt prerequisite constitutional, legal or regulatory instruments that fully enable their national authorities to implement UN sanctions and enforce compliance within their territory. In the past, efforts were made to sketch out what may be considered best practices for state governments.

Both the Interlaken and the Bonn-Berlin Processes noted that there are two legal frameworks by which states may implement UN sanctions. The experts of the Bonn-Berlin Process referred to “two basic models of national laws to implement arms embargoes. One builds upon special UN laws. Under such laws, UN sanctions immediately become national law”.

The other legal approach builds upon national arms export laws. Under such laws, all exports of weapons and regulated types of dual-use goods need to be licensed. The moment the Security Council decides to



implement an arms embargo, Member States must stop issuing licenses to the states under sanctions and revoke existing licenses, if necessary.

Most states adopt, however, specific rules and regulations to empower their various government agencies, such as strategic trade and border control authorities, financial regulators, justice ministries and law enforcement.

UN sanctions measures and international instruments

Table 2: Categories of measures

Sanctions Measures	Categories		
	I. Embargoes and bans	II. Infrastructure restrictions	III. Restrictions on diplomatic and cultural activities
	Conventional arms and dual-use items	Assets freezes	Restricting diplomatic privileges
	WMD proliferation-relevant dual-use items and catch-all provisions	Denial of financial services	Restricting sports activities
	Commodities	Travel bans	Restricting educational services
	Luxury goods	Restricting maritime, aviation, and land transportation	Restricting trade in cultural goods
	Human trafficking and coercive employment		

### *International instruments and guidance*

International peace and security-related issues are not always addressed with sanctions, but rather, by processes rooted in other international legal instruments. Nevertheless, many of these conventions, laws or arrangements may contain sanctions-relevant guidance. For example, Article 6 of the Arms Trade Treaty that came into force on 24 December 2014 directly addresses sanctions-specific prohibitions.

*Table 3: International instruments*

Sector	Instruments and Guidance
Conventional dual-use issues	<u>The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies</u> ( <a href="https://www.wassenaar.org">https://www.wassenaar.org</a> )
Non-proliferation of nuclear weapons	<u>Nuclear Non-proliferation Treaty (NPT)</u> ( <a href="https://www.iaea.org/publications/documents/treaties/npt">https://www.iaea.org/publications/documents/treaties/npt</a> )
Non-proliferation of ballistic missiles	<u>Missile Technology Control Regime (MTCR)</u> ( <a href="https://mtcr.info/mtcr-annex/">https://mtcr.info/mtcr-annex/</a> )
Non-proliferation of chemical weapons	<u>Chemical Weapon Convention</u> ( <a href="https://www.opcw.org/chemical-weapons-convention">https://www.opcw.org/chemical-weapons-convention</a> )
Non-proliferation of biological weapons	<u>Biological Weapon Convention</u> ( <a href="https://www.unog.ch/80256EE600585943/(httpPages)/04FBBDD6315AC-720C1257180004B1B2F?OpenDocument">https://www.unog.ch/80256EE600585943/(httpPages)/04FBBDD6315AC-720C1257180004B1B2F?OpenDocument</a> )
Prevention of illegal trade in wildlife and wildlife products	<u>Control of Endangered Species</u> ( <a href="https://www.cites.org/eng/disc/text.php">https://www.cites.org/eng/disc/text.php</a> )

Maritime security	<u>IMO, Convention on Facilitation of International Maritime Traffic</u> ( <a href="http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Convention-on-Facilitation-of-International-Maritime-Traffic-(FAL).aspx">http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Convention-on-Facilitation-of-International-Maritime-Traffic-(FAL).aspx</a> )
Container transport security	<u>Container Security Initiative</u> ( <a href="https://www.cbp.gov/border-security/ports-entry/cargo-security/csi/csi-brief">https://www.cbp.gov/border-security/ports-entry/cargo-security/csi/csi-brief</a> )
International aviation security	<u>ICAO Convention</u> (Annex 9 of Chicago Convention) ( <a href="https://www.icao.int/Security/FAL/Pages/Annex9.aspx">https://www.icao.int/Security/FAL/Pages/Annex9.aspx</a> )
Terrorism/ proliferation financing, anti- money laundering and virtual assets	<u>Financial Actions Task Force's 40 Recommendations</u> ( <a href="http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf">http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf</a> )
Illicit transfer of cultural property	<u>UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property</u> ( <a href="http://portal.unesco.org/en/ev.php-URL_ID=13039&amp;URL_DO=DO_TOPIC&amp;URL_SECTION=201.html">http://portal.unesco.org/en/ev.php-URL_ID=13039&amp;URL_DO=DO_TOPIC&amp;URL_SECTION=201.html</a> )

### *Consequences of UN sanctions violations*

With the introduction of individual targeted sanctions in the late 1990s, two categories of ramifications for the failure to implement (states) or non-compliance, have been in practice:

- Secondary sanctions: In extreme cases where a state resists the implementation of UN sanctions, and continues to support or perpetrate violations, the Security Council may impose so-called

secondary sanctions on that state. Over the past 20 years, the measure was applied to Liberia for its systematic violations of the UN sanctions on Sierra Leone; and on Eritrea, for its government's violations of sanctions on Somalia.

- Individual designations for targeted sanctions: The application of individual targeted sanctions takes the form of the temporary blocking of assets of individuals, companies or entities, and/or the travel privileges of individuals. In addition to financial consequences, these measures tend to cause severe reputational costs and some states also have provisions according to which they may initiate criminal prosecution for the alleged acts.

### *Possible reactions by sanctions-affected individuals, companies, or entities*

It is very common that designated individuals in leadership positions of governments or government agencies, militias, and terrorist organizations or facilitators resent the consequences of targeted sanctions. Sometimes their reactions seriously impede progress and the objectives of conflict resolution efforts.

A very common effect of sanctions is that those under sanctions exacerbate their situation by allying themselves with actors in other countries that are also subject to sanctions. Another manifestation of this problem is the renunciation of treaty obligations that can also escalate atrocities and violations of human rights.

Resentments can inflame popular opinions against the Security Council's intentions and trigger a popularity surge for the sanctioned State's leaders in what is called a "rally-round-the-flag" effect. Sometimes, popular opposition is unfortunately somewhat justified by poorly designed or administered UN sanctions that cause unintended humanitarian or economic consequences.

Another effect of economic sanctions can be the criminalization of members of armed groups and a general trend towards increased corruption. In large parts these effects are fuelled by the inevitable disillusionment of followers once they realize that UN sanctions have reversed the fortunes of their leaders, and perceive themselves to be left with no survival options besides crime.

## Embargoes and bans

### *Purposes and types of UN embargoes and bans*

Almost all UN sanctions are intended to deprive risk actors, such as terrorists, proliferators of WMD, militias or those responsible for atrocities, of access to arms, ammunition, sensitive proliferation technologies, mercenaries, or dual-use material.

Of almost equal importance for the UN sanctions system are embargoes on the extraction, importation or exportation of commodities. Typically, these are adopted to prevent access to strategic commodities needed for the manufacturing of military equipment, or to block revenues that enable the acquisition of arms, ammunition, or the hiring of mercenaries.

For similar reasons, agricultural or fishery products, or manufactured items, are sometimes embargoed. In addition to obvious humanitarian concerns, coercive employment and human trafficking may be banned because they are used for the extraction of illicit revenues. Bans on animal products are applied primarily to curtail access to revenues.

An embargo on luxury goods, which is a unique tool applied only in the case of North Korea, serves the purpose of affecting the lifestyle of privileged North Koreans who are assumed in many cases to be the same elites who are responsible for proliferation violations.

### *Embargo implementation mechanisms*

Implementing prohibitions against the trade in arms requires very different tools and institutional mechanisms than the carrying out of restrictions against the trade in commodities, natural or animal products, luxury goods, or the employment of North Korean overseas workers.

Many state governments and the international community regulate and control the manufacture, import and export of military items and related technologies. Some States regulate the transportation of such equipment through safety regulations issued by the International Civil Aviation Organization (ICAO), particularly if they present a danger to the public. National regulations that require the inventorying of production, stockpiles and movements of military goods, assist UN sanctions implementation efforts and promote the accountability of responsible state officials.

Because the trade in commodities, fishery, or agricultural and consumer products is far less regulated, blocking or establishing accountability for violations is more challenging. For example, parcels of gold, platinum, or diamonds are easily hidden and smuggled for lucrative illicit gains. Industrial commodities, however, such as timber, hydrocarbons (oil and fuels), tin, uranium, and iron, among others, are very visible and can only be smuggled with the active participation of border control agents.

The cross-border transportation of luxury goods to North Korea requires elaborate trans-shipment, fraudulent customs declarations, and usually corrupt border management practices in order to succeed.

The coerced employment of expatriate North Korean workers which cannot be affected without raising the attention of government authorities, is usually enabled through bribes.

### *End-use/end-user certification*

End-User or -Usage Certification (EUC) is a tool of critical importance for the orderly international transfer of military goods, sensitive technologies or dual use items. EUC are usually issued by a competent national authority of the importing State that identifies and confirms the ultimate recipient of an international transfer of weapons. In some states, however, end-user self-certification is also common.

The benefits of EUC, even if authenticated, are uncertain. There is no guarantee that items or components are not re-transferred to other undesirable end-users.

The lack of international standards for the handling and issuance of these certificates is addressed by various approaches by individual states. One way is to proceed with transfers only after authorized governments have verified the identity of sellers and buyers, using government issued and registered EUCs. Another approach is to build the authority for physical end-user site inspections into transfer agreements.

*Recommended minimal information requirements for EUCs*

- Name of exporting government, entity or business, including address
- Name of end-user, including address
- Name and full identifiers of the end user
- Country of end user
- Technical description of the exported goods, quantity and value
- Date of issue of the certificate and duration of certificate's validity
- End-use of the products
- Commitment not to use the goods in any other way than the one stated in the certificate
- Commitment not to re-export, disassemble and sell components to other end-users
- Name, address and functions of all intermediaries (banking, shipping, brokering, insurance)
- Procedures for delivery verification

*Optional:*

- Procedures for on-site inspections

## Embargo on conventional arms

*Typical characteristics of a UN embargo on conventional arms*

The vast majority of UN embargoes are adopted on conventional arms deliveries to a country, region or group in order to curtail norm-breaking activities. Arms embargoes have an important strategic value for policymakers both during incremental application, as well as during step-by-step lifting. Coordinated with conflict mediation, the application of partial to full arms embargoes can amplify the message that the government under sanctions has lost the international community's

confidence and that it is capable and willing to manage threats to peace and security.

A partial lifting, for example by admitting non-lethal equipment to security forces after an orderly government is reconstituted, or the admittance of arms to retrained military forces as part of a reconciliation process, conveys the international community's growing confidence that conflict resolution is proceeding as expected.

### *Two-way arms embargo*

Countries with a viable defense industry or significant stockpiles of military equipment may also be subjected to two-way arms embargoes, prohibiting both import and export. Currently, dual arms embargoes apply to North Korea and Libya.

### *What is covered by an embargo?*

UN sanctions resolutions traditionally offer incomplete and imprecise information about what falls under an embargo. Typical wording merely refers to “arms and related materiel of all types” that is meant to include:

- Weapons and ammunition;
- Military vehicles and equipment;
- Improvised Explosive Device (IED) components;
- Paramilitary equipment;
- Spare parts for the aforementioned;
- Technical assistance, training, financial or other assistance related to military activities or their provision;
- Maintenance or use of any arms and related materiel;
- The provision of armed mercenary personnel.

For the UN sanctions on North Korea, a list of conventional arms-related items, materials, equipment, goods and technology under S/2017/829 ([https://www.un.org/ga/search/view\\_doc.asp?symbol=S/2017/829](https://www.un.org/ga/search/view_doc.asp?symbol=S/2017/829)) was adopted.



### *Definition of “arms”*

Absent a singular UN technical definitions for the terms “arms” or “weapons”, the United Nations Office for Disarmament Affairs (UNODA) maintains, under its UN Register of Conventional Arms, a voluntary reporting mechanism for Member States that includes [these seven categories](#): battle tanks, armored combat vehicles, large-caliber systems, combat aircraft/vehicles, helicopters, warships, missiles, and small arms.

The Stockholm International Peace Research Institute offers voluntary, but more detailed, [reporting systems](#), and the [EU Common Military List](#) and the [US Munitions List](#) offer even more refined technical descriptions for arms and weapons systems.

### *Dual-use items*

The supply of conventional arms cannot be effectively disrupted without the blocking of technologies and items that have both civilian and military applications. This is particularly true where simple modifications may result in military grade applications. Typical examples include the conversion of 4x4 and all-terrain trucks into “technicals”, equipping civilian airplanes or boats with expanded fuel tanks or loading docks, or converting civilian communication equipment and electronics into missile guidance components or command and control tools.

Sanctions resolutions usually contain little or no descriptive language for guiding implementation. The Wassenaar Arrangement’s [List of Dual-Use Goods and Technologies and Munitions](#) (<https://www.wassenaar.org/control-lists/>) is compiled on behalf of approximately 40 supporting industrialized democracies.

The North Korea Committee, with [S/2017/760](#), ([https://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2017/760](https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2017/760)) adopted a list of dual-use items relevant to conventional arms pursuant to paragraph 5 of [resolution 2371 \(2017\)](#) ([https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2371%282017%29](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2371%282017%29)) as well as a ban on the transfer of new helicopters, and new or used vessels.

### *Implementation obligations*

Arms embargo implementation requirements for all UN Member States are spelled out in the sanctions resolution. Usually, Member States are required to:

1. Take the necessary measures to prevent the direct or indirect supply, sale or transfer of any type of military equipment to those designated by the sanctions resolution. This applies to each Member State's territory, all of its nationals (meaning residents), maritime vessels or aircraft.
2. Inspect cargo destined, shipped, or trans-shipped where grounds exist to suspect that it contains prohibited military equipment;
3. Seize and dispose of any arms destined, shipped, or trans-shipped to a country, region or group under an arms embargo, including in cases of suspected shipments from North Korea and Libya, and conduct inspections on vessels operating in international waters.

With the introduction of the [International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons](#), called the International Tracing Instrument, adopted in 2005, a number of measures are frequently added to arms embargoes. They may include capacity-building support measures to enable a state under sanctions to:

4. Develop its national system for marking small arms and light weapons;
5. Mark all small arms and light weapons;
6. Develop a national record-keeping system for all marked small arms and light weapons, as well as for imports and exports;
7. Cooperate with other states, international organizations, and the United Nations in international efforts to trace small arms and light weapons;
8. Issue international tracing requests.

### *Exemptions to conventional arms embargoes*

Well-timed exemptions to an arms embargo or granting access to non-lethal arms and personal protection equipment to aid providers, peacekeepers, police and other public security organizations, media organizations or non-governmental organizations, can help to maximize the coercive and corrective effects of sanctions. Once parties to a conflict agree to participate in a peaceful transition of power until national elections can be held, the Security Council may exempt, for example, the import of non-lethal equipment and related supplies to police forces, along with technical assistance and training.

During more advanced phases of conflict resolution efforts, usually after an elected government is permitted to rebuild its armed forces, the supply, sale or transfer of light weapons or all types of arms and related materiel may be exempted. Normally, a committee will consent to exempt arm supplies only when the intended military forces are reconstituted or retrained, and conduct a transparent and orderly accounting of orders, stockpiles, and distribution to field troops.

Suppliers are required to follow the notification requirements of the relevant Committee, which typically include information about:

- The precise nature and quantity of all items or services for which an exemption is sought;
- Chain of custody for the items or the services during the period in which they will be used in the embargo zone;
- Authority and mandate under which these units are deployed in the embargo region;
- Entity responsible for the transport of the exempted items;
- Port of entry.

Exemptions benefiting legitimate government forces and national security organizations are always contingent on the supplier of the arms notifying the committee about specific shipments.

## Embargo on weapons of mass destruction

### *Typical characteristics of a non-proliferation embargo*

Currently, the UN applies non-proliferation sanctions to curb North Korea's proliferation of nuclear weapons and ballistic missiles. Unlike an embargo against conventional arms, the implementation of non-proliferation sanctions requires far more complex skills and capacities to enable the correct determination and identification of the sensitive technologies inherent in WMDs and their delivery systems.

### *Two-way embargo*

The North Korea non-proliferation sanctions include a two-way embargo, prohibiting both the import to and export from North Korea of any components or technologies that could have applications for developing or maintaining WMD.

### *What falls under the embargo?*

The implementation of non-proliferation embargoes is supported by very detailed prohibition lists, containing specific technical definitions about restricted goods, components or technologies. The lists are compiled by groups of interested states and endorsed and released by the Security Council.

*Table 4: Non-proliferation guidelines*

<b>Author</b>	<b>Purpose</b>
<u>Security Council</u> ( <a href="https://www.un.org/securitycouncil/">https://www.un.org/securitycouncil/</a> )	Lists of prohibited WMD-related items, materials, equipment, goods, and technology - ( <a href="https://www.un.org/securitycouncil/sanctions/1718/prohibited-items">https://www.un.org/securitycouncil/sanctions/1718/prohibited-items</a> )
<u>Missile Technology Control Regime (MTCR)</u> ( <a href="https://mtcr.info/">https://mtcr.info/</a> )	List of the Missile Technology Control Regime - <u>S/2015/546</u> ( <a href="http://undocs.org/sp/S/2015/546">http://undocs.org/sp/S/2015/546</a> )

<u>Nuclear Suppliers Group (NSG)</u> ( <a href="https://www.nuclearsuppliersgroup.org/en/nsg-documents">https://www.nuclearsuppliersgroup.org/en/nsg-documents</a> )	<u>Guidelines for Nuclear Transfers</u> (INFCIR/254/Rev.13/Part 1) ( <a href="https://www.iaea.org/sites/default/files/publications/documents/infcir/1978/infcirc254r13p1.pdf">https://www.iaea.org/sites/default/files/publications/documents/infcir/1978/infcirc254r13p1.pdf</a> )
<u>Missile Technology Control Regime (MTCR)</u> ( <a href="https://mtcr.info/">https://mtcr.info/</a> )	<u>Guidelines for Sensitive Missile-Relevant Transfers</u> ( <a href="https://mtcr.info/guidelines-for-sensitive-missile-relevant-transfers/">https://mtcr.info/guidelines-for-sensitive-missile-relevant-transfers/</a> )
<u>Missile Technology Control Regime (MTCR)</u> ( <a href="https://mtcr.info/">https://mtcr.info/</a> )	<u>MTCR Annex Handbook</u> ( <a href="https://mtcr.info/wordpress/wp-content/uploads/2017/10/MTCR-Handbook-2017-INDEXED-FINAL-Digital.pdf">https://mtcr.info/wordpress/wp-content/uploads/2017/10/MTCR-Handbook-2017-INDEXED-FINAL-Digital.pdf</a> )
The Australia Group ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a> )	<u>Chemical Weapons Precursors</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/precursors.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/precursors.html</a> )
<u>The Australia Group</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a> )	<u>Control List of Dual-use Biological Equipment and Related Technology and Software</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/dual_biological.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/dual_biological.html</a> )
<u>The Australia Group</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a> )	<u>List of Human and Animal Pathogens and Toxins for Export Control</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/human_animal_pathogens.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/human_animal_pathogens.html</a> )
<u>The Australia Group</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a> )	<u>List of Plant Pathogens for Export Control</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/plants.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/plants.html</a> )

### *Dual-use items*

The UN list designating dual-use items applicable to WMDs are also extracts from lists compiled by external groups.

*Table 5: Non-proliferation dual-use guidelines*

Author	Purpose
<u>Security Council</u> ( <a href="https://www.un.org/securitycouncil/">https://www.un.org/securitycouncil/</a> )	Dual-use items, materials, equipment, goods and technology related to WMD- <u>S/2017/822</u> ( <a href="https://www.un.org/ga/search/view_doc.asp?symbol=S/2017/822">https://www.un.org/ga/search/view_doc.asp?symbol=S/2017/822</a> )
<u>Nuclear Suppliers Group</u> ( <a href="https://www.nuclearsuppliersgroup.org/en/nsg-documents">https://www.nuclearsuppliersgroup.org/en/nsg-documents</a> )	<u>Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and related Technology</u> (INFCIR/254/Rev. 10/ Part 2) ( <a href="https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r10p2c.pdf">https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r10p2c.pdf</a> )
<u>Australia Group</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/index.html</a> )	<u>Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology</u> ( <a href="https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/dual_chemicals.html">https://www.dfat.gov.au/publications/minisite/theaustraliagroupnet/site/en/dual_chemicals.html</a> )

### *Catch-All Provisions or below-threshold technologies*

In addition to clearly identified defense and proliferation equipment, any other item, regardless how innocuous it might appear to be, can be subject to an embargo.

Any item falls under the Catch-All Provisions if it could contribute to:

- North Korea's military capacity;

- North Korea's development of WMDs, including nuclear, biological and chemical components;
- North Korea's development of ballistic missiles.

An item does not fall under the Catch-All Provisions provided that:

- It is food, medicine, or otherwise used exclusively for humanitarian or livelihood purposes;
- The committee has decided that its supply, sale, or transfer would not undermine the objectives of UN sanctions resolutions.

## Commodity embargoes

### *Purposes*

Sanctions on commodities or raw materials are designed to curtail the economic benefits of their extraction, export or import, accruing to belligerents and their political and commercial associates. They also deprive a recipient country of possible supplies for the production of arms or WMD components or ballistic missiles.

Where smuggling of raw materials is a systemic problem in a country or region under UN sanctions, the enforcement of commodity embargoes has to overcome the challenge of identifying the origin of such commodities. Negative actors have learned to take advantage of this fact by confusing supply lines through the use of false customs declarations or trans-shipments through third states.

In response to these challenges, the Committee on the Democratic Republic of the Congo (DRC) has specified Due Diligence Guidelines (<https://www.un.org/securitycouncil/sanctions/1533/due-diligence-guidelines>) that importers, processing industries, and consumers of mineral products are expected to meet or risk designation for sanctions. Essentially, the Guidelines require compliance with DRC laws and standards promulgated by the International Conference on the Great Lakes Region.

### *Implementation obligations*

Member States must prevent:

1. The direct or indirect supply, sale or transfer to North Korea of nuclear weapons components, ballistic missiles and other weapons of mass destruction-related technologies and items identified in the prohibition lists (see above). The restrictions apply to each Member State's territory, all of its nationals (meaning citizens and residents), maritime vessels or aircrafts.
2. Inspect cargo destined, shipped, or trans-shipped where grounds exist to suspect that it contains prohibited proliferation equipment.
3. The transfer of dual-use and Catch-All Provisions items, where the state determines that these items could be used to advance North Korea's nuclear, ballistic missile, or other weapons of mass destruction programmes.



### *What falls under the embargo?*

Currently the Security Council has applied the following restrictions on commodities:

*Table 6: Commodity restrictions under UN sanctions*

<b>State under sanctions</b>	<b>Restricted commodities</b>
Somalia	<u>Export</u> of charcoal.
North Korea  (DPRK)	<p>Provision of fuel for bunkering services.</p> <p><u>Export</u> of coal, iron, iron ore, gold, titanium ore, vanadium ore, copper, nickel, silver, zinc, rare earth minerals, lead, lead ore, food, agricultural products, earth, stone, magnesite, magnesia, wood, seafood (including fish, crustaceans, mollusks and other aquatic invertebrates in all forms), textiles (including but not limited to fabrics and partially or completed apparel products), plus industrial machinery, transportation vehicles, or transfers of fishing rights.</p> <p><u>Import</u> of iron, steel, other metals, condensates, natural gas liquids, refined petroleum products (in excess of the aggregate amount of 500,000 barrels during periods of 12 months beginning on 1 January 2018), crude oil (that exceeds the aggregate amounts of 4 million barrels or 525,000 tons per 12-month period from 22 December 2017, plus a reporting obligation to the committee), and refined petroleum products such as aviation fuel, jet fuel, rocket fuel, diesel and kerosene.</p>

Libya	<p><u>Provision</u> of fuel and supplies as part of bunkering services;</p> <p><u>Export</u> of petroleum, crude oil, refined petroleum without obtaining direction from the Government of Libya's focal point.</p>
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*Table 7: Commodity due diligence obligations under UN sanctions*

Central African Republic	In listing designations, the committee is required to take into account whether individuals or entities are involved with or benefit from the illicit exploitation of or trade in natural resources, including diamonds, gold, and wildlife, as well as wildlife products.
Democratic Republic of the Congo	<p>In listing designations, the committee may take into account whether individuals or entities are involved with or benefit from the illicit exploitation of or trade in natural resources, including gold or wildlife, as well as wildlife products.</p> <p>In listing designations, the committee may take into account whether individuals or entities are practicing the recommended due diligence procedures to prevent the trade in conflict minerals.</p>
Mali	In listing designations, the committee is required to take into account whether individuals or entities are involved with, or benefit from, the production and trafficking of narcotic drugs and their precursors.
North Korea (DPRK)	Selling fishing rights.
South Sudan	In listing designations, the committee may take into account whether individuals or entities are involved with or benefit from the illicit exploitation or trade in natural resources, including gold or wildlife, as well as wildlife products.

### *Implementation obligations*

Member States, companies or individuals must prevent the acquisition, and sometimes also the delivery, of specified commodities from or to the country, entity or individual subject to sanctions.

Those interested in trade in commodities possibly originating from the DRC, the Central African Republic (CAR) and Mali should practice due diligence according to the UN Guidelines

## Embargo on luxury goods

### *General observations*

Sanctions on luxury goods have so far been applied only to North Korea and with remarkably little specific guidance in regard to what constitutes a luxury product. Leaving interpretive latitude to Member States has added a strong element of unpredictability for North Korean buyers - which is part of the intended effect on elites who appear to be unfettered by customary rules.

### *What falls under the embargo?*

Noting the intended lack of specificity of luxury goods sanctions, the North Korea Committee has released guidance about some items that are widely recognized as luxury items:

- Jewellery with pearls, gems, precious and semi-precious stones (including diamonds, sapphires, rubies, and emeralds), jewellery of precious metal or clad with precious metal;
- Transportation items such as yachts, luxury automobiles, and motor vehicles including station wagons and racing cars;
- Luxury watches: wrist, pocket, and any other with a case of precious metal, or clad with precious metal;
- Items of lead crystal;
- Recreational sports equipment;

- Rugs and tapestries (valued greater than USD \$500.00);
- Tableware made of porcelain or bone china (valued greater than USD \$100).

### *Implementation obligations*

Because of the opacity of luxury sanctions, states must first define what they consider a luxury item.

Enforcement of a state's ban on luxury items that it has defined as such, is implemented through its export control authorities in collaboration with its border control agencies and transportation industries.

States should also monitor transit through its air- and seaports, perhaps using trade-free zones, or en-route changes of consignments on maritime vessels.

Owing to the special nature of these measures, states are encouraged to periodically review the committee's website for States implementation reports, including on the luxury ban.

## Ban on human trafficking and coerced employment

### *Purpose*

Concerns on how to confront the kidnapping or enslavement of civilians, in particular child soldiers, are an obvious human rights issue for the UN sanctions system. In recent years, increases in the kidnapping and enslavement of women and girls by ISIL terrorists, human trafficking in Libya, or the North Korean government's export of laborers, has caused the Security Council to issue specific sanctions against these activities.

### *What is covered by the ban?*

Sanctions, and restrictions intended to address the involuntary movement or employment of individuals, vary widely. The general prohibition against hiring North Koreans abroad requires that their work authorizations must be revoked, and the individuals repatriated, along

with North Korean consular or diplomatic staff assigned to oversee such workers.

On the other hand, while no specific ban on human trafficking has been added to other sanctions cases, some (Somalia, DRC and others) include human rights abuses pertaining to children or S/GBV, as designation criteria.

Members of the Islamic State in Iraq and the Levant (ISIL/Da'esh), Boko Haram, Al-Shabaab, and the Lord's Resistance Army (LRA) who have kidnapped and enslaved persons, often for purposes of sexual slavery, exploitation, forced labor, or ransom, are eligible for designation.

Human traffickers and smugglers responsible for kidnapping, enslaving, brutalizing or extorting migrants, are also subject to targeted sanctions in the Libya and Mali cases.

Similarly, sanctions on the DRC, CAR, and Mali include criteria for designating leaders of armed groups who recruit children for combat, or prevent such children from returning to their families.

### *Implementation obligations*

Member States are prohibited from extending work authorizations to North Koreans, and any identified individuals must be repatriated, together with their overseers operating from the diplomatic missions of North Korea.

States must implement assets freezes and travel bans applied on individuals, companies and entities who are alleged to have coerced North Koreans into expatriate employment, recruited children, or trafficked women and girls.

## **Infrastructure restrictions**

### *Purposes and functions*

Restrictions such as assets freezes, individual travel bans, or curbing the use of maritime, aviation, and land transportation help to amplify the effects of arms embargoes. They can also serve individually as purposeful

and powerful methods to coerce recalcitrant political, military or militia leaders.

Their effective implementation very strongly depends on the private sector's compliance with all requirements. To achieve this desired effect, Member States must build the capacity to define and enforce specific compliance obligations. State governments should build inter-ministerial sanctions implementation task forces for breaking down each sanctions measure into specific private sector compliance obligations.

States will, however, be impeded by the fact that while Security Council sanctions resolutions provide some guidance, they rarely offer sufficiently detailed and pragmatic information that can be adopted into state regulations and advisories to the private sector.

## Assets freeze

### *Purpose*

The purpose of a UN assets freeze is to temporarily disable the financial activities of those most responsible for conflicts or atrocities, particularly their ability to exacerbate threats to peace and security by acquiring arms, engaging mercenaries or building WMDs. The assets freeze should prevent the person or entity from accessing, transferring, or collateralizing economic resources.

Impeding a range of financial actions requires, however, the full cooperation of banks and other financial service providers, who must accept steep compliance burdens by instituting careful due diligence procedures, report any suspicious assets or transactions and follow government decrees to freeze accounts.

Assets required for essential medical care, education, basic living expenses, legal fees, costs for participating in peace or mediation processes, and for maintaining frozen assets, are normally exempted.

### *What is covered by an assets freeze?*

No agreed definition for what constitutes an asset under a UN assets freeze exists. The ISIL/AQ Committee has released the following definitional guidelines:

Funds and other financial assets should be understood to include, but not limited to:

- Cash, cheques, claims on money, drafts, money orders, bearer instruments, internet-based payment instruments such as virtual currencies and other payment instruments;
- Deposits with financial institutions or other entities and balances on accounts, including but not limited to: (1) fixed or term deposit accounts, (2) balances on share trading accounts with banks, brokerage firms or other investment trading accounts;
- Debts and debt obligations, including trade debts, other accounts receivable, notes receivable, and other claims of money on others;
- Equity and other financial interest in a sole trader or partnership;
- Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- Interest, dividends or other income on or value accruing from or generated by assets;
- Credit, right of set-off, guarantees, performance bonds or other financial commitments;
- Letters of credit, bills of lading, bills of sale; notes receivable and other documents evidencing an interest in funds or financial resources and any other instruments of export-financing;
- Insurance and reinsurance.

Economic resources should be understood to include assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, which potentially may be used to obtain funds, goods or services, such as:

- Land, buildings or other real estate;
- Equipment, including computers, computer software, tools, and machinery; office furniture, fittings and fixtures and other items of a fixed nature;
- Vessels, aircraft and motor vehicles;
- Inventories of goods;
- Works of art, cultural property, precious stones, jewellery or gold;
- Commodities, including oil, minerals, or timber;
- Arms and related materiel, including all items mentioned in the arms embargo at paragraph 1 (c) of resolution 2161 (2014);
- Raw materials and components that can be used to manufacture improvised explosive devices or unconventional weapons, including but not limited to chemical components, detonating cord, or poisons;
- Patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property;
- Internet hosting or related services;
- Any other assets.

Once an individual or entity is designated for an assets freeze, purported peaceful intentions of those assets cannot be used as a reason for unblocking, unless they are part of an exemption procedure.

UN assets freezes are a temporary measure and under current UN procedures, and barring specific provisions in the resolution, an assets freeze should not lead to the seizure, confiscation, any form of transfer, or deterioration of their value. This principle is particularly important where



assets are held jointly with innocent owners, or where significant innocent stakeholders depend on their integrity.

### *Freezing, seizing or confiscating?*

The legal implications for a UN assets freeze result in a temporary blocking with no change of location or physical control of the asset. An assets freeze diminishes usage rights temporarily but does not result in a change of ownership.

Seizing an asset, usually by impounding (holding it or taking it to a place where it can be held) escalates the blocking of an asset by temporarily taking physical control over it. Seizing an asset suspends all usage rights by imposing physical control over it, until further disposition of the underlying issues that led to the seizure. It does not result in a change of ownership.

The confiscation of an asset, however, has so far never been adopted as part of UN sanctions. Confiscation transfers ownership from the original to a new owner, usually after some form of adjudication.

### *Asset seizure*

Following paragraph 12 of resolution 2270 (2016) that affirmed that “economic resources” subject to a UN assets freeze can include maritime vessels, paragraph 9 of resolution 2397 (2017) expanded the potential interference into the free exercise of ownership and usage rights. If a state has reasonable grounds to believe that a vessel was used to violate any of the provisions in the preceding sanctions resolutions, including those in resolution 2397 (2027), the state must “seize, inspect, and freeze (impound)” it while it is within its sovereign territory.

The flag state of the seized and impounded vessels may request the committee to release it if adequate arrangements are in place to preclude the vessel’s further use for sanctionable activities. The caveat lies with owners or flag states that have already de-registered or de-flagged such vessels – thereby making these ships “stateless” and legally disabling the flag states from submitting requests to the committee.

### *Implementation obligations*

Members are required to freeze, or direct their private sector to block all eligible assets of which the beneficial owner is a UN-designated individual, company or entity.

Standard-setting guidance is available from the Financial Actions Task Force's 40 Recommendations with recommendations 5-8 specifically addressing the financing of terrorism and proliferation. Additionally, FATF has also released the following interpretive guidance:

- International Best Practices: Targeted Financial Sanctions Related to Terrorism and Terrorist Financing (Recommendation 6);
- FATF Guidance on Counter Proliferation Financing - The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction

FATF's recommendations on precious minerals and stones, including on licensing, due diligence, and record-keeping procedures, are useful for UN sanctions implementation and compliance professionals.

### *Denial of financial services*

Unlike most states under UN sanctions that tend to suffer from weak financial industries, the Security Council had to confront sophisticated financial industries when it adopted non-proliferation sanctions on Libya under Muammar Gaddafi, and later, on North Korea and Iran (the latter sanctions were replaced by the 2015 JCPOA). These three countries could leverage significant assets as well as engage in the international capital markets to trade equities or debt in support of programs that pose threats to international peace and security.

### *What is covered by the denial of financial services?*

In considering appropriate measures, restrictions on existing assets are necessary, but also on the ability of states under proliferation sanctions

to raise additional funds, acquire assets such as companies, financial institutions, and related intermediary services, and obtain insurance coverage to operate ships or airplanes.

Any financial service benefiting a designated individual, company or entity is therefore prohibited. Under North Korean sanctions, the following risk actions are denied:

- The transfer of any financial or other assets or resources, including bulk cash, and the clearing of funds, gold, including through cash and gold couriers;
- The opening and operation of new branches, subsidiaries, or representative offices of North Korean banks, including the establishment of new joint ventures, acquiring ownership interests in, or establishing or maintaining correspondent banking services;
- The continuation of operations of existing branches, subsidiaries and representative offices, joint ventures, ownership interests and correspondent banking relationships;
- Opening new representative offices or subsidiaries, branches or banking accounts in North Korea;
- The continuation of operations of existing representative offices, subsidiaries or banking accounts in North Korea;
- Public and private financial support for trade with North Korea such as export credits, guarantees or insurance;
- New commitments for grants, financial assistance, or concessional loans to North Korea.

Under the Libya sanctions, financial services are not allowed that enable illegal petroleum shipments on designated vessels, the release of frozen funds of the Libyan Investment Authority (LIA), and the Libyan Africa Investment Portfolio (LAIP), and any other transaction where reasonable grounds exist to believe that transactions could contribute to violence and the use of force against civilians.

### *Implementation obligations*

Member States must prevent:

Financial services, including bulk cash and gold, the opening of banking subsidiaries, the provision of public financial support, new commitments for grants, and financial assistance or concessional loans that could contribute to North Korea's prohibited programmes/activities, or its evasion of sanctions;

Opening of any new branches, subsidiaries and representative offices of North Korean banks; must close existing branches, subsidiaries and representative offices; and terminate any joint ventures, ownership interests or correspondent banking relationships with North Korean banks in their territory.

Opening any new representative offices, subsidiaries or bank accounts in North Korea. All Members must close existing offices, subsidiaries and banking accounts in North Korea within 90 days.

Public and private financial support, from within their territories or by persons/entities within their jurisdiction, for trade with North Korea, including granting of export credits, guarantees or insurance to their nationals or entities involved in such trade.

Any individual working on behalf of, or at the direction of, a North Korean bank/financial institution, from continuing its activities by expulsion and repatriation.

The opening, maintenance and operation of all joint ventures or cooperative entities, new or existing, with North Korean entities or individuals, whether or not acting for or on behalf of the government of North Korea.

Any such existing joint venture or cooperative entity to continue past 120 days after 11 January 2018 unless approved by the committee on a case-by-case basis, and to close any such existing joint venture or cooperative entity within 120 days after the committee has denied a request for approval.

The reasons for designation under the assets freeze (applies also to the travel ban) are publicly released in the Narrative Summaries of Reasons for Listing. The actual list of those designated is available publicly either on each Committee's webpage, or on the United Nations Security Council Consolidated List (see: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list> )

In general, members should institute the due diligence and compliance guidance provided in the FATF's 40 Recommendations.

### *De-risking*

The financial industry's traditional risk-avoidance strategy of "de-risking" its operations is based on routinely denying services where such services might attract steep penalties for violating unilateral sanctions.

However, in the context of UN sanctions, the risk is perceived to be on the side of innocent civilians who suffer from lack of essential financial services. In these cases, the flow of funds serves to pay for food, medical care, education, and other essential civilian needs and do not advance proliferation projects.

However, the Security Council has so far not been able to agree on system-wide exemptions for such innocent financial services even for recognized humanitarian and other organizations that provide relief and assistance in conflict-affected regions.

### *Model language for the mandatory protection of IHL/International human rights law*

Decides that Members ensure that all measures taken ..... including measures taken to ..... as provided for in this resolution, comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law;

Decides that states, when designing and applying measures to ....., take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law.

### *Expanding and institutionalizing humanitarian exemptions*

The Security Council should include in its sanctions resolutions language that safeguards humanitarian activities. It should state clearly in its sanctions resolutions that humanitarian activities, including the provision of medical activities carried out by recognized, impartial humanitarian actors in a manner consistent with IHL should not be criminalized.

### *Exemption model language*

A useful model language for an exemption approach can be derived from paragraph 5 of resolution 1916 (2010) on Somalia:

The measures adopted with paragraph ..... of resolution ..... shall not apply to the delivery of urgently needed humanitarian assistance in ..... [affected country or area], by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for the affected country.

The Security Council should decide that measures taken to implement sanctions comply with obligations under IHL. To give force to this principle, it should adopt either:

- a. a standard exemption for humanitarian activities in all UN sanctions;
- b. an exemption for humanitarian activities in each sanctions case;
- c. a UN “white list” for recognized humanitarian organizations that will be applicable to all sanctions cases.

To better monitor the effectiveness of such protective measures, the Security Council should also decide that experts monitor and report on the impact of each type of sanctions on humanitarian activities.

## Travel ban

### *Purposes and functions*

The loss of international travel privileges together with the imposition of assets freezes is the strongest personal rebuke that the UN sanctions system can impose on individuals. UN travel bans are designed to prevent those responsible for conflicts from acquiring arms, mercenary services, or transferring economic resources such as cash or precious stones and minerals across international borders.

With increasing electronic communication and commerce, these original purposes for the UN travel ban have lost some of their intended impact. However, international travel is also a lifestyle choice that adds prestige and the appearance of elitism or leadership. The ban successfully tarnishes such perceptions and visibly castigates a designated individual.

### *What is covered by a travel ban?*

Individuals designated under a UN travel ban are restricted from traveling across international borders, except to return to their country(ies) of citizenship or residency.

Additionally, in some cases, such as the North Korea sanctions, travel bans not only apply to the designated individual but also to:

- Their family members;
- Those who act on behalf of designated individuals;
- Any individual whom a state determines is working on behalf of individuals violating or assisting in evading sanctions. .

### *Implementation obligations*

States are required to withdraw visas and repatriate individuals designated by the UN travel ban to their country of citizenship or residency. Member States should also prevent these individuals from entering or transiting through their territory, including through the use of transit terminals of international air/seaports.

The reasons for designation for the travel ban (applies also for those under an assets freeze) are publicly released in the Narrative Summaries of Reasons for Listing. The actual list of those designated is available publicly either on each committee's web page, or in the United Nations Security Council Consolidated List (see: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list> )

In addition to implementing the ban according to listings, in some sanctions cases, states must also be aware of activities that merit the application of travel restrictions. Currently, the North Korea travel ban requires that Member States revoke visas and repatriate any individual determined to be:

- Acting on behalf of or at the direction of a designated individual or entity;
- Violating sanctions resolutions;
- Assisting the evasion of sanctions;
- Traveling for the purpose of carrying out activities related to the shipment of prohibited items to or from North Korea for repair, servicing, refurbishing, testing, reverse-engineering, and marketing.



## Restrictions on transportation services by sea and air

### *Purposes*

UN sanctions can restrict the sovereign rights of a state's maritime and aviation transportation system if these sectors could be used for smuggling arms, sensitive proliferation technologies, conflict-commodities, any other item under embargo, transport mercenaries, or are actively violating international safety regulations and standards.

### *What is covered under sanctions on maritime, aviation, and land-transportation?*

Restrictions are framed in the context of specific objectives for each sanctions regime, as follows:

*Table 8: Maritime security restrictions under UN Sanctions*

<i>Somalia</i>	A voluntary, multinational naval partnership operating in the region is mandated to interdict charcoal and weapons on vessels in Somali territorial waters and on the high seas, including the Arabian Sea and the Persian Gulf.
<i>DRC</i>	Regional civil aviation authorities must ground any aircraft that is operated without registration, a valid airworthiness certificate issued by the state's aircraft registry, or a certification of the design of the operated aircraft conforming to the approved manufacturer's criteria. Further inspection and certification are required whenever an aircraft undergoes modifications. Authorities must also verify that pilots operating aircraft in the region are properly licensed.
<i>Sudan/ Darfur</i>	Offensive military overflights, for example over towns, and camps of refugees and internally displaced persons (IDPs), undertaken by the Sudan Defense Force, requires state authorities to ground the offending aircraft.

*North Korea*

The following measures can be taken by a Member State in regard to all transportation vessels (air and sea) moving to and from North Korea: Blocking a vessel suspected of transporting prohibited cargo; De-flagging, de-matriculating, and de-registering a vessel that is owned, operated or crewed by North Korea;

- Denial of classification, certification, insurance or re-insurance, or associated services to vessels flagged, matriculated, owned, operated, or crewed by North Korea, or vessels believed to have transported prohibited proliferation technology.
- Directing by the flag state of the vessel(s) to a port identified by the Committee (in coordination with the port state);
- Denying vessel(s) access to ports;
- Denying bunkering services, including fuel, supplies, or other services to North Korean vessels where there are reasonable grounds to believe that the vessel was involved in the transport of prohibited cargo;
- Inspection of suspicious cargo transported by ships, aircraft, trains, trucks, and individual passengers through any transit points, or in the case of maritime transport, on the high seas;
- Prohibition against leasing, chartering or buying North Korean flagged vessels, aircraft and crewing services;
- An obligation to de-register any North Korean-owned or operated vessel, or any vessel believed to have been used for the transport of prohibited cargo, and an obligation not to re-register anywhere in the world;

	<ul style="list-style-type: none"><li>- Deny permission to aircraft to take off, land or overflight rights where there are reasonable grounds to believe that they were involved in the transport of prohibited cargo;</li><li>- Deny vessels permission to enter a port where there are reasonable grounds to believe that a vessel was involved in the transport of prohibited cargo or is owned, controlled—directly or indirectly—by a designated individual and/or entity.</li></ul>
<i>Libya</i>	<p>The transportation of petroleum products whose export is not authorized by the focal point of the Government of Libya is banned.</p> <ul style="list-style-type: none"><li>- Specific prohibitions include:</li><li>- Loading, transporting, or discharging petroleum products that are not controlled by the Government of Libya;</li><li>- Permission to enter into ports;</li><li>- Bunkering services, such as the provision of fuel or other supplies and services;</li><li>- Financial transactions for petroleum deliveries by designated vessels.</li></ul>

### *Implementation obligations*

States' obligations are directed by specific resolution language for each sanctions case, as follows:

Somalia	Physical inspection of cargo holds, examination of customs documentation and their comparison with invoices and certificates of origin are required at all border crossings and ports.
DRC	Inspection of all airplanes incoming from the DRC, including all licenses, inspection reports and certificates that verify the legal operation of the aircraft.
Sudan/Darfur	Any aircraft involved in offensive military overflights must be grounded (this measure is at best theoretical as it can be implemented only by the authorities of Sudan, who order these overflights).
North Korea	Member States' naval forces, maritime and airport authorities, and border control on their ports, train and road crossings, as well as bunkering service providers at maritime ports, ship insurance companies, crewing agencies, and fleet owners are obliged to:

- Inspect the freight of any vessel suspected of containing prohibited items and, if confirmed, seize the items, block the vessel under the assets freeze provision, and request the flag state to de-flag and deregister the vessel;
- Direct any vessel suspected of transporting prohibited or embargoed items, in coordination with the flag state, to a port identified by the Committee for full inspection;
- Deny access to ports of any vessel designated for targeted sanctions, or suspected of transporting prohibited or embargoed items, and if already docked at a port, deny bunkering services;

- Deny vessels permission to enter a port where there is reasonable grounds to believe that a vessel is owned, controlled — directly or indirectly — by a designated or a North Korean individual, company, or entity;
- Deny take off, landing or overflight permission to any aircraft where there is reasonable grounds to believe that it was involved in the transport of prohibited cargo;
- Conduct inspection of any vessels on the high seas, in coordination with the flag state and the Committee, if suspected of transporting prohibited or embargoed items;
- Conduct inspection of aircraft, trains, trucks, and individual passengers at any transit point, if suspected of transporting prohibited or embargoed items;
- Issue prohibitions against leasing, chartering or buying North Korean flagged vessels, aircraft, and crewing services;
- De-register any North Korean-owned or -operated vessel believed to have been used for the transport of prohibited cargo, and prevent any attempt to re-register or re-certify it, and block the underwriting of insurances or re-insurances

#### Libya

Border control agencies and their private-sector counterparts, including shipping and customs brokers, shipping and airline agencies, owners of air and sea vessels, crewing agencies, as well as operators of ports, related storage facilities, and land-transporters, must deny designated vessels:

Rights to load, transport, or discharge petroleum products;

Permission to enter into ports;

Bunkering services;

Financial transactions for petroleum deliveries by designated vessels

## Blocking actions

### *Overview and purposes*

UN sanctions include bans in exceptional circumstances such as North Korea's abuse of its diplomats' immunity under international law, educational curricula offered at international universities, and the international trade in cultural goods. UN sanctions monitoring has shown that these activities transgress acceptable international practices while also directly supporting North Korea's proliferation endeavors.

Accordingly, very narrowly designed UN sanctions were devised to block these harmful activities.

### Diplomatic privileges

#### *Purposes*

UN sanctions monitoring has revealed in several instances, notably in Southern African and Middle Eastern countries, that accredited North Korean diplomats often serve a dual function. On the one hand, they represent the political interests of their country, but they also act as agents of their state's parastatal conglomerates whose purpose is to raise revenues, by selling North Korean arms, commodities and other goods, acquiring commodities or prohibited proliferation technologies, or managing construction projects with the help of contingents of coerced North Korean laborers. In short, all of these activities run counter to UN non-proliferation policies while also violating international and national laws.

#### *What is covered by diplomatic restrictions?*

Diplomatic sanctions respond to violations of the Vienna Convention on Diplomatic Relations by accredited North Korean diplomats. Some violations include oversized staffing of North Korea's diplomatic missions, the disproportionate size and number of buildings belonging to the diplomatic compound, or the amount of banking relations the mission maintains.

### *Implementation obligations*

Members are required to declare persona non grata and expel any North Korean diplomat, government representative, or other North Korean acting as such, who engages in activities intended to advance his/her country's proliferation projects. These activities can be wide-ranging but usually include prohibited commercial activities.

North Korean missions and consular posts must reduce the number of their staff and restrict the entry into or transit of other North Korean government officials, military officers, or representatives of prohibited proliferation programmes through the territory of host countries.

Members are also required to limit the number of bank accounts to one per North Korean diplomatic mission and consular office, and one per accredited North Korean diplomat and consular officer.

Members are also required to prevent and deny North Koreans from using real property (owned or leased) on their territory for non-diplomatic or consular activities.

## Educational services

### *Purposes*

In a general context, all UN arms embargoes include the need to prevent states under sanctions from benefiting from training programs on specific arms systems, or general military training. Non-proliferation sanctions are confronted, however, with the challenge that North Korean students attend technical courses at international universities for the purpose of acquiring advanced proliferation-relevant skills. It was also observed that North Korean scientists were attempting to exploit longstanding bilateral scientific and technical cooperation agreements with other countries for similar purposes. Accordingly, sanctions measures were devised to prevent the accumulation by North Koreans of proliferation knowledge and skills.

### *What is covered by UN restrictions on educational services and technical cooperation?*

Instruction in the use of specific weapons systems or general military training is an integral part of most UN embargoes on conventional arms. In non-proliferation sanctions, Member States should be mindful that technical knowledge and training are equivalent to conventional military training in enabling and enhancing an offending State's ability to project threats and violence.

Therefore, North Korean students and scientists must be prevented from attending training courses on nuclear physics, nuclear weapon delivery systems including ballistic missile technology, materials science, and chemical engineering, mechanical engineering, electrical engineering, and industrial engineering. Similarly, the prevention of bilateral scientific or technical exchanges is also covered by these restrictions.

#### *Implementation obligations*

Two types of educational restrictions apply:

**Military training:** Members are to prevent any type of military training or technical advice for countries or regions to which an embargo against conventional arms is applied.

**Proliferation training:** Members must prevent North Koreans from benefiting from education in nuclear physics, nuclear weapon delivery systems including ballistic missile technology, materials science, chemical engineering, mechanical engineering, electrical engineering and industrial engineering.

### Trade in cultural goods

#### *Purpose*

Starting in 1970, 137 states ratified the first international treaty in the fight against the illicit trafficking of cultural property, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) Convention on the Means of Prohibiting the Illicit Import, Export and



Transfer of Ownership of Cultural Property. Cultural heritage, particularly of people exposed to conflicts, is often wilfully destroyed, stolen, looted or smuggled. A number of follow-on treaties, and the adoption of resolutions by the Security Council, form the major multilateral response to the illicit trafficking of cultural property that contributes significantly to the funding of terrorism, organized crime and money laundering.

An additional dimension of this problem emerged when it was observed that North Korean proliferation projects have over time benefited from significant revenues generated by the sale of North Korean-made cultural or artistic goods.

Similarly, the UN sanctions Monitoring Team reported that ISIL (Daesh) and its operatives, during periods when it controlled large territories with historic cultural legacies, conducted a burgeoning business by selling statues and cultural relics.

Sanctions were applied in multiple scenarios. For example, in Iraq, resolution 661 (1990) imposed a general trade embargo, which was partially lifted with resolution 1483 in 2003, that left in place, however, the prohibition on the import of cultural property originating in Iraq. Resolution 2199 (2015) reaffirmed with paragraph 17 the provisions of resolution 1483 and required all Member States to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare, scientific and religious importance. Because of these goods' increasing relevance as a funding mechanism for ISIL, paragraph 2 of the follow-on resolution 2253 (2015), encouraged "the designation of individuals and entities engaged in financing, supporting, facilitating acts or activities, including in oil and antiquities trade-related activities".

With a similar intent, the Security Council also applied sanctions in resolution 2321 (2016) against the sale, supply or transfer of statues from North Korea.

But the question remains as to the most effective enforcement mechanism against the illicit trafficking of such cultural goods and how extraordinarily difficult such artefacts are to track. Both the International Criminal Police Organization (INTERPOL) and the World Customs Organization (WCO) have built databanks that are available to representatives of authorized national law enforcement organizations that

assist in identifying illicitly trafficked cultural property. The INTERPOL database contains photographs, descriptive information and rightful ownership data for each stolen object that Member States have requested INTERPOL to upload into the system.

ARCHEO is one of the WCO's Customs Enforcement Network (CEN) applications that facilitate cooperation among national customs and border management, other law enforcement organizations, and national authorities, and their subject matter experts. Information about suspected cultural objects is usually provided by national authorities who seek the specific item, more identification data about a specific item, or wish to alert the international community about a missing item. Information is encrypted when it is entered into ARCHEO and the databank is available only to accredited national users.

### *What is covered by UN restrictions on trade in cultural goods?*

As an extension of the Al Qaida/ISIL (Da'esh) assets freeze, the sale of “works of art, cultural property, precious stones, jewellery or gold” is prohibited, as is the supply, sale, and transfer of statues under North Korea sanctions

#### *Implementation obligations*

Member States are required to prevent the sale of cultural or artistic goods whose revenues may benefit violators (Al Qaida/ISIL (Da'esh), and North Korea's proliferators.

## **Implementation assistance notices**

### *Functions*

While UN resolutions describe very succinctly the objectives of sanctions and related exemptions and reporting obligations, they lack in most cases detailed definitions or tactical implementation guidance. The same applies to follow-on resolutions that add new layers of measures and obligations. No plain language explains how new measures integrate with those already adopted, or provides guidance on implementation.

Implementation officers of Member States and compliance professionals of the private sector are often overwhelmed by the burden of piecing together frequent renewals and amendments with their changing obligations or expanded restrictions.

During the past ten years, committees have agreed on tightly drafted interpretive guidance in the form of Implementation Assistance Notices (IANs) that are released periodically. IANs and other helpful implementation guidance documents that are currently in force are listed in the following table

*Table 9: Implementation Assistance Notices and other implementation guidance*

<b>Somalia</b>	
<u>IAN No. 1</u>	Interdiction of charcoal trade ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation_assistance_notice_1_clean_as_of_12_february_2019.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation_assistance_notice_1_clean_as_of_12_february_2019.pdf</a> )
<u>IAN No. 2</u>	Information about the arms embargo and its exemptions ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation_assistance_notice_no._2_of_8_may_2019.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation_assistance_notice_no._2_of_8_may_2019.pdf</a> )
<b>Counterterrorism sanctions against ISIL (Da'esh) and Al-Qaida</b>	
No implementation assistance notices but explanatory texts about the following exemption provisions are available in the Committee Guidelines:	
<u>Assets freeze</u>	Article 11 of the <u>Committee Guidelines</u> ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/guidelines_of_the_committee_for_the_conduct_of_its_work_0.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/guidelines_of_the_committee_for_the_conduct_of_its_work_0.pdf</a> )
<u>Travel ban</u>	Article 12 of the <u>Committee Guidelines</u> ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/guidelines_of_the_committee_for_the_conduct_of_its_work_0.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/guidelines_of_the_committee_for_the_conduct_of_its_work_0.pdf</a> )
<b>Sudan/Darfur</b>	

<u>IAN No. 1</u>	Explains terms, implementation obligations and exemptions. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/1591_ian1_e.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/1591_ian1_e.pdf</a> )
<b>North Korea</b>	
<u>IAN No. 1</u>	Contextual information under the following subheadings: Examination and appropriate action on alleged violations; Panel of experts' gathering, examination and analyzing information; Special considerations to facilitate cooperation. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_1.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_1.pdf</a> )
<u>IAN No. 2</u>	Preparation and submission of national implementation reports, including an optional checklist template. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/ian_2_updated_24_apr_2018.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/ian_2_updated_24_apr_2018.pdf</a> )
<u>IAN No. 3</u>	Luxury goods sanctions ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_3.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_3.pdf</a> )
<u>IAN No. 4</u>	Catch-All Provisions ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/SC_document_files/implementation_assistance_notice_4_english.pdf.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/SC_document_files/implementation_assistance_notice_4_english.pdf.pdf</a> )
<u>IAN No. 5</u>	M/V Chong Chon Gang case study. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_5_english.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_5_english.pdf</a> )
<u>IAN No. 6</u>	Sanctions measures on North Korea diplomatic missions. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_6.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_6.pdf</a> )

<u>IAN No. 7</u>	Exemptions to humanitarian assistance ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1718_implementation_assistance_notice_7.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1718_implementation_assistance_notice_7.pdf</a> )
<u>Fact Sheet</u>	Overview of measure imposed on North Korea ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/fact_sheet_updated_17_apr_2018_0.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/fact_sheet_updated_17_apr_2018_0.pdf</a> )
<b>DRC</b>	
<u>Due diligence guidelines</u>	Due diligence for importers, processing industries and consumers of mineral products sourced from the DRC. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/due_diligence_guidelines.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/due_diligence_guidelines.pdf</a> )
<b>Libya</b>	
<u>IAN No. 1</u>	Application of the assets freeze to subsidiaries of the Libyan Investment Authority, and the Libyan Africa Investment Portfolio. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian1.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian1.pdf</a> )
<u>IAN No. 2</u>	Application and implementation of the arms embargo. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian2.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian2.pdf</a> )
<u>IAN No. 3</u>	Reporting obligations about arms embargo violations. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian3.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian3.pdf</a> )
<u>IAN No. 4</u>	Travel ban, and applicable exemptions. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian4.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian4.pdf</a> )
<u>IAN No. 5</u>	Exemptions for the payment of management fees on frozen assets. ( <a href="https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian5.pdf">https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian5.pdf</a> )

<u>IAN No. 6</u>	Exemptions for the payment of interest and other earnings on frozen assets ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/ian_6_e.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/ian_6_e.pdf</a> )
<b>Central African Republic</b>	
<u>IAN No. 1</u>	Implementation and exemptions to the arms embargo ( <a href="https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_car_2488.pdf">https://www.un.org/securitycouncil/sites/www.un.org/securitycouncil/files/implementation_assistance_notice_car_2488.pdf</a> )

## Reporting obligations

Obligations of sanctions often require Member States to explain in a public document how they implement sanctions with enabling constitutional, legal, regulatory, or institutional adjustments. Most requested reports pertain to specific cases of violations that can go to the respective Committee without it becoming a public document.

*Table 10: Reporting requirements per sanctions regime*

Diplomatic restrictions						
Inspections on vessels or airplanes						
Maritime restrictions	✓			✓		
Financial improprieties	✓					
Charcoal ban	✓					
Designated associates or family Member	✓					
Suggest designations				✓		
Coerced workers						
Charcoal ban	✓					
Due diligence for mineral trade				✓		
Trade in commodities						
Violations of civil aviation rules				✓		
Obstruction of mediation	✓			✓		
Recruitments	✓	✓	✓	✓		
S/GBV, violations of the rights of children		✓		✓		
Violations and obstructions of IHL/HR	✓	✓		✓		
Luxury goods						
Travel Ban, including exemptions	✓	✓	✓	✓		
Financial services						
Asset Freeze, including	✓	✓	✓	✓		
WMD Embargo, including exemptions						
Arms Embargo, including exemption	✓	✓	✓	✓		
Enabling laws, regulations and institutions	✓	✓	✓	✓		
Measures	Cases	Somalia	ISIL/AQ	Taliban	DRC	Sudan

North Korea	✓	✓	✓	✓	✓	✓	✓						✓			✓						✓	✓	✓
Libya	✓	✓		✓	✓	✓		✓	✓	✓	✓		✓										✓	
Guinea-Bissau	✓					✓																		
CAR	✓	✓		✓		✓		✓	✓	✓	✓		✓	✓										
Yemen	✓	✓		✓		✓		✓	✓	✓	✓													
S- Sudan	✓	✓		✓		✓		✓	✓	✓	✓													
Mali	✓	✓		✓		✓		✓	✓	✓	✓													

## Exemptions

### Purposes

Most sanctions regimes allow for exemptions from arms embargoes, assets freezes and individual travel bans. They are granted either because the Security Council wishes to offer specific relaxation of the arms embargoes in order to incentivize adherence to mediation and conflict resolution efforts, or to afford temporary relief from an assets freeze or travel ban to protect the designee's right to basic living expenditures, medical care, exercise of religious obligations, to pay for education, or to facilitate participation in judicial and mediation processes.

A number of Committees are making efforts to also integrate humanitarian exemptions. Resolution 1964 (2010) on Somalia represents with paragraph 5, a model for exempting humanitarian aid. Resolution 2462 (2019) on ISIL/AQ provides for exemptions under the assets freeze, and for North Korea sanctions, Implementation Assistance Notice 7 provides detailed instruction on how to secure exemptions for humanitarian services.

### Arms embargo exemptions

Typically, a two-step exemption system is applied once the worst violence in a conflict region has subsided. During the first phase, the delivery of non-lethal arms and equipment to security forces is allowed. At a later stage, once reconciliation efforts have progressed to allow the reconstitution and retraining of military forces, most military equipment is permitted as long as inventory controls and notification procedures are observed. The following exemptions are currently in effect:

- Security forces of the Federal Government of Somalia;
- Armed forces of the Democratic Republic of the Congo;
- Security forces of the Libyan government;
- Security forces of the Central African Republic.

### *Travel ban exemptions*

The committee may exempt persons traveling for humanitarian reasons such as for medical treatment or to exercise religious obligations, to attend judicial proceedings, or to participate in mediation processes.

### *Aviation ban exemptions*

In the rare cases where exemptions for the aviation sector are granted, relief is permitted for flights for humanitarian purposes or for emergency landings, and spare parts required for the safe commercial operation of aircraft.

### *Assets freeze exemptions*

Assets freezes are widely exempted on a case-by-case basis for funds needed to cover basic expenses such as food, rent or mortgage, medicines and medical treatment, education, taxes, insurance premiums, and public utility charges. Exemptions are also granted to pay for legal services or for expenses required for participating in mediation proceedings, and assets freezes are sometimes exempted to pay for humanitarian aid and services.

### *Exemptions to commodity sanctions*

In the case of North Korea, an import exemption applies to limited quantities of refined petroleum.

### *Exemption requests*

Although committees do not offer a harmonized system for exemption requests, those for relief from an assets freeze or travel ban must be submitted via the UN Permanent Mission of the state in which the applicant resides (individual) or is registered (company or entity), or via the UN Focal Point for De-Listing.



Based on observed practices over time, the information blocks described below tend to respond to most committees’ information requirements.

*Travel exemptions based on humanitarian need*

Requests for exemption from travel restrictions in order to obtain medical care, or to attend to religious practices, require the following information about the person(s) traveling:

*Table 11: Information requirements for travel ban exemption requests*

Full name	Date and time of treatment (for requests for medical reasons)
Permanent reference number on sanctions list	Copies of supporting documents providing details connected to the request, such as specific dates and times of meetings or appointments
Nationality	The proposed dates and times of departure from and return to the country from which the travel commenced
Passport number	The complete itinerary for such travel including the ports of arrival and departure and all transit points
The purpose(s) of the proposed travel	Details of the mode of transport to be used, including, where applicable, record locator, flight numbers, and names of vessels

*Table 12: Information requirements for travel ban exemption requests based on emergency medical evacuation*

Requests should provide, in addition to above-listed information:

A doctor’s note explaining the nature of the emergency treatment	The date, time, and mode of travel by which the person returned, or is expected to return, to his or her country of residence.
Details of the facility where the person was treated	

*Table 13: Information requirements for travel ban exemption requests to allow participation in mediation and reconciliation proceedings*

Requests should include the following information:

Full name	Copies of supporting documents furnishing details connected to the request such as specific dates and times of meetings or appointments
Permanent reference number on sanctions list	The proposed dates and times of departure from and return to the country from which the travel commenced
Nationality	The complete itinerary for such travel including the ports of departure and return and all transit points
Passport number	Details of the mode of transport to be used, including where applicable, record locator, flight numbers, and names of vessels.
The purpose(s) of the proposed travel	

*Table 14: Information requirements for travel ban exemption requests for any other reasons*

To obtain an exemption for any other reasons, the following information is required:

Individual's name and address(es)	Location(s) where the individual(s) will travel, including transit points
Permanent reference number on sanctions list	The period of time the individual(s) is/are expected to travel
Passport or travel document number(s)	

Because a travel exemption will inevitably also require an assets freeze exemption, the following supplemental financial information is required as well:

Recipient's bank information, where applicable	Payment frequency (one-off / monthly / other)
Details of funds to be released, including total amount	Where applicable, number of instalments
Estimated cost of expected transportation	Form of payment bank transfer / direct debit / cash
Estimated cost of expected lodging	Where applicable, interest and estimated amount
Estimated cost of other expected expenses	Other relevant information that may assist the committee in its consideration and attached relevant documents
Payment starting date	Contact information for applicant and contact point in national delegation that submits the request, including names, phone numbers, and e-mail addresses

*Requests for assets freeze exemptions to facilitate payment of basic living expenses*

The following information is typically required:

*Table 15: Information requirements for assets freeze exemption requests*

Individual's/entity's name	Recipient's bank information (if appropriate)
Permanent reference number on sanctions list	Purpose of payment
Individual's/entity's address	
Basic expenses (complete sections A, C and D)	
Extraordinary expenses (complete sections B, C and D)	

A. Basic expense(s) exemption	
Estimated cost of food	Estimated cost of public utility charges
Estimated cost of rent or mortgage	Estimated cost of payment of professional fees and reimbursement associated with the provision of legal services
Estimated cost of medicines or medical treatment	Estimated cost of fees or service charges for frozen funds or assets
Estimated cost of taxes	Estimated cost of anything else considered a basic expense but not covered above, as specified
Estimated cost of insurance premiums	
B. Extraordinary expense(s) exemption is requested, provide details and amount for anything not covered under A above.	
C. Further information	
Payment starting date	Form of payment: bank transfer/ direct debit /cash
Payment frequency: (One-off / monthly / other)	Amount of any accruing interest or interest payments
Where relevant, identify number of instalments	Other information considered relevant to assist the committee in its consideration, with attached relevant supporting documents

### *Additional information requirements*

Contact information for applicant and contact point at national delegation that submits the request, including names, phone numbers and e-mail addresses.

## Section IV

# Significant new considerations

This section discusses five significant new considerations that were raised during the consultations:

- Streamlining of due process procedures throughout the range of sanctions implementation mechanisms;
- Information and guidance aimed at achieving more effective collaboration with the global private sector;
- Gaps in UN sanctions practices to protect gender rights, prevent S/GBV, and enhance the gender parity aspirations of the UN sanctions system;
- Strengthening the partnership between UN sanctions and humanitarian organizations;
- Concerns with the exacerbating nature of digital technologies.

## Streamlining due process

### *Background*

Ensuring fair and clear procedures in UN sanctions is a self-evident responsibility for all principal UN sanctions implementation actors as a way to give weight to the UN's core mandate of protecting and advancing human welfare. Despite the reform process towards fair and clear procedures in UN sanctions that began in the 1990's, the key due process demands have not been fully implemented across all UN sanctions, or with few exceptions, with the participation of sanctions monitoring experts.

However, notable achievements can be reported, for example:

- Introduction of standardized statements of cases for listings that are used by some sanctions committees;
- Guidance on how to build a statement of case;
- Creation of the Office of the Ombudsperson for the ISIL (Daesh)/ Al Qaeda regime;
- Additions to the mandate – albeit limited - of the Focal Point for De-listing.

Further enhancements are required, as proposed, for example, in the Note by the President of the Security Council, (S/2017/507) under chapters IV. VII. IX. X. B and C, XI. and XIII; the Compendium of the High Level Review (HLR) of UN Sanctions, (A/69/941–S/2015/432); and the Assessment of the HLR Compendium (A/71/943-S/2017/534).

These proposals rest essentially on the June 2006 statement by UN Secretary-General Kofi Annan that demanded respect for four “rights” to ensure that UN sanctions procedures are “fair and clear”:

- The right of a person designated for sanctions to be informed of the accusations;
- The right of such a person to be given an opportunity to respond to the accusations;
- The right to a review of the accusations and responses by an effective review mechanism;
- The right to a periodical review of the continued justification for maintaining sanctions restrictions and measures.

### *The 2006 Recommendations by the Informal Working Group on General Issues of Sanctions*

In December 2006, the Security Council’s Informal Working Group on General Issues of Sanctions (S/2006/997), chaired by Greece, refined Kofi Annan’s demands in the following recommendations:

- Clearly define the scope of the sanctions, as well as the conditions and criteria for their easing or lifting;
- Encourage committees to draw up guidelines to ensure that the selection of individuals and entities for listing is based on fair and clear procedures.
- Encourage committees to conduct regular reviews of names on the list; to ensure, to the degree possible, maximum specificity in identifying individuals and entities to be targeted; and to adopt guidelines early in a sanctions regime based on fair and clear procedures for delisting.

The key recommendation often repeated by many other authors was that:

Monitoring mechanisms should emphasize impartiality and fairness during the report drafting process, and make available to relevant parties (state authorities, entities or individuals), if appropriate, any evidence of wrongdoing for their review, comment and response, within a specified deadline. Rebuttals, with an assessment of their credibility, and corrections regarding already published allegations, should be included in subsequent reports.

To give institutional attention to enhanced due process practices, the Security Council adopted with resolution 1730 (2006) the appointment of the Focal Point for De-listing. The focal Point has a mandate to receive a delisting request from any designated individual, company or entity that is not designated under the ISIL (Da'esh) and Al-Qaida (ISIL/AQT) sanctions. For the first time, the UN sanctions system had a process established to terminate individual targeted sanctions once they were no longer justified.

An initiative of Denmark that succeeded with the adoption of resolution 1904 (2009) ([https://www.undocs.org/S/RES/1904\(2009\)](https://www.undocs.org/S/RES/1904(2009))) that mandated the establishment of the Office of the Ombudsperson for the ISIL/AQT sanctions, was perhaps an even more significant response of

the UN sanctions system to due process demands. The Ombudsperson's mandate provides for a far stronger role in determining the justification for individual targeted sanctions.

It also opened the door for the sustained campaign by the Like-Minded States on their key concern for the UN Security Council to create an Ombudsperson for other sanctions regimes or a mechanism that provides equivalent protection.

Furthermore, the Like-Minded States have stated their wish to further ensure the independence of the Office of the Ombudsperson by:

- Creating an optional acting Ombudsperson mechanism, which could be activated temporarily in the case of an unforeseen absence of the Ombudsperson;
- Independent decision-making by the Ombudsperson, with reporting to the Department of Political Affairs, on travel for meeting with petitioners and relevant persons or State authorities;
- Making the Office a permanent and contractual arrangement;
- Enhancing the transparency of the Ombudsperson process;
- Improving information-sharing between Member States and the Ombudsperson.

Despite these reform processes, profound discomfort persisted and designations under the UN counter-terrorism sanctions triggered challenges in national courts and especially in the Court of Justice of the European Union, that, as well as a move towards “fair and clear procedures”, aimed at confronting the uneven application of due process in the UN sanctions system. The UN University's examination of the sanctions system (“Fairly Clear Risks: Protecting UN sanctions legitimacy and effectiveness thorough fair and clear procedures” (2018)) discovered at least 39 judicial due process challenges to counterterrorism designations, and six cases related to sanctions on armed conflict.

The absence of due process court claims by those designated under the UN's non-proliferation sanctions is perhaps the most foreboding fact and may, in the words of the authors of the UN University study, “signal the



start of a third round, and the opening of a new front in these debates”. The authors recommended:

- Preventive action to forestall courts finding that implementation of conflict and non-proliferation sanctions regimes falls short of required legal standards, by raising the awareness of the UN membership of the risks that non-counter-terrorism sanctions regimes face from due process challenges and the need for preventive action to address these risks.
- Protection of the ISIL/Da'esh and Al Qaida sanctions regime by ensuring the regime's legitimacy and effectiveness by supporting the Office of the Ombudsperson.
- Development of independent, context-sensitive, non-judicial review mechanisms for counter-terrorism sanctions.
- Development and publication of clear guidance on 'fair and clear procedures during investigations', drawing on existing material such as guidance used by commissions of inquiry established by the UN Human Rights Council and using it to enhance fair process training for sanctions monitoring experts.

### *The current exemption system*

While in many cases individual and case-by-case exemptions from assets freeze and travel ban sanctions are not necessarily directly related to due process, the UN sanctions exemption system is rooted in the same idea: those under sanctions should not have to forego their basic right to food, shelter, medical care, education, to attend legal proceedings, mediation or peace processes.

### *Current delisting procedures*

Orderly and rights-based delisting of individuals, companies and entities designated for targeted sanctions is the corner stone of an effective application of due process. Committee delisting decisions are now based on two well-defined procedures:

ISIL/AQ/Taliban sanctions designations: The Office of the Ombudsperson has the mandate to process applications for those seeking to be delisted from ISIL/AQ and the Taliban sanctions. All others may apply through the UN Focal Point for De-Listing

However, those delisted do not in all cases reap benefits from the committee's decision. The necessary global communication via governments to the travel or financial industries, and to all other companies that distribute and sell compliance databanks often takes a long time to update and implement delistings. Cases are known of delisted persons who were unable to get access to their assets for months or even years after they were delisted because of slow and inadequate communication to the travel and financial industries.

An additional complexity is that once a designation is announced, information remains on the Internet as the primary source for many who cannot afford professional compliance advisory services. The "right to be forgotten" is not incorporated into delisting decisions, and consequently, companies who offer search and browsing machines make no effort to extend this fundamental due process to former designated individuals, companies and entities.

The UN sanctions system, therefore, has to contend with the significant legacy of a due process deficit.

### *Opportunities for improvements to due process*

In order to make the UN sanctions system more effective, fair and transparent practices have to be expanded to ensure that the fundamental rights of those subject to sanctions will not be ignored.

The most effective way to achieve this objective is to integrate due process practices into all sanctions implementation procedures. The following table describes eight opportunities for both sanctions monitoring experts and committees to apply due process throughout the sanctions implementation cycle.

*Table 16: Eight opportunities to integrate due process into sanctions implementation*

<b>Implementation step</b>	<b>Experts’ due process requirements</b>	<b>Committee’s due process requirements</b>
Start of mandate	Expert teams should craft a pragmatic methodology and evidentiary standards that set forth how they will fully implement due process requirements for each of the situations they expect to encounter, including their intended procedures for each of the steps described in this table.	Members of the committee should verify that experts’ methodology and evidentiary standards fully considers all due process requirements.
Starting a specific investigation	Before experts commence investigating an alleged violator, they should record in a memorandum their evaluation of the credibility of prima facie evidence so far obtained. Pending consent from the team, the investigative effort can proceed.	Members of the committee should verify experts’ evaluation of prima facie evidence for all cases that are reported to the committee.
Proceeding with investigation	<ol style="list-style-type: none"><li>1. When designing the investigations, experts should consider and plan how they will offer the accused an opportunity to reply to allegations that the experts intend to report.</li><li>2. The actual right-to-reply effort should be undertaken either in person, by email, or by phone in the presence of two experts, who subsequently prepare a detailed memorandum of the exchange.</li><li>3. Experts should plan efforts to research extenuating or exculpatory information for each allegation they intend to report.</li></ol>	Members of the committee should verify experts’ memorialized efforts to offer each alleged violator a right to reply for each allegation levelled in their reports, as well as obtain evidence of experts’ attempts to identify extenuating or exculpatory information.

Reporting of findings	<p>Experts should evaluate carefully which of their team members has accumulated conclusive evidence that must be reported to the committee. Their decision should take into account that the eventual application of sanctions is effective only if the reported information is correct and verifiable, based on a complete case file. That should include all compliance-relevant circumstances, supporting evidence, and contemporaneous notes or memos of interactions with informants, as well as evidence that experts made genuine efforts to find extenuating or exculpatory information, as well as records to prove that each alleged violator was offered an opportunity to reply to each allegation.</p>	<p>Members of the committee should verify that experts have contemporaneously established case records, including:</p> <ul style="list-style-type: none"> <li>- on critical interactions with informants;</li> <li>- verifying the authenticity of all supporting evidentiary records;</li> <li>- indicating that incriminating statements by qualified informants were memorialized contemporaneously;</li> <li>- verifying that experts searched for extenuating or exculpatory information.</li> <li>- demonstrated that an alleged violator received a fair right to reply for each allegation levelled in experts' reports.</li> </ul> <p>Finally, committee members should further establish whether all experts on the team are in agreement on the validity of the presented information, and if that is not the case, explore whether disagreements are based on methodological or evidentiary lapses.</p>
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Designation decision by sanctions Committee	<p>Once experts have provided a complete record of each recommendation for designation by their committee, they should report immediately if they find any new incriminating or exculpatory evidence.</p> <p>Experts should also be available for formal and informal consultations with the committee to elaborate on their reported insights.</p>	<p>Committee members should consider all information, regardless whether provided by experts, Member States or any other sources, by applying the same systematic evidentiary standards.</p> <p>In cases where evidence is inconclusive, or where the alleged violator has not been given a right to reply, members should consider postponing a designation until due process is exercised.</p>
Post-designation procedures	<p>Experts should be mandated to periodically review the circumstances that justified designations. They should also be mandated to report whenever the alleged violator displays a clear change of behavior, justifying delisting.</p> <p>Experts should further be mandated to inform newly designated violators about the public record of their designation, to explain all associated implications, and offer guidance on how to change the objectionable behavior.</p> <p>Experts should further provide to those designated the contact information for the UN Focal Point, or where applicable, the Office of the Ombudsperson, along with instructions on what information is required in order to make use of these mechanisms.</p>	<p>Committee members should inform the state or states of citizenship and residency of newly designated persons and entities, informing them of the public record of their designation, explaining all associated implementation obligations of the states, request that the governments cooperate with the experts on the updating of other incriminating or exculpatory information, including any that indicates a change of behavior that might justify delisting.</p> <p>The states should further be provided contact information for the UN Focal Point, or where applicable, to the Office of the Ombudsperson, along with instructions about what information is required in order to make use of these mechanisms.</p>

Applications for exemptions to the UN Focal Point, or delisting to the Office of the Ombudsperson	Where requested by the committee, experts may need to explore whether information furnished by the designated applicant is correct.	The committee may require experts to verify information furnished by an applicant for exemptions.
Delisting	<p>Experts should periodically verify whether the allegations that led to a designation are still valid, and if that is no longer the case, to formally recommend delisting.</p> <p>Where requested by the committee, experts may need to explore whether information furnished by the designated applicant is correct.</p>	<p>The committee should mandate experts to periodically verify whether allegations that led to the designation are still valid, and if that is no longer the case, to propose delisting.</p> <p>The committee may require experts to verify information furnished by an applicant for exemptions.</p>

## Information and guidance for implementation by the global private sector

### *Companies as front-line sanctions implementation actors*

Without the competent and willing cooperation of enterprises, the UN sanctions system would lose one of its most powerful implementation tools. From a corporate risk management perspective, the challenge is complex. Compliance with UN sanctions is a legal requirement and may be desirable for sanctions of other issuers from around the world. For global corporations, this usually requires attention to around 100 sanctions cases.

### *Table 17: Sanctions measures affecting the private sector*

Sanctions measures that require companies' compliance include most embargoes, whether dual-use restrictions and Catch-All Provisions; financial and economic restrictions primarily in the form of individual assets freezes; due diligence obligations for trade involving commodities, wildlife or wildlife products; port and bunkering services; and individual travel bans

<b>Sanctions measures</b>	<b>Affected industries</b>
Conventional arms embargo	Defense manufacturing, international transport and logistics, banking and financial intermediaries
Embargo on WMD (nuclear, chemical, biological and missile technologies)	Manufacturing and research industries, international transport and logistics, banking and financial intermediaries
Assets freezes	Financial industry and their intermediaries
Travel ban	International transportation industry
Ban on conflict commodities	International trade and commodity brokerage, international transport and logistics, banking and financial intermediaries
Ban on luxury goods (North Korea)	International trade, international transport and logistics, banking and financial intermediaries
Restrictions in education	Technical schools and universities

The vast majority of enterprises are affected by UN sanctions only in terms of their efforts to comply. A few, however, may be targeted for having ignored or intentionally contravened sanctions. Because the UN does not impose financial penalties, the effect of being singled out as a corporate sanctions violator is reputational loss, that typically triggers declining confidence by capital market participants and lenders. Concomitant with these effects, violators also risk financial penalties imposed by autonomous or unilateral sanctions issuers, and in extreme cases, criminal prosecution.

### *Private sector multidimensional risk exposure*

The dual exposure of the private sector to the UN sanctions system and to other sanctions issuers leads to significant frustration even among the most well-intentioned companies. UN compliance demands are often

defined with insufficient precision, and not backed up with financial penalties. Consequently, risk managers tend to prioritize sanctions that provide detailed compliance guidance while threatening the heaviest penalties for compliance failures.

One way to improve attention to UN sanctions is to strengthen the interactions between committees and industries or companies particularly exposed to regions or activities under UN sanctions.

*Table 18: Private sector categories and exposure to UN sanctions*

Such targeted interactions must be understood within the context of at least three widely differing private sector structures.

Publicly traded, large, internationally active companies	Small to medium-sized companies	Institutional investors
<p>UN sanctions compliance is overshadowed by other sanctions and other risk management challenges.</p> <p>Senior management is keen to avoid embarrassment, and therefore invests heavily in risk management and lobbying on behalf of their interests.</p> <p>Such companies are rarely if ever named as violators of UN sanctions.</p>	<p>Typically, regional medium-to-small sized companies that are privately or state-owned enterprises believe that they are less affected by compliance risks, and those operating predominantly in the Global South often lack guidance from their management, and resources and skills to fully comply with UN sanctions.</p> <p>Such companies are most frequently singled out for UN sanctions violations.</p>	<p>Regardless whether as assets owners or managers, institutional investors must maximize return on investments while promoting lawful business and full sanctions compliance.</p> <p>The practical application of ownership responsibilities varies greatly, however, with those promoting sustainable business usually being the most reliable in demanding full UN sanctions compliance from their investees.</p>



Exceptions: state-owned enterprises and other companies not dependent on public market financing.	Exception: companies operating in the jurisdictions of P5 countries.	Exception: investors entirely focused on profit tend to ignore compliance issues.
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These distinct profiles of private sector categories entail distinct requirements.

Publicly traded, large, internationally active companies, recognizing the UN's unique global leadership, request that:

- The UN Security Council offer protection against other international sanctions issuers that do not align their policy objectives and therefore confront companies with conflicting or contradictory compliance demands;
- To alleviate the problems of false positives: in compliance efforts, that all sanctions issuers, led by the UN, agree to a universal naming convention for standardizing information contained in designation lists;
- The starting date of sanctions be clearly defined in order to allow fast-moving industries, such as financial or travel, to fully understand the date on which specific services can no longer be provided.
- Data privacy laws, including the EU's "Right to be Forgotten" are addressed by UN sanctions issuers in the protection of those delisted.

Small to medium-sized companies that struggle with far more fundamental challenges, request the following:

- Notwithstanding the fact that the UN website already provides access to all relevant sanctions compliance information, that access to guidance about industry-specific compliance obligations or designation lists is consolidated and be made more easily accessible, perhaps with non-UN websites;

- The implementation capacity of their government is supported with periodic training for supervisory agencies related to private sector compliance;
- Government implementation efforts be reviewed by UN experts, and where shortcomings are detected, they will be addressed and corrected;
- Periodic training on compliance measures be held in their geographic region by qualified experts;
- That an information clearinghouse be established for corporate compliance and risk management professionals.

Institutional investors, particularly those who are dedicated to sustainable investment strategies and strongly interested in ensuring that their investees observe all compliance obligations, view their interests to be very much aligned with UN policymakers. They request in the interest of risk mitigation to be involved and informed by UN sanctions decision-makers, in as much detail as possible.

### *De-risking consideration for the private sector*

Companies, especially financial service providers, should also confront their tendency to over-comply with sanctions in order to avoid penalties from issuers of unilateral sanctions. While such risk-management maneuvers may be understandable and on first sight appear to have little downsides for any party, it should be understood that over-compliance can cause severe disruption for individuals and companies.

Where financial services for humanitarian aid providers are concerned, such de-risking strategies cost hundreds, and sometimes thousands of lives of innocent civilians. International aid providers have raised attention to this fact during the past five years in many international meetings that included representatives of governments and financial industries. Consequently, it is no longer credible to view de-risking as an unintentional consequence of international sanctions because the affected communities are often voiceless and the impact of over-compliance on their lives tends to be indirect.

The discussions under sub-chapters in this Guide, *De-Risking* and *Expanding and institutionalizing humanitarian exemptions*, (page 100) should be considered by committees as approaches that could also provide much needed clarity to the private sector.

## Gender equality and UN sanctions

### *The risks of limiting UN sanctions to Conflict Related Sexual Violence (CRSV)*

The UN sanctions system can be invoked once the Security Council has determined under Article 39 of the UN Charter “the existence of any threat to the peace, breach of the peace, or act of aggression”. This determination justifies taking measures under Article 41 (sanctions) or Article 42 (the use of force). The Members of the Security Council are traditionally divided on the question of whether conditions of violence represent a “threat to the peace, breach of the peace, or act of aggression”.

Part of the insidiousness of sexual and gender-based violence (S/GVB) is that it is usually not aligned with the timelines or dynamics of general conflict violence. S/GBV may be pre-existing and continue during a period of officially recognized violence; sometimes accelerating after formal ceasefires or peace agreements are implemented, to wreak mayhem for many years. Widespread disruption, particularly in “peaceful” but lawless conditions can be triggered by S/GBV, or the mere threat of such violence.

For example, in the Democratic Republic of the Congo scores of civilians may flee, tearing families apart, abandoning livelihoods and disrupting the planting-harvesting cycles, causing micro-starvation months later. Such hidden impacts may eventually unleash a new conflict spiral. But in traditional terms, the threat of S/GBV never registered as a “threat to the peace, breach of the peace, or act of aggression”. In other words, limiting sanctions to conflict-related sexual violence may miss the opportunity to counteract actions that may eventually cause a conflict.

### *Gender competence in the UN sanctions system*

Those who believe that taking such preventive and protective sanctions approaches stretches the interpretation of Article 39 too far, should

consider whether their objection is not by itself an expression of gender bias. Accepting that the end of a conflict can only be framed in terms of military concepts – disarming combatants as part of a ceasefire agreement, integrating them into regular armed forces as part of a peace agreement, etc. – is perhaps in itself a gendered perspective.

An alternative perspective of the implications of peace and security may be focused on regaining personal safety and dignity, establishing food security, the ability to live safely in the family home, the education of children, and access to health care. These differences in viewpoints are, however, never reflected in UN sanctions resolutions or in the mandates of sanctions monitoring experts and are rarely allowed to be investigated by female experts. Stark gender imbalances in the composition of committees or expert teams are probably the smaller contributor to this blind spot. Many women experts appear to accept the male-dominant status quo, and the few who voice opposition and a desire to pursue gender-specific violations are often thwarted and leave the sanctions system in frustration.

Instilling gender balance in the composition and substantive objectives of UN sanctions requires a collective search for the right approach. During the consultations for this Guide, the following recommendations were made:

### *Improving UN sanctions to prevent gender-related threats and violence more effectively*

1. Consider a separate S/GBV criterion in each sanctions regime. If the Security Council does not adopt this recommendation, experts should use the general IHL/IHRL designation criteria to bring attention to S/GBV in each context. In the ISIL/AQ and North Korea sanctions regimes, IHL/International Human Rights Law (IHRL) designation criteria and/or a S/GBV criterion should be included.
2. Require all sanctions monitoring experts to include in their methodology a comprehensive gender statement, describing their internal policies to ensure gender competence, their monitoring focus to include gender-relevant issues, and monitoring of intended and unintended gender implications of sanctions measures.

3. There should be a criterion that assists expert teams and the Security Council to determine when acts/situations of S/GBV reach the threshold of a threat to international peace, security and stability. This criterion can be based on an evolving list of acts that should consist not only of reports about rape or sexual exploitation. As sanctions monitoring experts refocus on gender aspects in conflicts, other criteria may emerge within each context being examined.
4. The mandates of UN sanctions monitors should:
  - a. Include threats of S/GBV when such threats are imminent.
  - b. Take a wider gender approach to include gendered threats and LGBTI communities, and people with disabilities.
5. If the Security Council mandates S/GBV-related sanctions monitoring, safety and security provisions for victims and witnesses must be ensured. Sanctions and human rights practitioners should develop guidelines for such supporting mechanisms.

*Promoting a stronger focus on gender-related issues and the participation of women in UN sanctions policymaking, implementation, and monitoring*

1. A gender policy should be adopted that allows for gender mainstreaming of all stages of sanctions monitoring and reporting, after designation and before delisting.
2. A gender/sanctions manual should be drafted and introduced to align the approach to gender and sanctions by all Chairs and members of sanctions committees, expert teams and their coordinators, as well as SCSOB staff.
3. There should be gender balance among committee members, expert teams, and SCSOB staff. Gender targets should be set to achieve this balance within a specified time span.
4. Create a conducive environment for the recruitment into expert teams of women and LGBTI persons, that includes maternity leave, health insurance, and other special gendered considerations.
5. Consider the possibility of the inclusion of a gender expert in each expert team and ensure that gender training is mandatory for each new member.

6. Include gender-related harassment faced by experts in the mandate of the SCSOB Gender Focal Point.

### *Unintended gender implications of UN sanctions*

1. Systematically monitor the positive and negative gender implications/consequences of sanctions and mandate periodic reporting by expert teams.
2. Establish a reporting obligation for all expert teams about specific measures taken within their mandate in regard to gender concerns.
3. Establish a reporting obligation about the observed unintended gender consequences of sanctions for all Member States as part of their implementation reports.

## **Humanitarian action and UN sanctions**

### *Humanitarian organizations in conflict zones*

Without exception, where UN sanctions are applied, humanitarian organizations play an important role in mitigating the impact of conflict, terrorism or WMD proliferation on the well-being of civilian populations. For this reason, the operations of humanitarians play an important complementary role to the mandates of peacekeeping, mediation, and sanctions, among other roles, in conflict zones. And it is also why it is a vital component of a UN conflict resolution approach to proactively facilitate the provision of humanitarian assistance, including medical care, to all those in need. Chairs and members of committees have an important role to play in protecting the UN's neutrality and services, including as a means of respecting, promoting and enforcing IHL. Two principal concerns need to be mitigated because humanitarian assistance may be interrupted:

1. unintentionally by sanctions;
2. because of overcompliance by the private sector.

Committee Chairs and members should view as a best practice applying sanctions in defense of humanitarian aid providers when their

aid materials, vehicles, communications equipment, and especially funds, are at risk of being stolen or extorted by leaders of negative forces. These actors may hijack and extort aid providers for material reasons, or injure, kill and loot their belongings for tactical purposes, including when they believe that humanitarian assistance is benefiting opponents. While many, but not all sanctions resolutions, have protective provisions, they often lack meaningful implementation, including monitoring by expert teams to identify and report on perpetrators, so that they may be designated.

Another aspect of these best practices is the need to protect UN and other humanitarian actors and actions from elements that may, for tactical purposes, move to coerce humanitarian actors into stopping the delivery of certain services. They may, for example, allege that humanitarians are conduits of funds, arms, medical and other assistance to individuals, companies or entities under unilateral sanctions. Recent examples of sanctions-based interruptions, mostly because of over-compliance, to the operations of humanitarian organizations include denial of medical care to injured terrorist combatants; blocking the transfer of medical treatment needed in Ebola-affected regions under sanctions; blocking transfers of urgently needed funds to humanitarian aid providers operating in countries under a UN or other assets freeze.

In such cases, Chairs and members of committees must ensure respect for the neutral status and protections afforded under IHL to legitimate humanitarian actors operating in conflict zones. To deliver on this important obligation, Chairs and members of Committees require detailed situational awareness. It includes understanding how the presence of humanitarian actors and their operations benefit from the policies underlying sanctions, but also the risks they face and the identity of risk actors. Committee Chairs and members need this essential information in order to develop and implement appropriate protective or preventive responses.

### *The nature of threats*

Committee Chairs and members must also understand and verify allegations by non-UN sanctions issuers against humanitarians, particularly when suspicions are raised that these organizations may undermine UN

peace-promoting efforts and UN sanctions purposes. To understand the full scope of issues that may lead a sanctions issuer to threaten sanctions against aid providers, committees should mandate their expert teams to investigate the causes of concerns, and possible remedies.

*Table 19: Level of risks caused by sanctions Issuers that affect humanitarian service providers*

The following table and explanation summarize the nature of sanctions-related risks observed in recent experience, how frequently humanitarian organizations experience such threats, and from which sanctions issuers.

Risk type	UN (EU/AU) sanctions	Unilateral sanctions	Frequency of Occurrence
Designation of humanitarian organizations for targeted sanctions	Low	Moderate	No risk
Designation of individuals associated with humanitarian organizations for targeted sanctions	Low	Moderate	No risk
Designation of suppliers of humanitarian organizations for targeted sanctions	Low	Moderate	No Risk
Embargo against dual use items	Low	High	Moderate
Financial de-risking	No Risk	Very high	High
Restrictive clauses in donor agreements	Very high	Very high	Very high
Fines and prosecution	No risk	Moderate	No risk
Loss of reputation	Moderate	Moderate	No risk



Chilling effect	Moderate	Very high	High
Risk relief with one-time exemption or licensing	Moderate	Moderate	Low
White listing*	Zero	No risk	No risk
Neglecting mandates that protect humanitarian aid providers	Moderate	Low	High

\*If adopted

**Designations:** A potential existential risk for the operations of humanitarian organizations is the possibility – fortunately, this risk has not yet materialized - of the entire organization or local branches, employees or suppliers being designated for targeted sanctions, or named publicly as suspects of sanctionable activities. Examples may be operational arrangements involving receiving or paying money to, or otherwise assisting, designated individuals, companies or entities.

**Embargoes against dual-use items:** In addition to the standard exemptions granted to humanitarian organizations for non-lethal military items (bulletproof vests and helmets) other dual-use items can and have been delayed or blocked when in fact their importation clearly serves humanitarian purposes. Authorities may take a restrictive stance to avoid accusations of allowing porous border and transit management practices.

**Financial de-risking:** In seeking to mitigate their risk, banks and other private sector actors sometimes restrict or refuse to provide services to humanitarian organizations. In North Korea, for example, there is no banking channel for humanitarian actors, and humanitarian actors in Syria also face difficulties in accessing financial services.

**Restrictive clauses in donor agreements:** Such clauses can increase costs, limit flexibility, and challenge the impartiality of humanitarian operations. Owing to concerns over sanctions and terrorism, donors are particularly risk-averse in Syria and Afghanistan, imposing restrictions that create difficulties for humanitarian actors.

**Fines and prosecution:** Humanitarian actors risk being fined or prosecuted for violating sanctions, although this has so far rarely occurred.

**Loss of reputation:** Humanitarian organizations whose funding depends on an impeccable reputation cannot afford to be named, however erroneously, in connection with sanctions violations. The resulting loss of reputation could cause serious interruption to their funding and likely impact negatively on their delivery of global services.

**Chilling effect:** The above challenges often lead humanitarian actors to err on the side of caution, self-regulating beyond what is legally or contractually required. In Afghanistan and Somalia, for example, humanitarian organizations have avoided working in large swaths of the country outside government control owing in part to their fear of violating sanctions.

**Risk relief with one-time exemption or licensing:** Applying for exemptions requires a significant investment of time and resources and can create challenges for the principled delivery of aid. In North Korea and Syria, in particular, exemption procedures for UN, US, and EU sanctions are onerous and not widely understood. The UN Somalia sanctions regime is the only one with an exception rather than a case-by-case exemption - a provision that is helpful, albeit limited in its scope and not systematically implemented by Member States.

**White listing:** Theoretically, legitimate humanitarian organizations could be added to a white list to automatically protect them from allegations that could lead to sanctions. The process may, however, be too cumbersome to be practical. Each organization would have to be vetted by the related committee to be able to operate freely.

### *Solutions for Chairs and committee members*

Implementation Assistance Notice (IAN) # 7, ([https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1718\\_implementation\\_assistance\\_notice\\_7.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1718_implementation_assistance_notice_7.pdf)) released by the Committee on North Korea, provides perhaps the most concise language available to date for how to ensure that humanitarian assistance benefits from exemptions. However, the humanitarian situation on the ground in North Korea does not inspire a great deal of confidence that this system is being applied toward tangible improvements.

Fundamentally, the understanding that UN sanctions should always comply with IHL should compel Committee Chairs and members to create a safe environment for legitimate humanitarian relief work. Ideally, protection starts with the Security Council using its unique power to define, with a decision adopted under Chapter VII of the UN Charter, a global standard to which all Member States must adhere. Useful templates that could be applied to all sanctions regimes are found in two paragraphs in resolution 2462 (2019), adopted for the suppression of terrorism financing.

Even in the absence of such specific sanctions resolution language safeguarding IHL and humanitarian work, Committees should request that their expert teams monitor and regularly report any risks to the integrity and safety of relief organizations.

Furthermore, committees can seek first-hand accounts of threats and risks to humanitarian activities by periodically inviting the most active organizations and the UN Office for the Coordination of Humanitarian Affairs (OCHA) for informal consultations.

Sanctions committees should elaborate Implementation Assistance Notices whenever they can be a useful tool – when accompanied by appropriate dissemination and dialogue – to correctly inform the various stakeholders about the implementation of sanctions, thus avoiding de-risking by the private sector and a chilling effect on humanitarian organizations.

Sanctions resolutions could provide important protection against most unintended consequences of sanctions by any issuer (explained in Table 19, above), by including an exemption using, for example, as model language, a slightly modified version of paragraph 5 of Resolution 1916 (2010) on Somalia:

Decides that for a period of ..... months from the date of this resolution, and without prejudice to humanitarian assistance programmes conducted elsewhere, the obligations imposed on Member States in paragraph .... of resolution ..... shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in .....(affected state/region), by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, or their implementing partners, including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for ..... (affected state/region).

Such language would, of course, have minimal impact without also including a message to the private sector encouraging adherence with Security Council exceptions. Part of such clarification would be to require that each Committee adopt an exception on behalf of humanitarian organizations, to be announced with a press release directed to the Society for Worldwide Interbank Financial Telecommunications (SWIFT).

Where such exception language cannot garner sufficient support for adoption by the Security Council, committees could promote such a practice by requesting their expert teams to monitor and report on cases where financial transfers, and the provision of medical and other relief services carried out by impartial humanitarian actors in a manner consistent with IHL, are criminalized or otherwise undermined or restricted.

Such requests are in line with the obligation of all states to fully respect and implement IHL that cannot be displaced, even temporarily, by sanctions measures. This fundamental requirement can be reinforced by committee Chairs and members tasking their expert teams with continuous monitoring of compliance with IHL.

## Exacerbating effects of cyber-threats

### *Evolving threats*

Comparatively little attention has so far been paid to the burgeoning effects of digital technologies that negative actors, primarily terrorist organizations and proliferators, have been employing, often to support violations of sanctions over the past 20 years. The first reports by UN sanctions monitoring experts of abuses of digital and information technologies date back to the Angola Panel in 1999.

In the interim, the use of digital technologies has grown considerably and there is virtually no leader of militias, terrorists or proliferators who is not using ever more sophisticated technologies, often hiding behind blockchains or using cyber assets to conceal their actions more effectively.

Currently, there is no cyber expert on any sanctions monitoring team, and where experts do report on cyber-threats or digital actions that may constitute sanctions violations, the descriptions are often rudimentary. The following table breaks down reported incidences, beginning in 2019.

*Table 20: Expert reporting on digital technology applications*

Regime	Command & control	Recruitment	Procurement of falsified documents	Evasion of assets freeze using crypto assets	Extortion of crypto assets	Cyber-fundraising	Funds transfers	Sale of crypto tokens	Phishing	Concealing of beneficial ownership using blockchains	Attacks on crypto exchanges	Cyberattacks against experts	Global Positioning System (GPS) interference	Electronic jamming
Somalia	✓	✓	✓		✓									
ISIL/AQ						✓								
DRC														
Sudan														
North Korea				✓	✓	✓		✓	✓	✓	✓	✓		

[illegible]

The lack of expert reporting is certainly also caused by the absence of specific mandates in sanctions resolutions. Experts are not instructed to monitor the cyber activities of those suspected of violating sanctions, and committees so far do not consider activities in cyberspace as an area for expert monitoring.

However, cyber actors have for some years used cyber activities to raise funds, recruit combatants, acquire embargoed items, and promote their causes. More sophisticated applications, for example, by WMD proliferators have also led to cyber-theft of intellectual property related to sensitive proliferation technologies. In a further escalation, some actors are weaponizing cyber technologies, for example to hack and disable functions that are essential for monitoring their activities, as the example of attacks against the North Korea Panel of Experts has shown.

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# Annex 1

## The Joint Comprehensive Plan of Action (JCPOA) on Iran

### *Transition from resolution 1737 to 2231*

With paragraphs 5-7 of resolution 2231 (2015) that endorsed the Joint Comprehensive Plan of Action ([https://undocs.org/S/RES/2231\(2015\)](https://undocs.org/S/RES/2231(2015))) (JCPOA), the former Iran sanctions under resolution 1737 were terminated and with it all measures and designations.

Resolution 2231 encompasses new measures that, unlike the interdicting and coercive nature of sanctions, “enable” or “permit” certain activities by Iran and all states. None of the typical accoutrements of sanctions are built into resolution 2231. There is no committee or sanctions monitoring experts, nor are there sanctions measures or designation procedures.

A so-called “snap-back” mechanism exists as a coercive measure that would be triggered with a notification of the Security Council concerning “an issue that a JCPOA participant State believes constitutes significant non-performance of commitments under the JCPOA”. To date, this has not happened, despite significant failure to comply with the JCPOA by most signatories.

Neither the United States’ withdrawal from the JCPOA in May 2018, nor Iran’s gradual resumption, starting in July 2019, of its production of enriched uranium, or its extensive conduct of ballistic and cruise missile attacks in neighboring countries have terminated implementation of the JCPOA or cancelled resolution 2231.

*Iran has taken five steps to “reduce” its commitments under the JCPOA*

1. 1 July 2019: Lifted the limits on its stockpiles of enriched uranium and heavy water;
2. 7 July 2019: Initiated enrichment of uranium to 4.5% concentration so it could provide fuel for the Bushehr power plant - beyond the JCPOA permitted 3.67%;
3. 6 September 2019: Lifted all limits on research and development of centrifuge technology and began to install more advanced centrifuges;
4. 5 November 2019: Resumed uranium enrichment at Fordo;
5. 5 January 2020: Lifted the limit on the number of centrifuges in operation, and thus no longer accepted any restrictions on its enrichment program.
6. Despite these steps, Iran continues to cooperate with monitoring by the International Atomic Energy Agency (IAEA).
7. Iran also stated that it was willing to reverse some of these actions if the US lifted its sanctions.

*Obligations and implementation mechanisms*

Consistent with the JCPOA stipulations, Iran and all states are to collaborate in the dismantling of Iran’s nuclear arms establishments, while restarting economic relationships. These procedures are described in Annex B of resolution 2231 and apply for specific time spans, designated by:

Transition Day – will occur eight years from Adoption Day (18 October 2015) or upon receipt by the Security Council of the report from the IAEA stating that the IAEA has reached the Broader Conclusion that all nuclear material in Iran remains in peaceful activities.



Termination Day - ten years from Adoption Day, provided that the sanctions provisions had not been reinstated in the interim, because a signatory triggered the “snap-back”. On Termination Day, all obligations, measures and designations adopted under resolution 2231 (2015) will come to an end, and the Security Council will no longer be seized with the Iranian nuclear issue.

Broader Conclusion – confirmed by the IAEA, which verifies and monitors the nuclear-related commitments, and fulfilment of Iran’s obligations under the JCPOA – which will lead to Termination Day. It will report its findings to the IAEA Board of Governors and to the Security Council, except when the Director General of the IAEA believes he/she has reasonable grounds to raise concerns about non-compliance with the JCPOA commitments on nuclear issues.

To facilitate the implementation of the JCPOA, especially the dismantling of Iran’s nuclear facilities and conversion to civilian uses, a Procurement Channel, with a Joint Commission and a Facilitator, was established under the Agreement.

Joint Commission: pursuant to paragraph 2 of Annex B, the Commission reviews states’ proposals for nuclear-related transfers to, or activities with, Iran, and where applicable, will recommend them for approval to the Security Council. Under the European 3 and European Union plus 3 P5 (E3/EU+3) formula, China, Russia, and the United States, and from the EU, France, Germany, and the United Kingdom, as the High Representative of the European Union for Foreign Affairs and Security Policy, and Iran, are represented in the Joint Commission. The EU High Representative serves as its Coordinator.

Procurement Channel - serves as the Joint Commission’s process, acting as the Procurement Working Group, to review and decide on proposals by states that wish transfer to Iran items listed under or services described as follows:

- INFCIRC/254/Rev.12/Part 1 (updated version is now: [INFCIRC/254/Rev.13/Part 1](https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf)) (<https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf>)
- INFCIRC/254/Rev.9/Part 2 (updated version is now: [INFCIRC/254/Rev.10/Part 2](https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r10p2c.pdf))
  - o (<https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r10p2c.pdf>)
- Related technical assistance, training, financial procedures, transfers and transports
- Iranian acquisition of commercial activity prohibited under resolution 1737 (uranium mining or production of nuclear materials and technologies)

The Facilitator – mandated with S/2016/44, a Note issued by the President of the Security Council on 16 January 2016, is responsible for carrying out practical arrangements and procedures on behalf of the Security Council. One of the Permanent Representatives serving on the Security Council is appointed as Facilitator. His/her responsibilities include monitoring the implementation of the resolution, as follows:

- Improve the implementation of the resolution by all states;
- Answer enquiries from Members and international organizations regarding the implementation of the resolution;
- Respond to information regarding alleged actions inconsistent with the resolution;
- Undertake outreach activities to promote proper implementation of the resolution, including the provision of practical guidance;
- Review and decide on proposals made by Members pursuant to paragraphs 2, 4, 5 and 6 (b) of annex B, resolution 2231, including the review of recommendations from the Joint Commission regarding proposals by Members and international organizations to participate in or permit the activities set forth in paragraph 2 of annex B to the resolution and section 6 of annex IV to the Joint

Comprehensive Plan of Action (i.e., the procurement channel functions);

- Grant exemptions to the restrictions, as specified in the resolution.

### *Permitting processes and permitted technologies*

Provided that a State can ensure:

- Verification of end-use and end-use location of any supplied item;
- Notifications of the Security Council and the IAEA (in regards to items from the INFCIRC lists) of any sale, transfer or supply within ten days after it occurred;
- Iran's commitment not to use such items to develop nuclear weapon delivery systems,

the transfer of the following technologies is permitted, based on case-by-case approval by the Security Council:

### *Nuclear technologies*

Includes:

- supply, sale or transfer of all items, materials, equipment, goods and technology set out in INFCIRC/254/Rev.13/Part 1 and INFCIRC/254/Rev.10/Part 2 (or their current updated version);
- any further items if the State determines that they could contribute to reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA;
- related technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, related to the supply, sale, transfer, manufacture or use of the items, materials, equipment, goods and technology described in subparagraph (a) above; and
- acquisition by Iran of an interest in a commercial activity in another State involving uranium mining or production or use of nuclear materials and technology as listed in INFCIRC/254/Rev.13/Part1

(<https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf>), and such investment in territories under their jurisdiction by Iran, its nationals, and entities incorporated in Iran or subject to its jurisdiction, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them.

Termination of Security Council approval requirement on 18 October 2025, or earlier.

### *Ballistic missile technologies*

Includes:

- the supply, sale or transfer to Iran or Iranians of all items designated under the Missile Technology Control Regime list, S/2015/546;
- technology, technical assistance or training, financial transfers and assistance, investment, brokering or other services, including the acquisition by Iranians of commercial activities that involve the supply, sale, transfer, manufacture, or use of above-referenced categories of items;

Termination of Security Council approval requirement on 18 October 2023, or earlier.

### *Conventional arms*

Includes:

- the supply, sale or transfer of any battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel, including spare parts, and
- technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance, or use of arms and related materiel described above.

Termination of Security Council approval requirement occurred on 18 October 2020.

### *Assets freeze*

Under paragraph 6 (c) of Annex B of resolution 2231 (2015) a list of designated individuals, companies and entities is in force and requires that all states ensure the freezing of any assets, and that economic resources belonging to those listed are blocked. The 2231 list is published on the [web page dedicated to the implementation of Resolution 2231](https://www.un.org/securitycouncil/content/2231/background). (<https://www.un.org/securitycouncil/content/2231/background>)

### *Other restrictions*

All states are obliged to implement all elements of resolution 2231, including by taking required actions whenever they become aware of attempts to contravene the resolution.

Specifically, states are required to:

- Inspect all cargo to and from Iran where information provides reasonable grounds to believe that the cargo contains items that are transferred without complying with the permitting procedures under the JCPOA, Annex B;
- Cooperate in inspections on the high seas with the consent of the flag State;
- Supply any information at a state's disposal on any failure to implement the measures in this resolution.

Contingencies are also in force, as is common and required by international treaties, for the transfer of any other conventional military equipment, sensitive nuclear or ballistic missile technologies, including related dual-use items. They include the need to secure end-use certification, notification of the Security Council (and where applicable, the IAEA and Joint Commission) in advance of any transfers, in compliance with any applicable international non-proliferation treaties.

## Annex 2 - Guidelines for the Work of the Committee

### *Overview*

Committees are the primary bodies responsible for the implementation of Security Council sanctions. While the promulgation of guidelines is not a prerequisite for the committee's work, the practice is for committees to formulate and agree on a set of Guidelines for its work, which are posted on its web page.

Over the past several years, committee guidelines have become increasingly standardized. Guidelines typically include information on the role of the Chair, Vice-Chair, sanctions monitoring experts, and the Secretariat; the committee's mandate; procedures such as meetings, documentation and decision-making; handling of various communications; exemptions and exceptions; procedures for listing and delisting; the committee's own reporting obligations and those of Member States; and outreach activities.

Committee guidelines typically contain the following information:

### *Role of the Chair and Vice-Chair*

The Chair is appointed by the Security Council and acts in his/her personal capacity. The Vice-Chairs serve in the capacity as members of their delegation. According to the guidelines, when the Chair is unable to preside over a committee meeting, he/she will nominate one of the Vice-Chairs to do so. In recent years, the practice has been for the Chair to nominate a representative of his/her delegation.

### *Mandate of the Committee*

The committee's mandate is set out in the related Security Council resolution and typically includes monitoring implementation of the sanctions; designating, reviewing, and delisting individuals and entities subject to sanctions; considering reports of the sanctions monitoring experts; revising the guidelines as necessary; conducting outreach; seeking information on implementation from states, and the sanctions monitoring experts; examining and taking appropriate action on allegations of non-compliance; and receiving notifications and deciding upon requests for exemptions.

### *Meetings of the Committee*

Committee meetings, whether formal or informal, are convened at the request of the Chair or a member and are announced in the Journal of the United Nations. Committee meetings are normally closed, and the committee may invite non-members to participate, as listed in the guidelines.

### *Decision-making*

Committee decision-making is by consensus. The Chair may facilitate agreement or bilateral exchanges. If consensus still cannot be achieved, he/she may refer the matter to the Security Council. Decisions may also be taken by a no-objection process, detailed in the Guidelines, as is information on pending matters and the placement and lifting of holds.

### *The list*

This section contains information on reviewing and updating the list of individuals and entities subject to targeted sanctions; cooperation with INTERPOL and communication of amendments to the list; and its circulation to financial institutions, border points and others.

### *Listing*

Contains detailed procedures for the Committee's decision on requests for designation, including written requests from Member States, and

procedures for designating and co-sponsoring states, including specifics of identifying information, statements of case, narrative summaries, and notification to states.

### *Delisting*

Sets out procedures for Member States' requests for delisting, of its nationals or residents, either to the Chair or the Focal Point; and also, in cases where a state decides that its nationals or residents should direct their requests directly to the Focal Point.

### *Exemptions to the arms embargo*

Sets out details of procedures for Member States' submission to the committee, in writing, of requests for exemption, for its consideration and decision, or procedures for notification to the by exporting states regarding the provision of military equipment

### *Exemptions to the travel ban*

Notes that the committee may grant exemptions on a case by case basis on the grounds of humanitarian need, religious obligation, fulfillment of a judicial process, or for the objectives of peace, national reconciliation, and regional stability; and details of required accompanying information, procedures for changes to such information, and requirements for posting on the committee's web page.

### *Exemptions to the assets freeze*

Details procedures by which the committee will receive notifications from Member States of their intention to authorize access to frozen funds, financial assets or economic resources to cover basic expenses or extraordinary expenses and provides information on what constitutes each category of expenses, and details on required accompanying information.

### *Other information supplied to the Committee*

The committee will make an appeal to and consider information relevant to its work, received in writing to the Chair from Member



States, regional organizations, or the sanctions monitoring experts, on probable non-compliance with the measures. The information will be kept confidential if the provider so requests or the committee so decides. The committee may request a report on follow-up action, will provide an opportunity for Member State representatives to meet with the committee to give voluntary briefings; and the Secretariat may provide the committee with information from published sources.

### *Reports to the Security Council*

The committee may report to the Council, through its Chair, when it deems appropriate, orally at least once per year, or with the Special Representative of the Secretary-General, on the situation in the country, as appropriate; or in regular reports on the progress of its work and possible non-compliance.

### *Outreach*

The committee shall make relevant information publicly available through UN accredited media, the committee website and UN press releases; and will publicize its work and enhance dialogue with states by holding public meetings.

The Chair may, with the approval of the committee, hold press conferences and/or issue press releases on any aspect of the Committee's work, with input from the sanctions monitoring experts and/or the Secretariat, which shall maintain the committee's website. This section also sets out procedures for committee visits to selected countries, as coordinated with other subsidiary organs of the Council.

### Deviations from standard committee guidelines for the ISIL/Da'esh Committee

#### *Narrative summaries of reasons for listing*

Narrative summaries should accompany requests for designation, should be based on information provided by the designating State(s), committee member(s) or the Monitoring Team, and include required information listed in this section of the Guidelines.

### *Communications from non-listed individuals*

This section sets out procedures by which the committee may consider and respond to communications, through the Focal Point, from individuals removed from the ISIL (Da'esh) and Al-Qaida lists, or claiming to have been subject to sanctions as a result of false or mistaken information.

### *Guidelines for the ISIL (Da'esh), CAR and Somalia committees include a "Review of the List"*

Details procedures for the committee's annual review of the list, with the support of the sanctions monitoring experts and the Secretariat.

### Deviations from standard committee guidelines for the North Korea Committee

The DPRK Committee's guidelines include a Consolidated List of Individuals and Entities, and Updating the Existing Information on the List.

## Annex 3 - Sample Security Council resolution

### Overview

The following sample resolutions apply to sanctions relating to:

- i) Civil conflict
- ii) Non-proliferation
- iii) Counterterrorism

Security Council resolutions that impose sanctions typically include a number of preambular paragraphs, also called a chapeau, setting out background and other information. Operative paragraphs, which follow the preambular section of the resolution, differ from the chapeau in that they contain a mixture of exhortations and the Council's decisions, which typically, but not always, invoke Chapter VII of the UN Charter, and which Member States are mandated to carry out under Article 25 of the Charter.

Security Council resolutions applying sanctions have become vastly more detailed over time as sanctions regimes have evolved and become more complex. They now include detailed background information on the situation, directives for various international bodies, details and/or references to Committee and sanctions monitoring experts' mandates, and sanctions provisions and related exemptions.

The structure and content of resolutions vary according to the situation being addressed. Highlights of typical resolutions are set out below, for civil

conflict (CAR); non-proliferation (North Korea); and counterterrorism sanctions regimes (ISIL/Al-Qaida/Taliban).

## Civil conflict - A/RES/2507 (2020) on the Central African Republic

### *Preamble paragraphs (highlights)*

Recalls previous resolutions and statements on the situation; reaffirms the Council's commitment to UN Charter principles; expresses concern at the deteriorating security situation and the consequences of instability in the country and region; condemns acts of violence; expresses serious concern about violations of international humanitarian law, human rights violations and other abuses; expresses alarm at war crimes and crimes against humanity; takes note of, recalls, welcomes and expresses deep appreciation for the actions of States, Mediators, regional organizations, or other international actors, that represent progress on the situation; and recalls actions that remain to be taken as contained in previous resolutions.

### *Operative paragraphs (highlights)*

#### *Peace operations and political process*

Extends the mandate of a UN peace operation or reinforces its mandate; underlines support for peace agreements; urges national authorities to continue working for stabilization, national reconciliation and unity; calls for human rights and humanitarian access.

### *Operative paragraphs (highlights)*

#### *Sanctions*

Acting under chapter VII of the UN Charter:

Applies a travel ban and/or an assets freeze, and provides details on designated individuals and entities, and exemptions for each measure; sets out criteria for designation; and extends the arms embargo applied by a previous resolution and applicable exemptions.

*Operative paragraphs (highlights)**Mandate of the Committee*

Decides that the mandate of the Committee shall apply with respect to the measures applied in the resolution.

*Operative paragraphs (highlights)**Mandate of the Panel of Experts*

Decides that the mandate of the Panel of Experts shall be extended to include assisting the Committee by providing information regarding designated individuals and entities and including names of potential designees in its formal reports.

*Operative paragraphs (highlights)**Member State reporting*

Calls upon all Member States to report to the Committee within a specified period of time on the steps they have taken to implement the measures applied by the resolution.

**Non-proliferation - A/RES/2397 (2017) on the DPRK***Preambular paragraphs (highlights):*

Recalls the Council's previous resolutions; reaffirms that the proliferation and delivery of nuclear, chemical and biological weapons constitutes a threat to international peace and security; expresses its gravest concern at the recent ballistic missile launch and the challenges such a test constitutes to the global regime of non-proliferation of nuclear weapons, and to stability in the region and beyond; underlines the importance that the DPRK respond to security and humanitarian concerns of the international community and expresses great concern that the DPRK is diverting critically needed resources away from the people in the DPRK; acknowledges that the DPRK's trade in sectoral goods, as well as the revenue generated from its workers overseas, among others, contribute to the DPRK's nuclear weapons and ballistic missile programs; expresses its gravest concern that the DPRK's ongoing nuclear- and ballistic

missile-related activities have destabilized the region and beyond, and determines that there continues to exist a clear threat to international peace and security,

### *Operative paragraphs (highlights)*

Acting under Chapter VII of the Charter of the United Nations, and taking measures under Article 41,

Condemns in the strongest terms the ballistic missile launch conducted by the DPRK in violation and flagrant disregard of the Security Council's resolutions; and reaffirms its decisions that the DPRK shall immediately cease all related activities; and abandon any other existing weapons of mass destruction and ballistic missile programs.

### *Designations*

Sets out prohibitions under the assets freeze previously applied and clarifies to whom it applies and related exemptions.

### *Sectoral*

Sets out prohibitions under the ban on crude oil, petroleum products, food and agricultural products and other items, industrial machinery, transportation vehicles, and certain metals, and applicable exemptions for such measures, and related procedures to be followed by Member States and the Committee; calls upon the Secretary-General to provide additional resources; sets out the time frame for Member States to repatriate to the DPRK all its nationals earning income in their jurisdictions, and government safety oversight attachés monitoring DPRK workers abroad, and related exemptions, and reporting requirements.

### *Maritime interdiction of cargo vessels*

Decides upon and sets out conditions under which Member States shall seize, inspect, and freeze (impound) any vessel in their ports, or subject to their jurisdiction, or request additional maritime and shipping information from other relevant Member States, and that the Committee and Panel of Experts shall facilitate timely coordination, and requests the Secretary-General to provide additional resources.

Decides on conditions under which Member States shall prohibit the provision of insurance or re-insurance services, or de-register, or re-register, a vessel, subject to exemptions by the Committee on a case-by-case basis.

Expresses concern and calls upon Member States to exercise enhanced vigilance with regard to DPRK-flagged, controlled, chartered, or operated vessels conducting prohibited activities; sets out prohibitions and exemptions on the sale or transfer to the DPRK of any new or used vessels; decides that Member States shall notify the Committee of information regarding designated vessels including measures taken under the relevant resolutions; and decides on exemptions with respect solely to the trans-shipment of Russia-origin coal.

### *Sanctions implementation*

Sets out the reporting obligations of Member States and requests that the Panel of Experts provide assistance; calls upon Member States to redouble their efforts and cooperate with others in implementing the measures; decides that the mandates of the Committee and the Panel of Experts shall apply to the measures in the current resolution.

Decides to authorize and oblige all Member States to seize and dispose of items identified in inspections of which the supply and sale are prohibited by relevant resolutions, in a manner that is not inconsistent with their obligations under applicable resolutions; emphasizes the importance of all States, including the DPRK, taking the necessary measures to ensure that no claim shall lie in connection with any contract or other transaction where its performance was prevented by the measures in relevant resolutions; emphasizes that the measures set forth in relevant resolutions shall in no way impede the activities of diplomatic or consular missions in the DPRK pursuant to the Vienna Conventions on Diplomatic and Consular Relations.

### *Political*

Reiterates its deep concern at the grave hardship that the people in the DPRK are subjected to; condemns the DPRK for pursuing nuclear weapons and ballistic missiles instead of the welfare of its people and demands that the DPRK stop diverting its scarce resources toward its

development of nuclear weapons and ballistic missiles at the cost of the people in the DPRK; notes the findings of the United Nations Office for the Coordination of Humanitarian Assistance that well over half of the people in the DPRK suffer from major insecurities in food and medical care; reaffirms that the measures imposed by relevant resolutions are not intended to have adverse humanitarian consequences or affect negatively or restrict those activities that are not prohibited and the work of international and non-governmental organizations carrying out assistance and relief activities in the DPRK; stresses the DPRK's primary responsibility and need to fully provide for the livelihood needs of people in the DPRK, and decides that the Committee may, on a case-by-case basis, exempt any activity from the measures imposed by the resolutions if the Committee determines that such an exemption is necessary to facilitate the work of such organizations in the DPRK or for any other purpose consistent with the objectives of the resolutions; reaffirms its support for the Six Party Talks; stresses the importance of working to reduce tensions in the Korean Peninsula and beyond; affirms that it shall keep the DPRK's actions under continuous review and is prepared to strengthen, modify, suspend or lift the measures as may be needed.

Annex I: Travel ban/assets freeze (individuals)

Annex II: Assets freeze (entities)

## Counter-terrorism - resolution 2462 (2019) on ISIL-Al-Qaida

### *Preambular paragraphs (highlights)*

Recalls its previous resolutions and its relevant presidential statements; reaffirms that terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security; stresses the primary responsibility of Member States in countering terrorist acts; calls upon all States to become party to the international counter-terrorism conventions and protocols and ensure that terrorist acts are established as serious criminal offences in domestic laws and regulations; reaffirms that Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law; notes with grave concern that terrorists and terrorist groups raise funds through a variety



of means; recognizes that innovations in financial technologies, products and services may offer significant economic opportunities but also present a risk of being misused, including for terrorist financing; underscores the central role of the United Nations in the fight against terrorism; encourages Member States to actively cooperate with FATF; recognizes the significant need to build and strengthen capacities of Member States to more effectively counter terrorism and terrorist financing and to make better use of existing international instruments and mechanisms.

### *Operative paragraphs (highlights)*

Acting under Chapter VII of the Charter of the United Nations,

Reaffirms its decisions that all States shall prevent and suppress the financing of terrorist acts and shall establish serious criminal offenses regarding the travel, recruitment, and financing of foreign terrorist fighters; strongly urges all States to implement the comprehensive international standards embodied in the revised Forty FATF Recommendations on Combating Money Laundering, and the Financing of Terrorism and Proliferation and its interpretive notes; demands that Member States ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism, comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law; urges all States to assess specifically their terrorist financing risk and to identify economic sectors most vulnerable to terrorist financing encourages Member States to build the capacity of their financial oversight and regulatory systems in order to deny terrorists the space to exploit, raise and move funds; urges States, when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law; encourages Member States to improve efforts and take decisive action to identify cases of trafficking in persons and in cultural property that finance terrorism with a view to holding those responsible accountable and to provide, as appropriate, the Analytical Support and Sanctions Monitoring Team with relevant information;

encourages Member States to help to build the capacity of other Member States, upon their request, to address the threat posed by the financing of terrorism; requests United Nations entities, particularly the UN Office on Counter Terrorism (OCT) and UNODC to continue to cooperate with Member States; requests CTED, in accordance with resolution 2395, to strengthen its assessment process relating to countering the financing of terrorism; requests CTED and the Analytical Support and Sanctions Monitoring Team to prepare a report on actions taken by Member States to disrupt terrorist financing and invites Member States to submit to them in writing, information on actions taken to disrupt terrorist financing.

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