ASSESSING THE EFFECTIVENESS OF UN TARGETED SANCTIONS

(A SEMINAR PAPER ON LEGAL CRISIS MANAGEMENT AND CONFLICT SETTLEMENT)

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31ST MAY 2010
## ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AJIL</td>
<td>American Journal of International Law</td>
</tr>
<tr>
<td>CTC</td>
<td>Counter Terrorism Committee</td>
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<tr>
<td>DPRK</td>
<td>Democratic People’s Republic of Korea</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<tr>
<td>EJIL</td>
<td>European Journal of International Law</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<td>FRY</td>
<td>Federal Republic of Yugoslavia</td>
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<tr>
<td>IATA</td>
<td>International Air Transport Association</td>
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<td>ICAO</td>
<td>International Civil Aviation Organization</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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<td>INTERPOL</td>
<td>International Criminal Police Organization</td>
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<td>JICJ</td>
<td>Journal of International Criminal Justice</td>
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<td>RUF</td>
<td>Revolutionary United Front</td>
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<td>SC</td>
<td>Security Council</td>
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<td>SFRY</td>
<td>Socialist Federal Republic of Yugoslavia</td>
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<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNGA</td>
<td>United Nations General Assembly</td>
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<tr>
<td>UNITA</td>
<td>National Union of the Total Independence of Angola</td>
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<td>UNODC</td>
<td>United Nations Office for Drugs and Crime</td>
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<td>UNSC</td>
<td>United Nations Security Council</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>US</td>
<td>United States</td>
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<td>WCO</td>
<td>World Customs Organization</td>
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<td>WMD</td>
<td>Weapons of Mass Destruction</td>
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ASSESSING THE EFFECTIVENESS OF UN TARGETED SANCTIONS

A. INTRODUCTION

The UN was established in 1945 following the decline of the League of Nations in the 1930s and in reaction to the atrocities witnessed during World War II. The Security Council and the ICJ are the two principal organs assigned the responsibility of resolving and preventing the exacerbation of international conflict. While the ICJ is empowered to adjudicate legal disputes between states that were willing to submit disputes to its jurisdiction, the Security Council is tasked with the primary responsibility of maintaining international peace and security, which is the overall purpose of the UN. To that end, the UN Charter empowers the Security Council to take a range of effective collective measures so as to eradicate the potential causes of international and regional conflict, as well as build genuine and lasting peace among its member states. These include facilitating the pacific settlement of disputes under Chapter VI as well as taking the necessary action with respect to threats to the peace, breaches of the peace and acts of aggression under Chapter VII. Pursuant to the doctrine of implied powers, the Security Council is possessed with further competencies that are not explicitly enumerated in the UN Charter, but are nevertheless necessary for the discharge of its duties.

During the Cold War, the UN’s system of collective security was in a state of recurrent deadlock, due to ideological differences that existed among the permanent members of the Security Council coupled with the power of the veto. Consequently, it authorized the use of armed force once, against South Rhodesia in 1996 as well as imposed non-military sanctions twice, against South Rhodesia and South Africa, in 1966 and 1977 respectively. However, the fall of the Iron Curtain brought about a wave of

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2 United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Article 92
3 Ibid, Article 24 (1)
4 Farrall, supra note 1, p. 62
5 *Reparations of Injuries Suffered in the Service of the United Nations*, Advisory Opinion, 1949 ICJ Rep. 174 (April 11) at 182 in which the ICJ noted that under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by the necessary implication as being essential to the performance of its duties
7 UN Charter, supra note 2, Article 27(3)
8 UNSC Res. 221 (9 April 1966) S/RES/221
political change that revitalized the Security Council and saw it make increasing use of its broad powers under Chapter VII.\textsuperscript{11} Since then, it has mandated more peacekeeping missions, authorized able and willing states to use force as well as established ad-hoc international criminal tribunals for the former Yugoslavia and Rwanda in 1993 and 1994 respectively, thus marking a significant milestone in the evolution of international law. Moreover, it has imposed mandatory sanctions against states and non-state actors in more than a dozen different conflict zones spanning four continents and for a variety of policy objectives.\textsuperscript{12} These range from halting the illicit trade in diamonds to addressing the threat of international terrorism. To date, twenty five sanctions regimes have been created, eleven of which remain in place today.\textsuperscript{13}

Since the end of the Cold War stalemate, the landscape of international politics has changed significantly.\textsuperscript{14} The principal threats to international peace and security are today posed by transnational terrorist organizations, the proliferation of WMD and so-called rogue states. Against this background, targeted sanctions have fast become the Security Council’s tool of choice for a variety of reasons. Firstly, they provide a middle ground between mere rhetoric on the one hand and the use of armed violence on the other.\textsuperscript{15} This is particularly significant given that it is difficult to garner the support necessary to authorize the collective use of force.\textsuperscript{16} To date, Operation Desert Storm in 1990, which was designed to drive out Iraqi forces from Kuwait, remains the most spectacular case of such authorization.\textsuperscript{17} Subsequent cases in which armed force have been used have been tainted with controversy and disagreement regarding their legality, and have done much to undermine the legitimacy of the UN as a whole.\textsuperscript{18} Secondly, targeted sanctions are deemed to be more effective and less indiscriminate than

\textsuperscript{11} Neuhold, supra note 6, p 81 - 82
\textsuperscript{12} Neuhold, supra note 6, p 82
\textsuperscript{14} Neuhold, supra note 6, p 84
\textsuperscript{16} UNSC Res. 678 (29 November 1990) UN Doc S/RES/ 0678 ; Ibid, p 19
\textsuperscript{17} Neuhold, supra note 6, p 81 et seq. in which the author gives the examples of Operation Allied Force in 1999 and Operation Iraqi Freedom in 2003, both of which had no prior authorization to use force as required by article 42 of the UN Charter.
comprehensive economic sanctions which were imposed during the 1990s.\textsuperscript{19} Their perceived effectiveness is partly attributed to technological advances and globalization, which have created a climate of growing interdependence. Lastly, they are generally thought to entail fewer costs than measures involving the use of armed force.\textsuperscript{20} By authorizing sanctions, the Security Council can be seen to be taking strong symbolic action against threats to international peace and security, without having to assume the responsibility for, or incur the costs of using force.

The increasing use of targeted sanctions by the Security Council reflects its desire to enforce international values and norms through measures that do not involve the use of armed force.\textsuperscript{21} This however, has been accompanied with growing public criticism from a variety of sources. Targeted sanctions have been denounced as politically ineffective and counterproductive in addressing the growing threat of international terrorism as well as reining in states that are hell bent on pursuing nuclear activities.\textsuperscript{22} Their selective use has led to a spiral of growing distrust and outright animosity between the US and countries such as Iran, as well as reignited the debate over the possibility of Security Council reform.\textsuperscript{23} Domestic and regional courts have repeatedly found fault with the listing and de-listing procedures of the 1267 sanctions regime, in so far as they fail to offer access to effective judicial remedies to those designated as Al-Qaida associates.\textsuperscript{24} Consequently, UN members have found themselves in the difficult position of having to choose between complying with the decisions of their domestic and regional courts on the one hand, and their obligations under the UN Charter on the other. These challenges are further compounded by the numerous inherent technical and operational difficulties associated with implementing targeted sanctions as well as the intricacies of the Security Council’s political process.\textsuperscript{25}

\begin{itemize}
  \item \textsuperscript{19} A More Secure World: Our Shared Responsibility, supra note 15, para 179; Arne Tostensen and Beate Bull, ‘Are Smart Sanctions Feasible?’ (2002) 54 World Politics, 373
  \item \textsuperscript{20} Ibid, para 179: Farrall, supra note 1, p 3 - 4
  \item \textsuperscript{22} Ibid, p 5
  \item \textsuperscript{24} Biersteker and Eckert, supra note 21, p 4
  \item \textsuperscript{25} Tostensen and Bull, supra note 19, p 374
\end{itemize}
Growing criticism regarding the efficacy of UN targeted sanctions in general, coupled with the proliferation of cases challenging the implementation of the 1267 sanctions regime in particular, have done much to weaken the authority and credibility of the Security Council. In an attempt to improve the latter, the Security Council recently established the Office of the Ombudsperson to assist with the de-listing of individuals and entities designated as Al-Qaida associates. While this development is to be welcomed, it is highly doubtful that it will appease regional and domestic courts and dissuade them from further engaging with the implementation of sanctions under this regime. It is evident that more needs to be done to address the concerns that commentators have vis-à-vis the 1267 sanction regime. It is feared that unless adequate measures are taken to address this and other challenges, not only shall the overall effectiveness of targeted sanctions be undermined, but the ability of the Security Council to take effective measures against contemporary threats to international peace and security shall be severely compromised.

This paper seeks to discuss the past and current use of targeted sanctions by the Security Council pursuant to Article 41 of the UN Charter, as well as analyze the extent to which this tool has been instrumental in addressing major transgressions of international law in a dynamic political environment. To this end, it is divided into three chapters. The first chapter shall discuss the general nature and purpose of sanctions, the powers of the Security Council and their substantive limitations, the use of comprehensive economic sanctions during the 1990s, the various initiatives that led to the emergence of smarter sanctions as well as their impact on the current design and implementation of targeted sanctions. The second chapter shall assess the effectiveness of past and current UN targeted sanctions regimes as well as analyze the various factors that have and continue to impede their overall political effectiveness. The third chapter shall critic the feasibility of the proposals that have been suggested to reform the sanctions regimes currently in place, as well as analyze the most recent developments aimed at making them less ineffective, less counterproductive and less indiscriminate.

26 Biersteker and Eckert, supra note 21, p 4 - 5
28 HM Treasury v. Mohammed Jabar Ahmed and others (FC); HM Treasury v. Mohamed al – Ghabra (FC); R (on the application of Hani El Sayed Sabhaie Youssef) v. HM Treasury (2010) UKSC 2 A para 181 (Lord Rodger) and 239 (Lord Mance in which they both noted that despite the establishment of the Office of the Ombudsperson, UNSC Res 1904 does not offer any access to effective judicial remedies to those listed under the 1267 sanctions regime. The Supreme Court then proceeded to quash, in part, the Order implementing the 1267 sanctions regime in the UK.
30 Biersteker and Eckert, supra note 21, p 5
CHAPTER 1

B. SANCTIONS AS AN INSTRUMENT OF CONTEMPORARY INTERNATIONAL RELATIONS

I. THE NATURE AND PURPOSE OF SANCTIONS

Non-military sanctions are coercive measures that fall short of armed force and which generally lead to the temporary abrogation of normal state-to-state relations. Generally speaking, such sanctions serve three purposes. Firstly, they seek to induce the target to change its conduct or policy that is deemed undesirable under international law, by making the cost of pursuing the undesired conduct or policy greater than the benefit to be gained from it. Their objective therefore, is to modify the behavior of the target as opposed to inflicting punishment or otherwise exacting retribution. Secondly, sanctions seek to weaken the target from inflicting further harm and damage and/or delay its progress vis-à-vis a proscribed activity, such as acquiring WMD. Thirdly, they constitute a process through which the sanctioning party defines its identity by dissociating itself from what it considers to be “evil.” Consequently, sanctions imposed under the auspices of the UN have two audiences; the target and the international community as a whole. By imposing sanctions, the Security Council not only elaborates the values and principles that are constitutive to the UN, but also defines the ideologies and practices that negate that identity. Their overall success or failure therefore depends on whether the desired change in behavior or policy has been achieved and/or whether the ability of the target to inflict further harm or damage has been significantly reduced.

Non-military sanctions are generally distinguished on the basis of their source as well as their range of prohibitions. Firstly, they may be unilateral or multilateral in nature. While the former are imposed by one state against another state or group of states, the latter are imposed by universal and regional organizations such as the UN and the EU respectively. Secondly, sanctions may be comprehensive or targeted. While the former are indiscriminately applied against a state in its totality and thus tend to have an adverse humanitarian impact, the latter are aimed against the specific individuals and entities

31 Tostensen and Bull, supra note 19, p 374
34 Tostensen and Bull, supra note 19, p 377
35 Addis, supra note 32, p 578
36 Ibid, p 594 in which the author notes that in imposing sanctions against apartheid South Africa, the Security Council affirmed that racism is deeply inconsistent with the identity of the UN.
37 Ibid, p 574; Farrall, supra note 1, p 106
38 Ibid, p 574 - 575; Tostensen and Bull, supra note 19, p 374;
39 Ibid, p 374; Farrall, supra note 1, p 107
that are responsible for breaches of international law. All multilateral sanctions in place today are targeted sanctions.\textsuperscript{40} Assets freeze, travel bans and arms embargoes constitute the most common form of targeted sanctions. Lastly, sanctions may be economic or non-economic in nature.\textsuperscript{41} While economic sanctions seek to prevent the flow of commodities, products and/or supplies to or from a target, non-economic sanctions interrupt a target’s relations with the external world, in areas other than economic trade. Economic sanctions may be comprehensive in nature, in which case they prohibit the flow of all commodities, products and supplies vis-à-vis the target or they may be selective, in which case they are restricted to particular products, commodities or supplies such as arms, timber and diamonds.

II. \textbf{THE LEGAL BASIS OF SANCTIONS UNDER THE UN CHARTER}

Sanctions are one of the weapons available to the Security Council in the discharge of its duties under Chapter VII of the UN Charter.\textsuperscript{42} Where the Security Council has determined that a particular situation constitutes a threat to the peace, breach of the peace or an act of aggression, it may either make recommendations or decide what measures are appropriate to give effect to that determination.\textsuperscript{43} The latter may or may not involve the use of armed force. Article 39 therefore constitutes the trigger for all preventive and enforcement action invoked by the Security Council under Chapter VII.\textsuperscript{44} This notwithstanding, the UN Charter is silent as to what constitutes a threat to the peace, breach of the peace or an act of aggression.\textsuperscript{45} Moreover, the UN Charter contains no explicit requirement to adopt enforcement measures in any specific order.\textsuperscript{46} According to the \textit{travaux preparatoires}, this was done deliberately.\textsuperscript{47} Consequently, the Security Council has a wide margin of discretion deciding whether to intervene in a given situation as well as the measures most appropriate to restore and maintain international peace and security in each case.\textsuperscript{48} With respect to measures not involving the use of armed force, Article 41 provides as follows:-

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\item \textsuperscript{40} Biersteker and Eckert, supra note 21, p 4
\item \textsuperscript{41} Farrall, supra note 1, p 107 and 123
\item \textsuperscript{42} Addis, supra note 32, p 580
\item \textsuperscript{43} UN Charter, supra note 2, Article 39
\item \textsuperscript{44} David Schweigman, ‘The Authority of the Security Council under Chapter VII of the UN Charter: Legal Limits and the Role of the International Court of Justice’ (Kluwer Law International, The Hague) p 38; Farrall, supra fn. 1, p 82; Debbas, supra fn. 10, p 4
\item \textsuperscript{45} Farrall, supra note 1, p 64
\item \textsuperscript{47} Schweigman, supra note 44, p 34
\item \textsuperscript{48} Geiss, supra note 46, p 173 and 177
\end{itemize}
\end{footnotesize}
“The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations.”

Article 41 it is not exhaustive. Consequently, the Security Council may apply measures that are not explicitly included therein, provided that they fall short of armed force. In practice, the Security Council has almost exclusively determined the existence of a threat to the peace before imposing sanctions. Moreover, explicit invocations of Article 41 as the legal basis for the application of sanctions have been few and far between. In majority of the cases, the Security Council simply notes that it is acting under Chapter VII of the UN Charter before applying, modifying or terminating sanctions. This notwithstanding, UN members are legally obliged to comply and implement all mandatory sanctions imposed by the Security Council. They are further obliged to refrain from assisting any state against which the UN has imposed such measures. Moreover, where there is a conflict between their obligations under the Charter and their obligations under any other international agreement, the former shall prevail. This is in sharp contrast to the situation that existed under the League of Nations’ system of collective security, which essentially allowed member states to decide for themselves whether a breach of the Covenant of the League of Nations had been committed, thus enabling them to avoid the obligation of applying sanctions pursuant to Article 16(1) of the Covenant.

III. SUBSTANTIVE LIMITS TO THE POWERS OF THE SECURITY COUNCIL UNDER CHAPTER VII

As mentioned earlier in this paper, the Security Council enjoys a wide margin of discretion in the discharge of its duties under Chapter VII. This has created the perception that its powers are unlimited. This is further reinforced by the fact that none of the other UN organs has the power to

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49 Ibid, p 174; Debbas, supra note 10, p 5 - 6
50 Farrall, supra note 1, p 105
51 Ibid p 69
52 UN Charter, supra note 2, Article 25
53 Ibid, Article 2(5)
54 Ibid, Article 103
56 Schweigman, supra note 44, p 37; Farrall, supra note 1, p 53 - 54
57 Geiss, supra note 46, p 173 and 177
review its decisions.\textsuperscript{59} Moreover, the UN is not a party to any universal or regional treaty on human rights and fundamental freedoms.\textsuperscript{60} Accordingly, it is not directly bound by these instruments, despite the fact that majority of its members have either signed or ratified them. However, while the rights and obligations of international organizations have to be distinguished from those of their respective member states,\textsuperscript{61} it does not follow that the powers of the Security Council are devoid of any substantive limitation.\textsuperscript{62} The UN is an international organization based on the rule of law.\textsuperscript{63} Consequently, its organs are bound to comply with the rules of the UN Charter when exercising their respective functions. Failure to do so will render their actions ultra vires. This much was affirmed in 	extit{Admission to UN Membership}, in which the ICJ emphasized that the political character of an organ of the UN does not exempt it from the provisions in the Charter which constitute limitations on its powers or criteria for the exercise of its discretion.\textsuperscript{64} Similarly, in 	extit{Prosecutor v. Dusko Tadic a/k/a ‘Dule’}, the ICTY held that neither the spirit nor the text of the UN Charter conceives the Security Council as being exempt to the constitutional limitations therein, regardless of how broad its powers may be therein.\textsuperscript{65}

The UN Charter constitutes the principal source of human rights obligations of the Security Council.\textsuperscript{66} When imposing sanctions pursuant to Article 41, the Security Council is required to act in accordance with the purposes and principles of the UN, which are stipulated in Articles 1 and 2 respectively.\textsuperscript{67} Article 1(1) provides that measures undertaken to maintain international peace and security must not only be effective, but also in conformity with the principles of natural justice and international law. This has been interpreted to mean that the Security Council must review its sanctions regimes, to ascertain that they not only meet their policy objectives, but that they are also just under international law.\textsuperscript{68}

\textsuperscript{59} Addis, supra note 32, p 600; By virtue of Article 39 of the Statute of the ICJ, this includes the ICJ which is the principal judicial organ of the UN
\textsuperscript{61} Reparations of Injuries Case, supra note 5, para. 179
\textsuperscript{62} Reinisch, supra note 58, p 854
\textsuperscript{63} Ibid, p 25; Geiss, supra note 46, p 173
\textsuperscript{64} Conditions of Admission of a State to Membership in the United Nations (Article 4 of the UN Charter), Advisory Opinion, 1948 ICJ REP. 57, 64, (May 28)
\textsuperscript{65} Prosecutor v. Dusko Tadic a/k/a ‘Dule’, Appeal on Jurisdiction, Case IT-94-1-AR72, para. 28 (Oct. 2, 1995), reprinted in 35 ILM 32, 42 (1996)
\textsuperscript{66} Fassbender, supra note 60, p 25
\textsuperscript{67} UN Charter, supra note 2, Article 24(2)
\textsuperscript{68} Marc Bossuyt, Commission on Human Rights: Sub-Commission on the Promotion and Protection of Human Rights, \textit{Review of Further Developments in Fields With Which The Sub-Commission Has Been or May Be Concerned}:
Moreover, Articles 1(3) provides that one of the goals of the UN is to promote and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. This is further reinforced by Article 55(c). The Preamble further stipulates *inter alia* that the peoples of the UN are determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person as well as in the equal rights of men and women. They are also determined to establish conditions under which justice and respect for the obligations arising from international law can be maintained.

The Security Council must therefore strive to discharge its principal duty of maintaining international peace and security, while at the same time respect the rights and fundamental freedoms of those likely to be adversely affected by its measures.69 Sanctions imposed against state and non–state actors must not only be necessary, but also proportionate to the objectives they seek to achieve, after exhausting all other measures, including those outlined in Article 40.70 Their legality shall therefore depend on the circumstances of each case and the extent to which they are likely to affect the rights of those affected. The right to life is the most fundamental of all human rights and fundamental freedoms from which no derogation is permissible.71 It should be interpreted broadly and may therefore be invoked to protect against deprivation of life through starvation or the lack of fulfillment of basic needs such as food, basic health facilities and medical care.72 Consequently, any sanction regime that denies civilian population access to basic goods and services that are essential to sustain life would be in contravention of the right to life. This is further reinforced by the right to food and freedom from hunger,73 the right to health74 as well as the right to an adequate standard of living.75 In the context of targeted sanctions, the Security Council is further obliged to respect due process rights of the individuals and entities listed as targets.76

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69 Fassbender, supra note 60, p 27
70 Ibid, p 27 – 28; Geiss, supra note 46, p 174;
74 Ibid, Article 12 of ICESCR
75 UDHR, supra note 71, Article 25(1); ICESCR, supra note 73, Article 11(1)
76 Fassbender, supra note 60, p 27; Geiss, supra note 46, p 174
They should therefore be given the opportunity to be heard before such measures are imposed as well as have access to an effective remedy before an impartial authority.

Any sanctions imposed by the Security Council in the context of an internal or international armed conflict are further governed by the rules of international humanitarian law. These seek to protect civilian population and injured combatants against the effects of armed conflict and are codified in the 1949 Geneva Conventions and the 1977 Additional Protocols. In particular, they prohibit starvation of civilians as a method of warfare as well as the destruction of objects indispensable to the survival of the civilian population. They further provide that civilians have the right to receive humanitarian assistance during an armed conflict. To this end, contracting parties are obliged to allow the free passage of essential foodstuffs, medical supplies and other necessities to the civilian population of the enemy state. In addition to food and medical supplies, Protocol I imposes an obligation on the occupying power to take steps to ensure the provision of other articles that are essential to the survival of the civilian population. These include clothing, means of shelter and objects necessary for religious worship. Consequently, any sanctions regime that prohibits or otherwise limits the provision of humanitarian assistance or articles essential to human survival during an armed conflict, would be illegal under international law. This is further reinforced by the fact that the provisions of the Four Geneva Conventions may not be waivered or abrogated under any circumstances.

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77 Reinisch, supra note 58, p 860
78 Convention [I] for the Amelioration of the Condition for the Wounded and Sick in Armed Forces in the Field, August 12, 1949, 6 UST 3114, 75 UNTS 31; Convention [II] for the Amelioration of the Condition of Wounded Sick and Shipwrecked Members of the Armed Forces at Sea, August 12, 1949, 6 UST 3217, 75 UNTS 85; Convention [III] Relative to the Treatment of Prisoners of War, August 12, 1949, 6 UST 3316, 75 UNTS 135; Convention [IV] Relative to the Protection of Civilian Persons in Time of War, August 12, 1949, 6 UST 3516, 75 UNTS 287 [hereinafter the four Geneva Conventions]
80 Ibid, Article 54 of Protocol I; Article 14 of Protocol II
81 Geneva Convention [IV], supra note 78, Article 55(1)
82 Protocol I, supra note 81, Article 69
83 Geneva Conventions [I], [II], [III] and [IV], supra note 80, Article 7 of the Geneva Conventions [I], [II] and [III]; Article 8 of the Geneva Convention [IV]
C. THE EMERGENCE OF TARGETED SANCTIONS UNDER THE AUSPICES OF THE UN

I. COMPREHENSIVE ECONOMIC SANCTIONS DURING THE 1990s

As mentioned earlier in this paper, the end of the Cold War brought about a proliferation of mandatory sanctions by the Security Council pursuant to Article 41 of the UN Charter.\textsuperscript{84} Following Iraq’s invasion of Kuwait in 1990, the Security Council demanded the withdrawal of Iraqi troops by the 15\textsuperscript{th} January 1991.\textsuperscript{85} Four days later, it banned all trade and means of transportation, imposed an oil and arms embargo as well as froze the Government’s financial assets.\textsuperscript{86} These were followed by aviation and maritime sanctions.\textsuperscript{87} When Saddam’s Government failed to withdraw its troops by the 15\textsuperscript{th} January 1991 deadline, the Security Council authorized a US-led coalition of more than thirty able and willing states to assist Kuwait to drive them out.\textsuperscript{88} After the victory of Operation Desert Storm, it established a cease fire as well as imposed a ban on WMD and ballistic missiles with a range of over 150 kilometers, subject to international inspection.\textsuperscript{89} However, it did not terminate the sanctions it had imposed prior to the cease fire nor did it subject them to a temporal limitation, as they were viewed as necessary to obtain the Iraqi Government’s compliance with its disarmament obligations.\textsuperscript{90}

The Security Council applied similarly broad sanctions against the SFRY and Haiti in 1991 and 1993 respectively.\textsuperscript{91} Against the SFRY, it imposed an arms embargo in response to the heavy fighting that broke out in various parts of the country.\textsuperscript{92} Following its dismemberment, the Security Council took further measures confined to the territory of the newly proclaimed FRY (Serbia and Montenegro).\textsuperscript{93} These included a comprehensive ban on all imports and exports, a flight ban, the severance of financial relations, a reduction of diplomatic representation, suspension of sporting contracts, scientific and technical co-operation and cultural exchanges. These were later strengthened to cover all communication and transport as well as the freezing of assets.\textsuperscript{94} The Security Council also denied the

\begin{itemize}
\item \textsuperscript{84}Neuhold, supra note 6, p 17
\item \textsuperscript{85}UNSC Res. 660 (6 August 1990) S/RES/660
\item \textsuperscript{86}UNSC Res. 661 (6 August 1990) S/RES/661
\item \textsuperscript{87}UNSC Res. 670 (25 September 1990) S/RES/670
\item \textsuperscript{88}UNSC Res. 678 (29 November 1990) S/RES/678
\item \textsuperscript{89}UNSC Res. 687 (3 April 1991) S/RES/687
\item \textsuperscript{90}Debbas, supra note 10, p 9
\item \textsuperscript{91}Ibid, p 10 - 11; Cortright and Lopez, supra note 12, p 3
\item \textsuperscript{92}UNSC Res. 713 (25 September 1991) S/RES/713
\item \textsuperscript{93}UNSC Res. 757 (30 May 1992) S/RES/757
\item \textsuperscript{94}UNSC Res. 787 (16 November 1992) S/RES/787; UNSC Res. 820 (17 April 1993) S/RES/820
\end{itemize}
new Serbian entity membership into the UN.\textsuperscript{95} In Haiti, sanctions were imposed following the ousting of President Jean-Bertrand Aristide by a military coup.\textsuperscript{96} They included an oil and arms embargo as well as freezing of assets controlled by the de-facto authorities. While these measures were suspended two months after they had been imposed,\textsuperscript{97} they were reinstated in October 1993,\textsuperscript{98} and tightened the following year, to include all commodities and products, with the exception of medical supplies and foodstuffs.\textsuperscript{99}

The measures imposed against Iraq, FRY and Haiti had certain features in common. Firstly, they were based on the prevailing punitive concept of sanctions at the time; the best strategy for facilitating the change desired by the international community is through comprehensive economic sanctions that are not only fully enforced, but are aimed at completely alienating the target economy from the rest of the world.\textsuperscript{100} Secondly, they gave rise to unintended adverse consequences.\textsuperscript{101} These included the emergence of black markets, which created windfall profit-making opportunities for the political elite, as well as loss of market and economic damage on third states, in particular those neighboring the target state. In addition, humanitarian agencies were denied access to supplies that were essential for their work, as well as subjected to arduous procedures to obtain the necessary exemptions. Thirdly, they had a detrimental humanitarian impact on the civilian population.\textsuperscript{102} Nowhere was this more evident than in Iraq which saw a sharp decline in food production and water quality, as well as an increased incidence in infectious diseases, chronic malnutrition and infant mortality.\textsuperscript{103} By 1999, Iraq’s infant mortality rates were among the highest in the world while only 41% of the population had regular access to clean water, a sharp contrast to the situation that prevailed prior to 1990-1991.

Lastly, comprehensive economic sanctions proved highly ineffective and counterproductive, as they were premised on the false assumption that the civilian population would either remove the offending

\textsuperscript{95} UNSC Res. 777 (19 September 1992) S/RES/777; UNSC Res. 821 (28 April 1993) S/RES/821
\textsuperscript{96} UNSC Res. 841 (16 June 1993) S/RES/841
\textsuperscript{97} UNSC Res. 861 (27 August 1993) S/RES/861
\textsuperscript{98} UNSC Res. 873 (13 October 1993) S/RES/873
\textsuperscript{99} UNSC Res. 917 (6 May 1994) S/RES/917
\textsuperscript{100} Cortright and Lopez, supra note 12, p 3; Bull p 375
\textsuperscript{101} UNGA ‘Supplement to an Agenda for Peace’, (1995) UN Doc. A/50/60-S/1995/1, para. 70
\textsuperscript{102} Reinisch, supra note 58, p 851
regimes from power or otherwise pressurize them to alter their offending policies and/or conduct.  

As the Sub–Commission on the Protection and Promotion of Human Rights noted:-

“The theory behind economic sanctions is that economic pressure on civilians will translate into pressure on the Government for change. This theory is bankrupt both legally and practically, as more and more evidence testifies to the inefficiency of comprehensive economic sanctions as a coercive tool. The traditional calculation of balancing civilian suffering against the desired political effects is giving way to the realization that the efficacy of a sanctions regime is in inverse proportion to its impact on civilians.”

The above state of affairs was largely due to the fact that the Security Council failed to acknowledge that authoritarian regimes assume and maintain power by force. Consequently, they are not accountable or responsive to the very same citizens for whom they are being forced to alter their offending policies and/or conduct. Ironically, the sanctions imposed went a long way in strengthening the political hand of the ruling elite, particularly in Iraq and SFY, where they manipulated their populace into believing that these measures were in fact one action in a long line of historical attempts by the West to demean and dominate the East. While the international community was labeled as “the common enemy”, the sanctions built solidarity between the citizenry and the target regimes. Consequently, the ruling elite remained in power and continued to enjoy an opulent lifestyle, while their citizenry bore the brunt of these measures.

Criticism against the damage and futility of comprehensive economic sanctions came from a variety of sources, including UN Secretary-General Boutros Boutros-Ghali, who referred to them as a blunt instrument. Various UN agencies and independent researchers initiated studies to assess their humanitarian impact, while human rights activists, political observers and scholars began to question their legality. Against the backdrop of mounting public criticism, the Security Council attempted to address the deteriorating humanitarian situation in Iraq by establishing the Oil for Food Programme.
which did little to redress the magnitude of the crisis.\textsuperscript{112} The Iraqi sanctions regime led to the resignation of three top UN officials,\textsuperscript{113} and it was eventually declared unequivocally illegal under existing international human rights and humanitarian law.\textsuperscript{114} Moreover, its damage and futility, coupled with the US and UK’s reluctance to adopt alternative measures, created the perception that certain countries were willing to sacrifice individuals in other parts of the world, so as to achieve their political goals.\textsuperscript{115} This much was affirmed by former US Secretary of State and Ambassador to the UN, Madeline Albright, who, when asked whether she thought that the death of half-a-million Iraqi children was an acceptable price for sanctions, responded by saying; “We think the price is worth it.”\textsuperscript{116} It is ironical that in attempting to dissociate itself from evil, the Security Council created an even greater evil.\textsuperscript{117}

\section{Towards Smarter Sanctions: Initiatives at Reforming UN Sanctions}

Faced with the grave realities of comprehensive economic sanctions, there were various attempts at improving the design and implementation of UN sanctions during the late 1990s and early 2000s.\textsuperscript{118} The most significant were the Interlaken (1998-1999) and Bonn-Berlin Processes (1999) which were initiated by the Swiss and German Governments respectively. While the former focused on targeted financial sanctions,\textsuperscript{119} the latter analyzed ways of refining the utility of travel sanctions and arms embargoes as instruments for international diplomacy and political action.\textsuperscript{120} Generally, their recommendations

\footnotesize{years, the Security Council steadily expanded the scale of the Programme, which coincided with a significant rise in global oil prices, thus resulting in a sharp increase in Iraqi oil revenues.}

\textsuperscript{112} Cortright and Lopez, supra note 12, p 29 et seq. in which the authors note that the failure of the Programme was partly because the Iraqi Government refused to take full advantage of the opportunity as well as widespread accusations that some of its profits were unlawful diverted to the Iraqi Government and top UN officials.

\textsuperscript{113} Report of the Sub-Commission on the Promotion and Protection of Human Rights, supra note 68, para 68 which notes that among those who resigned were former UN Assistant Secretary General and Humanitarian Coordinator in Iraq, Denis Halliday, who, before leaving office in 1998, declared that; “We are in the process of destroying an entire society. It is as simple and as terrifying as that.”

\textsuperscript{114} Ibid, para. 71

\textsuperscript{115} Addis, supra note 32, p 608; Cortright and Lopez, supra note 12, p 7 - 8

\textsuperscript{116} “Pushing Saddam: Interview by Leslie Stahl with Madeline Albright”, 60 Minutes, CBS News (12 May 1996) Lesley Stahl (referring to the sanctions against Iraq): “We have heard that a half a million children have died because of sanctions in Iraq. I mean that is more than the children who died in Hiroshima. And – you know, is the price worth it?” Madeline Albright: “I think this is a very hard choice, but the price – we think the price is worth it.”

\textsuperscript{117} Addis, supra note 32, p 608

\textsuperscript{118} Tostensen and Bull, supra note 19, p 379; Cortright and Lopez, supra note 12, p 4


\textsuperscript{120} Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions: Results of the “Bonn-Berlin” Process, edited by Dr. Michael Brzoska (Bonn: Bonn International Centre for Conversion, 2001) [hereinafter Bonn-Berlin Manual]
comprised two main strands. Firstly, sanctions should be directed not against a state in its entirety, but rather against specific individuals and entities that are responsible for violating acceptable international standards of behavior.\(^{121}\) Not only would this remedy the shortcomings of comprehensive economic sanctions, but it would also considerably reduce their detrimental humanitarian impact and leave international trade relations unaffected. Secondly, they recommended establishing clear and detailed procedures for the administration of exemptions as well as monitoring the humanitarian impact of sanctions, so as to minimize their unintended consequences.\(^{122}\) To consolidate on their findings, the Swedish Government sponsored the Stockholm Process (2003) which examined the requirements for effective implementation of targeted sanctions.\(^{123}\)

All three sanction reform processes underscored the fact that unlike comprehensive sanctions, targeted sanctions are a highly technical policy instrument and are therefore more complex and difficult to administer and implement.\(^{124}\) Consequently, their effectiveness is contingent on certain factors. Firstly, they must be deemed legitimate under international law and/or moral standards.\(^{125}\) Not only should the Security Council discharge its collective functions in conformity with the UN Charter, but it must also do so on behalf of the international community as a whole.\(^{126}\) Secondly, they must be designed with implementation in mind.\(^{127}\) If not, it is highly likely that those targeted shall dismiss the measure along with the need to change their undesired behavior and/or policies. To this end, the Security Council must agree on policy goals that are not only well articulated and feasible from the outset, but that are also accompanied with clear criteria to measure their success.\(^{128}\) Clear guidelines for determining which individuals and entities are listed as targets should also be set, together with clear standards and procedures for their de-listing. Moreover, an accurate and up-to-date list of the targets must be compiled and disseminated to UN members as well as relevant private and public actors.\(^{129}\) This

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\(^{121}\) Tostensen and Bull, supra note 19, p 380
\(^{122}\) Ibid
\(^{123}\) Making Targeted Sanctions Effective: Results from the Stockholm Process on the Implementation of Targeted Sanctions, edited by Peter Wallensteen, Carina Staibano and Mikael Eriksson (Uppsala, Department of Peace and Conflict Research, University of Uppsala) [hereinafter Stockholm Manual] p 7
\(^{124}\) Ibid, p 55;
\(^{126}\) Bianchi, supra note 23, p 267
\(^{127}\) Stockholm Manual, supra note 123, p 13 et seq.
\(^{128}\) Ibid, p 92 - 93
\(^{129}\) Ibid, p Tostensen and Bull, supra note 19, p 389
presupposes detailed knowledge and analysis of the targets, their supportive constituencies and the internal political dynamics of the state in question.\textsuperscript{130}

Thirdly, given that the primary responsibility of implementing UN sanctions rests on member states, their effective implementation is dependent on strong coordination and communication between the Security Council and UN members, coupled with adequate institutional and technical capacity on both levels.\textsuperscript{131} Moreover, implementation must not only be effectively monitored, but also regularly assessed and modified to ensure that policy objectives are properly met. This requires an unhindered flow of information, transparency as well as the political will to respond to developments on the ground. Fourthly, international support for targeted sanctions must be maintained throughout their duration, especially among neighboring states.\textsuperscript{132} The more international and regional consensus exists vis-à-vis imposed or threatened sanctions, the more likely the target shall comply. This implies that the benefits of complying with these measures must be higher than the benefits states would otherwise derive from circumventing them.\textsuperscript{133} Lastly, targeted sanctions require coordinated input and support of a wide range of specialized actors and agencies beyond the UN.\textsuperscript{134} These include international and regional organizations, specialized international agencies, the media and the private sector. The degree of UN interaction with outside actors in specific instances shall vary depending on factors such as the precise nature of the sanctions imposed as well as the regions and interests affected.

While targeted sanctions should always be high on the list of options, they are not always the most appropriate course of action. Firstly, not all targeted sanctions are the same.\textsuperscript{135} Some are easier to implement as the necessary procedures and institutions already exist, while others may require special legislation or even the creation of new institutions to facilitate their implementation. Travel restrictions and bans on luxury goods may prove highly ineffective against individuals who are not heavily dependent on international worldly lifestyles.\textsuperscript{136} Similarly, not all regimes can be effectively targeted by

\textsuperscript{130} Ibid, p 378 - 379
\textsuperscript{131} Ibid, p 56 et seq.
\textsuperscript{132} Ibid; Shen, supra note 125, p 90
\textsuperscript{133} Tostensen and Bull, supra note 19, p 378
\textsuperscript{134} Stockholm Manual, supra note 123, p 29 et seq.
\textsuperscript{135} Ibid, p 12
financial sanctions as these require the existence of considerable private wealth amassed abroad.\textsuperscript{137} Moreover, the more dependent the target is on international trade, the more likely it is to comply with the demands of the Security Council. However, if the target has access to alternative sources of income, the effectiveness of these measures is reduced considerably.\textsuperscript{138} Secondly, targeted sanctions are not a cure-all solution; they cannot achieve the desired political objectives in isolation and are thus more likely to be effective if considered as part of a broader, coordinated political and diplomatic strategy.\textsuperscript{139} The Security Council must therefore ascertain their suitability vis-à-vis the particular circumstances and idiosyncrasies of each case, taking into account empirical evidence and accumulated experience.\textsuperscript{140}

III. SANCTION REFORM IN PRACTICE: THE IMPACT OF THE INTERLAKEN, BONN-BERLIN AND STOCKHOLM PROCESSES ON THE CURRENT DESIGN AND IMPLEMENTATION OF UN TARGETED SANCTIONS

The Interlaken, Bonn-Berlin and Stockholm Processes have made several important contributions to the design and implementation of UN sanctions.\textsuperscript{141} The change was immediately evident in the new measures that were imposed against the Taliban regime in Afghanistan, following the bombing of the US Embassies in Kenya and Tanzania in August 1998,\textsuperscript{142} as well as those imposed against the Government of Charles Taylor in Liberia in 2001.\textsuperscript{143} Their influence was further reflected in the extension and adaptation of earlier sanctions against UNITA and RUF rebels in Angola\textsuperscript{144} and Sierra Leone\textsuperscript{145} respectively. In the latter countries, the Security Council had previously imposed an arms and petroleum/oil embargo in an attempt to contain the internal conflicts that had resulted in horrendous human rights abuses. However, both UNITA and RUF rebels managed to circumvent these measures and sustain their military ambitions through the illicit trade in conflict diamonds.\textsuperscript{146} Following the recommendations of the sanction reform process, the Security Council adopted innovative measures that sought to alienate those responsible for the conflicts, while at the same time minimize the adverse humanitarian impact. Since then, it has

\textsuperscript{137} Tostensen and Bull, supra note 19, p 388 - 389
\textsuperscript{138} Ibid, p 388
\textsuperscript{139} Graduate Institute of International and Development Studies Workshop Report, supra note 136, p 6; Interlaken Manual p ix
\textsuperscript{140} Stockholm Manual, supra note 123, p 11 - 12
\textsuperscript{141} Cortright and Lopez, supra note 12, p 3 ; Tostensen and Bull, supra note 19, p 379 – 380; Background Paper on Targeted Sanctions, supra note 136, p 5
\textsuperscript{142} UNSC Res. 1267 (15 October 1999) S/RES/1267
\textsuperscript{143} UNSC Res. 1343 (7 March 2001) S/RES/1343
\textsuperscript{144} UNSC Res. 1127 (28 August 1997) S/RES/1127
\textsuperscript{145} UNSC Res. 1306 (5 July 2000) S/RES/1306
\textsuperscript{146} Cortright and Lopez, supra note 12, p 81
continued to apply sanctions that directly impact a wide range of targets.\textsuperscript{147} This is clearly reflected in Table 1 annexed hereto, which shows the extent to which it has preferred targeted sanctions over comprehensive economic sanctions in the post-Cold War period.

As recommended by the sanction reform process, the Security Council has taken significant steps to enhance the administration, monitoring and enforcement of targeted sanctions.\textsuperscript{148} Although it has not always articulated the specific objectives of its sanctions regime in a methodical manner, it has often provided at least an indication of those objectives.\textsuperscript{149} In addition to distinct sanctions committees, it has established independent panel of experts and monitoring mechanisms which report on possible sanction violations, recommend ways of improving follow-up action where poor compliance is discovered and assist UN members with enforcement measures.\textsuperscript{150} The panel of experts established under the Sierra Leone sanctions regime was particularly instrumental in providing unequivocal evidence that the Government of Charles Taylor in Liberia was actively supporting the RUF through the provision of weapons, logistical support as well as a safe haven for retreat and recuperation.\textsuperscript{151} As recommended by the sanction reform Process, the Security Council followed through on the panel’s recommendations by imposing a travel ban on senior members of the Liberian Government, its armed forces and their spouses, as well as mandating Liberia to freeze the financial assets of the RUF.\textsuperscript{152} The decision to impose secondary measures against Liberia marked an important development in the use of sanctions by the Security Council, as this was the first time that it sanctioned a UN member because of its refusal to comply with measures imposed against another.\textsuperscript{153}

Pursuant to the recommendations of the Interlaken, Bonn-Berlin and Stockholm Processes, all but one of the eleven sanctions regimes currently in place have compiled lists of targeted individuals and entities, which are generally updated periodically and disseminated to UN members.\textsuperscript{154} However, the accuracy of these lists varies depending on whether the sanctions are targeting government elites within a viable state or members of a transnational terrorist organization within a failed state. Contrary to the

\footnotesize{\textsuperscript{147} Farrall, supra note 1, p 128; Geiss, supra note 46, p 168
\textsuperscript{148} Cortright, Lopez and Gerber, supra note 12, p 128; Tostensen and Bull, supra note 19, p 380
\textsuperscript{149} Farrall, supra note 1, p 133
\textsuperscript{150} Ibid, p 146 - 147
\textsuperscript{152} UNSC Res. 1373 (28 September 2001) S/RES/1373
\textsuperscript{153} Cortright and Lopez, supra note 12, p 83
\textsuperscript{154} UN Sanctions Committees, supra note 13}
recommendations of the sanction reform process, the listing and de-listing procedures have generally failed to ensure the strictest protection and observance of due process rights. This is despite the recent attempts to reform the 1267 sanctions regime, which boasts the largest number of targeted individuals and entities. In contrast, the 1343 sanctions regime against Liberia allowed appeals for de-listing in exceptional circumstances and from the state to which the target is a citizen or from any UN office. While it did not clearly establish the grounds upon which appeals were to be considered, the procedures for deciding such appeals were nevertheless specified, as recommended by the sanctions reform process. These procedures have been maintained by the sanctions committee established pursuant to Res. 1521(2003) and extended to the administration of targeted financial sanctions pursuant to Res. 1532(2004).

Prior to the sanction reform processes, the criteria for granting exemptions and their administration lacked clarity while sanctions committees were overburdened with the task of making exemptions on the basis of humanitarian, medical and/or religious grounds. The Interlaken Process therefore developed a list of fifteen exemptions to targeted financial sanctions and suggested allowing member states to participate in their administration, while the Stockholm Processes noted the importance of providing clear and complete mandates to sanctions committees. With respect to the 1267 sanctions regime, the Security Council established separate procedures for three different kinds of transactions excluded from the assets freeze. Firstly, as recommended by the Interlaken Process, exemptions may

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155 Stockholm Manual, supra note 123, p 22
156 Watson Report, supra note 21, p 6 et seq.
157 ibid, p 10 – 11. These include the recent creation of the Office of the Ombudsperson pursuant to UNSC Res 1904 (17 December 2009) S/RES/1904 and the Focal Point pursuant to UNSC Res. 1730 (19 December 2006) S/RES/1730 respectively
159 UNSC Res. 1521(22 December 2003) S/RES/1521
160 UNSC Res. 1532(12 March 2004) S/RES/1532
162 Interlaken Manual, supra note 119, p 72 - 75
163 ibid, p 20 - 21
164 Stockholm Manual, supra note 123, p 24 - 25
165 UNSC Res 1452(20 December 2002) S/RES/1452
be granted vis-à-vis specific purposes such as foodstuffs, rent, medicines and taxes.\footnote{166} These are granted by member states, subject to their notifying the 1267 Committee and not receiving a negative decision within 48 hours, the amount of time specified by the Bonn-Berlin Process.\footnote{167} Secondly, it permits payments from frozen bank accounts for extraordinary expenses, subject to prior approval from the 1267 Committee.\footnote{168} Thirdly, as suggested by the Interlaken Manual, it permits payment of interest or other earnings due on a frozen account as well as payments due under contracts or obligations that arose prior to the imposition of the assets freeze.\footnote{169}

Unlike in the past where sanctions were traditionally imposed for an unspecified duration,\footnote{170} the Security Council has employed time-limits as part of the sanctions regime against Eritrea and Ethiopia,\footnote{171} Sierra Leone,\footnote{172} Afghanistan, the Taliban and Al Qaida,\footnote{173} 1343 Liberia,\footnote{174} DRC,\footnote{175} 1521 Liberia and\footnote{176} Cote d'Ivoire.\footnote{177} It has also engaged relevant actors to assist in implementing targeted sanctions as recommended by the sanction reform processes. This is most evident in the 1267 sanctions regime which incorporates UN agencies such as UNODC and the UN Register of Conventional Arms as well as international agencies such as INTERPOL, ICAO, IATA and the WCO in its activities.\footnote{178} Moreover, the establishment of the CTC has gone a long way in improving member state reporting practices vis-à-vis the 1267 sanctions regime.\footnote{179} In the past, the quality of reports submitted to sanctions committees had been variable, in some cases consisting of no more than one sentence. There were also many UN members that failed to submit reports all together. To facilitate their preparation, the CTC adopted

\footnote{166} Ibid, para.1(a)  
\footnote{167} Bonn-Berlin Manual, supra note 120, p 58  
\footnote{168} UNSC Res 1452(2002) supra note 166, para. 1(b)  
\footnote{169} Ibid, para. 2(a) and (b)  
\footnote{170} Farrall, supra note 1, p 140  
\footnote{171} UNSC Res 1298 (17 May 2000), S/RES/1298, para. 16  
\footnote{172} UNSC Res 1306 (5 July 2000), para. 1,5 and 6  
\footnote{173} UNSC Res. 1333 (19 December 2000), S/RES/1333, para. 23. However, in subsequent resolutions, the Security Council has not incorporated time-limits, noting instead that it would review the sanctions after twelve months and decide how to improve them  
\footnote{174} UNSC Res. 1343 (7 March 2001) S/RES/1343  
\footnote{175} UNSC Res.1493 (28 July 2003), S/RES/1493 para. 20  
\footnote{176} UNSC Res. 1521 (22 December 2003) S/RES/1521, para. 18  
\footnote{177} UNSC Res. 1572 (15 November 2004), para. 7, 9 and 11; UNSC Res. 1643 (15 December 2005), para. 6  
\footnote{179} Background Paper on Targeted Sanctions, supra note 160, p 10
detailed guidelines vis-à-vis the format and substance of reporting requirements\(^\text{180}\) along the lines suggested by the Interlaken and Bonn-Berlin Processes.\(^\text{181}\) Consequently, the quality and quantity of substantive reports by UN members has improved and has served as a basis for dialogue.\(^\text{182}\)

**D. CONCLUSION**

Targeted sanctions have fast become a prominent feature of contemporary international relations, primarily because the Security Council heeded the criticisms leveled against its indiscriminate use of comprehensive economic sanctions during the 1990s. While the Security Council enjoys a wide margin of discretion in the discharge of its duties under Chapter VII, it is nevertheless obliged to respect the rights and fundamental freedoms of those likely to be adversely affected by its measures. Consequently, targeted sanctions must not only be necessary, but also proportionate to the objectives they seek to achieve. Moreover, given that they are a highly technical policy instrument, it is imperative that they are designed with implementation in mind as well as accompanied with adequate institutional and technical capacity, both within the Security Council and among UN members. Equally important is the need to maintain international and regional support, so as to reduce the likelihood of circumvention. While targeted sanctions should always be high on the list of options, it is clear that they are not always the most appropriate course of action. The Security Council must therefore ascertain their suitability vis-à-vis the particular circumstances and idiosyncrasies of each case, taking into account empirical evidence and accumulated experience. What needs to be discussed is whether targeted sanctions have been instrumental in achieving the changes in behaviour and policy that are desired by the Security Council, and/or effective in significantly reducing the ability of those targeted to inflict further harm or damage. As mentioned earlier in this paper, this shall be the main substance of the second chapter of this paper.

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\(^{180}\) Note from the Chairman, Guidance for the Submission of Reports pursuant to Paragraph 6 of Security Council Resolution 1373 (2001), 26 October 2001

\(^{181}\) Interlaken Manual, supra note 119, p 30 – 32; Bonn-Berlin Manual, supra note 120, p 34 – 35, 61, 81 - 82

\(^{182}\) Background Paper on Targeted Sanctions, supra note 160, p 10
### ANNEX: TABLE 1

**UNSC RESOLUTIONS IMPOSING SANCTIONS DURING THE POST-COLD WAR PERIOD**

<table>
<thead>
<tr>
<th>Cases in chronological order</th>
<th>Comprehensive</th>
<th>Targeted financial sanctions</th>
<th>Arms embargo</th>
<th>Travel ban</th>
<th>Aviation-related sanction</th>
<th>Oil embargo</th>
<th>Ban on trade in diamond</th>
<th>Ban on trade in timber</th>
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<td>Afghanistan, the Taliban and Al Qaida</td>
<td>Res 1267</td>
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*This table summarizes UNSC Resolutions imposing sanctions only (amendments that do not impose new measures are not included) and is current to April 2010.