

# **The UN Security Council at the Crossroads: Toward More Humane and Better Targeted Sanctions**

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# The UN Security Council at the Crossroads: Toward More Humane and Better Targeted Sanctions

*Claude Bruderlein*

## TARGETED SANCTIONS IN A HUMANITARIAN PERSPECTIVE

Over recent years, the UNSC and regional organizations have significantly increased their use of sanctions. This increase has brought to light a number of concerns about the limited effectiveness of comprehensive sanctions regimes and their undesired impact on the civilian population. Traditionally, economic sanctions were designed to breed discontent among the civilian population as a means of exerting pressure on the targeted state. Comprehensive embargoes, as in the case of the UN sanctions against Iraq, were designed precisely to cripple the social and economic infrastructure of the targeted country, in order to increase the cost of the unlawful policies of the targeted state and encourage restlessness against the targeted government<sup>1</sup>.

However, this approach has revealed its limitations over the long run. The effectiveness of comprehensive sanctions, such as in the case of Iraq and Haiti, has been cast into doubt<sup>2</sup>. More importantly, the morality of comprehensive embargoes has been put into question by the humanitarian consequences of these measures, undermining the necessary support and cooperation of all states. In response to these criticisms, proponents of multilateral sanctions advocate the use of "surgical" or "targeted" sanctions that aim to exert pressure directly on the targeted country's elite, sparing as much as possible the civilian infrastructure of the society<sup>3</sup>.

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<sup>1</sup> See Weiss T., Cortright, D., Lopez, G., Minear, L., *Political Gain and Economic Pain. Humanitarian impacts of economic sanctions*. Lanham, MD: Rowman & Littlefield, 1997, 273 pp.

<sup>2</sup> See Pape, R.A., "Why Economic Sanctions still Don't Work" *in International Security*, Summer 1998. In the case of Haiti, see Gibbons, E., *Sanctions in Haiti: Human rights and democracy under assault*. Center for Strategic and International Studies/ Preager Press, January 1999, 160 pp.

<sup>3</sup> See Stremlau J., *Sharpening International Sanctions. Toward a stronger role for the United Nations*, Carnegie Commission on the Prevention of Deadly Conflict. New York, 1996. 73pp. See also the study commissioned by the United Nations Department of Humanitarian Affairs "Toward More Humane and Effective Sanctions Management: Enhancing the Capacity of the United Nations System" by Minear L., Cortright, D., Wagler J., Lopez G., Weiss, T., (October 1997), available on the Internet at <http://www.reliefweb.int>.

Therefore, the feasibility of sanctions, both in technical and political terms, appears to rely increasingly on the capacity of the UN system to design and maintain a better-targeted and more humane sanctions regime. This implies a new fundamental link between the humane character of sanctions and their effectiveness, contradicting most of the traditional assumptions regarding the imposition of sanctions, without yet offering clear guidelines as to how more humane sanctions can effectively exert pressure on targeted governments.

The observation that targeted governments perceive differently the impact of sanctions upon particular sectors informs the development of targeted sanctions. The effectiveness of sanctions could be enhanced by targeting those sectors to which the government and its political elite are most sensitive. These could include the import of arms and other military equipment, communication equipment, and access to financial markets. More importantly, it appears that the humanitarian effects of comprehensive economic embargoes may actually run counter to the objectives of sanctions. The result may be the strengthening of the targeted government at a domestic level, triggering international support for the targeted state and transforming its international image from one of a transgressor to one of a victim. If unchecked, the humanitarian impact of traditional sanctions may in fact relieve targeted states of most of the intended political pressure<sup>4</sup>. Although the actual impact of sanctions on the decision-making process of targeted states remains unassessed, recent studies have shown that more targeted sanctions may exert increased pressure on the country's leadership<sup>5</sup>. Better-targeted sanctions, in addition to being more humane could offer new potential in terms of the overall effectiveness of sanctions regimes.

Despite the political character of sanctions debates within the UN Security Council, there has been a growing sense among Security Council members that sanctions regimes need to be better designed and monitored on technical grounds<sup>6</sup>. However, beyond the technical aspects of the targeting of particular sanctions, the elaboration and imposition of targeted sanctions by the UN system raises critical institutional and methodological issues. I will argue in this paper that international legal standards pertaining to humanitarian and human rights law, far from impeding the capacity of the UN system to impose sanctions on security terms, provide a remarkable opportunity to review the overall effectiveness of sanctions regimes and to elaborate new institutional arrangements to facilitate the targeting of sanctions instruments. The attention paid to international standards has encouraged all concerned parties to understand better the vulnerabilities of targeted countries to sanctions. These standards also better equip the relevant actors to address on the issue of sanctions' effectiveness objectively. These international standards do not, of course, provide much technical help to improve the targeting of specific

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<sup>4</sup> See Burciul, B., "UN Sanctions: policy options for Canada" *in Canadian Foreign Policy* Vol. 6 no. 1 (Fall 1998), pp. 5-50.

<sup>5</sup> See Hufbauer, G., Winston, E. "Smarter Sanctions: Updating the economic weapon" *in National Strategy Reporter*, no. 7 (2) pp 1-5 (1997), See also Dashti-Gibson, J., Davis, P., Radcliff, B., "On the Determinants of the Success of Economic Sanctions; an empirical analysis" *in American Journal of Political Science* 41 (2) (1997), pp 608-618.

<sup>6</sup> See *Note by the President of the Security Council on the work of the Sanctions Committees*, UN document S/1999/92 of 29 January 1999.

sanctions instruments. Nevertheless, they appear to have contributed significantly to the search for new methods and institutional arrangements necessary to minimize the humanitarian consequences of sanctions and maximize the impact of sanctions on the targeted government.

#### **HUMAN RIGHTS AND HUMANITARIAN STANDARDS APPLICABLE TO SANCTIONS REGIMES**

We will review here the international standards that have been referred to over recent years with regard to the imposition of sanctions. Under Chapter VII of the UN Charter, sanctions regimes are among the coercive measures available to the UN Security Council to respond to threats to international peace and security. Since sanctions are imposed as a substitute for the use of armed force, - i.e., as a less violent means to coerce targeted states, general principles of humanitarian law should apply *a fortiori* to the imposition of sanctions<sup>7</sup>. These principles imply that the right to exert pressure on the civilian population to force targeted states to comply with the Security Council's requests is not unlimited<sup>8</sup>. The imposition of unnecessary suffering is prohibited under humanitarian law, and, in all cases, the civilian population should be spared from the effects of the sanctions with regard to access to necessary means of survival<sup>9</sup>. In addition, sanctions authorities should allow and facilitate the unimpeded passage of humanitarian relief supplies to the civilian population<sup>10</sup>. States party to the Geneva Conventions adopted specific measures to encourage compliance with international humanitarian standards<sup>11</sup>.

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<sup>7</sup> See Sommaruga, C., *The protection of civilians in armed conflict*, Statement to the United Nations Security Council 3977th session as President of the International Committee of the Red Cross (ICRC), New York, 12 February 1999, UN document SC/6642 of 12 February 1999. See also Gasser, H.P., *The United Nations and International Humanitarian Law: The International Committee of the Red Cross and the United Nations' involvement in the implementation of international humanitarian law*. Presentation at the International Symposium on the occasion of the fiftieth anniversary of the United Nations, Geneva, 19-21 October 1995. and *Principles and response in international humanitarian assistance and protection*, adopted at the 26th International Conference of the Red Cross and Red Crescent Movement, Geneva, (September 1995) both available on the Internet at <http://www.icrc.org>.

<sup>8</sup> See Article 35 of Additional Protocol I to the Geneva Conventions of 1949.

<sup>9</sup> Article 54, al. 2 of Additional Protocol I reads:

*“It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for the sustenance value to the civilian population or the adverse party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.”*

<sup>10</sup> See Article 70 al. 2 of Additional Protocol I.

<sup>11</sup> Resolution 4 (f) adopted at the 26th International Conference of the Red Cross and Red Crescent Movement, Geneva, (September 1995) available on the Internet at <http://www.icrc.org>.

**States party to the Geneva Conventions of 1949 adopted at the 26th International Conference of the Red Cross and Red Crescent Movement in 1995 a resolution that encourages states to consider:**

- (a) when designing, imposing and reviewing economic sanctions, the possible negative impact of such sanctions on the humanitarian situation of the civilian population of a targeted State and also of third States which may be adversely affected by such measures;
- (b) assessing the short- and long-term consequences of United Nations-approved economic sanctions on the most vulnerable, and monitoring these consequences where sanctions have been applied;
- (c) providing, including when subject to economic sanctions, and to the extent of their available resources, relief for the most vulnerable groups and the victims of humanitarian emergencies in their territories.

Treaty-monitoring bodies have also stressed the need for sanctions regimes to include specific measures protecting the human rights of vulnerable groups. The Committee on Economic, Social and Cultural Rights has argued that such considerations must be fully taken into account when a sanctions regime is being designed. Its General Comment No. 8 (1997)<sup>12</sup> on the relationship between economic sanctions and respect for economic, social and cultural rights focuses on the dramatic impact of sanctions on the rights recognized in the Covenant. It underlines that, despite the inclusion of humanitarian exemptions in the sanction regimes established by the UN Security Council to ensure basic respect for economic, social and cultural rights, recent UN experience shows that these exemptions do not always have their expected effect.

**The Committee on Economic, Social and Cultural Rights recommended, in its General Comment No. 8 (1997), that three steps should be taken to minimize the humanitarian impact of sanctions:**

- 1) Economic, social and cultural rights must be fully taken into account when a sanction regime is being designed;
- 2) Effective monitoring should be undertaken throughout the period that sanctions are in force;
- 3) The parties responsible for the imposition, maintenance and implementation of the sanctions have the obligation "to take steps, individually and through international assistance and co-operation, especially economic and technical", in accordance with article 2, paragraph 1, of the Covenant, in order to respond to any disproportionate suffering experienced by vulnerable groups within the targeted country.

<sup>12</sup> See General Comment no. 8 of the Committee on Economic, Social and Cultural Rights, Geneva (1997), available on the Internet at <http://www.unhchr.ch/tbs/doc.nsf>.

The Committee on the Rights of the Child took a similar approach, pointing out that, under certain conditions, sanctions can act as an obstacle to the implementation of the Convention on the Rights of the Child<sup>13</sup>.

#### IMPLEMENTATION OF HUMANITARIAN STANDARDS

Accordingly, most sanctions regimes from the early 1990s onward have incorporated measures aimed to minimize their humanitarian impact. Security Council's Sanctions Committees have been given instructions to allow the provision of food and medicine, under general (e.g., Sierra Leone<sup>14</sup>) or specific regulations (e.g., Iraq<sup>15</sup>). Nevertheless, the implementation of these measures has been unequal. Delays and administrative procedures in the processing of humanitarian exemptions have hindered UN agencies' operations under sanctions, as in the Former Yugoslavia<sup>16</sup> or Iraq<sup>17</sup>. Special efforts have been devoted to correct these deficiencies, particularly from 1995 in the case of the Former Yugoslavia<sup>18</sup>. The elaboration of the oil-for-food arrangement under UN Security Council resolution S/1995/986 in 1995 also aimed to correct deficiencies in the processing of humanitarian goods with respect to delays and funding. Experts argue, however, that, in the case of Iraq, the extent to which such corrective measures have checked the humanitarian impact of sanctions seems to have been offset by long-term consequences of the economic embargo<sup>19</sup>.

Two types of situation remain of special concern for humanitarian organizations: the case of prolonged sanctions regimes and the case of regional embargoes.

#### - *Prolonged sanctions regimes*

As sanctions regimes may be extended over long periods of time, as in the case of Iraq, their long-term effects on civil society, including the economy, government services, communication and transport infra-structure, generate increased and more complex needs

<sup>13</sup> See the Annual Report of the UN Secretary-General on the Work of the Organization, New York 1998, p. 62 (A/53/1).

<sup>14</sup> See UN Security Council resolution S/1997/1132.

<sup>15</sup> See UN Security Council resolutions S/1990/661 and special regulations for the provision of humanitarian assistance under the "oil for food" arrangements in resolution S/1995/986.

<sup>16</sup> In May 1993, shipments to the Muslim enclaves in eastern Bosnia and to Sarajevo which were of special concern to humanitarian organizations and the UN Security Council were restricted by the Council's sanctions clearance procedures which were already in place. See Pirkko, K., "International Protection of Refugees and Sanctions: Humanizing the blunt instrument" *in International Journal of Refugee Law* Vol. 9(2), April 1997, pp. 255-265. See also UNHCR Discussion Paper on Humanitarian Action in a Sanction Environment: The Impact of Sanctions imposed on the Federal Republic of Yugoslavia on the Delivery of Humanitarian Assistance" Paper prepared for the Round Table on the Effectiveness of UN Sanctions in the case of the Former Yugoslavia, Geneva June 1996.

<sup>17</sup> See ICRC *Annual Report* (1997), Geneva, p. 260.

<sup>18</sup> See UN Document S/1996/946.

<sup>19</sup> See Hoskins, E. "The Humanitarian Impacts of Economic Sanctions and War in Iraq" in Thomas G. Weiss et al eds. *Political Gain and Civilian Pain: Humanitarian Impacts of Economic Sanctions* (Lanham, MD: Roman and Littlefield, 1997). See also Cortright, D., Lopez, G.A., "Sanctions Against Iraq: Facts and Analysis", Fourth Freedom Forum, Goshen (IN), available on the Internet at <http://www.fourthfreedom.org>

for humanitarian assistance; water and sanitation equipment need to be replaced, power infrastructure deteriorates, and schools and hospitals need to be rehabilitated. In many cases, the targeted government may even have contributed to the deterioration of the civil infrastructure by not allocating the necessary resources to compensate for the damage caused by the sanctions regimes. Many of the resources necessary to maintain and repair this infrastructure could have dual use, i.e. could also be used by the targeted government for a purpose contrary to the objective of the sanctions.

In the long run, as the complexity of the humanitarian impact of sanctions increases, sanctions authorities may not be in a position to manage the long-term humanitarian consequences. This would suggest that diversified targeted sanctions could entail an increased long-term capability to manage the humanitarian impact of sanctions.

- *Regional embargoes*

Regional organizations and groups of states may decide to impose sanctions in response to a threat to regional peace and security. According to article 53 of the UN Charter, these measures must be authorized by the UN Security Council under a Chapter VII resolution. However, recent experience shows that regional embargoes supported by the Security Council, as in the case of Burundi<sup>20</sup>, or Sierra Leone<sup>21</sup>, have created new obstacles to UN operations in humanitarian crisis situations. The lack of resources and adequate expertise in the administration of sanctions regimes at the regional level has significantly complicated the delivery of critical humanitarian assistance by UN agencies and international NGOs. In the case of Burundi, the import of food, seeds, fertilizers and fuel for the distribution of humanitarian relief was delayed for months causing the suspension of vital programs of assistance to vulnerable groups, especially among the internally displaced populations<sup>22</sup>. In the case of Sierra Leone, the Economic Community of West African States (ECOWAS) was unable to clear for five months urgently needed food shipments for UN agencies and NGOs active in the country, despite the considerable support provided by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) to ECOWAS in the elaboration of exemption procedures<sup>23</sup>.

REVIEW OF THE CURRENT DEBATE ON THE HUMANITARIAN IMPACT OF SANCTIONS.

In many respects, the humanitarian consequences of current sanctions regimes have served as a major impetus to review sanctions instruments. Numerous studies have been published recently on new methodologies to address the humanitarian impact of sanctions

<sup>20</sup> See UN Security Council resolution S/1996/1072.

<sup>21</sup> See UN Security Council resolution S/1997/1132.

<sup>22</sup> See Bruderlein C., Erhardy, P., *DHA Report on Regional Sanctions against Burundi*. UN Department of Humanitarian Affairs, New York, November 1997, available on the Internet at <http://www.reliefweb.int>. See also Hoskins E. and Nutt, S., *The Humanitarian Impacts of Economic Sanctions on Burundi*, Occasional Paper #29, Watson Institute, Providence, RI (1997).

<sup>23</sup> See UN Security Council resolution S/1997/1132 of 8 October 1997 and Bruderlein, C., *Inter-Agency Assessment Mission to Sierra Leone: Interim Report*, UN document S/1998/155, available on the Internet at <http://www.reliefweb.int>.

and on models of more precisely targeted sanctions<sup>24</sup>. However, despite the abundance of technical material on more targeted and humane sanctions regimes, the UN Security Council seems reluctant to engage in a substantive manner in reforming its traditional approach toward sanctions. Many argue that political contingencies specific to the work of political organs such as the Security Council limit their ability to address the issue of sanctions on technical grounds. Others point to the prevailing assumptions about the necessity for the Security Council's swift responses to international crises and the ultimate benefits of sanctions-inflicted pain on the civilian population, limiting even further the extent to which new methodologies for targeted and more humane sanctions are being seriously considered.

Still, the confidence of states and public opinion in UN sanctions, critical for the maintenance of any sanctions regime, is at a record low. States have been calling for the elaboration of a new and more consistent approach to UN sanctions<sup>25</sup>, as experts from all sectors of sanctions activities are exploring the technical requirements of new targeted sanctions. Beyond these requirements however, the whole process under which sanctions are currently being adopted and implemented may also need to be reviewed to allow political organs to deliberate on these new requirements.

Recognition of the shortfalls of the UN sanctions regime against Iraq in terms of its impact on the civilian population and third countries has driven much of the debate on the need to target sanctions regimes better. Interestingly, the difficulties encountered at the Security Council level to address the specific case of Iraq, due to opposing views within the Council's membership, forced most of the protagonists to focus their attention on the general issue of targeting sanctions in other fora. Substantive debates on the targeting of sanctions regimes took place in official fora, such as the UN General Assembly and the Sanctions Committees. More technical discussions took place in various informal networks of experts sponsored by states and international organizations, such as the Interlaken Process on Targeting Financial Sanctions<sup>26</sup> and the Inter-Agency Technical Group of Experts on Sanctions<sup>27</sup>.

Following the work of the Informal Open-Ended Working Group of the UN General Assembly on the Agenda for Peace, the General Assembly adopted in September 1997 a resolution that set the agenda for much of the work since<sup>28</sup>. Under this resolution, the

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<sup>24</sup> See Strelau J., *op. cit.* and Minear, L. *op. cit.*

<sup>25</sup> See UN General Assembly resolution A/RES/51/242 of 26 September 1997.

<sup>26</sup> The Interlaken Process on the Targeting Financial Sanctions refers to a series of Seminars and workshops on the technical aspects of targeting financial sanctions organized and hosted by the Swiss Federal Office for Foreign Economic Affairs. The latest edition of the Seminar took place on 29-31 March 1999 in Interlaken, Switzerland. See *Report of the 2<sup>nd</sup> Interlaken Seminar on the Targeting of Financial Sanctions*. Bern (forthcoming spring 1999) and the *Final Report of Expert Seminar on Targeting UN Financial Sanctions*, March 17-19, 1998, Bern, available on the Internet at <http://www.smartsanctions.ch/papers.htm>.

<sup>27</sup> The Inter-Agency Technical Group of Experts on Sanctions was established in November 1997 by the Inter-Agency Standing Committee (IASC). It comprises experts from all the major UN and other humanitarian agencies, including the Red Cross Movement. It serves as a coordinating body for all sanctions related activities of humanitarian organizations. See IASC Statement to the UN Security Council under UN Security Council document S/1998/144 of 20 February 1998.

<sup>28</sup> See UN General Assembly resolution A/RES/51/242 of 26 September 1997.

General Assembly requested that information on the potential or actual humanitarian impact of all sanctions imposed by the UN be brought immediately to the attention of the Security Council. It also requested the UN Secretariat to coordinate and organize assessments of humanitarian needs and vulnerabilities of the civilian population at the time of the imposition of sanctions. It further decided that guidelines for the exemption of humanitarian goods should be developed to ensure that applications are dealt with expeditiously. In particular, the General Assembly requested that exemptions be granted for humanitarian goods, such as food and medicines, and other essential items. Some have argued that these recommendations may remain for the most part *letter more* since the Security Council has retained considerable discretionary powers over its working procedures. Other argue that, to the contrary, that despite the political implications of the assessment of humanitarian impact of specific UN sanctions, the Council has become increasingly aware of the shortfalls of UN sanctions regimes. Representatives of non-permanent Security Council Members states in particular, as Chairpersons of the Sanctions Committees, have invested considerable efforts in convincing permanent members to develop a more methodological approach to the implementation of sanctions regimes. The imposition of new sanctions regimes requires the support of all permanent members plus four non-permanent members, as opposed to voting procedures to suspend existing open-ended sanctions regimes that can be vetoed by any of the permanent members<sup>29</sup>. As a result, under the present rules, non-permanent members are in a position to exert much more influence on new sanctions regimes than over those already in place.

The Chairperson of the Sanctions Committees, representing 8 out of 15 Security Council members, developed in late 1998 a list of recommendations to improve the effectiveness of sanctions regimes and to limit their undesirable humanitarian consequences. These recommendations were adopted by the Council on 29 January 1999 and made public in a *Note by the President of the Security Council*<sup>30</sup>. The note of the President offers a series of practical proposals to improve the work of the Sanctions Committees. Although this note does not have the strength of a resolution of the Council, it provides the Sanctions Committees, as subsidiary organs of the Council, with a set of specific instructions regarding the management of the humanitarian impact of sanctions. Moreover, the note clearly indicates a new political willingness of the members of the Council to address critical aspects of current and future sanctions regimes: their enforcement mechanisms, their humanitarian and economic impacts, the exemptions mechanisms and the transparency of the work of Sanctions Committees.

The note of the President also presents a series of measures to strengthen the role of the Sanctions Committees as an enforcement agent of sanctions regimes. The note recognizes the competence of the Sanctions Committees to take strict actions on alleged violations of the sanctions regimes. Furthermore, it de-politicises, to a large extent, the provision of information on the humanitarian impact of sanctions. In the past, the provision of such information was seen as politically biased and disruptive to the work of the consensus-driven Council. Henceforth, Sanctions Committees are instructed to request an

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<sup>29</sup> See Article 27 of the UN Charter.

<sup>30</sup> See *Note by the President of the Security Council: Work of the Sanctions Committees*, UN Document S/1999/92 of 29 January 1999.

assessment of the humanitarian impact of sanctions regimes when this is deemed necessary. Whenever it appears that a sanctions regime may have a humanitarian impact, an assessment *should* be requested from the Secretariat. This may give a substantial leverage to non-permanent members of the Council to request such assessments at the Sanctions Committee level. Furthermore, the Sanctions Committees are requested to monitor the impact of the sanctions throughout the regimes. This implies a continuous relationship between the Secretariat and the Security Council on the humanitarian impact of sanctions, as an integral part of the UN humanitarian response. With respect to exemptions, there is an understanding that generic exemptions should include, beyond food and medicines, material used for the livelihood of the civilian population, such as medical equipment, agricultural and educational material.

In a recent development, the President of the Security Council requested on 30 January 1999, for the first time under the eight-year long embargo, that the humanitarian situation in Iraq should be assessed as part of a review of the UN sanctions against Iraq<sup>31</sup>. The President of the Council, Ambassador Amorim of Brazil, established a panel composed of UN officials to "assess the current situation Iraq and make recommendations to the Security Council regarding measures to improve the humanitarian situation in Iraq<sup>32</sup>". Although the panel was not requested specifically to evaluate the humanitarian impact of the UN sanctions against Iraq, its report acknowledged the "continuing degradation of the Iraqi economy with an acute deterioration in the living conditions of the Iraqi population" since 1990 prior to the imposition of the UN sanctions<sup>33</sup>. The panel concluded its report by proposing a series of measures under the sanctions regime to improve the humanitarian situation in Iraq.

ON THE NEED FOR NEW INSTITUTIONAL ARRANGEMENTS  
TO MINIMIZE THE HUMANITARIAN IMPACT OF SANCTIONS.

According to Article 41 of the UN Charter, the Security Council may call upon member states to apply sanctions measures to maintain or restore international peace and security. However, the Charter remains silent on the technical and institutional requirements for the elaboration and implementation of such complex measures. Compared to the deployment of peacekeeping forces under Chapter VI for which the UN Secretariat created a whole department, or the use of force under Chapter VII, for which Member states requested the creation of a Military Staff Committee<sup>34</sup>, only minimal administrative arrangements have been involved in the planning and enforcement of sanctions regimes<sup>35</sup>.

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<sup>31</sup> See the Note by the President of the Security Council of 30 January 1999 (S/1999/100).

<sup>32</sup> Ibid.

<sup>33</sup> See the Report of the second panel concerning the current humanitarian situation in Iraq, Annex II of UN document S/1999/356, 30/03/99, available on the Internet at <http://www.un.org/Depts/oip/panelrep.html>. With regard to the specific humanitarian impact of sanctions, the panel expressed the view that, "(e)ven if not all suffering in Iraq can be imputed to external factors, especially sanctions, the Iraqi people would not be undergoing such deprivation in the absence of the prolonged measures imposed by the Security Council and the effect of war".

<sup>34</sup> The functions of the Military Staff Committee as planned under Article 47 of the UN Charter are to advise and assist the Security Council on the Council's military requirements for the maintenance of

Consequently, the adoption and enforcement of sanctions regimes remain largely subject to the political contingencies of Security Council work. Most of the sanctions regimes are elaborated in crisis situations where the timing of Security Council's response and the search for consensus among members appear to matter as much as the technical character of the measure. Complex modalities of sanctions regimes elaborated by the proponents of each regime at the Council have been adopted without any specific technical review. Although sanctions have recently become the UN's primary means of response to threats to international peace and security, the UN Secretariat and technical agencies have been given few opportunities to contribute to Security Council deliberations on the modalities of sanctions regimes.

New arrangements must therefore be set in place to meet the challenges of targeted sanctions in terms of information channels to the Security Council and the Sanctions Committees, and expert analysis of the impact of sanctions within the UN system and among Member states. In his 1998 annual report on the work of the organizations, UN Secretary-General Kofi Annan stressed the need for new mechanisms to render sanctions a less blunt and more effective instrument in exerting pressure on a targeted government rather than the country's population and thus reducing humanitarian costs<sup>36</sup>. In his latest report on Africa, the Secretary-General recommended to the UN Security Council the greater use of limited embargoes on arms and other sensitive goods, as well as targeted sanctions aimed at decision makers and their families, including financial sanctions and travel restrictions<sup>37</sup>. Finally, in his recent report to the Security Council on the protection of civilians in armed conflict, the Secretary General reiterated the need to address the humanitarian impact of sanctions. He recommended that the Council consider establishing "a permanent technical review mechanism of United Nations and regional sanctions regimes which can use information provided by Council members, relevant financial institutions, the Secretariat, agencies and other humanitarian actors to ascertain the probable impact of sanctions on civilians."<sup>38</sup>

These developments are likely to present the UN Secretariat with substantive new tasks for which it may be ill prepared. Some have argued that the development of targeted sanctions involves a dramatic expansion of the reach and capacity of sanctions regimes, suggesting that a new dedicated institution may be required to handle the imposition of

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international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

<sup>35</sup> The Security Council Affairs Branch of the UN Department of Political Affairs hosts the Secretariat of each Security Council's Sanctions Committees, manning the secretariat function and advising to some extent the Presidents of the Sanctions Committees on procedural matters. The Sanctions Committees in charge of the implementation of the regimes are composed of representative of the 15 members of the Security Council, generally under the presidency of a non-permanent member of the Council.

<sup>36</sup> See the Annual Report of the UN Secretary-General on the Work of the Organization, New York, 27 August 1998, p. 62 (A/53/1).

<sup>37</sup> Secretary-General's Report to the UN Security Council on the causes of conflict and the promotion of durable peace and sustainable development in Africa, New York, 16 April 1998, para. 25-26 (S/1998/318).

<sup>38</sup> See UN document S/1999/957 of 8 September 1999, p. 16.

targeted sanctions<sup>39</sup>. However, the lack of resources and political constraints within the UN Security Council suggest that these new tasks will need to be performed within the existing structures and resources before the adoption of more adequate institutional structures for the imposition of targeting of sanctions can be envisaged. The institutional aspects of these arrangements will need to be addressed by the competent authorities within the UN system. I would like to concentrate here on the methodological issues involved in the proper management of the humanitarian impact of UN sanctions.

I have highlighted above that the efficiency of sanctions regimes depends in part on the ability of the relevant sanctions authorities to cope with their humanitarian impact. The proper management of the humanitarian impact raises three sets of issues:

- 1) the importance of comprehensive, objective and updated information;
- 2) the need for regular review of sanctions modalities; and,
- 3) the need for an integrated approach to exemptions mechanisms.

*1) The importance of comprehensive, objective and updated information on the humanitarian situation in countries under sanctions, including on the humanitarian impact of sanctions.*

In order to deal effectively with the humanitarian impact of sanctions, the UN Security Council and its Sanctions Committees should receive objective information on the potential or current humanitarian situation of countries under sanctions in a regular and timely manner. The potential humanitarian impact of sanctions should be addressed at an early phase of the Security Council discussions on the imposition of sanctions measures. As in the case of the UN flight ban against Sudan (1996)<sup>40</sup>, the Security Council should request, at an early stage, the UN Secretariat to undertake an objective assessment of the humanitarian situation and the potential humanitarian impact of sanctions in the targeted country, based on a critical review of information available among UN and other humanitarian organizations.

When urgent action is required, the Security Council should request an assessment of the humanitarian situation and the possible impact of the sanctions immediately after the decision to impose sanctions, as it did in the case of Sierra Leone (1997)<sup>41</sup>. The Council could, in such instances, withhold its decision on the modalities of the sanctions regimes, such as the list of exempted goods and services, and the mechanism of exemptions, and entrust the Sanctions Committee with the task of elaborating these modalities after receiving information on the humanitarian situation in the targeted country and an analysis of the potential humanitarian impact of the sanctions.

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<sup>39</sup> See Boudreau, D., "Creating a United Nations Sanctions Agency" *in* *International Peacekeeping* 4(2), 1997, pp 115-137.

<sup>40</sup> See Bruderlein, C., *DHA Report on the Potential Humanitarian Impact of a UN flight Ban against Sudan: Note of the expert to the UN Security Council*, UN Department of Humanitarian Affairs, New York (February 1997), 16pp.

<sup>41</sup> See UN Security Council resolution S/1997/1132 of 8 October 1997 and Bruderlein, C., *Inter-Agency Assessment Mission to Sierra Leone: Interim Report*, UN document S/1998/155, available on the Internet at <http://www.reliefweb.int>.

2) *Regular review of the modalities of sanctions regimes in light of the humanitarian situation.*

Sanctions management requires the regular review of sanctions regimes to allow the implementation of corrective measures to maximize the desirable impact of sanctions and minimize their negative consequences. It is in this context that the regular evaluation of the humanitarian impact of sanctions assumes its full relevance. Accordingly, an update of the original humanitarian assessment should be requested each time the Council intends to review its sanctions regimes. Modalities of sanctions regimes should be adjusted to allow Sanctions Committees to better target sanctions regimes and reduce the humanitarian impact of the sanctions.

3) *An Integrated approach to exemption mechanisms.*

Sanctions Committees should monitor the humanitarian impact of the sanctions on vulnerable groups throughout the sanctions regimes and adopt the required adjustments of the exemption mechanisms to facilitate the delivery of humanitarian assistance. In particular, the Committee should request regular updates of the assessment provided by the Secretariat to the Council in order to ensure that its approach to exemptions is adequate. In addition, the Chairperson of the Sanctions Committee should consider visiting the region to gain a first-hand perspective on the humanitarian situation and the functioning of the exemption mechanisms in effect.

Sanctions Committee should also decide on institutions and country-specific items which should be exempted from the sanctions regime. Humanitarian organizations that should benefit from institution-wide exemptions include members of the UN system, their nongovernmental implementing partners, and the international members of the Red Cross and Red Crescent Movement (the ICRC and the IFRC). Country-specific item exemptions should take into account the specific nature of each crisis and country and include foodstuffs that are staples of vulnerable groups. Other non-food items could be considered in specific circumstances, such as water, sanitation, educational and agricultural requirements.

Sanctions Committees could request reports from humanitarian organizations on the use of institutional and country-specific items exemptions to ensure that humanitarian exempted goods are delivered only to those in need. Focusing on the net result of the exemption process, i.e. the delivery of essential humanitarian requirements, rather than the processing of requests for exemptions, will allow a tighter control on the humanitarian impact of sanctions regimes and strengthen the objectivity of Sanctions Committees' decisions.

#### CONCLUSION

The foregoing discussion indicates that sanctions can be managed in a more humane and, at the same time, more effective way, in line with human rights and humanitarian legal

standards. The implementation of these standards has prompted serious reflections on the overall effectiveness of sanctions regimes and engaged the UN Security Council members in a substantial revision of their approach toward sanctions. Political contingencies will certainly persist to limit the ability of the UN system to seek the most effective and humane regimes. However, with the help of new institutional arrangements established over recent years to provide information on the impact of sanctions and to develop further the technical expertise related to targeted sanctions, we believed that effective targeted sanctions are within reach. However, these new techniques cannot by themselves change the sanctions policies of UN Member states. The future of targeted sanctions relies on state commitment to prevent the unnecessary suffering of innocent civilians under UN-mandated sanctions.

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