

74. Smillie, Gberie, and Hazleton, *The Heart of the Matter*, 3.

75. For a more detailed examination of the problems in regulating diamond mining, see United Nations Security Council, *Addendum to the Final Report of the Monitoring Mechanism on Sanctions Against UNITA*, S/2001/363, paras. 52–73.

76. United Nations General Assembly, *The Role of Diamonds in Fuelling Conflict: Breaking the Link Between the Illicit Transaction of Rough Diamonds and Armed Conflict as a Contribution to Prevention and Settlement of Conflicts*, A/RES/55/56, New York, 29 January 2001.

77. U.S. Agency for International Development, *Sierra Leone: "Conflict" Diamonds*, 10.

78. Representative Tony Hall, *Consumer Access to a Responsible Accounting of Trade Act of 2000*, bill introduced in the House of Representatives, 106th Cong., 1st sess., H.R. 3188, Washington, D.C., 1 November 1999.

79. This momentum in the United States toward certification was not just in response to the NGO concerns, of course. In recent years, the U.S. Justice Department has taken legal action against De Beers for antitrust violations.

80. Representative Tony Hall et al., *To Prohibit the Importation of Diamonds Unless the Countries Exporting the Diamonds into the United States Have in Place a System of Controls on Rough Diamonds, and for Other Purposes*, bill introduced in the House of Representatives, 107th Cong., 1st sess., H.R. 918, Washington, D.C., 7 March 2001.

81. Senators Richard Durbin and Mike DeWine, *To Prohibit the Importation of Diamonds Unless the Countries Exporting the Diamonds into the United States Have in Place a System of Controls on Rough Diamonds, and for Other Purposes*, bill introduced in the Senate, 107th Cong., 1st sess., S. 1084, Washington, D.C., 21 June 2001.

82. "Hall Praises Compromise on Conflict Diamonds" (remarks of Representative Tony Hall at a press conference, 21 June 2001, Washington, D.C.), U.S. House of Representatives, <www.house.gov/tonyhall/pr226.html> (12 July 2001).

Reform or Retreat? The Future of UN Sanctions Policy

As 2001 drew to a close, the United Nations Security Council faced a crossroads in sanctions policy. In a number of cases of threats to peace and deteriorating regional security, the Council responded creatively and appropriately at the design stage of sanctions, only to experience a lack of sanctions effectiveness because of inadequacies in implementation and monitoring on the ground. In some settings, such as Angola and West Africa, the partial security advances that occurred were the result primarily of changes on the battlefield. Sanctions made some contribution to limiting access to wealth and weapons, but UN measures generally underperformed because of inadequate enforcement. In other cases, such as the continuing differences over sanctions policy regarding Iraq and the inability of sanctions to change regime behavior in Afghanistan, the security issues at stake were framed and dealt with by members of the Permanent Five working for the most part outside the aegis of the UN. In similar fashion, divided positions within the Chowdhury working group could not be bridged on singular issues like time limits, thus holding in abeyance a series of reforms on which there was broad consensus.

As we noted in Chapter 1 and documented throughout this volume, the Security Council has adopted significant refinements in sanctions policy in recent years. Most notable have been steps toward improving sanctions design, applying more targeted measures, strengthening monitoring and enforcement, and prioritizing humanitarian concerns. Yet these advances have been compromised by competing political agendas among the Permanent Five, inadequate compliance and enforcement capacity, and a lack of institutionalized UN monitoring and enforcement capacity. Although the Security Council has made some progress in advancing the art and science of economic statecraft, comprehensive sanctions reform has been elusive.

In this final chapter, we review the many innovations that have

been introduced in UN sanctions policy and summarize the most important recommendations for improvement in the future. In so doing, we hope to highlight the positive developments that have been achieved and point toward the additional steps needed to enhance sanctions effectiveness.

Improving Targeted Sanctions

The dominant trend in UN policymaking has been the shift away from general trade sanctions toward more targeted and selective measures. Since 1994, all UN sanctions have been targeted. Financial sanctions, travel bans, arms embargoes, and commodity boycotts have replaced general trade embargoes as the preferred instruments of UN policy. The sweeping counterterrorism measures adopted in SCR 1373 (2001) continued this trend, imposing targeted financial, travel, and other restrictions on terrorists and those who support them. In each of the categories of selective sanctions—finance, travel, arms, and commodities—the Security Council has introduced important innovations.

In the area of financial sanctions, the Council has moved beyond freezing the assets of governments to locking down the accounts of designated entities and individuals as well. In the cases of Iraq, Libya, and Yugoslavia, financial sanctions were imposed only on government assets. Beginning with the sanctions against the military junta in Haiti in 1994 and continuing through the cases of the National Union for the Total Independence of Angola (UNITA) in Angola and the Taliban regime in Afghanistan, the Council also applied targeted financial sanctions against designated entities and individuals. The counterterrorism measures mandated in SCR 1373 were also directed against entities and individuals. Unlike earlier times, the UN Secretariat now has developed the capacity, in cooperation with member states, to develop and publish lists of designated sanctions targets.

Innovations have also occurred in UN arms embargoes. The language and technical terms employed in Security Council arms embargoes have become more precise. Arms embargo resolutions now include prohibitions not only against the supply of arms and ammunition but also against training, cooperation, and various support services, including air transportation. This refinement of terms and broadening of items covered has helped to close loopholes and avoid ambiguities that impede enforcement.

Another new development was the creation of a special UN arms

embargo monitoring and support team to enforce the sanctions against the Taliban regime in Afghanistan. Recognizing the general problem of inadequate implementation of UN arms embargoes and the special problems of attempting to stem the flow of weapons into Afghanistan, the Security Council created a special unit to monitor and enforce the arms embargo against the Taliban regime. SCR 1363 (2001) authorized a five-person monitoring group at UN headquarters in New York and a fifteen-person sanctions enforcement support team to be deployed in countries neighboring Afghanistan, primarily Pakistan. Although a tiny and thus inadequate force, considering the enormity of the challenge, it represented an initial attempt at independent monitoring support. Deployment of the monitors was interrupted by the political turmoil and military action in the region that followed the terrorist attacks on 11 September 2001. In January 2002, as part of SCR 1390, the Council directed the group to monitor the ongoing financial, travel, and arms-related sanctions on targeted Taliban and al-Qaida leaders.

Commodity-specific boycotts have become an important new feature of UN sanctions policy. Oil embargoes were previously imposed against Iraq, Yugoslavia, Khmer Rouge-controlled areas of Cambodia, Haiti, UNITA in Angola, and the military junta in Sierra Leone. An embargo on log exports from Khmer Rouge territory was also imposed in Cambodia and threatened for Liberia. Diamond embargoes are a more recent development. The Council imposed diamond embargoes against UNITA in Angola (SCR 1173, 1998), Revolutionary United Front (RUF) areas of Sierra Leone (SCR 1306, 2000), and the government of Liberia (SCR 1343, 2001). These targeted diamond sanctions have given the Security Council a new means of applying focused pressure on specific rebel groups and curtailing the lucrative funding base that has sustained armed conflict.

Broadening the Reach of Sanctions

As the threats to global peace and security have changed, the purposes for which sanctions are imposed have steadily widened.¹ During the 1990s, sanctions were imposed to reverse aggression, restore democratically elected governments, protect human rights, end wars, and bring suspected terrorists to justice. Now two additional functions have been added—sanctioning a country for violating UN-mandated sanctions and imposing worldwide financial and other sanctions against terrorism. With the imposition of sanctions against Liberia (SCR 1343, 2001), the

Council for the first time imposed mandatory measures against one country because of its defiance of sanctions against another. Recognizing Liberia's role as the primary supply base for the RUF, the Council imposed a diamond embargo, travel sanctions, and an arms embargo against the Monrovia government. The purpose of the Liberia sanctions was to exert full pressure on a state secondarily involved in norm violation. It was an important step toward broadening the scope of sanctions and strengthening their enforcement.

More sweeping in its implications was the adoption of the counter-terrorism resolution (SCR 1373, 2001). As noted in Chapter 7, it was the most far-reaching sanctions measure ever adopted by the Council, effectively mandating that all 189 UN member states impose financial sanctions and travel restrictions against entities and individuals associated with terrorist acts. The resolution demanded that member states take action within their borders to criminalize the financing of terror and adopt other law enforcement and intelligence-sharing measures. It was an unprecedented attempt to mandate changes in the internal law enforcement and legal procedures of UN member states. It established worldwide financial sanctions against terrorists and their supporters. The multiple mandates contained in SCR 1373 would, if effectively implemented and enforced, mobilize the entire international community into a sustained criminal prosecution against the financing and support of terrorist networks.

Investigative Panels

Analysts have long emphasized that effective monitoring is key to the success of sanctions. In many cases, however, member states have lacked the capacity for effective monitoring and have been unwilling or unable to make the necessary commitment of resources to identify and report sanctions violations. The United Nations has lacked an independent monitoring capacity of its own. But in recent years, the picture has begun to change. The appointment of independent expert panels and monitoring mechanisms has now become a regular feature of sanctions policy making. The first panel was established in conjunction with the arms embargo against Rwandan Hutu rebels (SCR 1013, 1995). The United Nations Independent Commission of Inquiry (UNICOI) issued six reports from 1996 through 1998 thoroughly documenting the supply routes and underground networks used to arm the rebels in eastern Zaire. Some member states were uncomfortable with UNICOI's hard-

hitting reports, however, and little was done to follow up on its voluminous evidence of violations or to implement its recommendations.

The breakthrough toward a more integral role for investigative panels came in the case of Angola. As noted in Chapter 4, the 1999 mission of Canadian ambassador Robert Fowler proved decisive in ratcheting up the importance of investigative panels. Fowler's mission both added the diplomatic weight of a sanctions committee chair to the investigative effort and changed the style of panel operation. Fowler not only reported on violations but met with government and private industry representatives to encourage active compliance. His mission led to the appointment of the Angola panel of experts, which issued a groundbreaking report in March 2000. The Angola panel of experts was followed by a similar panel for Sierra Leone, a committee of experts for Afghanistan, and a panel of experts for Liberia. An investigative panel was also created to examine the exploitation of mineral and natural resources in the Congo. These myriad panel reports produced a wealth of data on sanctions violations and illicit transactions in the areas of finance, arms, travel, and commodities. They also contained a series of detailed recommendations for improving sanctions enforcement.²

Name and Shame

The panels of experts and their investigative reports have proved to be an effective means of applying pressure on sanctions violators and encouraging governments to strengthen enforcement. The reports have adopted a name and shame approach specifically identifying the governments, companies, and individuals responsible for sanctions violations. The Angola panel of experts report was particularly hard-hitting, implicating two sitting heads of state in blatant violations of UN sanctions. Because of objections from the countries named, subsequent panel reports were not as direct in naming specific government leaders, but they continued the practice of identifying those involved in circumventing sanctions. The Sierra Leone panel of experts was particularly forthright in documenting the role of the government of Liberia in providing continued support to the RUF in contravention of Security Council sanctions.

The name and shame function of the special investigative panels has stirred debate and controversy. Developed countries have tended to favor the tactic, but many developing nations have been skeptical. The Secretary-General spoke positively of the name and shame process in

his millennium report on conflict prevention to the General Assembly: "The best preventive strategy . . . is transparency: 'naming and shaming.'"³ Many members of the Security Council have similarly viewed the technique of exposure as an important means of mobilizing public opinion and political support for greater sanctions compliance.

The UN's *Human Development Report*, however, expressed concern about this strategy. The annual development report for 2000, published soon after the Secretary-General's millennium report, took a more critical view. "A global change in attitude is needed, moving to a positive approach of support for human rights in place of punitive approaches that emphasize 'naming and shaming' and conditions for aid." The report called for a shift "from reliance on naming and shaming to positive support."⁴ This negative assessment reflected the widespread concern among developing nations over the conditions and limitations that international financial institutions and donor nations have placed on development assistance. The *Human Development Report* did not object to exposing malfeasance *per se* but to the conditioning of aid. When governments or international institutions threaten to withhold assistance because of sanctions violations, developing nations naturally become concerned.

Ironically, this very concern about the conditioning of aid indicates the potential leverage that naming and shaming can provide. As noted in Chapter 1, the mere threat of sanctions can be powerful and may motivate a targeted regime to take conciliatory steps. In a similar way, the naming of a government or private actor as a violator of sanctions can arouse concern about the potential consequences of this exposure. It is the very prospect of a withdrawal of support, or worse, the imposition of secondary pressures, that may be effective at inducing greater cooperation.

The Security Council has attempted to navigate between these differing perspectives by establishing its investigative panels as independent bodies. As noted in Chapter 4, the creation of separate expert panels has allowed members of the Council to distance themselves from the resulting reports and the identification of sanctions violators. This separation provides the necessary leverage of public exposure while allowing UN officials to pursue diplomatic solutions beyond the glare of adverse publicity. There are some indications that the Security Council may move away from naming and shaming techniques toward a more traditional emphasis on quiet diplomacy. This reluctance partly reflects a belief on the part of some states that the methods of public exposure bring diminishing returns over time and may interfere with the delicate

diplomatic maneuvering that is often necessary to achieve cooperation. This perspective, together with the stated concerns of developing nations, may lead to diminishing use of this approach in the future. We believe that would be a mistake. Public investigation and exposure have proved to be effective means of generating cooperation with UN sanctions. It is the combination of both approaches—public exposure and quiet diplomacy—that offers the best chance of encouraging compliance.

Nongovernmental Monitoring

Private industry and nongovernmental organizations have assumed an increasingly important role in evaluating and helping to implement sanctions policies. The role of private industry has been most evident in the enforcement of the diamond embargoes against UNITA in Angola, the RUF rebels in Sierra Leone, and the government of Liberia. As noted in Chapter 10, the De Beers Corporation and the major diamond exchanges have sought to avoid being tarnished with the image of conflict diamonds. They have worked with the United Nations and member states to create certification systems designed to prevent conflict diamonds from entering the market. Industry representatives established the World Diamond Council for the specific purpose of ensuring a conflict-free diamond market. Similar, though less extensive, cooperation in sanctions enforcement has come from the banking industry, especially in the United States. Banking industry representatives participated in the Interlaken seminars sponsored by the government of Switzerland, and they have cooperated with governments, albeit reluctantly at times, in developing software and administrative systems for enforcing financial sanctions.

This novel participation of the private sector suggests new possibilities for strengthening the monitoring and enforcement of sanctions. Some sanctions experts have urged greater efforts to enlist private industry in sanctions enforcement. One means of addressing the problem of illegal air transportation, for example, would be to work with the insurance industry to deny coverage for companies and individual pilots identified as violating UN sanctions.⁵

A related innovation was the decision of the Security Council in 2001 to hire a private security firm to trace the financial assets of UNITA. Individual member states have used private investigative firms in the past, but UN officials have been reluctant to consider this

approach. The decision to employ such a firm in the case of Angola indicated the Council's determination to tighten the financial squeeze on UNITA.

As noted in several chapters, the role of nongovernmental organizations has become increasingly prominent in all phases of United Nations sanctions. Groups such as Global Witness, Human Rights Watch, Saferworld, and the International Peace Academy have become major players in documenting the humanitarian and human rights conditions and developing innovative approaches to the improvement of sanctions. Human rights groups and other research organizations played the key role in documenting the problem of conflict diamonds and in tracking the flow of small arms to Africa and other war zones. Human Rights Watch, the Brookings Institution, and the Kroc Institute/Fourth Freedom Forum research project contributed policy proposals for the restructuring of sanctions in Iraq. The Watson Institute and the International Peace Academy played seminal roles in working with UN missions in New York to facilitate continued assessment of the Interlaken and Bonn-Berlin reform processes.

Prioritizing Humanitarian Concerns

The desire to avoid humanitarian suffering among vulnerable and innocent populations has become a dominant feature of Security Council policymaking. As we have noted, the concern for humanitarian consequences has been the principal factor motivating the trend toward the use of more targeted and selective sanctions. The Security Council has sought to reduce unintended impacts within targeted regimes and among third parties in neighboring states. As sanctions analysts have noted, the effect of sanctions on neighboring states and trading partners of the targeted regime can be severe.⁶ The motivation to minimize adverse impacts has prompted a number of innovations in Security Council policymaking.

Humanitarian assessments and impact missions have now become a regular feature of UN sanctions. It was a reform long sought by humanitarian agencies and independent researchers, ourselves included.⁷ Assessment reports conducted prior to sanctions imposition or during the early stages of a sanctions regime offer a means for the Security Council to anticipate and prevent potential humanitarian problems and to arrest unanticipated adverse impacts in a timely manner.

The first humanitarian assessment report came in conjunction with the Security Council's consideration of aviation sanctions against Sudan. The February 1997 report from the UN Department of Humanitarian Affairs provided a gloomy assessment of the likely adverse impacts of the proposed flight ban.⁸ Partly as a result, the Council did not implement the sanctions. The next assessment report came in the case of Sierra Leone, soon after sanctions were imposed against the military junta in Freetown. The interagency assessment was highly critical of the trade embargo imposed by the Economic Community of West African States (ECOWAS) but found no evidence of major humanitarian consequences from the more limited UN sanctions.⁹

Humanitarian assessment reports have also been ordered in the cases of Afghanistan and Liberia. The Afghanistan report, released in December 2000, evaluated the impact of the financial sanctions and aviation ban against the Taliban regime. The study recounted the horrendous humanitarian conditions in Afghanistan, among the worst in the world, but it found few adverse social consequences that could be attributed to the targeted UN sanctions.¹⁰ The Liberia report, released in October 2001, came to similar conclusions about conditions in Liberia. The diamond embargo and other selective sanctions against the Monrovia government had only limited humanitarian impacts. The Liberia assessment cautioned, however, that timber sanctions, which had been proposed by some member states but not yet implemented by the Council, could result in the loss of thousands of jobs and have significant adverse economic and social impacts on that devastated country.¹¹

The methodology for humanitarian assessment developed by the UN Office for the Coordination of Humanitarian Affairs (OCHA) employs recommendations proposed by humanitarian agencies and independent researchers. The 1997 study for the Department of Humanitarian Affairs¹² in which the authors participated recommended a multistep methodology and a series of specific indicators for assessing humanitarian impacts.¹³ Many of the indicators suggested in such categories as public health and population displacement have been adopted in the OCHA studies of Afghanistan and Liberia. The development of a standardized methodology permits comparative analysis across cases and makes it easier for policymakers to evaluate humanitarian impacts.

Another recommendation of the 1997 report called for the granting of blanket exemptions for designated humanitarian agencies. Navigating the often tangled administrative procedures of UN sanctions committees has placed substantial burdens on relief organizations. If

aviation sanctions are imposed against a country, for example, relief agencies must apply for exemptions to import needed food and medicine. For several years, these agencies have recommended that the Security Council provide blanket exemptions for designated relief groups, so that humanitarian supplies can be delivered expeditiously without the excruciating delays and difficulties involved in seeking approval for each flight or delivery. This proposal was integrated into the sanctions applied in Afghanistan. In paragraph 12 of SCR 1333 (2000), the Security Council authorized the sanctions committee to exempt a preapproved list of relief agencies. Whether it was a one-time decision or the beginning of a trend is uncertain. Humanitarian officials welcomed the Council's action and expressed the hope that the granting of blanket exemptions to designated agencies would become standard policy in future sanctions episodes.

Time Limits

France and other members of the Security Council have strongly encouraged the policy of establishing time limits as a way of avoiding the open-ended, seemingly endless sanctions that have remained in place against Iraq. The concern with time limits has been not only humanitarian but political, to prevent permanent members of the Council from blocking a consensus for the lifting of sanctions. The United States and the United Kingdom opposed the idea of time limits when it was raised within the Security Council working group as a matter of general principle. In specific cases, however, the two countries have gone along with the establishment of time limits. The first use of time limits occurred in the arms embargo against Ethiopia and Eritrea (SCR 1298, 2000), when the Council set a twelve-month period for the embargo. As noted in Chapter 9, the sanctions were not renewed at the end of that period. Twelve-month time limits were also established for the arms embargo and additional sanctions imposed against the Taliban regime in Afghanistan in December 2000 (SCR 1333) and for the diamond embargo and travel sanctions enacted against Liberia in May 2001 (SCR 1343).

Debate abounds whether time limits will be a positive or a negative feature of UN policymaking. U.S. and UK officials argue that time limits will weaken the coercive impact of sanctions because targeted regimes will take advantage of such limits to delay compliance and block the possible renewal of sanctions. French and Russian representa-

tives counter that pressure on the target to comply will remain. They note that time limits will give the Security Council a guaranteed way of responding to humanitarian hardships that may arise and will force Council members to take more direct responsibility for each sanctions case on a renewable basis. The debate over these issues and the differences within the Security Council are likely to continue.

A summary listing of the many recent innovations in UN sanctions policy is presented in Table 11.1, "Innovations in UN Sanctions Policy." Taken together, these developments represent a significant evolution of UN policymaking.

The Unfinished Agenda of Reform

The continuing relevance of sanctions—whether to suppress terrorist networks in the wake of the 11 September attacks, to bring closure to the UN mission in Iraq, or to end the scourge of war in sub-Saharan Africa—highlights the importance of the Permanent Five developing consensus on needed policy improvements. In the innovations noted above that developed through practice and the recommendations identified below that appeared in various UN reports, new opportunities have emerged for the Security Council to institutionalize the process of sanctions reform. The task before the Council is to set in place a series of strictures and automatic mechanisms that will sharpen the bite of sanctions and enhance their effectiveness as tools for fostering international security.

The lessons of history may be relevant here. In the early 1930s, the League of Nations, faced with Japanese aggression in Manchuria and Italian aggression in Ethiopia, chose not to employ the power it possessed to impose sanctions against these blatant violations of the league's charter. This decision emasculated the league and led to increasing cynicism and declining participation by member states. It was the beginning of the end of the league as a force for ensuring peace and security.¹⁴ Without being overly dramatic about the tenor of our times, an analogy may be appropriate for the United Nations: the very fate of the UN as an effective global organization may hinge on its ability to use sanctions as instruments for peace and security. This challenge is especially evident in the case of Iraq, where the organization has invested so much time and effort and where its reputation is so much at stake. It also applies to the global campaign against terrorism, where the United Nations stands as the indispensable agency for mobilizing

Table 11.1 Innovations in UN Sanctions Policy, 1994–2001

- A general shift toward targeted and selected measures. No general sanctions after 1994.
- Worldwide financial sanctions and other targeted measures imposed in response to terror attacks against the United States.
- Financial sanctions targeted against individuals and entities as well as governments.
- Lists issued from the UN Secretariat of designated individuals subjected to financial sanctions and travel bans.
- Arms embargoes targeted against technical assistance and support services as well as weapons.
- UN enforcement support team created for sanctions against Taliban regime.
- Diamond embargoes imposed against rebel movements in Angola and Sierra Leone and against the government of Liberia.
- Sanctions imposed against Liberia for its violation of sanctions against RUF rebels in Sierra Leone.
- Investigative panels and monitoring mechanisms established as regular features of sanctions policy.
- A name and shame approach employed by investigative panels, identifying specific countries, companies, and individuals responsible for sanctions violations.
- Private industry associations and companies involved in the enforcement of diamond embargoes and financial sanctions.
- Private security firm hired to trace the finances of the UNITA rebel movement targeted by UN sanctions.
- Nongovernmental organizations and private research groups actively involved in analyzing, monitoring, and evaluating UN sanctions policies.
- Minimizing humanitarian hardships a priority concern among UN policymakers.
- Assessments of humanitarian impact established as a regular feature of sanctions cases.
- Standardized methodology developed for assessing humanitarian impacts.
- Blanket exemptions granted for designated humanitarian agencies in the case of Afghanistan.
- Time limits established in sanctions cases.

worldwide participation in the struggle to suppress the financing and organization of terrorist networks. We believe that the challenges of the present and the lessons of history lend urgency to the task of reforming UN sanctions policy.

In the pages that follow, we review and comment on the most frequently recommended and widely supported proposals for sanctions reform. We summarize the most important recommendations to emerge

from the report of the Chowdhury working group. We also review the most important recommendations from the eighteen reports issued by expert panels in recent years, to distill the most frequently mentioned policy proposals. The combined recommendations of these two sources offer a blueprint for more effective UN sanctions in the future.

Advancing the Chowdhury Working Group Proposals

Although the Security Council working group on sanctions was hampered by internal differences among the members, consensus was reached on a broad range of suggestions for improving the administration, design, and implementation of sanctions. The working group went through six drafts of a report and in the process produced dozens of specific policy recommendations. Few of the proposed policies were new. Many had appeared previously in the January 1999 note by the president of the Security Council, and a number were already being implemented.¹⁵ Because of the nature of the consensus process employed, radical and far-reaching proposals were not included. Nonetheless, many of the recommendations outlined by the working group merit detailed consideration and support. We recommend that the Chowdhury report, the “Chairman’s Proposed Outcome,” dated 14 February 2001, be submitted as a nonpaper in order to give it more status in the record of the Security Council. Below we summarize the proposals that in our judgment would make the greatest difference in advancing UN policymaking.¹⁶ The Chowdhury working group divided its task into three clusters: sanctions administration, sanctions design, and sanctions implementation. We comment on each below and then list the recommendations that we believe are most salient for advancing the reform agenda.

Administration. Probably the most important recommendation of the Chowdhury working group was the call for an organizational assessment of the specific staffing and resource needs for upgrading the capacity of the Secretariat. Such an assessment is long overdue and should be followed by effective action to provide the necessary staffing and resources. The minuscule Secretariat staff of less than a dozen professionals cannot possibly cope with the myriad political and administrative tasks associated with the implementation of diverse, simultaneous sanctions regimes.

The working group’s specific recommendations were as follows:

- strengthen the implementation capacity of the sanctions branch of the UN Secretariat by providing additional staff, expertise, and resources;
- commission an institutional appraisal of the work of the sanctions branch in the Secretariat to develop recommendations on how to improve its effectiveness;
- prepare a database of outside experts to advise sanctions committees on technical issues related to finance, customs control, border control, immigration, aviation, arms trafficking, raw materials and minerals, and humanitarian impacts;
- promote greater transparency, openness, and efficiency in the work of sanctions committees;
- develop guidelines to assist member states in the implementation of targeted financial sanctions;
- establish a website on the various sanctions regimes to provide greater documentation and implementation information to the public;
- develop a standard template requesting information from member states on the implementation of sanctions; and
- work with relevant international, regional, and subregional organizations to facilitate the flow of information on the implementation of sanctions.

Design. The working group emphasized the importance of defining the objectives of UN policy and establishing criteria that must be met for sanctions to be suspended or lifted. Among the group's specific recommendations were the following:

- specify clearly the conditions that must be fulfilled for sanctions to be lifted;
- consider actions to ease sanctions, short of suspension or lifting, in response to partial compliance by targeted entities;
- use standardized language developed in the Interlaken and Bonn-Berlin processes in drafting sanctions resolutions;
- prepare preassessment or early assessment reports;
- allow exemptions for specific items and designated institutions providing humanitarian assistance; and
- prepare standardized and simplified applications for humanitarian and other exemptions.

Implementation. Monitoring and enforcement are essential to the effectiveness of sanctions. Although these responsibilities rest primarily with member states, the United Nations can assist by investigating and identifying sanctions violations. The working group did not specifically mention the use of expert panels, referring instead to "mechanisms," but it clearly had such panels in mind when it emphasized the value of UN investigative efforts. Among the specific recommendations of the working group were the following:

- appoint appropriate mechanisms for the investigation and identification of sanctions violations;
- give states alleged to be responsible for violations the opportunity to respond to allegations and to take corrective action;
- give sanctions committees explicit guidelines on actions to be taken when violations are identified;
- facilitate the provision of technical assistance to states;
- urge states with relevant expertise to offer technical, legal, and other forms of assistance to other states who request it;
- prepare periodic assessment reports on the implementation of sanctions, with recommendations for improving effectiveness and mitigating unintended impacts;
- include an analysis of third-party effects in assessment reports of sanctions impacts; and
- consider appointing a special representative and fact-finding mission when sanctions cause severe effects on third-party states to identify possible means of assistance.

As this book goes to press, another nationally sponsored process, drawing from the example and contribution of the Interlaken and Bonn-Berlin processes, has emerged that may advance further some of the Chowdhury recommendations. Undertaken by Sweden, this research and policy dialogue is aimed at improving the administrative effectiveness and monitoring of sanctions, especially in the area of refined and targeted measures.

Institutionalizing the Recommendations of Expert Panels

Many of the expert panels and monitoring committees established by the Security Council produced recommendations for enhancing effectiveness. Because these investigative panels were ad hoc and indepen-

dent and staffed with experts rather than diplomats, their reports were often hard-hitting and critical. Unimpeded by political and diplomatic constraints, the expert panels were willing and able to "name names" of those responsible for violations. They were free to recommend the kind of tough enforcement actions that some member states may find objectionable but that are needed to enhance sanctions compliance.

We have examined all the reports of the various investigative panels. In the process, we conducted a comparative analysis of their most important recommendations. The results are presented in the "Comparative Summary of Recommendations of UN Security Council Expert Panels" at the end of this chapter. The methodology for this analysis consisted of grouping all the recommendations by theme and identifying how many times and in which reports particular recommendations appeared. Our analysis examined only those recommendations that apply generally to sanctions implementation. We did not include suggestions that were relevant to only one case. Our purpose was to distill the many recommendations in the various reports into a coherent set of most frequently mentioned and widely supported proposals, which may be grouped into four areas: sanctions violators, arms trafficking, commodity sanctions, and investigative panels.

The primary recommendation of the Angola and Sierra Leone investigative committees was that sanctions be imposed against those who violate sanctions. Countries, companies, and individuals proven to be violating sanctions should be held responsible for their actions. As noted in earlier chapters, this concept is controversial among many UN member states. The sanctions imposed against Liberia for its violations of sanctions against the RUF in Sierra Leone may set a precedent, however, and could indicate a greater readiness by the Council to consider such strategies in the future.

Secondary pressures provide a way to encourage member states to take their enforcement obligations more seriously. Inducement policies and offers of support for compliance are the preferred means of encouraging compliance, but if persuasive methods are not effective, the imposition of secondary sanctions may be necessary. In most cases, the secondary pressures need not be as sweeping as those applied to Liberia, which was the prime mover behind the RUF. Usually more limited measures, such as diplomatic sanctions or travel restrictions on designated elites, would be sufficient to express the Council's impatience with inadequate compliance and to warn of sterner measures if enforcement is not strengthened. This principle of applying pressures to

encourage member state compliance is crucial to the potential effectiveness of UN sanctions.

Second, because many of the expert panels were commissioned to examine arms embargo violations, they produced particularly viable proposals for strengthening the enforcement of these sanctions. As noted in Chapter 9, the expert panels discovered that air transportation is vital to the supply of arms to sanctioned rebel groups. A group of clearly identifiable arms brokers and transit companies, often registered in Liberia, have been responsible for most of the violations of UN arms embargoes in Africa. The expert panels recommended that all arms brokers and intermediaries, including transit companies, be subjected to registration and licensing requirements. They also called for mandatory procedures for the authentication and reconciliation of end-use certificates related to the delivery of arms and military equipment. Their sharpest recommendations aimed at shutting down the illegal air transportation operations that sustain the armed rebel movements in Angola, Sierra Leone, and the Congo. They proposed UN-supported air traffic surveillance and interdiction in zones of conflict and called for revoking the registration of aircraft and the licenses of pilots responsible for circumventing UN arms embargoes.

Third, the investigative panels focused on the diamond embargoes in Africa and produced a series of pointed recommendations for strengthening these measures. The most important, echoed by many member states and the diamond industry, was the proposal to create a standardized and credible system for certificates of origin for all diamond exports. As noted in Chapter 10, progress in creating such a certification system has been slow. The expert panels recommended additional steps to improve the transparency, accountability, and monitoring of diamond trading in order to strengthen the effectiveness of diamond embargoes. The expert panels also examined options for other forms of commodity sanctions and recommended the establishment of criteria for conflict timber and a system for timber certification.

Not surprisingly, the fourth and most frequent recommendation from the expert panels was that the Security Council continue to commission independent investigative panels. In part, this was a natural expression of the panel members' sense of their own worth in uncovering sanctions violations and recommending steps toward enhanced enforcement. As noted in Chapter 4, the monitoring panels have had the additional benefit of engaging relevant countries in diplomatic dialogue that in a number of cases has led to improved compliance.

The reports produced to date by the various investigative panels are a treasure trove of primary research information on the implementation of UN sanctions. They have been of enormous value to the Security Council in critical situations and to our own research. They stand as essential documents for all analysts and practitioners who wish to understand more thoroughly the workings of sanctions and their potential. Maintaining and building on this base of knowledge and implementing these recommendations are crucial to the future of UN policy.

A summary of the main recommendations of the expert panels is presented in the following chapter appendix. The letter coding after each recommendation refers to the specific report in which that recommendation was presented.

Appendix: Comparative Summary of Recommendations of UN Security Council Expert Panels^a

Coding of Reports^b

- A UNICOI reports: March 1996, S/1996/195; December 1997, S/1997/1010; and November 1998, S/1998/1096
- B Fowler mission: June/July 1999, S/1999/644 and S/1999/829
- C Angola Panel of Experts: March 2000, S/2000/203
- D Angola Monitoring Mechanism: Final Report, December 2000, S/2000/1225

a. See page 222 for full listing of all Security Council Expert Panels.

b. Listing here does not include the following UNICOI documents that contained no recommendations: the *Interim Report* of January 1996, S/1996/67; the *Addendum to the Third Report* of January 1998, S/1998/63; and the *Interim Report* of August 1998, S/1998/777. The list also does not include the Angola Monitoring Mechanism Addendum Report, United Nations Security Council, *Addendum to the Final Report of the Monitoring Mechanism on Sanctions Against UNITA*, S/2001/363, New York, 11 April 2001, or the Supplementary Report, United Nations Security Council, *Supplementary Report of the Monitoring Mechanism on Sanctions Against UNITA*, S/2001/966, New York, 12 October 2001, which contained no recommendations. Also not listed are the Iraq Panel Reports, United Nations Security Council, *Letters Dated 27 and 30 March 1999*, *Respectively, from the Chairman of the Panels Established Pursuant to the Note by the President of the Security Council of 30 January 1999 (S/1999/100)* Addressed to the President of the Security Council, S/1999/356, New York, 30 March 1999, which contained only a few recommendations specific to the Iraq case.

- E Sierra Leone Panel of Experts: December 2000, S/2000/1195
- F Panel of Experts on Exploitation of Congo Resources: April 2001, S/2001/357
- G Committee of Experts on Afghanistan: May 2001, S/2001/511
- H Liberia Panel of Experts: October 2001, S/2001/1015

Major Recommendations

Apply Sanctions Against Sanctions Violators

- Impose sanctions against leaders and governments found to be deliberately breaking sanctions (C, D, E)
- Place traders and companies violating sanctions on a blacklist (C)
- Urge governments to issue arrest warrants for individuals guilty of sanctions violations (C)

Strengthen Member State Enforcement Capacity

- Encourage member states to enact legislation criminalizing violations of UN sanctions (A, B, C)
- Provide support for member state enforcement efforts (A)
- Encourage intelligence sharing among nations (B, C)
- Urge private industry associations to sensitize their members to their obligation to respect Security Council sanctions (B)

Tighten the Enforcement of Arms Embargoes

- Register, license, and monitor the activities of arms brokers and intermediaries and establish a database of these companies and individuals (A, C, D, E)
- Mandate standardized procedures for the authentication and reconciliation of all end-use certificates for arms and military equipment (C, D, H)
- Urge governments to refrain from harboring groups of armed rebels (A)
- Consider a ban on weapons exports from certain countries (E)
- Broaden arms embargoes to include aircraft turbine fuel and special fluids and lubricants needed for armored vehicles (G)
- Support the Economic Community of West African States (ECOWAS) moratorium on arms imports and the Southern

African Development Community (SADC) plan of action to control light arms (D, E, H)

Shut Down Illegal Air Transportation

- Provide UN support and assistance for air traffic control and interdiction in zones of conflict (B, C, D, E)
- Deploy mobile radar systems and utilize global positioning satellites to assist with air monitoring (C, E)
- Revoke the registration of aircraft that are used to violate sanctions (D)
- Revoke the license of pilots known to be violating sanctions (C, D)
- Develop special training programs for airport and customs officials (E)
- Encourage the International Civil Aviation Organization (ICAO) to assist in air management services (E)
- Ground all aircraft registered in Liberia, including those based outside the country, until operating and insurance documents are filed with international aviation authorities (E, H)

Certify and Regulate Diamonds and Other Commodities

- Introduce a standardized and credible system requiring certificates of origin for all diamond exports (B, D, F, H)
- Require the forfeiture of diamonds that are traded without proper certificates of origin (B, C)
- Convene experts to develop a system for increased transparency and accountability in the control of diamonds from source to bourse (C)
- Profile the characteristics of diamonds from every mine and establish a comprehensive database of this information (D, H)
- Harmonize procedures and documentation for import and export of rough diamonds (B)
- License and monitor diamond buyers (D)
- Consider placing UN diamond monitors at major diamond exchanges (B, C)
- Develop a uniform system for timber certification and consider establishing criteria for conflict timber (F)
- Establish mechanisms with oil companies and governments to

monitor fuel stocks and movements in areas adjacent to zones of conflict (C)

- Conduct DNA-type analysis of fuel samples to monitor violations of oil embargoes (C)

Improve Financial and Travel Sanctions

- Update, correct, and improve lists of individuals subject to travel bans and financial sanctions (C, D, H)
- Offer a finder's fee for the identification of sanctioned financial assets (C)
- Urge all countries that have not yet done so to sign the International Convention for the Suppression of the Financing of Terrorism (G)
- Encourage countries to expel individuals subject to UN travel bans (C)

Enhance UN and International Enforcement Capacity

- Utilize and extend the mandate of expert panels and enhance their monitoring capacity (A, B, D, E, F, H)
- Develop an "information package," including website, to inform the public of sanctions requirements and purposes (C, H)
- Deploy UN customs monitors in key countries and airfields (A, B, E)
- Invite INTERPOL to assist with sanctions enforcement (B, C, E)
- Invite the World Customs Organization to share views on better means of monitoring (E)
- Include compliance with UN sanctions in the criteria for membership in the European Union and North Atlantic Treaty Organization (B, C)
- Create an Office for Sanctions Monitoring and Coordination (Afghanistan) as a nucleus for future sanctions monitoring requirements (G)

Expert Panels: UN Security Council Sanctions

Authorizing Action and Date

Reports, UN Documents

Rwanda

- United Nations Commission of Inquiry (UNICOI)
 S/RES/1013, 7 September 1995
- S/1996/67, *Interim Report*, 29 January 1996
 - S/1996/195, *Report of the International Commission of Inquiry*, 14 March 1996
 - S/1997/1010, *Third Report of the International Commission of Inquiry*, 24 December 1997
 - S/1998/63, *Addendum to the Third Report of the International Commission of Inquiry*, 26 January 1998
 - S/1998/777, *Interim Report*, 19 August 1998
 - S/1998/1096, *Final Report of the International Commission of Inquiry*, 18 November 1998

Iraq

- Panels Established Pursuant to the Note by the President of the Security Council of 30 January 1999
- S/1999/100, 30 January 1999
- S/1999/356, *Letters Dated 27 and 30 March, Respectively, from the Chairman of the Panels Established Pursuant to the Note by the President of the Security Council of 30 January 1999* (S/1999/100) Addressed to the President of the Security Council, 30 March 1999.

Angola

- Angola Sanctions Committee (the Fowler Panel)
 S/RES/864, 15 September 1993
- S/1999/644, *Letter Dated 4 June 1999 from the Chairman of the Security Council Committee Established Pursuant to Resolution 864 (1993) Concerning the Situation in Angola Addressed to the President of the Security Council*. S/1999/644, New York, 4 June 1999
 - S/1999/829, *Security Council Committee Established Pursuant to Resolution 864 (1993) Concerning the Situation in Angola Report on the Chairman's Visit to Europe and Participation in the Seventieth Ordinary Session of the Council of Ministers of the Organization of African Unity*, July 1999, 28 July 1999
- Panel of Experts on Sanctions Against UNITA
 S/RES/1237, 7 May 1999
- S/2000/203, *Report of the Panel of Experts on Violations of Security Council Sanctions Against UNITA*, 10 March 2000
- Monitoring Mechanism on Sanctions Against UNITA
 S/RES/1295, 18 April 2000
- S/2000/1026, *Interim Report of the Monitoring Mechanism on Angola Sanctions Established by the Security Council in Resolution 1295 (2000) of 18 April 2000*, 25 October 2000
 - S/2000/1225, *Final Report of the Monitoring Mechanism on Angola Sanctions*, 21 December 2000

- S/2001/363, *Addendum to the Final Report of the Monitoring Mechanism on Sanctions Against UNITA*, 18 April 2001
- S/2001/966, *Supplementary Report of the Monitoring Mechanism on Sanctions Against UNITA*, 12 October 2001

Sierra Leone

- Panel of Experts on Sanctions in Sierra Leone
 S/RES/1306, 5 July 2000
- S/2000/1195, *Report of the Panel of Experts Appointed Pursuant to Security Council Resolution 1306 (2000), Paragraph 19, in Relation to Sierra Leone*, 20 December 2000
- Panel of Experts on Exploitation of Congo Resources
 S/PRST/2000/20, 2 June 2000
- S/2001/357, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, 12 April 2001

Afghanistan

- Committee of Experts Monitoring the Taliban Arms Embargo
 S/RES/1333, 19 December 2000
- S/2001/511, *Report of the Committee of Experts Appointed Pursuant to Security Council Resolution 1333 (2000), Paragraph 13(a), Regarding Monitoring of the Arms Embargo Against the Taliban and the Closure of Terrorist Training Camps in the Taliban-held Areas of Afghanistan*, 22 May 2001

Liberia

- Panel of Experts on Sanctions in Liberia
 S/RES/1343, 7 March 2001
- S/2001/1015, *Report of the Panel of Experts Pursuant to Security Council Resolution 1343 (2001), Paragraph 19, Concerning Liberia*, 26 October 2001

Notes

1. See John Stremmler, *Sharpening International Sanctions: Toward a Stronger Role for the United Nations* (report to the Carnegie Commission for Preventing Deadly Conflict) (New York: Carnegie Corporation of New York, November 1996); see also David Cortright and George A. Lopez, eds., *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* (Boulder, Colo.: Westview Press, 1995), 6–8.
2. A full listing of all the Security Council investigative panels is presented at the end of this chapter.
3. United Nations General Assembly, *We the Peoples: The Role of the United Nations in the Twenty-First Century: Report of the Secretary-General*, A/54/2000, New York, 27 March 2000, par. 206.
4. United Nations Development Programme, *Human Development Report 2000* (New York: Oxford University Press, 2000), 12–13.

5. This strategy was suggested by Jeremy P. Carver of Clifford Chance, London, at a meeting of the Security Council working group on sanctions, UN headquarters, New York, 17–18 August 2000.
6. See Margaret Doxey, "United Nations Economic Sanctions: Minimizing Adverse Effects on Nontarget States," in David Cortright and George A. Lopez, eds., *Smart Sanctions: Targeting Economic Statecraft* (Lanham, Md.: Rowman and Littlefield, 2002).
7. See, for example, Larry Minear et al., *Toward More Humane and Effective Sanctions Management: Enhancing the Capacity of the United Nations System*, occasional paper 31 (Providence, R.I.: Thomas J. Watson Jr. Institute for International Studies, Brown University, 1998). This report was based on a 1997 study of the same title commissioned by the Inter-agency Standing Committee of the UN Department of Humanitarian Affairs.
8. United Nations Department of Humanitarian Affairs, *Note from the Department of Humanitarian Affairs Concerning the Possible Humanitarian Impact of the International Flight Ban Decided in Security Council Resolution 1070* (1996), New York, 20 February 1997.
9. United Nations Office for the Coordination of Humanitarian Affairs, *Inter-agency Assessment Mission to Sierra Leone: Interim Report*, New York, 17 February 1998.
10. United Nations, Office for the Coordination of Humanitarian Affairs, *Vulnerability and Humanitarian Implications of UN Security Council Sanctions in Afghanistan*, Islamabad, December 2000.
11. United Nations Security Council, *Report of the Secretary-General in Pursuance of Paragraph 13(a) of Resolution 1343 (2001) Concerning Liberia*, S/2001/939, New York, 5 October 2001.
12. The Department of Humanitarian Affairs was the predecessor of the Office for the Coordination of Humanitarian Affairs.
13. Minear et al., *Toward More Humane and Effective Sanctions Management*.
14. For a convincing discussion of the importance of the league's inability to mount credible sanctions in the Abyssinian crisis, see Erica J. Cosgrove, "The Theory and Practice of Multilateral Economic Sanctions: A Reassessment in Light of Iraq," Ph.D. diss., University of Cambridge, 2000, 56–63.
15. United Nations Security Council, *Note by the President of the Security Council: Work of the Sanctions Committee*, S/1999/92, New York, 29 January 1999.
16. The recommendations presented here are drawn from the unpublished "Chairman's Proposed Outcome," a report of the Chowdhury working group on sanctions, New York, 14 February 2001, provided to the authors by staff of the UN Secretariat.

Acronyms

AFRC	Armed Forces Revolutionary Council
ANC	African National Congress
BICC	Bonn International Center for Conversion
CARAT	Consumer Access to a Responsible Accounting of Trade
CSO	Central Selling Organization
CT	computed tomography
DRC	Democratic Republic of the Congo
ECOMOG	Economic Community of West African States Military Observer Group
ECOWAS	Economic Community of West African States
EU	European Union
FATF	Financial Action Task Force
FinCEN	Financial Crimes Enforcement Network
GDP	gross domestic product
GGDO	Government Gold and Diamond Office
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ICG	International Crisis Group
IPA	International Peace Academy
KGB	Komitet Gosudarstvennoi Bezopasnosti (Russian intelligence agency)
KLA	Kosovo Liberation Army
LURD	Liberians United for Reconciliation and Democracy
MIF	Maritime Interception Force
NATO	North Atlantic Treaty Organization
NCCTS	noncooperative countries and territories
NGOs	nongovernmental organizations
NIZA	Netherlands Institute for Southern Africa
Novib	Oxfam Netherlands
NPFL	National Patriotic Front of Liberia

OAU Organization of African Unity
 OCHA UN Office for the Coordination of Humanitarian Affairs
 OECD Organization for Economic Cooperation and Development
 OFAC Office of Foreign Assets Control
 RUF Revolutionary United Front
 SADC Southern African Development Community
 SAMS sanctions assistance missions
 SCR Security Council resolution
 SDN specially designated national
 UAE United Arab Emirates
 UN United Nations
 UNAMSIL UN Mission in Sierra Leone
 UNICOI United Nations International Commission of Inquiry
 UNITA National Union for the Total Independence of Angola
 UNMOVIC UN Monitoring, Verification and Inspection Commission
 UNSCOM United Nations Special Commission
 USAID United States Agency for International Development
 UTA Union des Transports Aériens (French airline)
 YPA Yugoslav People's Army

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