

High Level Review of UN Sanctions

High Level Review Briefing, 31 October, ECOSOC Chamber

Working Group II Chair's remarks

Ladies and Gentlemen,

Sweden's active involvement in developing the UN sanctions instrument and promoting effectiveness in its implementation is long-standing. A little more than a decade ago, the year-long Stockholm process produced a report with the aim of making targeted sanctions more effective. As a member of the Like-minded group over the last eight years, Sweden has continued to actively promote increased fairness and transparency in the use of targeted sanctions. Against this background we were pleased to join work on the High Level Review of UN Sanctions together with this group of sponsoring countries.

Having had the honour to co-chair Working Group II of the HLR project together with my colleague from the New York Permanent Mission, Counsellor Pernilla Nilsson, it's my pleasure to brief you about the deliberations of this Working Group.

Its focus has been on UN sanctions and related - that is external to the UN - institutions and instruments. In fulfilling its mandate, the Group has endeavoured to map issues of interaction and integration across relevant bodies and departments of the UN Secretariat, and between the UN and other organizations and technical institutions and mechanisms, public as well as private. The Group has sought to define capacity-building opportunities and requirements of these institutions, and to assist in closing gaps in the sanctions implementation chain. We made clear from the outset that the Working Group did not aspire to suggest any mandate changes for the respective institutions, or to prescribe when and where the Security Council should impose, or lift, its sanctions. Rather, it is sanctions implementation which has been the Group's focus and ways to enhance implementation through improved cooperation and information-sharing.

Specifically, Working Group II focused on issues in three specific areas; **International Arms Control, Non-proliferation and Export Controls; Financial Controls; and International Criminal Justice**. These three subfields represent significant albeit very different subject-matters where various types of controls or actions decided by other bodies operate simultaneously with UN sanctions.

The method of work was partly dictated by the Group's terms of reference. Most, if not all, of these related organizations or arrangements have their headquarters outside of New York. Therefore, after an initial Working Group meeting with New York experts, the Chair undertook numerous trips and consultations to reach out to such bodies. The aim was fact-finding on issues relevant to the High Level Review, obtaining at least a preliminary assessment of the intersection with UN sanctions, and understanding the opportunities to

enhance mutually-beneficial interaction with the UN on sanctions. Summaries of the consultations were subsequently made available on the Working Group section of the HLR website. Many of the organizations or entities consulted or from whom views were solicited responded positively to the invitation to post relevant materials to the project website.

While not every external organization or arrangement with possible relevance for UN sanctions implementation could be consulted in the time available (and part of the report will address additional outreach recommended), these consultations provided a good basis for the Working Group's deliberations. A series of meetings, open to a wide range of actors in the form of states, UN bodies and external organizations and institutions, including the private sector, was convened in New York to examine the three issue domains. In this regard, I would also like to mention that through the kind assistance of Germany, a very important, practically-oriented workshop focused on national implementation of export controls and sanctions by national regulatory agencies and the private sector was held earlier this month. Numerous suggestions were made in the course of these discussions which will form the basis for Working Group II findings as we now move forward to consolidate its substantive output.

Perhaps surprising, given the diverse nature of the topics, there are several findings that are common to all or at least two of the three areas discussed. One could perhaps summarize them with the phrase: **Break down existing walls and stovepipes, both within the UN and between the UN and related organizations and institutions.** The welcomed creation of the UN Interagency Working Group on Sanctions, formed to provide inputs to the High Level Review, is in itself testimony to this phenomenon, which is not unexpected in such a large and complex organization as the United Nations. One of the suggestions emerging from the Working Group was to break down barriers between related functional bodies and come together under general topical umbrellas, such as 'non-proliferation' so as to realize greater synergies.

First among our findings, **general opportunities for coordination and cooperation such as information exchange should be enhanced** between the UN and/or UN bodies and a number of related international organizations and arrangements through the conclusion of strategic partnerships, which can be utilized as the need arises. Building on the successful experiences with i.e. INTERPOL and some of its programs or the flight information arrangement called Europol, such partnerships could create opportunities to build up the necessary expertise and information within the UN.

Second, **opportunities for interaction should be created between those who design and monitor UN sanctions and those who are responsible for carrying out the measures at the national level - regulatory agencies and the private sector.** This would include e.g. enhanced outreach and dialogue and the holding of periodic meetings. The impact would be amplified if, where appropriate, regional or sub-regional organizations served as facilitators

and intermediaries, and if a cross-cutting approach to sanctions generically could be used to discuss common challenges of implementation.

A third common theme is that **practical implementation guidance should be prepared and disseminated by the UN for the use of Member States in carrying out their sanctions obligations**. This guidance should be general in scope and as cross-cutting as possible among sanctions regimes and commonly used types of measures. While it should be developed by and identified with the UN, the group suggested that inspiration could be taken from lessons learned both within the UN and outside. Models referred to was the conscious work within the 1267 regime of improving the Statements of Case and Narrative summaries. On arms control and non-proliferation measures, there is a wealth of updated technical information and best practices to be tapped from export control arrangements. FATF has produced useful guidance on financial measures beyond those covered in its Recommendations 6 and 7 dealing with terrorist financing and non-proliferation. Mention could also be made of the impressive work done by the OECD, and originally inspired by UN sanctions expert panels, regarding due diligence guidelines on conflict minerals. But – there are limits to the usefulness of guidance documents if the terminology used in UN sanctions resolutions is not clear and consistent. More concerted efforts are needed to utilize terms in a unified way in the interest of legal certitude and ease of implementation.

A fourth finding is also cross-cutting among all three Working Groups. It relates to the **need for capacity-building measures**. Especially in countries with weak administrative capabilities, an acute need exists for specialized assistance. Fortunately, a number of actors both within the UN and outside recognize this necessity and are willing to assist. Working Group II suggests that a mapping exercise be conducted to learn where and how assistance is available in order to better assess the means against the needs. There was also the suggestion to take a more 'holistic' approach when assistance is carried out - to combine assistance across the board both concerning sanctions and export and financial controls to save time and effort for recipients. After all, in many countries there is but a small number of officials engaged in these activities who could easily be overwhelmed with successive training programs.

Other suggestions made in Working Group II which could be the basis of findings are more specific to each of the subject-matters discussed. To name but a few: on arms control and related subjects, we spent some time on the challenges and benefits of catch-all provisions and a greater focus on end use. On financial controls, we touched upon vigilance provisions and also the challenges of sanctions over-compliance and risk aversion in general.

In the Sub-group devoted to International Criminal Justice, discussion centered on similar objectives regarding the need for awareness-raising between UN actors and the ICC and other courts on sanctions related issue as well as regarding the benefit of contact points at the field level. Furthermore, a number of suggestions were advanced for methods to clarify the different needs concerning international court proceedings and processes on targeted

sanctions designations, as well as ways to standardize and expedite exemption requests relating to court proceedings.

Throughout Working Group II deliberations, the Co-Chairs have met a very positive response and willingness to engage by all - the UN Secretariat and its various branches and bodies, related international organizations and arrangements, Member States, academic experts and industry. We trust that this approach will continue as the Working Group findings proceed to be integrated into the final High Level Review report.