

# **THE IMPACT OF UN SANCTIONS ON HUMANITARIAN ASSISTANCE**

## **Background**

Since the end of the Cold War, the UN Security Council has resorted more frequently to the use of non-military sanctions under Chapter VII of the UN Charter. The consequences of these measures have been harmful for civilian populations in the targeted countries, as recent experience demonstrates. In view of this development, humanitarian organizations have increasingly questioned whether such multilateral sanctions are compatible with their mandate to bring relief to the needy.

To shed light on this complex issue, the IASC commissioned a study on the effects of sanctions in 1994. The project was made possible through the generous financial contributions of the IASC members. In launching the project, the IASC adopted the following terms of reference for the task to be completed:

1. Review UN practice concerning imposition of sanctions - different forms of sanctions.
2. Review and analyse available materials concerning impact of sanctions on humanitarian assistance activities and in particular their impact on the condition of the vulnerable groups within the targeted countries.
3. Set out methodology for assessing and monitoring impact of UN on humanitarian activities and in particular vulnerable groups. Develop indicators and objective criteria for evaluating impacts of sanctions in various sectors (e.g. health, nutrition etc.).
4. Identify possible strategies to ensure that humanitarian activities are not negatively affected by sanctions and develop proposals to shield vulnerable groups and to offset any negative impact on such groups as a consequence of sanctions.
5. Identify key legal instruments governing the right to humanitarian assistance generally and the particular situation of vulnerable groups.

Dr. Claudia von Braunmuehl and Dr. Manfred Kulesa were chosen to undertake this first study of the humanitarian impact of UN nonmilitary sanctions. They began the work in June 1995 and submitted their report to DHA in late December 1995.

Following receipt of the study, DHA sent out copies to the other members of the IASC and invited their comments on the manuscript. DHA also invited four outside experts to review, and comment on, the study.

### **The Study and Its Recommendations**

The report provides a broad tour d'horizon over the issue of UN sanctions focusing on the 'sanctions dilemma', i.e. that sanctions adopted under Article 41 of the UN Charter frequently harm the very people they are intended to help, particularly the vulnerable groups. The authors concentrate on the issue of how to minimize or at least reduce the tension between the main purpose of sanctions as an instrument in restoring peace and their negative social impact. In reviewing the extensive practice of the UN in imposing and administering non-military sanctions, the authors summarize well-known critical views as to the devastating impact of sanctions on the humanitarian condition of the innocent civilian victims in targeted countries and the inequitable and uneven application of such sanctions by the UN Security Council.

The two authors endorse the call for a principled application of the relevant Charter Articles and propose the criteria of proportionality, chances of success, target specificity and humanitarian concerns for choosing among the various options under Article 41. Here, they identify five different instruments ranging from an arms embargo, easiest in humanitarian terms, to full-fledged economic sanctions, with massive humanitarian repercussions. In their search for legal limitations from within the Charter and from valid international legal norms, they arrive at the tentative conclusion that the application of sanctions should not result in a situation where the subsistence level of living is no longer guaranteed, and that the survival of the affected populations must not be jeopardized.

Regarding the functioning of the Council's sanctions committees, the authors conclude that the recent advances have strengthened the Council's practice and that the monitoring of sanctions and the formulation of new guidelines will see further improvement. Specific reference is made to the need to allow for an organized dialogue with the target country and to formulate standard procedures for humanitarian exemptions.

Regarding items 2 and 3 of the terms of reference relating to the humanitarian impact of sanctions and the request to identify suitable indicators and to develop an appropriate methodology to obtain empirically sound measurements of the harmful effects of Article 41

sanctions, the authors argue that the search for such indicators is neither desirable nor feasible. They postulate that enough is known about the humanitarian harm inflicted and that the pursuit of some empirical research design would be frustrating and futile.

The study also contains three succinct case studies for Iraq, the former Yugoslavia and Libya. These well-documented accounts describe in some detail the UN sanctions regimes in the three cases, the economic and social impact of the sanction measures on the vulnerable groups in these countries, and the efforts by humanitarian agencies to ease the hardship inflicted on innocent civilians as a result of these sanctions.

## **Recommendations**

In the concluding section, the two authors offer an extensive list of recommendations and review the chance for their implementation. From among the many suggestions, the most relevant ones for the IASC are:

1. The idea of a mechanism as suggested by the Secretary-General regarding the assessment of humanitarian consequences to be rendered prior to the Security Council's decision to impose non-military sanctions should be carefully reviewed..
2. The case-by-case system of approving exemptions to sanctions on humanitarian grounds should be replaced by a reference system providing guidance to the implementing governments.
3. The target country should be fully involved in the dialogue on the sanctions regime.
4. All sanction committees should be consolidated into one subsidiary body of the Security Council.
5. The objectives of sanctions, the cooperation requested of Member States, and the windows of humanitarian exceptions should be more clearly defined.
6. The advance assessment and impact monitoring should include the analysis of the economic and social structures of the target country and of the humanitarian effects of sanctions.
7. Humanitarian assistance programmes of the established agencies working in this field should generally be exempt from any form of approval actions or case-by-case review of the sanctions committees.

8. Expressions of humanitarian advocacy should be welcome inputs to the deliberations on the sanctions regime.
9. Innovative approaches should be encouraged in the utilization of sanctions-blocked national resources of the target country for humanitarian purposes.
10. The advance assessment would need teamwork based on an established inter-agency network.
11. A focal point for the assessment and impact monitoring would have to be established within the UN Secretariat.
12. Further research on sanctions should be initiated and encouraged.

### **Comments of the Four Outside Experts**

In order to provide the IASC with other perspectives on this important subject matter, DHA sought the views of four outside experts known for their in-depth knowledge on sanctions. These four experts are a) Ms. Sarah Zaidi, Center for Economic and Social Rights, New York; b) Mr. Ian Guest, Refugee Policy Group, Washington, D.C.; c) Professor George Lopez, University of Notre Dame, Notre Dame, Indiana; and d) Mr. Larry Minear, Brown University, Providence, R.I. Their comments are summarized as follows:

It was pointed out that the study did not adequately address the terms of reference 2-4 regarding the detailed review of the impact of the sanctions, the development of a methodology for impact monitoring and assessment and the identification of possible humanitarian strategies against the harmful effect of sanctions, and that only items 1 and 5, covering respectively the UN sanctions practice and relevant legal instruments, seem to have been dealt with in depth.

The four reviewers unanimously disagree with the argument of the study that the search for a methodology to measure the humanitarian impact of sanctions and for suitable indicators is neither desirable nor feasible. In this connection, reference is made to past field research in Haiti and Iraq measuring the humanitarian impact of UN sanctions and using several empirically based indicators for the study. Suggestions are provided on how these techniques could be applied in continuous monitoring of the harmful effects of UN sanctions.

Addressing the notion of the 'sanctions dilemma' reflecting the paradox between the political purpose of UN sanctions and the suffering inflicted on the average people in targeted states,

they consider the discussion of this concept inadequate. It was felt that a more in-depth examination of this key question, in political, legal, ethical and humanitarian terms, was necessary.

One critic questioned the impression created by the authors of the study that the humanitarian agencies had adjusted quite well to the constraints of the sanctions regimes. Another suggested that the authors had not offered a comprehensive analysis of the application of sanctions and had also failed to identify so called 'successful' sanctions. More light should be shed on the distinction between 'blunt' and 'smart' sanctions in order to enhance the recent endeavour to refine the design and implementation of UN sanctions in light of humanitarian requirements.

While there are other proposals and more specific criticisms in the detailed comments given by the four experts to be studied further, they also contain suggestions for possible steps to be taken by the IASC and the humanitarian partners.

One recommendation relates to the recognition that the humanitarian concerns should be fully taken into account before the actual sanctions are adopted by the Security Council. The four commentators join the two authors in endorsing the Secretary-General's idea of a mechanism for humanitarian assessment, but they call for a much deeper and more focused review of this putative improvement and how it could be realized.

They also make clear that greater standardization and professionalism will be needed to strengthen the ability of the humanitarian agencies to care for the needy victims in targeted countries.

There is agreement amongst the outside experts that the question of the practicality of measuring the humanitarian impact of non-military sanctions should be further investigated.

### **Action Points**

*The IASC-WG is asked to review relevant recommendations of the study and the additional suggestions of the four commentators and submit its recommendations to the IASC meeting on 19 April for endorsement and follow-up action.*

*The Working Group may further decide to ask DHA to:*

- *initiate necessary additional work on the indicators and methodology issues including the practicality of measuring humanitarian impacts of sanctions and encourage case studies of other situations where UN sanctions have affected the humanitarian condition of the populations in the target countries;*
- *enter into a dialogue with the research team pursuing the humanitarian impact project described*

*above with a view to establishing whether this could be linked to the IASC efforts and to what extent the UN humanitarian partners might be able to lend support to the successful completion of this critical follow-up work.*